

Mornington Peninsula Planning Scheme Review No. 4

19 November 2018



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Acronyms – General

AMP	Airfield Master Plan
ANMP	Aircraft Noise Management Plan
BCP	Biodiversity Conservation Plan
BLAC	Bunurong Land Council Aboriginal Corporation
CCAP	Climate Change Risk Management Action Plan
CMP	Coastal Management Plan
CAP	Coastal Action Plan
CRG	Community Reference Group
DEET	Department of Education and Training
DELWP	Department of Environment, Land, Water and Planning
DAFP	Declared Area Framework Plan
DPCD	Department of Planning and Community Development
DSE	Department of Sustainability and Environment
EDS	Economic Development Strategy
ESD	Environmentally Sustainable Design
FFL	Finished Floor Level
GRP	Gross Regional Product
GWMP	Green Wedge Management Plan
GWRP	Green Wedge Recreation Plan
HPS	Hastings Planning Scheme
HPIAPS	Hastings Port Industrial Area Planning Scheme
ICP	Infrastructure Contributions Plan
LUTAC	Land Use Terms Advisory Committee
LPPF	Local Planning Policy Framework
LPP	Local Planning Policy
MAV	Municipal Association of Victoria
MPPS	Mornington Peninsula Planning Scheme
MPSC	Mornington Peninsula Shire Council
MSS	Municipal Strategic Statement
PAC	Peninsula Aero Club
PPF	Planning Policy Framework
RAP	Registered Aboriginal Party
SPP	Statement of Planning Policy
SPPF	State Planning Policy Framework
SEITA	South Eastern Integrated Transport Authority
TAPP	Tyabb Airfield Precinct Plan
UDF	Urban Design Framework
UGB	Urban Growth Boundary
VCAT	Victorian Civil and Administrative Tribunal
VPP	Victoria Planning Provisions
WSUD	Water Sensitive Urban Design
WPRPA	Western Port Regional Planning Authority

Acronyms – Zones

CZ	Commercial Zone
CDZ	Comprehensive Development Zone
FZ	Farming Zone
GRZ	General Residential Zone
GWZ	Green Wedge Zone
INZ1	Industrial Zone
LDRZ	Low Density Residential Zone
MUZ	Mixed Use Zone
NRZ	Neighbourhood Residential Zone
PZ	Port Zone
PCRZ	Public Conservation and Resource Zone
PPRZ	Public Park and Recreation Zone
PUZ	Public Use Zone
RZ	Road Zone
SUZ	Special Use Zone

Acronyms – Overlays

AEO	Airport Environs Overlay
BMO	Bushfire Management Overlay
DDO	Design and Development Overlay
EAO	Environmental Audit Overlay
EMO	Erosion Management Overlay
ESO	Environmental Significance Overlay
FO	Floodway Overlay
HO	Heritage Overlay
PAO	Public Acquisition Overlay
LSIO	Land Subject to Inundation Overlay
RO	Restructure Overlay
SBO	Special Building Overlay
SMO	Salinity Management Overlay
SLO	Significant Landscape Overlay
VPO	Vegetation Protection Overlay

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1. Executive Summary

Now 19 years old, the Mornington Peninsula Planning Scheme (MPPS) is one of the most expansive and complex in Victoria. The scheme's local policy framework spans 35 clauses over 145 pages with 22 individual policies. This framework is supported by a heady mix of mandatory and performance-based controls articulated via 15 different zones and 22 associated schedules, layered with 13 separate overlays and 98 individual schedules.

Mornington Peninsula Shire Council is required to formally review the Mornington Peninsula Planning Scheme every four years. Monitoring, auditing and reporting of the planning scheme's performance is a mandatory requirement under the *Planning and Environment Act 1987*. The 2018 Review is the fourth major review of the scheme since its inception, and follows previous reviews in 2005, 2009 and 2014.

This Review has been carried out in accordance with *Planning Practice Note 32: Review of Planning Schemes (June 2015)* and provides Council with:

- An understanding of what State and local policy changes have occurred since the last review;
- An overview of the performance of the Mornington Peninsula Planning Scheme, including what aspects are working well in achieving the desired planning outcomes for the Peninsula, and which elements need improvement; and
- A program for future action, including what changes need to be made to the planning scheme and/or what further strategic work needs to be undertaken.

The Review report has been structured into the following key components:

- An overview of the nature, scope and methodology of the Review, including the regulatory requirements set out by the *Planning and Environment Act 1987*;
- A synopsis of key outcomes from previous Planning Scheme reviews, including an audit of Council's progress in implementing various recommendations, and summary of recent amendments;
- A review of implications arising from recent reports from Independent Panels, and decisions of the Victorian Civil and Administrative Tribunal (VCAT);
- A review of both the State and local strategic context, including details of any recent significant policy changes;
- A summary of the major planning issues facing the Mornington Peninsula, including both existing and emerging issues;
- An analysis of how the planning scheme implements State Planning Policy;
- An analysis of the effectiveness of the planning scheme's:
 - o Local Planning Policy Framework (including Municipal Strategic Statement and local policies);
 - o Zones, overlays and associated schedules; and
 - o Specific provisions.
- Incidental site-specific recommendations to correct errors and anomalies;

- Programs for continuous review and further strategic work; and
- Overall conclusions and recommendations.

In the context of Council's local strategic advancements since the 2014 Review, and at a time when State government is making strident and concerted efforts to review and improve the Victorian Planning System *en masse*, the Mornington Peninsula Planning Scheme is now ripe for renewal. The 2018 Review provides a significant opportunity to develop a more strategically robust and streamlined planning scheme that responds to the Peninsula's planning needs in a more effective, efficient and reliable manner.

The 2018 Review makes a series of recommendations to refine and bolster local policy, and rationalise controls without compromising their intent, force or effect. Recommendations are made with due regard to the key tenets of the State government's 'Smart Planning Program' which aim to deliver simplified planning schemes that are easier to navigate and understand, demonstrate greater consistency between State and local policy, and are more responsive to emerging planning issues. The Review has been prepared with consideration of Amendment VC148 (gazetted on the 31 July 2018), which introduced a new integrated Planning Policy Framework (PPF) to all Victorian planning schemes, with transitional arrangements for local policy.

As well as identifying the need to update strategic content, the Review identifies a series of structural and administrative issues that require attention to ensure the scheme remains operationally sound. Concerns relate to cleansing the scheme of redundant material, fixing errors and anomalies in ordinance and mapping, and clarifying ambiguities in policy and controls.

Of critical importance is the proposed Implementation Plan which provides a clear and realistic program with prioritised and scheduled tasks to ensure the scheme is updated in a comprehensive and coordinated manner.

1.1. Summary of key findings

Whilst often derided for its complexity, the substantive matrix of policies and provisions that make up the Mornington Peninsula Planning Scheme has been developed and applied over many years in response to:

- The amalgamation of three shires (Hastings, Mornington and Flinders) and the wealth of legacy material contained therein;
- A demanding range of well-established and disparate land use and development issues; some of which are unique to the Shire;
- Fluxing political agendas at a State, regional and local level; and
- Resourcing and budgetary challenges and constraints.

Despite having been subjected to three formal reviews since its inception, the scheme has undergone only incremental and piecemeal review as opposed to wholesale reform. Whilst strategically justified, amendments and updates have tended to occur in a largely reactionary manner, undertaken by many authors, for various reasons and at various times. The end result is a scheme that is:

- Not entirely responsive to key existing and emerging issues;
- Somewhat 'out-of-sync' with the State Planning Policy Framework;
- Not yet fully aligned with the State-sanctioned Localised Planning Statement, or Council's current Corporate or Health and Wellbeing Plans;
- Overly content-heavy, replete with redundant and out-of-date material; and
- Cumbersome and frustrating to administer, both from the perspective of decision-makers at Council, as well as permit applicants, referral authorities and review bodies.

Collectively, these deficiencies compromise the ability for clear and defensible decision-making. These findings are confirmed by recent commentary from Panels Victoria and the Victorian Civil and Administrative Tribunal as well as targeted stakeholder consultation.

In a proactive effort to address the shortcomings of the planning scheme, Council has advanced an extensive program of strategic work since the last review in 2014, resulting in a wealth of clarified directives for the Shire concerning:

- Housing and settlement;
- Economic development (including commercial and industrial development);
- Localised environmental management (including completion and adoption of all Coastal Management Plans);
- Infrastructure and resource management;
- Place-making for specific areas, including activity centres; and
- Heritage preservation.

Further directives concerning management of the Shire's Green Wedge and conservation of biodiversity assets are also imminent, pending completion of additional major projects.

Notwithstanding Council's considerable progress, several important initiatives arising from the 2014 Review are either yet to be completed or require further work. These actions remain pertinent to the overall improvement of the planning scheme.

Considerable developments have also occurred across a variety of areas at State level since the last review, including the introduction of landmark legislation and refinement of the Victoria Planning Provisions. The most significant of these is the introduction of the *Distinctive Areas and Landscapes* legislation, housing affordability legislation, and proposed reformatting and integration of local, regional and State planning policy into a singular source to be known as the "Planning Policy Framework".

Much of the strategic work and changes at both the State and local level has significant immediate and future implications for the Mornington Peninsula Planning Scheme.

The detailed analysis of the scheme's Local Planning Policy Framework undertaken as part of this review has been informed by a process of filtering and sorting required to prepare Council's local policy framework for translation into the new "Planning Policy Framework". This meticulous work, combined with targeted stakeholder consultation, a status audit of 2014 Review recommendations, and audit of strategic documents recently adopted by Council has revealed the need to:

- Seek the highest level of State recognition and protection of the Peninsula under the new *Distinctive Areas and Landscapes* legislation;
- Finalise policy guidance for rural areas following adoption of the Green Wedge Management Plan;
- Continue to strengthen place-making directives, especially around:
 - o Detailed neighbourhood character analysis and guidance;
 - o Completion and review of township structure planning and urban design frameworks which promote sustainable and walkable neighbourhoods;
 - o Heritage protection (early European and Aboriginal cultural heritage); and
 - o Car parking management in activity centres.
- Strengthen natural systems provisions following adoption of the Biodiversity Conservation Management Plan;
- Continue to address environmental risks, especially erosion, flooding and salinity;
- Prepare new policy and provisions to address environmental sustainability (ie. Environmentally Sustainable Design, and Water Sensitive Urban Design);
- Review and confirm policy around affordable housing following introduction of a new legislative framework that provides mechanisms for private-led engagement;
- Develop a comprehensive and coordinated framework for infrastructure provision and management (especially for open space, drainage and sewerage) with the establishment of a staged Shire-wide Development Contributions Plan; and
- Continue to lobby State government for a confirmed future role for the Port of Hastings to unlock further development and economic potential.

In a structural sense, a comprehensive re-write of local policy is necessitated by the deficiencies identified in the current local policy framework, the wealth of new strategic material, and the impending requirement to translate local content into the new "Planning Policy Framework". The re-write will produce a much more concise, clear, targeted, and modern local policy framework to effectively guide decision-making for land use and development into the future.

The 2018 Review also makes several pertinent findings concerning the suite of zone, overlay and particular provisions. Whilst significant changes are currently being pursued for the Shire's residential zones and associated overlays (following adoption of the Housing and Settlement Strategy), there are many opportunities to further refine the Shire's provisions.

Key improvements include removing redundant schedules and correcting errors and anomalies within the ordinance and application of Public Use Zones (i.e. Park and Recreation, Conservation and Resource), Special Use Zones, Development Plan Overlay, Restructure Overlay, Public Acquisition Overlay and various particular provisions. Many controls can also be further strengthened pending the finalisation and integration of recently adopted strategic work, including schedules to the Green Wedge Zone, Heritage Overlay, Erosion Management Overlay, Land Subject to Inundation Overlay, and Environmental Audit Overlay.

Although the design and development and environmental overlays are perhaps most in need of reform owing to their volume and complexity, wholesale review of the ordinance and mapping of the Design and Development, Significant Landscape, Environmental Significance and Vegetation Protection Overlays is not appropriate until the completion and adoption of major strategic studies. Specifically, refinement of the many Design and Development Overlays requires further input from detailed neighbourhood character studies, whilst the environmental overlays need to be reviewed against the strategic directives and policy outcomes of the Biodiversity Conservation Plan. Nevertheless, a range of minor yet important reforms have been proposed to these overlays to improve their efficiency in the interim.

Finally, there is the potential to add three new overlays to the planning scheme to better manage existing land use and development issues. This includes introduction of the Special Building Overlay (to manage local overland flooding), the Development Contributions Plan Overlay (to allow Council to levy fees to help deliver and maintain key infrastructure and services across the Shire) and the Parking Overlay (to manage local parking issues affecting the Shire's main townships and activity centres).

1.2. Recommendations

To ensure that the Mornington Peninsula Planning Scheme continues to be strategically robust and effective in delivering sound planning outcomes, the 2018 Review advances a total of **236 recommendations** for various policies and provisions. Central to these recommendations is:

1. A wholesale review and re-write of local policy content; and
2. Strengthening and refinement of zoning, overlay and particular provisions.

Owing to the nature, breadth and volume of recommendations, it is proposed that Council pursue a comprehensive general amendment following adoption of the 2018 Review report to implement all policy-neutral updates. This general amendment will coincide with the timing of the VPP policy framework restructure, where Amendment VC148 has effectively restructured State and regional policy, with transitional arrangements for local policy to facilitate that local content can be prepared for direct translation to the PPF.

Those recommendations requiring further strategic work should be the subject of subsequent, strategically justified amendments.

PLANNING SCHEME REVIEW REPORT:

At its Planning Services Committee Meeting on 19 November 2019, Council resolved:

- 1. To adopt the Draft Planning Scheme Review inclusive of the changes identified in this report (Attachment 1).**
- 2. That Shire officers forward the Planning Scheme Review 2018 to the Minister as required under section 12b of the Planning and Environment Act 1987.**

ADMINISTRATION OF THE PLANNING SCHEME:

In terms of **prioritising a work program** for the administration and improvement of the Mornington Planning Scheme specific recommendations are made at **Appendix 6 2018 Planning Scheme Review Implementation Plan**.

2. Introduction

2.1. Purpose of this Report

This Review report has been prepared to provide an overview of the performance of the Mornington Peninsula Planning Scheme since its last formal review in 2014.

The Review has been prepared generally in accordance with the Department of Environment, Land, Water and Planning (DELWP) *Planning Practice Note 32: Review of Planning Schemes* (June 2015) and *Continuous Improvement Kit* (2006) published by the former Department of Sustainability and Environment (DSE) and the Municipal Association of Victoria (MAV).

The Review has also been undertaken with due regard the key tenets of the State Government's 'Smart Planning Program' which aims to deliver simplified planning schemes that are easier to navigate and understand, demonstrate greater consistency between State and local policy and are more responsive to emerging planning issues.

The report provides a commentary and analysis of:

- The strategic background to this Review, including an audit of strategic work undertaken by Council since the last formal review;
- Relevant case law and planning panel reports that have implications for the content and operation of the scheme;
- The State and local strategic context, including recent significant policy changes;
- The major planning issues facing the Mornington Peninsula, including both existing and emerging themes;
- The strategic performance of the scheme in implementing State planning policy, effectively expressing local policy directives, and appropriately and efficiently utilising zone and overlay controls to deliver desired planning outcomes for the Peninsula.

The report outlines a program for continuous review and further strategic work, finishing with a suite of overall conclusions and recommendations to:

- Reduce red tape (i.e. reduce the need for planning permits and/or streamlining requirements for various uses/developments);
- Identify and prioritise a program for future strategic planning work (including scheme amendments) to improve the performance, effectiveness and operation of the scheme; and
- Clarify and strengthen local policy in response to recent changes proposed by State government to reformat the content and structure of planning schemes.

The findings of this Review are outlined in the balance of this report.

2.2. Legal Requirements and Scope of the Review

Section 12B of the *Planning and Environment Act 1987* (the Act) requires the Mornington Peninsula Shire Council to regularly review the provisions of the planning scheme. The review must evaluate the planning scheme to ensure that it:

- is consistent in form and content with the directions or guidelines issued by the Minister under section 7 of the Act;
- sets out effectively the policy objectives for use and development of land in the area to which the planning scheme applies; and
- makes effective use of State provisions and local provisions to give effect to State and local planning policy objectives.

Other legislation (the *Public Health and Wellbeing Act 2008*) requires that the planning scheme is also consistent with Council's adopted Municipal Public Health Plan.

Planning Practice Note *PPN32: Review of Planning Schemes* (DELWP, June 2015) provides operational guidelines on the preparation and form of a review, including reference to a *Continuous Improvement Kit* (2006) published by the former Department of Sustainability and Environment (DSE) and the Municipal Association of Victoria (MAV). The Practice Note indicates that the review should be presented in a report to Council which:

- Demonstrates how the planning scheme implements State Planning Policy.
- Assesses the strategic performance of the scheme.
- Articulates the monitoring and review that has been carried out.
- Outlines the consultation process and its outcomes.
- Documents the strategic work that has been completed or carried out since the previous review and any additional work required to strengthen the strategic direction of the planning scheme.
- Identifies the major planning issues facing the municipality.
- Makes recommendations arising from the review including:
 - o suggested changes to the objectives and strategies of the LPPF.
 - o suggested changes to the VPP tools to achieve the strategies and ensure the objectives and desired outcomes are being met.
 - o new strategic work necessary to support future policy development or changes to the provisions of the scheme.
 - o suggested changes to improve operational and process practices.
 - o identifying any planning application or other data that may need to be collected to inform the next review.

The review should also have regard to:

- Planning Practice Note PPN04: Writing a Municipal Strategic Statement (June 2015);
- Planning Practice Note PPN08: Writing a Local Planning Policy (June 2015); and
- Planning Practice Note PPN10: Writing Schedules (January 2018).

In line with PPN32, recommended improvements to planning provisions should be carried out as planning scheme amendments succeeding the review, and upon completion of any outstanding strategic work.

Section 12B requires that the review must occur no later than one year after Council's Corporate Plan is approved under section 125 of the *Local Government Act 1989*, or within such longer period as is determined by the Minister for Planning. Once complete, Council is required to report the findings and recommendations of the review to the Minister without delay.

Council adopted its Corporate Plan (the Mornington Peninsula Shire Council Plan 2017-21: *Our Peninsula 2021*) on 13 June 2017, whilst the Health and Wellbeing Plan (A Plan for the Mornington Peninsula 2017-21: *Our Health and Wellbeing 2021*) was adopted on 24 October 2017. Review of the planning scheme commenced in November 2017.

It is noted that this Review has generally followed the operational guidelines as detailed in the Practice Note and the Continuous Improvement Kit. It involves a relatively high-level assessment of the current scheme provisions and opportunities for further general improvement. It does not assess the merits of any privately initiated, site-specific proposals for change to the planning scheme; such proposals are to be the subject of separate, rigorous assessment.

Once adopted by Council, this report will constitute the formal "Planning Scheme Review" of the Mornington Peninsula Planning Scheme as required by the Act. The report comprises an implementation plan for the actioning of recommended changes (i.e. amendments) to the scheme.

Owing to the current structural and formatting review of the Victoria Planning Provisions (as discussed in Section 5.2 of this report), the Minister granted Council an extension from 30 June 2018 to 31 December 2018 to complete its planning scheme review.

2.3. Review Methodology

This Review has involved the following key methods of auditing and assessment:

- An investigation of key recent changes in the prevailing State planning context, including policies, programs and initiatives, Ministerial Directions, Advisory Notes, Planning Practice Notes and VPP amendments (both existing and proposed);
- A comprehensive desktop analysis of the local provisions of the Mornington Peninsula Planning Scheme, including the Municipal Strategic Statement, Local Planning Policies, schedules to Zones and Overlays and associated planning scheme mapping;
- A detailed review of strategic work undertaken by Council in the inter-review period, including relevant reports, strategic documents and amendments;

- A critique of key findings and commentary arising from recent VCAT decisions and Independent Planning Panel reports; and
- An Implementation Plan that prioritises recommendations made in the Review and provides suggested timeframes for the implementation of each action.

The above work has been supplemented by targeted engagement with Council staff, executives, Councillors and other key stakeholders. A draft of the report and associated recommendations is to be placed on public exhibition for a seven-week period from late-August to mid-October 2018. It is also noted that a comprehensive program of public consultation is to be undertaken as part of any ensuing planning scheme amendment(s) arising from the Review.

The Review does not include the auditing or review of planning files or Council processes as recommended by PPN32 given such work was carried out as part of Council's internal Planning Services Review of 2016. The next Services Review is scheduled for late 2018, with any recommended changes arising from this review to be actioned as appropriate.

3. Background

The Mornington Peninsula Planning Scheme commenced on 6 May 1999 – two years after the amalgamation of the Flinders, Hastings and Mornington Shires. As one of the most expansive in the State, the scheme is often criticised for its magnitude and complexity. The range and detail of the scheme’s provisions, however, reflect a notable history of planning initiatives at local, regional and State level over the past half century that were devised to respond to the diverse issues and values of the Peninsula. The scheme itself is nevertheless only 19 years old, and undergoing its fourth formal review under the Act.

At the time of this Review, the local content of the Mornington Peninsula Planning Scheme comprises:

- A Local Planning Policy Framework (LPPF) spanning 35 separate clauses across 150 pages, including:
 - o The Municipal Strategic Statement (MSS) which contains 13 separate clauses over 74 pages, and
 - o 22 individual local planning policies over 76 pages.
- 15 different zones with 22 individual schedules; and
- 13 different overlays with 98 schedules (all bar one of which are locally bespoke).

The following sections outline the impact of the three previous planning scheme reviews, as well as the suite of State and local amendments that have been approved and proposed since the last review.

3.1. Previous Reviews

The Mornington Peninsula Planning Scheme was formally reviewed in 2005, 2009 and 2014. In contrast to a “periodic improvement” approach in response to the formal reviews required by the Act (initially every three and now every four years), the scheme has instead been subject to an evolutionary, and more responsive process of continuous improvement.

The 2005 Review largely sought to refine provisions and address anomalies that had resulted from the rapid introduction of the new Victoria Planning Provisions (VPP). The 2009 Review identified a number of key changes to better protect the Peninsula’s green wedge, and focus development in strategic locations within and around identified major activity centres.

Since that time, a dwindling stock of greenfield land on the Peninsula has created ever-mounting pressure for redevelopment. In response, Council has devoted significant resources to better understand, define and protect the diverse character of different towns and places with new Design and Development Overlay Schedules. Recognition

and planning for environmental risks such as bushfire, flooding and coastal inundation have also been a major focus.

3.1.1. The 2014 Review

The most recent planning scheme review was completed in December 2014 and is outlined in the adopted *Mornington Peninsula Planning Scheme Review No. 3 Report (December 2014)*.

From the outset, the 2014 Review recognised that the Mornington Peninsula Planning Scheme is often characterised as one of the most complex in the State. The review noted, however, that this complexity is largely the result of the Peninsula's diverse planning issues, regional context, and legacy as a 'special place' which has been formally recognised by successive State and local governments.

Overall, the review concluded that *'the Scheme is performing well and no major change in direction is required'* (p.37). Nevertheless, a total of 16 recommendations were made to improve the effectiveness of the scheme; many of which build upon the findings and recommendations of the previous review conducted in 2009.

The review primarily identified the need for further strategic work concerning housing and settlement, neighbourhood character, green wedge management, Port-related planning, environmental risk, climate change adaptation, and ongoing place-making and activity centre planning. The review also determined that the planning scheme contained a series of low-grade administrative errors and anomalies in the drafting and application of some planning provisions, and that these deficiencies ought to be rectified as a matter of course.

An audit has been conducted to ascertain the status of each of the 2014 Review recommendations, the findings of which are summarised in Appendix 1. From this analysis, it is clear that Council has made significant progress on many of the recommendations, with most having either been recently completed or substantially advanced.

Key achievements since the 2014 Review include preparation and adoption of:

- The *Mornington Peninsula Housing and Settlement Strategy (December 2017)*;
- Stages 1 and 2 of the *Mornington Peninsula Heritage Study Review*;
- Several township structure plans, including for Hastings, Rosebud and Rye;
- The *Mornington Peninsula Activity Centre Strategy Review (April 2018)*;
- The *Mornington Peninsula Industrial Areas Strategy (April 2018)*; and
- Approximately 54 individual planning scheme amendments.

Work is also well underway to finalise the Green Wedge Management Plan and prepare a Biodiversity Conservation Plan – both of which are due for completion in late

2018. Corresponding planning scheme amendments will follow to update local policies and provisions regarding the green wedge and environmentally sensitive areas.

Section 6 of this report provides further detail on the nature, content and implications of the above strategic work for the planning scheme, as well as other pertinent developments in local planning policy.

Notwithstanding Council's considerable progress, there are several important actions arising from the 2014 Review that are either yet to be completed or require further work. Many of these initiatives remain pertinent to the overall improvement of the planning scheme, and are discussed in further detail at Section 6 of this report. Work to complete these actions also informs part of the agenda of recommendations for the current 2018 Review.

The most significant outstanding items include:

- **Neighbourhood character studies (NCS):** only a handful of discrete NCSs have been completed and implemented across the Peninsula.
- **Structure plans / township plans / urban design frameworks (UDF):** whilst Council has completed several of these strategic plans, a number remain outstanding or are yet to be implemented in the planning scheme.
- **Open space:** a review of Council's Open Space Strategy is required, as well as an audit and correction of open space zoning anomalies to ensure all sites are appropriately zoned for public purposes.
- **Developer contributions:** preparation of a staged, Shire-wide developer contributions plan is to be investigated, with the plan to be implemented by introducing the Development Contributions Plan Overlay (DCPO) to the scheme.
- **Environmentally Sustainable Design (ESD) policy:** work to prepare a Shire-wide ESD position is due to commence in the latter half of 2018.
- **Climate change policy:** Council commenced preparation of a Climate Change Risk Management Action Plan in 2017, with relevant directions to be incorporated into the scheme upon completion of the plan.
- **Landslide and erosion:** landslide susceptibility modelling has been completed and now needs to be integrated into the scheme via review and amendment of the Erosion Management Overlay (EMO).
- **Flooding and coastal inundation:** modelling for Port Phillip Bay is yet to be completed by DELWP and Melbourne Water, with associated application of the LSIO to follow. Consideration should also be given to the introduction of the Special Building Overlay (SBO) to the planning scheme to capture local overland flooding risk.
- **Salinity:** locally detailed mapping of salinity risk is required to be undertaken before the Salinity Management Overlay (SMO) can be introduced to the scheme.
- **Land contamination:** a comprehensive audit of sites across the Shire with potential contamination is presently underway, with corresponding amendments to the Environmental Audit Overlay (EAO) to follow as appropriate.

- **Parking Overlays for town centres:** work is yet to commence on feasibility and associated provisions.
- **Aboriginal cultural heritage:** Aboriginal cultural heritage policies are yet to be reviewed and improved following appointment of the Bunurong Land Council Aboriginal Corporation (BLCAC) as the Registered Aboriginal Party (RAP).
- **Early European heritage:** Stage 3 of the Heritage Review is underway, Stage 4 is yet to commence.

The 2014 Review also recommended a series of technical updates relating to the Municipal Strategic Statement, such as reviewing demographic statistics, updating the overall Strategic Framework Plan, improving alignment with State policies, and reviewing the suite of reference documents. Whilst these updates have not yet occurred, many items will be taken up during the translation of the scheme's local policy framework into the VPP's new integrated "Planning Policy Framework", as discussed in Section 5.2 of this report.

Finally, the audit of recommendations from the 2014 Review found that some actions have either been abandoned, lapsed or deferred until a later date. Cessation of work coincided either with Council's budgetary and/or resource constraints, or other external factors beyond Council's control, such as the need for further direction from State Government. Examples of such work include:

- **Port of Hastings planning:** all planning initiatives outlined for the Port of Hastings have been held in abeyance pending further advice from the State government as to the future of the Port and its associated facilities.
- **Identification of significant pipelines:** mapping and ordinance of Design and Development Overlay Schedule 8 (Pipeline Policy Area) is still yet to be confirmed with the relevant pipeline authorities.
- **Extending the planning scheme into Western Port:** this cannot proceed until the active engagement and technical input of a range of authorities is obtained.

3.2. Recent Amendments

At the time of finalising this review report, a total of 58 individual amendments have been proposed to the planning scheme since the 2014 Review. Of these amendments, 26 were "VC" amendments (i.e. State changes to the VPPs), 4 were "GC" amendments (i.e. changes affecting a discrete number of planning schemes including the Mornington Peninsula), and 28 were locally specific amendments. Of the local "C" amendments 24 have been finalised (gazetted).

Significant amendments over this timeframe include:

- **Amendment C161:** Introduced the Yaringa Harbour Special Use Zone Schedule 9 to enable consideration of an inland expansion of the existing Yaringa Harbour and tourist accommodation.
- **Amendment C189:** Introduced the Beleura Hill Design Development Overlay 24 and inserted the *Beleura Hill Design Guidelines* (April 2015) and *Mornington*

Peninsula Investigation Areas Study Mount Martha Discussion Paper (May 2015) as reference documents.

- **Amendment VC110:** Introduced mandatory changes to the General Residential & Neighbourhood Residential Zones including changes to maximum heights and minimum Garden Area requirements.
- **Amendment VC134:** Introduced the new Metropolitan Planning Strategy and made corresponding updates to the State Planning Policy Framework.
- **Amendment GC13:** Updated mapping for the Bushfire Management overlay.
- **Amendment VC138:** Applied the new Native Vegetation Framework and associated provisions.
- **Amendment C204:** Introduced the Ocean Beach Road Commercial Precinct Sorrento Heritage Policy, September 2015, by applying the Design and Development Overlay Schedule 28 on an interim basis until 31 July 2019.
- **Amendment C188:** Applied a new Environmental Significance Overlay Schedule over Tootgarook Wetland and other associated changes.
- **Amendment C200:** Introduced a new local policy for gaming and amended the list of shopping complexes within which the installation or use of a gaming machine is prohibited.
- **Amendment C209:** Facilitated the redevelopment of the Searoads Ferry Terminal at Sorrento.
- **Amendment C214:** Implements the findings of Stage 2 of the *Mornington Peninsula Shire Heritage Review* by introducing a permanent Heritage Overlay to places recommended for heritage protection. This amendment process is underway.
- **Amendment VC148:** Introduces major changes to the VPP and all planning schemes arising from the Victorian Government's Smart Planning Program. Gazetted on the 31st July 2018 – during preparation of this Review – the amendment deletes the SPPF and replaces it with a new integrated PPF in Clauses 10 to 19. Transitional arrangements have been provided to allow for the LPPF to function whilst being translated to the new format.

In addition to the above, several significant amendments await Ministerial approval. These include:

- **Amendment C190:** which seeks to implement the recommendations of the *Hastings Town Centre Structure Plan* (November 2014).
- **Amendment C206:** which seeks to implement the recommendations of the *Rosebud Activity Centre Structure Plan* (September 2016).

Most recently, **Amendment C219** which seeks to implement the key recommendations of the *Mornington Peninsula Housing and Settlement Strategy* (December 2017) and introduce the Neighbourhood Residential Zone (NRZ) to the planning scheme, is currently with the Minister for authorisation.

The above amendments and associated implications are discussed in further detail at Sections 4, 5 and 6 of this report.

3.3. Conclusions

The Mornington Peninsula Planning Scheme is sizable and complex, having been incrementally amended at both a State and local level since its inception in 1999.

Council has undertaken a comprehensive program of strategic work in response to the latest planning scheme review in 2014. A detailed audit has revealed that, whilst some items were abandoned, lapsed or deferred, many of the recommendations from the 2014 Review have either been completed or substantially progressed. The net result is a wealth of adopted strategic directions which have significant implications for the policies and controls in the planning scheme.

Whilst substantial progress has also been made on major strategic projects, several items remain outstanding. Completion of these projects is imperative to ensure that clear direction is provided for emerging and unresolved issues so that the planning scheme remains strategically robust. To this end, outstanding recommendations from the 2014 Review will be recaptured and integrated into the implementation plan resulting from the 2018 Review.

4. Review of Panel Reports and VCAT Decisions

An important part of any planning scheme review is to analyse the outcomes of planning permit decisions made by the Victorian Civil and Administrative Tribunal (VCAT), as well as planning scheme amendment reports made by Planning Panel Victoria (PPV). Council is conscious of the importance of the lessons that can be learned from appeals and panel hearings.

4.1. VCAT Decisions

This section contains insights from historical VCAT reviews of specific Council decisions on planning permit applications made to the Mornington Peninsula Shire (see Appendix 3 for the full report). These insights draw out key policy matters that have relevance to the performance of the scheme. While there are site-specific matters in each VCAT appeal, these aspects are regarded to have no significant bearing on the performance of the Shire's planning scheme.

Since the 2014 Review, approximately 238 appeals have been heard before the Tribunal. Of these appeals:

- 25 relate to Council's failure to determine within the prescribed time;
- 97 relate to a Notice of Decision (NOD) to grant a permit;
- 39 were against permit conditions (32 appeals), or requests to cancel or amend a permit (7 appeals); and
- 77 were against Council's refusal to grant a permit (74 appeals) or an extension of time (3 appeals).

Of the 97 appeals where an NOD to grant a permit was issued, VCAT set aside Council's decision in 10 (10.3 per cent) cases. Of the 77 appeals where an application for a permit or an extension of time was refused, VCAT set aside Council's decision in 41 (53.2 per cent) cases.

Key VCAT proceedings and associated Tribunal comments are outlined below.

4.1.1. Bentons Blossom Pty Ltd v Mornington Peninsula SC [2017] VCAT 352 (5 May 2017)

This proceeding concerns a proposal by the permit applicant to construct 52 dwellings at 180 Bentons Road, Mount Martha. The site is within a GRZ with no planning overlay and is approximately 19,546 m² in area. Although Council failed to decide within the prescribed time of 60 days, Council officers subsequently recommended that the application be approved subject to conditions, including to reduce the number of dwellings to 47. Council, however, resolved to reject the recommendation arguing that the proposed development is:

- Inconsistent with the objectives of the SPPF and LPPF including Clause 11.14-1 *Localised Planning Statement* and Clause 21.07-2 *Local Area Character* on the basis that the scale, density and development pattern is not responsive to the existing neighbourhood character of the area;
- An over-development of the site as it is neither respectful of the existing neighbourhood character nor compatible with the existing lot size or development pattern within the area;
- Inconsistent with the objectives and decision guidelines of Clause 55.02-1 *Neighbourhood Character* and Clause 55.02-2 *Residential Policy* as it is neither responsive to the existing neighbourhood character nor contributory to the preferred character; and
- Inappropriate having regard to its context and density, and would result in a poor planning outcome contrary to Clause 65 of the MPPS and the orderly planning of the area.

The Tribunal decided against Council arguing that:

- The site's location within the UGB and proximity to the Large Township Activity Centre of Bentons Square support an intensification of residential development within existing settlements and residentially zoned areas that is consistent not only with State and local policies but also the Shire's Strategic Framework Plan;
- The absence of a planning overlay suggests that the site does not have sensitivities requiring greater control;
- The GRZ, unlike the NRZ, does not include mandatory controls or variations to the Clause 55;
- The absence of a statement about existing or preferred neighbourhood character in the MPPS necessitates the existing neighbourhood character of the area to be considered in the context of one of the GRZ purposes which is acknowledging that change is to be expected.

Regarding Council's argument that the proposal neither respects nor responds to the existing neighbourhood character, the Tribunal argued that the development does 'fit in' in the manner set out in PPN43, that:

- Respecting character does not mean preventing change.
- The neighbourhood character standard is not intended to result in the replication of existing building stock or stop change.
- Neighbourhood character is one of many objectives that must be met.
- Respect for the character of a neighbourhood means that the development should try to 'fit in' either by respecting the scale and form of surrounding development, or respecting the architectural style of surrounding development.

4.1.2. Mulholland v Mornington Peninsula SC [2016] VCAT 2070 (9 December 2016)

This proceeding concerned a proposal by the permit applicant to construct a multi-unit development comprising 15 dwellings at 23-25 Green Island Avenue, Mount Martha. The site, consisting of two parcels totalling approximately 4,046 m² in area, is within a GRZ with no planning overlay. While Council officers supported the original plans for 16 dwellings subject to modification, Council opposed the development arguing that the increasing intensity and density of multi-unit developments over time is detracting from the special character of Green Island Avenue and the western end of the street.

The Tribunal decided against Council arguing that:

- One of the purposes of the GRZ is to provide housing diversity;
- There is no planning overlay applicable to the site or nearby properties;
- There is neither an express statement of preferred character or character policy or statement that articulates an appropriate density of development to maintain a requisite balance of landscape and built form in relation to the site and its environs; and
- The site is proximate to the Bentons Square shopping centre and a limited range of public transport services, and hence suitable for infill development and consolidation within the context of availability and accessibility of infrastructure and services as supported by Shire's local policy.

Regarding objectors' argument that the positioning of two double-storey dwellings on the front of the subject land is inconsistent with the pattern of single-storey developments along the western end of Green Island Avenue, the Tribunal stated that there is no basis to reject double-storey dwellings in terms of the directions provided by the MPPS. It further advised that if it were essential to limit development to single-storey for character reasons, then Council should pursue this through a planning scheme amendment where such a proposition can be strategically tested.

4.1.3. Watkins v Mornington Peninsula SC [2017] VCAT 301 (28 February 2017)

This proceeding concerned a proposal by the permit applicant to construct a single double-storey dwelling and remove vegetation at 4 Bellevue Road, Dromana. The site is within a GRZ with three planning overlays – DDO3, BMO2 and VPO1 – and is approximately 747 m² in area.

Objectors opposed Council's NOD to grant a permit arguing that the proposed development did not constitute a reasonable sharing of views and threatened to remove approximately 50% of the existing panorama which includes key features such as Mount Martha and the Melbourne CBD skyline. The objectors reside at 6 Bellevue Road which adjoins the southern boundary of the site. Both Council and the permit applicant, however, considered the Bay views to be reasonably shared and protected

in a reasonable and practical sense in accordance with the protection of shared views provision in the design objectives of DDO3.

In deciding in favour of Council's NOD to grant a permit, the Tribunal ruled that while the objectors have recourse to the principle of *legitimate expectations*¹ – a principle added by Senior Member Wright QC in *Middleton v Mornington Peninsula SC* [2016] VCAT 1164 (2 July 2016) to the shared-views principles derived from the decisions of *Tashounidis*² and *Healy*³, they failed to meet one of the two *Tashounidis* requirements needed to pass the reasonableness test set by the shared-views protection objective in DDO3, i.e. those objecting have taken all appropriate steps to optimise development of their own properties. In other words, the Tribunal regards the loss of views to be reasonable and acceptable considering that there is sufficient scope for the objectors to recapture and enhance their views through, for example, further glazing, extension and widening of their existing balcony to the west.

4.1.4. Pouloupoulos v Mornington Peninsula SC [2017] VCAT 1078 (26 July 2017)

This proceeding concerned a proposal by the permit applicant to construct a four-storey building (not including basement) to accommodate two retail spaces at ground level and 23 dwellings at 10 McCombe Street, Rosebud. The site is within a C1Z with no planning overlay and approximately 1,625 m² in area. Council's NOD to grant a permit was opposed by several residents who were concerned that the proposed development:

- Was out of character with the area;
- Was too large and bulky;
- Would create unreasonable traffic impacts and congestion;
- Would have a detrimental impact on the amenity of surrounding residents; and
- Was not site-responsive.

Council, however, argued that the proposed development was consistent with the purpose of the zone as the site sits within the commercially zoned area of the Rosebud Activity Centre where more intense development is not only expected but encouraged.

In deciding in favour of Council's NOD to grant a permit, the Tribunal ruled that:

- The site has State and local policy support for a higher form of development;
- The site is located within the Rosebud Activity Centre where development is encouraged; and

¹ The objectors' expectation that views from their property will remain is legitimate given that their property was acquired at a time when DDO3 was in force.

² *Tashounidis v Flinders SC, Deligiannis & Ors* [1988] VicAATRp 2; (1988) 1 AATR 116 (20 January 1988).

³ *Healy v Surf Coast SC* [2005] VCAT 990 (26 May 2005)

- The proposed development is a well-articulated building with a high-quality design that reflects coastal themes and provides a variety of setbacks at different elevations which result in a building of 'light and shade' and visual interest.

Regarding the objectors' view that the development is too large and bulky, the Tribunal argued that if mere visibility becomes the test across metropolitan Melbourne, then it will be virtually impossible to construct buildings above the prevailing scale. Although the development has a proposed building height that is 2 metres above the 14-metre height limit control stipulated in the Rosebud Activity Centre Structure Plan, the document was given limited weight by the Tribunal considering that it was yet to be considered by a Panel at the time of the hearing, even though it had been through a public consultation process.

4.1.5. Charlton v Mornington Peninsula SC [2017] VCAT 1770 (30 October 2017)

This proceeding concerned a proposal by permit applicants, to construct a double-storey house that had a 'Cape Cod' architectural style with a series of pitched roofs and gable ends and remove some vegetation at 98 Glenisla Drive, Mount Martha. The site is within a GRZ that has two planning overlays – DDO2 and VPO1. Although Council supported the proposal, an objector, who had a planning permit to build a double-storey house on his property (6 Pindari Street) which adjoins the permit applicants', opposed Council's decision because he considered the proposed design does not protect his view of Port Phillip Bay and other matters.

While there was no dispute amongst the parties that there is no legal right to a view, the Tribunal ruled that the relevant principles regarding view sharing derived from the decisions of *Tashounidis*⁴ and *Healy*⁵ needed to be given added emphasis when the issue of views is specifically addressed in the MPPS. In this instance, the issue is addressed in DDO2 as a design objective which seeks to protect shared viewlines where reasonable and practical.

4.1.6. Jolly v Mornington Peninsula SC [2017] VCAT 728 (23 May 2017)

This proceeding concerned a proposal to extend and convert an existing dwelling into a medical centre which exceeds 250m² in floor area at 50 Balnarring Road, Balnarring. The site is within a GRZ and affected by three planning overlays – DDO3, ESO28 and VPO1. Total area of the site is approximately 4,054m². While the site lies outside of Balnarring's activity centre, it is around 400 metres away from the commercial precinct.

An objector, whose property adjoins the site, opposed Council's NOD out of concerns that included:

⁴ *Tashounidis v Flinders SC, Deligiannis & Ors* [1988] VicAATRp 2; (1988) 1 AATR 116 (20 January 1988).

⁵ *Healy v Surf Coast SC* [2005] VCAT 990 (26 May 2005)

- The appropriateness of the size of the centre in its location;
- An increase in traffic movements;
- The impact on the residential amenity of the area;
- The lack of landscaping and screening along the boundary;
- Overlooking and light spillage; and
- The question of need.

The permit applicant argued that the proposed medical centre is appropriate having regard to:

- The zoning of the land – a medical centre is permissible although a discretionary use in the GRZ if it exceeds 250m² in floor area and meets other conditions;
- The compliance with policy – Clause 11 of the SPPF broadly seeks to locate new small community facilities that meet local needs in or next to Neighbourhood Activity Centres while the Health Facilities policy at Clause 19 seeks to facilitate such facilities in locations where they can be integrated with local and regional communities; and
- The ability of the facility to limit the impact on the amenity of adjoining properties – Clause 21.07 of the LPPF seeks to ensure that proposals for non-residential uses in residential areas respect the character and amenity of residential areas.

Council agreed that the proposed medical centre is appropriate in the GRZ and identified several key issues which it considered relevant to the proceeding, including neighbourhood character and built form issues, traffic and car parking matters, need for the proposed facility, and landscaping.

In deciding against Council's NOD to grant a permit, the Tribunal argued that:

- The proposed facility, although walkable from Balnarring's Small Township Activity Centre, would detract from the function of the centre considering that the centre has a defined boundary and beyond that, the properties are residential in nature with a rural 'feel' given the level of landscaping on the road reserve and larger lots;
- The proposal would not be consistent with the Non-Residential Uses In Residential Zones policy at Clause 22.12, which seeks to, inter alia, prevent out-of-centre commercial developments in residential areas that undermine the Activity Centres policy at Clause 21.07-3; and
- As a permit-required use due, to it exceeding the 250m² floor area limit, the proposed facility fails to meet one of the GRZ purposes which requires non-residential uses that serve local community needs to be established in 'appropriate locations'. The Tribunal determined that the scale and intensity of the proposal is inconsistent with the semi-rural neighbourhood of the surrounding residential area, and will generate an unacceptable volume of daily traffic.

4.1.7. Shelrain Pty Ltd v Mornington Peninsula SC (Corrected) [2018] VCAT 356 (14 March 2018)

This proceeding concerned a proposal to construct seven double-storey dwellings at 27-29 Woyna Avenue, Capel Sound. The site is approximately 831m² in area and within the GRZ with no planning overlays. Council refused to grant a permit arguing that it:

- Was an overdevelopment that fails to respect the neighbourhood's character; and
- Failed to meet many objectives and standards of clause 55.

Council relied on the *Mornington Peninsula Localised Planning Statement (Victorian Government, 2014)*, which was incorporated into the MPPS under Clause 11.05-2, saying that the Statement envisages that residential development will be of a type and scale that maintains the existing valued character of each town or settlement, and that development within each settlement will only be of a scale and character appropriate to the role, function and location of that settlement. Additionally, Council advised that the recently adopted Housing and Settlement Strategy (HSS), which builds on the Statement and other recent changes to the planning framework, proposed to place Capel Sound in the NRZ with a minimum lot size control of 450m² per dwelling.

The Tribunal did not consider the specific provisions in the Statement and HSS to be fatal to the proposal arguing that:

- While the Statement seeks different futures for Metropolitan Melbourne and the Peninsula, the direction is set at a high strategic level with an emphasis on maintaining the distinction between the Peninsula's settlements and its agricultural areas;
- The Statement's direction on character is general in that it states that development within each settlement will be of a scale and character appropriate to the role, function and location of that settlement – in the case of Capel Sound, the Tribunal considers its role and function is of a residential hinterland that is part of a band of existing housing linking Rosebud and Tootgarook, rather than that of a local centre, a view held by Council;
- While existing local policy encourages more intensive housing in Major Townships, it does not curtail the proposed development at the site in Capel Sound which the Tribunal considers to be close enough to schools, services and larger centres for medium-density development types;
- The valued attributes of local character, rather than their role and function, need to be further developed if the Statement's direction is to be strengthened; and
- While the HSS goes further than the Statement in articulating the importance of protecting the valued attributes of local character, it is not so far advanced to carry great weight in the Tribunal's deliberations.

Regarding Council's contention that the proposal did not achieve the balance between open space, vegetation and density that currently constitutes the character of Capel Sound which, in Council's view, is predominantly of dwellings with regular front setbacks that are separated from both boundaries, and that sit beneath a treed canopy,

the Tribunal argued that some aspects of this characterisation (e.g. setbacks and separation from boundaries) are too heavily weighted towards the neighbourhood's older housing stock while other aspects are simply inaccurate (e.g. treed canopy).

4.1.8. Green v Mornington Peninsula SC [2018] VCAT 358 (10 April 2018)

This proceeding concerned a proposal to construct three double-storey dwellings at 13 Park Avenue, Capel Sound. The site is within a GRZ with no planning overlay and approximately 733m² in area. Council refused to grant a permit based on objectives of the Localised Planning Statement, neighbourhood character, landscaping and design detail.

Regarding Council's submission that the proposal did not respond acceptably to the policy context – i.e. that Capel Sound is regarded as a local centre and therefore not sufficiently resourced to support the proposed development density – the Tribunal (in a similar decision to *Shelrain Pty Ltd v Mornington Peninsula SC*) supported the development, noting it was proximate to the local activity centre, had access to the foreshore, recreation areas and the bus route along Point Nepean Road which provides convenient access to the Rosebud Major Activity Centre. In the Tribunal's view, these factors supported the site as a suitable candidate for medium-density housing development.

Regarding neighbourhood character, Council argued that the double-storey nature of the development was incompatible with the single-storey streetscape and low-profile character of the area. The Tribunal held that the dominance of single-storey development was not a sufficient reason to prevent the introduction of two-storey dwellings; rather, it is more important that dwellings are designed to acknowledge and respond to their surrounds.

4.1.9. Lay v Mornington Peninsula SC [2018] VCAT 17 (4 January 2018)

This proceeding concerned a proposal to construct nine dwellings around a central common driveway comprising seven double-storey dwellings and two single-storey dwellings at 259 Dunns Road, Mornington. The site is within a GRZ with no planning overlay and approximately 2,090m² in area. It is also located within 400 metres of the Large Township Activity Centre of Bentons Square.

Council refused to grant a permit raising concerns that relate to the:

- Impact on the character of the surrounding neighbourhood;
- Extent of solar access to areas of secluded private open space; and
- Lack of a passing bay in the common accessway.

The permit applicant, however, argued that the site is appropriate to support a higher intensity of development compared to other nearby examples of medium-density housing considering:

- Its proximity to the Bentons Square activity centre;
- Its accessibility to a range of services and facilities within the Mornington township;

- The lack of ResCode variations in the schedule to the underlying GRZ;
- The absence of planning overlays; and
- That the Shire's local policies fail to identify a special character for the area.

In deciding in favour of Council's refusal to grant a permit, the Tribunal argued that while not much weight could be given to the recently adopted Housing and Settlement Strategy – considering the early status of the work and Council has as a future task in the creation of a neighbourhood character policy – the proposed development is not an appropriate response to the context and character of the site and its surrounds because, among other reasons:

- The site is in a location where the intensity and scale of development should be moderated in order to transition to the lower scale development and more spacious garden settings that occurs in the residential neighbourhood to the north of the review site; and
- The proposed development will contrast with the surrounding housing forms, particularly those to the north of the site, given the strong building presence proposed by the extent of double-storey form throughout the site, minimal breaks between dwellings, and narrow front setbacks.

In this proceeding, the Tribunal supported the use of the Local Area Character policy in the LPPF of the MPPS where the approval of the proposed development would add to "the cumulative effect of market driven changes that may adversely affect the features of residential environments which are valued by existing residents."

4.1.10. Proctor v Mornington Peninsula SC [2016] VCAT 1766 (24 October 2016)

This proceeding concerned a proposal by the permit applicants to use and develop a single dwelling (with an outside swimming pool) that includes an associated partially double-storey 'pool house' (intended for use as 'bed and breakfast' accommodation without food preparation facilities) and a machinery shed at 106 Coolart Road, Tuerong. The two-hectare site is within the GWZ2 and affected by four planning overlays – ESO4, ESO28, ESO17 and VPO2. The proposed machinery shed would incorporate a 'farm gate' sales area intended for the sale of produce from the property. Around 49.5% of the site is designated on the land management plan as 'production area' comprising five paddocks for lucerne hay production and a fruit orchard.

Council issued a NOD on the basis that:

- It considered the proposed land use to be compatible with the Green Wedge Zone;
- Small-scale farming operation within the carrying capacity of the land is required given that the small size of the local lots (including the review site) renders them unable to support 'viable farming enterprise';

- The review site is 'hemmed in' on all sides by two-hectare lots and roads, and there are no larger agricultural operations on any of the adjoining lots that would be able to combine and reasonably use the subject site for expansion purposes.
- A relatively large portion of the land would be retained for agricultural use, with the proposed dwelling not compromising the agricultural viability of surrounding land;
- The visual impact of the dwelling would be minimised by it being single-storey and of muted tones, with extensive tree planting assured through the proposed land management plan;
- The environmental and landscape values of the land would not be compromised, and no unreasonable amenity loss will result from the proposed use and development of the land;
- A Section 173 agreement relating to the land use can be used to ensure some form of farming to continue within the rural landscape; and
- The proposal is consistent with the interim policy 'Rural Dwellings Including Bed and Breakfast Accommodation' through its provision of a domestic envelope, a land management plan, and building design and siting that responds to the rural landscape.

In his objections, Mr Proctor argued that:

- The proposed land use will erode planning controls in the Shire and the GWZ because it aligns more with 'rural residential' use rather than the primary purposes of the Green Wedge;
- It does not show an integral link between hay production and the need for a dwelling;
- It would remove an unreasonable amount of productive land from agricultural production;
- It contradicts Shire policy to manage urban encroachment to within town boundaries;
- The land management plan fails to convey confidence that it provides for or promotes sustainable agriculture;
- Farming income for residents of the review site would be secondary to other sources of income; and
- A dwelling on the land will greatly increase the value of the land beyond that which would attract use for agricultural production.

While the Tribunal acknowledged that the review site is surrounded by other development such that there is no potential for it to be consolidated with other land to provide for a larger agricultural operation, it found that the land management plan lacks substantiation as a workable and sustainable proposal such that the purposes and objectives of the GWZ and Council's interim policy 'Rural Dwellings Including Bed and Breakfast Accommodation' are not satisfied. Specifically, the Tribunal argued that:

- While agriculture is not the only permitted land use, the GWZ clearly emphasises in its purposes the encouragement of agriculture, farming activity and the environment consistent with sustainable land management;

- The opportunity and potential for agriculture, as an as-of-right use in the GWZ, should not be diminished within the zone;
- No satisfactory link between the proposed dwelling (and its non-productive immediate surrounds) with agriculture has been demonstrated considering that, inter alia, there is no requirement for a dwelling on the land for the oversight of pasture for hay production;
- The land management plan fails to identify the unsuitability of the soil for the growing of lucerne;
- Allocating nearly 51% of the site for non-productive uses presents a substantial removal of land from agricultural production considering that similar scales of reduction have occurred at other nearby properties;
- Although the distance between the proposed dwelling and the nearest broiler shed is further than the minimum separation mandated in the *Victorian Code for Broiler Farms 2009*, this would limit development potential for broiler farms or any other agricultural practice that requires a buffer from sensitive uses within the vicinity even though agriculture is a primary purpose of the GWZ; and
- Council should seek an amendment to the planning scheme if it wishes for the local area to become a rural living 'enclave' considering that the cluster of 11 two-hectare lots resulting from an old subdivision of about 90 years ago has limited the capacity of the area to achieve full agricultural potential.

4.1.11. Allonmere Pty Ltd v Mornington Peninsula SC [2015] VCAT 815 (10 June 2015)

This proceeding concerned a proposal to develop and use the land at 5 & 21 Point Leo Road and 3645 & 3649 Frankston-Flinders Road, Merricks for a 150-patron restaurant, cellar door sales, art gallery and sculpture park. The proposal also sought to demolish and re-erect two heritage buildings, re-subdivide (consolidate) land, remove an easement, and alter access to a Road Zone Category 1.

While the proceeding concerned several lots, the decision primarily centred on 3649 Frankston-Flinders Road. This lot is located within a GWZ and affected by several planning overlays – ESO11, ESO20, ESO21, ESO28, SLO2, HO288, BMO and VPO2. The size of this lot is around 47 hectares, which is above the 40-hectare minimum required to permit a restaurant in the GWZ.⁶

Two key concerns underpinned Council's refusal to grant a permit:

- Operating hours; and
- Patron numbers.

⁶ The size of this lot was initially below the 40-hectare minimum when the permit applicant first applied for a planning permit; it was a prominent reason underlying Council's refusal. The issue, however, was resolved when the permit applicant amended the proposed subdivision plans to create three lots rather than four as initially proposed. The reconfigured subdivision locates the proposed commercial activities within this lot with an increased area of around 47 hectares.

Opening hours

Council's draft Condition 14 proposed restaurant opening times of 9 am to 5 pm Sunday to Thursday and 9 am to 10 pm Friday and Saturday, except with the written consent of the responsible authority. The permit applicant, however, sought to alter its original proposed opening times through submissions to the Tribunal to 9 am to 5 pm Sunday to Wednesday and 9 am to 11 pm Thursday to Saturday.

Council's decision to restrict the closing time on Thursdays to 5 pm, and Fridays and Saturdays to 10 pm was based primarily on issues relating to the potential impact on rural amenity from additional traffic, noise and light. This decision was informed by:

- the decision guidelines in the GWZ which require the responsible authority to consider whether the site is suitable for the use or development and the compatibility of the proposal with adjoining uses; and
- the Commercial and Industrial Uses in Rural Areas policy at Clause 22.07 which states that restaurant facilities in rural areas should generally avoid night time operation due to the potential impact on rural amenity from additional traffic, noise and light.

In deciding against Council's decision, the Tribunal agreed with the permit applicant's submission that it is not unreasonable to adopt restaurant opening hours commensurate with other commercial restaurants in the area because:

- Night time operation of restaurants associated with wineries and vineyards in the GWZ is part of the Mornington Peninsula experience;
- Several prominent restaurants associated with agricultural activity on the Mornington Peninsula have closing hours later than 10 pm generally on Fridays and Saturdays;
- All the commercial buildings are grouped centrally within the subject land, approximately 350 metres south of the Frankston-Flinders Road; and
- The nearest dwellings on the north side of Frankston-Flinders Road are well set back from the road and screened by trees such that the impact of headlights or noise associated with traffic flows in or out of the site is not expected to be significant.

Patron numbers

Considering that the GWZ provisions at Clause 35.04-1 require a restaurant to operate in conjunction with other specific uses (i.e. Agriculture, Natural systems, Outdoor recreation facility, Rural industry or Winery) and the total number of patrons present must not exceed 150 patrons, or 150 patrons at any time if used in conjunction with a Function centre, Council argued on the basis of implied logic that the 150-patron limit should be applied to the whole site at any one time even though the proposal did not seek a Function centre. The permit applicant, however, argued that the 150-patron limit should be applied only to the restaurant.

The Tribunal decided in favour of the permit applicant arguing that:

- While the purpose of linking the use 'Function centre' with 'Restaurant' is to control large functions that may occur on a regular basis, resulting in unreasonable detriment to rural amenity, this control does not have a broader application;
- The patron limit is specific to a Restaurant, and a Function centre if used in conjunction with a restaurant, while any one of the other uses that need to operate in conjunction with the restaurant does not have a patron limit;
- The correct approach is to draw on the policy guidance provided at Clause 22.07 which places rural amenity to the fore when assessing commercial activities in the GWZ and in which the Tribunal regards the amenity impacts from the proposal to be acceptable having considered that: (i) the proposed restaurant and cellar door sales have a clear link with agricultural production on the land; (ii) the proposed gallery, sculpture park and heritage buildings will offer a significant cultural and recreational experience; (iii) the size of the property provides sufficient area to buffer the centrally located commercial activities from surrounding residents; and (iv) the subject land abuts a main road;
- The permit applicant's proposed Operational Management Plan was identified as being likely to be a more effective tool for managing peak visitation and special events such as a wine and food festival or art exhibition; and
- The fact that a restaurant in the GWZ is also conditional upon being located on a lot of at least 40 hectares is not a reason to extent the restriction on patrons across the whole lot because the intent of the minimum lot size is to protect the landscape and rural amenity, not for restricting the number of patrons.

4.2. Panel Reports

Since the 2014 Review, fourteen (14) separate planning scheme amendments were referred to an Independent Panel for review. Significantly, all amendments were supported, either as exhibited or subject to minor modifications. In some instances, the Panel identified areas requiring further strategic work. An audit of Panel reports reveals distinct themes in the Panel's commentary and recommendations. Key reports and associated recommendations in this regard are outlined below.

4.2.1. Beleura Hill Mornington and Bridrock/Clarkes Avenues Mount Martha

Amendment C189 was proposed, where the community had raised concerns over the nature of development that had occurred over the years and its impact on the landscape character of these precincts. From the outset it was a community driven process intent on preserving the character of their respective neighbourhoods. Council engaged separate consultants to review the landscape character of the affected precincts.

In consideration of Beleura Hill, Mornington, and based on the character of the area, the recommended design response included setbacks, permeable areas, open spaces and site coverage that were more onerous than provided in Clauses 54 and 55 of the planning scheme. In addition, the design guidelines recommended lot sizes for subdivision for each precinct to assist in retaining a pattern of larger lots, spacious development and to complement the key characteristics of the area. Council adopted the *Beleura Hill Design Guidelines* on 24 August 2015. The post exhibition changes to the DDO2 contained similar provisions to the DDO24 that were proposed for Beleura Hill in respect of number of dwellings on a lot, site coverage, permeability and driveway width. The Panel noted that these provisions would be easily transferable to the NRZ schedule if that were pursued in the future.

4.2.2. Mount Eliza and Rye Development Plan Overlays

Amendment C191 (among other matters) proposed to insert two new schedules to the Development Plan Overlay and apply them to 11-13 Mountain View Road, Mount Eliza and 470-474 Browns Road, Rye. The amendment sought to enable subdivisions that would not otherwise meet the minimum subdivision lot size required by Design and Development Overlays (DDOs). The key feature of the amendment was the application of site-specific Development Plan Overlays (DPOs) to the sites. The application of the DPOs would allow the subdivisions to proceed, but have the shortcoming that third party appeal rights would not be possible while they remain in place. A solution discussed at the hearing focused on the option of removing the DPOs once subdivision of the subject sites had taken place. This would involve two Section 173 Agreements, requiring the applicants to agree to lodge a request for removal of the DPO Schedules immediately after the subdivision of the land has taken place. The Panel supported this approach, but has not made a formal recommendation relating to it.

The Panel concluded that the central issue was the crude nature of the DDOs, which have precluded a number of sound developments that are otherwise consistent with the objectives of strategic land use planning in Mornington Peninsula Shire. The Panel strongly suggested that their unintended consequences should be reviewed as part of the research for and implementation of Mornington Peninsula's Housing Strategy, which was under preparation at the time.

4.2.3. Hastings Town Centre Structure Plan and Rosebud Activity Centre Structure Plan

Amendments C190 and **C206** are currently with the Minister for approval, and seek to implement the *Hastings Town Centre Structure Plan 2014* and *Rosebud Activity Centre Structure Plan 2015* respectively. Both Structure Plans establish a strategic planning framework to guide future permit applications. Changes proposed by the

amendments include reducing building heights, increasing setbacks, and implementing them as mandatory provisions.

Amendment C190 proposes to implement the strategic directions in the *Hastings Town Centre Structure Plan 2014* by:

- Introducing a new Clause 22.24 (Hastings Activity Centre);
- Amending Clause 22.02 (Activity Centres) to exclude the Hastings activity centre from the recommended design standards for major activity centres;
- Introducing a new Design and Development Overlay Schedule 27 (DDO27) to commercial land;
- Rezoning specified properties to the Mixed Use Zone (MUZ);
- Rezoning specified properties from General Residential Zone Schedule 1 (GRZ1) to a new General Residential Zone Schedule 2 (GRZ2); and
- Rezoning the remaining GRZ1 land to a new General Residential Zone Schedule 4 (GRZ4).

Amendment C206 proposes to implement the strategic directions in the *Rosebud Activity Centre Structure Plan 2016* by:

- Introducing a new Clause 22.23 (Rosebud Activity Centre);
- deleting Design and Development Overlay Schedule 1 from land in the centre introducing a new Design and Development Overlay Schedule 26 (DDO26) to commercial land;
- Rezoning residential land with Point Nepean Highway frontage, between First and Fourth Avenues, Rosebud, to MUZ;
- Rezoning residential land between First and Ninth Avenues, north of Mount Arthur Road and on the foreshore from GRZ1 to a new General Residential Zone Schedule 5 (GRZ5); and
- rezoning other residential land from GRZ1 to a new General Residential Zone Schedule 6 (GRZ6).

The amendments were exhibited from 2 March to 4 April 2017 and received seven submissions for Amendment C190, and 40 submissions for Amendment C206. Issues raised in submissions included mandatory provisions, building heights and setbacks, activity centre and precinct boundary alignment, planning scheme zones and nominated access ways.

The Panel noted that both Hastings and Rosebud Activity Centres have existing mandatory maximum building heights applied to approximately 55 and 80 per cent of each centre respectively. The Panel concluded that Council did not provide a rigorous or comprehensive assessment to justify mandatory provisions beyond these existing provisions. The Panel made no recommendation to change the existing mandatory building height provisions. Based on available information, the Panel found that there is insufficient strategic justification to apply further mandatory provisions as proposed through Design and Development Overlay Schedule 26 and 27 and additional General

Residential Zone schedules, except for residential land north of Point Nepean Road in Rosebud.

The Panel considered that mandatory provisions may be warranted in some parts of the Activity Centre. The amendment would have benefitted from evidence-based information such as modelling on view impacts supported by expert advice to explain how and why heights and setbacks beyond a certain point would be considered unreasonable. This information would have identified the extent of mandatory heights and setbacks which should be implemented. The Panel encouraged Council to pursue this further if it continues to seek mandatory provisions in some parts of the Activity Centre.

The Panel considered that land with provisions that may enable built form to adversely obstruct views towards Arthurs Seat from identified key vantage points is a candidate for mandatory provisions and it encouraged Council to undertake the necessary work to support such provisions.

4.2.4. Ocean Beach Road Commercial Precinct, Sorrento

Amendment C204 sought to introduce Schedule 28 to the Design and Development Overlay (DDO28) into the Scheme to apply to land within the heritage precinct known as the Ocean Beach Road Commercial Precinct, Sorrento. As exhibited, DDO28 included design objectives; application requirements; mandatory height and setback requirements and decision guidelines.

Council submitted that the amendment was required to limit the height and scale of future development within the commercial precinct of Sorrento; manage the ever-increasing development pressure on Ocean Beach Road and ensure that the historical significance and coastal village character of the township is not lost through the cumulative impact of inappropriate development. An interim DDO28 currently applied to the land. The interim control applied mandatory setback and height requirements. The amendment sought to implement the *Ocean Beach Road Commercial Precinct Sorrento Heritage Policy (HLCD Pty Ltd 2015)* via the permanent introduction of the proposed DDO28.

Although the Panel was not convinced that there is a high level of existing 'development pressure', or that the built form of recent developments was overwhelming or out of character, on balance the Panel supported the need for additional controls over and above local policy. The Panel was not convinced that the proposed mandatory nature of the setback and height controls met the criteria of Planning Practice Notes 59 or 60, and concluded that discretionary controls could achieve the built form outcomes sought by Council whilst maintaining the design flexibility inherent in a performance based system. The Panel recommended that the amendment proceed, subject to the replacement of mandatory controls with discretionary controls, and a number of other changes to the proposed DDO28.

The Panel also noted that PPN60 requires that where blanket mandatory height and setback controls are proposed, that rigorous strategic justification has to be provided. Whilst the Panel accepted the HLCD report includes a built form analysis of the centre, they noted there had not been any further strategic work undertaken in the form that is called for by the Practice Note, including a housing strategy, an economic strategy, a capacity and constraints analysis, or an identification and analysis of key sites within the centre which can accommodate more intense development.

4.2.5. Creswell Street, Crib Point

Amendment C210 proposed to facilitate the future use and development of the amendment area for residential purposes by applying:

- The Neighbourhood Residential Zone (NRZ) to the land and removing the Industrial 3 Zone (IN3Z);
- A Development Contributions Plan Overlay (DCPO) to the area; and
- An Environmental Audit Overlay (EAO) to three properties.

The amendment also proposed to delete the Restructure Overlay – Schedule 4 from parts of the amendment area. The area has been in Industrial zones for many years, but has experienced little industrial activity because of its lack of exposure and poor access. It is currently in a decrepit state, with the eastern section of Creswell Street in poor condition. Proponents of the amendment (consortium of landowners) submitted that the area had not developed for industrial uses because of limitations of the site, and the fact that Crib Point Terminal land had changed since the closure of the Crib Point oil refinery in 1985, where the buffer for the terminal can now be accommodated within the designated SUZ1.

The Panel generally supported the amendment with minor modifications that were mostly in relation to the proposed Development Contributions Plan. At the Hearing, Council referred to its preparation of Amendment C219 (currently awaiting authorisation from the Minister) which aims to implement actions of the *Mornington Peninsula Housing and Settlement Strategy (2017)* which includes a proposal to use the NRZ and associated Schedules in place of some current areas of GRZ and DDO's. Amendment C210 proposed to introduce the NRZ and associated Schedule 1. The Panel focused on the merits of the use of the NRZ and Schedule 1 on the amendment area, and not as a test case for the wider application of the planning tools as proposed under Amendment C219, however the Panel were supportive of the use of the NRZ and associated Schedule as a 'simplified planning tool'.

4.3. Conclusions and recommendations

4.3.1. VCAT

The VCAT proceedings discussed in Section 4.1 provide insights into the effectiveness of the Shire's planning scheme in delivering desired planning outcomes for the Mornington Peninsula. Specific local policies that have proved successful in guiding decision making by the Tribunal in supporting Council's objectives for the municipality include:

- The protection of shared views objectives in specific DDOs gained significant support as demonstrated in *Charlton v Mornington Peninsula SC* and *Watkins v Mornington Peninsula SC*.
- Guiding Future Township Development policy at Clause 21.07, including the sub-clauses of 21.07-2 Local Area Character and 21.07-3 Activity Centres; and
- Non-Residential Uses in Residential Zones policy at Clause 22.12.

Some of the proceedings highlight specific weaknesses of the Shire's planning scheme - these include:

Lack of weight given to the Localised Planning Statement and the need for defined neighbourhood character studies

Decisions where Council has relied upon the character aspirations of the Localised Planning Statement alone in refusing an application have generally not had the support of the Tribunal. It is clear from the Tribunal's commentary that where the subject site has been located in the GRZ without the benefit of any other controls, decisions predominantly been made in context of a balance of existing and evolving character, which is often at odds with the more modest character the Localised Planning Statement seeks to achieve.

As outlined by the Tribunal in *Bentons Blossom Pty Ltd v Mornington SC*, *the absence of a statement about existing or preferred neighbourhood character in the MPPS necessitates the existing neighbourhood character of the area to be considered in the context of one of the GRZ purposes which is acknowledging that change is to be expected*.

Commentary has clearly identified that in the absence of a defined neighbourhood character study – particularly in the case of medium density residential proposals located in the GRZ – there is no further 'protection' offered by the Localised Planning Statement as evidenced by the decisions of the Tribunal in *Bentons Blossom Pty Ltd V Mornington Peninsula SC*, *Mulholland v Mornington Peninsula SC*, *Green v Mornington Peninsula SC* and *Shelrain Pty Ltd v Mornington Peninsula SC*.

NRZ as a more effective tool for the Mornington Peninsula Planning Scheme in achieving 'in character' outcomes

The outcomes of Tribunal decisions clearly identify that the ability to include mandatory controls or variations to (predominantly) Clause 55 in the NRZ and schedules to the zone, would offer a superior outcome in achieving Council's preferred character objectives that align to its Localised Planning Statement and local policy framework. It is clear that reliance on the Statement and LPP's alone does not generate support from the Tribunal in achieving character objectives as evidenced in *Bentons Blossom Pty Ltd v Mornington Peninsula SC*, *Mulholland v Mornington Peninsula SC* and *Shelrain Pty Ltd v Mornington Peninsula SC*.

Council's recent adopted Housing Settlement Strategy (see section 6.2) and subsequent Amendment C219 to implement the NRZ and schedules across the Peninsula's neighbourhoods will provide significant strategic support to guide decision making. Council has undertaken significant work in preparing character studies across the Shire since the last Planning Scheme Review in 2014 including for Beleura Hill, Hastings, Rosebud, Dromana and Sorrento. Further strategic work will be required to initiate and implement character studies across the balance of the Peninsula.

Impacts of the introduction of VC110

Outcomes of proceedings since the introduction of VC110 further highlight the need to develop statements about existing and preferred neighbourhood character for the Shire's settlements. The various Tribunal decisions canvassed as part of this Review have demonstrated that until such statements are adopted, the Tribunal will continue to rely upon the broad 'purposes' of the GRZ in its decision making. In council's view, reliance on these generic terms alone is insufficient to protect the shire from inappropriate development. It follows that continued advocacy for the approval of proposed Amendment C219 is essential to ensuring that a strengthened local response to neighbourhood character is put in place.

The need for a Green Wedge Management Plan to guide decision making

In relation to approving dwellings in the GWZ subject to the requirement of a land management plan, VCAT decisions regarding dwellings in the GWZ demonstrate that, whilst a lot may not be large enough to support traditional agricultural practices, this is not reason enough to approve a non-agricultural use for the land. This is evidenced in *Proctor v Mornington Peninsula SC*, where the Tribunal found that the purposes of the GWZ should still be pursued, even if the lot is among others of similar insufficient size. The Tribunal confirmed the importance of 'robust' land management plans as "*planning decisions should not accept a proposed use that is unlikely to be achieved in practice, or which is likely to cause long-term deterioration of the land resource.*"

Analysis reveals that Council also needs to be more judicious when applying the local policy as well as the GWZ provisions and decision guidelines in its assessment of permit applications given that conditions affecting rural amenity vary tremendously between lots in the Green Wedge. In this regard, Council is currently finalising a new Green Wedge Management Plan (GWMP) to replace the existing interim plan originally

adopted by the Shire in 2012 (see section 6.3.1). The GWMP is a major piece of strategic work that, once integrated, will help strengthen the planning scheme's local Green Wedge policies.

4.3.2. Panel

Panel critique and associated recommendations have generally centred around a lack of strategic work available to support proposed amendments. This is especially the case when the Panel reviewed proposed mandatory controls in the absence of neighbourhood character studies or a housing strategy (i.e. C190, C206 and C204). Conversely, the Panel was much more supportive of those amendments substantiated with the rigour of character assessments (i.e. C189).

The Panel has also provided commentary around the planning scheme's use of DDO's, noting that the '*crude nature*' of the Shire's DDOs could preclude positive development outcomes in the absence of applied zones with foundation in strategic content/work (i.e. C191).

Given the generally accepted 'lower-scale' and 'coastal' character of the Peninsula, attempts through the planning scheme amendment process to implement mandatory controls – particularly regarding height – were often criticised by Panels. Criticism was often based around the need for strategic work to be undertaken by Council to provide solid foundations for decision making, and underpin further planning scheme amendments going forward.

Council has since adopted a new Housing and Settlement Strategy which has formed the basis of Amendment C219 currently with the Minister for Authorisation. This strategic work clarifies Council's position regarding the scale of residential development anticipated for the Peninsula going forward.

Recommendations:

- **R1:** Continue to pursue approval of Amendment C219 (NRZ & HSS) to the planning scheme.
- **R2:** Further strategic work to prepare and implement future neighbourhood character studies.
- **R3:** Continue preparation and adoption of current strategic plans and township structure plans.
- **R4:** Amend the policy and provisions of planning scheme to ensure alignment with adopted strategic plans and neighbourhood character studies.
- **R5:** Upon adoption of the Green Wedge Management Plan, update the local planning policy framework (including MSS and policies) to articulate the key strategic directives of the plan.

5. State Strategic Context

There have been considerable changes to State policy in a variety of areas since the last planning scheme review, including the *en globo* review of the Victorian Planning System via the State Government's *Smart Planning* program. Other key initiatives include:

- Release of the updated Metropolitan Strategy;
- Introduction of the *Planning and Environment Amendment (Distinctive Areas and Landscapes) Act 2018*;
- Introduction of the *Planning and Building Legislation Amendment (Housing Affordability and Other Matters) Act 2017*;
- Refinement of the residential zones, bushfire and vegetation overlays; and
- Associated new and amended Ministerial Directions, Planning Practice Notes and Advisory Notes.

5.1. Introduction of the Revised Metropolitan Strategy – ‘Plan Melbourne 2017’

In 2015, the State Government committed to refreshing and updating Melbourne's metropolitan planning strategy, *Plan Melbourne 2014*, to reflect a long-term vision for housing, jobs, liveability, energy efficiency and integrated public transport and infrastructure, together with a more explicit climate change response. Following extensive consultation and advice from a Ministerial Advisory Committee (MAC), *Plan Melbourne 2017* was developed and adopted. The new strategy builds on key priorities underpinning the founding strategy, while strengthening the focus on matters emerging from projected population growth, changing economic conditions and the pressures of climate change.

The revised Strategy cements the Mornington Peninsula as an area of State significance owing to its substantive green wedge and agricultural land, distinctive landscapes and open spaces, nationally and regionally recognised environmental and biodiversity assets, Port infrastructure, and recreation and tourism values. The Strategy also reaffirms Mornington, Rosebud and Hastings as Major Activity Centres within metropolitan Melbourne's activity centre network.

Ministerial Direction No. 9 - Metropolitan Strategy was amended on 31 March 2017 to require planning authorities to have regard to *Plan Melbourne 2017* when preparing an amendment to a planning scheme within metropolitan Melbourne.

Amendment VC134 (31 March 2017) updated the VPPs and all planning schemes in Victoria to reflect the strategic directives of *Plan Melbourne 2017*. The amendment implemented an interim restructure of the SPPF to provide for regionally specific policy to be tailored into planning schemes, based on the eight regional growth plans of *Plan Melbourne 2017*. The purpose of regionally specific policy is to ensure planning

schemes focus on directly relevant settlement policy. The amendment also incorporated the *Principal Public Transport Network 2017* (State Government of Victoria, 2017) into all planning schemes.

Amendment VC134 is identified by the State Government as a sample of the sort of tailoring that will occur in Victoria's planning policy framework in the future, as foreshadowed by 'Smart Planning'.

5.2. The Smart Planning Program

Launched by the Department of Environment, Land, Water and Planning (DELWP) in July 2016, *Smart Planning* is a two-year program designed to overhaul Victoria's planning system to meet key challenges over the next 30 years. The program was initiated in response to the findings of the Victorian Auditor General's report on *Managing Victoria's Planning System for Land Use and Development* (21 March 2017).

Smart Planning aims to make planning more efficient, effective, accessible and collaborative. Key objectives are to:

- Simplify planning regulation to make it easier to understand, and improve the quality of planning outcomes, and
- Develop digital tools that make it easier to access information and complete tasks to boost activity, participation and efficiency in the planning system.

The primary actions are summarised below.

Proposed Rules & Policy

- *Improve the SPPF* – to allow State and local policy to be used together more easily,
- *Simplify the VPP* – to make planning regulation more consistent and efficient, including investigating assessment and streamlined pathways for lower-risk applications, and
- *Expand the VicSmart program*.

Proposed Digital Systems

- '*Victorian Planning Portal*' – to act as a single point of information and services (www.planning.vic.gov.au has now been introduced),
- *Planning Scheme Information Management System (PSIMS)* – to house all planning schemes online,
- *VicPlan* – a State-wide map viewer to access zone and overlay information,
- Improvements to Planning Scheme Amendments Online,
- *Property Dashboard* – to offer a basic search tool to access planning data on any given site in Victoria, and
- *Permits Online* – a new online system for lodging, processing and tracking State planning permit applications.

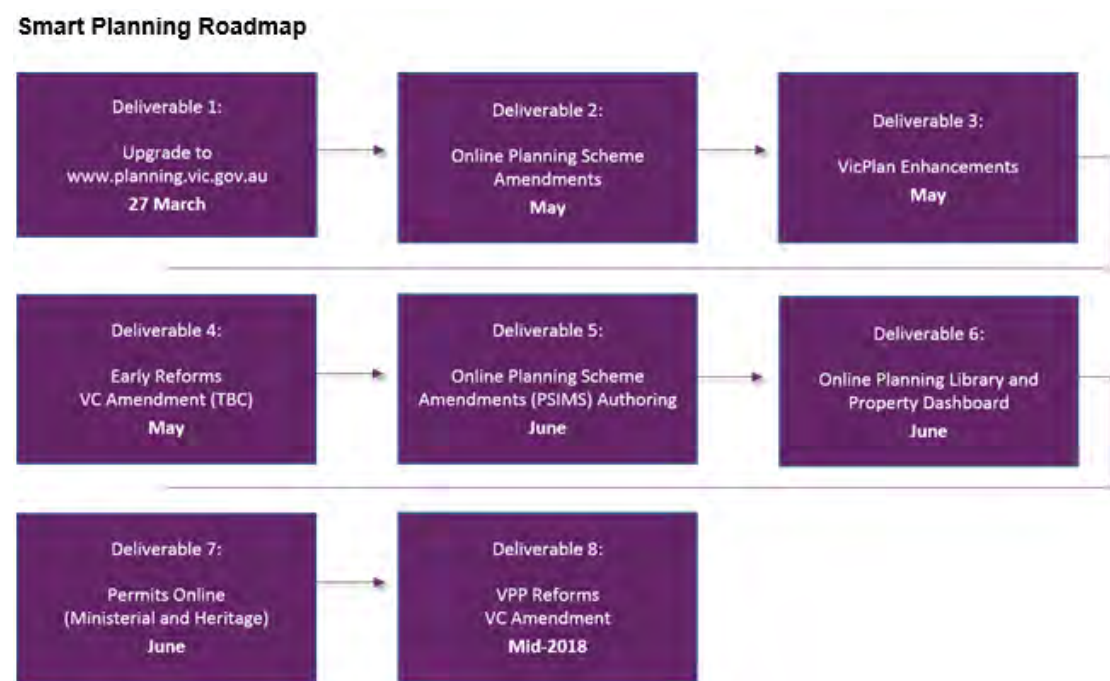
On 16 October 2017, DELWP released a discussion paper – *Reforming the Victoria Planning Provisions*. The discussion paper focused on further overhauling the structure and operation of the VPP, and is divided into five main proposals, as shown in Figure 1.

Figure 1: Proposals to Reform the VPP

Proposal 1: A simpler VPP structure with VicSmart assessment built in	
1.1	Restructure and reform the particular provisions
1.2	Integrate VicSmart into appropriate particular provisions and overlay schedules
1.3	Consolidate all administrative provisions
Proposal 2: An integrated planning policy framework	
2.1	Integrate state, regional and local planning policy
2.2	Simplify the Municipal Strategic Statement
2.3	Expand policy themes
2.4	Create a clearer and simpler structure for policy making
2.5	Set new rules and guidelines for writing policy
Proposal 3: Assessment pathways for simple proposals	
3.1	Embed a VicSmart assessment pathway in appropriate particular provisions and overlay schedules
3.2	Introduce new code-based assessment provisions for simple proposals to support small business, industry and homeowners
Proposal 4: Smarter planning scheme drafting	
4.1	Create a new VPP user manual
4.2	Establish a business unit dedicated to VPP and planning scheme amendment drafting
4.3	Create an online Victorian planning library
Proposal 5: Improve specific provisions	
5.1	Improvements to specific provisions
5.2	Update the Definitions section of the VPP
5.3	Regularly review and monitor the VPP

In its April update, DELWP confirmed the following rollout of initiatives for 2018, as outlined in Figure 2.

Figure 2: Smart Planning Roadmap



The program has resulted in a steady stream of amendments to improve the operation of the Victoria Planning Provisions (VPPS).

Amendment VC133 (25 May 2017) further improved the structure of planning schemes and corrected inconsistencies to enable the ultimate migration of schemes into the planned PSIMS. The amendment was administrative in nature, with technical corrections designed to align with a new *Ministerial Direction on the Form and Content of Planning Schemes* issued in April 2017 under section 7(5) of the Act.

Amendments VC135 (27 March 2017) and **VC137 (27 July 2017)** collectively expanded *VicSmart* – the fast-track planning pathway for applications of a relatively minor nature. Each amendment introduced additional classes of applications to further reducing the regulatory and administrative burden of both applicants and councils by an estimated 7%.

Amendment VC142 (15 May 2018) introduced a wide range of reforms across the VPP that generally removed permit triggers, expanded permit exemptions for land uses and buildings and works, removed superfluous and outdated provisions, updated references, improved and updated definitions, clarified common points of confusion and improved the usability of planning schemes. The scope and nature of VC142 is outlined in *Planning Advisory Note No. 67* (January 2018).

Amendment VC143 provided further updates to the new residential zones. The specificities of this amendment are discussed in Section 5.3 below.

Amendment VC146 implements the Infrastructure Contributions Plan (ICP) public land contributions model by introducing a new overlay, Clause 45.11 (Infrastructure Contributions Overlay), into the *VPP*. The amendment includes consequential changes to the State Planning Policy Framework to recognise the new ICP system. Whilst a significant advancement in the system of development contribution levies, this amendment has no implications for the Mornington Peninsula as it is only used for areas of “high growth” (i.e. greenfield sites). Council can only use the regular Development Contributions Plan Overlay already available in the VPPs to levy development and community infrastructure.

On 31 July 2018, DELWP released the latest round of VC amendments flagged in ‘Deliverable 8’.

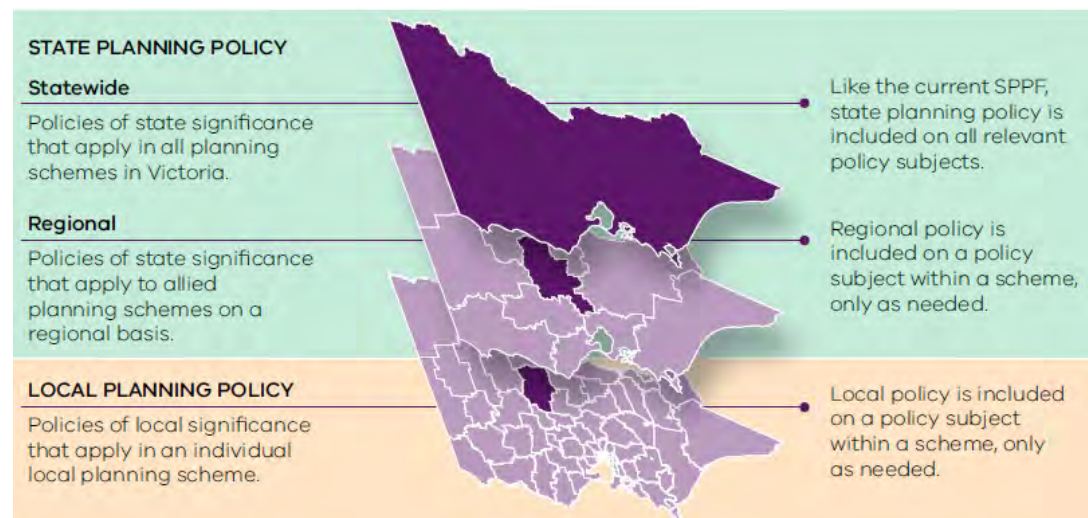
Amendment VC148 (31 July 2018) is the most major of all the *Smart Planning* amendments, implementing the first stage of replacing the State Planning Policy Framework (SPPF), as well as enabling the future introduction of the Municipal Planning Strategy (MPS) to all Victorian planning schemes. The amendment also includes the restructure of particular provisions, integrating VicSmart into applicable zones, overlays and particular provisions. Specific zones, overlays and particular provisions are also amended to improve their structure and operation, and to support the translation of LPPFs to the MPS and PPF. The scope and nature of VC148 is outlined in *Planning Advisory Note No. 71* (July 2018) and *Planning Advisory Note No. 72* (July 2018).

5.2.1. Integrated Planning Policy Framework

Of most significance to this Review is the recently introduced integrated Planning Policy Framework (PPF), the first stage of which has been introduced via Amendment VC148 (referred to above). The PPF merges the SPPF and LPPF into a single policy source, with three levels of policy: State, regional and local. The three levels of policy are grouped by theme, with directly relevant regional and local policies ‘nested’ under the corresponding State planning policy - if policy is in place at those levels.

Significantly, the new PPF seeks to emphasise the equivalent importance of State, regional and local policy in decision-making. Planning and responsible authorities would be required to uniformly take account of, and give effect to all three tiers of policy. The proposed nested policy framework also seeks to ensure the more consistent application of State and local planning policy. The proposed framework is outlined in Figure 3.

Figure 3: Integrated Planning Policy Framework



Overall, DELWP contends that the new PPF will promote greater policy certainty through:

- **Strengthened policy:** whereby local policy is reinforced by flowing directly from a State and regional basis to supplement and amplify State policy at the local level. Each level of policy is then able to be considered equally by responsible and planning authorities.
- **Grouping policy:** Inconsistencies and repetitions between State and local planning policy would be removed by grouping policy by subject matter.
- **A more navigable and usable policy framework:** Providing users with a more logical sequence of policy through a nested format.
- **Tailored metropolitan and regional policy:** Only relevant metropolitan and regional policy would appear in each planning scheme.
- **Easier policy review and updating:** Together, a more streamlined and nested policy framework and the new Planning Scheme Information Management System (PSIMS) technology would make regular review of policy more manageable.

To implement the new PPF, existing regional policy has been integrated into the PPF (via Amendment VC148), with local planning policies to be reviewed and appropriately redistributed under the relevant planning policy themes.

Amendment VC148 also amends several zones, overlays and other provisions to enable their schedules to specify additional matters including purposes, objectives, application requirements or decision guidelines. The intention in enabling these matters to be specified in controls is to allow for consolidation of related provisions and also to allow for some local policy content to be appropriately translated into these schedules (as appropriate). A Ministerial Direction - *The Form and Content of Planning Schemes* has been amended to provide for these added matters.

Advisory Note 72 details those provisions which have been amended to enable schedule specifications. See Figure 4 below.

Figure 4: Provision Changes to Support Translation into the MPS and PPF

Provision	Change enables schedule to specify:
Urban Floodway Zone	• Application requirements • Decision guidelines
Environmental Significance Overlay	• Application requirements
Vegetation Protection Overlay	
Significant Landscape Overlay	
Design and Development Overlay	
Development Plan Overlay	• Objectives
Erosion Management Overlay	• Objectives
Salinity Management Overlay	• A statement of risk
Floodway Overlay	• Application requirements
Land Subject to Inundation Overlay	• Decision guidelines
Special Building Overlay	
Heritage Overlay (more information provided below)	• Statement of significance (mandatory) • Heritage design guidelines • Application requirements
Gaming (Clause 52.28)	• Objectives • Location guidelines • Venue guidelines • Application requirements • Decision guidelines

Another key feature of the PPF is the simplification of the Municipal Strategic Statement. The MSS is to be converted into a more succinct “mini MSS” known as a “Municipal Planning Strategy” (MPS). The MPS will sit at the front of the PPF, providing a concise ‘narrative’ of the municipality, and overview of Council’s strategic planning directions.

The MPS is designed to provide a more focused and strengthened statement of planning aspirations that are particular and unique to the municipality, and is to be structured as follows:

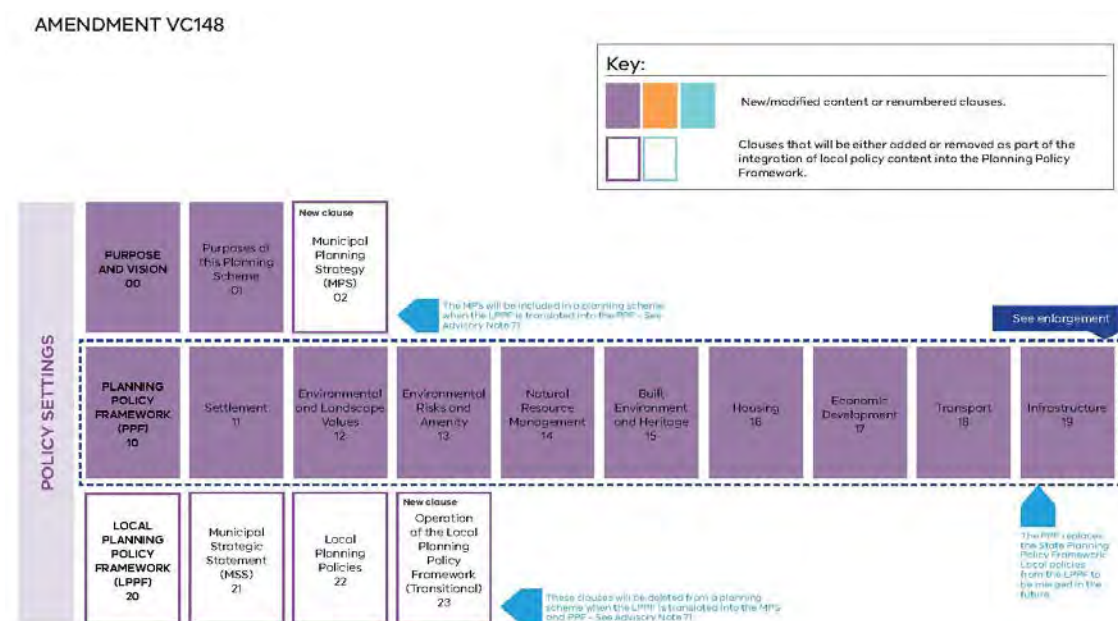
- Municipal Context: physical location, regional context, history, key attributes, assets, threats and influences.

- Municipal Vision: synopsis of aspirations.
- Strategic Directions: overall guiding planning principles and directives.
- A Strategic Framework Plan: physical plan illustrating the key strategic directives.

Appropriate MSS content that is not included in the MPS is to be reviewed and integrated into the PPF. It should be noted that in the fully integrated PPF, while the Municipal Planning Strategy is positioned 'numerically' ahead of the PPF at Clause 02, it is not positioned 'functionally' ahead of the PPF. The PPF prevails over any local provision, including the MPS, in keeping with Section 7(4) of the Planning and Environment Act 1987.

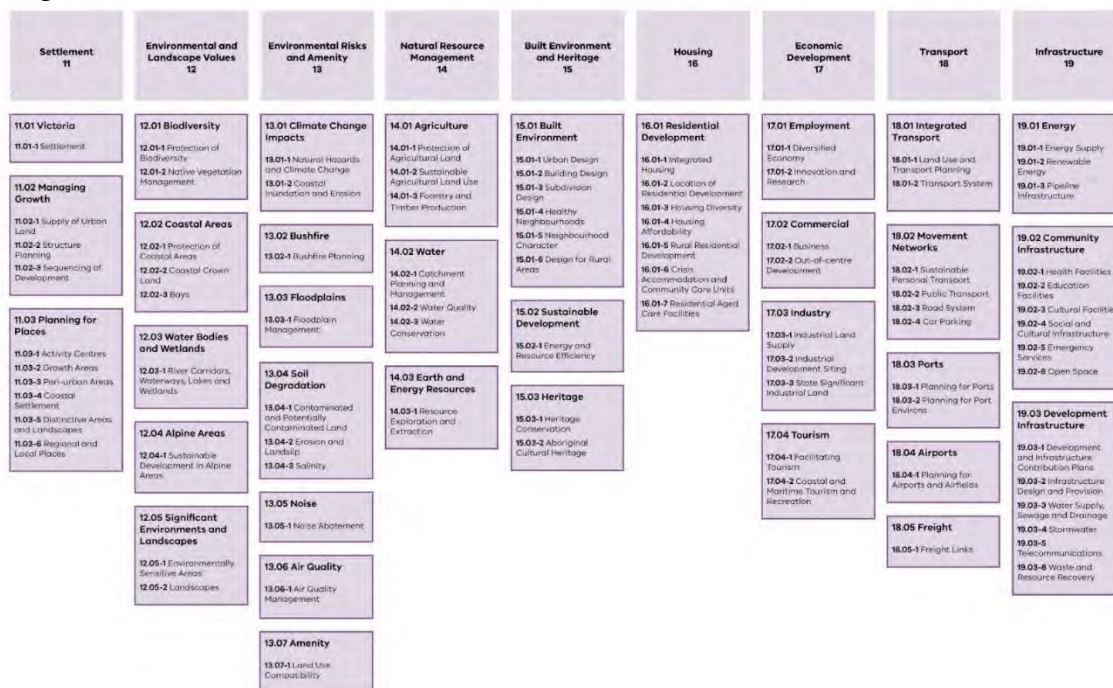
The new (including transitional) structure of planning schemes has been identified in Advisory Note 72 (see Figure 5 below). The new structure identifies that once the MPS has been implemented, and local policies have been integrated into the PPF, clauses 20 – 23 will be removed.

Figure 5: New Planning Scheme Structure (including transitional arrangements)



As outlined in Figure 5 above, in addition to a MPS, the thematic suite of policy themes in the SPPF have been reformed. In effect, the proposed thematic structure starts with a municipal context and vision which is succeeded by a settlement policy that includes growth and place-based directives. This is followed by thematic-based policies (such as economic policies, environmental policies, infrastructure policies and the like), which have been expanded by including additional and consolidated policy themes to ensure appropriate existing and future local and regional planning policies can be included in the PPF. Overall, the proposed range of policies remains generally consistent with the existing SPPF framework, but is amended to ensure the PPF has the capacity to deliver policy intentions at State, regional and local levels. Figure 6 has been taken from Advisory Note 72, and identifies the new and expanded PPF themes.

Figure 6: New PPF Themes



As noted at this stage, local content has not been introduced into the PPF. Amendment VC148 only implements the first two tiers of the PPF (State and regional policy) as local policies are yet to be included. Transitional provisions in Clause 23 of the planning scheme ensure that LPPFs continue to operate as they do currently, until they are translated into the MPS and PPF.

With regard to the new PPF, a lot of content has been relocated, resulting in the deletion of some clauses altogether – however retaining content. E.g. Clause 11.01-2 Victoria Settlement Framework has been deleted and relocated to 11.01-1 Settlement in the new framework.

Some other changes of note include:

- Clause 11 has been significantly amended with new headings and much of the content re-located.
- Activity Centres has a new heading - Planning for Places.
- Resource Exploration and Extraction has been moved to a sub clause and replaced with Earth and Energy Resources (14.03) and Open space is now included under 19.02.

New clauses have been created for:

- Regional and Local Places (11.03-6);
- Natural Hazards and Climate Change (13.01-1);
- Amenity (13.07) and Land Use Compatibility (13.07-1);

- Design for Rural Areas (15.01-6);
- Diversified Economy (17.01) and
- Emergency Services (19.02-5).

Of particular significance to the Mornington Peninsula Shire Planning Scheme:

- Coastal tourism has been deleted from Clause 12 and moved to a relocated Tourism clause (17.04); and
- Maritime Precincts has now been renamed Coastal and Maritime Tourism.

DELWP have advised as part of Amendment VC148, State Policy content has been updated where possible. Certain policies, references and policy documents are known to be in need of review, but have not been updated as part of Amendment VC148 as they are being addressed as part of other subject specific reviews. These reviews include projects relating to major hazard facilities, airports and environmentally sustainable development.

A standard format has also been introduced for the PPF (through amendment VC148) that generally follows the existing SPPF policy construction of objectives, strategies and policy guidelines, but with key changes. Each level of policy (State, regional and local) includes an 'objective', 'strategies' and a new 'policy documents' section for each policy matter. In describing the level of policy within the PPF, clauses now include an 'S' for State level policy or 'R' for regional level policy after the clause number.

In translating local policy, two new headings, 'policy application' and 'policy context', are proposed to ensure policy transparency. 'Policy application' explains where a policy is applied (such as policies that may only apply within a mapped area, in certain zones or for certain types of applications), whereas 'policy context' gives a brief background to the issue that generated the local policy. The purpose of this format is to logically express where a policy applies, what the local issue is, what the policy intends to do about it and how. The proposed policy structure is intended to provide a logical sequence of policy, that, together with the proposed nesting hierarchy, is designed to ensure easier navigation.

To ensure the new PPF delivers clearer and more effective planning policy, new policy "rules of entry" and "new drafting rules" are also proposed. These are addressed as is the *Ministerial Direction (The form and Content of Planning Schemes)* updated subject to the VC148 Amendment. The drafting rules aim to ensure clear, concise and consistent policy-making, including ensuring policy follows a prescribed format, is not duplicated or contradictory and uses terminology consistent with the rest of the scheme.

The challenge for Council will now be to successfully integrate its local planning policy into the corresponding State policy themes.

5.2.2. Mornington Peninsula Shire Council's Position on the Proposed Changes

In a submission to DELWP in November 2017, Council outlined its views on each of the proposed *Smart Planning* initiatives. Whilst Council supports many of the improvements on the basis that they seek to address long standing concerns regarding useability and transparency in decision making, and create a planning system that is robust and flexible enough to respond to future challenges, issue was taken with several initiatives that Council saw as improperly creating a “one-size-fits-all” approach to planning. Council contended that such initiatives require further review and refinement to ensure adequate provision is retained for:

- The recognition of local nuance and complexity;
- The exercise of discretion in balancing competing objectives in complicated situations; and
- The continual involvement of the community in decision-making.

The above are seen by Council as critical elements to the proper, fair and orderly planning of the Mornington Peninsula.

The key areas where the above initiatives are seen by Council to have the biggest implications relate to:

- Maintaining the ability to plan for and manage of licensed premises in commercial areas;
- Preventing non-industrial uses from compromising industrial precincts; and
- Preventing ‘rural living’ from further eroding the integrity, character and values of the Mornington Peninsula’s Green Wedge.

It is noted that the new PPF includes a clause at 15.01-6S ‘Design for Rural Areas’, and at clause 16.01-5S ‘Rural Residential Development’. The content of each of these clauses will be examined for its effectiveness in protecting Mornington Peninsula’s Green Wedge character and values as part of the translation of local policy to the new structure.

With respect to the integrated PPF, Council acknowledged that the intent to integrate and improve the transparency and usability of policy is credible, as is the desire to give local policy equal effect to State policy. However, Council submitted that the proposed restructure has the potential to reduce the strength and intent of Mornington Peninsula’s specificity within its local policy if not managed carefully. That is, the pressure to group current local policies with the new generic themes may result in the unintended dilution of critical detail regarding local context. Items may be left out or rejected for not deriving within the prescribed themes.

Some of this concern was allayed as a result of DELWP’s live-streamed briefing on the progress of the PPF on 17 April 2018. This briefing canvassed the experience of Ballarat and Manningham City Councils in piloting the conversion of their planning

scheme's policy framework into the new structure. Both Councils confirmed that, whilst some drafting issues need to be resolved, they were generally satisfied that the new PPF will deliver on its objectives to achieve a more streamlined, efficient and clear policy framework.

To this end, the following general observations were made:

- The relationship between State and local policy is much clearer in the new PPF;
- The process of translation is very effective in filtering out what is important local content, and what material is redundant, unnecessary or unhelpful for decision-making;
- Gaps in local content become plainly visible, giving Councils a clear agenda for future policy work; and
- Once translated, local planning objectives and strategies are much more readily identifiable and usable.

The Shire's planning officers have commenced the meticulous work required to translate the current LPPF of the Mornington Peninsula Planning Scheme into the new PPF format. Dovetailing with the *in globo* review of the planning scheme, this process of filtering and sorting local policy vis-à-vis State and regional policy has usefully aided officers in determining more meaningful recommendations to improve the efficacy of the Shire's local policy. Findings and recommendations of the LPPF review are contained at Section 10 of this report.

It is noted that the Localised Planning Statements (LPS) is now identified as a policy document at Clause 11.03-5s (Distinctive areas and landscapes), which has effectively brought it further forward in the context on the sequence of State policy, maintaining the LPS's importance.

Another key concern for many Councils, including Mornington Peninsula, is the effect that the new PPF may have on the Victorian Civil and Administrative Tribunal's (VCAT) consideration of local policy when determining planning appeals. The issue is whether the new PPF will assist the Tribunal in placing a fairer amount of weight on local policy on a more consistent basis. Several Councils, including the Mornington Peninsula Shire, lament that VCAT has not always given local policy the credence it deserves.

On the one hand, the clarity that the new PPF affords local policy may help the Tribunal to better appreciate the importance of local matters, therefore encouraging local content to be at the forefront of decision-making. On the other hand, DELWP has made it clear that the restructure is designed to give 'equal weight' to all policy levels – not elevation of local content. As the PPF is yet to be tested at appeals, the Tribunal's use of local policy will need to be closely monitored by Council in future.

Overall, the proposed PPF has some clear benefits for the Mornington Peninsula Planning Scheme. It will help deliver a concise and user-friendly policy framework that

creates clear links between the different levels of policy. In working towards the new PPF, the two key challenges for adapting the scheme will be:

- Ensuring that the Mornington Peninsula Localised Planning Statement (MPLPS) retains its rightful place at the State level; and
- Filtering and sorting local content without compromising on local nuance or the clear expression of well-established planning directives for the Peninsula.

The balance of analysis and recommendations in this planning scheme review report have been formulated with the key tenets of the PPF in mind. This is to assist Council in conducting a seamless transition to the new framework.

5.2.3. Land Use Terms Review

A Land Use Terms Advisory Committee (LUTAC) was established by State Government to review and recommend improvements to the land use terms and associated definitions outlined at (then Clause 74) and now at Clause 73 of the VPPs. The aim is to deliver a modernised suite of clear terms and definitions that are easier to apply and interpret. The Committee released a discussion paper on 17 February 2018 seeking comment on a range of specific questions.

In its submission dated April 2018, Council identified several land uses that require definition to assist the Shire in administering the planning scheme when it comes to emerging land uses. With a trend towards more diversified rural and recreational economies on the Peninsula, a range of non-traditional uses have arisen.

Whilst Council's *Economic Development Strategy 2016-2019* specifically encourages the establishment of such uses (refer Section 6.2.3 of this report), the lack of clear and formalised definitions creates challenges for Council in determining appropriate planning responses. This difficulty is experienced most acutely in the Shire's Green Wedge and industrial areas.

In the Green Wedge, there is growing pressure for a range of small scale, integrated and specialist food and beverage producers that, for all intents and purposes, appear as a 'shop' but fall within an industry definition. This categorisation has significant implications for whether a use can, and should be established in the Green Wedge or Farming Zones. Similarly, the Shire's industrial areas are being compromised by an influx of quasi-industrial and poorly defined recreational uses that ought to be subject to greater planning rigour.

To this end, Council has requested specific definitions for:

- **Cellar door:** new definition needed to be in association with the manufacture of grape vines and vineyard products, limited to tastings of wine grown and produced on the subject land, and the sale of packaged wine grown and produced on the subject land for consumption off the premises.

- **Brewer/micro-brewery:** new definition needed with clarification as to what volume/ratio of produce must be brewed on site, food and drink, associated entertainment, car parking and links to hops and barley.
- **Place of public event:** new definition needed with the use to be limited to special events such as recreational and cultural events, music festivals and the like which only occur for a maximum 1 to 2 days.
- **Temporary accommodation:** new definition needed that captures the short-term leasing or renting of dwellings through services such as Airbnb.
- **Airfield:** needs to be distinctly defined from Airport given its significantly lower intensity.
- **Gym and fitness centre:** new definition needed that is distinct from 'Indoor recreation facility', with an associated relevant car parking rate specified at Clause 52.06.
- **Glamping and Tiny houses:** new definition needed, as these are difficult to categorise and have significant complications with regard to other planning provisions.
- **Hot springs:** new definition needed as there is significant pressure for this land use in environmentally sensitive areas of the Shire, and there are concerns regarding the categorisation of this use as ancillary to others.

Council also supports the need for more specific definitions for Conference centre, Reception centre, Hall, Hostel, Backpackers' lodge and Boarding house.

At the time of finalising this Review, the recommendations of the Committee have not yet been released or implemented. Nevertheless, any future refinement in the abovementioned land uses will greatly assist Council in delivering quality planning outcomes for the Shire.

5.3. Amended Residential Zone Provisions

Amendment VC110 (27 March 2017) made changes to the provisions of the residential zones that were originally introduced in 2014 via Amendment V8. The changes included introducing the new "minimum garden area" requirement and amending the maximum building height requirements for dwellings or residential buildings. The amendment also revoked *Ministerial Direction No.16 – Residential Zones* (as well as *Planning Practice Note PPN78: Applying the Residential Zones*), and amended the *Ministerial Direction on the Form and Content of Planning Schemes* to accommodate the changes to the residential zones.

The changes were made in accordance with the recommendations of the Managing Residential Development Advisory Committee which was appointed by the Minister to provide independent advice on the application of, and potential improvements to the residential zones to better deliver upon the objectives of *Plan Melbourne 2017*.

Of key significance to Mornington Peninsula were the increase in the maximum buildings heights prescribed by the General Residential Zone (GRZ) – the primary residential zone applied across the Shire’s settlements. The amendment increased the maximum building height to 11 metres and 3 storeys.

Council strenuously objected to the changes in building height – which were introduced without consultation – noting that the new provisions were entirely at odds with State Planning Policy and the *Mornington Peninsula Localised Planning Statement (July 2014)*. Council maintained that VC110 amounted to a fundamental threat to the intrinsic low-scale, coastal character of the Peninsula that the Localised Planning Statement was expressly designed to protect.

In response to VC110, Council immediately undertook further strategic analysis of the primary housing issues facing the Peninsula, giving specific regard to balancing the need to accommodate growth whilst protecting the highly valued character of the Peninsula’s established neighbourhoods. This work resulted in the preparation and adoption of the *Mornington Peninsula Housing and Settlement Strategy (December 2017)* (which is discussed in further detail at Section 6.2.2 of this report).

Following release of the new residential zones, the State Government engaged a working group comprised of local government and other industry representatives to review the performance of the zones and recommend any necessary changes. **Amendment VC143**, gazetted in May 2018, is the embodiment of this advice, making changes to the VPPs and all planning schemes by:

- Amending Clause 32.07 (Residential Growth Zone – which is not found in the Mornington Peninsula Planning Scheme) to remove Food and drink premises and Shop from Section 1 – Permit not required and make them Section 2 – Permit required uses subject to conditions.
- Amending Clause 32.08-4 (General Residential Zone) to enable an area to be exempt from the minimum garden area requirement through a schedule to the zone.
- Amending Clauses 32.08-3 and 32.08-4 (General Residential Zone) and 32.09-3 and 32.09-4 (Neighbourhood Residential Zone).
- Amending the Garden area definition at Clause 72 (General Terms) to provide greater clarity about garden area inclusions and exclusions.

VC143 was accompanied by the release of a new *Planning Practice Note: 84 – Applying the Minimum Garden Area Requirement* to give guidance about the operation of the minimum garden area requirement in the Neighbourhood Residential Zone and General Residential Zone, as well as a new advisory note on the intent and contents of VC143 – *Advisory Note: 69 – Amendment VC143*.

Whilst these refinements do not address Council’s primary concerns with the reformatted residential zones, they do provide clarity around a key provision that has

otherwise created confusion for many councils, including Mornington Peninsula Shire, as evidenced by recent 'Red Dot' VCAT decisions⁷.

5.4. Amended Bushfire Planning Provisions

Following the 2009 'Black Saturday Bushfires', the VPPs and all planning schemes have been amended on several occasions to ensure planning provisions support communities in regions recovering from the bushfires, and help reduce the future risk of bushfires to settlements across Victoria.

Of most relevance to this Review is **Amendment GC13** (3 October 2017) which updated the Bushfire Management Overlay maps across Victoria – including the Peninsula – providing a comprehensive and accurate identification of extreme bushfire risk areas.

Amendment VC140 followed in 12 December 2017. This amendment modified the State Planning Policy Framework (SPPF) to introduce clear and direct policies to ensure settlements become increasingly more resilient to bushfire, and that responsible authorities prioritise the protection of human life over all other policy considerations. Advisory Note *AN68: Bushfire State Planning Policy – VC140* was released in March 2018 to clarify the operation of the updated framework and strategies.

5.5. Amended Native Vegetation Provisions

Amendment VC138 (12 December 2017) changed the VPPs and planning schemes in Victoria to implement reforms relating to the State Government's review of native vegetation removal planning provisions following the release of *Protecting Victoria's Environment – Biodiversity 2037*. The amendment made changes to policy, as well as modifying application requirements, decision guidelines and exemptions for the removal, destruction or lopping of native vegetation. Amendment VC138 also introduced the *Guidelines for the removal, destruction or lopping of native vegetation* (DELWP 2017) as an incorporated document.

This amendment has helped clarify many aspects relating to the proper assessment and management of applications to remove native vegetation. Overall, the amendment provides better protection for sensitive native vegetation within the Shire (and indeed across Victoria), enhances the operation of native vegetation removal regulations, and increases transparency by:

- Better accounting for the environmental value of large scattered trees, endangered vegetation types and sensitive wetlands and coastal areas in decision making;

⁷ *Guler v Brimbank CC (Red Dot) [2018]*; *Sargentson v Campaspe SC (Red Dot) [2018]*

- Making the system more equitable, by allowing some site based information to supplement mapped information, and ensuring the information used in the regulations better reflects the vegetation on the ground; and
- Improving monitoring and reporting on the implementation of native vegetation removal and offsets.

5.6. Other State Amendments

Apart from those amendments listed previously, **Amendment GC53** is the only other State amendment of significance to Mornington Peninsula. Administrative in nature, the amendment did not have any policy implications.

5.7. Introduction of the Planning and Environment Amendment (Distinctive Areas and Landscapes) Act 2018

On 30 May 2018, the *Planning and Environment Amendment (Distinctive Areas and Landscapes)* came into effect. This legislation stems from a direction in *Plan Melbourne 2017-2021* which seeks to 'protect and enhance valued attributes of distinctive areas and landscapes' in Melbourne's green wedges and non-urban areas. The effect of the legislation is to identify and declare areas as being 'distinctive', and give them the highest level of State planning protection from inappropriate development.

The new legislation establishes the power for the Governor General to officially 'declare' an area or landscape as distinct in the Government Gazette (Section 46AO1), specifying a range of criteria that must be satisfied before the Minister for Planning can recommend declaration (Section 46ASP1).

The Mornington Peninsula is already afforded recognition and protection as an area of State significance with a corresponding policy statement, defined settlement boundaries and ratified green wedge controls. That is:

- Clause 11.03-5S (Distinctive areas and landscapes) of the new Victoria Planning Provisions recognises the Peninsula as an area with distinct and valued attributes;
- The *Mornington Peninsula Localised Planning Statement (Victorian Government, 2014)* is identified as the policy guidelines for achieving this objective;
- The Mornington Peninsula Green Wedge and associated Urban Growth Boundary (UGB) have been declared and applied in the planning scheme to define urban and non-urban areas of the Peninsula. Part 3AA of the *Planning and Environment Act 1987* specifies that the UGB and subdivision controls of the Green Wedge can only be changed if ratified by Parliament.

The Mornington Peninsula Localised Planning Statement is identified as a policy document under Clause 11.03-5S.

In a letter dated 27 May 2018, the Minister for Planning sought to assure Council that the new legislation will not undermine current planning provisions for the Mornington Peninsula, confirming that the planning scheme will continue to be the central tool under the Act for regulating use and development of land within the Shire, and that the Localised Planning Statement will continue to operate as a policy guideline to the then Clause 11.05-2 (now clause 11.03-5S).

The Minister acknowledged that the new legislation seeks to strengthen the protection of Victoria's distinctive areas of State significance and valued non-urban areas, such as the Peninsula.

There are potential benefits of recognition under the new legislation, and subject to adoption of key local strategies (i.e. Housing Strategy, Green Wedge Management Plan and Biodiversity Conservation Plan) a review to determine potential longer term incorporation under the new legislation should be made.

5.8. *Introduction of the Planning and Environment Amendment (Housing Affordability and Other Matters) Act 2017*

The *Planning and Building Legislation Amendment (Housing Affordability and Other Matters) Act 2017* came into effect on 1 June 2018. The amendment effectively introduces a legislative framework into the planning system to allow for the provision of affordable housing via voluntary arrangements with the private sector, and to provide certainty in relation to how affordable housing can be provided.

Key changes to the Act include:

- The introduction of a new objective at section 41(fa) seeking 'to facilitate the provision of affordable housing in Victoria'.
- The inclusion of a definition of affordable housing at Part 3AA(1) as: '*housing, including social housing, that is appropriate for the housing needs of any of the following:*
 - o *Very low income households,*
 - o *Low income households, and*
 - o *Moderate income households*'.
- A new section 3AA(3) that enables the Governor in Council to make an order published in the Government Gazette which may specify the above income ranges based on Australian Bureau of Statistics data.
- A new section 3AA(2) that requires consideration to be given to a Notice in the Government Gazette when considering what constitutes 'appropriate for the housing needs.'
- A new section 173(1A) allowing responsible authorities to enter into agreements for the provision of affordable housing.

Whilst DELWP released web-based guidelines around the new planning mechanisms for affordable housing on 7 June 2018, a number of matters require further clarification, including what, if any, policy directions will be added to the existing State Planning Policy Framework to provide further decision-making guidance on the matter.

Given the elevation of affordable housing as an explicit objective under the Act, it is prudent that Council revisit its existing position on affordable housing as set out in *Mornington Peninsula's Social and Affordable Housing Policy (2011)* and update the local planning policy framework as necessary.

Council is currently reviewing and updating this policy which will be separated into:

- A *Triple A Housing Plan (2018-2030)* to define community outcomes that are sought and set objectives and actions to work towards them.
- An updated *Social and Affordable Housing Policy (2018)* to guide Council decision making in relation to matters of social and affordable housing, including homelessness.

These documents have been prepared with regard to the DELWP guidelines around the new planning mechanisms for affordable housing. They are still in draft form but once finalised and adopted by Council (anticipated to be in the last half of 2018), can form the basis for any implementation of policy into the planning scheme.

5.9. Conclusions and recommendations

Extensive changes have occurred at State level since the 2014 planning scheme review, with significant implications for the Mornington Peninsula Planning Scheme. Changes with the most profound consequences are:

- The new integrated **Planning Policy Framework** which will not only necessitate a restructure of the scheme's current LPPF, but a substantial review and re-write of content. Whilst the PPF has obvious benefits in terms of delivering a concise and user-friendly policy framework that creates clear links between the different levels of policy, proper and well considered translation will be imperative in ensuring that the integrity of local policy is preserved. Specific challenges in adapting to this new model will include filtering and sorting local content without compromising on local nuance or the clear expression of well-established planning directives for the Peninsula.
- Introduction of the landmark **Distinctive Areas and Landscape legislation** to the *Planning and Environment Act 1987* which provides an opportunity to strengthen the recognition and protection of the Mornington Peninsula as an area of State significance.
- Introduction of **Housing Affordability legislative framework** to allow for the provision of affordable housing via voluntary arrangements with the private sector will be supported by Councils affordable housing position and associated policy directives in the *Triple A Housing Plan* currently under preparation.

- Amendments to the **residential zones** which threaten to propagate inappropriate development across the Shire's highly valued and established neighbourhoods if not met with an appropriate local response. Continued advocacy for the approval of proposed Amendment C219 is essential in this regard.

The remaining changes at State level serve to assist Council in consolidating its policy positions and facilitating sound decision-making in key areas. Introduction of the revised metropolitan Strategy cements the Mornington Peninsula as an area of State significance, whilst changes in bushfire and native vegetation provisions provide greater certainty around the management of two key issues affecting the Shire. Expansion of the VicSmart planning process will also continue to help reduce the regulatory burden experienced by Council and the community.

Recommendations:

- **R6:** Continue the detailed review and refinement of the existing local planning policy framework for translation to the new Planning Policy Framework.
- **R7:** Continue to pursue Amendment C219 (HSS & NRZ amendment) to protect the Shire's residential areas from inappropriate development.
- **R8:** Engage with DELWP to commence proceedings for the declaration of the Mornington Peninsula under section 46A (Distinctive Areas and Landscapes) of the *Planning and Environment Act 1987*
- **R9:** Review the Localised Planning Statement for translation to a Statement of Planning Policy as per the requirements of section 46AV.
- **R10:** Prepare an amendment to the Planning Scheme to implement a local policy for affordable housing at Clause 16.01-4.
- **R11:** Amend the local planning policy framework (as necessary) with any updated strategic directive

6. Local Strategic Context

This chapter examines the local strategic context influencing the Mornington Peninsula Planning Scheme. Specifically, this chapter reviews the considerable array of local strategic documents that have been prepared and adopted since the 2014 Planning Scheme Review. Central to this analysis is the identification of key strategic directives arising from this work, and associated implications for policies and regulatory controls in the planning scheme.

The first part outlines Council's primary governance documents required under both the *Local Government Act 1989* and *Health and Wellbeing Act 2008*; being the Council Plan and Health and Wellbeing Plan.

The second section reviews numerous strategic studies, plans and policies that have been adopted by Council since December 2014. These documents cover a vast range of issues including housing and settlement, sustainable resource use, transport and movement, economic development, health and wellbeing, built form and heritage, coastal management, as well as various area-specific plans and development frameworks.

The third section summarises those key strategic projects presently underway and nearing completion; some of which are major projects with significant future implications for the planning scheme. These include the *Green Wedge Management Plan*, *Biodiversity Conservation Plan* and *Integrated Transport Plan*.

6.1. Primary Governance Documents

6.1.1. Mornington Peninsula Shire Council Plan 2017-21: Our Peninsula 2021

Our Peninsula 2021 – the Mornington Peninsula Shire's *Council Plan 2017-2021* provides a blueprint for how Council will work towards achieving its strategic objectives. The Plan was developed through ongoing community consultation and engagement and was formally adopted by Council on 13 June 2017.

Council's vision is: *To value, protect and improve the unique characteristics and way of life on our peninsula.* This vision is to be achieved with the following mission:

- *Providing effective leadership and representation by democratically elected councillors.*
- *Listening and reflecting your collective aspirations in our plans.*
- *Helping you create a resilient, inclusive community that can respond to challenges.*
- *Bringing new ideas to discussions that create new opportunities.*
- *Encouraging you to get involved in your community.*
- *Working hard to provide the best possible service and value.*

- *Keeping you up to date with what is happening across the Shire in an open and direct way.*

The plan's objectives, strategies and indicators to support this vision are organised around four key themes:

Our Place

- *Protection and enhancement of the unique natural and built characteristics of the Mornington Peninsula inclusive, functional and accessible places.*
- *Strong resilience and adaptation to climate change.*

Our Connectivity

- *A connected and mobile community.*

Our Prosperity

- *Employment, education and training opportunities exist within the Mornington Peninsula.*
- *The Mornington Peninsula economy is sustainable, diverse and successful.*
- *A year round visitor economy that is dispersed throughout the Mornington Peninsula.*

Our Wellbeing

- *A healthy, happy, inclusive and active community.*

The *Planning and Environment Act 1987* requires the Mornington Peninsula Planning Scheme to be consistent with the Council Plan.

6.1.2. Our Health and Wellbeing 2021: A Plan for the Mornington Peninsula 2017-21

Our Health and Wellbeing 2021 was adopted by Council on 24 October 2017. The Plan identifies the health and wellbeing needs of the Peninsula's community and has been developed in accordance with the *Public Health and Wellbeing Act 2008*. The overall vision of the Plan is: *"To protect and promote the health and wellbeing of the Mornington Peninsula community."*

The *Public Health and Wellbeing Act 2008* requires that the Planning Scheme is also consistent with Council's adopted Municipal Public Health Plan.

The Health and Wellbeing Plan is presented in alignment with the Shire's *Council Plan 2017-21* four key themes (our place, our connectivity, our prosperity and our wellbeing), and is particularly aligned to the concept of 'liveability', and a growing body of evidence recommending consideration of 'liveability' in planning for the wellbeing of

communities. The Plan identifies a 'liveable community' as (source: University of Melbourne 2013):

'Safe, attractive, socially cohesive and inclusive, and environmentally sustainable, with affordable and diverse housing linked via public transport, walking and cycling to employment, education, public open space, local shops, health and community services and leisure and cultural opportunities'.

The Health and Wellbeing Plan also identifies that the consideration of liveability has been used to underpin numerous key strategic documents including Plan Melbourne, in consideration of safety, health and wellbeing, public open space, social infrastructure, and urban design principles in the development of neighbourhoods and communities, including the '20-minute city' concept.

The Plan includes the 'Our Health and Wellbeing 2021 Framework'. This framework identifies the themes, outcomes, key priorities, domain, liveability domains and progress indicators in achieving the protection and promotion of health and wellbeing of the Mornington Peninsula community. Key 'liveability domains' identified in the framework with specific alignment to the Planning Scheme include:

1. Environmental and climate change;
2. Housing; and
3. Transport and walkability.

Also of particular relevance to the Planning Scheme, the Health and Wellbeing Plan includes strategic objectives that can be implemented through the Planning Scheme, predominantly located under the key theme of 'our place'. These include:

Our Place Strategic Objective 1:

Through strategic planning we improve and protect the unique characteristics of the Mornington Peninsula.

Our Place Strategic Objective 2:

We create thriving, accessible and inclusive places to live, work and visit.

Our Place Strategic Objective 3:

Our stewardship and advocacy protects and enhances the Mornington Peninsula's biodiversity and coastal experience.

Our Place Strategic Objective 4:

We demonstrate leadership in climate change mitigation and adaptation.

Our Connectivity Strategic Objective 1:

Our advocacy and communications leads to improved mobility and connectivity accessible to all within the Mornington Peninsula.

Our Connectivity Strategic Objective 2:

We support an integrated transport and connectivity network.

6.2. Strategic Documents Adopted by Council

6.2.1. Localised Planning Statement

Just prior to completion of the 2014 Planning Scheme Review, the SPPF was amended to include Clause 11.14: Planning for identified distinctive areas, which references the Mornington Peninsula Localised Planning Statement (MPLPS).

The Planning Statement is a key strategic document approved and introduced by the State Government, with the strong support of Council, to ensure that the unique character and identity of the Mornington Peninsula is properly recognised and protected at the State level. In effect, introduction of the Statement elevates and solidifies the distinctive role and value of the Peninsula to the State of Victoria.

Significantly, despite being a high-level policy document, *Ministerial Direction No.17 – Localised Planning Statements* – clarifies that such statements have an important role in decision-making. Whilst the type of land use, development and subdivision permitted in any given area will continue to be guided by the planning zones and overlays that apply to the land, the Localised Planning Statement may provide *stronger* policy intent for the area, and guide how Council should decide on an application.

The MPLPS expressly recognises that:

The Mornington Peninsula will be planned as an area of special character and importance with a role distinctly different from and complementary to metropolitan Melbourne and designated growth areas.

The Planning Statement provides clear directions regarding a range of key matters, including:

- Protecting the character and role of settlements, towns and villages,
- Conserving natural systems and biodiversity,
- Protecting landscape and cultural values,
- Providing for sustainable agriculture,
- Provision for recreation and tourism, and
- Planning for the Hastings Port area.

The Planning Statement recognises that the Peninsula's rural landscapes, coasts, towns and villages face continual development pressures which, if left unmitigated, could result in unintended and unplanned change through cumulative impacts.

Critically, the Statement reinforces the view that the Peninsula will not accommodate major population growth, with the Urban Growth Boundary and Green Wedge rural areas to be maintained and protected. Townships are expected to accommodate at most moderate and generally low levels of housing growth, with many smaller towns and villages intended to accommodate very limited further development.

The Statement acknowledges that the key to successful integrated planning of the Peninsula is the establishment of a strong and consistent overall policy framework, including the use of mandatory controls and standards where necessary. Development and implementation of this framework is contingent upon further detailed strategic work, especially concerning housing and settlement, green wedge management and activity centre planning.

The above directives accord with long established values and policies for the Peninsula; however, introduction of the Planning Statement was intended to afford them more strength and weight. By extension, the Planning Statement was designed to:

- Provide certainty for landowners, developers and planners;
- Make it easier to facilitate future amendments to the planning scheme (as the Statement provides sound strategic justification for several key issues); and
- Convey clear direction to VCAT to better support local planning policies and Council decisions.

Section 10 of this report examines whether the current LPPF adequately reflects the directives of the Planning Statement, whilst Section 4 examines the success to date of utilising the tenets of the Planning Statement to support local decisions and planning scheme amendments during the inter-review period.

6.2.2. Housing and Settlement Strategy

The *Mornington Peninsula Housing and Settlement Strategy* ('the HSS') was adopted by Council on 4 December 2017. The HSS outlines directions for future housing and population growth over the next 15 years to ensure that the unique values and character of the Mornington Peninsula's settlements, landscape and environment are protected.

In addressing primary housing issues facing the Peninsula, the HSS gives specific regard to the balance between managing projected housing demand against available capacity in different locations across the Peninsula, and the associated implications for built form/height controls and subdivision lot sizes.

In accordance with State policy and the *Mornington Peninsula Localised Planning Statement* (adopted by Council in July 2014), the HSS advocates a scaled approach to residential development that allows growth to occur at an intensity commensurate

with the role, function and location of the Shire's established settlements, whilst protecting the special low-rise coastal character of neighbourhoods and areas of environmental significance.

The HSS resolves that the Peninsula's townships will accommodate, at most, moderate and generally low levels of housing growth, with many smaller towns and villages able to accommodate only very limited further development.

The key directions of the Strategy are as follows:

- *Maintain clear township boundaries and protect the landscape breaks which strategically provide for the separation between townships.*
- *Designate and define, through planning zones and overlays, the expected level of change within all residential areas.*
- *Provide for greater housing diversity within the major and large township activity centres.*
- *Ensure that relatively high-density forms of development within the major and large township activity centres adhere to mandatory built-form controls without dominating areas outside the centres.*
- *Retain the areas and precincts within the Low Density Residential Zone that have been developed for housing to meet ongoing demand for that form of development, and protect them from ad hoc redevelopment.*
- *Investigate areas that are under-developed for further consideration on the proviso that the objectives of environmental conservation and protection of the strategic landscape breaks between townships are not compromised.*
- *Support proposals by the State Government to provide more social housing stock provided that such housing is carefully designed and integrated to avoid distinct changes in a neighbourhood's character and built form.*
- *Determine in greater detail the future location and appropriate form of housing opportunities in each township while having regard to:*
 - o *the role of each township in the Mornington Peninsula's settlement hierarchy;*
 - o *the character of residential areas and the aim of promoting green neighbourhoods;*
 - o *the need to reduce exposure to environmental risks such as bush fires, coastal inundation and land erosion that may result from climate change;*
 - o *the level and capacity of existing facilities, open space and infrastructure; and*
 - o *the ability to access facilities, services, public transport and employment.*

Significantly, the HSS recommends limiting building height to 2 storeys (9 metres) as well as implementing minimum subdivision lot sizes in specific areas, in accordance with the Housing Distribution Maps forming part of the Strategy. Specifically, the HSS recommends a minimum lot area of 300 square metres (one dwelling per 300 square metres of site area) in and around township centres, with a 450 square metre minimum (one dwelling per 450 square metres) in identified established neighbourhood areas. In all other residential areas, the HSS recommends that the minimum lot sizes and/or building heights sought by existing Design and Development Overlays are retained.

The Strategy also identifies several “Investigation Areas” wherein alternate housing outcomes ought to be contemplated, subject to further strategic analysis.

The HSS recommends that the above residential development parameters be implemented by introducing the Neighbourhood Residential Zone (NRZ) and associated schedules to the planning scheme.

Amendment C219 seeks to implement this action, proposing three new NRZ schedules to all residential areas currently zoned General Residential 1 (GRZ1), except for select areas zoned GRZ1 within the Mornington, Rosebud and Hastings Major Activity Centres (MACs).

NRZ Schedules 2 and 3 allow for more intensive subdivision around key townships (minimum lot size 300 and 450 square metres respectively), while the NRZ Schedule 4 does not include a minimum subdivision requirement so that current subdivision controls under remaining Design and Development Overlay Schedules are retained. The GRZ1 is proposed to be retained within selected parts of the Mornington, Rosebud and Hastings MACs to allow for a greater level of housing growth in proximity to established services and quality infrastructure.

Amendment C219 makes associated changes to the planning scheme maps, and a number of schedules to the Design and Development Overlay (DDO) to ensure that mandatory maximum height requirements and exemptions do not conflict with, or duplicate provisions contained within the NRZ.

The amendment also partially removes one and deletes a further six Development Plan Overlays (DPO) and associated schedules from land affected by the rezoning where approved Development Plans have been fully implemented. These controls are redundant and should be removed to avoid confusion with planning objectives of the NRZ.

Finally, the amendment updates the Municipal Strategic Statement (MSS) with current population growth, demographic change and residential growth statistics and trends as derived from the HSS.

Amendment C219 was considered by Council on 5 February 2018, and forwarded to the Minister for Planning for authorisation on 16 February 2018. Amendment C219 was still awaiting Ministerial authorisation at the time this Review report was finalised.

Apart from introducing the NRZ and associated changes to the LPPF, the HSS also recommends that Council advocate to the State government to place an Urban Growth Boundary around the urban areas (i.e. GRZ and LDRZ zoned land), of Balnarring Beach, Merricks Beach, Merricks and Point Leo.

Recommendations:

- **R12:** Continue to pursue approval of Amendment C219 (NRZ & HSS) to the planning scheme.
- **R13:** Engage with DELWP to apply the Urban Growth Boundary around the urban areas of Balnarring Beach, Merricks Beach, Merricks and Point Leo under section 46AG of the *Planning and Environment Act 1987*.
- **R14:** Continue preparation and adoption of current strategic plans and township structure plans.
- **R15:** Amend the policy and provisions of planning scheme to ensure alignment with adopted strategic plans and neighbourhood character studies.
- **R16:** Prepare an amendment to the Planning Scheme to implement a local policy for affordable housing at Clause 16.01-4.

6.2.3. Economic Development Strategy

The Shire's *Economic Development Strategy 2016 to 2019* (EDS) provides a strategic framework to promote, support and enhance economic development within the municipality. The aim of the Strategy is to increase Gross Regional Product (GRP) of \$6.3 billion by an annual average of 1.7%, whilst also increasing current employment of 48,000 by an annual average of 0.9%.

The Strategy provides an overview of the Shire's economy, making the following key observations:

- The Shire needs to support varied economic drivers to grow the Peninsula's economy owing to its relatively smaller population growth and older demographic;
- Tourism is a key competitive strength, providing new money into the economy and a substantial local employer;
- Manufacturing is a significant economic contributor, with small scale and niche manufacturing providing real opportunities for growth;
- Agriculture has a rich history and connection with the Peninsula, with many opportunities to value add and diversify into non-traditional agricultural activities;
- The Shire's residential profile provides opportunities to grow the health care sector supporting existing business growth and attracting new investment;
- More than half of the Shire's workforce travels outside the municipality for employment, highlighting the need to foster partnership projects with neighbouring and inter-related municipalities;
- A large proportion of the Shire's businesses are micro and small with many being in industries that are demand focused; and
- There are a significant amount of 'hidden' businesses that ought to be supported.

The actions in the Strategy are high level and focused on four primary strategic industries, being tourism development, agricultural production, niche manufacturing (including for the marine industry) and health services.

Whilst noting the importance of linkages with other strategies and plans adopted by Council, and owing to its high-level nature, the Strategy only identifies one specific recommendation for provision in the planning scheme. The Strategy identifies that current marine infrastructure is not sufficient to enable business to capitalise on growth opportunities that are present in the marketplace. A key proposed initiative is to introduce a Marine Special Use Zone to simplify and expedite planning approval in Port related Special Use Zoning along Western Port. Whilst this action has been targeted for a 1-2 year implementation, it must be undertaken as part of comprehensive planning for the Port area once the State Government decides the future role and development of the Port of Hastings.

Finally, it is noted that the Strategy is not currently referenced in the planning scheme. As the Strategy provides important economic context for the Shire, it ought to be recognised in the planning scheme's local policy framework. To this end, it is recommended that this content be translated into the new MPS, with the Strategy to be a reference document to the scheme.

Recommendations:

- **R17:** Translate relevant contextual material from the *Mornington Peninsula Economic Development Strategy 2016-2019* into the local planning policy framework, including any associated Economic Framework Plan.
- **R18:** Include the *Mornington Peninsula Economic Development Strategy 2016-2019* as a Reference Document to the scheme.
- **R19:** Undertake further strategic work in consultation with Economic Development to identify land that may be the subject of an amendment to the Planning Scheme to facilitate a 'Marine' Special Use Zone along Western Port.

6.2.4. Activity Centre Strategy

The *Mornington Peninsula Activity Centres Strategy Review* was adopted by Council on 30 April 2018. Prepared by Essential Economics Pty Ltd, the Review evaluates the original Activity Centre Strategy prepared by Ratio Consultants Pty Ltd in 2005 – the content of which presently forms the Activity Centre Policy at Clause 22.02 of the planning scheme.

The Review was commissioned given the original Activity Centre Strategy was adopted more than a decade ago, where a range of issues have since arisen including: the growth in the Shire's population and visitor numbers, construction of additional

commercial floorspace, introduction of the Mornington Peninsula's Localised Planning Statement, and emerging trends in commercial development and mixed-use activity centres.

The Review provides an updated assessment of retail and commercial floorspace demand and supply, finding that the Peninsula's existing activity centres can accommodate an additional 105,000m²-plus of new shopfront and commercial floorspace by 2036.

The Review provides an updated Vision Statement, affirming that the Peninsula's existing centres will remain the focus for new retail and commercial growth, with future development to be appropriate to the character, role and function of each centre. The Review does not provide guidance as to the preferred location of land uses, nor does it set objectives and standards for design – this detail is to be taken up in respective activity centre structure plans and/or urban design frameworks.

The Review revisits the existing hierarchy of activity centres identified in the original Strategy and outlined in Clause 22.02, reaffirming the supremacy of Mornington, Rosebud and Hastings as Major Activity Centres. The Review also supports the designation of all Large Townships and Convenience Centres, as well as most Small Townships and Local Centres. The only change proposed to the hierarchy is the elevation of Baxter and McCrae from Local Centres to Small Townships.

Finally, the Review establishes a renewed set of objectives and actions for activity centres which can be summarised as follows:

- *Continue to support the activity centres hierarchy;*
- *Ensure the hierarchy services residents, tourists and other visitors;*
- *Consolidate a diverse range of activities in centres;*
- *Confirm the primacy of Mornington's Major Activity Centre;*
- *Support the growth of existing centres to meet increasing demand; and*
- *Closely monitor out-of-centre development.*

Directions have also been developed for individual activity centres, reflecting the overall directions outlined for the Strategy.

Recommendations:

- **R20:** Amend the local planning policy framework to integrate the vision, objectives, key directives and revised hierarchy of the *Mornington Peninsula Activity Centres Strategy Review* (April 2018).
- **R21:** Include the *Mornington Peninsula Activity Centres Strategy Review* (April 2018) as a reference document to the planning scheme.

6.2.5. Industrial Areas Strategy

The *Mornington Peninsula Industrial Areas Strategy* was adopted by Council on 30 April 2018. Undertaken by Essential Economics Pty Ltd, the Strategy was prepared in conjunction with, and as a complement to the *Activity Centre Strategy Review*. Preparation of the Strategy was prudent, not only because the Shire did not yet have an overarching strategic plan for its industrial areas, but because the State Government had reformed the industrial and commercial zones. Gazetted in July 2013 (a year prior to the 2014 Planning Scheme Review), Amendment VC100 effectively enabled a range of non-industrial uses to establish in industrial areas with greater ease.

The Strategy provides an assessment of individual industrial areas on the Mornington Peninsula, the major economic drivers of industrial land use in the region, and strategic policy direction for the Shire's industrial areas.

While industrial areas are the subject of the study, only land in the industrial zone is considered; that is, the Port of Hastings industrial area within the Special Use Zone Schedule 1 (SUZ1) does not form part of the project. Nonetheless, the SUZ1 area provides a context for the Industrial Areas Strategy and is considered to possess potential opportunities for future rezoning subject to the Minister for Planning's approval.

The Strategy finds that the availability of unoccupied industrial land on the Peninsula will decline from 25% in 2015 to 14% of existing supply by 2026, indicating that constraints on industrial land have become imminent and Council now needs to identify alternate supply options.

Significantly, the Strategy found that approximately two thirds of unoccupied land in the industrial zones is likely constrained for industrial development owing to the impact of planning overlays and/or infrastructure and servicing issues.

The Strategy provides a Vision Statement acknowledging that industrial areas accommodate a wide range of businesses, providing a critical base for economic activity, investment and employment within the Shire. Central to the Strategy is securing locations for industrial and service industrial uses, as well as compatible business activities, with development to be of an appropriate standard.

To this end, the Strategy provides for a series of principles and actions for industrial areas, as well as directions for individual areas. The Strategy emphasises the importance of planning industrial areas with due regard to the Shire's Activity Centre policies, given the crossover between land uses.

Key actions include retaining the general service industry base of the Shire through the continued application of the Industrial 3 Zone, investigating opportunities for

increasing the supply of industrial land (especially for marine industries), and improving the overall environmental sustainability and performance of industrial areas.

Acknowledging that the Industrial 3 Zone is the only industrial zone presently applied across the Peninsula, the Strategy finds that this zone will likely remain the primary zone for industrial uses within the Shire (excluding the existing Port Related Uses Zone area). The Strategy, however, does not discount the use of tailor-made zoning controls – such as the Special Use Zone – in the designation or release of any new areas for industrial development.

The Strategy advocates planning for the provision of larger sites suited to a range of new businesses and more specialised activities, as the current trend towards fragmenting industrially-zoned land into small lot sizes – and into “factoryette” development – imposes definite limits on the range of uses that can be attracted to the Shire. It also recommends that Council strongly advocate the State Government to commit significant resources to review the Special Use Zone 1 as originally flagged by Infrastructure Victoria.

Finally, the Industrial Areas Strategy recommends further investigating the opportunity for industrial rezonings in land adjacent to existing industrial areas at Somerville, Hastings and Tyabb, with opportunities on the western side of the Peninsula considered more constrained. The following specific rezoning options are identified:

- **Mornington-Tyabb Road:** rezone part of land within this precinct to the Commercial 2 Zone.
- **Mornington North:** rezone all, or part of land within this precinct to the Commercial 2 Zone.
- **Mornington (other):**
 - o rezone the Barkly Street industrial site for residential purposes in accordance with the *Mornington Activity Centre Structure Plan*.
 - o rezone industrial land on the south-west corner of the Nepean Highway and Wilsons Road to Commercial 2.
- **Hastings:** rezone part of land adjacent to the Hastings industrial area for from Special Use Zone 1 to Industrial 3.
- **Somerville:** investigate the potential for rezoning surrounding land to Industrial 3 to expand the precinct.
- **Dromana:** investigate the potential for rezoning land to the south and east to the Industrial 3 Zone.
- **Bittern – Crib Point:** investigate the potential for rezoning part of land located adjacent to the precinct currently zoned Special Use 1 to Industrial 3.

The Strategy notes that the practicality of the above rezonings is contingent upon a range of factors, including identified environmental, servicing and land ownership constraints – each of which require comprehensive assessment before an amendment can be proposed to the planning scheme.

Recommendations:

- **R22:** Amend the local planning policy framework to integrate the vision, objectives and key directives of the *Mornington Peninsula Industrial Areas Strategy (April 2018)*.
- **R23:** Include the *Mornington Peninsula Industrial Areas Strategy (April 2018)* as a reference document to the planning scheme.
- **R24:** Further investigate recommendations of the *Mornington Peninsula Industrial Areas Strategy (April 2018)* including potential industrial rezonings

6.2.6. Mornington Marine Precincts Strategy

The Marine Precincts Strategy was adopted by Council in January 2015. The Strategy is required to be review 2018/2019. The Strategy identifies and applies three different types of marine precincts including nodes for future planning purposes:

1. Marine Industrial Precincts: are precincts that are primarily associated with the manufacturing, maintenance and heavy servicing of vessels and marine equipment.
2. Multi-Purpose Marine Precincts: are precincts that have the capacity to cater for a diverse range of uses (i.e. a marine based mixed-use precinct).
3. Marine Recreation Precincts: are precincts that incorporate predominantly recreational boating and associated activities and services.

Key elements of the Strategy include:

- Establishing a hierarchy of marine precincts and nodes on the Mornington Peninsula – Marine Industrial Precinct, Multi-Purpose Marine Precinct and Marine Recreation Precinct/Node,
- Fostering a streamlined approach to the planning of marine precincts of regional significance via the use of a Special Use Zone with tailored objectives and planning controls, and
- Siting and design considerations for marine precincts and nodes with a focus on Marine Industrial and Multi Purpose Precincts.

The Strategy recommends that Council:

- Review and update the MSS to give appropriate and proportionate recognition to existing marine industrial activities and encourage further marine industry and related uses in appropriate locations, particularly where it can be demonstrated that locational requirements such as waterfront access or co-location with existing marine industry operators are achievable.
- Non-marine industry uses should be discouraged from establishing on key sites/precincts, particularly those with significant accessible water frontage.
- Apply a Special Use Zone ('SUZ') to marine precincts and nodes that are classified as regional facilities.

Where a SUZ is applied to a marine precinct then it is recommended that a DPO also be applied to the land. The purpose is to provide for marine activities and development generally in accordance with a Development Plan to the satisfaction of Council.

A key initiative identified in the Economic Development Strategy 2016 – 2019 was the introduction of a Marine Special Use Zone to simplify and expedite planning approvals in Port related Special Use Zones along Western Port. This action has been targeted for a 1-2 year implementation. In forwarding this initiative, Council is currently seeking quotations from consultants with the expertise and experience to prepare a Marine Precinct Economic Analysis. The final report will provide advice on how to establish a marine industry precinct, recommend any changes to zoning required and provide an economic benefits assessment to support this development. The analysis should be completed by the end of August 2018. The findings of this analysis will be used as a basis for any proposed rezonings once adopted by Council.

Recommendations:

- **R25:** Translate relevant contextual material from the *Mornington Peninsula Marine Precincts Strategy* (January 2015) into the local planning policy framework once updated.
- **R26:** Translate relevant contextual material from the *Marine Precinct Economic Analysis* once completed and adopted by Council into the local planning policy framework and amend the planning scheme to initiate rezonings to facilitate the recommendations of the Analysis.

6.2.7. Sustainable Transport Strategy

The Sustainable Transport Strategy (STS) outlines Council's vision on sustainable transport which is intended to inform planning and decisions. It identifies six main priorities which will need to be addressed if transport is to play its role in delivering on health, economic, social and environmental sustainability.

The study identifies that due to the Mornington Peninsula's geographical location in relation to major employment areas, the private motor vehicle is used for the majority of trips to work. For example, approximately 84% of Mornington Peninsula resident's trips to work were made by private motor vehicle (based on ABS Census Data from 2011).

The Strategy identifies 6 strategic priorities:

1. Ageing population – increase transport options; keep aging population active; support those with health or disability 'constraints' to access viable transport options.
2. Limited access to education & employment – improve education & employment options for students, apprentices, trainees and job seekers through access to facilities.

3. Traffic congestion around schools – reduce congestion at peak times; improve road safety & accessibility; increase number of students walking and riding to school.
4. Individual private motor vehicle dependency – reduce dependency & increase sustainable transport instances; support low emission vehicles by providing recharging infrastructure.
5. Integration of transport and land use planning – ensure sustainable transport infrastructure is planned & designed in new residential & commercial developments and precinct plans.
6. Active transport (walking & cycling) – increase active transport instances; improve physical & mental health outcomes.

In regard to the integration of transport and land use planning, the strategy identifies a number of opportunities:

- Increase densities around activity centres and major transport routes – however it is identified that on the Mornington Peninsula issues of neighbourhood character and heritage protection, along with maintaining Urban Growth Boundary are given high priority, as described in the Mornington Peninsula Localised Planning Statement. This limits the capacity to pursue “urban consolidation”.
- Support corridors along principal public transport routes.
- Encouraging the localisation of employment; commercial and community facilities to minimise the need for car travel.
- Place-making projects that make walking and cycling more attractive.
- Developing off-road recreational paths (e.g. missing links in the Bay Trail) linking key townships.
- Providing provision for showers, change rooms and storage at destinations to support riding and walking.

There is currently no integrated transport strategy for the Mornington Peninsula. This is a significant gap in critical strategic work. See Section 6.3.3.

Recommendations:

- **R27:** Translate relevant contextual material from the *Mornington Peninsula Sustainable Transport Strategy 2015-2020* into the local planning policy framework, including any associated Transport / Movement Framework Plan.

6.2.8. Responsible Electronic Gaming (EGM) Policy

The Responsible Electronic Gaming Policy was adopted by Council in August 2016. The objective of the Policy is to guide Council in its decision-making relating to electronic gaming including:

- applications for gaming authorisations;
- land use and development applications;

- proposals that may avoid, minimise or alleviate potential harm from electronic gaming; and
- the review of State and local regulations relating to electronic gaming.

This policy was prepared on the basis that EGMs should not be prohibited given they are a legitimate form of entertainment that can positively contribute to the community and the local economy. However, this is premised on ensuring there are adequate mechanisms in place for harm minimisation.

With regard to the planning scheme, the Policy identifies actions including:

- Introducing a new local Planning Scheme Policy for Gaming to provide stronger guidance in decision making about gaming venues and EGMs which draws upon this Responsible Electronic Gaming (EGM) Policy;
- Amending the Schedule to Clause 52.28-3 so that it prohibits gaming venues in identified shopping complexes;
- Retaining the planning provision that provides for a general prohibition on locating gaming machines in strip shopping centres; and
- Making the Responsible Electronic Gaming (EGM) Policy a reference document.

Given the above changes to the planning scheme, no further strategic work or updates are required in relation to gaming at this time.

6.2.9. Alcohol Management Policy

Council's Alcohol Management Policy was adopted in July 2017. The objective of the policy was primarily to support economic vitality and create safe and enjoyable environments in and around licensed venues, entertainment precincts and public places that enhance actual and perceived levels of public safety. This includes reduction in the likelihood of alcohol related anti-social behaviour, violence, vandalism or disorderly conduct.

The policy identifies specific actions for implementation through planning services:

- Work in partnership with the South East Melbourne group of councils (SEMCA) which seeks to make changes to the Victorian Planning Provisions, focusing on issues surrounding alcohol related harm and licensed venues.
- To avoid the creation of permanent infrastructure on the street for the purposes of commercial outdoor dining, including for the consumption of alcohol.
- To assess cumulative impact under Clause 52.27 of the planning scheme, in accordance with Practice Note 61 Licensed Premises: Assessing cumulative impact.

In late 2013, SEMCA established a Consortia Working Group. This working group in partnership with Victoria Police, Ambulance Victoria and Turning Point Alcohol and Drug Research Centre identified that off-premises liquor outlets now significantly out-

number on-premises venues. An outcome of this investigation was identification that packaged liquor outlet density is contributing to higher levels of alcohol consumption rates because of discount pricing and market over-saturation, when compared to the price of alcohol sold in on-premises venues such as hotels, cafes/restaurants and bars.

SEMCA have prepared Amendment GC088 which is currently with the Minister for Authorisation. The amendment seeks to insert a new local planning policy, the Licensed Premises (Packaged Liquor) Policy into the planning schemes of the eight SEMCA Council's.

Recommendation:

- **R28: Continue to pursue approval of Amendment GC088 (Licensed Premised - Packaged Liquor).**

6.2.10. Coastal Management Plans

Since the 2014 Review, Council has made considerable progress in implementing a framework for the coordinated management of coastal issues. The Shire has now completed and adopted all ten Coastal Management Plans (CMPs) for the 67 kilometres of coastline along the Shire for which it is the responsible authority⁸. These plans are part of a strategic framework identified in the Mount Eliza to Point Nepean Coastal Action Plan (2005) prepared by Council that (among other matters), distinguished coastal activity nodes, recreation areas and conservation areas. Half of the CMP's were adopted in the inter-review period. To ensure currency, Council is required to review each CMP every three years, with many of the existing plans to be reviewed in the 2019/2020 financial year. The implications of recently adopted plans are outlined below.

It is noted that, in addition to its CMPs, Council relies on the comprehensive framework for coastal management provided by the *Victoria Coastal Strategy (2014)* and associated Regional Coastal Plan and local Coastal Action Plans (CAPs) for decision-making affecting the Shire's foreshores and coastlines. The *Victorian Coastal Strategy* is set to be reviewed and strengthened as part of the replacement of the existing *Coastal Management Act 1995* with the new '*Marine and Coastal Act*'. Under the new Act, the Coastal Strategy will be renamed the '*Marine and Coastal Strategy*'.

Mornington Coastal Management Plan

The Mornington foreshore area to which the MCMP applies includes the collective coastal Crown land reserves between Caraar Creek at its most northerly point, and Linley Point at its southern boundary. The Mornington Peninsula Shire is appointed as the Committee of Management for this area.

⁸ The remaining 125 kilometers is managed by other public authorities such as DEWLP and Parks Victoria

The Mornington coastal management plan (MCMP) was adopted by Council in April 2015, and has been prepared to provide strategic guidance for the use, development and management of the Mornington foreshore reserve.

The foreshore has several historically significant built elements including the pier, retaining walls, and bathing boxes and sheds such as Hutchison's fish shed at Fishermans Beach. The smaller park at the corner of Esplanade and Schnapper Point Drive features a monument erected by the public to commemorate the loss of 15 young footballers, who drowned while returning by boat from a match at Mordialloc in 1892 as well as a historic horse trough. The township's original court house and telegraph office are located across the street. Many of these historical features are covered by individual Heritage Overlays.

There is a lack of a more holistic and coordinated approach to understanding and preserving the relationship between these elements and the contextual landscape in which they are situated. In 2012, the Mornington Peninsula Shire commissioned a Heritage Review (Stage 1) which identified the Mornington Foreshore and Harbour as one of three areas of landscape significance. The Heritage Review recommended the application of the Significant Landscape Overlays (SLO's) to these places, including to the Mornington Esplanade Reserve Precinct. An action identified in the MCMP was to implement the recommendations of the Shire's Heritage Review.

The associated Planning Scheme Amendment C174 has been completed (Part 1 and Part 3 gazetted March 2015, Part 2 abandoned), however it is unclear why the amendment did not include facilitation of the SLO's as identified in the Heritage Review.

The Mornington Coastal Management Plan is due for review/update in 2018. It is recommended that once updated the findings of the Plan be incorporated into the planning scheme as relevant.

Recommendation:

- **R29: Subject to revision/update of the *Mornington Coastal Management Plan*, translate contextual material into the Municipal Planning Strategy as relevant.**

Mornington Harbour Precinct Plan

The Mornington Harbour Precinct Plan (MHPP) was adopted by Council in October 2014. The Mornington Coastal Management Plan (CMP) – adopted by Council in September 2012 - identifies the study area largely as the Activity Node within the wider Mornington foreshore. The CMP adopted by Council envisaged that the Activity Node would include the harbour and pier to facilitate improved coordination between harbour and foreshore activities and developments. However, the CMP formally applies only to the coastal Crown land managed by Council only – i.e. not including the harbour and pier. The Precinct includes the harbour itself, the Mornington Pier, the pier 'forecourt', the Mornington Yacht Club and the public boat ramp with its trailer parking.

The Mornington Harbour Precinct Plan was due for review/update in 2017. It is recommended that if updated the findings of the Plan be incorporated into the planning scheme as relevant.

Recommendations:

- **R30:** Subject to revision/update of the *Mornington Harbour Precinct Plan*, translate contextual material into the Municipal Planning Strategy as relevant.

Safety Beach Coastal Management Plan

The Safety Beach Coastal Management Plan (SBCMP) (April 2016) builds upon the Mt Eliza to Point Nepean Coastal Action Plan 2005 by designating areas of the foreshore as Activity, Recreation or Sensitive zones.

The Safety Beach foreshore area, to which the SBCMP applies, is located at the northern end of Dromana Bay and includes the foreshore land between Tassell's Beach at its most northerly point, and the corner of Marine Drive and Nepean Highway (locally known as Hospital Corner) at its southern boundary. The Mornington Peninsula Shire holds freehold title to the entire Safety Beach foreshore area.

The SBCMP identifies specific recommendations in regard to future scope of works for upgrading and maintenance of the area, and also has specific recommendations in regard to erosion, climate change, heritage and vegetation. There is strategic direction in the SBCMP that should be referred to in relevant parts of the planning scheme.

The SBCMP is due for review/update in 2019. It is recommended that if updated the findings of the Plan be incorporated into the planning scheme as relevant.

Recommendations:

- **R31:** Subject to revision/update of the *Safety Beach Coastal Management Plan*, translate contextual material into the Municipal Planning Strategy as relevant.

Sorrento Coastal Management Plan

The Sorrento Coastal Management Plan (SCMP) (April 2018) has been prepared to guide the future management, use and development of the Sorrento foreshore. The SCMP is primarily intended to provide a future planning and management tool for the Sorrento Foreshore.

The Sorrento foreshore area, to which the SCMP applies, includes the foreshore land between Sullivan Bay carpark at its most eastern point, and the Sorrento boat ramp at its western boundary.

The SCMP identifies specific recommendations in regard to future scope of works for upgrading and maintenance of the area, and also has specific recommendations in

regard to erosion, climate change, heritage and vegetation. There is strategic direction in the SCMP that should be referred to in relevant parts of the planning scheme.

Recommendations:

- **R32:** Translate relevant contextual material from the *Sorrento Coastal Management Plan* into the Municipal Planning Strategy.

Rosebud Coastal Management Plan

The Rosebud Coastal Management Plan (CMP) (May 2015) was prepared in conjunction with the Rosebud Activity Centre Structure Plan, to encourage coordinated planning for the Rosebud township and foreshore, particularly in relation to the location of foreshore activity and recreation nodes.

Key actions identified in the Management Plan are:

- Enhancing the Rosebud Central Activity Node by accommodating a new public open space area (ultimately replacing the relocated Rosebud Bowling Club), which is to be developed as a significant community meeting and recreation facility and tourism destination.
- Enhancing Recreation Nodes near Boneo Road, Rosebud Pier and the McCrae Lighthouse to cater for additional recreational facilities, based on new master plans.
- Review of management arrangements for camping areas.
- Conservation measures to better protect the biodiversity values of the foreshore.
- Enhancing the Bay Trail

In context of any recommendations, as the Management Plan was prepared in conjunction with the Rosebud Activity Centre Structure Plan, the key actions identified have been implemented through Amendment C206. However there is still strategic direction in the Management Plan that should be referred to in relevant parts of the planning scheme.

The Rosebud Coastal Management Plan is due for review/update in 2018. It is recommended that once updated the findings of the Plan be incorporated into the planning scheme as relevant.

Recommendation:

- **R33:** Subject to revision/update of the *Rosebud Coastal Management Plan*, translate contextual material into the Municipal Planning Strategy as relevant.

6.2.11. Carbon Neutral Policy

The Carbon Neutral Policy was adopted by Council in 2016. The Policy sets out how Council manages greenhouse gas emissions. The policy complements the range of

policies, strategies and plans currently in place that address climate change and the built environment.

It is policy that Council will provide robust and tangible leadership on climate change, with carbon neutrality as its central achievement. The Policy directs that Council will seek formal carbon neutral accreditation from the federal government's National Carbon Offset Standard – Carbon Neutral Program within five years of the adoption of this policy and continue to maintain this accreditation (by 2021).

As new Council policies are developed, or existing policies reviewed, reference to this Policy will be considered and incorporated where appropriate. The Shire's approach to achieving carbon neutrality will rest upon the following six pillars:

- A greenhouse gas emissions inventory
- Best value actions
- Minimising emissions
- Offsetting emissions
- Community and stakeholder engagement
- Responsiveness and innovation

The Policy directs that Council will develop programs and procedures to implement the policy including a five-year implementation plan, reviewed annually. The implementation plan will be referred to the annual budget process.

Recommendations:

- **R34: Translate relevant contextual material from the Carbon Neutral Policy into the Municipal Planning Strategy.**

6.2.12. Smart Water Plan

The Smart Water Plan (adopted 2013, updated 2018) outlines strategic options for the Shire to ensure it continues to meet the State obligations for water demand management and water quality protection in an integrated and sustainable way. The key actions across each of the identified nine catchments prioritise the strategies that will ensure the Shire continues to make a strong commitment to sustainable water resource management.

The plan Identifies specific areas of local policy where opportunity exists to integrate water management policy:

- Infrastructure Projects - Integrated Drainage Strategy
- Recreation and Leisure - Strategic development of open space management and water use
- Strategic Planning – Green wedge planning
- Economic Development - Agricultural support and Sustainable Economic Development Policy

- Statutory Planning - administers Clause 56

Recommendations are detailed across the identified nine catchments with Strategic Options identified for each. Of specific interest to areas that the planning scheme may potentially influence water management outcomes the following are noted:

- Stormwater quality treatment – rural land
- Stormwater harvesting
- Rainwater harvesting
- WSUD masterplan
- Review use of developer nitrogen offset under Clause 56.07

Under the current planning scheme, all residential subdivisions (two lots or more) are required to meet stormwater best practice quality requirements (80:45:45) through the Clause 56.07 in the Victorian Planning Provisions. Developers have the option of offsetting pollutant load targets through nitrogen offset payments to Melbourne Water. Shire will advocate for greater on-site participation rates.

An opportunity exists to investigate where suitable water management strategies as identified in the Smart Water Plan, could be implemented as policy into the planning scheme.

Landslide susceptibility modelling has been undertaken for the whole of the Mornington Peninsula. However, there is significant work still required to translate the outcomes into Erosion Management Overlay mapping. Council's adopted Water Conservation Management Plan – *Smart Water Plan: An Integrated Approach to Water Management for the Mornington Peninsula* recommends research to support the development of new erosion management provisions in the planning scheme. This work has not yet commenced.

Recommendations:

- **R35:** Translate relevant contextual material from the Smart Water Plan into the Municipal Planning Strategy.
- **R36:** Include the *Smart Water Plan: An Integrated Approach to Water Management for the Mornington Peninsula (adopted in 2013, updated 2018)* as a Reference Document to the scheme.
- **R37:** Prepare planning scheme amendment to introduce EMO's upon completion of further studies.

6.2.13. Tootgarook Wetland Management Plan

The Tootgarook Wetland Management Plan (TWMP), adopted by Council on 14 May 2018, is an environmental management plan that forms part of the stewardship and advocacy role of Council in protecting and enhancing the Mornington Peninsula's biodiversity. The Plan contains specific recommended actions that seek to protect and

conserve the valued ecosystem of the Tootgarook Wetland as well as promote the area as an ecotourism destination.

Tootgarook Wetland is a 590-hectare, groundwater-dependent, freshwater wetland within the 4,480-hectare Chinamans Creek Catchment. As the largest groundwater-dependent ecosystem and freshwater marsh in the region, the Wetland is identified as a priority area under the Melbourne Water Healthy Waterways Strategy, and Port Phillip and Western Port Regional Catchment Strategy. It is also recognised by the Department of Environment, Land, Water and Planning as a biosite of state significance and forms part of the internationally recognised Western Port Biosphere. While the Wetland is not currently a Ramsar-designated wetland, the Ramsar Nomination Feasibility Study commissioned by Council in June 2013 found that it arguably meets several listing criteria, having regard particularly to the presence of nationally listed endangered species including the Australasian Bittern.

While eight key values are associated with the Wetland including uniqueness, habitat, and rare flora and fauna, its integrity risks being compromised by nine key threats that include future development, intensive agriculture, and feral animals and environmental weeds. Therefore, Council commissioned environmental engineering specialist BMT in April 2015 to prepare an environmental management plan in partnership with Conservation Volunteers Australia with the purpose of addressing these risks to ensure that the Wetland continues to thrive as a healthy ecosystem for current and future generations.

The Plan makes the following key recommendations:

- Appointment of a professional ecologist/hydrogeologist to review the Wetland extent and boundary of Environmental Significance Overlay Schedule 30 (ESO30);
- Establishment of an ongoing Community Reference Group to share information and coordinate activities;
- Development of a Community Participation Plan;
- Recognition and support for good outcomes from existing public and private land management, including the implementation of existing Trust for Nature covenants (such as the major land holding in Boneo Park);
- Rezoning of Council land at 92 Elizabeth Avenue, Capel Sound to the Public Conservation and Resource Zone (PCRZ);
- Advocacy for completion of a feasibility study and environmental impact assessment in relation to the VicRoads freeway reservation, in the context of Council's resolution to seek removal of the current freeway reservation and the investigation of alternatives;
- Support further use of Trust for Nature covenants to protect areas of natural habitat;
- Development of a Visitation and Promotion Plan to establish the Wetland as a passive recreation destination;

- Development of an agreement between government agencies and community groups to coordinate environmental monitoring, research and information sharing; and
- Undertaking of regular field surveys to monitor changes in key indicators of environmental health, including birdlife.

Recommendation:

- **R38:** Undertake further strategic work as identified in the TWMP to inform the basis of an amendment to the planning scheme including amending ESO30 and rezoning of land at 92 Elizabeth Street, Capel Sound to PCRZ.

6.2.14. Heritage Study Review

The *Mornington Peninsula Shire Heritage Review* (the Heritage Review), not yet completed, encompasses a review of European Heritage across the Shire, including a review of previous heritage studies under the former Hastings, Flinders and Mornington Shires, a new Thematic History, and the identification of potential additional heritage places to be included in the Heritage Overlay. The Review has been divided into four separate stages/ study areas as follows:

- **Stage 1:** Mount Eliza, Mornington, Mount Martha
- **Stage 2:** Arthurs Seat, Capel Sound, Dromana, Fingal, Main Ridge. McCrae, Red Hill, Rosebud and Rye
- **Stage 3:** Blairgowrie, Sorrento and Portsea
- **Stage 4:** Somerville, Hastings, coastal townships and rural areas

Stage 1 has been completed, with the recommendations of the Review incorporated into the Planning Scheme via Amendment C174 (Part 1) and Amendment C174 (Part 3). Amendment C174 (Part 2) related to the abandonment of some earlier exhibited potential heritage places, and thus this amendment part was abandoned.

Stage 2 of the Heritage Review, which includes a new shire-wide Thematic History, has been completed (adopted by Council October 2017). The findings are sought to be implemented into the planning scheme (updates to Heritage Overlay and Reference documents) via proposed Amendment C214. Public exhibition for this amendment concluded in June 2018.

Stage 3 of the Heritage Review is currently underway and Stage 4 is yet to commence.

Recommendations:

- **R39:** Continue to pursue approval of Amendment C214 (Heritage Review Stage 2).
- **R40:** Following completion and adoption of Stage 3 of the Heritage Review, seek to incorporate the findings into the planning scheme via an amendment.

- **R41: Undertake Stage 4 of the Heritage Review and once completed and adopted, seek to incorporate the findings into the planning scheme via an amendment.**

6.2.15. Tyabb Airfield Precinct Plan

Tyabb Airfield is a privately-owned airfield located to the south-east of the Tyabb town centre. On 4 December 2017, Council adopted the *Tyabb Airfield Precinct Plan* ('TAPP'). The TAPP notes that the airfield acts as a major hub for low cost, general aviation activities near metropolitan Melbourne, and that growth and development of Tyabb has resulted in a significantly different planning context than when the airfield was originally established.

There is currently no long-term master plan for the airfield, and aircraft noise was raised as a major issue. The TAPP therefore provides Council, the Peninsula Aero Club ('PAC'), who are the owners the airfield, and the local community in Tyabb with a clear planning framework for the safe, efficient, and sustainable use and development of the airfield site, adjoining land and the surrounding area; having regard to the operational needs of the airfield and the amenity expectations of residents. The Plan addresses a range of matters including establishing a Community Reference Group (CRG), preparation of an Airfield Management Plan (AMP) and Aircraft Noise Management Plan (ANMP).

The TAPP recommends that the PAC prepare a comprehensive master plan for Tyabb Airfield for approval by Council. The Plan also recommends the following in relation to the planning scheme:

- No proposed expansion of the Special Use Zone – Schedule 3 (Airfield Development) and no application of the Airport Environs Overlay (AEO).
- Review of the purpose and decision guidelines of the SUZ3 to ensure greater alignment with the adopted TAPP.
- Application of a Design and Development Overlay to the approach and departure paths and public safety areas of the Airfield to prevent structures being constructed which may reduce safety. Specifically, to protect the aerodrome's airspace surfaces in accordance with CAAP 92-1(1) and NASF Guideline F and Public Safety Areas. The DDO should:
 - o limit building heights on land in the immediate vicinity of the runway (including vegetation, infrastructure installations, phone towers etc); and
 - o control the siting and design for outbuildings over 350 square metres on the properties along the west side of Stuart Road.
- Preparation of a Tyabb Airfield Local Planning Policy to recognise the activities of the airfield and assist the exercise of planning discretion to avoid future land use conflicts. Specifically, to require the consideration of the impact that all new use and development would have on the operation of the airfield, as well as the effect of the airfield operations on proposed new use and development.

The TAPP recommends the above changes to be implemented in the scheme by mid-2019.

Recommendations:

- **R42:** Review the SUZ3 to ensure decision guidelines align with adopted Tyabb Airfield Precinct Plan (TAPP).
- **R43:** Prepare and apply a new Design and Development Overlay to control built form for the protection of the Tyabb Airfield.
- **R44:** Prepare and introduce a new local planning policy to recognise the activities of the airfield and assist the exercise of planning discretion to avoid future land use conflicts.
- **R45:** Include the Tyabb Airfield Precinct Plan as a reference document to the planning scheme.

6.2.16. Hastings Town Centre Structure Plan

Hastings Township is one of three designated Major Town Centres on the Mornington Peninsula. In this context, the Hastings Town Centre Structure Plan was prepared in 2014 to address issues of land use, urban design and accessibility in order to provide a framework for future development and improvement of the centre over the following 15 years. Council adopted the Structure Plan in November 2014.

The Structure Plan identified the Centre's strengths as including a high level of commercial and community services provision to the broader catchment, the sense-of-place it offers to its community and its links to the foreshore/the bay, the metropolitan railway network and the Port of Hastings. The Structure Plan importantly identified that Hastings is the 'gateway to Western Port' – a bustling 'country town on the coast' – the 'heart' of the eastern section of the Mornington Peninsula.

The Structure Plan was used to facilitate a planning scheme Amendment (C190) to include the policies of the Structure Plan, this amendment would also include the rezoning of residential land between King Street, Salmon Street and Elizabeth Street to a mixed use zone. Further actions in the Structure Plan identified the requirement for the preparation of Urban Design Frameworks at the precinct level.

Amendment C190 was submitted to the Minister for approval in November 2017, it was also the subject of a Panel review and report in August 2017 where it was generally supported with specific recommendations around the requirement for further work to justify any mandatory height provisions. The amendment is currently still with the Minister.

The amendment proposes to implement the strategic directions in Hastings Town Centre Structure Plan 2014 by:

- Introducing a new Clause 22.24 (Hastings Activity Centre).
- Amending Clause 22.02 (Activity Centres) to exclude the Hastings activity centre from the recommended design standards for major activity centres.
- Introducing a new Design and Development Overlay Schedule 27 (DDO27) to commercial land.
- Rezoning specified properties to the Mixed Use Zone (MUZ).
- Rezoning specified properties from General Residential Zone Schedule 1 (GRZ1) to a new General Residential Zone Schedule 2 (GRZ2).
- Rezoning the remaining GRZ1 land to a new General Residential Zone Schedule 4 (GRZ4).

Recommendation:

- **R46:** Continue to pursue approval of Amendment C190 (Hastings Town Centre Structure Plan 2014).

6.2.17. Rye Township Plan

The Rye Township Plan was adopted by Council in December 2017. The Plan amalgamates the previous draft *Rye Foreshore Landscape Masterplan (2015)* and draft *Rye Movement and Place Plan (2016)*, as well as a review of the *Rye Urban Design Framework Plan (2002)* to create a single master plan that provides a clear and consistent strategic vision for the future improvement of the foreshore, streetscape and town centre of Rye.

The Plan makes various recommendations to amend the planning scheme, including:

- Applying a new Design and Development Overlay across the commercially zoned part of the town centre following the completion of an Urban Design Framework in the latter half of 2018;
- Rezoning certain residential areas with the township boundary to the Mixed Use Zone (expected to occur in the next 5-10 years);
- Reviewing the application of Schedule 1 and 2 of the Design and Development Overlay (to occur in the next 3-5 years, following the completion of the commercial UDF); and
- Applying a Development Contributions Plan Overlay over the entire centre.

Recommendations:

- **R47:** Review and amend the application of Schedule 1 and 2 of the Design and Development Overlay in accordance with the Rye Township Urban Design Framework Plan.
- **R48:** Rezone identified residential areas to the Mixed Use Zone in accordance with the Rye Township Plan.
- **R49:** Develop and apply a Development Contributions Plan Overlay over the Rye Township.

- **R50:** Include the Rye Township Plan (December 2017) as a reference document to the scheme.

6.2.18. Rosebud Activity Centre Structure Plan and Urban Design Framework

The Rosebud Activity Centre Structure Plan was adopted by Council in September 2012, however the plan was revised and again adopted by Council in September 2015. It was used to facilitate a planning scheme Amendment (C206) to include the policies of the Structure Plan. Further actions in the Structure Plan identified the requirement for the preparation of Urban Design Frameworks at the precinct level. The Rosebud Activity Centre Urban Design Framework was prepared in May 2015 to further advance the objectives of the Structure Plan, but also to integrate with the strategies identified in the Rosebud Coastal Management Plan prepared at the same time.

Rosebud as a major activity centre is distinctive for its special relationship to the coastal environment, its backdrop to Arthurs Seat and linear activity spine along Point Nepean Road. This long and linear layout however results in a lack of a defined and consolidated town centre. The Structure Plan focussed on consolidating the existing major commercial nodes to assist in easing pressure for the linear retail expansion of the centre and other commercial expansion pressures outside the major activity centre. In regard to residential consolidations the Structure Plan identified opportunity for:

- Upper level apartment style residential development within the 'heart' node.
- Medium density housing in identified precincts that were co-located to the commercial and mixed use nodes.
- 'The Avenues' precinct with a distinct character, identified for appropriate future development that responds to a set of guidelines that will ensure that development is responsive to the established character. The Structure Plan advocates that these guidelines define height limits to two storeys and generous side setbacks.

Amendment C206 was submitted to the Minister for approval in November 2017, it was also the subject of a Panel review and report in August 2017 where it was generally supported with specific recommendations around the requirement for further work to justify any mandatory height provisions. The amendment is currently still with the Minister.

The amendment proposes to implement the strategic directions in Rosebud Activity Centre Structure Plan 2016 (mandatory provisions are not specified in the Plan) specifically by:

- Introducing a new Clause 22.23 (Rosebud Activity Centre).
- Deleting Design and Development Overlay Schedule 1 from land in the centre.
- Introducing a new Design and Development Overlay Schedule 26 (DDO26) to commercial land.

- Rezoning residential land with Point Nepean Highway frontage, between First and Fourth Avenues, Rosebud, to MUZ.
- Rezoning residential land between First and Ninth Avenues, north of Mount Arthur Road and on the foreshore from GRZ1 to a new General Residential Zone Schedule 5 (GRZ5).
- Rezoning other residential land from GRZ1 to a new General Residential Zone Schedule 6 (GRZ6).

Recommendation:

- **R51: Continue to pursue approval of Amendment C206 (Rosebud Activity Centre Town Centre Structure Plan 2014)**

6.2.19. Beleura Hill Neighbourhood Character Study & Design Guidelines

The Beleura Hill Neighbourhood Character Study was prepared in response to community concern regarding changes in built form and impacts on neighbourhood character and place values. Concerns had been raised regarding the development of large houses, units and subdivisions replacing single dwellings, along with extensive vegetation removal.

The study identified that development pressure within the study area was focused around Beleura Hill Road, Shandon Street and towards the eastern edge of the site. It identified a clear relationship between the proximity of these areas to Mornington Town Centre, the connection to more densely populated areas of Mornington (along the Nepean Highway), proximity to services and amenities (retail and community facilities) and their location along key access routes between the Town Centre and the study area.

Areas identified as forming character in the study area included:

- Generally larger lot sizes prevail.
- The pressure for increased building height was focused generally on sloping topography. This showed a relationship between building height and slope and the opportunity for views in these locations.
- The pressure in regards to subdivision were generally focused towards the centre of the study area.
- Generally low site coverage - most lots within the study area had a total building site coverage of less than 35%, however lots with a higher percentage of site coverage were generally associated with multi-unit developments.
- Established vegetation was characteristic of the study area, where generally lots contained at least one tree within the front boundary setback. There appeared to be a correlation between multi-unit development and lots without trees within the front boundary setback.

- Generally throughout the study area, pitched and gabled roof forms were the dominate roof style.

The character study was the basis for the subsequent preparation of the Beleura Hill Design Guidelines (April 2015), which provided a solid strategic basis that informed Amendment C189.

The Guidelines identified precincts, each with a unique character. Amendment C189 inserted the Beleura Hill Design Guidelines, April 2015 as a new reference document in Clause 21.12, and introduced a new Design Development Overlay DDO24 to the planning scheme. The Guidelines informed requirements of the DDO24 with subdivision and dwelling controls that were tailored to each sub-precinct. The DDO24, with the benefit of robust strategic justification through the Neighbourhood Character Study prepared to inform it, has been an effective tool in protecting the existing character in the Beleura Hill area.

6.2.20. Dromana Residential Investigation Areas

In July 2017, Council adopted neighbourhood character assessments for two separate residential investigation areas of Dromana where no Design and Development Overlays currently apply. The studies recommended the application of Design and Development Overlay controls with a mix of mandatory and performance-based standards. Council pursued the design controls via proposed Amendment C213, however, the amendment did not receive Ministerial Authorisation on account of it being inconsistent with the Amendment C219 (NRZ and HSS Amendment). The Minister also found that a Design and Development Overlay is not the most appropriate planning tool to achieve the stated objectives for the area.

Council now intends to merge the findings and recommendations of the two character studies into the Dromana Township Plan and associated amendment.

Recommendations:

- **R52:** Review C219 against the adopted Dromana studies to ensure consistency and avoid duplication of provisions in zone and proposed DDO.
- **R53:** Investigate and pursue appropriate design and zone controls to implement the Dromana Residential Investigation Area as part of the planning scheme amendment to follow the Dromana Township Plan.

6.2.21. Roadside Equestrian and Mountain Bike Trails Strategy

The rural hinterland of the Mornington Peninsula has an extensive network of natural surfaced, often single track roadside trails which have been created through local use over time. The Strategy (2014 - 2019) was developed to resolve key issues expressed by trail users including trail maintenance, the need for connected trails and circuit trails

and better 'trail head' facilities. The Strategy referenced other documents particularly in regard to heritage conservation as many of the trails were aligned to historic land uses e.g. Red Hill Rail Trail as addressed in the Red Hill Railway Conservation Management Plan 2014.

The Strategy identified strategic planning actions that include:

- Ensure cultural heritage is protected, preserved and key elements interpreted where appropriate. Implement recommendations of the Conservation Management Plan for the Red Hill Railway. Identify other key local heritage features of trail network and interpret where appropriate.
- Develop and maintain up to date management and/ or master plans for Shire reserves where equestrian activities take place.
- Ensure new private developments on designated trails consider and do not negatively impact trail access and safety.

Recommendations:

- **R54:** Translate relevant contextual material from the Roadside Equestrian & Mountain Bike Trails Strategy 2014-2019 into the HO.
- **R55:** Undertake further strategic work to identify specific parts of the Planning Scheme where the Roadside Equestrian & Mountain Bike Trails Strategy 2014-2019 should be implemented e.g. Environmental Significance Overlays.

6.2.22. Playspace Strategy

The Playspace Strategy 2015 – 2020 updates a Strategy adopted by Council in its original form in 2008. The Mornington Peninsula Shire has 143 public playgrounds in parks, recreation reserves and other open space areas within the 40 townships of the Peninsula. The Strategy provides a framework for the ongoing planning, design and management of the Shire's public playgrounds. Of the public playspaces on the Mornington Peninsula, the following statistics are worth noting:

- 30 (21%) playgrounds have equipment over 15 years old in 2015
- 15 (10.4%) of these are almost 20 years old
- 82 (57.3%) playgrounds will be 15 years or older by 2020
- Overall 114 (79.7%) of Shire playgrounds currently require renewal or upgrade in some form.

The Strategy incorporates a Township Needs Analysis for play space, and lists recommendations (as an appendix) for works and priority. As per Council's ongoing commitment to Infrastructure Renewal across the municipality, the quantum of renewal expenditure required for the Shire's playground assets will continue to be determined as part of Council's annual infrastructure renewal modelling and budget development processes.

Recommendation:

- **R56:** Include the Playspace Strategy 2015-2020 as an incorporated document to any future Development Contribution Plan or Development Contributions Plan Overlays to the Planning scheme if necessary.

6.3. Current Strategic Projects

6.3.1. Green Wedge Management Plan

Planning Practice Note 31 Preparing a Green Wedge Management Plan states that:

*A Green Wedge Management Plan is a council adopted strategy that identifies a vision, objectives and actions for the sustainable use and development of each green wedge. **The plan will identify the values and features of each green wedge, the preferred future land use, environmental and natural resources that should be protected, and the needs of the local community.** Green wedges, like any other place are dynamic and constantly evolving. Changes identified through the preparation of GWMPs may embrace new productive land uses, investments and developments consistent with state policies for green wedges, environmental enhancement and sustainable resource management initiative.*

Council has recently developed the draft Mornington Peninsula Green Wedge Management Plan 2018 (GWMP). Once adopted, the GWMP is to replace the existing interim plan which was adopted by Council in 2012.

The Mornington Peninsula's Green Wedge accounts for approximately 70% of the Shire and is one of the most distinctive and valued features of the Peninsula. Over the last 40 years, both State and local policy has been implemented to protect the Green Wedge from urban sprawl and inappropriate development.

A key role of the GWMP is to confirm an overall vision for the Green Wedge which balances many competing interests - many of which arise from the Shire's proximity to Metropolitan Melbourne.

The draft GWMP provides objectives and strategic actions for a range of critical land use and development issues, which are grouped into the following categories:

- Subdivision, rural living and the role of the townships;
- Conservation and biodiversity;
- Agriculture, agri-business and agri-tourism;
- Tourism and leisure based use and development;
- Landscape, recreation and heritage;
- Infrastructure planning and design.

A raft of further strategic work has been identified, some of which is in early development, and some of which have more direct and immediate implications for the planning scheme. An overview of these 'high priority' actions (listed by GWMP) is included below:

Objective: Support the key purposes and retain the rural character of the Green Wedge

Seek an amendment to include a local policy for 'Dwellings in the Green Wedge Policy' generally in accordance with Appendix 1 of the GWMP. This draft policy emphasises landscape and productive land considerations (requirement for Land Management Plan).

Seek an amendment to delete Clause 22.03 (Dwelling density, excision and realignments in rural areas), to remove outdated provisions and ensure consistency with the Green Wedge Zone and Clause 57.01 (Metropolitan Green Wedge Land).

Objective: Support and reinforce the role and character of the Green Wedge townships

- Undertake a character study and develop design policies and guidelines for the Green Wedge townships.

Objective: Lead and demonstrate best-practice biodiversity planning and management

- Complete the Mornington Peninsula Biodiversity Conservation Plan.

Objective: Strengthen planning policies and controls to better protect biodiversity values on the Peninsula

- Seek an amendment to update LPPF to refer to and support the GWMP and the Shire's Biodiversity Conservation Plan.
- Develop and introduce a local policy that gives strong emphasis to the need to avoid the removal of native vegetation.

Objective: Ensure Planning Scheme provisions support sustainable agricultural land use in the Green Wedge

- Investigate ways to facilitate the sale of certified produce grown on the Peninsula through local outlets, including farm gate sales, farmers markets or similar outlets within the Green Wedge.
- Investigate the potential for directional signage as part of a food /farm shop trail.

Objective: Ensure that tourism and leisure based use and development plays a complementary role to the primary values of the rural Peninsula.

- Seek an amendment to local policy, to provide that concentrated precincts of tourism based commercial activity within the Green Wedge are not supported, on the basis that this would have the effect of transforming rural character.

- Seek an amendment to include a local policy for 'Camping and Caravan Park Outside the Urban Growth Boundary', generally in accordance with Appendix 2 of the GWMP.
- Seek an amendment to revise local policy 22.08 (Integrated Recreational and Residential Development in Rural Areas) to remove outdated provisions and ensure consistency with the Green Wedge Zone and Clause 57.01 (Metropolitan Green Wedge Land).

Objective: Protect the landscape quality and rural character of the Green Wedge

- Undertake a comprehensive landscape classification and condition assessment for improved long-term management and monitoring of visual landscape quality.
- Investigate the potential for controls over the planting of cypress hedges (and similar plantations or works) within scenic vantage points, and incentives for their removal.
- Develop and implement into the planning scheme a local policy for buildings and works associated with tourism and leisure based development (such as carparks, vehicle crossings, signs, fencing, lighting) that may detract from landscape quality.

Objective: Maintain the long term recreational value of the Green Wedge

- Seek support to develop a Green Wedge Recreation Plan, in conjunction with the State government, to identify future recreational needs generated by both local and regional population growth and the appropriate role of State and local government in responding to these changing demands.

Objective: Identify, Protect and Enhance Green Wedge Heritage Assets

- Investigate a co-operative research project with the traditional owners and State government to better recognise and protect areas of Aboriginal cultural heritage significance.

Objective: Ensure infrastructure and facilities of all kinds are planned, designed, constructed and managed having regard to the needs of the community and the special character of the area

- Complete the review of the Shire's Smart Water Plan in conjunction with the State Government's Integrated Water Management Forum process.

Develop policy and guidelines in relation to the siting and design of major infrastructure (including roads, telecommunication infrastructure, electricity supply infrastructure, solar farms, wind turbines) to minimise landscape and amenity impacts.

Drawing from the above list, once the GWMP is adopted - the highest priority amendments to the planning scheme are:

- An amendment to include a local policy for 'Dwellings in the Green Wedge Policy'.
- An amendment to include a local policy for 'Camping and Caravan Park Outside the Urban Growth Boundary'.

- An amendment to delete Clause 22.03 (Dwelling density, excision and realignments in rural areas).
- An amendment to update LPPF to refer to and support the GWMP and the Shire's Biodiversity Conservation Plan.
- An amendment to local policy, to provide that concentrated precincts of tourism based commercial activity within the Green Wedge are not supported.
- An amendment to revise local policy 22.08 (Integrated Recreational and Residential Development in Rural Areas).

In addition to the above, the findings of the GWMP will necessitate a broader review of other local planning policies presently within the scheme that relate to rural areas:

- Clauses 22.06 (Development along Highways, Main Roads and Tourist Routes),
- Clause 22.07 (Commercial and industrial uses in rural areas),
- Clause 22.08 (Integrated Recreational and Residential Development in Rural Areas), and
- Clause 22.15 (Landscape Protection and Broiler Farms).

Once the GWMP is adopted by Council, the various strategic projects and amendments provided for, will be pursued by Council.

Recommendations:

- **R57:** Upon adoption of the Green Wedge Management Plan, update the local planning policy framework (including MSS and policies) to articulate the key strategic directives of the plan.
- **R58:** Pursue further strategic work identified in the Green Wedge Management Plan (GWMP) and pursue associated planning scheme amendments.

6.3.2. Biodiversity Conservation Plan

Alongside the GWMP, Council is preparing a Biodiversity Conservation Plan (BCP) to provide guidance and direction on the management of biodiversity across the Shire. Slated for adoption in the latter half of 2018, the BCP is another major piece of strategic work with significant implications for the planning scheme.

The BCP and GWMP are intended to be complementary and interrelated documents, with many of the actions from the 2012 interim GWMP to be incorporated into the BCP. The GWMP will focus on key messages to reinforce the implementation of the BCP, and to highlight connections between biodiversity conservation and other activities which occur in the Green Wedge.

Preparation of the BCP will be guided by Federal, State and local government legislation, policy and associated management plans, with input from Council, land management agencies, industry stakeholders and the local community.

The Plan will draw on research including the collection and analysis of information from a range of sources, including biological databases, biodiversity models and mapping, technical reports, research articles, unpublished reports and local expert knowledge.

The completed BPC will provide:

- A summary of the biodiversity values on the Mornington Peninsula (drawn from the State of Biodiversity Report, a comprehensive background document);
- The key threats to local biodiversity values;
- Mapped biodiversity significance;
- A vision for biodiversity on the Peninsula; and
- A set of actions, arranged under key strategic directions, aimed at achieving the vision.

It is anticipated that many of the above findings may necessitate corresponding updates to the planning scheme's local environmental policies and provisions, including content within the current MSS and local planning policies (such as Clause 22.14: Mornington Peninsula Land Units), as well as the mapping and content of the Environmental Significance, Significant Landscape and Vegetation Protection Overlays.

Recommendations:

- **R59:** Upon adoption of the Biodiversity Conservation Management Plan, update the local planning policy framework (including MSS and policies) to articulate the key strategic directives of the plan.
- **R60:** Amend schedules to zones and overlays as appropriate to accord with the BCP, including, but not limited to the Environmental Significance and Vegetation Protection Overlays.

6.3.3. Integrated Transport Strategy

There is currently no 'current' integrated transport strategy for the Mornington Peninsula with the most recent study – the Mornington Peninsula Access and Mobility Study, completed in 2007. This is a significant gap in critical strategic work. In May/June 2018 Council engaged consultant input to prepare a research paper (*Towards Mornington Peninsula Shire's Transport Future – A proposed process for developing an integrated transport plan during 2018 to 2020 – recognising key contexts and drivers*) to provide advice for a process for preparing and delivering an Integrated Transport Plan (ITP). It is intended that Council will use this research paper as a basis to start this significant strategic work and anticipate delivery in mid to late 2020. It is recommended that this Strategy once finalised and adopted be incorporated into the planning scheme.

In April 2018, Council commissioned consultant input to undertake preliminary investigations to manage congestion within the Southern Peninsula area as a case study to feed into a broader Integrated Transport Plan for the overall municipality (as outlined above) – the Southern Peninsula Arterial Corridor Planning (*Traffic Congestion Management Options*). Once completed, the findings of this study will be used to inform the preparation of the broader Integrated Transport Plan.

The study area includes key townships located within the southern peninsula area including Rosebud, Capel Sound, Tootgarook, Rye, Blairgowrie, Sorrento and Portsea. The study reviews the existing road network, existing traffic conditions, previous studies and strategic objectives, and also responds to Council resolution:

'That a preliminary report be brought to Council as to traffic movement arrangements on the Southern Peninsula as an alternative to the freeway reserve overlay between Boneo Road and Blairgowrie'.

This resolution was responding to the recent strategic work undertaken by Council in regard to the Tootgarook Swamp and its environmental significance. It has been identified that the unused freeway reserve and Browns Road are found to cut through the Tootgarook Swamp in the section between Boneo Road and Dundas Street, with the freeway reserve cutting through the widest part of the swamp near its outlet to Chinamans Creek.

- **R61:** Upon adoption of the Integrated Transport Plan, update the local planning policy framework (including MSS and policies) to articulate the key strategic directives of the plan.
- **R62:** Include the Integrated Transport Plan as a reference document to the scheme.

6.3.4. Heritage Study Review – Stage 4

As noted in Section 6.2, Stage 4 of the Heritage Review is yet to commence. It is noted, that upon completion of Stage 4, Council intends to review the existing *Boatshed and Bathing Box Heritage Study (November 2000)* and further amend the Heritage Overlay as necessary, in conjunction with DELWP.

Recommendations:

- **R63:** Upon completion and adoption of Stage 4 of the Heritage Review, seek to incorporate its findings via an amendment to the Heritage Overlay and Planning Scheme as appropriate.
- **R64:** Review the existing *Boatshed and Bathing Box Heritage Study (November 2000)* and further amend the Heritage Overlay as necessary, in conjunction with DELWP.
- **R65:** Include any heritage citations from the Heritage Review Stage 4 as reference documents to the scheme.

6.3.5. Triple A Housing Plan and Social and Affordable Housing Plan

Council's adopted position on housing affordability is currently set out in *Mornington Peninsula's Social and Affordable Housing Policy (2011)*. Council is currently reviewing and updating this policy which will be separated into a *Triple A Housing Plan* and an updated *Social and Affordable Housing Policy*. These documents are still in draft form but once finalised can form the basis for any implementation of policy into the planning scheme. The finalisation of these documents is anticipated in the second half of 2018.

Mornington Peninsula Triple A Housing Plan (2018-2030)

The Triple A Plan defines community outcomes that are sought and sets objectives and actions to work towards them. In summary, the outcomes are:

- Supplying well-designed, affordable housing in a manner that protects the character of the Peninsula, including its green wedge.
- Increasing social housing to at least the State average, or where it satisfies the waiting list.
- Encouraging new social housing in major towns or close to public transport but not rejecting it in other locations.
- Building according to universal design and energy efficient principles.
- Council working for a better housing system.
- People without homes being treated with respect in a manner that prioritises safety, pathways into accommodation and community inclusion.
- All stakeholders, including the community, working collaboratively to address homelessness and support local people.

The Triple A plan includes actions that serve to activate objectives related to:

- Planning for developer contributions to social housing.
- Supporting housing diversity and well-designed housing including universal design and energy efficiency.
- Incentivising social and affordable housing.
- Advocating for housing system funding and reform.
- Encouraging community-led social and affordable housing projects.
- Supporting people who are homeless or in housing stress.
- Facilitating housing information sharing and networking.

Social and Affordable Housing Policy (2018)

The Social and Affordable Housing Policy supersedes the earlier Social and Affordable Housing Policy and its associated Action Plan that were adopted on 26 September 2011 and the Homelessness Policy and Action Plan that were adopted on 25 August 2008. The purpose of the policy is to guide Council decision making in relation to matters of social and affordable housing, including homelessness.

The objectives of the draft Policy are:

- To provide a framework for advocacy on social and affordable housing and homelessness issues.
- To set a vision for the form of social and affordable housing.
- To provide guidelines for Council direct contributions to social and affordable housing, including scoping the range of innovative actions that may be required to incentivise housing or support homelessness services.

The draft Policy framework identifies that Council advocates for the provision of social and affordable housing and identifies a number of mechanisms to facilitate the advocacy. Of relevance to the planning scheme are the following:

- That within the context of the Mornington Peninsula Planning Scheme, Council supports increasing the diversity of social housing with a mixed range of accommodation types to cater for the diverse needs of people requiring affordable housing including rooming houses, caravan parks, shared housing, supported accommodation, step down accommodation from hospital admissions, crisis accommodation, bungalows or second dwellings and independent living units.
- That Council supports utilising discretionary planning mechanisms (e.g. reduction in car parking requirements) and other processes, as appropriate, to provide for, assist and expedite social housing development.
- That Council supports social and affordable housing provision that encourages medium density development which limits urban sprawl and protects the Green Wedge.
- That Council supports social and affordable housing being integrated into residential areas inside the Urban Growth Boundary, ideally within twenty minutes walk of Rosebud, Mornington or Hastings town centres or public transport stops but not rejected in other locations if other reasonable transport options are available for the proposed residents.
- That Council supports neighbourhoods having a blend of different household types.
- That Council supports good quality, energy efficient architectural and landscape design for social and affordable housing, including application of Universal Housing Design principles for accessibility and adaptability and Environmentally Sustainable Design principles.

Recommendations:

- **R66:** Prepare an amendment to the Planning Scheme to implement a local policy for affordable housing at Clause 16.01-4.
- **R67:** Update the local planning policy framework (including MSS and policies) to articulate the key strategic directives of the *Triple A Housing Plan 2018-2030* and *Social and Affordable Housing Policy 2018* in context of State policy review.
- **R68:** Include the *Triple A Housing Plan 2018-2030* and *Social and Affordable Housing Policy 2018* as a reference document to the scheme as part of the planning scheme amendment.

6.3.6. The Briars Master Plan

Situated at Mount Martha, The Briars is one of the first pastoral 'runs' on the Peninsula. The National Trust Heritage Listed Homestead located on the parcel, was completed in 1851, and the surrounding parcel comprising approximately 230ha includes a visitor's centre, wildlife sanctuary, wetlands, gardens, plant nursery, vineyard, café, restaurant, kiosk and picnic areas. The Briars is an important part of the Mornington Peninsula's historical, environmental, visitor and community landscape.

The Briars Master Plan will identify a strategic framework over a 10 year period. The master plan builds on the previous Briars Management Plan to provide a strategic vision for the site. The Plan is still in draft form, and will be due for adoption by Council in late 2018.

Currently, the Wildlife Sanctuary (approximately 90 hectares) is zoned as PCRZ while the balance of The Briars (approximately 140 hectares) is zoned GWZ. Early actions of the Draft Master Plan have identified that to deliver the initiatives of the Plan, and to better align to the uses occurring at The Briars now and into the future, re-zoning of the GWZ parts of The Briars to PCRZ should be undertaken.

Recommendations:

- **R69:** Finalise and adopt The Briars Master Plan.
- **R70:** In association with the preparation of The Briars Master Plan, prepare and pursue an amendment to rezone GWZ land within The Briars to PCRZ.
- **R71:** Include The Briars Master Plan as a reference document to the scheme.

6.3.7. Active Recreation (Sports Capacity) Study

The Shire is directly responsible for the planning, development and management of 34 sports reserves, and the 52 sports fields and supporting infrastructure located on them.

The Mornington Peninsula Shire has commenced a comprehensive process to understand and analyse the current and future sporting needs of Shire residents, and to compare these with not only the current provision of facilities but also the distribution of these facilities throughout the Shire and their capacity to absorb the projected population.

The Mornington Peninsula Shire's Sports Capacity Plan is currently in draft form and is scheduled for adoption mid 2018. It comprises three separate but integrated studies of sports fields, indoor sport and other sports (non field-based).

The Sports Fields Plan will provide Council with a framework to optimise the shared use of sports fields across the Shire, guide their maintenance and upgrade, and where appropriate inform the renewal of existing sports facilities and the development of new ones.

A recommendation of the Planning Scheme Review is investigation into a Shire-wide Development Contributions Plan and associated DCPO for all relevant infrastructure and services. The Sports Capacity Plan has significant relevance and identifies implementation for ongoing planning and maintenance of public open spaces (sports fields), and should be included as a referenced document in the staged approach to introducing DCPs across the Shire.

Recommendation:

- **R72:** Include the Sports Capacity Plan 2018 (once adopted) into any introduction of a Development Contributions Plan Overlay to the planning scheme upon preparation and adoption of a staged, Shire-wide Development Contributions Plan if necessary.

6.4. Other Strategic Plans

6.4.1. Planning for Sea Level Rise Guidelines Port Phillip and Westernport Region (Melbourne Water February 2017)

The Planning for Sea Level Rise Guidelines set out the specific requirements that apply to development proposals in areas that will be affected by tidal inundation (including storm surge and wave action) as a result of predicted sea level rise. The 2017 revision of the Guidelines updates the adopted flood levels for Western Port to reflect the findings of the Western Port Local Coastal Hazard Assessment (DEPI et. al. 2015) and Melbourne Water's more recent flood modelling, as well as providing additional detail on general development assessment criteria.

The Guidelines detail how the planning benchmarks for sea level rise established for Victoria should be applied to different development types. They establish the predicted future flood levels for Port Phillip Bay and Western Port – the flood levels that Melbourne Water applies for planning purposes. In addition, they specify appropriate freeboard and minimum floor level requirements to ensure flood protection for different development types.

Council have prepared Amendment C216 Land Subject to Inundation Overlay at the request of Melbourne Water. The amendment finished exhibition on the 26th April 2018. It seeks to apply the Land Subject to Inundation Overlay to land identified by Melbourne Water as vulnerable due to hazards associated with coastal erosion, flooding, sea level rise and storm surge around Western Port as identified in the Planning for Sea Level Rise Guidelines Port Phillip and Westernport Region. Note that the Third Phase Hazard Assessment is yet to be completed.

Recommendations:

- **R73:** Undertake a planning scheme amendment once the *Port Phillip Hazard Assessment* has been completed to introduce LSIO to affected properties.

6.4.2. Coastal Villages Study

In context of the recommendations of the *Planning for Sea Level Rise Guidelines Port Phillip and Westernport Region* (above), and given the amount of coastline located within the Mornington Peninsula Shire, potential climate change impacts on coastal towns and settlements is a major issue for future planning, particularly along Western Port Bay. Council will seek to engage consultant input to prepare a *Coastal Villages and Neighbourhood Strategy*.

Long term planning and appropriate design within Mornington Peninsula's coastal settlements is a major focus of Council, reflecting increasing community expectations in relation to the quality of the built environment and response to climate change on the Peninsula. In this context the identification and implementation of appropriate goals, tools and practices to put in place a design and character framework to respond to climate change and improve the design quality of development along the coastline will be key objectives of the Strategy.

Specifically, the Strategy will address coastal climate change impacts and adaptation for villages allocated along Western Port Bay and provide a design and character framework for each specified village. The Strategy will be initiated in July/August of 2018 and is anticipated to be completed within 12 months.

Recommendations:

- **R74:** Implement findings of the *Coastal Villages Study* into Municipal planning scheme once adopted with introduction of LPPF changes, zone or DDO provisions.

6.4.3. Township Structure Plans

In context of continuing to plan for strategic issues affecting townships within the Mornington Peninsula Shire, Council are currently preparing briefs to seek to engage consultant input to prepare Structure Plans for Balnarring, Somerville and Baxter townships. Work on these Structure Plans will be initiated in August/September of 2018, and is anticipated to be completed within 12 months.

Recommendations:

- **R75:** Implement findings of the *Balnarring Structure Plan* into Municipal planning scheme once adopted with introduction of LPPF changes, zone or DDO provisions.
- **R76:** Implement findings of the *Somerville Structure Plan* into Municipal planning scheme once adopted with introduction of LPPF changes, zone or DDO provisions.

- **R77: Implement findings of the *Baxter Structure Plan* into Municipal planning scheme once adopted with introduction of LPPF changes, zone or DDO provisions.**

6.5. Conclusions

The preceding analysis clearly demonstrates that Council has advanced an extensive program of strategic work since the 2014 Planning Scheme Review. This work highlights Council's proactive approach to responding to State government reform and addressing localised issues within the municipality through the planning system. Much of this work has immediate and future implications for the Mornington Peninsula Planning Scheme. It is therefore imperative that Council amend the planning scheme to reflect this strategic work where it provides specific decision-making guidance on land use and development matters.

The comprehensive review and re-write of the LPPF into the new PPF format presents a prime opportunity to integrate the directives of some of these adopted strategies. As identified throughout this chapter, a series of recommended changes can be readily made to enhance local policy directives around:

- Housing and settlement,
- Economic development (including commercial and industrial development)
- Localised environmental management (including a finalised framework for coastal management),
- Infrastructure and resource management;
- Place-making for specific areas, including activity centres; and
- Heritage preservation.

The management of several critical land use and development issues facing the Shire can be further strengthened in the planning scheme upon completion of major strategic projects currently underway. The two most significant projects in this regard are the Green Wedge Management Plan and Biodiversity Conservation Plan. These plans will have considerable implications for environmental and rural policies and controls throughout the scheme.

Vital to the success of the above strategic work is a clear and realistic implementation program. The implementation program must comprise a prioritised and scheduled suite of tasks to ensure issues are addressed in a comprehensive and coordinated manner. This review report outlines a proposed Implementation Program at Section 6.

7. Program of Continuous Review

7.1. Purpose of Consultation

The *Planning and Environment Act* 1987 does not prescribe any formal consultation processes for the performance review of the Mornington Peninsula Planning Scheme. Nevertheless, Council considers that consultation is an important part of the monitoring and review process. Whilst reviewing existing documentation is central to measure performance of the scheme and planning processes, this needs to be supplemented with targeted stakeholder consultation.

Extensive community consultation has occurred as part of the many strategic projects undertaken by Council during the inter-review period, including the Housing and Settlement Strategy, Activity Centre Review, Industrial Areas Strategy, Green Wedge Management Plan, the Heritage Review (for the Stages undertaken to date) and various structure plans and associated planning scheme amendments. Significant community feedback was also obtained during the finalisation of the Localised Planning Statement, Council Plan, and Health and Wellbeing Plan – all adopted just prior to the 2014 Review.

Such broad-reaching and in-depth consultation has critically informed Council's understanding of community concerns and aspirations regarding land use and development issues facing the Shire both now and into the future.

7.2. Consultation as Part of this Review

Given the volume of consultation undertaken to inform Council's key strategic plans and policies in the inter-review period, this planning scheme review could have confined itself to a more targeted consultation program, focused on engagement with Council staff, government agencies and select community groups only. However, consistent with its policy of community transparency, a draft of the 2018 Planning Scheme Review report will be placed on public exhibition for community, stakeholder and agency comment for a seven-week period from late-August to mid-October 2018.

In preparing the draft report, extensive consultation was undertaken with a broad range of Council staff, as well as select consultants and legal advisers.

The program of engagement included a Planning and Infrastructure Leadership Workshop on 14 December 2017 attended by over 40 senior planning, building, engineering, property & infrastructure, economic, social and environmental staff. The workshop sought to collectively review the Shire's vision as set out in the existing MSS, Council Plan and Localised Planning Statement, as well as identify land use and development issues on a thematic basis. That is, identify opportunities and constraints according to Settlement and Housing, Environmental Values and Risks, Economic Development, Built Form and Heritage and Infrastructure.

A series of targeted workshops were also held with Council's senior and principal planners and team leaders from late December 2017, through to May 2018, with a view to meticulously reviewing, refining and strengthening the existing local policy framework. Specific attention was given to identifying deficiencies, strategic gaps, redundant content, unnecessary duplication with State policy, errors or anomalies, as well as pertinent lessons from Tribunal and Panel experiences.

Various one-on-one consultations were also held with Council's Social & Community Planners and Strategy Planners (including Heritage and Coastal Planners and Urban Designer), Environmental & Climate Change Planners, Waste Management Planners, Fire Protection Officers, Open Space Planners to usefully provide specialist policy input.

Finally, the consultation program included a briefing to Council on 30 April 2018, followed by a workshop with Councillors on 31 July 2018. The workshop sought specific Councillor feedback on the local policy content of the planning scheme, including:

- Whether the 'vision' for the Mornington Peninsula currently outlined in the Municipal Strategic Statement satisfactorily reflects the Shire's aspirations.
- Whether the suite of land use and development themes currently identified in the local policy framework sufficiently captures all the issues affecting the Shire.
- Which elements of the planning policy framework are critical to decision making and therefore must be retained.

7.3. Identified Issues Outside of the Scope of the Planning Scheme Review

The Planning Scheme Review also identifies that Council will need to engage and advocate to other levels of Government to influence decision making outside the scope of local content within the planning scheme.

A review of submissions received to the public exhibition of the Draft Planning Scheme Review, identified that there were a number of issues raised by submitters that the Review document itself could not effectively seek to resolve. This is due to the limitation of scope of work required of the Review, and the obligations of Council to meet those requirements under Section 12b of the *Planning and Environment Act 1987*.

An example of this included submissions that would require amendment to State policy to achieve resolution. Of particular note submitters were concerned with the large areas of the Peninsula being identified in the Bushfire Prone mapping, and the issues associated with exemptions for vegetation removal under Clause 52.12. It was noted that given property owners and developers were perceived to use this Clause to justify

'wide scale' vegetation removal, this was resulting in significant loss of quality vegetation on the Peninsula, and was detrimental to habitats, the environment and the Peninsula's character.

Following the 2009 'Black Saturday Bushfires', the VPPs and all planning schemes have been amended on several occasions to ensure planning provisions support communities in regions recovering from the bushfires, and help reduce the future risk of bushfires to settlements across Victoria.

There are issues pertinent to the Peninsula that are outside the influence of the Planning Scheme Review and local content within the planning scheme itself. Other issues raised that are outside the influence of the Planning Scheme Review, included:

- The AGL and APA pipeline project.
- Kawasaki HESC project.
- Hillview Quarry project.
- Bushfire Prone Area mapping and extent & vegetation loss (as detailed above).
- VicSmart classes and application types.
- Solar panels and roof & plant equipment exemptions to building heights in planning scheme provisions.
- Additional advocacy and continual enforcement in regard to late night liquor licenced venues.

Council will be required to effectively engage, advocate and communicate in regard to these issues to influence decision making around these issues, particularly at the State level of government. Council have resolved that these matters be referred to a Forward Planning Committee Meeting in 2019 to be further considered by Council as part of its commitment to advocacy.

7.4. Adopted Local Planning Scheme Amendments (2014-2018)

As outlined in Section 3.2 of this report, a total of 24 local planning scheme amendments have been finalised since the 2014 Planning Scheme Review. The significant number of amendments advanced by Council reflects the Shire's desire to continually improve and update the scheme based on strategic research. As noted in Section 4.2 of this report, many of the Independent Panels that considered these amendments also made recommendations for further work to be undertaken to address unresolved issues. A list of significant local amendments is included at Appendix 2 to this report.

7.5. State Planning Scheme Amendments (2014-2018)

As outlined in Section 5 and Appendix 2 of this report, numerous State and regional planning scheme amendments have also been approved since the 2014 Planning Scheme Review. It is relevant that many of these amendments have resulted in the need for Council to undertake further strategic work and local planning scheme amendments to respond to these changes in State planning policy.

Council has been proactive in undertaking a continuous audit and review in some aspects of its local policy and provisions, ensuring that the scheme responds to the emerging directions of State policy. In particular, **Amendment C219** seeks to implement changes to the residential policy and zoning in response to **Amendment VC143**.

Notwithstanding Council's proactive approach in this regard, it is clear that the Mornington Peninsula Planning Scheme requires further change to ensure consistency with State policy and contemporary planning guidance in relation to issues such as:

- The new integrated **Planning Policy Framework** which will not only necessitate a restructure of the scheme's current LPPF, but a substantial policy neutral review and re-write of content.
- Introduction of the landmark **Distinctive Areas and Landscape legislation** to the *Planning and Environment Act 1987* which provides an opportunity to strengthen the recognition and protection of the Mornington Peninsula as an area of State significance.
- Introduction of **Housing Affordability legislative framework** to allow for the provision of affordable housing via voluntary arrangements with the private sector which necessitates a review of Council's affordable housing position and associated policy directives.
- Amendments to the **residential zones** which threaten to propagate inappropriate development across the Shire's highly valued and established neighbourhoods if not met with appropriate local responses to neighbourhood character.

8. Major Planning Issues in Mornington Peninsula Shire

8.1. Existing Issues

The range of land use and development issues currently addressed in the local policy framework of the Mornington Planning Scheme and associated Localised Planning Statement are outlined thematically in Table 1 below.

Table 1: Thematic issues addressed in the Mornington Peninsula Planning Scheme and Localised Planning Statement

Current MSS Themes	Current MPLPS Themes
Future Township Growth	Integrated Planning
Local Area Character (including Heritage)	Conservation of natural systems and biodiversity
Strengthening Commercial Activity Centres (economically, functionally, environmentally)	Protecting the character and role of the settlements, towns and villages
Township Industrial Areas (protection and design)	Protecting landscape and cultural values
Foreshore and coastal areas (coastal management)	Providing for sustainable agriculture
Conservation Values (ecosystems, heritage, sites of significance)	Provision for recreation and tourism
Landscapes, recreation and tourism	Planning for the port area
Agriculture	
Port Development	

The key directives around each issue identified in this policy framework can be summarised as follows:

- Recognising that the Peninsula is not a designated growth area and has a role that is complementary, but distinctively different to Metropolitan Melbourne;
- Maintaining established settlement patterns based on separate townships, with future growth to be contained within existing boundaries, and focused in identified activity centres;
- Limiting residential growth commensurate with the role, character, function and service capacity of townships;
- Protecting and enhancing the Shire's key environmental assets and biodiversity, including the green wedge, significant landscapes, conservation reserves of international, national and state significance (such as coastlines, foreshores and marine environments), and other sensitive ecosystems;
- Managing environmental risks, including bushfire, landslide, flooding and inundation;

- Conserving and enriching the Shire's heritage assets, including sites, buildings and areas of early European and Aboriginal significance;
- Developing the Shire's diverse economy which includes manufacturing, primary production (horticulture, farming and viticulture), Port-related industry, tourism and recreation, retailing, construction, business services, health, education and community services; and
- Protecting and improving the Shire's infrastructure assets, including the established network of roads and freeways, limited public transport provision, Port, airfield and boat facilities, reservoirs and dams, and limited sewerage and drainage services.

Whilst each of the above matters remain core foci for the planning scheme, analysis, research and consultation conducted as part of this planning scheme review has identified the need to strengthen policies and provisions in some areas. As identified in Section 6 of this report, much of the work required to address these concerns is already underway and nearing completion. Table 2 summarises those matters where added detail and guidance is required, the associated strategic work presently being undertaken by Council and required further work, whilst Sections 8.2 and 8.3 provide a more detailed overview of each concern.

Table 2: Current and proposed response to unresolved and emerging issues

Issue	Current response	Council	Further strategic work required
Providing a comprehensive and cohesive approach to planning the Shire's Green Wedge	Green Wedge Management Plan (due for adoption in mid-2018)		Preparation and implementation of a corresponding amendment to relevant policy and controls.
Strengthening place-making provisions for townships and activity centres	• Finalisation and implementation of select neighbourhood character studies. • Finalisation and commencement of various structure plans, townships plans, and urban design frameworks.		• Preparation and adoption of neighbourhood character studies for the balance of settlements across the Shire. • Progressive review of DDO mapping and schedule ordinance in line with findings and recommendations of NCSs. • Finalisation of all structure and township plans, and review of existing plans as necessary, with corresponding updates to policy and provisions in the scheme.

Issue	Current Council response	Further strategic work required
		Investigations into the role of car parking provisions, with potential introduction of the Parking Overlay (PO) to the planning scheme for application in activity centres as appropriate.
Strengthening economic policy	- Industrial Areas Strategy - Activity Centre Strategy Review - Economic Development Strategy	Preparation and adoption of a Tourism and Recreation Strategy and associated updates to planning scheme policy.
Strengthening policy regarding social, health and wellbeing issues such as housing, gaming and the sale of packaged liquor within the Shire	- Gaming Policy (Amendment C200) - Alcohol Policy (Packaged Liquor GC Amendment GCO88) - Review of Council's existing <i>Social and Affordable Housing Policy (2011)</i> amended for 2018 currently being undertaken. - Finalisation and adoption of the <i>Triple A Housing Plan (2018-2030)</i> currently being prepared.	Subject to finalisation of <i>Triple A Housing Plan (2018-2030)</i> and <i>Social and Affordable Housing Policy (2018)</i> , undertaking any necessary updates to the local planning policy framework including the preparation of an amendment to the planning scheme to implement a local policy for affordable housing.
Strengthening of natural systems provisions	Biodiversity Conservation Plan (due for adoption late 2018)	Comprehensive review of all environmental overlays (ESOs, SLOs, VPOs) and associated amendments to schedule ordinance and mapping.
Further addressing environmental risk , including flooding and inundation	- Coastal Hazard Assessment for Western Port Bay - LSIO Amendment C216 (LSIO)	- Preparation and adoption of a 'Climate Change Risk Management Action Plan' and associated update of local policy as necessary. - Completion of the Third Phase Coastal Hazard Assessment

Issue	Current Council response	Further strategic work required
		for the Port Phillip Coast and application of LSIO as appropriate. Complete the review of local flooding data and modelling, and introduce the Special Building Overlay (SBO) to identify overland flooding risk in the planning scheme.
Providing a consolidated approach to the planning and management of open space	- Complete the audit of existing public open space across the Shire to ensure each parcel is appropriately zoned for public purposes. - Finalisation and adoption of the Active Recreation (Sports Capacity) Study.	Comprehensive review of Council's existing Open Space Strategy, and undertake associated changes to local policy and provisions as necessary.
Provide a co-ordinated framework for levying developer contributions for community infrastructure and services.		Investigate the preparation of a formalised, Shire-wide Development Contributions Plan (DCP). Upon completion, implement the DCP via introduction of the Development Contributions Plan Overlay (DCPO) to the scheme.
The need for guidance around environmental sustainability Sustainable Design (ESD), Water Sensitive Urban Design (WSUD), and waste management.	Adoption of the Smart Water Plan.	- Preparation and adoption of ESD and WSUD policies and associated policy updates to the scheme. - Review and update of Councils Wastewater Management Policy (2013). - Council have identified the preparation of a <i>Waste Management Plan</i>, timeframe is yet to be determined.
Strengthened early European and Aboriginal	Stages 1-2 of the Heritage Study	Completion of the Heritage Review Stage 3.

Issue	Current Council response	Further strategic work required
cultural heritage policies and provisions.	Review and associated C190 and C214 amendments	- Commencement and completion of the Heritage Review Stage 4. - Review of the <i>Boatshed and Bathing Box Heritage Study (November 2000)</i>. - Review of the Shire's Aboriginal cultural heritage policies with the Bunurong Land Council Aboriginal Corporation (BLAC)
Providing a more coordinated and improved framework for the maintenance and delivery of key infrastructure , including sewerage and drainage.	- Asset Management Strategy 2015 - Integrated Local Flood Management and Drainage Strategy 2009 - Road Management Plan 2018	- The Asset Management Strategy, prepared to assist Council in improving the way it delivers services from infrastructure including roads, bridges, pathways, stormwater drainage, parks and open space and has identified a strategic long term plan, actions are still outstanding. The Strategy is due for review in 2018. - Continue drainage network analysis and flood mapping for all risk catchments as identified in Councils <i>Integrated Local Flood Management and Drainage Strategy 2009</i> - Continue implementing drainage network and flood mitigation infrastructure as identified in Councils <i>Integrated Local Flood Management and Drainage Strategy 2009</i> - Continue implementation and ongoing maintenance works to fulfil the Shire Council Plan objectives in regard to infrastructure assets and is in line with the Asset

Issue	Current response	Council	Further strategic work required
			Management Policy and Strategy as identified by Councils <i>Road Management Plan 2018</i> .
Providing a strategy to traffic and transport planning across the Mornington Peninsula.	• <i>Mornington Peninsula Sustainable Transport Strategy 2015-2020</i>. • Finalising research paper (Towards Mornington Peninsula Shire's Transport Future – A proposed process for developing an integrated transport plan during 2018 to 2020). • Finalising the <i>Southern Peninsula Arterial Corridor Planning (Traffic Congestion Management Options)</i>.		On finalisation of 'background' studies, preparation of an Integrated Transport Plan for the Mornington Peninsula Shire – anticipated completion mid 2020.
Addressing the continued uncertainty surrounding the Port of Hastings	Advocacy to State Government to confirm the future role and development of the Port.		Confirmation from State government of the Port's future role and development.

8.2. Issues Requiring Further Resolution

Significant strategic work has been undertaken to advance the planning scheme since the 2014 Review. Given the breadth of work identified, there are still a number of outstanding items from the 2014 Planning Scheme Review which are either currently underway, or are yet to be commenced. Appendix 1 contains a comprehensive list of the 2014 planning scheme review actions and the status of those actions. A review of all issues still requiring further resolution, including those brought over from the 2014 review, and those identified as requiring further work during the current review are detailed below.

Certain issues, for instance the continued uncertainty around the future role and development of the Port of Hastings, and cooperation of the State Government and municipalities that abut Western Port to extend the planning scheme into Western Port, remain unresolved due to complexity and the evolving political landscape.

8.2.1. Policy guidance in the Green Wedge

Amendment C133 sought to review Clause 21.09: Planning for Rural Areas, as well as Clause 22.19: Camping and caravan park outside the urban growth boundary. The amendment was refused by the Minister for Planning on 11 August 2016.

Council also sought to amend the scheme via proposed Amendment C168 which sought to introduce a new policy at Clause 22.21: Rural dwellings including bed and breakfast accommodation, and make corresponding changes to Clause 21.09. Whilst C168 was authorised, it was later abandoned by Council.

Green wedge and rural policies are instead being reviewed as part of the Green Wedge Management Plan which is due for completion in mid- to late 2018. Upon adoption, Council will seek amendments to local policies to integrate and respond to the recommendations of the GWMP.

8.2.2. Strengthening place-making directives

Preparation of various structure plans and township plans, neighbourhood character studies and urban design frameworks were identified as part of the 2014 Review over 6 stages. Significant work has already been implemented including structure/township plans for Hastings, Rosebud, Rye and Dromana. Neighbourhood character studies have been prepared for Beleura Hill and Dromana Residential Areas. Work to prepare and implement Neighbourhood Character Studies for the Shire's remaining settlements, including Somerville and Hastings, is to be a priority for the 2018/2019 Council Budget.

Council has also identified the need to complete Urban Design Frameworks for Balnarring and Coastal Towns in 2018/2018, as well as the Port Phillip Urban Design Framework (which is contingent upon Third Phase Coastal Hazards Assessment being completed by Melbourne Water and DELWP).

Finalisation and implementation of Amendment C219 will also further Council's objective to protect the Shire's valued neighbourhoods.

Another key initiative will be the progressive review of DDO mapping and schedule ordinance in line with the findings and recommendations of neighbourhood character studies.

In strengthening heritage protection for early European and Aboriginal cultural heritage, the Victorian Aboriginal Heritage Council appointed the Bunurong Land Council Aboriginal Corporation (BLCAC) as the Registered Aboriginal Party (RAP) for the Mornington Peninsula on 24 July 2017. Council will review Clause 22.05 in conjunction with the new RAP at the earliest convenience.

As covered in Section 6.2, the Shire-wide Heritage Review is well underway. Stage 1 of the Heritage Review has been completed and implemented into the Planning Scheme via Amendment C174. Stage 2 has been completed, with its findings proposed to be implemented by proposed Amendment C214 (currently due for Panel consideration). Stage 3 of the review has commenced, and Stage 4 is yet to commence. The review of the Boatshed and Bathing Box Heritage Study is scheduled to occur following completion of Stage 4, and in association with DELWP.

Strategic work around traffic and transport has been undertaken for some parts of the Shire since the last Review. However, a strategic gap is evident with regards to preparing a strategy around traffic and transport for the whole of the Mornington Peninsula. Council has initiated early studies to inform the preparation of a 'shire-wide' Integrated Transport Plan.

A comprehensive investigation into the merits of introducing the Parking Overlay to the planning scheme has not yet commenced owing to budgetary constraints. This recommendation, however, remains a high priority for Council, particularly for the Major Activity Centres of Rosebud, Hastings and Mornington. The potential for introducing a schedule to Clause 52.06: Car Parking will also be investigated.

8.2.3. Strengthening natural systems provisions

As noted in Section 6 of this report, a Biodiversity Conservation Plan (BCP) is currently being prepared for Council, due for completion in mid-2018. The BCP will provide the basis for future amendments to the MSS and environmental management overlays to strengthen the natural systems provisions of the planning scheme.

A comprehensive review of all environmental overlays (ESOs, SLOs, VPOs) and associated amendments to schedule ordinance and mapping is to be undertaken subject to the BCP.

The *Tootgarook Wetland Management Plan* was also adopted by Council in May 2017 (refer Section 6). The Plan recommends review of a range of planning provisions including the Environmental Significance Overlay (ESO30: Tootgarook Wetland). However, further amendments will be required to the scheme to implement recommendations from the Plan.

8.2.4. Continuing to address climate change and associated environmental risks

Climate change: Council is presently working towards the preparation and adoption of a 'Climate Change Risk Management Action Plan' which will help the Shire plan and deliver actions to reduce greenhouse gas emissions resulting from its activities and become more resilient to the effects of climate change. Public consultation for the plan occurred in early 2017. In the meantime, Council has also adopted the following key policies, the directives of which can be translated into the new PPF as appropriate:

- *Carbon Neutral Policy (February 2016);*
- *Sustainable Transport Strategy 2015-2020;*
- *Integrated Local Flood Management and Drainage Strategy (2009);*
- *Smart Water Plan (2013, updated 2018); and*
- *Various Coastal Management Plans (CMPs)*

Landslide and erosion: Landslide susceptibility modelling has been undertaken for the whole of the Mornington Peninsula. However, there is significant work still required to translate the outcomes into Erosion Management Overlay mapping. Council's adopted Water Conservation Management Plan – *Smart Water Plan: An Integrated Approach to Water Management for the Mornington Peninsula (adopted in 2013)* also recommends research to support the development of new erosion management provisions in the planning scheme. This work has not yet commenced and is subject to further budgetary approval.

Flooding and coastal inundation: Overlays are being progressively introduced generally in accordance with the implementation of the *Mornington Peninsula Shire Integrated Local Flood Management and Drainage Strategy (2009)* and further relevant drainage modelling by Melbourne Water. Amendment C216 has been prepared to apply the Land Subject to Inundation Overlay (LSIO) to land identified by Melbourne Water as vulnerable due to hazards associated with coastal erosion, flooding, sea level rise and storm surge around Western Port. The amendment is due for consideration by an Independent Panel in July 2018. Further modelling for the balance of the Shire (ie. Port Phillip side) will be undertaken as part of the Third Phase Coastal Hazard Assessment for Sea Level Rise and Inundation by DELWP and Melbourne Water. This work is due for completion on 2019, with an amendment to follow in 2020. The 2018 Planning Scheme Review provides further recommendations around the introduction of the Special Building Overlay (SBO) to capture local flooding. The Shire has recently completed mapping for overland flooding and temporary storage, and is presently updating report and consent mapping – all of which could be translated into SBO mapping to ensure all flooding risks are captured in the planning scheme.

Potential land contamination: An audit and review of potentially contaminated land and Environmental Audit Overlay mapping is currently underway to ensure all sites of potential contamination are identified in the planning scheme. Any amendments to

mapping will be captured as part of a general amendment following adoption of the 2018 Planning Scheme Review.

Salinity: As identified in the 2014 Review, there are regional studies of salinity, however, more detailed information is needed at the local level before introduction of the Salinity Management Overlay (SMO) is appropriate. This strategic work remains outstanding and is subject to budgetary approval.

8.2.5. Infrastructure provision and developer contributions

Investigations are required into the feasibility for a formalised Shire-wide Development Contributions Plan. Given the substantial nature of this work, it is expected that implementation of a DCP will be staged, subject to budgetary approval. The resultant DCP will be implemented via the introduction of a Development Contributions Plan Overlay (DCPO) to the planning scheme.

8.2.6. Confirming policy around affordable housing

Council's adopted position on housing affordability is currently set out in *Mornington Peninsula's Social and Affordable Housing Policy (2011)*. Council is currently reviewing and updating this policy which will be separated into a *Triple A Housing Plan* to define community outcomes that are sought and set objectives and actions to work towards them, and an updated *Social and Affordable Housing Policy* to guide Council decision making in relation to matters of social and affordable housing, including homelessness. These documents are still in draft form but once finalised can form the basis for any implementation of policy into the planning scheme.

The *Mornington Peninsula Housing and Settlement Strategy* (December 2017) recognises that many factors that influence housing affordability are beyond the control of any individual Council. The HSS nevertheless advocates that Council can work to influence:

- the private housing market to supply more diverse housing to improve affordability, and
- supply and targeting of social housing, in partnership with social housing providers and State government.

The HSS notes that Council is currently investigating options available for increasing the provision of social housing on the Peninsula (Triple A Plan and Social and Affordable Housing Policy as outlined above) and these projects will be subject to further consultation in due course.

Council also awaits further direction from State government, including any amendments to the State Planning Policy Framework as part of implementing Action 2.3.1 of Plan Melbourne which seeks to '*Facilitate growth in the social housing sector*'.

Since adoption of the HSS, and as noted in Section 5 of this report, landmark changes were made to the *Planning and Environment Act 1987* to introduce a legislative framework into the planning system that facilitates the provision of affordable housing via voluntary arrangements with the private sector. The intent is to provide certainty in relation to how affordable housing can be provided. Whilst no associated updates to State planning policy in the VPPs has yet been made, it is nevertheless prudent that Council review its current affordability policy and update the local planning policy framework accordingly including the implementation of a local policy for affordable housing.

8.2.7. Refreshed approach to public open space

The 2014 Review recommended that Council investigate ways to increase the supply of public open space for its residents. This necessitates a comprehensive review of Council's existing *Open Space Strategy (2003)* which was adopted by Council 15 years ago.. Review of the Strategy ought to occur alongside proposed investigations for a formalised Shire-wide Development Contributions Plan (as noted above). Collectively, these initiatives will allow Council to strategically plan for, and ultimately levy contributions towards the provision of public open space.

As noted in Section 6 of this report, an Active Recreation (Sports Capacity Study) is due for adoption in mid-2018. Whilst this Strategy does not take into account passive open space and accessibility, and does not have significant implications for strategic direction in the planning scheme, it nevertheless provides important costings of works that ought to be captured by the DCP.

It is also noted that Council is completing a comprehensive audit of existing public open space across the Shire to ensure each parcel is appropriately zoned (refer Section 11 of this report). Any consequential zoning changes can be captured as part of the general amendment following the 2018 Review.

8.2.8. Confirming the future role for the Port of Hastings

Review of policy and controls surrounding the Port of Hastings has, and continues to be held in abeyance until the State government decides whether to pursue the expansion of Hastings as Melbourne's second container port, or to develop a new port at Bay West.

In May 2016, the Special Minister of State requested Infrastructure Victoria to provide advice on options to secure Victoria's future ports capacity. Infrastructure Victoria's advice was released in May 2017, recommending that once the Port of Melbourne reaches a capacity of approximately 8 million TEU in around 2055, the preferred location for surplus container trade is Bay West over Hastings, owing to a range of economic, social and urban planning considerations.

At the time of writing the 2018 Planning Scheme Review, a decision is still yet to be made by State Government. Council must continue to lobby State government for a confirmed position on the Port's future role so that a range of land use and development planning opportunities can be unlocked, including for marine-based industries which is a key objective of both the *Economic Development Plan* and *Industrial Areas Strategy*.

8.2.9. Providing for commerce and industry and strengthening economic policy

The *Mornington Peninsula Activity Centre Strategy Review* was adopted in April 2018 in unison with the *Mornington Peninsula Industrial Areas Strategy*. The Activity Centre Strategy Review provides an updated target of retail and commercial floorspace, a revised hierarchy of activity centres, and revised vision statement and associated set of objectives. These directives are to be integrated into the scheme as part of the re-write of local policy for translation to the new "Planning Policy Framework".

The Industrial Areas Strategy provides a vision statement and set of strategic objectives which are to be translated into the new "Planning Policy Framework".

Preparation and adoption of a Tourism and Recreation Strategy and associated updates to planning scheme policy is still required.

8.2.10. Technical updates

General Amendment C130 sought to implement most of the technical updates identified by the 2014 Review, however, the amendment lapsed whilst Council awaited implementation of the State government's proposed re-structure of policy in all planning schemes.

Any remaining updates with currency will instead occur as part of the wholesale review, re-write and translation of Council's local policy framework into the new integrated "Planning Policy Framework" – anticipated to occur by late 2018.

8.3. Emerging Issues

8.3.1. Environmental sustainability (ESD & WSUD)

At present, the local provisions of the planning scheme do not address Environmental Sustainable Design (ESD) or Water Sensitive Urban Design (WSUD). Council is currently undertaking work to produce a local ESD policy. This work is occurring at a

time when State government is believed to be considering the inclusion of a State-standard ESD provision in all schemes which can be expanded upon via a local schedule. Once adopted, Council's ESD policy will be integrated into the scheme, either via a local policy or the new State provision – whichever is available.

The Smart Water Plan (adopted 2013, updated 2018) outlines strategic options for the Shire to ensure it continues to meet the State obligations for water demand management and water quality protection in an integrated and sustainable way. Opportunity exists to investigate where suitable water management strategies as identified in the Smart Water Plan, could be implemented as policy into the planning scheme.

Review of Council's Wastewater Management Policy (2013) is required and the preparation of a Waste Management Strategy (timeframe yet to be determined).

8.3.2. Health and Wellbeing

At present, the Local Planning Policy Framework does not make mention of health and wellbeing issues. As noted in Section 6.1, Council's recently adopted *Health and Wellbeing Plan 2017-2021* contains a range of directives, though it is not yet referenced in the planning scheme.

Despite the lack of overarching directives around health and wellbeing in Council's MSS, two key amendments have been advanced by Council to address both gaming and alcohol related matters (refer Section 6.2 of this report):

- **Amendment C200** updated the MSS and inserted Clause 22.22: Gaming and gaming machines into the scheme, as well as amending the Schedule to Clause 52.28 to update the list of shopping complexes within which the installation of a gaming machine is prohibited.
- **Amendment GC088** proposes to implement the research conducted by the South East Melbourne (SEM) Councils' Consortia Working Group regarding packaged liquor and is currently awaiting Ministerial authorisation.

9. How the Mornington Peninsula Planning Scheme Implements State Planning Policy

9.1. State Planning Policy Framework

The State Planning Policy Framework as now translated into the PPF through Amendment VC148 is made up of the following sections:

- Clause 11 – Settlement;
- Clause 12 – Environmental and Landscape Values;
- Clause 13 – Environmental Risks and Amenity;
- Clause 14 – Natural Resource Management;
- Clause 15 – Built Environment and Heritage;
- Clause 16 – Housing;
- Clause 17 – Economic Development;
- Clause 18 – Transport; and
- Clause 19 – Infrastructure.

9.2. Mornington Peninsula Implementation of the State Planning Policy Framework

As previously noted in this report, the purpose of the LPPF is:

- to provide the local strategic direction for the municipality which supports and implements State Planning Policy (set out in the MSS); and,
- to provide the policies which implement the objectives and strategies of the MSS for the assessment of planning permit applications (local policies).

It is therefore necessary when reviewing the planning scheme to assess how effectively the LPPF is at achieving this purpose of implementing State policy at the local level.

Overall, the analysis reveals that while the content of the Mornington Peninsula Planning Scheme (including the MSS) is generally consistent with many of the objectives and strategies contained within State Policy (which is now expressed in the new PPF), the structure is significantly different, and (for reasons outlined in Section 10 [analysis of LPPF]) there is frequent duplication of State policy. This review has also identified an absence of local policy articulation for one particular State Policy directive, as detailed below.

Inconsistency between the LPPF and State Policy format

When applied at the local level, State policy issues often intersect and overlap – owing to the unique and often complex environmental, development, and land use setting of the Mornington Peninsula (as distinct from more urban ‘metropolitan Melbourne’

LGA's). As a result, some individual local policies within the LPPF cover multiple State policy themes.

For instance, within MSS Clause 21.10 (Managing port area development) – policy statements which link to State Policy 18 (Transport) are also interspersed with policy which aligns with State Policy 12 (Environmental and Landscape Values) and 17 (Economic Development).

Similarly, the policy contained at MSS Clause 21.09 (Planning for rural areas) comprises a mix of policy which draws from State Policy 12 (Environmental and landscape values), 13 (Environmental risks and Amenity), 14 (Natural Resource Management) and 17 (Economic Development).

As a Local Planning Policy example, Clause 22.07 (Commercial and industrial uses in rural areas) also links themes under State Policy 12 (Environmental and landscape values), 14 (Natural Resource Management), and 17 (Economic Development).

The lack of clear structural alignment between the LPPF and State Policy results in a perceived disconnect between the two levels of policy. Indeed, there are instances where it may be difficult to trace the 'State policy origin' of some local policies. This apparent discord, however, is born of a logical desire to demonstrate the interconnectedness of policy at the municipal level. The close interplay between policy themes in fact helps to articulate the complex nature and local land use and development issues facing the Peninsula.

As discussed in Section 5 of this report, the new PPF structure aims (amongst other things) to create clear links between State, regional and local policy. It is important that when Council is required to translate the Mornington Peninsula Planning Scheme into the new VPP format, that particular care is taken to ensure that the local policy nuance (associated with the overlap of State policy themes) is not lost in the process of 'separating out' State policy themes.

Duplication of State Policy content

The genesis of State Policy duplication within the LPPF is discussed in Section 10 of this report. Duplication of State Policy does not serve to strengthen local policy; repeated State content is superfluous and has the unintended effect of 'drowning out' local content in unnecessarily lengthy and wordy policy.

When the local articulation of State Policy is unclear, decision-makers are not supported to efficiently and consistently apply local policy. Similarly, permit applicants have difficulty in interpreting the local policy context.

Section 10 [analysis of local content] of this report provides examples of this repetition. A prime example, is Local Policy 21.08 (Foreshores and coastal areas) which

duplicates several State Policy statements at 12.02 (Coastal areas) and which repeats content at State Policy 11.03 (Planning for Places).

Council will have the opportunity to remove State Policy duplication following introduction of the new PPF (VPP) format.

Local policy gaps

Separate to the further strategic work identified in this report to bolster and supplement existing local policy, this review has highlighted a clear policy gap between the local and State Policy – being that there is no Local Policy application of State Policy 15.02 Sustainable Development.

Specifically, as identified in Section 8.3.1, there is a lack of Environmentally Sustainable Design (ESD) and Water Sensitive Urban Design (WSUD) content within the LPPF. As noted in Section 8.1 of this report, Council is undertaking work to produce a local ESD policy. For further work to inform local WSUD policy, this Review has flagged the opportunity to review Council's Smart Water Plan and Wastewater Management Policy. Once complete, this work will need to be translated into local policy (or a new provision created under the revised VPP's). As part of introducing Amendment VC148, DEWLP advised that State Policy content has been updated where possible. Certain policies, references and policy documents are known to be in need of review, but have not been updated as part of Amendment VC148 as they are being addressed as part of other subject specific reviews. These reviews include projects relating to environmentally sustainable development.

9.3. Conclusions

Overall, the majority of State Policy themes, objectives and strategies are applied at the local level via the LPPF. The following recommendations will ensure that local policy implements the objectives of State Policy more effectively and comprehensively, without compromising the requirement for nuance, and connection of State Policy issues, on the Mornington Peninsula.

Recommendations:

- **R78:** Ensure that local nuance is retained when the LPPF is translated into the new PPF format (revised VPPs).
- **R79:** Remove duplication of State Policy in local policy when the LPPF is translated into the new PPF format (revised VPPs).
- **R80:** Undertake further work required to 'fill' the policy gap between State Policy 15.02 Sustainable Development and Local Policy.

10. The Effectiveness of the Mornington Peninsula Local Planning Policy Framework

10.1. The Role of the Municipal Strategic Statement

According to Planning Practice Note No. 4 “Writing a Municipal Strategic Statement” (September 2013), a Municipal Strategic Statement (MSS) is part of the LPPF which sets the local and regional strategic context for a municipality. The Act requires that the MSS further the objectives of planning and Victoria, and contain:

- the strategic planning objectives of the planning authority;
- the strategies for achieving the objectives;
- a general explanation of the relationship between the objectives and strategies and the controls on the use and development of land in the planning scheme.

The MSS establishes the strategic framework for the municipality and should show how it supports and implements State Policy. In combination, State Policy and the MSS provide the strategic basis for the application of zones, overlays and particular provisions in the planning scheme.

The MSS should be continually refined as the planning authority develops and revises its strategic direction, and as new issues arise in the municipality. Due regard must be given to the MSS when preparing amendments to, or making decisions under a planning scheme.

10.2. Content of the Municipal Strategic Statement

The MSS currently comprises 13 clauses extending over 74 pages, taking a layered approach to policy across several key areas. A detailed audit of content reveals that the MSS comprises a wealth of well-established and pertinent strategic material. However, this analysis, coupled with targeted consultation with senior planning officers, finds that the MSS is unnecessarily long and content-heavy with material that does not assist in decision-making. Key deficiencies in this regard include:

- A lack of clear up-to-date narrative consistent with the Localised Planning Statement, current Council Plan, Health and Wellbeing Plan and other recently adopted strategic documents;
- A high degree of duplication with policy content already contained in State policy;
- A significant amount of redundant material including out-of-date content, legacy background and contextual material, and superfluous operational content.

Each of these issues is addressed in turn below, followed by a clause-by-clause commentary of specific areas for improvement.

10.2.1. Lack of clear and current narrative

As identified in Section 3 of this report, since reformatting in 1999, the Mornington Peninsula Planning Scheme has undergone evolutionary change, as opposed to periodic wholesale review. This incremental approach is reflected in the current MSS. It is evident that the document has been edited by many authors, with ad-hoc policy additions and revisions as Council has amended its scheme to respond to new policy implementation over time. A key concern is the current lack of consistency with the Localised Planning Statement, Council Plan and Health and Wellbeing Plan.

The lack of alignment with the LPS is evidenced by conflicting settlement policy statements through the MSS. As noted in Sections 10 and 6 of this report, the Localised Planning Statement (and later the Housing and Settlement Strategy) confirm that the Peninsula will not accommodate major population growth. Indeed, townships are to accommodate, at most, moderate and generally low levels of housing growth, with many smaller towns and villages able to accommodate only very limited further development. Whilst Clause 21.02 currently recognises that '*The Mornington Peninsula is not a designated urban growth area*' (p.2), the MSS still makes mention of '*new growth areas*' (Clause 21.07, p.1 and 2), '*major areas of new residential development*' (Clause 21.07, p.1 and 3), '*newly developing areas*' (Clause 21.07, p.2).

With respect to the Council Plan, Clause 21.03 (Mornington Peninsula – Regional Role and Local Vision) refers to the vision and key commitments of the *Mornington Peninsula Shire Community Plan 2000-2003* (18 September 2000) as opposed to the current 2017-2021 Council Plan. Similarly, no mention is made in the MSS of the directives of Council's current Health and Wellbeing Plan 2017-2021.

Finally, whilst continuing to be incrementally updated, the MSS does not yet fully reflect the wealth of strategic work recently finalised and adopted by Council. For instance, the strategic directives of the Activity Centre Strategy Review and Industrial Areas Strategy are not yet reflected in Clause 21.07-3: Activity centres or Clause 21.07-4: Industrial areas.

10.2.2. Duplication with State policy

The MSS displays a high degree of unnecessary duplication with State policy. A range of objectives and strategies throughout all clauses have been found to merely repeat stated directives in State policy. It must be noted, however, that such duplication is not intentional, and is rather the result of a lack of 'syncing' between local and State policy over time.

In the first instance, when the Hastings, Flinders and Mornington Planning Schemes were merged to form the so-called 'new format' VPP-based planning scheme, much of the legacy content of the original planning schemes was retained and translated across. This conservative approach, adopted by many other amalgamated Councils, was largely born out of uncertainty and reservations as to how the new VPPs would

ultimately operate. That is to say, Council wanted to ensure all local policy directions were safely captured and guarded, for fear of the new standardised State planning provisions being insufficient to properly address local nuance.

Since amalgamation, State policy has also arguably developed at a slower rate than some of Council's local directives. That is, Council developed a series of localised positions and strategies – particularly around settlement, rural planning and environmental management – that have since been captured and further strengthened at a more broader level by the State. As the Local Planning Policy Framework has not been reviewed *en masse* in the intervening years, some of its key policy content can be viewed as duplicating what are now State-standard policies.

An example of such repetition occurs at Clause 21.08: Foreshores and Coastal Areas (see Figure 7 below). Clause 21.08 contains a strategy on page 2 which duplicates content already found in the PPF at Clause 11.03-4S: Coastal Settlement. This is shown in the analysis below which matches corresponding local and State content by colour.

Figure 7: Example of duplication of State policy in LPPF

LOCAL - Clause 21.08:

Contain development in coastal locations to existing settlements, avoiding further linear development along the coast and, where necessary, restructure old and inappropriate subdivisions.

STATE - Clause 11.03-4S: Coastal Settlement

- *Encourage urban renewal and redevelopment opportunities within existing settlements to reduce the demand for urban sprawl.*
- *Identify a clear settlement boundary around coastal settlements to ensure that growth in coastal areas is planned and coastal values protected. Where no settlement boundary is identified, the extent of a settlement is defined by the extent of existing urban zoned land and any land identified on a plan in the planning scheme for future urban settlement.*
- *Direct residential and other urban development and infrastructure within defined settlement boundaries of existing settlements that are capable of accommodating growth.*
- *Avoid linear urban sprawl along the coastal edge and ribbon development within rural landscapes.*
- *Avoid development on ridgelines, primary coastal dune systems and low lying coastal areas.*
- *Encourage opportunities to restructure old and inappropriate subdivisions to reduce development impacts on the environment*

In order to streamline the local policy framework, aspects of the LPPF that duplicate State directives should now be removed, such that only genuine local policy directives remain. This will not only aid in the identification of any potential gaps in local policy that require further strategic work, but clarify local directions going forward.

10.2.3. Redundant content

The MSS is replete with outdated statistical data that ought to be removed or updated. For example, Clause 21.02: Profile of the Mornington Peninsula references ABS Census data from nearly 30 years ago:

Figures from the 1991 Census suggest that average household incomes are skewed towards \$25,000 or less (48 per cent of households, compared with 38 per cent over the metropolitan region), and a higher than average proportion of households receive government support. [p.2, emphasis added]

Similarly, the MSS comprises sections – and in some cases entire clauses – that comprise superfluous operational content. For example, Clause 21.05: Objectives, Strategies and Implementation constitutes one page with a singular paragraph relating to the operation of the MSS. It does not contain any policy that guides decision-making.

The following sections outline a strategic response to the challenges and opportunities that face the Peninsula. Taken together, they elaborate a vision for the future. The sections generally reflect the land use structure identified in the strategic framework plan – including townships, coastal and foreshore areas, rural areas and port development areas. Although this structure is useful for the purposes of highlighting objectives and strategies for particular areas, it is also important to emphasise the relationships and balances which are central to the strategic framework. These are the focus of the initial section.

Such material does not assist in decision-making and should be removed, consistent with the new format PPF.

Finally, the MSS comprises significant amounts of background content – generally found in the ‘overview’ and ‘policy basis’ sections of each clause – much of which is legacy material that has not been updated in many years. Whilst useful for providing historical context to the Shire’s development, much of this material is overly lengthy, and at times superfluous. More importantly, this content provides little assistance in administering the scheme or guiding decision-making.

Relevant aspects of background material should be updated where necessary (as per recent strategic work), and rewritten into a more concise format for translation to Municipal Planning Strategy under the new PPF. As noted in Section 5.2.1 of this report, the new Municipal Planning Strategy is the place set aside in the planning scheme in which to locate contextual material, including the Shire’s historical influences.

10.3. Analysis of Individual Clauses in the MSS

10.3.1. Clause 21.01: Purpose of the Municipal Strategic Statement

Clause 21.01 contains material that relates solely to operational matters – i.e. explaining what an MSS is and how it is used. It does not comprise any policy guidance and is therefore superfluous. In light of the proposed PPF, it is recommended that Clause 21.01 be deleted altogether.

Recommendations:

- **R81: Clause 21.01 – Delete entire clause.**

10.3.2. Clause 21.02: Profile of the Mornington Peninsula

The content of this clause provides a descriptive overview of the Shire, noting its location and regional context, demographics, pattern of settlement and housing and key economic drivers. It also highlights the importance of agriculture, the Port of Hastings and associated activities, and recreation and tourism to the Shire. Finally, the clause provides an overview of the Shire's areas of environmental and cultural significance, as well as infrastructure assets and constraints.

The vast majority of content in this clause can be categorised as background material only. Whilst addressing several land use and development themes, it does not outline any policy directives. By outlining the history of the Shire's development, this content instead helps to “tell the story” of the Shire. In considering the new PPF, some of this narrative could be condensed and translated into the new “Municipal Planning Strategy”.

Noting that the last update to Clause 21.02 was via State amendment VC37 back in January 2006 (which only implemented reformatting corrections to renumber clauses), the clause also comprises a great deal of redundant content that ought to be removed. This is evidenced by population statistics and projections based on 1991, 1996 and 1999 census data, as well as agricultural figures from the 1991 *State of The Environment Report*. The clause is also out-of-date in the sense that it does not identify recent major developments within the Shire, such as the introduction of Peninsula Link.

It is noted that detailed reporting of census data (including specific statistics on car ownership, number of jobs, number of vacant lots, percentage split in demographic cohorts, etc) will not feature heavily in the new PPF's Municipal Planning Strategy. This is because such data is often superseded much faster than a planning scheme can be amended to keep pace. Instead, data quoted in the MPS will likely be confined to key higher order figures such as an overall population growth projection. As such, the redundant data currently in Clause 21.02 ought to be removed. Any relevant background material should then be updated (as necessary), and re-written in a much more concise manner for direct translation into the new MPS.

Recommendations:

- **R82:** Clause 21.02 – Remove redundant and out-of-date data and statistics.
- **R83:** Clause 21.02 – Retain relevant background material, update and rewrite into a more concise format for translation to the MPS.

10.3.3. Clause 21.03: Mornington Peninsula – Regional Role and Local Vision

Clause 21.03 provides a contextual overview of the Mornington Peninsula, noting key issues regarding the Shire's regional role, settlement and population growth, environmental values, recreation and tourism, agriculture, Port activity, economic development and transport. The clause outlines the vision for the Shire, as well as the key strategic challenges affecting the Shire which are identified as being future township growth, local area character, strengthening commercial activity centres, township industrial areas, foreshores and coastal areas, conservation values, landscapes, recreation and tourism, agriculture and Port development.

Much of the contextual material outlined in this clause that is locally specific to the Peninsula ought to be retained for ultimate translation to the MPS. Nevertheless, updates will need to be made in so far as ensuring the clause reflects the most up-to-date strategic issues and directives facing the Shire identified in the wealth of strategic work recently completed by Council (noted in Section 6 of this report).

First and foremost, the clause should be amended to ensure closer alignment with the key tenets of the Localised Planning Statement, with the vision to echo the current Council Plan. Similarly, the vision and actions of Council's recently adopted Health and Wellbeing Plan must be acknowledged.

Content in Clause 21.03 should also reflect the strategic directives arising from the Housing and Settlement Strategy, updated Economic Strategy, Sustainable Transport Strategy, Activity Centre Strategy Review and Industrial Areas Strategy. This includes ensuring emerging issues such as climate change, managing environmental risk (including flooding and inundation, bushfire, salinity), and health and wellbeing (such as gaming and packaged liquor) are addressed.

Clause 21.03 should be further strengthened upon completion and adoption of the Green Wedge Management Plan and Biodiversity Conservation Management Plan, as well as the review of existing strategies and policies regarding open space, Aboriginal cultural heritage, neighbourhood character, infrastructure management and affordable housing.

Recommendations:

- **R84:** Clause 21.03 – Retain relevant contextual material and update to ensure alignment with the Localised Planning Statement, current Council Plan,

Health and Wellbeing Plan, and other relevant strategies recently adopted by Council.

- **R85:** Clause 21.03 – Re-write and refine for translation to the MPS.

10.3.4. Clause 21.04: Mornington Peninsula Strategic Framework Plan

Clause 21.04 provides a snapshot of policy directives for the Peninsula, accompanied by a Strategic Framework Plan which illustrates the key issues. As with Clauses 21.02 and 21.03, Clause 21.04 requires significant update.

The first three paragraphs of the clause simply explain what a Strategic Framework is and why it is important. Such content is descriptive and operational in nature, and does not assist in decision-making. It should therefore be removed.

The list of major strategic directions and Framework Plan that follows both need to be revised to reflect the Localised Planning Statement, Council Plan and recently adopted strategic documents as mentioned above.

Recommendations:

- **R86:** Clause 21.04 – Remove superfluous operational content.
- **R87:** Clause 21.04 – Update the Strategic Framework Plan and associated policy directives to ensure alignment with the Localised Planning Statement, current Council Plan, Health and Wellbeing Plan, and other relevant strategies recently adopted by Council.
- **R88:** Clause 21.04 – Re-write and refine for translation to the MPS.

10.3.5. Clause 21.05: Objectives, Strategies and Implementation

Clause 21.05 comprises a sole paragraph that describes what the balance of the MSS comprises and how it is to be read:

The following sections outline a strategic response to the challenges and opportunities that face the Peninsula. Taken together, they elaborate a vision for the future. The sections generally reflect the land use structure identified in the strategic framework plan – including townships, coastal and foreshore areas, rural areas and port development areas. Although this structure is useful for the purposes of highlighting objectives and strategies for particular areas, it is also important to emphasise the relationships and balances which are central to the strategic framework. These are the focus of the initial section.

This type of “operational” content is superfluous and strongly discouraged under the new PPF as it does not provide policy direction. As such, Clause 21.05 should be removed in its entirety, with no content to be translated to the new PPF.

Recommendation:

- **R89: Clause 21.05 – Delete**

10.3.6. Clause 21.06: Strategic Framework and the Peninsula's Settlement Pattern

Clause 21.06 outlines a framework for the Shire's settlement pattern, providing a contextual overview of settlement across the Shire, identifying key issues which are to be addressed by a series of objectives, strategies and actions. The clause is set to be strengthened pending approval of Amendment C219 which updates the strategic directives of this clause consistent with the *Mornington Peninsula Housing and Settlement Strategy (December 2017)*, including integration of an overall Housing and Settlement Framework Plan.

For the purposes of future translation to the PPF, much of the material in the overview section should be retained and translated to the new MPS, whilst the remaining content should be filtered for duplication with State policy and identification of genuinely local content (i.e. objectives and strategies) for translation to a dedicated settlement policy in the PPF.

Finally, the balance of directives around implementation and further strategic work require review and update. For instance, 'implementation' should recognise the need to apply the UGB around the urban areas of Balnarring Beach, Merricks Beach, Merricks and Point Leo consistent with the Housing and Settlement Strategy.

Recommendations:

- **R90: Clause 21.06 – Retain relevant contextual material for translation to the MPS.**
- **R91: Clause 21.06 – Retain genuinely local content (i.e. objectives and strategies) for translation to a dedicated settlement policy in the PPF.**
- **R92: Clause 21.06 – Revise all implementation and further strategic work actions to reflect current conditions and translate to the appropriate location within the reformatted VPPs.**

10.3.7. Clause 21.07: Guiding Future Township Development

Clause 21.07 addresses issues of housing and integrated local area planning, local area character, activity centres and industrial areas. Spanning 19 pages, Clause 21.07 is the most substantive clause of the MSS. Whilst comprising material relevant to establishing the context and key directives of the Shire, the clause is overly content-heavy with perhaps the most amount of redundant matter in the MSS. There is considerable room for refinement, particularly with respect to deleting duplication with

State policies. Many of the strategic directives contained in the clause also require updating to reflect the LPS and recent adopted strategic documents.

A thorough audit of Clause 21.07 reveals that a lot of material duplicates a wide range of State policies found at Clauses 11 (Settlement), 12 (Environmental and landscape values), 13 (Environmental risks and amenity), 14 (Natural resource management), 15 (Built environment and heritage), 16 (Housing), 18 (Transport) and 19 (Infrastructure).

Examples of duplication with State policy are most readily identifiable in Clause 21.07-1: Housing and integrated local area planning. Whilst Amendment C219 (HSS & NRZ Amendment) proposes to update the stated population projection for the Shire, the sub-clause contains primarily generic issues, objectives and strategies that are already comprehensively addressed at the State level.

Areas that require updating to reflect current strategic work include:

- **Clause 21.07-1: Housing and integrated local area planning** – removing references to ‘new growth areas, ‘major areas of residential development’ and newly developing areas’ as the Shire no longer contains such capacity for residential development (as is identified in the Housing and Settlement Strategy).
- **Clause 21.07-3: Activity centres** – updating the context, issues, objectives, strategies, hierarchy and network plan to align with the recently adopted Activity Centre Strategy Review.
- **Clause 21.07-4: Industrial areas** – updating the context, issues, objectives and strategies to reflect the recently adopted Industrial Areas Strategy.

Clause 21.07-2: Local area character will require further refinement upon the completion of neighbourhood character studies across the Shire.

Finally, it is noted that the suite of implementation actions and further strategic work noted in each sub-clause needs to be updated to remove those actions already completed, and insert new items according to Council's current program of strategic works.

Recommendations:

- **R93: Clause 21.07 – Remove redundant content and duplication with State policies at Clauses 10.01 (Integrated decision making), 11 (Settlement), 12 (Environmental and landscape values), 13 (Environmental risks), 14 (Natural resource management), 15 (Built environment and heritage), 16 (Housing), 18 (Transport) and 19 (Infrastructure).**
- **R94: Clause 21.07 – Update contextual content and retain for translation to the MPS.**
- **R95: Clause 21.07 – Update objectives and strategies to ensure alignment with strategic directives from recently adopted Council policies and strategies, and translate as policy content for the PPF.**

- **R96: Clause 21.07 – Revise all implementation and further strategic work actions to reflect current conditions and translate to the appropriate location within the reformatted VPPs.**

10.3.8. Clause 21.08: Foreshores and Coastal Areas

Clause 21.08 outlines the context, key issues, objectives and strategies for the Shire's foreshores and coastal areas. The contextual material found in the policy 'overview' and 'key issues' sections that details the nature of the Shire's foreshore and coastal areas and primary concerns affecting these valued assets should be retained and translated to the MPS.

As with most of the other clauses in the MSS, however, Clause 21.08 requires further refinement to remove material that replicates State policy, and ensure the objectives and strategies reflect other current strategic work.

It is noted that **Amendment C216 (LSIO)** proposes to update the clause in line with the findings and recommendations of the *Planning for Sea Level Rise Guidelines Port Phillip and Westernport Region (Melbourne Water February 2017)*. That is, Clause 21.08 will be updated to recognise the need to:

'Identify areas of coastal areas at risk of natural process impacts including potential hazards associated with coastal erosion, flooding, sea level rise and storm surge, including from the impacts of climate change'.

As noted in Section 6 of this report, a number of Coastal Management Plans have been approved and adopted by Council, some within the Review period, such that Council now has a complete framework for the management of coastal areas in the Shire. It is prudent that any relevant content from these plans – and the eight other plans already approved and displayed on Council's website – should be integrated into Clause 21.08, including and additional contextual material or strategies. As, under the Act, coastal management plans must be updated every 3 years (or expire), the Sorrento Coastal Management Plan (April 2018) is the only document at this time that should be referenced in the scheme. Other approved plans listed below should be referenced in the scheme if/when they are updated to provide for currency:

- *Hastings South Coastal Management Plan (MPSC, April 2015)*
- *Mornington Harbour Precinct Plan (MPSC, October 2014)*
- *Safety Beach Coastal Management Plan (April 2016)*
- *Rosebud Activity Centre & Foreshore (August 2015)*
- *Rosebud Coastal Management Plan (May 2015)*

With respect to duplicate State policy content that ought to be removed from Clause 21.08, an example is Objective 1 which repeats Clause 12.02 (Coastal areas): *To*

protect and enhance the natural ecosystems and landscapes of the coast for the benefit and enjoyment of present and future generations.

Feedback from the Shire's planners also identified the need to ensure coastal policy refers to a requirement to consult with relevant public land managers and/or designated foreshore committees where necessary.

It was also raised that the presence of coastal acid sulfate soils (CASS) on the Peninsula should be noted, with an associated requirement for appropriate risk assessment and management in accordance with the *Victorian Best Practice Guidelines for Assessing and Managing Coastal Acid Sulfate Soils* (DSE, October 2010). It is recognised that avoidance of disturbing coastal acid sulfate soils is already stated in State policy at Clause 12.02-1S (protection of coastal areas), however, the Guidelines are not presently referenced in the VPPs. Inclusion of the Guidelines as a reference document may be captured in the proposed restructure and refinement of State policy as part of translation to the new PPF. As the document is not referenced at State level, officers consider it prudent that the Guidelines are reference in local policy.

Finally, as with the preceding MSS clauses, the suite of implementation actions and further strategic work need to be audited for currency and updated as necessary.

Recommendations:

- **R97:** Clause 21.08 – Remove duplication with State policies at Clauses 11.03 (11.03-5S Distinctive areas and landscapes) and 12.02 (Coastal areas).
- **R98:** Clause 21.08 – Retain contextual content for translation to the MPS.
- **R99:** Clause 21.08 – Audit approved local Coastal Management Plans for relevant content worthy of inclusion.
- **R100:** Clause 21.08 - List approved Marine and Coastal Strategies in the future 'Background and Incorporated Documents' VPP if updated.
- **R101:** Clause 21.08 – Include a reference requiring referral to relevant public land managers and/or designated foreshore committees where necessary.
- **R102:** Clause 21.08 – Ensure the *Victorian Best Practice Guidelines for Assessing and Managing Coastal Acid Sulfate Soils* (DSE, October 2010) are appropriately referenced in Local Policy.
- **R103:** Clause 21.08 – Revise all implementation actions and further strategic work to reflect current conditions and translate to the appropriate location within the reformatted VPPs.

10.3.9. Clause 21.09: Planning for Rural Areas

Clause 21.09 details the issues, objectives and strategies for rural matters affecting the Shire with respect to conserving environmental values, supporting agriculture and primary production, protecting productive agricultural land, and maintaining and

enhancing landscape, cultural and recreational values. Covering 12 pages, Clause 21.09 is another substantive part of the MSS. Whilst there is ample opportunity for consolidation and refinement in terms of removing content that duplicates State policy at Clauses 12 (Environmental and landscape values), 13 (Environmental risks and amenity), 14 (Natural resource management) and 17.04 (Tourism), it is not appropriate to review the key strategic directives of this clause until such time as both the Green Wedge Management Plan and Biodiversity Conservation Plan are finalised and adopted by Council.

Recommendations:

- **R104:** Clause 21.09 – Remove duplication with State policies at Clauses 12 (Environmental and landscape values), 13 (Environmental risks and amenity), 14 (Natural resource management) and 17.04 (Tourism).
- **R105:** Clause 21.09 – Review content upon finalisation and adoption of the Green Wedge Management Plan and Biodiversity Conservation Plan.

10.3.10. Clause 21.10: Managing Port Area Development

Clause 21.10 details the local and regional economic importance of the Port of Hastings, as well as the Port's environmental significance. The purpose of the policy is to protect the long-term value of the Port for select port and industrial purposes which are dependent on, or gain significant advantage from proximity to natural deep-water channels, and to ensure that Port and port-related development does not adversely affect, or compromise the ecosystems and recreational resources of Western Port.

As noted in the policy, the Port and surrounding areas of environmental sensitivity have been the subject of various environmental studies dating back to 1975. The use and development of the Port has been governed to date by the *Hastings Port Industrial Area Land Use Structure Plan (1996)*. Whilst now 22 years old, this Strategy, and resulting Clause 21.10 in the planning scheme, have not been the subject of detailed review owing to the ongoing uncertainty surrounding the future role of the Port.

Indeed, review of policy and controls surrounding the Port of Hastings has, and continues to be held in abeyance until the State government decides whether to pursue the expansion of Hastings as Melbourne's second container port, or to develop a new port at Bay West.

In May 2016, the Special Minister of State requested Infrastructure Victoria to provide advice on options to secure Victoria's future ports capacity. Infrastructure Victoria's advice was released in May 2017, recommending that once the Port of Melbourne reaches a capacity of approximately 8 million TEU in around 2055, the preferred location for surplus container trade is Bay West over Hastings, owing to a range of economic, social and urban planning considerations. At the time of writing the 2018 Planning Scheme Review, a decision is still yet to be made by State Government.

Given the uncertainty surrounding Port planning, it is inappropriate to review the strategic directives of Clause 21.10. Nevertheless, the policy content can be refined in so far as removing duplication between State policies. Examples to this end include removing the following strategies which simply repeat content at Clause 17.03 (Industry), Clause 18.03 (Ports) and Clause 12.01 (Biodiversity) of the State policy framework:

- *Manage the interface between port development, townships and rural areas to protect the value of substantial port related industrial assets.*
- *Protect the safety and efficiency of main roads serving the area*
- *Ensure the provision of appropriate buffer areas as part of port related development proposals.*
- *Ensure that residential development is separated from port areas and port-related development, and protected from the impact of industrial traffic, by maintaining existing strategic rural areas and limiting residential development to areas within existing township boundaries.*
- *Identify and protect areas of significant nature conservation value in and adjacent to foreshores, streams and wetlands.*
- *Protect the amenity of residential areas by maintaining substantial rural breaks between residential and industrial development.*

It should be noted the State policy 18.03-1S and 18.03-2S (in the new PPF), under 'policy documents' references the *Port of Hastings Land Use and Transport Strategy (Port of Hastings Corporation, 2009)*. The local policy 21.10 under 'further strategic work' refers to the *Hastings Port Industrial Area Land Use Structure Plan (WRPCC, 1996)*. The local policy should be updated to reflect the State level referenced document.

Upon introduction of the new PPF, the policy context and key issues noted at the start of the policy can be translated into the new MPS, whilst the remaining objectives, strategies and actions can be refined as noted above, and translated to the appropriate Port-related local policy.

Recommendation:

- **R106:** Clause 21.10 – Retain existing strategic directives until such time as the future role and development of the Port is confirmed by State Government, but be amended to include reference to *Port of Hastings Land Use and Transport Strategy (Port of Hastings Corporation, 2009)*.
- **R107:** Clause 21.10 – Remove content that duplicates State policies at Clauses 17.03 (Industry), 18.03 (Ports) and 12.01 (Biodiversity).
- **R108:** Clause 21.10 – Retain remaining policy context for translation to the future MPS, and content regarding key issues, objectives, strategies and actions for translation to a Port-related policy in the PPF.
- **R109:** Clause 21.10 – Revise all implementation actions and further strategic work to reflect current conditions and translate to the appropriate location within the reformatted VPPs.

10.3.11. Clause 21.11 Monitoring and Review

As implied in its name, Clause 21.11 comprises operational content concerning the ongoing monitoring and review of the planning scheme – it does not comprise any policy directives. Whilst commonly seen in older planning schemes, this clause is not required to be in the scheme under section 12A (Municipal Strategic Statements) of the *Planning and Environment Act 1987*, or the *Ministerial Direction on the Form and Content of Planning Schemes*. Indeed, the new PPF removes this content altogether as it does not assist in decision-making.

Recommendation:

- **R110: Clause 22.11 – Delete entire clause.**

10.3.12. Clause 21.12: Reference documents

The new PPF introduces new Operational Provisions at Clause 70 of the planning scheme that comprises a list of incorporated documents at Clause 72.04 and background documents at Clause 72.08. This will negate the need to repetitively list documents throughout local policy (or in schedules to controls). By renaming reference documents to 'background documents' and listing them in a similar way to incorporated documents is intended to better reflect their role in schemes. Documents will then be "hyperlinked" to make them more accessible to all users of the scheme.

Whilst Clause 21.12 of the MPPS already functions as a "master list" of reference documents and is therefore readily translatable, an audit of its contents reveals that a number of updates are required.

Firstly, numerous documents can be removed on the basis that:

- **The document provides general historical background only, and is not specifically referenced elsewhere in the scheme** (including the MSS, LPPs, or schedules to zones, overlays or particular provisions). Example: *Hearings of Objections – Western Port Region IDO Amendment 1A – Position Papers (WPRPA, 1979)*.
- **The document is superseded by a more recent study / strategy / plan.** Example: *Hastings Light Industrial and Environmental Improvement Guidelines (Tract, May 1990)* is superseded by the *Mornington Peninsula Industrial Areas Strategy (MPSC, April 2018)*

There is also a need to add documents to the list on the following grounds:

- **The document is becoming a reference document via a current planning scheme amendment.** Example: *Mornington Peninsula Housing and Settlement Strategy (MPSC, December 2017)* via Amendment C219.
- **The document is referenced elsewhere in the scheme, but not currently listed in Clause 21.12.** Example: *Siting and Design Guidelines for the Mt Eliza Woodland*

Neighbourhood Character Study Report (Planisphere, October 2006) is referenced in DDO18: Mount Eliza Woodland Area.

Documents to remain listed in Clause 21.12 are those that are currently referenced elsewhere in the scheme, or are directly identifiable as the genesis for a specific clause or provision. For example, despite its age, *A Natural Systems Study of the Mornington Peninsula, Victoria (Environment Resources Australia, January 1974)* is referenced in Clause 22.14 Mornington Peninsula Land Units and is in fact the genesis for the 30 schedules to the Environmental Significance Overlay. Whilst this particular study is soon to be superseded by Council's new Biodiversity Conservation Management Plan (BCP), the BCP is yet to be adopted by Council or introduced to the scheme. As such, the original study must remain as a reference document.

The same principal applies to the various heritage studies and citations listed in Clause 21.12 – whilst some may ultimately be superseded by Council's Heritage Review, not all stages of the review have been completed and integrated into the Planning Scheme. As such, the original studies and citations must remain in place.

Recommendations:

- **R111:** Clause 21.12 – Complete audit of reference documents and update as necessary.
- **R112:** Clause 21.12 – Translate the revised list of reference documents into the new Clause 72.04 'List of Incorporated Documents' and Clause 72.08 'Background Documents' now introduced through Amendment VC148.

10.3.13. Clause 21.13: Local Area Plans

Clause 21.13 details the objectives, strategies and implementation actions that have been developed to achieve the vision adopted by Council for the local area referred to as the 'Ranelagh Estate' in Mount Eliza. The clause essentially contains provisions that seek to protect the neighbourhood character of the Estate with emphasis on specific matters such as subdivision and development pattern, roads and verges, open space, landscaping and vegetation, and views. Whilst specific actions to achieve the vision are provided in the implementation section, these actions have already been undertaken and are thus redundant.

As a clause that primarily provides for neighbourhood character protection, it is necessary that it is augmented with additional local area plans for other areas in the Mornington Peninsula where such protection is desired. Feedback from senior planning officers indicated that these areas would include those where a structure plan has been prepared such as Rosebud and Hastings.

Recommendations:

- **R113:** Clause 21.13 – Remove redundant content, i.e. actions under the implementation section.
- **R114:** Clause 21.13 – Augment clause to include additional local area plans for areas where a structure plan has been prepared, e.g. Rosebud and Hastings once gazetted.
- **R115:** Clause 21.13 – Translate to the appropriate location within the reformatted VPPs.

10.4. Analysis of Local Planning Policy Content

The purpose of local planning policies is essentially to set out the guiding principles of the planning scheme to implement the objectives and strategies of the MSS. The Mornington Peninsula Planning Scheme presently comprises 22 individual local planning policies spanning 76 pages.

Detailed auditing and consultation on each policy reveals that many of the shortcomings evident in the MSS also affect the Shire's individual planning policies. That is, many policies:

- Contain a significant amount of redundant, out-of-date and superfluous content;
- Contain a high degree of duplication with policy content already contained in State policy; and
- Need to be refreshed to align with the content and directives arising from significant strategic documents recently completed or commissioned by Council since 2014.

Considerable duplication is also evident between related content in the MSS and LPPs. Whilst this is to be expected in that the MSS forms the genesis for the LPPs, much of this duplication can be eliminated upon translation of the LPPF to the new PPF.

The above issues are illustrated in the following clause-by-clause analysis.

10.4.1. Clause 22.01: Industrial Areas

Clause 22.01 applies to all land in the Industrial 3 Zone, seeking to support a diversity of well-designed industrial development within the Shire whilst protecting the amenity of surrounding residential and commercial areas.

It is noted that Clause 22.01 was written prior to the introduction of the revisions to the Industrial VPPs (via **Amendment VC100** which was approved in July 2013 and, more recently **Amendment VC142**, approved in January 2018). As such, areas affected by this policy are no longer purely industrial. The introduction of changes to as-of-right and discretionary uses in the Industrial 3 Zone via **VC100** and **VC142** has seen a gradual “dilution” of industrial areas, with the incremental increase in non-industrial

uses such as gyms, cafes and the like. Clause 22.01 needs to be revised to acknowledge and respond to these changes.

Targeted consultation with senior planning staff at the Shire also revealed the need for more definitive and strengthened design guidelines, particularly around interface issues and landscaping. Officers noted in particular, that the landscaping standards specified in the policy are often not being met as applicants are using the existing conditions of neighbouring industrial properties to justify a lesser design response.

Finally, whilst the policy contains important contextual material regarding industrial development within the Shire, this content, and that of the corresponding objectives and strategies needs to be reviewed to remove any duplication with State policy at Clause 17.03 (Industry), whilst integrating the vision and directives of the recently adopted *Mornington Peninsula Industrial Areas Strategy (April 2018)*.

Recommendations:

- **R116:** Clause 22.01 – Update contextual content for inclusion in the MPS.
- **R117:** Clause 22.01 – Remove any duplication with State policy at Clause 17.03 (Industry).
- **R118:** Clause 22.01 – Update with the vision and directives of the *Mornington Peninsula Industrial Areas Strategy (April 2018)*.
- **R119:** Clause 22.01 – Amend the policy to recognise and respond to the gradual ‘dilution’ of industrial areas across the Shire since the changes to as-of-right uses in the Industrial 3 Zone were introduced by Amendment VC100 and VC142.
- **R120:** Clause 22.01 – Strengthen policies and design standards, particularly with respect to landscaping and interface issues.

10.4.2. Clause 22.02: Activity Centres

Clause 22.02 applies to all land within the C1Z, seeking to direct commercial growth towards the established activity centres of the Shire as per the activity centres hierarchy developed in the *Mornington Peninsula Activity Centres Strategy, September 2005*. The policy also seeks to discourage out-of-centre commercial development.

As with Clause 22.01, this policy was written prior to **Amendment VC100** (July 2013) which amalgamated the Business 1, 4 and 5 Zones into the new C1Z. Apart from updating zoning references, Clause 22.02 needs to be comprehensively reviewed to respond to the policy implications of the merger of former business zones. The simplification of business zoning has completely disempowered the policy’s ability to direct specific commercial activity in certain areas, as well as control certain design and built form outcomes as distinction between zoning (and therefore land use and development directives) has been removed. Clause 22.02 needs to be revised to acknowledge and respond to these changes.

Clause 22.02 also needs to be updated to reflect the vision and key directives of the recently adopted *Mornington Peninsula Activity Centres Strategy (2018)*. Whilst the Strategy continues to affirm the use of a designated hierarchy of activity centres, it recommends changes to the designation of specific centres. The Strategy also acknowledges the need for local policy to respond to the land use and development implications that may arise from the increased dilution between the Commercial Zones and IN3Z resulting from **Amendment VC142**.

The Activity Centre Strategy also highlights the need for a more robust policy regarding the role and function of 'out-of-centre' retail development, noting that approximately 53,800m² or 18% of retail floorspace in the Shire is already located outside the existing activity centres hierarchy and Peninsula Homemaker Centre; and the abovementioned recent planning reforms mean out-of-centre retail development can now include small supermarket and shop-based developments.

Consultation with senior planning staff has further flagged a preference to develop separate local policies for each activity centre for which a structure plan or township plan has been developed and adopted. Separate policies will provide greater usability when determining relevant local policy for each centre, whilst also providing clarity around the genesis of intended policy outcomes.

In the event that Parking Overlays or Development Contribution Plan Overlays are developed and applied to any centres within the Shire, Clause 22.02 should be further amended to reflect the use of these controls as necessary.

Finally, although Clause 22.02 the clause contains important contextual material regarding commercial activity within the Shire, it needs to be reviewed to remove any duplication with State policy at Clause 11.03 (Activity Centres) and Clause 17.01 (Commercial).

Recommendations:

- **R121:** Clause 22.02 – Revise content to reflect, acknowledge and respond to the simplification of the Business 1, 4 and 5 Zones to the C1Z.
- **R122:** Clause 22.02 – Amend the clause to recognise and respond to the dilution of Commercial Zones and IN3Z.
- **R123:** Clause 22.02 – Remove duplication with State policy and update with the vision and directives of the *Mornington Peninsula Activity Centres Strategy (May 2018)*.
- **R124:** Clause 22.02 – Prepare individual local planning policies for each activity centre for which a Structure Plan or Township plan has been adopted.

10.4.3. Clause 22.03: Dwelling Density, Excisions and Realignments in Rural Areas

The contents of Clause 22.03 are largely redundant, owing to the removal of provision for excisions in the Green Wedge Zone, and the inability to establish second dwellings on a lot (other than Dependant Relative Units). Since amendment of the Green Wedge Zone provisions, officers have instead been relying upon Council's web-based policy 'Dwellings in the Green Wedge Zone' which is being reviewed as part of the Green Wedge Management Plan.

In effect, those parts of the policy regarding the realignment of lot boundaries, and the requirement to prepare a Land Conservation and Rehabilitation Plan as an alternative to a Farm Management Plan will be retained and consolidated into a comprehensive rural / green wedge planning policy following adoption of the GWMP.

Recommendations:

- **R125:** Clause 22.03 – Delete policy.
- **R126:** Clause 22.03 – Retain content regarding the realignment of lot boundaries and include in the new rural / green wedge local planning policy to be prepared upon adoption of the Green Wedge Management Plan.

10.4.4. Clause 22.04: Heritage Places and Abutting Land

Clause 22.04 applies to any application for use or development of land that is within, partly within or abutting a Heritage Overlay, seeking to ensure that the management and development of heritage places is consistent with their identified heritage values.

The first two objectives of the clause duplicate content in State planning policies on heritage, including Clause 15.03 (Heritage) and Clause 15.01-1S (Urban Design). Nevertheless, Clause 22.04 contains additional objectives and a raft of specific and clear policy directions that remain pertinent to governing the use and development of heritage places. Examples of important policies include the need to:

- *Support the conservation of heritage places.*
- *Discourage the total demolition of a heritage place.*
- *Support the restoration or reconstruction of fabric of heritage significance where opportunities arise.*
- *Discourage any demolition within a Heritage Overlay in advance of a planning permit for replacement development.*
- *Encourage the salvage, re-use, display and time capsuling of materials and artefacts of historic value from demolished heritage places.*

Despite the clear directives around the use and development of land within heritage sites, consultation with senior Council planning officers found that Clause 22.04

requires strengthening with respect to managing development on land adjoining heritage places.

At present, Clause 22.04 contains a single policy regarding neighbouring land which states: 'Assess the impact of a proposed development on the heritage values of abutting land in a Heritage Overlay' [p.2]. The policy is supported by a decision guideline for land abutting heritage places which requires applicants to provide (as necessary): *An assessment of how the proposal will affect the heritage values on an abutting lot in terms of architectural form and layout including setbacks, size, height, materials, landscaping and colours.* The policy does not clarify what may be considered an appropriate design response for any of these design components.

It is noted that the *Heritage Study Review* does not propose any changes or updates to any objectives or strategies in Clause 22.04.

Recommendations:

- **R127:** Clause 22.04 – Remove duplication with State planning policies at Clauses 15.03 (Heritage) and 15.01-1S (Urban Design).
- **R128:** Clause 22.04 – Strengthen policy directives around what is considered an appropriate design response for the development of land abutting identified heritage places.

10.4.5. Clause 22.05: Aboriginal Cultural Heritage

Clause 22.05 applies to all land in the Shire, seeking to identify and protect sites and features of Aboriginal cultural and archaeological significance in consultation with the local Aboriginal community.

Whilst providing important recognition of the Bunurong people, the policy does not provide guidance beyond what is already mooted in State policy at Clause 15.03-2S (Aboriginal Cultural heritage). The 2014 Planning Scheme Review recommended that Clause 22.04 be updated with specific local content following appointment of a Registered Aboriginal Party (RAP) under the *Aboriginal Heritage Act 2006*.

Whilst the Victorian Aboriginal Heritage Council appointed the Bunurong Land Council Aboriginal Corporation (BLCAC) as the RAP for the Mornington Peninsula on 24 July 2017, Council is yet to review Clause 22.05 in conjunction with the new RAP.

Finally, it is noted that Clause 22.04 (Heritage Places and Abutting Land) contains a policy at page 2 which seeks to: *Recognise and apply the principles, processes and practices of the Burra Charter in the practice of local heritage protection.* This policy should be reflected in Clause 22.05: Aboriginal cultural heritage for consistency.

Recommendations:

- **R129:** Clause 22.05 – Remove content that duplicates State policy at Clause 15.03-2S (Aboriginal Cultural Heritage).
- **R130:** Update with locally specific content in consultation with the Bunurong Land Council Aboriginal Corporation (BLCAC)

10.4.6. Clause 22.06: Development on Highways, Main Roads, and Tourist Routes

Clause 22.06 applies to all land within the Green Wedge Zone and Farming Zone adjoining highways, main roads and tourist routes. Whilst the policy contains relevant background content that ought to be included in the MPS, many of the objectives and decision guidelines repeat State planning policy, including Clauses 11.03-5S Distinctive Areas and Landscapes, 17.02 Commercial, and 18.02 Movement Networks. The specific policies of Clause 22.06 will be reviewed upon completion of the GWMP.

Recommendations:

- **R131:** Clause 22.06 – Remove content that duplicates State policies at Clauses 11.03-5S (Distinctive areas and landscapes), 17.02 (Commercial), 18.02 (Movement networks) and 15.01 (Built environment).
- **R132:** Clause 22.06 – Revise local content to align with the GWMP (once adopted) and translate into the new rural / green wedge local planning policy.

10.4.7. Clause 22.07: Commercial and Industrial Uses In Rural Areas

Clause 22.07 applies to all land in the Green Wedge Zone and Farming Zone. Although the clause contains relevant background content that ought to be included in the MPS, many of its objectives duplicate State planning policy such as Clauses 11.03-5S Distinctive Areas and Landscapes, 17.02 Commercial and 17.04 Tourism. Much of the policy content of this clause needs to be reviewed upon completion of the GWMP.

Recommendations:

- **R133:** Clause 22.07 – Remove content that duplicates State policies at Clauses 11.03-5S Distinctive Areas and Landscapes, 17.02 Commercial and 17.04 Tourism
- **R134:** Clause 22.07 – Revise local content to align with the GWMP (once adopted) and translate into the new rural / green wedge local planning policy.

10.4.8. Clause 22.08: Integrated Recreational and Residential Development in Rural Areas

Clause 22.08 applies to all land in the Green Wedge Zone, Farming Zone and, where relevant, Comprehensive Development Zone. Although the clause contains relevant background that ought to be included in the MPS, many of its objectives duplicate State Planning Policy such as Clauses 11.03-5S Distinctive Areas and landscapes, and 14.01 Agriculture. Much of the policy content of this clause needs to be reviewed upon completion of the GWMP.

Recommendations:

- **R135:** Clause 22.08 – Remove content that duplicates State policies at Clauses 11.03-5S (Distinctive areas and landscapes) and 14.01 (Agriculture).
- **R136:** Clause 22.08 – Revise local content to align with the GWMP (once adopted) and translate into the new rural / green wedge local planning policy.

10.4.9. Clause 22.09: Yaringa Area

Clause 22.09 applies to the SUZ1 land bounded by Tyabb-Tooradin Road, Whitneys Road and Pikes Road in Tyabb – formerly known as the Yaringa Area. It seeks to provide for limited low density residential use in the northern section while retaining the southern section in public ownership as a coastal conservation reserve, given its identified high conservation values.

Consultation with senior planning staff indicates that the clause should be retained as it relates to a unique location in the Shire. Nonetheless, the content of this clause needs to be updated once the planned Western Port Coastal Villages Study is completed.

Recommendations:

- **R137:** Clause 22.09 – Retain and translate into appropriate section of the new VPP format.
- **R138:** Clause 22.09 – Update content after completion of planned Western Port Coastal Villages Study.

10.4.10. Clause 22.10: Advertising Signs

Clause 22.10 applies to all land within the Shire and seeks to manage advertising signage to minimise amenity impacts and potential safety risks. Much of the content in this policy duplicates the directives of Clause 52.05: Advertising signs, however, the policy does seek to provide greater restrictions on rotating or animated signage.

Consultation with Council statutory planners revealed a need for more guidance around the consideration of Major Promotion Signs, light pollution and landscape and

character impacts (over and above traffic issues) across the Peninsula. The Green Wedge Management Plan and associated policies are expected to provide further guidance for signage in rural areas, however, Council has not undertaken any further strategic work beyond this for townships or settlements. Such work could be completed as part of relevant neighbourhood character studies, township or structure plans, or urban design frameworks.

As part of Amendment VC148, DELWP has amended Clause 52.05 (Signs) to strengthen provisions and decision-making around advertising signs. These amendments need to be vetted to identify the need for further internal strategic work.

Recommendations:

- **R139:** Clause 22.10 – Remove content duplicated at Clause 52.05 (Signs).
- **R140:** Clause 22.10 – Retain locally specific directions for translation to the PPF.
- **R141:** Clause 22.10 – Undertake further strategic work to provide better guidance around Major Promotion Signs, light pollution, landscape and character impacts (over and above traffic issues) that is specific to Mornington Peninsula's conditions, including the character of townships and villages, and amend Clause 22.10 and Clause 52.05 as appropriate.

10.4.11. Clause 22.11: Mornington Peninsula Fire Protection Policy

Clause 22.11 acknowledges the diverse and complex fire risks affecting the Shire, seeking to ensure that fire management issues are addressed in the assessment of land use and development proposals.

Whilst not identified as a “bushfire” policy, the contents of Clause 22.11 duplicate material found in, or updated by State policy Clause 13.02 (Bushfire) and particular provision 53.02 (Planning for Bushfire). Indeed, Clause 22.11 pre-dates the comprehensive suite of fire provisions introduced via Amendment VC140 in late 2017 (refer Section 5.4 of this report).

A comprehensive review and update of declared Bushfire Prone Areas has also been progressively undertaken under the *Building Act 1993* (with 11 formal reviews having now been completed by the State government), whilst updated Bushfire Management Overlay mapping was introduced via Amendment GC13 in October 2017.

Given fire risk across the Shire is now comprehensively and accurately identified in both the planning and building systems, and the approach to managing risk is now clarified by clauses 13.02 and 53.02, there is no need to retain a generic, “catch all” local policy.

The only content worthy of retention can be found in the policy basis of the clause. That is, Clause 22.11-1, which broadly describes the nature of fire risk within the Shire. Such content can be translated to the Municipal Planning Strategy under the new PPF.

Similarly, the following references currently listed in Clause 22.21 can be translated to the new Background and Incorporated Documents provisions of the reformatted VPPs:

- *CFA Requirements for Water Supplies and Access for Subdivisions in Residential 1 and 2 and Township Zones (CFA, 2006)*
- *CFA Requirements for Water Supplies and Access for Subdivisions in Rural Zones (CFA, 2006)*
- *Regional Bushfire Planning Assessment – Melbourne Metropolitan Region (Department of Planning and Community Development, 2012).*

Recommendations:

- **R142:** Clause 22.11 – delete policy due to duplication with Clause 13.02 (Bushfire) and Clause 53.02 (Planning for bushfire).
- **R143:** Clause 22.11 – Translate relevant contextual material to the MPS.
- **R144:** Clause 22.11 – List the following existing reference documents in the new Background and Incorporated Document provision of the reformatted VPPs:
 - o **CFA Requirements for Water Supplies and Access for Subdivisions in Residential 1 and 2 and Township Zones (CFA, 2006)**
 - o **CFA Requirements for Water Supplies and Access for Subdivisions in Rural Zones (CFA, 2006)**
 - o **Regional Bushfire Planning Assessment – Melbourne Metropolitan Region (Department of Planning and Community Development, 2012)**

10.4.12. Clause 22.12: Non-residential Uses in Residential Zones

Clause 22.12 applies to all land in the GRZ and LDRZ, and essentially seeks to discourage non-residential uses in residential zones, i.e. out-of-centre commercial developments, and encourage them to be located near or within an existing activity centre. Given that it serves to protect the existing hierarchy of activity centres besides seeking to limit potential detrimental amenity impacts on nearby dwellings, there is substantial duplicate content that should be removed having regard to the State policies at Clauses 11.03-1S Activity Centres, and 17.02 Commercial. Much of this content is also regarded superfluous given that local policies that protect the activity centres hierarchy and discourage out-of-centre commercial developments are already in place at Clauses 21.07-3 Activity centres, and 22.02 Activity Centres.

Consultation with senior planning staff indicates a need to define non-residential uses would include as well as provide specific guidance on how the detrimental amenity impacts may be managed, if not avoided. For example, acoustic measures, setbacks, etc. Archaic zoning terms also need to be updated with conventional ones.

Recommendations:

- **R145:** Clause 22.12 – Remove content that duplicates the State policies at Clauses 11.03-1S (Activity Centres) and 17.02 (Commercial).
- **R146:** Clause 22.12 – Remove content that is superfluous to the local policies at Clauses 21.07-3 (Activity centres) and 22.02 (Activity Centres).
- **R147:** Clause 22.12 – Update archaic zoning terms with conventional ones (e.g. General Residential Zone and Commercial Zone instead of Residential 1 Zone and Business Zone respectively).
- **R148:** Clause 22.12 – Revise content to improve policy efficacy by defining non-residential uses and providing specific guidance on managing detrimental amenity impacts.

10.4.13. Clause 22.13: Township Environment

Clause 22.13 applies to all land within the GRZ, LDRZ, C1Z and IN3Z, and all other land within the township areas of the Mornington Peninsula. As a local policy that seeks to balance and integrate social needs, ecological care and economic development, a lot of the content duplicates the State policies at Clauses 11 Settlement, 12 Environmental and Landscape Values, 13 Environmental Risks and Amenity, 14 Natural Resource Management, 15 Built Environment and Heritage, and 52.17 Native Vegetation.

Nonetheless, consultation with senior planning staff indicates that specific content in the clause should be retained given that it provides guidance to the Shire's engineers and environmental health team that is not already present in State policy. There is, however, a need to update the content with new policy provisions for Environmentally Sustainable Design (ESD) and Water Sensitive Urban Design (WSUD). Archaic zoning terms also need to be updated with conventional ones.

Recommendations:

- **R149:** Clause 22.13 – Remove content that duplicates the State policies at Clauses 11 Settlement, 12 Environmental and Landscape Values, 13 Environmental Risks and Amenity, 14 Natural Resource Management, 15 Built Environment and Heritage, and 52.17 Native Vegetation.
- **R150:** Clause 22.13 – Update archaic zoning terms with conventional ones (e.g. General Residential Zone and Commercial Zone instead of Residential 1 Zone and Business Zone respectively).
- **R151:** Translate relevant contextual material from the Smart Water Plan 2018.
- **R152:** Clause 22.13 – Update content with new policy provisions for ESD and WSUD.

10.4.14. Clause 22.14: Mornington Peninsula Land Units

Clause 22.14 applies to all land affected by the ESO Schedules 1 to 16. As a clause that sets out the historical basis underpinning the relevant ESOs, a significant amount of its content duplicates the State policies at Clauses 11 Settlement, 12 Environmental and Landscape Values, 13 Environmental Risks and Amenity, 14 Natural Resource Management, and 15 Built Environment and Heritage. Much of the decision guidelines content are also superfluous having regard to similar provisions in the ESO, SLO, GWZ and specific State policies.

Other than the duplicate content, the small remaining content could be merged into an overall rural and/or environmental policy in the MPS section of the new VPP format. Otherwise, the clause holds very little value.

Recommendations:

- **R153:** Clause 22.14 – Remove content that duplicates the State policies at Clauses 11 Settlement, 12 Environmental and Landscape Values, 13 Environmental Risks and Amenity, 14 Natural Resource Management, and 15 Built Environment and Heritage.
- **R154:** Clause 22.14 – Remove superfluous decision guidelines content.
- **R155:** Clause 22.14 – Merge remaining content into relevant sections of the MPS.

10.4.15. Clause 22.15: Landscape Protection and Broiler Farms

Clause 22.15 applies to all land within the GWZ and FZ. It seeks to manage amenity impacts of broiler farms on the Peninsula's landscapes by discouraging the siting of a proposed broiler farm on land affected by specific ESO schedules. Although broiler farms are now managed by the Victorian Code for Broiler Farms, the code focuses more on managing the farms rather than protecting significant landscapes. Given that the State policy at Clause 14.01 Agriculture is more about protecting productive farmland and encouraging sustainable agricultural land use, this local policy should therefore be retained and merged with a new overall Rural Policy in the PPF of the new VPP format. Nonetheless, the clause needs to be revised with up-to-date content, and provide the numbering of the specific ESO Schedules where a proposed broiler farm is discouraged.

Recommendations:

- **R156:** Clause 22.15 – Retain policy and merge with new overall Rural Policy in the PPF of the new VPP format.
- **R157:** Clause 22.15 – Revise content with up-to-date content, and provide the numbering of the specific ESO Schedules where a proposed broiler farm is discouraged.

10.4.16. Clause 22.16: Ballar Creek

Clause 22.16 applies to land along Ballar Creek, Mount Eliza that is located within the EMO. Given that it primarily deals with land susceptible to erosion, the content could be merged with Clause 22.20 Landslide Susceptibility without any loss to its intended policy outcomes. Nonetheless, content in its decision guidelines should be removed to avoid duplicating specific provisions in EMO3 and Clause 22.20 Landslide susceptibility.

Recommendations:

- **R158:** Clause 22.16 – Remove duplicate content in decision guidelines.
- **R159:** Clause 22.16 – Merge remaining content with Clause 22.20 Landslide susceptibility

10.4.17. Clause 22.17: Sorrento Historic Precinct

Clause 22.17 applies to land affected by the Heritage Overlay predominantly in and around Ocean Beach Road, Sorrento. It seeks to protect the rich heritage values of the Sorrento Historic Precinct from inconsistent and inappropriate use and development. Expanding on Clause 15.03 (Heritage), Clause 15.01-1S (Urban Design) and Clause 22.04 (Heritage Places and Abutting Land), the Local policy presents a more specific outline for heritage within the context of the Sorrento Historic Precinct, which is worthy of retention. Nevertheless, there are still instances where the local policy refers unnecessarily to State policy which in some instances is incorrectly referenced due to subsequent amendments to the planning scheme.

Due to the expected future work regarding Stage 3 of Council's Heritage Review and further built form assessment in relation Schedule 28 (Ocean Beach Road Commercial Precinct) of the Design and Development Overlay it is anticipated that further refinement to ensure the objectives and strategies reflect other current strategic work will be required.

Recommendations:

- **R160:** Clause 22.17 – Remove reference to State policies at Clause 15.11 (Heritage) (noting that this Clause has been superseded by Clause 15.03 (Heritage), Clause 19.03 (Development Infrastructure), Municipal Strategic Statement, Clause 22.04-2 (Heritage Places and Abutting Land).
- **R161:** Clause 22.17 – Remove reference to Clause 42.02 (Vegetation Protection Overlay), Clause 43.01 (Heritage Overlay) and Clause 43.02 (Design Development Overlay).

10.4.18. Clause 22.18: Mornington Activity Centre Policy

Clause 22.18 applies to all land in the Mornington Activity Centre Policy Areas shown on Map 1 forming part of the clause. It builds on specific State policies and seeks to pursue the vision and directions recommended in the Mornington Activity Centre Structure Plan – A plan for a coastal town (July 2007). While the objectives and policy sections can be merged with the State policy at Clause 11.03-1S Activity Centres, the policy basis needs to be updated given that it contains references to State Policy that have had a titular change, clause renumbering or become obsolete.

Considering that a new Activity Centres Strategy has been prepared and adopted by Council in April 2018, some of its content would need to be updated to match any recommendations relevant to the Mornington major activity centre. Consultation with senior planning staff has flagged the need to introduce parking overlays and/or development contributions plan overlays in the centre.

Recommendations:

- **R162:** Clause 22.18 – Update policy basis content to rectify referencing issues.
- **R163:** Clause 22.18 – Merge content under objectives and policy sections with the State policy at Clause 11.03-1S Activity Centres.
- **R164:** Clause 22.18 – Update content to match any recommendations in the new Activity Centres Strategy relevant to the Mornington major activity centre.
- **R165:** Clause 22.18 – Add a further work section to provide for future Parking Overlays and/or Development Contributions Plan Overlays.

10.4.19. Clause 22.19: Green Wedge Camping and Caravan Park

Clause 22.19 applies to camping and caravan parks on any land outside the Urban Growth Boundary. It seeks to protect the significant landscape, environmental and agricultural values of the Peninsula's Green Wedge by regulating the location, scale and design of camping and caravan parks.

This policy must be deleted given that it has passed its expiration date of 30 September 2011. Consultation with senior planning staff indicates that transferring its content to a new Rural Policy would be difficult given that much of it would have to be updated upon completion of the Green Wedge Management Plan. It is recommended that the regulation of camping and caravan parks be addressed via the GWMP and reintroduced into the planning scheme following the adoption of the Plan.

Recommendations:

- **R166:** Clause 22.19 – Delete entire clause.
- **R167:** Clause 22.19 – Address the regulation of camping and caravan parks via the GWMP and reintroduce into the planning scheme following adoption of the Plan.

10.4.20. Clause 22.20: Landslide Susceptibility

Clause 22.20 applies to land affected by EMO Schedules 4 or 5. It seeks to protect land susceptible to landslides from inappropriate use and development including vegetation removal. While consultation with senior planning staff indicates that the policy should be retained, the content within the objectives and policy sections can be merged with the State policies at clauses 13.04 Soil Degradation and 14.02 Water. The decision guidelines and policy reference content can be transferred to the one or more relevant schedules of the EMO.

Senior planning staff also indicated that a further work section to the policy is needed to provide for future infrastructure works. It is suggested that adding a new mapping layer showing current land susceptibility to the planning scheme would aid planners in assessing applications that are affected by an EMO.

Changes to the policy would need to be reconciled with recommendations to change the content and numbering of the EMO schedules (see Section 12 for discussion).

Recommendations:

- **R168:** Clause 22.20 – Translate relevant content within the objectives and policy sections to applicable State policies at clauses 13.04 Soil Degradation and 14.02 Water.
- **R169:** Clause 22.20 – Translate content within the decision guidelines and policy reference sections to one or more relevant schedules of the EMO.
- **R170:** Clause 22.20 – Add a further work section to the policy to provide for future infrastructure works.

10.4.21. Clause 22.21: Mornington North Policy

Clause 22.21 applies to all land in the Mornington North Policy Area shown on Map 1 of the clause. Using a precinct-based approach, it seeks to protect the low-density residential character of the area while providing for equestrian-related recreational activity. Consultation with senior planning staff indicates that the policy should be retained having regard to the currency and soundness of its objectives.

Nonetheless, the adoption of the Housing and Settlement Strategy last December means that the provisions for the Woodbyne Crescent / Albany Way area, identified as Precinct 6 in the policy, needs to be updated to maintain consistency with the Strategy – the Strategy identifies the precinct as an investigation area with scope for rezoning to accommodate a slightly higher residential development density.

Recommendations:

- **R171:** Clause 22.21 – Retain policy and translate into appropriate section of the PPF.

- **R172:** Clause 22.21 – Update provisions in Precinct 6 to maintain consistency with the HSS.

10.4.22. Clause 22.22: Gaming Premises and Gaming Machines

Clause 22.22 applies to applications under Clause 52.28 to install or use a gaming machine, or to use land for gaming premises. Derived from the *Responsible Electronic Gaming (EGM) Policy (Mornington Peninsula Shire Council, August 2016)* and *South East Region Gaming Policy Framework (Coomes, December 2007)*, Clause 22.22 is the first of its kind in the Mornington Peninsula Planning Scheme. As the policy was only recently introduced by Amendment C200 on 24 May 2018, no updates or amendments are required to the policy. Its contents are suitable for direct translation into the new PPF.

Recommendations:

- **R173:** Clause 22.22 – Retain policy and translate contents to the new PPF.

10.5. Recommended Local Planning Policy Framework Content and Structure

Considering the preceding analysis of local policy content, the considerable amount of strategic work completed during the inter-review period, and the pending translation of the LPPF to the new PPF, it is evident that the current MSS and local planning policies of the Mornington Peninsula Planning Scheme require review and a substantial policy neutral re-write. To this end, the following key recommendations for content and structure are made.

Content:

General comments:

- Remove outdated, redundant and superfluous content;
- Remove local policy statements that duplicate State policy directives;
- Identify and retain genuine local content that is either:
 - o Suitable for translation to the MPS (i.e. background material that explains the history, context and key issues facing the Peninsula); or
 - o Important policy directives (i.e. objectives or strategies for achieving desired planning outcomes for the Shire).
- Update local strategic directives to align with the MPLSP, Council Plan, Health and Wellbeing Plan and suite of recently adopted strategic documents.
- Ensure there is a local response to each relevant State planning policy, noting requirement for further strategic work as necessary to address known gaps.
- Revise all implementation actions and further strategic work to reflect current actions of adopted Council policies/plans/strategies.

Specific policy content recommendations:

- Ensure all local Structure Plans, Township Plans and/or Local Area Plans are translated and captured as individual “place-making” policies in the appropriate section of the PPF. Consolidate relevant material from:
 - o Clause 21.13 (Local Areas Plans),
 - o Clause 22.08 (Activity Centres),
 - o Clause 22.09 (Yaringa Area),
 - o Clause 22.18 (Mornington Activity Centre), and
 - o Clause 22.21 (Mornington North Policy).
- Provide a consolidated policy for rural land use and development based on the relevant aspects of the following clauses, but updated to reflect the final GWMP:
 - o Clause 21.09 (Planning for rural areas),
 - o Clause 22.03 (Dwelling density, excisions and realignments in rural areas),
 - o Clause 22.06 (Development along highways, main roads and tourist routes),
 - o Clause 22.08 (Integrated recreational and residential development in rural areas),
 - o Clause 22.15 (Landscape protection and broiler farms), and
 - o Clause 22.19 (Green wedge camping and caravan Park).
- Provide a consolidated policy on erosion management that merges relevant content from 22.16 (Mornington Peninsula Land Units) and 22.12 (Ballar Creek).

Structure:

- Condense all pertinent local background and contextual material into succinct statements for inclusion in the MPS and prepare a new overall Strategic Framework Plan.
- Identify and clearly articulate supporting Framework Plans for each key policy theme (as appropriate), including:
 - o **Settlement and Housing** (urban areas and settlement boundaries, townships)
 - o **Environmental Values & Risks** (coastlines and foreshores, National and State Parks, bushfire prone areas, flooding and inundation, salinity)
 - o **Built Form and Heritage** (sites of key early European and Aboriginal significance and sensitivity)
 - o **Economic Development** (key economic drivers such as productive agricultural land, industrial areas, Port of Hastings, hierarchy of activity centres, tourism nodes)
 - o **Transport and Infrastructure** (key transport routes and nodes, areas with limited sewerage/drainage infrastructure, key areas of public open space).
- Sift and sort all locally-specific objectives, strategies and actions into themes that align with State policy, and translate content into succinct and clearly articulated local policies.
- Translate the list of reference documents and updated implementation and further strategic work actions to the appropriate location within the reformatted VPPs.

10.6. Other Comments – Gaps

The preceding policy analysis has identified that the LPPF is currently lacking a response to the following key policy areas:

- There is a clear deficiency in regard to specific content around policy provisions for Environmentally Sustainable Design (ESD) and Water Sensitive Urban Design (WSUD) within the LPPF. This work could be suitably located at Clause 22.13 Township Environment.
- Recent structure plans prepared for areas including Rosebud and Hastings will be added to Clause 21.13 to support local character initiatives. However, there are deficiencies in the availability of character studies to support decision making in protecting the unique character of the Peninsula, and further strategic work is required, to be added at clause 21.13 as additional local area plans for areas in the Mornington Peninsula where character protection is desired.
- Despite the clear directives around the use and development of land within heritage sites, Clause 22.04 requires strengthening with respect to managing development on land adjoining heritage places.
- Council's *Open Space Strategy* was adopted in 2003. Given the Strategy is now 15 years old, it requires comprehensive review as a matter of priority. Review of the Strategy ought to occur alongside investigations for a formalised Shire-wide Development Contributions Plan. An updated Open Space Strategy once adopted should form the basis for a Local Planning Scheme Policy.
- There is currently no integrated transport strategy for the Mornington Peninsula. This is a significant gap in critical strategic work. Council intend to use current strategic work under preparation as a basis to start this significant strategic work and anticipate delivery in mid to late 2020. Once this Strategy is finalised and adopted it will form the basis for a Local Planning Scheme Policy.
- Better guidance around Major Promotion Signs, light pollution, landscape and character impacts (over and above traffic issues) that is specific to Mornington Peninsula's conditions, including the character of townships and villages, requires further strategic work to support the intent of Clause 22.10 (and Clause 52.05 as appropriate).
- Opportunity exists to address out-of-centre retail development as part of the LPPF as identified in the recent Activity Centre Strategy (2018).

11. The Effectiveness of the Zones and Schedules

11.1. Audit of Zones and Schedules

There is a total of 15 zones in the Mornington Peninsula Planning Scheme as follows:

- Low Density Residential;
- Mixed Use;
- General Residential;
- Industrial 3;
- Commercial 1;
- Commercial 2;
- Green Wedge;
- Farming;
- Public Use;
- Public Park and Recreation;
- Public Conservation and Resource;
- Road;
- Special Use;
- Comprehensive Development; and
- Port Zone.

With the exception of the Commercial 2 Zone, Road Zone, Special Use Zone and Port Zone, all of these zones have attached schedules which vary in detail and requirements.

The Low Density Residential Zone schedule identifies a minimum subdivision area. The Mixed Use Zone, Industrial 3 Zone, Public Use Zone, Public Park and Recreation Zone and Public Conservation and Resource Zone have default schedules with no conditional or variation provisions specified.

In terms of the Residential Zones, the General Residential Zone contains two schedules which do not vary any Clause 54 or Clause 55 standards, whilst the GRZ3 applies a maximum building height requirement.

Green Wedge and Farming Zones apply schedules which specify a minimum subdivision area, permit requirements for earthworks and setbacks (FZ only).

There are tailored schedules for the Special Use Zone (for Port-related uses, community, airfield development, recreational development, Flinders Community College, Ranelagh Estate Open Spaces, and Yaringa Boat Harbour), and the Comprehensive Development Zone (for the Moonah Links Comprehensive Development Plan Area).

As identified in the following sections of this report, the selection of zones in the Mornington Peninsula Planning Scheme remains generally appropriate. However, introduction of the Neighbourhood Residential Zone via Amendment C219 to implement the findings of the *Housing Settlement Strategy*, as well as rezonings identified by the *Industrial Areas Strategy (2018)* will further strengthen the effectiveness of the planning scheme in delivering key settlement, housing and economic outcomes.

11.2. Residential Zones

11.2.1. General Residential 1 & 3 (GRZ1, GRZ3)

The General Residential Zone (GRZ) is applied to areas where incremental change is anticipated while still protecting existing neighbourhood character. Council put forward proposed zone conversions as part of Amendment C179 in March 2014 – including use of the NRZ – where existing residential development controls were in place.

For the most part, Council's proposed changes were accepted by the Residential Zones Standing Advisory Committee in their (June 2014) report. However, due to the structure of the NRZ at the time, it was not possible to effectively translate the existing subdivision controls into the new zone format. In this context, the (former) Minister for Planning applied the GRZ as a blanket translation of the Residential 1 Zone when the new provisions were approved in September 2014.

Amendment VC110 (27 March 2017) made changes to the provisions of the residential zones that were originally introduced in 2014 via Amendment V8. The changes included introducing the new “minimum garden area” requirement and amending the maximum building height requirements for dwellings or residential buildings. Further changes were made in May 2018 through Amendment VC143. Council maintained that VC110 amounted to a fundamental threat to the intrinsic low-scale, coastal character of the Peninsula that the Localised Planning Statement was expressly designed to protect.

As noted in Section 6.2.2 of this Review report, the *Mornington Peninsula Housing and Settlement Strategy* ('the HSS') was adopted by Council in December 2017. This Strategy sets the future direction for housing and population growth over the next 15 years to ensure that the unique values and character of the Peninsula's settlements, landscape and environment are protected.

The HSS resolves that the Peninsula's townships will accommodate, at most, moderate and generally low levels of housing growth, with many smaller towns and villages able to accommodate only very limited further development. Key directions of the strategy are generally targeted towards maintaining the hierarchical nature of existing townships and co-locating housing to these townships to protect existing neighbourhood character, landscape and built form – the unique character of the Mornington Peninsula.

Significantly, the HSS recommends limiting building height to 2 storeys (9 metres) as well as implementing minimum subdivision lot sizes in specific areas, in accordance with the Housing Distribution Maps forming part of the Strategy. Specifically, the HSS recommends that residential development parameters be implemented by introducing the Neighbourhood Residential Zone (NRZ) and associated schedules to the planning scheme.

The Strategy also identifies several “Investigation Areas” wherein alternate housing outcomes ought to be contemplated, subject to further strategic analysis.

Amendment C219 (currently with the Minister for Authorisation) seeks to implement the findings of the HSS, proposing three new NRZ schedules to all residential areas currently zoned General Residential 1 (GRZ1), except for select areas zoned GRZ1 located within selected parts of Mornington, Rosebud and Hastings Activity Centres, to allow for a greater level of housing growth in proximity to established services and quality infrastructure.

NRZ Schedules 2 and 3 allow for more intensive subdivision around key townships (minimum lot size 300 and 450 square metres respectively), while the NRZ Schedule 4 does not include a minimum subdivision requirement so that current subdivision controls under remaining Design and Development Overlay Schedules are retained.

Apart from introducing the NRZ and associated changes to the LPPF, the HSS also recommends that Council advocate to the State government to place an Urban Growth Boundary around the urban areas (i.e. GRZ and LDRZ zoned land), of Balnarring Beach, Merricks Beach, Merricks and Point Leo.

Further site-specific changes to residential zoning are recommended by the *Industrial Areas Strategy April 2018* and *Mornington Activity Centre Structure Plan*. Both strategies recommend investigating the merits of rezoning the redundant Barkly Street industrial site for residential purposes in accordance with the Structure Plan.

11.2.2. Low Density Residential Zone (LDRZ)

The settlement pattern of the Mornington Peninsula has historically provided for a degree of low-density and rural residential development on the edge of many of the medium-sized and larger townships. Accordingly, there is an existing pool of low density lots, generally ranging between 0.4 and 2 hectares in size, with larger lots in some areas (such as adjacent to streamlines or in sand dune landscapes). These areas often form a “soft edge” of low density development, providing a buffer or transition between township residential areas and the rural Green Wedge, and often protecting landscape and environmental values. Low-density and rural residential development contributes to the distinctive settlement pattern and ‘semi- rural’ character of many of the townships on the Peninsula.

Despite the value of low-density and rural residential land, the potential to rezone LDRZ land to allow for more intense forms of residential development has been canvassed for select areas within the Shire. The HSS specifically identifies a number of so-called 'investigation areas' currently zoned LRDZ in Dromana, Mount Martha and Mornington that may be suitable for rezoning, subject to detailed analysis. Council also recently approved the rezoning LDRZ land in Mornington North for the purposes of establishing a retirement village and additional housing, as well as an increase in residential density on the northern boundary of the Tyabb township. Any additional sites with rezoning potential will need to be considered in a strategic sense to prevent the *ad hoc* and unplanned loss of this valuable resource. Such rezonings will also be subject to the normal rigours of the planning scheme amendment process, including community consultation and the consideration of net community benefit, having regard to the full range of social, economic and environmental impacts.

11.2.3. Mixed Use Zone (MUZ)

The purpose of the Mixed Use Zone is to provide for a range of uses which complement the mixed-use function of a locality whilst also allowing for housing at higher densities. The zone is predominantly applied within, and immediately adjacent to the Peninsula's Major Activity Centres. Recent structure planning for these centres foreshadows an increase in Mixed Use Zoning to add further vitality and promote the sustainability of these townships. The structure plans expressly identify the need to apply the zone to accommodate additional housing close to services and facilities.

In total, estimates produced in the Hastings, Rosebud and Mornington Activity Centre Structure Plans suggest that a further 4,500 dwellings could be created within, and directly adjacent to these commercial centres. This increase in housing provides an opportunity to further diversify housing stock and bolster supply for the Shire beyond 2031.

Pending Ministerial approval, the following planning scheme amendments will create additional Mixed Use Zoning for the Hastings and Rosebud Major Activity Centres. It is noted that these rezonings are strongly supported by the *Activity Centre Strategy Review (2018)*:

- **Amendment C190 (Hastings Structure Plan)** identifies additional Retail/Commercial/Mixed Use precincts up to 3 storeys, encouraging accommodation above retail premises (i.e. shop top housing). The Amendment specifically rezones residential land nos. 4, 6, 8, 15, 17, 19 and 25 King Street; nos. 136, 140 and 144 Salmon St; and no. 2 Elizabeth St - to the Mixed Use Zone..
- **Amendment C206 (Rosebud Structure Plan)** encourages mixed use development within 'the Heart' of the centre. The Plan specifically promotes retail consolidation within 'Boneo Junction' with elevated offices and residential development. The amendment proposes to rezone residential land with Point

Nepean Highway frontage, between First and Fourth Avenues, Rosebud, to the Mixed Use Zone as per recommendations of the Structure Plan.

The *Mornington Activity Structure Plan (2007)* identifies preferred locations for mixed use development, particularly along Main Street. Whilst Amendment C95 sought to implement some of the key strategic directions of the Structure Plan (ie. DD013), it did not advance any identified MUZ rezoning opportunities. Such rezonings would need to be pursued as a separate amendment(s) to the planning scheme over the next 5-10 years.

The *Rye Township Plan (2017)* also identifies various Mixed Use rezoning opportunities that have not yet been actioned. As with those mooted for the Mornington Major Activity Centre, these rezonings are expected to occur in the next 5-10 years.

Recommendations:

- **R174:** Pursue the Mixed Use rezonings identified by the *Mornington Activity Centre Structure Plan (2007)* and *Rye Township Plan (2017)* over the next 5-10 years.

11.3. Commercial Zones

11.3.1. Commercial 1 Zone (C1Z)

The Commercial 1 Zone (C1Z) is the primary commercial/ business-focused zone in the Victorian Planning Provisions. The objectives of the C1Z are to encourage vibrant mixed use commercial centres with residential uses at densities complementary to the role and scale of the centre. In the C1Z, a range of retail and office uses are 'as-of-right'. Accommodation can also be established without planning approval provided a condition limiting the width of ground floor frontage is met. The schedule to the zone contains a single site-specific floorspace restriction.

The C1Z is presently applied extensively throughout the Shire's activity centres – especially the Major Activity Centres of Mornington, Rosebud and Hastings. The *Mornington Peninsula Activity Centre Strategy Review (2018)* confirms the primacy of the C1Z in this regard and does not foreshadow any specific increases in C1Z zoned land.

11.3.2. Commercial 2 Zone (C2Z)

The Commercial 2 Zone (C2Z) is a second-tier zone geared towards offices, appropriate manufacturing and industries, bulky goods retailing and associated businesses and services. 'As of right' uses in the Commercial 2 Zone (C2Z) include: bulky goods (restricted retail), offices, some industry, and small supermarkets up to 1800 square metres (subject to Road Zone access). This zone also allows for some

shops to establish without planning approval provided certain conditions are met, as well as supermarkets less than 1800 square metres in net leasable floor area. Dwellings, however, are prohibited outright.

The *Activity Centres Strategy Review (2018)* notes the potential for the C2Z to undermine the activity centres hierarchy, due to the type of 'as-of-right' and 'permit required uses' included in the zone. For this reason, no further increase in C2Z zoned land in activity centres will be considered unless substantial strategic justification can be provided.

The *Industrial Areas Strategy (2018)* recommends that Council consider the merits of rezoning land in parts of the Mornington-Tyabb Road industrial precinct to the C2Z, pending detailed investigation of the current role and function of businesses and activities within the locality vis-à-vis the role and mix of uses in the nearby Mornington Major Activity Centre. The Strategy also recommends all, or part of land within the Mornington North precinct, as well as land located on the south-west corner of the Nepean Highway and Wilsons Road be rezoned to the Commercial 2 Zone.

The practicality of the above rezonings is contingent upon a range of factors, including identified environmental, servicing and land ownership constraints – each of which require comprehensive assessment before a planning scheme amendment can be pursued.

Recommendations:

- **R175:** Retain the Commercial 1 Zone as the primary business zone for the Shire's Major Activity Centres.
- **R176:** Investigate site-specific rezoning of land to the Commercial 2 Zone as per the recommendations of the *Industrial Areas Strategy (2018)*.

11.4. Industrial Zones

11.4.1. Industrial 3 Zone (INZ3)

The Mornington Peninsula Planning Scheme contains just the one Industrial Zone – the Industrial 3 Zone (INZ3). The purpose of the INZ3 is to provide for industries and associated uses in specific areas where special consideration of the nature and impacts of industrial uses is required to avoid inter-industry conflict. The INZ3 acts as a buffer between the Industrial 1 and Industrial 2 Zones and local communities, and allows for limited retail opportunities including convenience shops, small scale supermarkets and associated shops in appropriate locations. As noted previously in this report, recent reforms to the VPPs allowed greater flexibility in the range of retail and commercial land uses now permissible in industrial areas. The Schedule to the IN3Z currently does not specify a floor space restriction.

The *Industrial Areas Strategy (2018)* identifies that the continued application of the Industrial 3 Zone within the Shire remains appropriate. Furthermore, the Strategy identifies areas where increased application of the INZ3 may be appropriate to ensure that the long-term supply of industrially zoned land on the Peninsula is maintained. Areas for further investigation include land located to the south and east of the existing Dromana industrial precinct, and any surplus Special Use Zone 1 land adjacent to existing Bittern-Crib Point industrial area. The Strategy also recommends that part of land adjacent to the Hastings industrial area be rezoned from Special Use Zone 1 to Industrial 3.

In addition to increasing the supply of INZ3 land, the Strategy recommends that industrially zoned land in Bittern-Crib Point west of the rail corridor be retained to meet the current and future needs of the local business and general community given activity on this land is expected to intensify incrementally over the long-term.

The *Industrial Areas Strategy (2018)*, *Economic Development Strategy 2016 – 2019* and *Marine Precincts Strategy (2015)* recommend further investigation to identify land suitable for marine manufacturing and service related industry. Such investigations may warrant the need for future rezonings to INZ3 land. It is noted that Council is presently seeking to finalise and adopt a Marine Precinct Economic Analysis to help inform the strategic justification of any potential future rezonings. Any such rezonings will be pursued as separate planning scheme amendments over the next decade.

Recommendations:

- **R177:** Maintain the Industrial 3 Zone (IN3Z) as the primary zone for managing industrial land use and development within the Shire.
- **R178:** Undertake further detailed investigations into the merits of site-specific rezonings recommended by the *Industrial Areas Strategy (2018)*

11.5. Rural Zones

11.5.1. Green Wedge Zone (GWZ1, GWZ2, GWZ3, GWZ4) and Farming Zone (FZ1)

The Mornington Peninsula Shire Planning Scheme applies the Green Wedge Zone - with 4 associated schedules - to the Shire's Green Wedge which accounts for 70% of the Peninsula's landmass. The zone covers various townships including Arthurs Seat, Red Hill, Flinders, Balnarring, Shoreham and Somers, as well as small settlements such as Moorooduc, Merricks, Point Leo and Main Ridge.

The Green Wedge Zone is designed to protect and conserve green wedge land for its agricultural, environmental, historic, landscape, recreational and tourism opportunities, and mineral and stone resources. It seeks to provide for sustainable agricultural and farming uses, with a limited range of recreational and tourism-related uses, whilst

protecting and enhancing biodiversity and the character of open rural and scenic non-urban landscapes.

The zone sets out the range of permitted, permissible and prohibited uses and a range of development controls – the most significant of which is the mandatory subdivision control. The four local schedules to the zone specify a mandatory minimum lot size for new subdivision of 40 to 80 hectares, depending on where the schedule is applied. Notably, all new dwellings in the Green Wedge Zone require planning approval and no more than one dwelling can be constructed on a lot.

Given the importance of green wedge land to the State of Victoria, any proposals to amend or remove controls affecting the minimum subdivision lot sizes within green wedge zoning must be ratified by Parliament.

The Farming Zone, which has one schedule specifying mandatory minimum lot sizes and other key provisions, is applied to a small section of land located in Bittern. The purpose of the Farming Zone is to protect farming land, encouraging sustainable land use practices and seeking to prevent the incursion of non-agricultural land uses such as dwellings.

As noted throughout the 2018 Review, Council is currently finalising a new Green Wedge Management Plan (GWMP) to guide land use and decision-making in the Shire's Green Wedge and Farming Zoned land. Whilst the GWMP makes recommendations to amend several local planning policies, it does not foreshadow any changes to the application or provisions of either the Green Wedge or Farming Zone.

Recommendations:

- **R179: Retain the existing application of both the Green Wedge and Farming Zones and associated schedule provisions.**

11.6. Public Zones

There are four Public Land Zones in the Mornington Peninsula Planning Scheme, including:

1. Public Use Zone (PUZ);
2. Public Park and Recreation Zone (PPRZ);
3. Public Conservation and Resource Zone (PCRZ); and
4. Road Zone (RDZ).

11.6.1. Public Use Zone (PUZ1 – PUZ7)

The Public Use Zone is applied to land within the Shire that is used for public utility and community services and facilities. The planning scheme identifies 7 separate public land uses as follows:

- PUZ1 – Service and Utility,
- PUZ2 – Education,
- PUZ3 – Health & Community,
- PUZ4 – Transport,
- PUZ5 – Cemetery/Crematorium,
- PUZ6 – Local Government, and
- PUZ7 – Other Public Use.

The schedule to the PUZ does not comprise any locally specific provisions.

Public Use Zoned land has not been comprehensively audited for currency for some time. As such, unintended zoning anomalies or errors may exist. Several such errors have been identified regarding application of the PUZ6 in Dromana and Mornington. Land previously held by Council in these townships has since been transferred to private ownership without a corresponding rezoning to reflect the new status of these sites. It is therefore recommended that all PUZ zoned land across the Peninsula be reviewed and rectified as necessary as part of a general amendment to follow this planning scheme review.

11.6.2. Public Park and Recreation Zone (PPRZ)

The PPRZ is applied to land used for public recreation and open space across the Peninsula, including reserves, pocket parks and passive recreation areas, predominantly within residential neighbourhoods. The schedule to the PPRZ does not comprise any locally specific provisions.

As noted in Section 8 of this report, Council intends to undertake a comprehensive review of its current *Open Space Strategy (2003)* and prepare a new Active Recreation (Sports Capacity Study). These initiatives may result in recommendations to rezone land to the PPRZ.

In addition to planning for, and zoning new areas of public open space, the 2014 Planning Scheme Review recommended that Council audit all existing areas across the Shire that currently function as open space to ensure they are correctly zoned as such. This audit commenced in late 2017, resulting in the identification of several parcels of land – including public parks and recreation areas – as being inappropriately zoned for urban purposes (e.g. General Residential Zone, Industrial Zone or the like).

Inappropriate zonings are most commonly the result of residential multi-lot subdivisions that involved the creation of new public open spaces. When developments of this nature occur, the newly created public open space cannot be rezoned to a public use zone until the parcel is separately titled and transferred to public ownership. The transfer of title does not usually occur until the subdivision is completed by the respective developer, which is often 5 to 10 years after the issue of a permit. By this time, the corresponding rezoning to public use is often forgotten.

Completion of the open space audit and correction of zoning anomalies should therefore occur as part of a general amendment to follow the 2018 Review.

11.6.3. Public Conservation and Recreation Zone (PCRZ)

The Mornington Peninsula is an area of outstanding natural beauty, diverse landscapes and cultural heritage. It also contains areas of National, State and local conservation and habitat value. The PCRZ is aligned to much of this landscape with the intent to protect and conserve the natural environment and natural processes for their historic, scientific, landscape, habitat or cultural values. Much of the PCRZ is located along the coast of the Peninsula, and throughout the Green Wedge.

The recently adopted *Tootgarook Wetland Management Plan (May 2018)* identifies that Council-owned land at 92 Elizabeth Avenue, Capel Sound should be rezoned to the PCRZ to facilitate the objectives of the Management Plan.

The open space audit referred to above may result in further land to be rezoned PCRZ. Whilst anomalous urban zoning is arguably less of an issue with respect to pocket parks in newly created residential subdivisions, ensuring larger reserves with significant conservation values are appropriately zoned for public protection is imperative. Such land should be rezoned to the PCRZ without undue delay.

Recommendations:

- **R180:** Complete the comprehensive audit of public open spaces across the Shire and rezone all parcels of land functioning as public open space to the appropriate zoning (i.e. PPRC, PUZ or PCRC).
- **R181:** Pursue the recommendations of the *Tootgarook Wetland Management Plan (2018)*, specifically the rezoning of land at 92 Elizabeth Street, Capel Sound to PCRZ.
- **R182:** Pursue any relevant rezonings arising from the review of Council's *Open Space Strategy (MPSC, 2003)* and adoption of Council's new *Active Recreation (Sports Capacity Study)*.
- **R183:** Complete an audit of all PUZ land to identify any anomalies in use or ownership that might warrant rezoning, and amend the planning scheme as necessary.

11.7. Special Purpose Zones

The Mornington Peninsula Planning Scheme contains three Special Purpose Zones: the Special Use Zone (Schedules 1, 2, 3, 4, 7, 8 and 9), the Comprehensive Development Zone (Schedule 1), and the Port Zone.

11.7.1. Special Use Zone Schedule 1: Port Related Uses (SUZ1)

The SUZ1 covers approximately 3,500 hectares of land used for selected port and industrial activities which depend upon or gain significant economic advantages from the natural deep-water channels in Westernport. The SUZ1 gives force and effect to the *Hastings Port Industrial Area Land Use Structure Plan (Department of Planning and Development 1996)*. None of the land affected by the SUZ1 is available for general industrial use and development.

As noted in Section 8.2.8 of this report, the future role of the Port of Hastings is yet to be confirmed by State Government. As such, any review of zoning controls surrounding the Port continues to be held in abeyance until the State government decides whether to pursue the expansion of Hastings as Melbourne's second container port, or to develop a new port at Bay West.

Whilst future decisions from State Government may necessitate a change in zoning controls in due course, there are currently no concerns or direction from Council or other authorities to alter the current zone or schedule.

It is noted that, Council should continue to protect the current operations of the Port through the careful management of zoning and land use adjacent to this State-significant facility. This view is backed by the Independent Planning Panel that assessed Amendment C161 (gazetted in October 2016) to the planning scheme. The Panel noted that:

Despite the current uncertainty in relation to the location of Victoria's second container facility, the Panel recognises that Port of Hastings will continue to operate as a major commercial port and may well grow over time. Therefore, it is a matter of State significance that its operations and expansion potential should not be constrained by unreasonable intensification of sensitive uses adjacent to the Port area. The Panel has considered the provisions of Ministerial Direction No 14, which includes the subject site within the defined port environs for the Port of Hastings, and the recent Planning Advisory Note 56 Planning for Ports and their Environs. A planning authority should ensure that the curfew free operations and future development of the port, identified in the relevant PDS, would not be prejudiced.

11.7.2. Special Use Zone Schedule 2: Private Sportsgrounds, Religious, Health and Educational Establishments (SUZ2)

The SUZ Schedule 2 recognises strategic sites that contain recreational, religious, health or educational facilities that perform a significant community function. There are currently no concerns from Council or other authorities that would warrant a change to the content or application of the schedule.

11.7.3. Special Use Zone Schedule 3: Airfield Development (SUZ3)

The SUZ Schedule 3 provides for the coordinated use and development of land in the vicinity of the Tyabb Airfield. As noted in Section 6.2.15 of this report, Council adopted a new strategic plan for this locality in late 2017, known as the *Tyabb Airfield Precinct Plan (TAPP)*. The TAPP provides Council, the owners of the airfield and broader community with a clear planning framework for the safe, efficient, and sustainable use and development of the airfield site, adjoining land and the surrounding area.

The Plan does not propose any changes to the application of the SUZ4 within the locality (ie. expansion of the zone), however, it does recommend that the purpose and decision guidelines of the SUZ3 be reviewed and amended to ensure compliance with the TAPP.

Recommendation:

- **R184: SUZ3 (Airfield Development) – review the purpose and decision guidelines and amend as appropriate to ensure consistency with the *Tyabb Airfield Precinct Plan (TAPP)*.**

11.7.4. Special Use Zone Schedule 4: Recreational Development (SUZ4)

The SUZ4 provides for integrated recreational and residential development in appropriate locations. The Draft *Green Wedge Management Plan 2018 (Tourism & Leisure Based Use and Development in the Green Wedge)* recommends that no additional land be included in Special Use Zone 4 (Recreation Zone), noting the existing area south of Rosebud which may be considered for low density recreational resort development in accordance with the relevant local policy.

11.7.5. Special Use Zone Schedule 7: Flinders Christian Community College (SUZ7)

The SUZ7 provides for continued use and development of land for an education centre and provides for the use and development of the land in accordance with the *Flinders Christian Community College Master Plan, November 2009*. There are currently no concerns from Council or other authorities to alter the current zone or schedule.

11.7.6. Special Use Zone Schedule 8: Ranelagh Estate Open Spaces (SUZ8)

The SUZ Schedule 8, recognises and protects the Ranelagh Estate's planned open spaces and pedestrian network. It maintains the landscape values and amenity of the Ranelagh Estate having regard to the original areas of planned open space.

Schedule 8 stemmed from Stage 1 of the Heritage Review (outlined in Section 6.2.14 of this report). As part of Stage 1, Council engaged consultants to undertake the *Recognising the Heritage of Ranelagh: Conservation Management Plan for the Ranelagh Estate, Mt Eliza* in July 2009. Specific recommendations resulting from the Conservation Management Plan formed part of Amendment C135, which was gazetted in 20 March 2018.

The Schedule 8 component of the amendment involved:

- Amending Clause 21.06 by inserting under the 'Objective 1: Implementation: Zones and Overlays: Applying Special Use Zones to' the words: *Planned open space areas and throughways that are privately owned within the Ranelagh Estate*; and
- Inserting a new Schedule 8 to the SUZ (Clause 37.01), which applied the Special Use Zone Ranelagh Estate Open Spaces Schedule to the Ranelagh Estate, Mt Eliza.

Given that the Schedule is the result of a recent amendment, there is currently no concern or intention of Council or other authorities to alter the current zone or schedule.

11.7.7. Special Use Zone Schedule 9: Yaringa Boat Harbour (SUZ9)

Provides for an integrated mix of recreational boating, tourist accommodation and related activities north of Lumeah Road, with direct boating access to Western Port. Amendment C161 was gazetted on 27th October 2016, which among other matters, inserted a new Schedule 9 Yaringa Boat Harbour to Clause 37.01 - Special Use Zone, rezoned the Crown land leased for the existing Yaringa harbour from Public Conservation and Resource Zone to Special Use Zone Schedule 9 Yaringa Boat Harbour; and rezoned other land affected by the amendment from Special Use Zone Schedule 1 Port Related to Special Use Zone Schedule 9 Yaringa Boat Harbour.

The impetus for the amendment was a proposed planning permit which sought to enable the upgrade and expansion of the existing Yaringa Boat Harbour to provide increased boat storage in both wet and dry berths, introduce tourist accommodation, and expand an already established marine service industry precinct.

Given the Schedule is the result of a recent amendment, there are currently no concerns or intention from Council or other authorities to alter the current zone or schedule.

11.7.8. Comprehensive Development Zone Schedule 1 (CDZ1)

Establishes an integrated recreational, tourism and resort use and development focused on high quality golf courses generally in accordance with the *Moonah Links*

Comprehensive Development Plan (May 1999). There are currently no concerns from Council or other authorities to alter the current zone or schedule.

11.7.9. Port Zone (PZ)

The Port Zone contains no schedules. It provides for shipping, road and railway access and the development of each of Victoria's commercial trading ports as key areas of the State for the interchange, storage and distribution of goods. It provides for uses which derive direct benefit from co-establishing with a commercial trading port.

It is uncertain whether current or future governments will utilise Westernport as a major port facility. There are currently no concerns or direction from Council or other authorities to alter the current zone or schedule.

11.8. Conclusions

The 2018 Review has identified a range of strategic work which has significant implications for land use zoning across the Shire.

Rezoning recommendations are contained within the *Housing Settlement Strategy (2017)*, *Activity Centres Strategy (2018)*, *Industrial Areas Strategy (2018)*, *Hastings Town Centre Structure Plan (2014)*, *Rosebud Activity Centre Structure Plan (2015)* and *Rye Township Plan (2017)*. These recommendations ought to be pursued to ensure the planning scheme remains relevant and consistent with Council's recently adopted planning objectives.

Once amended, all zones should be monitored on an ongoing basis to ensure that they are performing as expected. In particular, close monitoring of the reformed residential zones proposed by Amendment C219 (if implemented), will be necessary to ensure that the desired objectives are achieved.

12. The Effectiveness of the Overlays and Schedules

12.1. Audit of Overlays and Schedules

The Mornington Peninsula Planning Scheme contains 13 different overlays with 96 associated schedules. The nature and number of overlays presently in operation across the Shire is summarised in Table 3 below.

Table 3: Breakdown of Overlays

Category	Name	Reference	Number of Schedules
Environmental & Landscape	Environmental Significance	ESO	30
	Vegetation Protection	VPO	2
	Significant Landscape	SLO	6
		sub total	38
Heritage & Built Form	Heritage Overlay	HO	1
	Design & Development Overlay	DDO	25
	Development Plan	DPO	21
		sub total	47
Land Management	Erosion Management	EMO	5
	Floodway Overlay	FO	1*
	Land Subject to Inundation	LSIO	1
	Bushfire Management	BMO	2
		sub total	9
Other	Public Acquisition	PAO	1
	Environmental Audit	EAO	0
	Restructure	RO	1
		sub total	2
		TOTAL	96

* No local variations

As noted in Section 3 of this report, recently approved **Amendment C205** implemented a range of red tape reductions across the Shire's environmental and built form overlays. The following audit and assessment seeks to build on this strategic work, with additional findings and recommendations for each overlay.

It is noted that, this review has largely assessed the ordinances associated with each overlay, with limited consideration of the mapping of overlays as this is beyond the scope of this review.

12.2. Environmental Overlays (ESO, SLO, VPO)

The Mornington Peninsula Planning Scheme has a suite of well-established environmental overlays, encompassing the Environmental Significance (ESO), Significant Landscape (SLO) and Vegetation Protection Overlays (VPO).

Initial work on landscape protection was carried out as part of the preparation of the initial planning controls (known as the Conservation Plan) in the mid 1970's. Major reports included the Westernport Region Conservation Survey (Conservation Council of Victoria 1974), Recorded Landscape classifications by the National Trust, and a Landscape Assessment of the Southern Mornington Peninsula for the Western Port Regional Planning Authority (George Seddon et al 1974).

The protection of the Peninsula's distinctive landscapes continues to be a major planning objective expressed in both State and local policy, such as the Mornington Peninsula Planning Statement 2014; and in the provisions of the Mornington Peninsula Planning Scheme.

In terms of statutory planning controls, Environmental Significance Overlays based on land units (a form of landscape classification) identify a number of attributes including landscape qualities. The overlays – totalling 30 individual schedules – provide a general level of development and siting control to be managed in conjunction with Clause 22.14: Mornington Peninsula Land Units of the local policy framework. The suite of schedules is outlined in Table 4 below.

Table 4: Environmental Significance Overlays

ESO	Location	ESO	Location
ESO1	Moorooduc Plain And Balcombe Valley	ESO16	Cape Schanck Hinterland
ESO2	Northern Mosaic.	ESO17	Streamlines
ESO3	Central Peninsula	ESO18	Wetlands
ESO4	Eastern Peninsula	ESO19	Fluvial Deposits
ESO5	Western Port Hinterland	ESO20	Cliff and Beach
ESO6	Kangerong Basin	ESO21	Coastal Hinterland
ESO7	South Eastern Peninsula	ESO22	Active Dunes
ESO8	Arthurs Seat Escarpment	ESO23	Semi Stabilized Dunes
ESO9	Arthurs Seat Southern Slopes	ESO24	Site of Scientific Significance
ESO10	Upland Basalt Slopes	ESO25	Port Phillip Coastal Area
ESO11	South Eastern Basalt Slopes	ESO26	Red Hill Drainage Policy
ESO12	Southern Basalt Slopes	ESO27	Merricks Beach Environmental Management
ESO13	Tideway Uplift	ESO28	Mornington Peninsula Bushland

ESO14	Tootgarook Swamp - Boneo Flats	ESO29	Water Catchments and Water Supply Management Areas
ESO15	The Cups	ESO30 (boundary to be reviewed)	Tootgarook Wetland

It is noted that, despite the link with Clause 22.14, not all schedules are captured in the local policy, indicating that the LPPF has not kept pace with the addition of ESO schedules. This anomaly can be remedied as part of the wholesale review and refinement of the LPPF as part of the PPF translation.

In addition to ESOs, the scheme also includes Significant Landscape Overlays which control development in relation to six main cultural landscape elements:

- Scenic Roads;
- Scenic Recreation Sites;
- Scenic Vantage Points;
- Coastal Landscapes;
- Ridge and Escarpment Areas; and
- National Trust Classified Landscapes.

Environmental Significance Overlay Proposal Balcombe Estuary Reserves

The Balcombe Estuary Reserves Group Mt Martha Inc. (BERG Mt Martha) is seeking Mornington Peninsula Shire Council support for the implementation of an Environmental Significance Overlay (ESO) to cover the Balcombe Estuary Reserves, an area of approximately 76 hectares. Balcombe Creek flows directly through The Briars immediately upstream of the Balcombe Estuary Reserves.

BERG have put forward a submission that argues that Balcombe Estuary Reserves are of Regional to State significance, based on the range of significant flora and fauna species they support, and their high habitat value. Their submission identifies that the Ecological Vegetation Classes (EVCs) within the reserves are all considered rare on the Mornington Peninsula, while the estuary itself is unique. These features all contribute to the reserves educational and scientific importance, and magnify their cultural significance.

It is recommended that further work is undertaken to investigate the inclusion of an ESO to Balcombe Estuary Reserves.

Finally, the scheme contains two Vegetation Protection Overlays which also have an important landscape role. VPO1: Township Vegetation and VPO2: Significant Treelines jointly identify the importance of native bushland for landscape, the contribution of significant tree lines (including vegetation along roadsides), and the

importance of vegetation within township areas in blending these areas into surrounding landscape as well as providing local amenity.

Collectively, the ESOs, SLOs and VPOs provide the Mornington Peninsula with a greater level of landscape protection than exists in many other areas in Victoria. However, these provisions are based on the original assessments prepared in the mid 1970's and a review and update is warranted.

Initial investigations carried out as part of research for the Green Wedge Management Plan has identified the potential for a more systematic approach to landscape character description and assessment. This should enable the identification of key characteristics and levels of sensitivity to change, as well as risk factors. This in turn would support the development of appropriate landscape protection/management policies, including policies in relation to long-term vegetation management, and provide an ability to monitor changes in key landscape quality indicators over time.

This review has identified that there is potential in current local landscape controls to address frequent development application types which have the potential to compromise landscape character. In particular, there is considered scope for specific controls which address certain types of intrusive development, including roadside parking, screen planting (which obstruct major (public) scenic vantage points), advertising signs, dwellings, large farm buildings, and major infrastructure installations (such as mobile phone towers, power lines and wind powered generators). This will ensure that the Peninsula's landscapes are not incrementally degraded – suffering a “death of a thousand cuts”.

A comprehensive review of the mapping and ordinance of the Shire's environmental overlays will occur following adoption of the Green Wedge Management Plan and Biodiversity Conservation Management Plan. Part of this review will be required to capture the Shire's Vegetation Protection Overlays. Early reviews have identified that the location of overlays in the mapping system may not be correctly aligned and therefore may not be applying the overlay in the correct position to protect associated vegetation. An example of at least one VPO2 alignment that is incorrect has been identified, however there may be more.

Finally, Council has identified it would be beneficial to prepare a Significant Tree Register which would comprise both locally and regionally significant trees. There is currently no budget allocated to this strategic work, however should the register be undertaken, corresponding updates would need to be made to the ESO as appropriate.

Recommendations:

- **R185:** Comprehensively review the ordinance and mapping of all environmental overlays (ESOs, SLOs and VPOs) upon finalisation and adoption of the Green Wedge Management Plan and Biodiversity Conservation Plan.

- **R186:** Further strategic work to review submission by BERG in regard to implementation of ESO to Balcombe Estuary Reserves, and subject to the outcomes of this an amendment to the planning scheme to facilitate the ESO.

12.3. Heritage Overlay (HO)

As noted in Section 6 of this report, Council is currently finalising a comprehensive and staged review of the Shire's European Heritage, with the Heritage Overlay being progressively updated with the findings and recommendations of the review. To date, heritage reviews and citations have been completed for Stages 1-2, with Stage 1 implemented into the Planning Scheme via approval of Amendment C174. The findings of Stage 2 are sought to be implemented via approval of Amendment C214. Stage 3 of the review is currently underway (not completed, not adopted) and Stage 4 has not yet commenced.

The Heritage Overlay is also yet to be updated pending review of the Shire's existing *Boatshed and Bathing Box Heritage Study (November 2000)*. This work was recommended as part of the 2014 Planning Scheme Review, with the policy to be re-assessed in conjunction with the Heritage Review. This work, however, was deferred upon recommendation from the heritage consultant engaged by Council to complete the heritage studies. The advice to Council is to instead review the Bathing Box Study once Stage 4 of the Heritage Review is completed, with investigations and any associated changes to the Heritage Overlay to be carried out in consultation with DELWP.

In addition to the changes proposed to the Schedule to the Heritage Overlay (Clause 43.01) under Amendment C214 (associated with Stage 2 of the Heritage Review), this Planning Scheme review has identified the following technical errors which require correction.

A technical error was identified in the gazettal of Amendment 71 – in which duplication of 'HO142' appeared and 'HO326' was removed from the Schedule entirely. 'Map reference number' HO142 is repeated twice in the Schedule as:

- 'HO142 Former Vicarage 64 King Street, Hastings'; and
- 'HO142 Balcombe Gates, Oval and Carpark 18 Tal Tals Crescent, Mount Martha'.

'HO326' is the correct map reference number for '*Balcombe Gates, Oval and Carpark 18 Tal Tals Crescent, Mount Martha*', and had applied to this heritage place in the Schedule prior to the C71 Amendment. It is recommended that the Schedule is amended to correct this error.

Technical errors have also been identified (by DELWP) with respect to land included on the Victorian Heritage Register (VHR094). The property is the *Former Commonwealth Aircraft Corporation Hangar located at 110 Stuart Road, Tyabb*, which

despite its State significance, is not located within the Heritage Overlay. The omission of this property is considered a technical amendment which requires rectification.

Recommendations:

- **R187:** Continue to pursue Amendments C214 to implement the findings of Stage 2 of the Heritage Review.
- **R188:** Upon completion of works for Stage 3 and Stage 4, prepare and pursue amendments to further update the Heritage Overlay.
- **R189:** Amend the Planning Scheme to correct the HO Schedule mapping reference number for 'Balcombe Gates, Oval and Carpark' from HO142 to HO326.
- **R190:** Amend the Planning Scheme to apply the Heritage Overlay to the 'Former Commonwealth Aircraft Corporation Hangar' (VHR094).

12.4. Design and Development Overlays (DDO)

Development guidance and character control within the Mornington Peninsula is predominantly reliant on the application of the Design and Development Overlay (DDO) at Clause 43.02 of the planning scheme.

At present, there are 25 individual schedules to Clause 43.02 that apply across the Shire. Each Schedule is reflective of a variety of diverse environments and their individual opportunities and constraints. The extent of these Schedules is also varied. Some are applied throughout multiple townships across the Shire whilst others are limited to a small select number of lots.

The first seven schedules, established at the introduction of the current planning scheme in 1999, effectively form a character typology that is applied to various residential areas on the Peninsula. These may be summarised as follows:

Table 5: Design Development Overlay Summary

DDO Type	Key Features
No DDO (ResCode only)	Predominantly around the Major Activity Centres – but also applies to smaller townships on the eastern Peninsula
DDO Schedule 1 - Township Design	Including township areas adjacent to the foreshore/coast – no specified minimum lot size.
DDO Schedule 2 - Bayside and Village Design	Existing lot sizes generally greater than 650sqm – min subdivision 1,300sqm (with provision to consider dual occupancy on lots of 1,300sqm).
DDO Schedule 3– Coast and Landscape Design	Existing lot sizes generally greater than 820 sqm – min lot area now 1,500sqm.

DDO Schedule 4 - Environmental Design	Existing lot sizes generally greater than 2000sqm – min lot area in new subdivision 2,500sqm.
DDO Schedule 5 - Low Density Wildcoast Protection Area	Lot sizes generally greater than 5000sqm.
DDO – Schedule 6 Low Density Landscape	Lot sizes generally greater than 1 hectare.
DDO Schedule 7 - Low Density Environmental	Lot sizes generally greater than 2 hectares.

As detailed in Section 4.2, Panel commentary has been critical of the use and structure of DDO's in the Mornington Peninsula Planning Scheme. Given provision of some of the DDO's existed in a different statutory form before the introduction of the VPP based scheme in 1999, Panel recommendations have identified the requirement for a more comprehensive review of the suite of DDOs in the Scheme to evaluate their relevance and effectiveness against current planning objectives (as recommended in the Amendment C163 Panel Report).

Amendment C219, to implement the findings of Council's adopted Housing and Settlement Strategy, currently with the Minister for Authorisation, makes associated changes to the number of schedules to the Design and Development Overlay (DDO) to ensure that mandatory maximum height requirements and exemptions do not conflict with, or duplicate provisions contained within the NRZ.

Amendment C219 deletes mandatory height exemptions contained within ten Schedules to Clause 43.02. It also amends DDOs to remove provisions that either duplicate exemptions, or exceed the maximum building height of 9 metres and 2 storeys prescribed by the NRZ. The amendment removes the DDO1 (Township Design) from all areas to be rezoned NRZ as the DDO1 has a mandatory maximum building height of 10 metres and two storeys which exceeds the NRZ maximum building height of 9 metres. DDO1 is to remain only on those areas zoned GRZ1 within the Mornington, Rosebud and Hastings Major Activity Centres where building heights in excess of 8 metres may be acceptable. C219 amends the mandatory height limit of DDO24 (Beleura Hill, Mornington) to reduce its mandatory height from 10 to 9 meters and no more than 2 storeys above natural ground level to align with the provisions of the NRZ. C219 also identifies the following amendments to the DDO schedules:

Table 6: C219 Proposed Changes to Design Development Overlays

DDOs*	Mandatory height exemption to be removed
DDO2, DDO3, DDO4	Building height restrictions to land north of a boundary defined by Ellerina Road West, Bruce Road, the Nepean Highway, Mornington-Flinders Road, Bittern-Dromana Road and Disney Street, but only if the building is 2 storeys or less above natural ground level

DDO23	A minor extension or alteration to a lawfully existing building where the proposed maximum building height would not exceed the existing building height
DDO2, DDO3, DDO4, DDO5, DDO17, DDO18, DDO19, DDO20, DDO24	Alteration to or extension of a lawfully existing building but only if all of the following requirements are met: • The existing building has a building height of more than 8 metres or contains 3 or more storeys above natural ground level. • The maximum building height of the existing building is not exceeded. • The external bulk of the existing building is not significantly increased. • The footprint of the upper storey, existing at the approval date, is not increased by more than 10%

** DDO2 (Bayside And Village Design), DDO3 (Coastal And Landscape Design), DDO4 (Environmental Design), DDO5 (Low Density – Wildcoast Protection Area, DDO17 (Woodthorpe Estate, Rosebud West), DDO18 (Mount Eliza Woodland Area), DDO19 (Bittern And Crib Point Township Residential Area), DDO20 (Crib Point Town Centre Residential Area), DDO23 (Hendersons – Creswell Residential Precinct), DDO24 (Beleura Hill, Mornington)*

As noted in Section 6 of this report, several strategic studies (such as structure plans, township plans, urban design frameworks and the like) are underway or nearing completion. However, there remains a significant gap in detailed neighbourhood character analysis, specifically with respect to determining the preferred future character for each of the Shire's neighbourhoods. Once finalised and adopted by Council, these documents will provide the strategic justification necessary to proceed with any substantive amendment of DDOs. It follows, then, that any wholesale review of DDOs is premature at this point in time.

Nevertheless, a range of operational deficiencies have been identified for a series of DDOs, including ambiguities in the wording of objectives, permit triggers, exemptions, application requirements and the like. Such errors and anomalies ought to be rectified as part of a general amendment to the planning scheme to help simplify the planning process and reduce regulatory burden.

12.4.1. DDO Schedules Grouped Review

Consistency in Permit Trigger Requirement for Building and Works

DDO Schedules 1-7, 11, 17-20, 22, 23 and 24, all provide a range of exemptions for development including:

- A single dwelling.
- A dwelling extension or alteration.
- An outbuilding.

- A dependent person's unit.

The combination of the above exemptions varies across the Schedules. Some Schedules only exempt a single dwelling whilst others instead only exempt an extension or alteration to a dwelling, outbuilding and dependant person's unit. Combinations of note are as follows:

- DDO1 only exempts a single dwelling on a lot, provided that the lot doesn't adjoin Point Nepean Road, and a dependent person's unit, but not an extension or alteration to a dwelling or an outbuilding.
- DDO3 and DDO17 only exempt an extension or alteration to a dwelling, outbuilding and dependent person's unit but not a single dwelling.
- DDO5 only exempts dependent person's unit.
- DDO19, DDO20 and DDO23 only exempts a single dwelling.

There is no evidence to demonstrate why some Schedules exempt a form of development such as an outbuilding and others do not. Further ambiguity is also added when considering the definition of a dwelling subject to Clause 74, which is as follows:

A building used as a self-contained residence which must include a) a kitchen sink; b) food preparation facilities; a bath or shower; and d) a closet pan and wash basin. It includes out-buildings and works normal to a dwelling.

In cases where a Schedule states an exemption for only a single dwelling and not explicitly for a dwelling extension or outbuilding, it could be presumed when read in isolation of all other schedules that all three forms of development could be considered as a dwelling in accordance with the definition of Clause 74.

Additionally, scope for the Schedules to trigger a permit for a dependant person's unit even if they fail to satisfy all General Requirements is questionable. Pursuant to Clause 62, building and works associated with a dependant person's unit do not require a planning permit unless 'specifically required by the planning scheme'. Under the technical requirements of the planning scheme, the schedule must explicitly state that a planning permit is required for a dependant person's unit for it be open for consideration and not exempted under Clause 62. The current wording of the relevant DDO Schedules does not state that a planning permit is required for a dependant person's unit, rather it says that a permit is not required for a dependant person's unit provided they satisfy the relevant list of general requirements. Due to the current framing of these permit triggers in the Schedule a dependant person's unit is technically exempt even if it fails to comply with all General Requirements listed in the respective Schedules.

The following recommendations are made to amend the permit exemptions:

- Schedule 1 - add dwelling extension or alteration and outbuilding.
- Schedule 19, 20 and 23 - add dwelling extension or alteration and outbuilding.

- Schedule 1–7, 11, 17, 22, 24 - delete dependent person's unit from 'No permit required' exemptions and add to 'Permit requirements' specifying that a permit is required to construct or carry out buildings and works with a dependent person's unit if the general requirements of the schedule are not met.
- **R191:** Continue to pursue approval of Amendment C219 (NRZ & HSS) to the planning scheme.
 - **R192:** Amend DDO Schedule 1 to include dwelling extension or alteration and outbuilding as permit triggers if they do not meet the General Requirements of the Schedule.
 - **R193:** Amend DDO Schedule 19, 20 and 23 to include dwelling extension or alteration and outbuilding as permit triggers if they do not meet the General Requirements of the Schedule.
 - **R194:** Amend DDO Schedule 1, 2, 3, 4, 5, 6 and 7, 11, 17, 22, 23 and 24 to remove dependent persons unit from 'no permit required'. Insert dependent persons unit under permit requirements to specify that a permit is required if a dependent persons unit does not meet the General Requirements of the Schedule.

Consistency in Reference to Requirement for Cut/Fill and Exemptions under Clause 62

DDO Schedules 1, 2, 6, 7, 11 and 24, all feature a General Requirement for cut and fill which includes an exemption for constructing a swimming pool. However, as a consequence of Clause 62 a planning permit is not needed unless specifically required. As the Schedule does not specifically state that a planning permit is required for a swimming pool this component of the General Requirement is irrelevant and recommended for deletion.

Furthermore, excluding the reference to swimming pools, the wording of the cut/fill General Requirements throughout the Schedules varies between:

- *The difference between finished ground level and natural ground level as a result of excavation and filling must not exceed one metre, except for the purpose of constructing an in ground swimming pool, and all works must be properly battered or stabilised.*

And

- *The difference between finished ground level and natural ground level as a result of excavation and filling must not exceed one metre and must be properly battered or retained.*

To provide for greater consistency throughout the suite of Schedules it is recommended that all cut and fill General Requirements be worded as follows:

- The difference between finished ground level and natural ground level as a result of excavation and filling must not exceed one metre and must be properly batter or retained.

- **R195:** Amend DDO Schedules 1, 2, 6, 7, 11 and 24 to remove reference to *'except for the purpose of constructing an in ground swimming pool'* under General Requirements
- **R196:** Amend all DDO Schedules that include permit trigger for cut/fill under General Requirements to consistently worded requirement: *'The difference between finished ground level and natural ground level as a result of excavation and filling must not exceed one metre and must be properly batter or retained'*.

Clarification to Requirements for Materials and Colours

DDO Schedules 1 -7, 11 and 18 all include the following General Requirement:

- *More than half of the external wall cladding of any dwelling must consist of brick, masonry, timber, simulated weatherboards or other materials approved by the responsible authority.*

It appears the intention of this General Requirement is to ensure that DDO objectives listed in the Schedule are met, particularly in regard to avoiding visually obtrusive buildings, ensuring that development has proper regard for the established streetscape, and ensuring that development is responsive to the environment, landform and site conditions. The implications of *'or other materials approved by the responsible authority'* within the context of the Schedule adds ambiguity to the Requirement. Although the likely purpose is to provide greater flexibility regarding what is a limited list of materials, its inclusion creates additional uncertainty and adds no benefit to decision making. Confusion results, where the Requirement is interpreted as requiring an applicant to access another mechanism (outside of the planning permit process) in order to gain the Responsible Authorities permission for any variation to the materials detailed. It should be noted there is no formal mechanism in place for applicants to get this permission from the Responsible Authority.

The following commentary by the Panel is noted from review of Amendment C163 (Part 2) which relates to the introduction of DDO Schedule 19 and 20:

The Panel is concerned that the permit exemption also required building materials and colours 'to the satisfaction of the responsible authority'. This departs from the principle that the exercise of discretion by the Responsible Authority is normally a function of the permit process. Further, the Act and the planning scheme do not provide explicit mechanisms too exercise this type of discretion outside the planning permit process. We note, however, that Section 149 of the Act does provide a mechanism for review

where the planning scheme specifies a matter to the satisfaction of the Responsible Authority and a dispute arises. If it is essential to include materials and colours and conditions for the exemption, there should, as a minimum, provision for written advice from the Responsible Authority of compliance with the condition(s) and facilitate processes through the building regulations.

It is clear from this commentary that the materials Requirement merits further consideration to remove ambiguity and facilitation of 'another mechanism' outside of the planning permit process for approval.

With regard to materials, it is assumed that the original provision sought to avoid materials such as fibre cement or asbestos sheeting, and may have been brought across from the old format planning schemes. The provision specifying brick, masonry, timber and simulated weatherboards, is a limiting list, given the expanse of modern construction materials available.

It is considered that colour and reflectivity are more significant in terms of managing visually obtrusive design, rather than materials.

Amendment C205 (gazetted in May 2017) introduced the following wording to be included in the Significant Landscape Overlay Schedules:

All external cladding of buildings and structures, including roofing, which is visible from any other property or roadway, is painted or finished in low reflective (40% LRV or less) or, where the building is an extension to a lawfully existing building and the existing floor area is not being increased by more than 25%, the colours of the external cladding and roof matches that of the existing building.

Further strategic work identified in this Review in regard to the preparation of neighbourhood character studies, will identify character issues associated with materials and colours and provide strategic justification for any changes to DDO's.

Building and Wall Height Requirement

DDO Schedules 1-3, 5 and 11 all feature General Requirements/Requirements that if satisfied exempt varying forms of development from requiring a permit. These requirements are framed in mandatory language given the need to eliminate any ambiguity as to what does and does not require a permit. However, whilst other Requirements are worded using mandatory language, each of these Schedules uses discretionary language regarding wall and building height requirements:

- *No building may exceed a wall height of 5.5 metres or a building height of 6 metres.*

To ensure consistency between all General Requirements/Requirements it is recommended that the word 'may' within Schedules 1-3, 5 and 11 be changed to 'must'.

- **R197:** Amend DDO Schedules 1, 2, 3, 5, 11 to change reference under General Requirements from '*no building may exceed a wall height of 5.5 metres or a building height of 6 metres*' to '*a building must not exceed a wall height of 5.5 metres or a building height of 6 metres*'.

12.4.2. DDO Individual Schedules Review

DDO Schedule 1

There were no significant issues identified with the application of this control or its provision apart from that already identified in the group review above.

DDO Schedule 2

Review of this Schedule has identified areas for improvement and clarification in addition to issues already identified in the group review.

Several Schedules feature a separate paragraph at the end of General Requirements allowing for specific structures i.e. verandahs, eaves, chimneys etc. to encroach into the minimum front setback distance. The formatting of this paragraph in Schedule 2, unlike the other Schedules, is incorrectly formatted inwards on the page giving the appearance that it is 'an addition' to the Requirements regarding relocated buildings and moveable structures, and not an independent Requirement (see Figure 8 below). Furthermore, subject to Amendment C189 additional General Requirements have also been added to the Schedule (see below) in regard to a setback encroachment exemption.

Figure 8: Setback encroachment exemption as shown within DDO Schedule 2

- A building must not be a relocated building or moveable structure such as a tramcar or the like. This does not apply to a dependent person's unit or a newly pre-fabricated building.

Where a minimum setback distance for a building or buildings is specified in any of the General Requirements, sunblinds, verandahs, eaves, fascias, gutters, masonry chimneys, flues, pipes, domestic fuel or water tanks, and heating and cooling equipment or other services may encroach not more than 0.5 metres into the specified setback distances.
- Within the Birdrock/Clarkes Avenues precinct shown in Map 1 below:
 - The total site coverage of all buildings must not exceed 50 per cent.
 - At least 40 per cent of the site must remain open/permeable.
 - There must be provision for at least 90 square metres of private open space for each dwelling.

It is therefore recommended to avoid confusion, that this paragraph be re-formatted and relocated to the end of the General Requirements section in accordance with DDO Schedules 3, 4, 6, 7 and 11, see Figure 9 below.

Figure 9: Setback encroachment exemption paragraph as shown within DDO Schedules 3, 4, 6, 7 and 11.

- A building must not be a relocated building or moveable structure such as a tramcar or the like. This does not apply to a dependent person's unit or a newly pre-fabricated building.

Where a minimum setback distance for a building or buildings is specified in any of the General Requirements, sunblinds, verandahs, eaves, fascias, gutters, masonry chimneys, flues, pipes, domestic fuel or water tanks, and heating and cooling equipment or other services may encroach not more than 0.5 metres into the specified setback distances.

The subdivision provisions of DDO Schedule 2 enable consideration of an 'integrated subdivision' that is the subdivision of lots smaller than the required minimum lot specified under the Subdivision clause (being 1300 metres squared), provided that any application to do so proposes dwellings alongside the subdivision. The Schedule requirement in regard to 'integrated subdivision' is as follows:

- *These requirements cannot be varied with a permit unless either:*
 - o *All of the following requirements are met:*
 - *The subdivision is proposed in conjunction with an application for the development of more than one dwelling on a lot.*
 - *Applications for approval must include a site analysis and site development plan that responds to the design objectives of this schedule to the satisfaction of the responsible authority.*
 - *The subdivision creates no more than two lots for every 1300 square metres of site area or no more than two lots from any existing lot with an area of 900 square metres or greater that has frontage to Osborne Drive, is 4 or 6 Morrisons Avenue or 3 Clarkes Avenue, Mount Martha in the Birdrock/Clarkes Avenues precinct.*
 - *Each of the lots is to contain a single dwelling, except that a dependent person's unit may also be constructed on a lot.*
 - *This provision has not been previously applied to any of the land involved in the application*

While the *Planning and Environment Act* allows for permits to be issued for both subdivision and development together, it is unusual for this to be *codified* in Victorian Planning Schemes. Furthermore, it is unusual that such a subdivision would allow for a denser outcome than a minimum requirement for subdivision.

There are benefits to assessing both development and subdivision together, particularly on smaller lots. However, the fact that this type of application allows for greater density means that outcomes are being achieved that are inconsistent with the

objectives of the Schedules and have the potential to undermine the prevailing or preferred development and subdivision pattern.

Further strategic work would be required to justify any changes to the integrated subdivision requirements. It is recommended this is further work as part of a future detailed DDO review.

The integrated subdivision provisions of the Schedule implemented as part of Amendment C189 saw the inclusion of additional requirements for the Birdrock/Clarkes Avenue precinct. This has resulted in a minimum lot size requirement that is both long and difficult to immediately comprehend:

- *The subdivision creates no more than two lots for every 1300 square metres of site area or no more than two lots from any existing lot with an area of 900 square metres or greater that has frontage to Osborne Drive, is 4 or 6 Morrisons Avenue or 3 Clarkes Avenue, Mount Martha in the Birdrock/Clarkes Avenues precinct.*

It is recommended that in order to improve interpretation of this provision it be separated into a table such as the following:

The subdivision creates no more than two lots for an existing lot with a size in accordance with Table (example).

Land	Minimum existing lot size
Land with a frontage to Osborne Drive, is 4 or 6 Morrison Avenue or 3 Clarkes Avenue Mount Martha	900 square metres
Other land	1300 square metres

- **R198:** Amend DDO Schedules 2 to change reference under General Requirements for subdivision for Birdrock/Clarkes Avenue precinct to table.
- **R199:** Further Strategic Work to inform a Detailed Design Development Overlay Review.

DDO Schedule 3

Review of this Schedule has identified no areas for improvement and clarification in addition to issues already identified in the group review.

DDO Schedule 4

Review of the Schedule has identified the following areas for improvement and clarification in addition to issues already identified in the group review:

Integrated subdivision is also part of this Schedule. As identified in recommendations to DDO3, further strategic work would be required to justify any changes to the

integrated subdivision requirements. It is recommended this is further work as part of a future detailed DDO review.

Subdivision of the land at 1440 Frankston-Flinders Road, Tyabb in accordance with the requirements of the Schedule has been undertaken. The requirements within the schedule are therefore redundant and recommended for removal.

The general and mandatory requirements of the Schedule refer to building height and subdivision provisions which vary depending on location. To improve the ability to understand what provisions apply when assessing a specific site, it would be recommended that maps providing an outline of each relevant section be added to the Schedule. Again, this should form part of a future detailed DDO review.

DDO Schedule 5

Review of the Schedule has identified the following areas for improvement and clarification in addition to issues already identified in the group review:

The permit required provision of the Schedule includes three separate requirements that, if met, allow an application to bypass compliance with the General requirements. This provision is identified in Figure 10 below.

Figure 10: DDO Schedule 5 Building and Works Requirements

Permit required An application to construct a building or construct or carry out works should meet the General requirements of this schedule except where it has been demonstrated to the satisfaction of the responsible authority, that all of the following apply: ▪ Where buildings or works (including effluent disposal system, earthworks and vegetation removal) are located on any ridge or on land having a slope of 20% or more, an alternative siting is not available on the land. ▪ Where an alternative siting of a building is proposed, a development envelope of 800 square metres meeting the siting criteria of the General requirements is not available on the land. ▪ Compliance is unreasonable or unnecessary and no loss of amenity will result from approval of the variation.
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Requirements of the provision state that buildings and works 'should' meet the general requirements as opposed to 'must'. There is already flexibility for non-compliant development to be considered should suitable justification outside of the three above dot points be provided. Given this context, these dot point paragraphs would be better located, in an altered form, within the Decision Guidelines of the Schedule and the paragraph referring to the General Requirements amended to match that shown in Schedule 4 (see Figure 11 below).

Figure 11: DDO Schedule 4 Requirements for Buildings and Works

Permit required

An application to construct a building or construct or carry out works should meet the General requirements of this schedule except where it has been demonstrated to the satisfaction of the responsible authority, that compliance is unreasonable or unnecessary and no loss of amenity will result.

As identified in recommendations to DDO3 and DDO4 further strategic work would be required to justify any changes to the integrated subdivision requirements. It is recommended this is further work as part of a future detailed DDO review.

DDO Schedule 6

Review of the Schedule has identified the following areas for improvement and clarification in addition to issues already identified in the group review.

Within Mornington, Schedule 6 is guided by the Mornington North Outline Development Plan (ODP). The ODP encourages the development of non—residential land uses such as child care facilities, function centres, education centres, veterinary centre, indoor recreation facility, medical centre etc within its third precinct. The subdivision requirements of the Schedule raise issues relating to the non-residential uses encouraged in Precinct 3. The Low Density Residential Zone allows subdivision down to 2000 square metres, but this is overridden by the Schedule which requires an average lot size of 1 hectare with a minimum of 4000 square metres. While some of the uses lists above may warrant a very large lot, the majority would require a smaller lot size. These subdivision requirements therefore contradict the ODP's preferred outcome of encouraging non-residential uses in some precincts, and therefore result in a Planning Policy conflict.

The question of lot sizes was raised in the Panel Hearing for Amendment C135 (Part 2) as shown in the following excerpt from the Panel Report:

In terms of a suggested reduction in lots size, Council submitted that no evidence has been submitted to support the contention that the minimum lot size of 1 hectare (DDO6) should be reduced; and there is no rationale for simply applying the same planning controls that apply to Precinct 2. Council submitted that the long term fragmentation of landholdings in this precinct would be contrary to the use and development outcomes envisaged by the Mornington North ODP and the likelihood of more intensive land use/developments would increase. In relation to suggested reduction in the minimum lot size, Council submitted that any suggested changes to the minimum lot size and the DDO would need to be the subject of a separate planning scheme amendment and could not be incorporated into Amendment C135.

The current process provides an opportunity to revisit this issue.

Analysis of recent permit data supports the contention that the land uses in question require far less land than 4000 square metres. However, this analysis is not conclusive enough to suggest a specific minimum lot size that could be applied to support the policy objective sought. Furthermore, if such a change was made to the Schedule (to reduce the minimum lot size), this could lead to residential development at a higher density than is sought by the ODP and Schedule.

It is considered more appropriate, and prudent, to use the provision in DDO6 that provides for some instances where a permit may be granted that varies the subdivision requirements. It is recommended that the overlay allows for a permit to be granted for a subdivision containing smaller lot sizes, for an application that is associated with a non-residential land use supported by the ODP. This allows for some discretion in considering smaller lot sizes, but does not enshrine a smaller lot size requirement in the Schedule.

It is recommended this is further work as part of a future detailed DDO review.

DDO Schedule 7

Review of the Schedule has identified the following areas for improvement and clarification in addition to issues already identified in the group review.

The subdivision provisions of the Schedule provide a mandatory minimum lot size that must be achieved by all subdivision proposals. This is except for three geographic areas listed within the Schedule. In order to improve clarity, it is recommended that the Schedule feature maps outlining each area.

It is recommended this is further work as part of a future detailed DDO review.

DDO Schedule 8

Review of the Schedule has identified the following areas for improvement and clarification in addition to issues already identified in the group review.

The existing provisions of the Schedule are outdated and have no effect on decision making. The Major Hazard Facilities Advisory Committee Final Report (2016) considered the deficiencies of planning schemes in managing land use and development proximate to pipelines. Recommendations of the report included developing Environmental Significance Overlay schedules to address the issue. It is considered appropriate to delete this Schedule from the Mornington Peninsula Planning Scheme and participate in future work led by Energy Safe Victoria and Department of Environment, Land, Water and Planning.

- **R200: Amend the planning scheme to Remove DDO Schedule 8 Buffer Distances from oil and Gas Pipelines.**

DDO Schedule 9

Review of the Schedule has identified the following areas for improvement and clarification in addition to issues already identified in the group review.

The Schedule is only relevant to two sites in proximity of one another with the purpose to ensure that future development was designed to protect residents from external noise. Both sites have now been developed, with consideration given to the Schedule, so the Schedule no longer serves a purpose. It is recommended that the schedule be deleted from the Mornington Peninsula Planning Scheme.

- **R201: Amend the planning scheme to Remove DDO Schedules 9 Acoustic Design**

DDO Schedule 10

Review of this Schedule has identified no areas for improvement and clarification in addition to issues already identified in the group review.

DDO Schedule 11

Review of the Schedule has identified the following areas for improvement and clarification in addition to issues already identified in the group review.

This Schedule relates specifically to Mount Eliza (north of Tower Road) development Design Review. The Schedule contains a Mandatory Condition that requires that an agreement subject to Section 173 of the Planning and Environment Act 1987 related to development contributions and public open space be entered into when subdividing.

In *Cameron Manor Pty Ltd v Mornington Peninsula (Red Dot)* [2007] VCAT 1822 (5 October 2007), Member Helen Gibson concluded that the head clause does not include a power to specify that a permit must include any conditions in a Schedule to the overlay'. It is noted that successive officer's reports have acknowledged this decision. It is noted that the landscape design guidelines and net gain response to native vegetation can be managed via standard planning permit conditions.

Amendment C109 resolved the issues raised by VCAT by way of correctly introducing the public open space requirements via a Schedule to Clause 52.01, however, the requirement as stated within Schedule 11 was not deleted despite being invalid.

Amendment VC105 implemented changes to Victoria's native vegetation permitted clearing regulations that shifted the Clause 12.01 to a new 'no net loss' approach rather than the previous 'net gain' position. Changes to Clause 52.17 rationalised information requirements, implemented new risk-based assessment pathways, including a simplified approach for applications under a low-risk based pathway and streamlined the determination of offset requirements. The changes to the Native Vegetation Framework have resulted in the 'net gain measures' of the Schedule becoming outdated and inconsistent with wider policy. Furthermore, requirements for a

landscape management plan are more appropriately achieved via a planning permit condition.

It is recommended that the requirements relevant to conditioning an agreement subject to Section 173 of the Planning and Environment Act 1987 be deleted from Schedule 11.

The requirement for the provision of a public open space/walkway connection between Clendon Close and Marlo Grove was approved and developed in accordance with permit P08/2237. The requirement is therefore redundant and recommended for removal.

- **R202:** Amend the DDO Schedule 11 to remove reference to the requirement for a Section 173 Agreement under the Subdivision clause.
- **R203:** Amend the DDO Schedule 11 to remove the requirement for a public space/walkway connection between Clendon Close and Marlo Grove under the Subdivision clause.

DDO Schedule 12

Review of the Schedule has identified the following areas for improvement and clarification in addition to issues already identified in the group review.

The advertising sign Requirement of the Schedule is an outdated and unnecessary addition that does not provide any specific information that is not already addressed within the Design and Development Overlay. Within Clause 52.05, Category 1 – Business Areas has been amended to Category 1 – Commercial areas. Furthermore, the Commercial 1 zoning of all the land affected by the Schedule ensures that any applications for signage would need to be considered under Category 1 – Commercial areas irrespective of specification of it within the Schedule. It is recommended that the entire advertising signs requirement within the schedule be deleted.

- **R204:** Amend the DDO Schedule 12 to remove Clause 4.0 Advertising signs.

DDO Schedule 13

Review of the Schedule has identified the following areas for improvement and clarification in addition to issues already identified in the group review.

This Schedule regards Mornington Activity Centre. The General Requirements of the Schedule specify that any application to construct a building over 7 metres should be accompanied with a representation of the proposal in electronic format, suitable for use in the 'Simurban' computer model. Following discussions with officers, the 'Simurban' model is now outdated and difficult to use. In order to ensure that the intention of the Requirement can still be accomplished it would be recommended that the reference to 'Simurban' be amended to instead simply provide a three-dimensional modelling of the proposal alongside existing adjoining development.

It is also noted that the specific request for such detail would be more appropriately suited to an Application requirements provision as opposed to a General Requirement. This is also applicable to the site context and design response requested in the second dot point of the Schedule's General requirements.

- **R205:** Amend the DDO Schedule 13 to move requirements for 3 dimensional modelling and site context and design response to a new Clause 'Application Requirements'.
- **R206:** Amend the DDO Schedule 13 to remove reference to 'Simurban' and replace with 'three-dimensional modelling'.

DDO Schedule 14

Review of this Schedule has identified no areas for improvement and clarification in addition to issues already identified in the group review.

DDO Schedule 15

Review of this Schedule has identified no areas for improvement and clarification in addition to issues already identified in the group review.

DDO Schedule 16

Review of this Schedule has identified no areas for improvement and clarification in addition to issues already identified in the group review.

DDO Schedule 17

Review of this Schedule has identified no areas for improvement and clarification in addition to issues already identified in the group review.

DDO Schedule 18

Review of the Schedule has identified the following areas for improvement and clarification in addition to issues already identified in the group review.

This Schedule regards the Mount Eliza Woodland Area. The scheme specifies that the number of dwellings per lot must not exceed one dwelling. This does not apply in consideration of Requirements listed at Figure 12.

Figure 12: DDO Schedule 18 Number of Dwellings Requirement

- A lot that has potential for subdivision in accordance with the minimum subdivision area specified in this Schedule where the number of dwellings to be contained by the lot would not exceed the number of lots that may be so created.
- An application that meets all of the following requirements:
 - The lot must be at least 2,600 square metres in area.
 - The lot must contain only two dwellings, including any existing or proposed dwellings.
 - One of the dwellings must have a floor area of 100 square metres or less.
 - The two dwellings must be substantially attached and designed to appear as if they were only one dwelling on the lot.
 - The two dwellings must share a single crossover.
 - The total site coverage of all buildings, including garages and other outbuildings, must not exceed 15% of the total lot area for any lot located in precinct 1 or 2, or 20% of the total lot area for any lot in precinct 3 or 4.
 - This provision must not have been previously applied to any of the land involved in the application.
 - A section 173 Agreement must be created to prevent the subdivision of the subject land. The agreement must be registered on title.

Except for the single crossover requirement, these requirements cannot be varied with a permit.

It is noted that the first dot point seeks to prevent development of multiple dwellings on lots where there is no potential to preserve a one dwelling per lot outcome. However, the second dot point enables two dwellings to be developed on lots of at least 2,600 square metres provided additional restrictive requirements are satisfied. When taking into consideration that the minimum subdivision size of the Schedule is 2,000 square metres, there is no potential for these multi dwelling lots to be subdivided unless they are at least 4,000 square metres. Therefore the exemption of the second dot point will allow the development of multiple dwellings which the purpose of the first dot point is to prevent.

Furthermore, the requirement that a Section 173 Agreement must be created to prevent subdivision of these minimum 2,600 square metre lots with two dwellings is redundant. As the minimum size of any lot within a subdivision is 2,000 square metres the planning scheme already prohibits these smaller multi dwelling lots from subdivision.

It is recommended that the exemption allowing two dwellings to be developed on a lot greater than 2,600 square metres be deleted from the Schedule. Should there be a desire to maintain the exemption then it would be recommended that the Section 173 Agreement should be removed from the requirements.

It is recommended this is further work as part of a future detailed DDO review.

Schedule 19 and 20

Review of the Schedule has identified the following areas for improvement and clarification in addition to issues already identified in the group review.

These Schedules regard Bittern and Crib Point Township Residential Areas and the Crib Point Town Centre Residential Area. Considerable confusion from officers has been expressed regarding the application of these Schedule's subdivision provisions. The combination of both discretionary and mandatory language within the provisions has created difficulty when interpreting the Schedule (see Figure below).

Figure 13: DDO Schedule 19 Subdivision Provisions

3.0 27/03/2014 C163(Part 2)	Subdivision The average area of all lots within a subdivision should be no less than 650 square metres. The calculation of average lot area should: ▪ exclude land that is capable of further subdivision, and ▪ include land set aside as common property or land that is to be transferred to Council for public open space and recreation, over and above that which may be required under Section 18 of the Subdivision Act 1988, and ▪ each lot must be able to contain a rectangle with minimum dimensions of 18m x 25m. These requirements cannot be varied with a permit except where: ▪ Two or more dwellings lawfully exist and the purpose of the subdivision is to create a separate lot for each of those dwellings. ▪ The subdivision is proposed in conjunction with an application for two or more dwellings on a lot with an area of more than 1,950sqm, and the subdivision will create a separate lot for each of these dwellings. ▪ The subdivision is in compliance with a restructure plan under Clause 45.05. ▪ The subdivision is in compliance with a development plan under Clause 43.04. ▪ The subdivision realigns the boundary between existing lots, provided no additional lot or additional subdivision potential is created.
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In isolation, the use of 'should' within the first and second sentences of the Provision suggest that these requirements are discretionary as opposed to mandatory. However, the inclusion of 'These requirements cannot be varied with a permit' would indicate that these same requirements are significantly more rigid.

Despite Council seeking mandatory subdivision provisions during Amendment C163 (Part 2), Panel commentary identified that discretion should be available. The Panel recommended revisions resulting in the format applied to the current Schedule, using 'should' where previously Council has advocated for 'must'.

However, the recent review of Plan Melbourne and residential zones strengthens the argument for mandatory provisions. The changes made residential zones through Amendment VC110 (March 2017), have increased the number of mandatory

provisions in both the Neighbourhood Residential Zone and General Residential Zone. This includes mandatory building heights and mandatory garden areas. It is notable that the State Government did not elect to 'soften' the drafting of the subdivision requirements in the Neighbourhood Residential Zone, which only allows for a mandatory requirement.

Notwithstanding the above, the technical application of the inconsistencies contained within the Schedule is somewhat alleviated by the head clause. Amongst the subdivision provisions of the head clause it states:

Subdivision must occur in accordance with any lot size or other requirement specified in a schedule to this overlay.

A permit may be granted to subdivide land which is not in accordance with any lot size or other requirements in a schedule to this overlay, unless the schedule specifies otherwise.

When read in conjunction with the above it is acknowledged that there is a mandatory condition on any lot size specified within the schedule. This is only open to variation should the schedule specifically state otherwise. Unless a proposal meets one of the limited exemptions specifically specified by the schedule then subject to the language of the provision *'These requirements cannot be varied with a permit'*.

Taking the above into account it is recommended that the Schedule be redrafted to clarify the inconsistencies between the Schedule and head clause. This should again advocate for a mandatory approach to subdivision within the Schedule noting that any recommendation limiting subdivision should be consistent with the number of dwellings allowable per lot.

The structure of the Schedule requires that a permit is triggered to construct a building or construct or carry out works for a single dwelling provided it satisfies multiple building and siting 'conditions' regarding matters such as crossovers, site coverage, setbacks etc. Should one or more of these 'conditions' not be satisfied then a permit is required and an application must then consider the Requirements, modified Clause 54 and 55 objectives contained within Table 1 of the Schedule.

The modified objectives are predominantly the same as the 'conditions' that necessitate a permit. Those objectives additional to that specified in the 'conditions' are relevant to neighbourhood character, significant trees/landscapes and private open space plus there is a requirement limited to the number of dwellings on a lot attached to the end of the table. Taking this into account it is noted that the interpretation of the Schedule could be suitably improved were the 'conditions' necessitating a permit removed and instead superseded by that of the modified Clause 54/55 objectives such as in Schedule 24.

To undertake this, it is noted that some requirements would need to be altered. Discretionary language within the modified objectives would need to be amended to that of a mandatory nature. This would be necessary for the objectives to function as permit triggering mechanisms given the ambiguity of words such as 'may' or 'should' when trying to determine what constitutes compliance opposed to a finite word like 'must'.

Broader objectives included in the neighbourhood character and significant trees/landscaping standards would also need to be removed to efficiently determine when a permit would be necessary. The implications of removing these examples, of which there is limited, would not substantially alter the assessment process as they are generally similar to existing design objectives within the Schedule. The only component that would need to be relocated would be that requesting a landscape plan which would be recommended to be incorporated into a new 'Application requirements' provision.

Other than the modified objectives, the mandatory number of dwellings requirement would also need to be relocated. Its current location within Table 1 is a cause of potential confusion given that it is not a modified Clause 54/55 requirement. It would instead be recommended that it be allocated its own section akin to the number of dwellings provisions listed within Schedule 2 to 6, 11, 17, 22, 24.

Specific to Schedule 19, the subdivision provisions include the allowance for integrated subdivision with lot sizes less than that of the minimum subdivision size provided the lot to be subdivided is more than 1,950 square metres. This is written to align with the 'number of dwellings' provisions which are expressed in Figure 14 below.

Figure 14: DDO Schedule 19 Number of Dwellings Requirement

<i>Number of dwellings</i>	No more than one dwelling for every 650sqm of site area, excluding a dependant person's unit, may be constructed on a lot of less than 1,950sqm.
	No more than one dwelling for every 550sqm of site area, excluding a dependent person's unit, may be constructed on a lot of more than 1,950sqm in area.

This could be simplified without a specific exemption with the following alteration:

The average area of all lots within a subdivision should be no less than 650 square metres must be in accordance with Table (example):

Table (example):

Site area	Average minimum lot size
Less than 1,950 square metres	650 square metres
1,950 square metres or greater	550 square metres

The amendment of the subdivision provisions to read as above would also enable the deletion of the exemption allowing for integrated subdivision.

Specific to schedule 20, the first exemption from the subdivision provisions also features a typographical error. It incorrectly refers to 'dwelling' when it should instead state 'dwellings'.

It should be noted that Amendment C219 makes associated changes to the planning scheme maps, and a number of schedules to the Design and Development Overlay (DDO) (including DDO19) to ensure that mandatory maximum height requirements and exemptions do not conflict with, or duplicate provisions contained within the NRZ.

Recent Panel advice, the subject of Amendment C210 *Creswell Street, Crib Point*, has supported the application of the NRZ and schedules providing a similar outcome with *a simplified planning tool*.

It is recommended this is further work as part of Amendment C219 and future detailed DDO review.

DDO Schedule 21

Review of this Schedule has identified no areas for improvement and clarification in addition to issues already identified in the group review.

DDO Schedule 22

Review of this Schedule has identified no areas for improvement and clarification in addition to issues already identified in the group review.

DDO Schedule 23

Review of this Schedule has identified no areas for improvement and clarification in addition to issues already identified in the group review.

DDO Schedule 24

Review of the Schedule has identified the following areas for improvement and clarification in addition to issues already identified in the group review.

Schedule 24 regards Beleura Hill in Mornington. The Schedule exempts a permit for a single dwelling, dwelling extension, outbuilding or dependent persons unit provided the modified Clause 54/55 standards contained within the Schedule are met. It is noted that these modified requirements contain discretionary language such as 'should' and 'may' which can create an additional degree of ambiguity in determining what constitutes compliance. Whilst acknowledging that standards within Clause 54/55 are intended to be discretionary, for the initial purpose of ascertaining whether a permit is required or not it would be recommended that mandatory language be applied in place of discretionary words so as consistent with all other Schedules with similar General requirement/Requirements formats.

- **R207:** Amend the DDO Schedule 24 to change the reference to 'should' in *Table 1 Modified Requirements of Clause 54 (One Dwelling on a Lot) and clause 55 (Two or More Dwellings on a Lot and Residential Buildings) Standards* to 'must'.

DDO Schedule 28

Review of this Schedule has identified no areas for improvement and clarification in addition to issues already identified in the group review.

12.5. Development Plan Overlay (DPO)

The purpose of the Development Plan Overlay (DPO) is to identify areas which require a structure plan detailing the form and conditions of future use and development to be prepared and approved before a permit can be granted to use or develop the land. A total of 21 schedules to the DPO exist across the Shire.

An audit of schedules reveals that a number sites have been developed in accordance with the corresponding approved development plan (refer Table 7 below). As such, these schedules are now redundant and ought to be removed from the planning scheme. The remaining schedules, however, must be retained as development plans are either not yet approved or fully implemented, with some schedules having only been recently introduced to the scheme.

It is noted that Amendment C219 (presently awaiting Ministerial Authorisation) proposes to remove DPO6, DPO10, DPO11, DPO13, DPO14 and DPO16. The remaining redundant schedules can be removed as part of the general amendment to follow this planning scheme review.

Table 7: Audit of Development Plan Overlay Schedules

Reference	Name	Comment	Retain?
DPO2	Mornington Parkland Industrial Area	Development Plan only partially implemented	✓
DPO3	Hastings Future Town Centre Development Plan	Development Plan superseded by Hastings Structure Plan Amendment C190	✗
DPO4	Balnarring Town Centre Development Plan	Development Plan only partially implemented	✓
DPO5	Mornington Comprehensive Redevelopment Area	Based on the Main Street Shopping Centre Structure Plan (1987). Development Plan implemented.	✗

Reference	Name	Comment	Retain?
DPO6	Park Road Estate Redevelopment Plan	Development Plan implemented. Schedule to be removed by Amendment C219	✗
DPO7	North Bittern Development Plan	Subdivision incomplete	✓
DPO8	Port Phillip Plaza Development Plan	Development Plan implemented	✗
DPO9	Baxter Gateway	Subdivision incomplete	✓
DPO10	611-613 Point Nepean Road, Mccrae	Development Plan implemented. Schedule to be removed by Amendment C219	✗
DPO11	6 Mason Street, Mount Eliza	Development Plan implemented. Schedule to be removed by Amendment C219	✗
DPO12	3405 Point Nepean Road, Sorrento	Development Plan incomplete	✓
DPO13	819 Melbourne Road, Sorrento	Development Plan implemented. Schedule to be removed by Amendment C219	✗
DPO14	110 Bungower Road, Mornington	Development Plan implemented. Schedule to be removed by Amendment C219	✗
DPO15	1889 To 1897 Point Nepean Road, Tootgarook	Development complete. Other part of overlay (across residential properties) to be removed by Amendment C219.	✗
DPO16	2079 Point Nepean Road, Tootgarook	Development Plan implemented. Schedule to be removed by Amendment C219	✗
DPO17	No 23 – 25 Rosebud Parade, Rosebud	Development Plan incomplete	✓
DPO18	1A and 1B Jetty Road, Rosebud	Development Plan implemented by P14/1626.	✗
DPO19	Mornington North Outline Development Plan - Precinct 1b	Development incomplete. Schedule introduced by Amendment C184.	✓
DPO20	470-474 Browns Road, Rye	Development incomplete. Schedule introduced by Amendment C191.	✓
DPO21	11-13 Mountain View Road, Mount Eliza	Development incomplete. Schedule introduced by Amendment C191.	✓

Reference	Name	Comment	Retain?
DPO22	Carrington Park, Rosebud	Development incomplete. Schedule introduced by Amendment C197.	✓

Recommendations:

- **R208:** Delete redundant DPO3, DPO5, DPO6, DP08, DP010, DP011, DP013, DP014, DP015, DPO16, and DPO18 from the planning scheme, and retain remaining schedules.
- **R209:** Continue to monitor the completion of approved Development Plans, and remove corresponding schedules as appropriate.

12.6. Erosion Management Overlay (EMO)

The purpose of the Erosion Management Overlay (EMO) is to protect areas prone to erosion, landslip or other land degradation processes, by minimising land disturbance and inappropriate development. The planning scheme presently comprises five individual schedules to the EMO applying to ridgelines and escarpments throughout the Shire.

EMO1 and EMO2 are concentrated centrally within the Shire, around the Arthurs Seat, Red Hill and Merricks North Hills. Despite the distinction in schedule numbering, both schedules contain identical permit requirements. That is, both require planning approval for works associated with a dwelling (i.e. pergolas, verandahs, decks and ramps) with a finished floor level (FFL) less than 800mm above ground level and overall maximum building height of 3 metres. Whilst only applying to a discrete area in Mt Eliza, EMO3 contains the same permit requirements as EMO1 and EMO2, however, it contains a comprehensive list of application requirements.

In the interests of reducing duplication in the scheme, and ensuring consistency between provisions with the same permit requirements, these three schedules ought to be consolidated. That is, merge the application requirements of EMO3 into EMO1, delete EMO2 and EMO3, and renumber all mapping to EMO1.

EMO4 and EMO5 apply to discrete areas in Mornington and Flinders. Whilst both overlays have the same permit triggers, they have varying application requirements, with an interdependent relationship between the two schedules. For example, one of the application requirements in EMO4 states:

If any of the land is also affected by EMO5, a quantitative risk assessment of the site in accordance with the Australian Geomechanics Society, (2007c) Practice Note Guidelines for Landslide Risk Management, Vol. 42, No. 1, Australian Geomechanics, March 2007 procedures for loss of life and either quantitative or qualitative for property loss. [emphasis added]

It is noted that Mornington-based EMO4 and EMO5 apply to Ballar Creek, as derived from the findings of *the Mornington Peninsula Shire Council Landslide Zoning, Ballar Creek, Mt Eliza, Victoria (Coffey Geosciences Pty. Ltd, July 2000)*, which is an Incorporated Document to the scheme at Clause 81, and referenced at Clause 22.16: Ballar Creek.

As noted in Section 6 of this report, the need to update the Shire's current provisions around landslide susceptibility has been identified in Council's adopted Water Conservation Management Plan – *Smart Water Plan: An Integrated Approach to Water Management for the Mornington Peninsula (adopted in 2013)*. More recent landslide susceptibility modelling has been undertaken for the whole of the Mornington Peninsula which will ultimately require updates and amendments to the EMO schedules and associated mapping. This strategic work anticipated for completion in the next 2 to 3 years.

Recommendations:

- **R210:** Merge the application requirements of EMO3 into EMO1, delete the schedules for EMO2 and EMO3, and renumber mapping of EMO2 and EMO3 to EMO1.
- **R211:** Complete the comprehensive review and update of the Shire's landslip susceptibility data and modelling, and update the ordinance and mapping of the Shire's EMOs.

12.7. Floodway Overlay (FO) and Land Subject to Inundation Overlay (LSIO)

The Shire's flooding and inundation risk is mapped by the Floodway Overlay (FO) and Land Subject to Inundation Overlay (LSIO). The FO applies to land that's identified as carrying active flood flows associated with waterways and open drainage systems, whilst the LSIO applies to land affected by flooding associated with waterways and open drainage systems (otherwise known as floodplains).

Both overlays seek to ensure development maintains the free passage and temporary storage of floodwater, minimises flood damage and is compatible with flood hazard, local drainage conditions. The FO also aims to minimise soil erosion, sedimentation and silting, whilst the LSIO seeks to ensure inundation does not cause any significant rise in flood level or flow velocity. Only the LSIO contains a locally specific schedule, with permit exemptions for certain buildings and works.

Amendments to the Shire's flooding and inundation overlays is being progressively introduced, generally in accordance with the implementation of the *Mornington Peninsula Shire Integrated Local Flood Management and Drainage Strategy (2009)* and further relevant drainage modelling by Melbourne Water.

Amendment C216 has been prepared to apply the LSIO to land identified by Melbourne Water as vulnerable due to hazards associated with coastal erosion, flooding, sea level rise and storm surge around Western Port. The amendment is derived from the *Planning for Sea Level Rise Guidelines for Port Phillip and Westernport Region (Melbourne Water February 2017)*, which is to be a reference document to the scheme. Amendment C216 is due for consideration by an Independent Panel in July 2018.

Further modelling for the balance of the Shire (i.e. Port Phillip side) will be undertaken as part of the Third Phase Coastal Hazard Assessment for Sea Level Rise and Inundation by DELWP and Melbourne Water. This work is due for completion on 2019, with an amendment to follow in 2020.

It is noted that the planning scheme does not presently comprise the Special Building Overlay (SBO). The SBO is commonly used by municipalities to identify areas prone to overland flooding, and set appropriate conditions and floor levels to address any flood risk to developments.

In the absence of this overlay in the Mornington Peninsula Planning Scheme, permit applicants presently must apply (and pay an associated fee) for Council to confirm flood levels for individual sites via the Report and Consent mechanism under the *Building Act 1993*. That is, overland flooding risk is not being addressed at the planning stage; but rather the building permit stage. This can create issues for applicants who may have to amend development proposals if they did not seek a flooding report and consent before finalising development plans.

The Shire has recently completed mapping for overland flooding and temporary storage, and is presently updating report and consent mapping. For clarity and transparency of flooding regulation, this data and associated requirements ought to be translated into SBO mapping. This will ensure overland flooding risks are captured in the scheme and appropriately managed at the planning stage.

Recommendations:

- **R212:** Update and amend application of the LSIO upon completion of the Third Phase Coastal Hazard Assessment for the Port Phillip coastline.
- **R213:** Investigate application of the SBO to ensure local overland flooding risk is appropriately captured and managed by the planning scheme.

12.8. Bushfire Management Overlay (BMO)

As noted in Section 3 of this report, **Amendment GC13** (3 October 2017) updated the planning scheme's Bushfire Management Overlay mapping providing a comprehensive and accurate identification of extreme bushfire risk areas across the Shire. As such, no further changes are required to the use or application of the BMO.

12.9. Public Acquisition Overlay (PAO)

The PAO has been applied to six discrete parcels of land throughout the Shire for a range of purposes and acquiring authorities. Many of the sites affected by the PAO are land identified for acquisition by State government departments and authorities for the purposes of major road construction and widening, as well as educational and Port related matters. The range of sites are outlined in the schedule to the overlay, as reproduced in Table 8 below.

Table 8: Mapped PAOs

Planning Scheme Map	Acquiring Authority	Purpose of Acquisition
PAO1	Roads Corporation	Road construction and widening
PAO2	Mornington Peninsula Shire Council	Municipal purposes
PAO3	Department of Finance	Port purposes and coastal conservation
PAO4	Department of Finance	Port services and access corridor
PAO5	Department of Education, Employment and Training	Primary school
PAO6	Southern Eastern Integrated Transport Authority	Peninsula Link

Due to its role and function, application of the overlay has occurred incrementally over time, as the need arises. Use of the PAO has not been the subject of detailed review in the last the planning scheme reviews. As such, it is prudent that Council review application of the overlay to ensure its currency, and identify any parcels of land to which the PAO is no longer required.

To this end, those parcels of land affected by PAO1 ought to be reviewed in consultation with the Roads Corporation to ascertain ongoing need. Given projects such as the extension of Peninsula Link through to Rye have not yet been approved or actioned, the PAO1 will need to remain on land reserved for the extension. Similarly, the PAO1 will need to remain in place for land reserved for the potential long-term widening of Mornington-Tyabb Road. In other areas where road construction or widening has already occurred, the PAO1 ought to be removed from affected land with consent from the Roads Corporation.

The Tootgarook Wetland Management Plan May 2018 identified as part of further actions that investigations be made into the current alignment of the freeway reserve (aligned to a PAO1) between Boneo Road and Blairgowrie. Subject to this action, a preliminary investigation is currently being undertaken – the *Southern Peninsula Arterial Corridor Planning (Traffic Congestion Management Options)*. Once completed this work will provide options for Council's consideration in regard to the current PAO in this location.

Similarly, PAO6 has been applied to land reserved for Peninsula Link. Whilst this major piece of road infrastructure has now been delivered, sections of land adjoining the road have been reserved for potential future widening or additional interchange works. Those areas where works have already occurred (e.g. Bungower Road intersection) may no longer need the PAO6. As such, application of PAO6 ought to be reviewed in consultation with the South Eastern Integrated Transport Authority (SEITA) and amended or repealed as appropriate.

PAO2, PAO3 and PAO4 relate to road infrastructure servicing the Port of Hastings, specifically the potential future widening of Bayview Road and Barclay Crescent to service the properties owned by Bluescope Steel, Esso Australia and BHP. These overlays will need to remain in place until such time as the State government confirms the future role and development of the Port.

Finally, PAO5 relates to the land acquired by the Minister for Education for the use and development of Benton Junior College. As the site has since been transferred to the Department of Education, Employment and Training (DEET) for ownership and the College has been constructed, PAO5 may no longer be required. As such, Council should seek consent from the DEET to remove PAO5.

Recommendations:

- **R214:** Review application of PAO1 and PAO6 with the Roads Corporation and South Eastern Integrated Transport Authority respectively, and amend the overlay as necessary.
- **R215:** Confirm ongoing currency of PAO5 with the Department of Education, Employment and Training and remove the overlay if appropriate.

12.10. Environmental Audit Overlay (EAO)

The purpose of the EAO is to ensure that potentially contaminated land is suitable for a use which could be significantly adversely affected by any contamination. Council is currently conducting an internal audit and review of all known sites within the Shire that comprise potentially contaminated land, as well as identifying any additional parcels that require further investigation. In the event that additional sites of contamination are identified, the EAO should be applied.

Recommendation:

- **R216:** Continue to apply the EAO to identified contaminated sites.
- **R217:** Finalise the review and audit of land for inclusion in EAO and amend application of the EAO accordingly.

12.11. Restructure Overlay (RO)

The Restructure Overlay has been implemented to identify old and inappropriate subdivisions which are to be restructured. The overlay presently contains nine individual schedules, each of which has a corresponding Incorporated Plan at Clause 81 of the planning scheme.

Sites affected by the RO have been audited to determine whether the restructures have been completed in accordance with the schedules and Incorporated Plans. The results are outlined in Table 9 below, demonstrating that only one of the nine restructures has been effectively implemented.

Table 9: Analysis of Restructure Overlays

Ref.	Name	Comment	Retain?
RO1	Bittern Crib Point Restructure Plan (April 2013)	Identified restructure lots yet to be consolidated.	✓
RO2	Naval Base Estate Restructure Plan (March 2012)	Identified restructure lots yet to be consolidated.	✓
RO3	Disney Street Industrial Restructure Plan (April 2004)	Amendment C210 seeks to delete the RO4 where is applies to part of the amendment area. Status Panel Report to Planning Authority.	✓
RO4	Creswell Street Restructure Plan (October 2009)	Identified restructure lots yet to be consolidated.	✓
RO5	Hastings Business 4 Restructure Plan (October 2009)	Identified restructure lots yet to be consolidated.	✓
RO6	Hellicars Road Restructure Plan (April 2004)	Identified restructure lots yet to be consolidated.	✓
RO7	Arthurs Seat Restructure Plan (March 2004)	Identified restructure lots yet to be consolidated.	✓
RO8	St Andrews Beach Restructure Plan (March 2012)	Identified restructure lots yet to be consolidated.	✓
RO9	Bungower Road Area Restructure Plan (December 2011)	Planning Permit CP11/002 was approved on 9 May 2013 to realign the boundaries between 63 and 69 Bungower Road, Somerville. The lots have now been consolidated as per the intent of RO9.	✗

Recommendations:

- **R218:** Delete Restructure Overlay Schedule 9: Bungower Road Area Restructure Plan and associated Incorporated Plan listed in the schedule to Clause 81. (Documents Incorporated in this Scheme).

12.12. *Development Contributions Plan Overlay*

A Development Contributions Plan (DCP) is a mechanism used by Council's to levy new development for contributions to planned infrastructure needed by the future community. A Council collects development contribution levies from new development through an approved DCP which is incorporated into the planning scheme. Land affected by a DCP is identified by the Development Contributions Plan Overlay (DCPO).

DCPs and associated overlays are commonly applied on a site- or precinct-specific basis as part of growth area planning, or for large urban renewal sites. However, several Councils in established urban areas across metropolitan Melbourne have prepared and implemented municipal-wide DCPs and associated overlays to ensure ongoing levying for the maintenance and upgrade of community infrastructure in line with urban consolidation. Municipal-wide DCPs, though often onerous and complex to prepare, result in the efficient, transparent and orderly levying of contributions across the local government area.

Whilst not presently in the Mornington Peninsula Planning Scheme, investigation into a Shire-wide Development Contributions Plan and associated DCPO for all relevant infrastructure and services is prudent. Owing to the nature of the Shire's settlements, ongoing pressures for infill development, limited and aging infrastructure (especially regarding sewerage and drainage), ongoing planning and maintenance of public open spaces, and challenges posed by recent rate-capping, a coordinated and transparent approach to levying contributions would be of significant benefit to the Shire. As the strategic work involved in preparing such a Shire-wide DCP would be considerably onerous, it is recommended that a staged approach to introducing DCPs across the Shire be investigated and adopted.

Recommendations:

- **R219:** Investigate introduction of the Development Contributions Plan Overlay to the planning scheme upon preparation and adoption of a staged, Shire-wide Development Contributions Plan.

12.13. *Parking Overlay*

The Parking Overlay is a VPP tool designed to enable Councils to respond to local car parking issues, and can be used to outline local variations to the standard requirements

in Clause 52.06. These variations can apply to the entire municipality or a smaller precinct. Local variations to Clause 52.06 can only be introduced using the Parking Overlay and accompanying schedule.

Whilst not currently in the scheme, the 2014 Planning Scheme Review recommended that the appropriateness of this overlay and associated provisions be investigated for the Shire's town centres – especially the Major Activity Centres of Hastings, Rosebud and Mornington.

Strategic work around traffic and transport has been undertaken for some parts of the Shire since the last Review (e.g. Sorrento township). However, owing to budgetary constraints, a comprehensive investigation into the merits of introducing the Parking Overlay to the planning scheme has not yet been undertaken. This recommendation nevertheless remains a prudent action for Council.

Recommendations:

- **R220:** Investigate the potential to introduce the Parking Overlay to the planning scheme for application in the Shire's townships, especially the Major Activity Centres.

12.14. Conclusions

The Mornington Peninsula Planning Scheme contains an extensive array of overlays with broad and often multi-layered application across the Shire. Spanning 13 different overlays and 96 schedules (only one of which is not bespoke), overlays vary in scope, requirements and complexity.

With the heavy reliance on often lengthy and complicated DDOs and ESOs, the scheme is repeatedly derided for its overuse of this statutory instrument. The mix of mandatory and performance-based regulation pervasive in DDOs has been a particular focus for criticism. Whilst favoured by parts of the community for the level of protection and certainty the overlays afford the Shire's built and natural assets, censure has been expressed by many users of the scheme. Apart from permit applicants and associated consultants, Tribunal members, Independent Panels and senior Council officers have all expressed concern at the overly complex and sometimes cumbersome nature of the Shire's overlays.

Nevertheless, numerous overlays currently in operation have been in place for many years, arising from the need to respond proactively to a range of issues regarding the environment and landscape, heritage and built form, land management and other specialist functions. Overlays will continue to serve this function to protect the Shire's valued assets from inappropriate development.

Following approval of Amendment C205 to the planning scheme which resulted in a range of red tape reductions across environmental and built form overlays, this review has identified several additional opportunities to further refine the Shire's overlays. Recommendations include removing redundant schedules and fixing errors and anomalies. This is especially the case for the DPO, RO and potentially the PAO, with the recent completion of developments and works foreshadowed by these provisions.

The review has also determined instances where overlay controls can be further strengthened, including:

- The HO which will continue to be progressively updated upon finalisation of the Heritage Study Review;
- The EMO which is to be updated upon comprehensive review of Shire-wide landslip data;
- Flooding overlays, with the application of the LSIO to the Port Phillip coast upon completion of detailed coastal hazard modelling by State government; and
- The EAO with the completion of land contamination auditing which may result in additional application of this overlay; and

Whilst the review has also recommended a range of opportunities to refine the DDOs and environmental overlays, wholesale review of the ordinance and mapping of DDOs, ESOs, VPOs and SLOs is not appropriate until the completion and adoption of major strategic studies. Specifically, refinement of the DDOs requires further input from detailed neighbourhood character studies, whilst the environmental overlays need to be reviewed against the strategic directives and policy outcomes of the Biodiversity Conservation Plan and Green Wedge Management Plan.

As Council is already substantially underway with its program of further strategic work, the environmental overlays can undergo detailed auditing and amendment in the next 12 to 24 months. As the DDOs are applied extensively across the Shire's settlements and limited neighbourhood character studies have been completed to date, evaluation of the effectiveness of the DDOs will be contingent upon assessment against neighbourhood character studies as they are prepared over the next 2-4 years.

Finally, there is the potential to add three new overlays to the Mornington Peninsula Planning Scheme to better manage existing land use and development issues. This includes introduction of:

- The SBO to ensure local overland flooding risk is appropriately captured in the planning scheme;
- The DCPO to allow Council to levy fees to help deliver and maintain key infrastructure and services across the Shire; and
- The PO to manage local parking issues affecting the Shire's main townships and activity centres.

13. The Effectiveness of Specific Provisions

13.1. Audit of Particular Provisions and Other Schedules

A comprehensive audit of all particular provisions and associated schedules was carried out as part of this review. The audit found that, whilst Council has taken the opportunity to include local content in some of the schedules to strengthen the overall operation of the scheme, there are a range of further options to specify local variations in Clause 52 and Clause 66. Additional variations can be implemented upon the completion of further work outlined in Section 16 of this report. Appendix 4 sets out the findings of the audit, resulting in the following recommendations:

Recommendations:

- **R221:** Amend Clause 52.01 to replace reference to Residential Zone 1 (R1Z) to General Residential Zone (GRZ) and Neighbourhood Residential Zone (NRZ) subject to outcome of Amendment C219.
- **R222:** Review Planning Permit information for 1140 Frankston-Flinders Road Tyabb against Section 173 Agreement to confirm if requirement of Agreement has been undertaken. If the works have been completed, amend Clause 52.01 to remove reference to property.
- **R223:** Monitor outcome of POS payment for 470-474 Browns Road, Rye, subject of P17/0498. Amend Clause 52.01 to remove reference to this property once the payment has been confirmed.
- **R224:** Amend Clause 52.02 to remove reference to 105 Latrobe Parade.
- **R225:** Amend Clause 52.02 to remove reference to easements.
- **R226:** Amend Clause 52.03 to remove reference to Dromana Mixed Use Development, June 2002.
- **R227:** Amend Clause 52.03 to remove reference to land on the McCrae Foreshore for Development of Temporary Facilities for the Rosebud Life Saving Club, November 2003.
- **R228:** Amend Clause 52.04 to remove reference to Township Zone.

13.2. Audit of Incorporated Documents

There are 31 local 'Incorporated Documents' listed in the Schedule to Clause 81.01 of the Mornington Peninsula Shire Planning Scheme. A review of the suite of documents has been undertaken to ascertain currency. The review has found that most are still relevant, however some need to be removed. Appendix 5 outlines the findings of the Incorporated Plan audit, which results in the following recommendations:

Recommendations:

- **R229:** Remove reference to *Conditions for Use and Development of Temporary Facilities for the Rosebud Life Saving Club, November 2003*
- **R230:** Remove reference to *Dromana Mixed Use Development, June 2002*

- **R231:** Remove reference to *Peninsula Link Project, Incorporated Document, July 2009* (amended June 2011 and February 2014)
- **R232:** Remove reference to *Woodlands Estate Somerville, April 1999*
- **R233:** Remove reference to *Restructure Plans Incorporated Under Clause 45.05 – Bungower Road Area Restructure Plan, December 2011*

14. Site Specific Recommendations

Balnarring Foreshore Mapping Correction

Land identified as part of parcel 1A Foreshore Road, Balnarring and owned by DELWP, generally located along south side of Foreshore Road Balnarring identified in mapping (Map No 31) as General Residential Zone 1. This is a mapping issue that requires correction. The correct zoning is PCRZ. DELWP have confirmed in writing that the mapping 'anomaly' requires a planning scheme amendment to correct.

Recommendation:

- **R234:** Rezone land located 1A Foreshore Road, Balnarring from GRZ1 to PCRZ

2- 8 Mayman Street Bittern RO1

Land parcel located at 2-8 Mayman Street in Bittern in the Low Density Residential Zone, with RO1 across the parcel. The parcels that the RO1 cover include 2 parcels to the south in separate ownership and a road reserve (Mayman Street and 17 and 19 Daly Street). Potential to seek an amendment that would result in 2-8 Mayman being consolidated, and 17-19 Daly Street consolidating with 7 Daly Street (already in the same ownership). This would still result in the same subdivision potential – no further subdivision potential would be created by the consolidation. There are no sewer services to this area – but there are water mains both through Mayman Street and 17 Daly Street.

Recommendation:

- **R235:** Review current RO1 arrangement and subject to outcome of review, an amendment to the planning scheme to facilitate movement of the RO1 across 2 parcels

Urban Growth Boundary Application to Small Townships of the Mornington Peninsula Shire

Amendment C219 was adopted by Council on 5 February 2018, and forwarded to the Minister for Planning for authorisation on 16 February 2018. At the time of preparing this report, Amendment C219 is still awaiting authorisation.

Apart from introducing the NRZ and associated changes to the LPPF, the HSS also recommends that Council advocate to the State government to place an Urban Growth Boundary around the urban areas (i.e. GRZ and LDRZ zoned land), of Balnarring Beach, Merricks Beach, Merricks and Point Leo.

Recommendation:

- **R236:** Engage with DELWP to apply the Urban Growth Boundary around the urban areas of Balnarring Beach, Merricks Beach, Merricks and Point Leo under section 46AG of the *Planning and Environment Act 1987*.

15. Continuous Improvement

Since the previous Planning Scheme Review 2014, there have been 54 planning scheme amendments made to the Mornington Peninsula Planning Scheme. 24 have been prepared by Council, and 26 amendments have been implemented by the Minister for Planning that are relevant to the Mornington Peninsula Planning Scheme. A further 4 “GC” Amendments have been finalised, relevant to the Scheme. Refer to **Appendix 2** for the list of all amendments since December 2014.

Planning scheme overlay maps have been improved and will continue to be improved as new drainage modelling and other better natural system modelling becomes available.

Better clarification between private and public coastal land in terms of the application of public use land zones could still be achieved but in some cases the boundaries can migrate and there is missing information that can only be rectified with declarations by the Surveyor-General.

The Council generally runs at least one “general amendment” per year to pick up mapping and other planning scheme anomalies as well as site specific amendments. Overall, however, the mapping has been dramatically improved with the new technologies available.

Council is already committed to undertaking a range of strategic projects within the next review period. Appendix 6 details the Implementation Program for continuous improvement and further strategic work.

16. Further Strategic Work Program

The 2018 Mornington Peninsula Planning Scheme Review has identified a range of further strategic work that needs to be either finalised or commenced to ensure the planning scheme remains strategically robust and operationally sound. It is essential that Council adopt a clear implementation program for this work to ensure the ongoing improvement of the planning scheme is conducted in a comprehensive and coordinated manner. This includes resolving a prioritised and scheduled suite of tasks with associated timeframes. Appendix 6 provides such a recommended scope of works.

17. Conclusions and Recommendations

17.1. Review Report Summary

The Mornington Peninsula Planning Scheme is sizable and complex, having been incrementally amended at both a State and local level since its inception in 1999.

Council has undertaken a comprehensive program of strategic work in response to the latest planning scheme review in 2014. A detailed audit has revealed that, whilst some items were abandoned, lapsed or deferred, many of the recommendations from the 2014 Review have either been completed or substantially progressed. The net result is a wealth of adopted strategic directions which have significant implications for the policies and controls in the planning scheme.

Whilst substantial progress has been made, several major strategic projects remain outstanding. Completion of these projects is imperative to ensuring that clearer direction is provided for emerging and unresolved issues so that the planning scheme remains strategically robust. To this end, outstanding action items from the 2014 Review will be recaptured and integrated into the implementation plan resulting from the 2018 Review.

Ultimately, the need to incorporate strategic work that Council has either commissioned or completed over the inter-review period, along with changes to the structure of the of policy within the Victoria Planning Provisions, will inevitably require a substantial re-write and restructure of the existing MSS and local policies. Further refinement of zoning and overlay controls will also be required.

17.2. Review Report Recommendations

Whilst often derided for its complexity, the substantive matrix of policies and provisions that make up the Mornington Peninsula Planning Scheme has been developed and applied over many years in response to:

- The amalgamation of three shires (Hastings, Mornington and Flinders) and the wealth of legacy material contained therein;
- A demanding range of well-established and disparate land use and development issues - some of which are unique to the Shire;
- Fluxing political agendas at a State, regional and local level; and
- Resourcing and budgetary challenges and constraints.

Despite having been subjected to three formal reviews since its inception, the scheme has undergone only incremental and piecemeal review as opposed to wholesale reform. Whilst strategically justified, amendments and updates have tended to occur in a largely reactionary manner, undertaken by many authors, for various reasons and at various times. The end result is a scheme that is:

- Not entirely responsive to key existing and emerging issues;
- Somewhat 'out-of-sync' with State Planning Policy;
- Not yet fully aligned with the State-sanctioned Localised Planning Statement, or Council's current Corporate or Health and Wellbeing Plans;
- Overly content-heavy, replete with redundant and out-of-date material; and
- Cumbersome and frustrating to administer, both from the perspective of decision-makers at Council, as well as applicants, referral authorities and review bodies.

Collectively, these deficiencies compromise the ability for clear and defensible decision-making. These findings are confirmed by recent commentary from Panels Victoria and the Victorian Civil and Administrative Tribunal as well as targeted stakeholder consultation.

In a proactive effort to address the shortcomings of the planning scheme, Council has advanced an extensive program of strategic work since the last review in 2014, resulting in a wealth of clarified directives for the Shire concerning:

- Housing and settlement;
- Economic development (including commercial and industrial development);
- Localised environmental management (including completion of and adoption of all Coastal Management Plans);
- Infrastructure and resource management;
- Place-making for specific areas, including activity centres; and
- Heritage preservation.

Further directives concerning management of the Shire's Green Wedge and biodiversity conservation are also imminent, pending completion of additional major projects.

Notwithstanding Council's considerable progress, several important initiatives arising from the 2014 Review are either yet to be completed or require further work. These actions remain pertinent to the overall improvement of the planning scheme.

Considerable developments have also occurred across a variety of areas at State level since the last review, including the introduction of landmark legislation and refinement of the Victoria Planning Provisions. The most significant of these is the introduction of the *Distinctive Areas and Landscapes* legislation, and proposed reformatting and integration of local, regional and State planning policy into a singular source to be known as the "Planning Policy Framework".

Much of the strategic work and changes at both the State and local level has significant immediate and future implications for the Mornington Peninsula Planning Scheme.

Detailed analysis of the scheme's Local Planning Policy Framework carried out as part of this review has been usefully informed by the process of filtering and sorting required to prepare Council's local policy framework for translation into the new "Planning Policy

Framework". This meticulous work, combined with targeted stakeholder consultation, a status audit of 2014 Review recommendations, and audit of strategic documents recently adopted by Council has revealed the need to:

- Seek the highest level of State recognition and protection of the Peninsula under the new *Distinctive Areas and Landscapes* legislation;
- Finalise policy guidance for rural areas following adoption of the Green Wedge Management Plan;
- Continue to strengthen place-making directives, especially around:
 - o Detailed neighbourhood character analysis and guidance;
 - o Completion and review of township structure planning and urban design frameworks which promote sustainable and walkable neighbourhoods;
 - o Heritage protection (early European and Aboriginal cultural heritage); and
 - o Car parking management in activity centres.
- Strengthen natural systems provisions following adoption of the Biodiversity Conservation Management Plan;
- Continue to address environmental risks, especially erosion, flooding and salinity;
- Prepare new policy and provisions to address environmental sustainability (i.e. Environmentally Sustainable Design, and Water Sensitive Urban Design).
- Review and confirm policy around affordable housing following introduction of a new legislative framework that provides mechanisms for private-led engagement;
- Develop a comprehensive and coordinated framework for infrastructure provision and management (especially for open space, drainage and sewerage) with the establishment of a Shire-wide Development Contributions Plan; and
- Continue to lobby State government for a confirmed future role for the Port of Hastings to unlock further development and economic potential.

In a structural sense, the identified deficiencies of the planning scheme's current local policy framework vis-à-vis the wealth of new strategic material and pending translation to the new "Planning Policy Framework" necessitates a comprehensive re-write of local policy content. The re-write will produce a much more concise, clear, targeted, and modern local policy framework to effectively guide land use and development decision-making affecting the Shire into the future.

The 2018 Review also makes several pertinent findings concerning the suite of zone, overlay and particular provisions. Whilst significant changes are already afoot for the Shire's residential zones and associated overlays (following adoption of the Housing and Settlement Strategy), there are many opportunities to further refine the Shire's provisions.

Key improvements include removing redundant schedules and correcting errors and anomalies within the ordinance and application of Public Use Zones (i.e. Park and Recreation, Conservation and Resource), Special Use Zones, Development Plan Overlay, Restructure Overlay, Public Acquisition Overlay and various particular provisions. Many controls can also be further strengthened pending the finalisation and integration of recently adopted strategic work, including schedules to the Green Wedge

Zone, Heritage Overlay, Erosion Management Overlay, Land Subject to Inundation Overlay, and Environmental Audit Overlay.

Despite being perhaps the most in need of comprehensive reform owing to their volume and complexity, wholesale review of the ordinance and mapping of the Shire's Design and Development and Environmental Overlays (i.e. Significant Landscape, Environmental Sensitivity and Vegetation Protection Overlays) is not appropriate until the completion and adoption of major strategic studies. Specifically, refinement of the many Design and Development Overlays requires further input from detailed neighbourhood character studies, whilst the environmental overlays need to be reviewed against the strategic directives and policy outcomes of the Biodiversity Conservation Plan. Nevertheless, a range of minor yet important interim improvements have been proposed to these overlays.

Finally, there is the potential to add three new overlays to the planning scheme to better manage existing land use and development issues. This includes introduction of the Special Building Overlay (to manage local overland flooding), the Development Contributions Plan Overlay (to allow Council to levy fees to help deliver and maintain key infrastructure and services across the Shire) and the Parking Overlay (to manage local parking issues affecting the Shire's main townships and activity centres).

17.3. Recommendations

To ensure that the Mornington Peninsula Planning Scheme continues to be strategically robust and effective in delivering sound planning outcomes, the 2018 Review advances a total of 236 recommendations for various policies and provisions. Central to these recommendations is:

1. A wholesale review and re-write of local policy content; and
2. Strengthening and refinement of zoning, overlay and particular provisions.

Owing to the nature, breadth and volume of recommendations, it is recommended that Council pursue a comprehensive general amendment following adoption of the 2018 Review Report to implement all policy-neutral updates. This amendment will align with the now implemented restructured VPP policy framework, meaning that local content can be prepared for direct translation to the PPF.

Those recommendations requiring further strategic work should be the subject of subsequent, strategically justified amendments.

PLANNING SCHEME REVIEW REPORT:

At its Planning Services Committee Meeting on 19 November 2019, Council resolved:

- 1. To adopt the Draft Planning Scheme Review inclusive of the changes identified in this report (Attachment 1).**
- 2. That Shire officers forward the Planning Scheme Review 2018 to the Minister as required under section 12b of the Planning and Environment Act 1987.**

ADMINISTRATION OF THE PLANNING SCHEME:

In terms of **prioritising a work program** for the administration and improvement of the Mornington Planning Scheme the specific recommendations are detailed at **Appendix 6 – 2018 Planning Scheme Review Implementation Plan.**

APPENDIX 1: Status Audit of 2014 Planning Scheme Review Recommendations

Action	Status	Comment	Timing
1 Improved alignment of the MSS with the structure of State Policy • Update the municipal profile with current demographic and other like information. • Update the Strategic Framework Plan. • Updates to reflect the content of the Council Plan.	In progress	The need to review and restructure the MSS was identified in the 2009 Review, and proposed to be actioned via Amendment C130. Whilst submitted to the Minister for approval, C130 was ultimately abandoned in 2016 owing to the uncertainty surrounding proposed changes to the then State Planning Policy Framework (SPPF). As such, the MSS has not been comprehensively reviewed, but rather incrementally updated since 2009. Clarity has now been provided for the restructure of State, regional and local policy via the State Government's new "Planning Policy Framework" (PPF) implemented through VC148 gazetted on the 31 July. This now provides the ideal opportunity to re-write the planning scheme's entire local policy framework. Work has already commenced to audit and translate the Shire's local policy content into the new PPF. This will include the creation of a revised Strategic Framework Plan and updated vision and strategic directives that reflect Council's current 2017-21 Corporate Plan and other recently adopted strategic documents.	1 year

2	Guiding growth and protecting character • Implementation of a new Housing and Settlement Strategy • Preparation of various Structure Plans & Township Plans, Neighbourhood Character Studies and Urban Design Frameworks, staged as follows: - o <u>Stage 1</u> - Rosebud; Hastings and Beleura Hill, Mornington - o <u>Stage 2</u> - Reactivate work on DDO17 – height controls in commercial zones (Amendment C121). - o <u>Stage 3</u> - Dromana; small investigation areas at Bittern and Bird Rock Avenue precinct, Mount Martha. - o <u>Stage 4</u> - Port Phillip Urban Design Framework and Balnarring and Coastal Towns Urban Design Framework. - o <u>Stage 5</u> - Somerville, Rye, Mornington east - o <u>Stage 6</u> - Others including reviews • Revise DDOs based on the above strategic work	Partially complete. Further work in progress.	The <i>Mornington Peninsula Housing and Settlement Strategy</i> (the HSS) was prepared and adopted by Council in December 2017. Amendment C219 proposes to integrate the Strategy into the planning scheme by amending local policy, rezoning most residential land to the Neighbourhood Residential Zone and making consequential changes to various overlays. Amendment C219 is presently awaiting Ministerial authorisation. The following structure / township plans have been completed since 2014: • <i>Hastings Town Centre Structure Plan</i> adopted in November 2014, to be implemented via proposed Amendment C190, which is currently awaiting Ministerial approval. • <i>Rosebud Activity Centre Structure Plan</i> adopted in September 2016, and Rosebud Activity Centre Urban Design Framework (May 2015) to be implemented via Amendment C206 which is currently awaiting Ministerial approval. • <i>Rye Township Plan</i> adopted in December 2017, to be implemented by a new amendment to be drafted in late 2018. The <i>Dromana Township Plan</i>, drafted in March 2018, has been publicly exhibited and is due for adoption by Council in mid to late 2018. A planning	1 year for integration of the HSS 1-3 years for strategic plans Up to 3-4 years for associated planning scheme amendments
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			scheme amendment will follow shortly thereafter to implement the plan. Two Neighbourhood Character Studies have been completed for select areas of the Shire: • <i>Beleura Hill Neighbourhood Character Study (November 2014) & Beleura Hill Design Guidelines (April 2015):</i> implemented via Amendment C189. • <i>Dromana Residential Investigation Areas:</i> The original study was completed in July 2017, to be implemented by proposed Amendment C213. However, C213 did not receive Ministerial authorisation. The strategic work completed for the investigation areas has instead been merged into the proposed Dromana Township Plan, with a comprehensive amendment to follow in late 2018. Work to prepare and implement Neighbourhood Character Studies for the Shire's remaining settlements, including Somerville and Hastings, is to be a priority for the 2018/2019 Council Budget. With respect to Urban Design Frameworks: • The Balnarring and Coastal Towns Urban Design Framework will form part of the strategic work to be completed for the Western Port	
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			Coastal Villages Strategy. Preparation of this Strategy remains contingent upon funding from State government, but is due for completion in late 2018 / early 2019. Drafting of amendments to implement the Strategy will follow in mid-2019. • The Port Phillip Urban Design Framework cannot be prepared until the Third Phase Coastal Hazards Assessment is completed by Melbourne Water and DELWP. It is expected the assessment will be finalised by mid-2019, with Council to begin work on the Urban Design Framework in 2020. Council has also pursued several amendments to implement structure plans and neighbourhood character studies completed prior to the 2014 Review. The status of each is as follows: • The original <i>Mornington East Outline Development Plan (July 1989)</i> was proposed to be implemented via Amendment C201, however the amendment did not receive Ministerial authorisation. The strategic work around Mornington East will instead be captured as part of C219. • Design and Development Overlay – Schedule 19 was pursued for a small residential investigation area at Bittern via Amendment	
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Action		Status	Comment	Timing
			C163 (part 2). The amendment was approved in March 2014. Design and Development Overlay – Schedule 2 was also extended across Birdrock Avenue in Mount Martha via Amendment C189. The Shire's DDOs will be progressively updated as the above strategic work is completed and adopted by Council.	
3	Planning for the Port of Hastings			

Action	Status	Comment	Timing
• <u>Stage 1:</u> Review Special Use Zone 1 – Port Related Uses • <u>Stage 2:</u> Amend the LPPF as per the recommendations of the Ports and Environs Committee Report (ie. future role of the Port as Melbourne's second container port, the strategic directives of the Port of Hastings Land Use and Transport Strategy & Long Island Precinct, identification of sustainable transport corridors to support expansion of the Port of Hastings) • <u>Stage 3:</u> review the SUZ1 for surplus land, and restructure inappropriate Cemetery Estate subdivision.	Held in abeyance	Review of policy and controls surrounding the Port of Hastings has, and continues to be held in abeyance until the State government decides whether to pursue the expansion of Hastings as Melbourne's second container port, or to develop a new port at Bay West. As such, the SUZ1, local planning policy framework and restructure of the Cemetery Estate residential subdivision have not yet been pursued. In May 2016, the Special Minister of State requested Infrastructure Victoria to provide advice on options to secure Victoria's future ports capacity. Infrastructure Victoria's advice was released in May 2017, recommending that once the Port of Melbourne reaches a capacity of approximately 8 million TEU in around 2055, the preferred location for surplus container trade is Bay West over Hastings, owing to a range of economic, social and urban planning considerations. At the time of writing the 2018 Planning Scheme Review, a decision is still yet to be made by State Government.	Unknown (pending advice from State Government)

Action	Status	Comment	Timing
4	Reviewing Green Wedge Local Policies		
- Review all local planning policies that apply to the Green Wedge - Seek approval for Amendment C133 - Apply for an amendment to implement the Interim Green Wedge Management Plan	In progress	Amendment C133 sought to review Clause 21.09: Planning for Rural Areas, as well as Clause 22.19: Camping and caravan park outside the urban growth boundary. The amendment was refused by the Minister for Planning on 11 August 2016. Council also sought to amend the scheme via proposed Amendment C168 which sought to introduce a new policy at Clause 22.21: Rural dwellings including bed and breakfast accommodation, and make corresponding changes to Clause 21.09. Whilst C168 was authorised, it was later abandoned by Council. Green wedge and rural policies are instead being reviewed as part of the Green Wedge Management Plan which is due for completion in mid- to late 2018. Upon adoption, Council will seek amendments to local policies to integrate and respond to the recommendations of the GWMP.	1 year to finalise GWMP 1-2 years to amend local policy

Action	Status	Comment	Timing
5	Strengthening natural systems provisions		
• Update MSS with strengthened objectives and strategies • Updated mapping of Vegetation Protection Overlays • Preparation of new overlay schedules that are more place specific (eg: for Tootgarook Wetland) • Provide a distinction between natural and cultural heritage in 'Conservation values' under Clause 21.03-3	In progress	A Biodiversity Conservation Plan (BCP) is currently being prepared for Council, due for completion in mid-2018. The BCP will provide the basis for future amendments to the MSS and environmental management overlays to strengthen the natural systems provisions of the planning scheme. The <i>Tootgarook Wetland Management Plan</i> was adopted by Council in May 2017. The Plan recommends review of a range of planning provisions including the Environmental Significance Overlay (ESO30: Tootgarook Wetland). This is partly achieved by Amendment C188 which was approved on 20 March 2018. However, further amendments will be required to the scheme to implement the balance of recommendations from the Plan.	1-2 years
6	Pursuing sustainability		

Action		Status	Comment	Timing
	More detailed mention of ESD in Local Policy following improvement of State policies.	In progress	Council is currently undertaking work to produce a local ESD policy. This work is occurring at a time when State government is believed to be considering the inclusion of a State-standard ESD provision in all schemes which can be expanded upon via a local schedule. Once adopted, Council's ESD policy will be integrated into the scheme, either via a local policy or the new State provision – whichever is available.	1-2 years
7	Aboriginal Cultural Heritage			
	Review Clause 22.05: Aboriginal Cultural Heritage following appointment of the Registered Aboriginal Parties under the <i>Aboriginal Heritage Act 2006</i> and recommendations of the subsequent State government reviews.	Not yet commenced	The Victorian Aboriginal Heritage Council appointed the Bunurong Land Council Aboriginal Corporation (BLCAC) as the Registered Aboriginal Party (RAP) for the Mornington Peninsula on 24 July 2017. Council will review Clause 22.05 in conjunction with the new RAP at the earliest convenience.	1-2 years
8	Protecting Heritage			

Action	Status	Comment	Timing
- Progressively update the Heritage Overlay as the various stages of the Mornington Peninsula Heritage Review are completed. - Review the <i>Boatshed and Bathing Box Heritage Study (November 2000)</i> and update the Heritage Overlay. - Update the Planning Scheme with new Heritage Conservation Management Plans for particular places as they are prepared. - Update reference documents.	Nearing completion	The <i>Mornington Peninsula Shire Heritage Review</i> has been progressed as follows: <u>Stage 1: Mount Eliza, Mornington, Mount Martha</u> – completed and new Heritage Overlays applied via Amendment C174 (Parts 1 and 3) <u>Stage 2: Safety Beach to Rye (including hinterland areas like Boneo, Fingal, St Andrews Beach)</u> – review completed and to be implemented by proposed Amendment C214. C214 has been authorised by the Minister, publicly exhibited in June 2018, and due for consideration by an Independent Panel in October 2018. <u>Stage 3: Sorrento and Portsea</u> – Review underway. Amendment not yet commenced. <u>Stage 4: Somerville, Hastings, coastal townships and rural areas</u> – not yet commenced. - The <i>Boatshed and Bathing Box Heritage Study (November 2000)</i> and associated amendment of the Heritage Overlay will occur once Stage 4 of the Heritage Review is completed, in conjunction with DELWP.	1 year 1-2 years 2+ years

Action		Status	Comment	Timing
			- Existing Heritage Conservation Management Plans are in place for several areas (eg: Ranelagh, Point Nepean). No new plans have been flagged as part of Stages 1-3 of the Heritage Review, and none are anticipated as part of Stage 4. - It is noted that the Shire has an internal Significant Tree Register, with several trees noted on the register as being listed by the National Trust. However, there are currently no corresponding protection for these trees under the Heritage Overlay. As such, the register of trees requires detailed review with corresponding updates to be made to the Heritage Overlay as appropriate.	
9	Addressing environmental risks including climate change			

			the effects of climate change. Public consultation for the plan occurred in early 2017. In the meantime, Council has also adopted the following key policies, the directives of which can be translated into the new PPF as appropriate: - o <i>Carbon Neutral Policy</i> (February 2016); - o <i>Sustainable Transport Strategy 2015-2020</i>; - o <i>Integrated Local Flood Management and Drainage Strategy (2009)</i>; - o <i>Smart Water Plan (2013, updated 2018)</i>; - and - o Various Coastal Management Plans (CMPs) • <u>Bushfire management</u>: The Shire's Bushfire Management Overlay (BMO) mapping was updated on 3 October 2017 as part of Amendment GC13. Clause 22.11: Mornington Peninsula Fire Protection Policy will be reviewed as part of the PPF translation to ensure consistency with State fire policies and Council's updated Municipal Fire Prevention Plan. • <u>Landslide and erosion</u>: Landslide susceptibility modelling has been undertaken for the whole of the Mornington Peninsula. However, there is significant work still required to translate the outcomes into Erosion Management Overlay mapping. Council's adopted Water Conservation	1 year 2-3 years
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			Management Plan – <i>Smart Water Plan: An Integrated Approach to Water Management for the Mornington Peninsula (adopted in 2013)</i> also recommends research to support the development of new erosion management provisions in the planning scheme. This work has not yet commenced and is subject to further budgetary approval. • <u>Flooding and coastal inundation:</u> Overlays are being progressively introduced generally in accordance with the implementation of the <i>Mornington Peninsula Shire Integrated Local Flood Management and Drainage Strategy (2009)</i> and further relevant drainage modelling by Melbourne Water. Amendment C216 has been prepared to apply the Land Subject to Inundation Overlay (LSIO) to land identified by Melbourne Water as vulnerable due to hazards associated with coastal erosion, flooding, sea level rise and storm surge around Western Port. The Amendment is due for consideration by an Independent Panel in July 2018. Further modelling for the balance of the Shire (ie. Port Phillip side) will be undertaken as part of the Third Phase Coastal Hazard Assessment for Sea Level Rise and Inundation by DELWP and Melbourne Water. This work is due for completion on 2019, with an amendment to	2-4 years
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			follow in 2020. The 2018 Planning Scheme Review provides further recommendations around the introduction of the Special Building Overlay (SBO) to capture local flooding. The Shire has recently completed mapping for overland flooding and temporary storage, and is presently updating report and consent mapping – all of which could be translated into SBO mapping to ensure all flooding risks are captured in the planning scheme. • <u>Potential land contamination</u>: An audit and review of potentially contaminated land and Environmental Audit Overlay mapping is currently underway to ensure all sites of potential contamination are identified in the planning scheme. Any amendments to mapping will be captured as part of a general amendment following adoption of the 2018 Planning Scheme Review. • <u>Salinity</u>: As identified in the 2014 Review, there are regional studies of salinity, however, more detailed information is needed at the local level before introduction of the Salinity Management Overlay (SMO) is appropriate. This strategic work remains outstanding and is subject to budgetary approval.	1 year 4+ years
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Action		Status	Comment	Timing
10	Influencing housing affordability			

	Update the MSS, local policies and overlays with any affordable housing policy directions arising from the Housing and Settlement Strategy and draft Triple A Housing Plan.	In progress	Council's adopted position on housing affordability is currently set out in <i>Mornington Peninsula's Social and Affordable Housing Policy (2011)</i>. Council is currently reviewing and updating this policy which will be translated into the <i>Triple A Housing Plan</i> to define community outcomes that are sought and set objectives and actions to work towards them, as well as guide Council decision making in relation to matters of social and affordable housing, including homelessness. Once finalised, the Plan can form the basis for any implementation of policy into the planning scheme. The <i>Mornington Peninsula Housing and Settlement Strategy</i> (December 2017) recognises that many factors that influence housing affordability are beyond the control of any individual Council. The HSS nevertheless advocates that Council can work to influence: • the private housing market to supply more diverse housing to improve affordability, and • supply and targeting of social housing, in partnership with social housing providers and State government. The HSS notes that Council is currently investigating options available for increasing the provision of social housing on the Peninsula (Triple A Plan) and	Ongoing
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Action		Status	Comment	Timing
			these projects will be subject to further consultation in due course. Council also awaits further direction from State government, including any amendments to the State Planning Policy Framework as part of implementing Action 2.3.1 of Plan Melbourne which seeks to '<i>Facilitate growth in the social housing sector</i>'. Since adoption of the HSS, and as noted in Section 5 of this report, landmark changes were made to the <i>Planning and Environment Act 1987</i> to introduce a legislative framework into the planning system that facilitates the provision of affordable housing via voluntary arrangements with the private sector. The intent is to provide certainty in relation to how affordable housing can be provided. Whilst no associated updates to State planning policy in the VPPs has yet been made, it is nevertheless prudent that Council review its current affordability policy and update the local planning policy framework accordingly.	
11	Supporting open space			

Action	Status	Comment	Timing
• Apply the Public Park and Recreation Zone (PPRZ) to all the areas that are currently functioning as open space (many are zoned residential) • Apply a higher developer contribution for the provision of open space where it is warranted. • Secure new open space (eg. State land in Hastings that has been previously offered for this purpose).	Not commenced	Council's <i>Open Space Strategy</i> was adopted in 2003. Given the Strategy is now 15 years old, it requires comprehensive review as a matter of priority.	2-3 years
		Review of the Strategy will occur alongside investigations for a formalised Shire-wide Development Contributions Plan. Given the substantial nature of this work, it is expected that implementation of a DCP will be staged, subject to budgetary approval.	
		It is noted that an Active Recreation (Sports Capacity Study) is due for adoption in mid-2018. However, this strategy does not take into account passive open space and accessibility. Nevertheless, any relevant policy directives will be integrated into the planning scheme, as appropriate, potentially as part of the general amendment to follow adoption of the 2018 Planning Scheme Review.	1 year
		Council is also completing a review of existing public open space across the Shire to ensure each parcel is appropriately zoned. Any consequential zoning changes will be captured as part of the general amendment following the 2018 Planning Scheme Review.	1 year

Action	Status	Comment	Timing
12	Strengthening health and wellbeing provisions		
• Provide an updated particular provision schedule for gambling to better identify strip shopping centres, and a new local policy related to gaming. • A new local policy related to liquor.	Partially complete	Amendment C200 was approved by the Minister on 24 May 2018. The amendment updated the MSS and inserted Clause 22.22: Gaming and gaming machines into the scheme, as well as amending the Schedule to Clause 52.28 to update the list of shopping complexes within which the installation of a gaming machine is prohibited. Council's adopted: <i>Health Hope and Happiness II – Health and Wellbeing Plan 2013-2017</i> calls for a local planning policy regarding packaged liquor outlets. Research conducted by the South East Melbourne (SEM) Councils' Consortia Working Group resulted in the preparation of Amendment GC088. The amendment was submitted to the Minister for authorisation on 30 May 2018.	1 year
13	Increasing regional coordination		

Action	Status	Comment	Timing
Continue to seek cooperation of the State Government and municipalities that about Western Port to extend the Planning Scheme into Western Port, including Marine National Park and Reserve areas, and to apply relevant zones and environmental significance overlays having regard to achieving: • Standardisation for improved environmental outcomes. • Consistency in public consultation methodologies.	Not commenced (pending involvement of other parties)	Work on this item has still not commenced, largely due to the same reasons noted in the 2014 Review, including the lack of data about the exact water mark, the diversity of schemes and provisions involved, and the complexity of developing a common position and a driver for action between all parties. Council will continue to advocate for this work, but requires the active engagement of all parties to proceed.	4+ years
14	Providing for commerce and industry		

	Review of employment areas and examining the likely spatial impact of the reformed zones on commercial and industrial uses may yield outcomes that should be implemented through new local policies or rezonings.	In progress	The <i>Mornington Peninsula Activity Centre Strategy Review</i> was adopted in April 2018 in unison with the <i>Mornington Peninsula Industrial Areas Strategy</i> – the first of its kind for the Peninsula. The Activity Centre Strategy Review provides an updated target of retail and commercial floorspace, a revised hierarchy of activity centres, and revised vision statement and associated set of objectives. These directives are to be integrated into the scheme as part of the re-write of local policy for translation to the new “Planning Policy Framework”. The Review does not provide guidance as to the preferred location of land uses, nor does it set objectives and standards for design – this detail is to be taken up in respective activity centre structure plans and/or urban design frameworks with associated planning scheme amendments to follow. The Industrial Areas Strategy provides a vision statement and set of strategic objectives which are to be translated into the new “Planning Policy Framework”. The Strategy also recommends: • Retention and continued application of the Industrial 3 Zone;	1 year (policy amendments) 2-4 years (site specific rezonings)
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Action		Status	Comment	Timing
			- Investigating industrial rezonings in land adjacent to existing industrial areas at Somerville, Hastings and Tyabb; - Investigating possible application of the Special Use Zone for larger sites; and - A series of site specific rezonings.	
	Investigation of the need for Parking Overlays to be applied in town centres would also be appropriate.	Not commenced	Strategic work around traffic and transport has been undertaken for some parts of the Shire since the last Review (eg. Sorrento township). However, a comprehensive investigation into the merits of introducing the Parking Overlay to the planning scheme has not yet commenced owing to budgetary constraints. This recommendation, however, remains a high priority for Council, particularly for the Major Activity Centres of Rosebud, Hastings and Mornington. The potential for introducing a schedule to Clause 52.06: Car Parking will also be investigated.	2-3 years
15	Recognising pipelines			

Action	Status	Comment	Timing
	Review maps as part of DDO8. Schedule 8 to the Design and Development Overlay – Pipeline Policy Area was introduced in 2006 however no corresponding maps exist.	Incomplete Given pipelines are already afforded protection under the <i>Pipelines Act 1967</i>, this action was a low priority and remains incomplete. It is noted that the pipeline alignments were originally mapped in the Hastings Port Industrial Area Planning Scheme (HPIAPS) which was prepared by the Western Port Regional Planning Authority (WPRPA) in 1981. This planning scheme was later translated to Chapter 2 of the Hastings Planning Scheme (HPS) when the WPRPA ceased operations. The pipeline mapping has been retained by Council, but needs to be verified by the relevant authorities, as does the schedule ordinance.	1 year

APPENDIX 2: Amendments Since 2014 Planning Scheme Review

Amendment	Date	Description
C185	15 Jan 2015 (Finished)	Corrects schedules 19 and 20 of the Design and Development Overlay by inserting the gazettal date of Amendment C163 part 2 (27 March 2014) in designated places.
C174 (Part 3)	05 Mar 2015 (Finished)	Apply Heritage Overlays to 12 - 14 Osborne Drive, Mount Martha (HO391) and 21 and 23 Ravenscourt Crescent, Mount Eliza (HO398).
C174 (Part 1)	26 Mar 2015 (Finished)	Applies the heritage overlay to various places in Mornington and Mount Eliza.
VC124	02 Apr 2015	- The amendment changes the Victoria Planning Provisions (VPP) and all planning schemes by: Amending Clause 19.01-1 'Provision of Renewable Energy' to reference the updated Policy and planning guidelines for development of wind energy facilities in Victoria (Guidelines). - Amending Clauses 42.01 'Environmental Significance Overlay', 42.02 'Vegetation Protection Overlay', 42.03 'Significant Landscape Overlay', 44.01 'Erosion Management Overlay', 44.02 'Salinity Management Overlay', 52.16 'Native Vegetation Precinct Plan' and 52.17 'Native Vegetation' to introduce an exemption from requirements to obtain a permit to remove, destroy or lop vegetation and to update references to the name of a government department. The permit exemption applies to vegetation removed, destroyed or lopped on Crown land and by a person acting under and in accordance with an authorisation order made under sections 82 or 84 of the Traditional Owner Settlement Act 2010. - Amending Clause 52.32 'Wind Energy Facility' to reduce the allowable distance of a turbine to a dwelling from two kilometres to one kilometre (consent is required from the owner of a dwelling to locate a turbine closer than one kilometre to the dwelling) clarify the application of the one kilometre rule to applications for minor amendments to existing permits reference the updated Guidelines. - Amending Clause 61.01-1 'Minister is the Responsible Authority' to make the Minister for Planning the responsible authority for all new planning permit

Amendment	Date	Description
		applications for the use and development of land for the purpose of a Wind energy facility.
C176 (Part 2)	16 Apr 2015 (Finished)	1. Apply ESO and rezone 520 Arthurs Seat Road and Reserve No 1, Red Hill to part Green Wedge and part Public Conservation and Resource. 2. Rezone 70 Mountain View Road, Mt Eliza to Commercial 1. 3. Remove part of the Heritage Overlay at 2A Erlandsen Avenue, Sorrento.
C188 (ESO Tootgarook Wetland)	27 Apr 2015 (Split Amendment)	Applies a new Environmental Significance Overlay Schedule over Tootgarook Wetland and a new Design and Development Overlay Schedule in part of Bittern, and updates the Scheme by correcting anomalies, recognising parks and reducing redundant provisions.
VC119	30 Apr 2015	The amendment changes the Victoria Planning Provisions and all planning schemes by: • amending Clause 52.38 (2009 Bushfire recovery) to extend the timeframe for continued use of a building for temporary accommodation without a planning permit to 30 September 2018; • amending Clause 52.39 (2009 Bushfire - Replacement buildings) to extend the timeframe for submitting a site plan to the responsible authority for rebuilding a dwelling, dependent person's unit or building used for agriculture to 30 September 2017
C184 (Part 1)	21 May 2015 (Finished)	Corrects mapping anomalies and deletes redundant controls in Tyabb and Mornington.
VC125	11 Jun 2015	The amendment changes the Victoria Planning Provisions and all planning schemes by amending: • Amending Clause 19.01-1 'Provision of Renewable Energy' to reference the updated Policy and planning guidelines for development of wind energy facilities in Victoria (Guidelines). • Amending Clause 52.32 'Wind energy facility' to reference the updated Guidelines and update the application requirements to address the electricity transmission or distribution system. • Amending Clause 74 'Land Use Terms' to change the definition of Wind energy facility to include the use of the transmission or distribution system of power lines to connect the wind energy facility to the electricity network.
C174 (Part 2)	18 Jun 2015 (Abandoned)	Applies the heritage overlay to 47 Rosserdale Crescent, 1/32 Wimbledon Crescent, 135 Rutland Avenue, 33 Wimborne Avenue, 40 Canadian Bay Road Mount Eliza.

Amendment	Date	Description
C188 (Part 1)	24 Jun 2015 (Finished)	The amendment corrects mapping anomalies in the Mornington Planning Scheme and amends Clause 21.12 and Schedule 14 to the Design and Development Overlay to introduce the Flinders Village Centre Statement of Significance (2009) as a reference document.
C188 (Part 3)	27 Aug 2015 (Finished)	Extend the Public Park and Recreation Zone; Schnapper Point, Mornington and deletes the Environmental Significance, Schedule 27 Merricks Beach Environment Management (Schedule and map).
VC128	08 Oct 2015	The amendment changes the Victoria Planning Provisions and all planning schemes by: • Amending Clause 18.04-1 (Melbourne Airport) and Clause 18.04-2 (Planning for airports) to include the National Airports Safeguarding Framework (NASF) as a policy guideline. • Amending Clause 18.04-1 (Melbourne Airport) to update the policy guidelines by replacing Melbourne Airport Master Plan (Australia Pacific Airports (Melbourne) Pty Ltd, September 2008) with Melbourne Airport Master Plan, 2013. • Amending Clause 11.14-1 (Localised planning statements) to include the Bellarine Peninsula Localised Planning Statement (Victorian Government, 2015) (BPLPS) as a policy guideline.
VC101	29 Oct 2015	Makes changes to the Victoria Planning Provisions (VPP) and all planning schemes. The amendment updates reference and incorporated documents, ensuring that up to date policy is reflected in the planning system and removing ambiguity about the status of some policies; ensures that the VPP and planning schemes are up to date and correct by removing expired provisions, clarifying the wording of other provisions and correcting errors and omissions; ensures the VPP and all planning schemes include the correct names of government departments where their titles have changed, and ensures that referral and notice requirements to bodies under sections 55 and 52(1)(c) of the Planning and Environment Act 1987 are accurate.
VC107	26 Nov 2015	The amendment makes changes to the wind energy planning provisions and updates documents that relate to airport planning provisions.
VC121	21 Dec 2015	The amendment changes the State Planning Policy Framework (SPPF) of the Victoria Planning Provisions (VPP) and all planning schemes by relocating an updated

Amendment	Date	Description
		Clause 11.04-9 (River corridors) to a new Clause 12.05 (Rivers), and introduces a new Clause 12.05-2 (Yarra River protection).
C184 (Part 3)	14 Jan 2016 (Finished)	Deletes Design and Development Overlay 7 and applies Development Plan Overlay 19 and Design and Development Overlay 22 on 141 and C173 Bungower Road, 61 Baldock Road and part 71 Baldock Road Mornington.
VC126	28 Jan 2016	The amendment changes the Victoria Planning Provisions (VPP) and all planning schemes by: Amending Clause 52.32 (Wind energy facility) to: • exempt an application to amend a permit for a wind energy facility made under section 971 of the Planning and Environment Act 1987 (the Act) from requirements in section 97E (if the amendment of the permit does not increase the number of turbines or change the location of a turbine in specified circumstances), • clarify that the location of a turbine is measured from the centre of its tower at ground level for the purpose of provisions relating to the amendment of a permit, • update the reference to the Policy and Planning Guidelines for Development of Wind Energy Facilities in Victoria (the guidelines), which have been amended to reflect the amendments to Clause 52.32, and make minor corrections. • Amending Clause 19.01-1 (Provision of renewable energy) to update the reference to the guidelines and delete reference to the outdated Renewable Energy Action Plan (Department of Sustainability and Environment, July 2006). • Amending Clause 61.01 (Administration and enforcement of this scheme) to remove the Minister for Planning's designation as the responsible authority for matters under expired Clauses 52.40 (Government funded education facilities) and 52.41 (Government funded social housing).
VC127	04 Feb 2016	The amendment changes the Victoria Planning Provisions and all planning schemes by: • Amending Clauses 11 (Settlement), 12 (Environmental and Landscape Values) and 13 (Environmental Risks) of the State Planning Policy Framework to update reference to the Victorian

Amendment	Date	Description
		Coastal Strategy (Victorian Coastal Council, 2008) with reference to the 2014 version. Amending Clause 52.23 (Shared Housing) to clarify that only the use of land and not development is exempt from a permit under the provision. The amendment changes the Bass Coast, Bayside, Colac-Otway, Corangamite, East Gippsland, Frankston, French Island and Sandstone Island, Glenelg, Hobsons Bay, Kingston, Mornington Peninsula, Moyne, Port Phillip, Queenscliffe, Warnambool, Wellington and Wyndham Planning Schemes by amending any local policies that refer to any outdated Victorian Coastal Strategy with reference to the 2014 version.
C188 (Part 2) (Design Development Overlay 23 and Environmental Significance Overlay – Tootgarook Wetland)	10 Mar 2016 (Finished)	Insert and apply a new Design and Development Overlay, Schedule 23 (DDO23) - Hendersons - Creswell Residential Precinct and Vegetation Protection Overlay, Schedule 1 (VPO1). Replace the existing Environmental Significance Overlay, Schedule 24 (ESO24) and introduce and apply a new Environmental Significance Overlay, Schedule 30 (ESO30) – Tootgarook Wetland.
C225 (Arthurs Seat Skylift Development)	02 Jun 2016 (Finished)	Amend the schedule to Clause 61.01 of the Mornington Peninsula Planning Scheme to make the Minister for Planning the responsible authority for administering the planning scheme and considering and determining associated matters by a permit for the Arthurs Seat Skylift Development.
VC130	04 Jul 2016	The amendment changes the Victoria Planning Provisions (VPP) and all planning schemes by amending Clause 52.32 (Wind energy facility) to delete clause 52.32-8 to restore the panel hearing process where submissions are received regarding relevant permit amendment applications.
GC53	11 Aug 2016	Amends the seven planning schemes to correctly reflect the declaration of various main roads and freeways alignments under the Road Management Act 2004 and includes surplus land into the surrounding zone or underlying zone and removes redundant Public Acquisition Overlays.
C133	11 Aug 2016 (Finished)	Authorisation No. A01438 The amendment updates Clause 21.09 – Planning for rural areas, and replaces the expired 'Green wedge camping and caravan park' local policy with a new,

Amendment	Date	Description
		permanent local policy titled 'camping and caravan park outside the urban growth boundary' at Cause 22.19 of the Mornington peninsula Planning Scheme.
C192	11 Aug 2016 (Finished)	Amends the schedules to Clause 52.03 and Clause 81.01 to replace 'Moorooduc Coolstores Development, April 2008' with 'Moorooduc Coolstore, August 2015.'
C193 (Stuart Rd Tyabb)	19 Aug 2016 (Abandoned)	Inserts a new Incorporated Document 'Stuart Road, Tyabb April 2016' and amend Clause 52.03 specific sites and exclusions.
GC52	29 Sep 2016	Rezones surplus government land at Warrenbayne, Markwood, Glenmaggie, Seymour, Daylesford, Brunswick, North Melbourne and Somerville.
C184 (Part 2)	04 Oct 2016 (Panel Report to Planning Authority)	Replaces the Design and Development Overlay Schedule 7 (DDO7) with Development Plan Overlay Schedule 19 (DPO19) and Design and Development Overlay Schedule 22 (DDO22) at 141-173 Bungower Road, Mornington, 61 Baldock Road, Mornington and part of 71 Baldock Road, Mornington.
C184 (Part 4)	04 Oct 2016 (Waiting on Council)	Rezones surplus South East Water land at 57 Kunyung Road, Mount Eliza from Public Use Zone – Schedule 1 (PUZ1) to Neighbourhood Residential Zone – Schedule 1 (NRZ1); applies the Environmental Audit Overlay (EAO) to the site and introduces an Incorporated Document in the Schedule at Clause 52.03.
C189 (Beleura Hill DDO)	20 Oct 2016 (Finished)	The amendment amends the Clause 21.12 to the Mornington Peninsula Planning Scheme to insert Beleura Hill Design Guidelines, April 2015 and Mornington Peninsula Investigation Areas Study Mount Martha Discussion Paper, May 2015 as new references documents; replaces the Design and Development Overlay Schedule 1 with a new Schedule 24 on properties in the Beleura Hill area in Mornington; replaces the Design and Development Overlay Schedule 1 with Schedule 2 on properties in the Birdrock / Clarkes Avenue area in Mount Martha; and corrects an anomaly to land at 1-5 John Rowell Lane, so that the Design and Development Overlay Schedule 3 applies to the whole of the land.
C161 (Yaringa Harbour SUZ Schedule 9)	27 Oct 2016 (Finished)	The amendment amends land zoned Special Use Zone (Schedule 1) and Public Conservation and Resource Zone to Special Use Zone (Schedule 9) to enable consideration of an inland expansion of the existing Yaringa Harbour and tourist accommodation, applies the Environmental Significance Overlay Schedule 5 over the entire site, applies the Environmental Audit Overlay to Lot

Amendment	Date	Description
		5 LP53675, Lot 7 LP 53675 and Lot 1 PS424206Q and amend the schedule to Clause 61.03 to insert a new Planning Scheme Map sheet numbered 10EAO.
C191	10 Nov 2016 (Finished)	The amendment inserts two new Schedules to the Development Plan Overlay and applies them to 11-13 Mountain View Road, Mount Eliza and 470-474 Browns Road, Rye. Rectifies zoning anomalies on land at 318 Wallaces Road, Dromana (land no. 33011) and 50 Spray Street, Rosebud.
VC131	23 Nov 2016	The amendment changes the Victoria Planning Provisions and all planning schemes by amending Clause 52.19 - Telecommunications facility, to exempt a permit application for a telecommunications facility funded (or partly funded) under the Commonwealth Government's Mobile Black Spot Programme from the notice and review requirements of the Planning and Environment Act 1987.
C203	15 Dec 2016 (Finished)	The amendment introduces interim design standards in the form of Schedule 28 to the Design and Development Overlay and generally apply it to the commercial centre of Sorrento. Amongst other matters, the amendment will have the effect of introducing new design and development restrictions as generally summarised below (refer to DDO28 for full details): • A mandatory maximum building height for all development on Ocean Beach Road. • Specifies mandatory side and rear setbacks for development on Ocean Beach Road. • Requires all development to be assessed against the requirements under the relevant sub-precinct of Ocean Beach Road as detailed in the "Ocean Beach Road Commercial Precinct Sorrento Heritage Policy – For Planning Applications for Places in the Heritage Overlay - September 2015 – HLCD Pty Ltd" The transitional provision means that an application made before Amendment C203 is approved will continue to be assessed under the Planning Scheme provisions that existed before C203 came into force. The expiry provision provides an 18 month life for the interim DDO28 which will provide sufficient time for the processing of Planning Scheme Amendment C204 which is proposing the permanent introduction of DDO28 to limit the building height and scale of future development on and around Ocean Beach Road, Sorrento.

Amendment	Date	Description
C197 (Carrington Park Heritage Overlay)	09 Feb 2017 (Finished)	Inserts the Heritage impact statement former Carrington Park club house 40-52 Elizabeth Drive, Rosebud prepared for Storemaker Pty Ltd, Appendix A Heritage citation prepared by Lovell Chen, 2014, (Lovell Chen, December 2014) as a reference document, deletes the Environmental Significance Overlay - Schedule 9 from 40-52 Elizabeth Drive, Rosebud within the General Residential Zone, applies the Development Plan Overlay – Schedule 22 to enable the integrated redevelopment and subdivision of the site, applies the Heritage Overlay to protect the existing building on the site.
VC110	27 Mar 2017	Implements the government's response to the recommendations of the Managing Residential Development Advisory Committee by amending Clause 72 to introduce a new general term, "garden area" and amending the Neighbourhood Residential Zone, General Residential Zone, Residential Growth Zone, Mixed Use Zone and Township Zone.
VC135	27 Mar 2017	The amendment introduces additional classes of application into the VicSmart provisions, and increases the 'cost of development' threshold of some existing VicSmart buildings and works classes of application.
VC134	31 Mar 2017	The amendment changes the Victoria Planning Provisions and all planning schemes in Victoria by introducing the new Metropolitan Planning Strategy and making corresponding updates to the State Planning Policy Framework. It also restructures Clause 11, includes policy-neutral updates and administrative changes and introduces new and updated incorporated and reference documents.
VC136	13 Apr 2017	Better Apartments Design Standards - Amendment VC136 introduces State-wide planning requirements for apartment developments.
C202 (NRZ Mornington East)	04 May 2017 (Authorisation Refused by the Minister)	The amendment: • Introduces the Neighbourhood Residential Zone (NRZ) into the Mornington Peninsula Planning Scheme; • Rezones the land from General Residential Zone Schedule 1 (GRZ1) to Neighbourhood Residential Zone Schedule 1 (NRZ1); Amongst other matters, the amendment will have the effect of introducing new restrictions, as generally summarised below:

Amendment	Date	Description
		- Require a minimum lot size of 650 square metres for any new lot within the Mornington East area. - Limits development to one dwelling per lot. - Includes additional requirements to be considered pursuant to Clause 54 and Clause 55 generally relating to fencing heights, side boundary setbacks and minimum areas of secluded private open space.
C205	11 May 2017 (Finished)	The amendment modifies or removes relevant provisions within some the schedules to the Environmental Significance Overlay (ESO), Significant Landscape Overlay (SLO), Vegetation Protection Overlay (VPO) and Design and Development Overlay (DDO); amends mapping anomalies at 8 Townsend Lane, Mornington, 13 Phillipa Street, Blairgowrie, 12 Hotham Road, Sorrento and 75 Bungower Road, Somerville; and introduces the Vegetation Protection Overlay – Schedule 1 to the Birdrock and Clarkes Avenue area in Mount Martha.
VC133	25 May 2017	The amendment corrects inconsistencies and improves the structure of planning schemes to enable their migration into the Planning Scheme Information Management System (PSIMS) to improve access to, and more efficient amendment of, the planning schemes in Victoria. The changes are administrative and technical corrections and will align with a new Ministerial Direction on The Form and Content of Planning Schemes issued under section 7(5) of the Planning and Environment Act 1987 (the Act).
C201 (Interim DDO Mornington East)	29 May 2017 (Authorisation Refused by the Minister)	The amendment introduces interim provisions over the land to enable the exhibition and processing of Mornington Peninsula Planning Scheme Amendment C202 which proposes a permanent control over the land known as Mornington East to limit subdivision and development in accordance with the <i>East Mornington Outline Development Plan (Modified July 1989)</i>. The amendment: - Inserts a new Schedule 25 to Clause 43.02 Design and Development Overlay (DDO25 – Mornington East Outline Development Plan) - Amends Planning Scheme Maps 5DDO, 6DDO, 12DDO and 13DDO. Amongst other matters, the amendment will have the effect of introducing new restrictions, as generally summarised below (refer to the DDO25 for full detail):

Amendment	Date	Description
		- Require a minimum lot size of 650 square metres for any new lot within the Mornington East area. - Limits development to one dwelling per lot. - Include new front fence requirements that may be varied with a permit. The transitional provisions mean that an application made before Amendment C201 is approved will continue to be assessed under the planning scheme provisions that existed before C201 came into force. The expiry provision provides an 18 month life for the interim DDO25 which should provide sufficient time for the processing of Planning Scheme Amendment C202 which is proposing the permanent introduction of the Neighbourhood Residential Zone, Schedule 1 (NRZ1) to limit subdivision and development. 78 Normandy Road, Sorrento Rezones the existing land parcel from Public Conservation and Resource Zone (PCRZ) to Public Use Zone, Schedule 5 – Cemeteries (PUZ5).
C207 (Heritage Overlay Jacksons Rd Mt Eliza)	30 Jun 2017 (Superseded see C208)	The amendment applies to the former <i>Mount Eliza Centre</i>, 33-33A Jacksons Road, Mount Eliza. The amendment applies a Heritage Overlay to the subject land, on a permanent basis. Specifically, the amendment applies the Heritage Overlay to the most significant buildings on the site: - Administration Building - Swimming Pool building - Chapel/Mortuary - Moreton Bay Fig outside the Administration Building The amendment: - Amends the schedule to the Heritage Overlay (Clause 43.01) to include the land at 33-33A Jacksons Road, Mount Eliza. - Amends Planning Scheme Map 1HO to include the significant parts of the subject land. - Amends Clause 22.04 to include reference to the Heritage Citation for the subject site.
GC64	30 Jun 2017	- Rezones land at 181-183 Jetty Road, 14 Cook Avenue, 318 Bayview Road, and Herman Street Reserve, Rosebud from Public Use Zone - Schedule 1 to General Residential Zone - Schedule 1; - Rezones land at Part 95 Williamsons Road, South Morang from Public Use Zone- Schedule 1 to Mixed Use Zone and applies the

Amendment	Date	Description
		- Development Plan Overlay and the Vegetation Protection Finished 30/06/2017 Overlay - Schedule 1; - Reduces the extent of Heritage Overlay - Schedule 62 and Heritage Overlay – Schedule 63 at 145 Studley Road, Heidelberg.
C208	06 Jul 2017 (Finished)	The amendment applies a Heritage Overlay to the subject land, on an interim basis. Specifically, the amendment proposes to make the following changes to the Mornington Peninsula Planning Scheme: Application of a Heritage Overlay (HO399) to 33-33A Jacksons Road, Mount Eliza, on an interim basis through: a. Updating Mornington Peninsula Planning Scheme Map 1HO to apply HO399; and b. Updating the Schedule to Clause 43.01 – Heritage Overlay to add HO399.
VC137	27 Jul 2017	The amendment introduces additional classes of application into the VicSmart provisions for residential zones.
C213 (Dromana Residential Area)	09 Aug 2017 (Authorisation Refused by Minister)	The amendment applies new planning controls in order to recognise and protect neighbourhood character elements specific to the local area. The amendment: - Inserts two new schedules to the Design and Development Overlay (Schedules 30 and 31) into the Mornington Peninsula Planning Scheme - Amends planning maps 16DDO, 27DDO and 28DDO to reflect the application of DDO30, DDO31; expansion of the area covered by DDO3; and deletion of DDO1 from the area where DDO31 is proposed to apply - Amends planning map 16VPO, 27VPO and 28VPO to reflect the application of VPO1
C068	29 Aug 2017 (Finished)	The amendment makes various changes to simplify the planning system by prohibiting matters that are always refused, removing unnecessary permit requirements, and rectifying site specific anomalies; it: Deletes the Restructure Overlay from land that has been restructured and revises the relevant restructure plans including additional minor changes consistent with the underlying principles of the restructure. Amends the Design and Development Overlay Schedule 4 subdivision provisions by introducing a clearer format and inserting an additional provision to apply a one hectare minimum lot size to land that was previously subject to the Bittern Crib Point

Amendment	Date	Description
		Restructure Plan RO1. Better aligns zones and overlays to property boundaries and base information including land ownership. Applies a Public Acquisition Overlay to extend the Mornington Peninsula National Park to 23, 25 and 26 Fingal Rd and 188 Cape Schanck Rd, Cape Schanck. Deletes a Public Acquisition Overlay for a road widening on the north side of High St, Hastings between Hendersons Rd and Frankston-Flinders Rd. Amends Design and Development Overlay Schedule 6 to prohibit more than one dwelling on a lot in areas outside the Urban Growth Boundary. Amends the Special Use Zone Schedule 4 and the Environment Significance Overlay Schedule 19 to delete a permit requirement for particular dwellings in the Mount Martha Valley Country Club Estate.
VC139	29 Aug 2017	Introduces new planning requirements for racing dog facilities and inserts new reference documents for urban design guidelines and apartment design guidelines.
C212 (Interim DDO29 – mandatory height controls)	06 Sep 2017 (Authorisation Refused)	The amendment applies to all land that this is zoned General Residential Zone that is not currently affected by a Design and Development Overlay. This does not include land that is proposed to be rezoned General Residential Zone Schedule 2 (proposed through Amendment C190) and land that is proposed to be zoned General Residential Zone Schedule 6 (proposed through Amendment C206). The amendment applies Design and Development Overlay Schedule 29 to 24,262 sites on the Mornington Peninsula, across the townships of Capel Sound, Rosebud, Dromana, Mount Martha, Mornington, Baxter, Somerville, Tyabb, Hastings and Bittern. The planning controls will manage building heights for residential development and will align these discrete areas with other General Residential land on the Peninsula, all of which are affected by a Design and Development Overlay. The overlay schedule will introduce a <u>mandatory building height of 9 metres/2 storeys</u> for residential development in these areas. This reflects the standard building height requirement of the Neighbourhood Residential Zone. The overlay schedule will not create new planning permit triggers, however the mandatory building height will apply regardless of whether a permit is triggered by this overlay.

Amendment	Date	Description
		The Schedule is an interim control and has an expiry date of two years. This will allow for the exhibition and implementation of the Mornington Peninsula Housing and Settlement Strategy, following the recent release of the PLAN MELBOURNE Refresh, which is likely to result in the application of a similar planning control for these areas on a permanent basis. A full planning scheme amendment process, including public exhibition, will occur for any permanent controls.
C163	06 Sep 2017 (Finished)	Introduces three new schedules to the Design and Development Overlay and applies the Vegetation Protection Overlay, Schedule 1, to the township of Crib Point.
VC132	19 Sep 2017	Amendment VC132 is a general amendment that makes a number of administrative corrections and other changes to the Victoria Planning Provisions (VPP) and all planning schemes in Victoria.
GC13	03 Oct 2017	Updating mapping for the Bushfire Management Overlay
VC141	21 Nov 2017	- Amending Clause 43 01 - Heritage Overlay, to ensure that an application to subdivide land for a place which is included in the Victorian Heritage Register is referred to the Executive Director under the Heritage Act 2017. - Amending Clause 52.19 - Telecommunications facility, to exempt a permit application for a telecommunications facility funded (or partly funded) under the Commonwealth Government's Mobile Black Spot Program from the notice and review requirements of the Planning and Environment Act 1987 (the P&E Act). - Amending Clause 52.32 wind Energy Facilities, to reflect changes proclaimed through the Planning and Building Legislation Amendment (Housing Affordability and Other Matters) Act 2017 in relation to an amendment to a planning permit for a windfarm. - Amending Referral and Notice Provisions, to include the Executive Director specified in the Heritage Act 2017 as a determining referral authority for an application to subdivide a heritage place included in the Victorian Heritage Register. - Amending the VPP to update the style and format based on the revised Ministerial Direction on the Form and Content of Planning Schemes (updated April 2017) issued under section 7(5) of the P&E Act.

Amendment	Date	Description
C190 (Hasting Town Centre Structure Plan)	24 Nov 2017 (Submitted to the Department for Approval)	The amendment implements recommendations of Hastings Town Centre Structure Plan, November 2014 by giving it a statutory effect, with the intention to guide future land use and development in the Hastings activity centre.
C206 (Rosebud Activity Centre Structure Plan)	24 Nov 2017 (Submitted to the Department for Approval)	The amendment implements the recommendations of the Rosebud Activity Centre Structure Plan, September 2016 by giving it statutory effect, with the intention to guide future land use and development in the Rosebud Activity Centre.
VC138	12 Dec 2017	Native Vegetation Framework.
VC140	12 Dec 2017	The amendment changes the VPP and all planning details schemes in Victoria by: • Inserting an updated State Planning Policy Framework at Clause 10 Operation of the State Planning Policy Framework. • Inserting an updated State Planning Policy Framework at Clause 13 Environmental Risks.
VC142	16 Jan 2018	The amendment includes a wide range of reforms across the VPP that generally remove permit triggers, expand permit exemptions for land uses and buildings and works, remove superfluous and outdated provisions, update references, improve and update definitions, clarify common points of confusion and improve the usability of the VPP. The amendment changes the Victoria Planning Provisions (VPP) and all planning schemes by: • Amending Clause 19.01-1-updating policy guidelines to the revised document Policy and Planning Guidelines for Development of Wind Energy Facilities in Victoria (Department of Environment, Land, Water and Planning, November 2017)
C204 (Interim Design Development Overlay Ocean Beach Rd Sorrento)	25 Jan 2018 (Finished)	The amendment implements the Ocean Beach Road Commercial Precinct Sorrento Heritage Policy, September 2015, by applying the Design and Development Overlay Schedule 28 on an interim basis until 31 July 2019 to land within the Sorrento commercial precinct.
C211 (Mount Martha Skate Park)	31 Jan 2018 (Authorisation refused by Minister)	The amendment applies to 466 Esplanade, Mount Martha. The amendment applies a Public Acquisition Overlay 2 to part of the land, to facilitate the development of a skate park and associated infrastructure. The amendment: • Inserts a new Planning Scheme Map 12PAO into the Mornington Peninsula Planning Scheme.

Amendment	Date	Description
		Amends the Schedule to Clause 61.03 to include the new planning scheme map in the Mornington Peninsula Planning Scheme.
C219 (Housing Settlement Strategy)	16 Feb 2018 (With Minister for Authorisation)	Amendment C219 applies to all land within the Mornington Peninsula Shire. The Amendment C219 implements a key recommendation of the <i>Mornington Peninsula Housing and Settlement Strategy</i> (MPSC, 2017) [the HSS] to introduce the Neighbourhood Residential Zone (NRZ) to the Mornington Peninsula Planning Scheme (MPPS). The amendment: - Introduces and applies three new NRZ schedules to all areas currently zoned General Residential 1 (GRZ1), except select areas within the Mornington, Rosebud and Hastings Major Activity Centres; - Amends the Municipal Strategic Statement (MSS) to update content regarding population growth, demographic change and residential growth as derived from the HSS; - Amends two local planning policies to correct zoning reference errors; - Removes schedule 1 to the Design and Development Overlay (DDO) from areas to be zoned NRZ, as the maximum building height provisions of this schedule exceed those of the NRZ; - Amends various DDO schedules and associated planning scheme maps to delete provisions that either duplicate exemptions, or exceed the maximum building height prescribed by the NRZ; - Removes various Development Plan Overlay (DPO) schedules from the Planning Scheme as the development plans approved under these schedules have been implemented; - Amends the schedule to Clause 61.03 (What does this scheme consist of?) to reflect the changes in Planning Scheme Maps resulting from the above DDO and DPO changes.
VC144	27 Feb 2018	The amendment changes the Victoria Planning Provisions and all planning schemes by: Amending Clause 52.05 (Advertising signs) to: specify 'electronic sign' in Section 2 of Category 3 - High amenity areas (Clause 52.05-9), with a condition that the advertisement area must not exceed three square metres increase the size of the permitted maximum advertisement area of a

Amendment	Date	Description
		'promotion sign' in Section 2 of Category 3 from two to three square metres. Amending Clauses 52.05 and 73 to replace the term 'home occupation' with 'home based business'. Correcting minor errors in Clauses 52.05 and 62.
C174	19 Mar 2018 (Split Amendment) (Finished)	Applies the heritage overlay to 47 Rosserdale Crescent, 1/32 Wimbledon Crescent, 135 Rutland Avenue, 33 Wimborne Avenue, 40 Canadian Bay Road Mount Eliza.
C090	20 Mar 2018 (Split Amendment) (Finished)	Authorisation No A660 Includes 6 items affecting 13 sites which are at 7 and 11 Stony Point Road Crib Point, 818 Esplanade, Mornington, 2 St Aubins Way, 2 Leonard Court, 3440 and 3444 Point Nepean Road, Sorrento, 49 and 57 Eramosa Road, West Somerville, and coastal Crown Land adjacent to 9 Kildrummie Court and 3444 Point Nepean Road, Sorrento.
C126	20 Mar 2018 (Split Amendment) (Finished)	Authorisation No. A01542 Includes a range of items, mostly mapping and typing error rectifications, with a primary goal to reduce red-tape and update the planning scheme to achieve underlying intents.
C135	20 Mar 2018 (Split Amendment) (Finished)	Authorisation No. A02120. Amendment requested by the Mornington Peninsula Shire to make map and ordinance (Schedule to Clause 43.01) changes to the Heritage Overlay, in particular it deletes the individual heritage place HO123 and inserts new places for HO354 to HO359. This has the effect of including all the subject land in a Heritage Overlay and changing the classification of 60-62 Main Street from an individual heritage place (HO123) to being part of a heritage precinct place (HO355).
C176	20 Mar 2018 (Split Amendment) (Finished)	Rezones a number of properties, removes the heritage overlay from two properties and applies the Environment Significant Overlay to land in Dromana.
VC145	27 Mar 2018	The amendment changes the Victoria Planning Provisions (VPP) and all planning schemes by: - Amending the State Planning Policy Framework at Clause 11.05-2 to include the Yarra Ranges Localised Planning Statement. - Amending the Heritage Overlay at Clause 43.01 to make a series of corrections; - Amending the Telecommunications Facility provision at Clause 52.19 to provide clearer direction on notice and review exemptions; - The amendment also incorporates policy

Amendment	Date	Description
		neutral changes involving the separation of clauses and sub-clauses within the VPP and certain local planning schemes to facilitate migration to the PSIMS system.
C184	28 Mar 2018 (Split Amendment) (Finished)	Corrects mapping anomalies and deletes redundant controls in Tyabb and Mornington.
C216	26 Apr 2018 (Exhibition)	Apply the Land Subject to Inundation Overlay to land identified by Melbourne Water as vulnerable due to hazards (various), insert a new Reference Document 'Planning for Sea Level Rise Guidelines for Port Phillip and Westernport Region (Melbourne Water February 2017) and make associated changes to the Municipal Strategic Statement.
C210 (Rezoning Crib Point)	30 Apr 2018 (Panel Report to Planning Authority)	This amendment seeks to rezone land at 1 and 73 Creswell Street (except 2 Creswell Street) and 1-3 Cooma Street, Crib Point from Industrial 3 Zone to the Neighbourhood Residential Zone Schedule 1 and applies the Development Contributions Plan Overlay Schedule 1 and the Environmental Audit Overlay to land potentially contaminated. The amendment also deletes the redundant Restructure Overlay on the land.
C200 (Gaming Policy)	24 May 2018 (Finished)	To insert a new local policy for gaming and to end the list of shopping complexes within which the installation or use of a gaming machine is prohibited.
C209 (Redevelopment of Searoads Ferry Terminal)	24 May 2018 (Finished)	The amendment facilitates the redevelopment of the Sorrento Ferry Terminal by amending the Schedule to Clause 52.03 and Clause 81.01 to include Incorporated Document "Searoad Ferries – Sorrento Terminal Building and Associated Uses and Works, Incorporated Document, October 2017".
C214 (Heritage Review Stage 2)	29 Jun 2018 (Exhibition)	The amendment proposes to: • Implement the findings of the Mornington Peninsula Shire Heritage Review, Area 2 Volume 2 - Place and Precinct Citations 22 August 2016 (Revised September 2017) (The Heritage Review Stage 2) by introducing a permanent Heritage Overlay to places recommended for heritage protection. • Implement the findings of additional separately prepared citations. • Update the mapping and schedule details of some existing heritage places within the Heritage Overlay. • Re-order the list of heritage places in the Schedule to the Heritage Overlay to make listings easier to find.

Amendment	Date	Description
		Specifically, the amendment proposes to make the following changes to the Mornington Peninsula Planning Scheme. Amend the Schedule to Clause 43.01 (Heritage Overlay) and the Heritage Overlay map, to: • Introduce a new Heritage Overlay (as shown in Table 1) to: - o 53 new individual heritage places. - o 5 new group heritage places. - o 1 new heritage precinct. • Amend three (3) existing heritage places as follows: - o HO288 (<i>Kalimna Farm Complex and Farm Landscape, 3649 Frankston Flinders Road, Merricks</i>) – update the heritage place description and map in response to relocated heritage fabric and changed site conditions. - o HO297 (<i>Soldiers Memorial Off Jones Road, Somerville</i>) – remove the Heritage Overlay from this site, and update the heritage place description and map to reflect relocated heritage fabric from Jones Road, Somerville to Fruitgrowers Reserve. - o HO296 (Fruitgrowers Reserve) – update the Heritage Overlay map to remove the part of HO296 which is now proposed to be affected by HO297. • Re-order the Schedule to the Heritage Overlay so that heritage places are listed by Township, and then alphabetically by street address.

APPENDIX 3: Audit of VCAT Decisions

Analysis of Reviews by the Victorian Civil and Administrative Tribunal



Planning Scheme Review 09 July 2018

Strategic Planning Peninsula Wide Team

Glossary of Abbreviations

BMO	Bushfire Management Overlay
C1Z	Commercial 1 Zone
CBD	Central Business District
DDO	Design and Development Overlay
DELWP	Department of Environment, Land, Water and Planning
ESO	Environmental Significance Overlay
GRZ	General Residential Zone
GWZ	Green Wedge Zone
HO	Heritage Overlay
HSS	Housing and Settlement Strategy
LPPF	Local Planning Policy Framework
MPPS	Mornington Peninsula Planning Scheme
MPS	Mornington Peninsula Shire
NOD	Notice of Decision
NRZ	Neighbourhood Residential Zone
PPN	Planning Practice Note
SPPF	State Planning Policy Framework
UGB	Urban Growth Boundary
VCAT	Victorian Civil and Administrative Tribunal
VPO	Vegetation Protection Overlay

1.0 Executive Summary

Mornington Peninsula Shire Council is required to formally review the Mornington Peninsula Planning Scheme every four years. As part of this review an analysis of the outcomes of planning permit decisions made by the Victorian Civil and Administrative Tribunal (VCAT) inclusive of the review period has been made to identify strengths and weaknesses within the planning scheme.

Historical data of VCAT-related planning permit activity over the seven-year period 1 January 2011 to 31 December 2017 has been used as part of the review. This data comprises reviews into themes of emerging issues argued at VCAT.

Analysis of specific VCAT reviews has identified some planning scheme provisions that have been of use to the Tribunal in guiding its decision-making towards achieving Council's objectives for the municipality. These planning scheme provisions include:

- Protection of shared views provision in the design objectives of specific DDOs;
- Guiding Future Township Development policy at Clause 21.07, including the sub-clauses of 21.07-2 Local Area Character and 21.07-3 Activity Centres; and
- Non-Residential Uses in Residential Zones policy at Clause 22.12.

Nonetheless, some proceedings highlight specific weaknesses that need to be addressed. They include:

- A lack of a neighbourhood studies to clearly articulate local neighbourhood character;
- An absence of planning controls in specific areas where neighbourhood character protection is desired either through schedules to the GRZ or a DDO;
- Insufficiency of the Localised Planning Statement in protecting neighbourhood character due to its overly-broad directions;
- Attempts to moderate residential development within a GRZ at locations with good access to services and transport where such moderation is not supported by the purpose of the zone; in other words, an alternative zoning such as the NRZ might be more appropriate in moderating residential development; and
- Regarding approving dwellings in the GWZ, decisions reveal that just because a lot in the GWZ is not sufficiently large to support traditional agricultural practices is not itself a sufficient justification to approve a permissible use that is non-agricultural. Council's June 2011 'Interim Policy in Relation to Rural Dwellings Including Bed and Breakfast Accommodation' needs to be formalised as a Green Wedge Management Plan or similar.

2.0 Introduction

Mornington Peninsula Shire Council is required to formally review the Mornington Peninsula Planning Scheme every four years. Monitoring, auditing and reporting of the planning scheme's performance is a mandatory requirement under the Planning and Environment Act 1987.

An important part of any planning scheme review is the analyse of the outcomes of planning permit decisions made by the Victorian Civil and Administrative Tribunal (VCAT), as well as planning scheme amendment reports made by Planning Panel Victoria (PPV). Council is conscious of the importance of the lessons that can be learned.

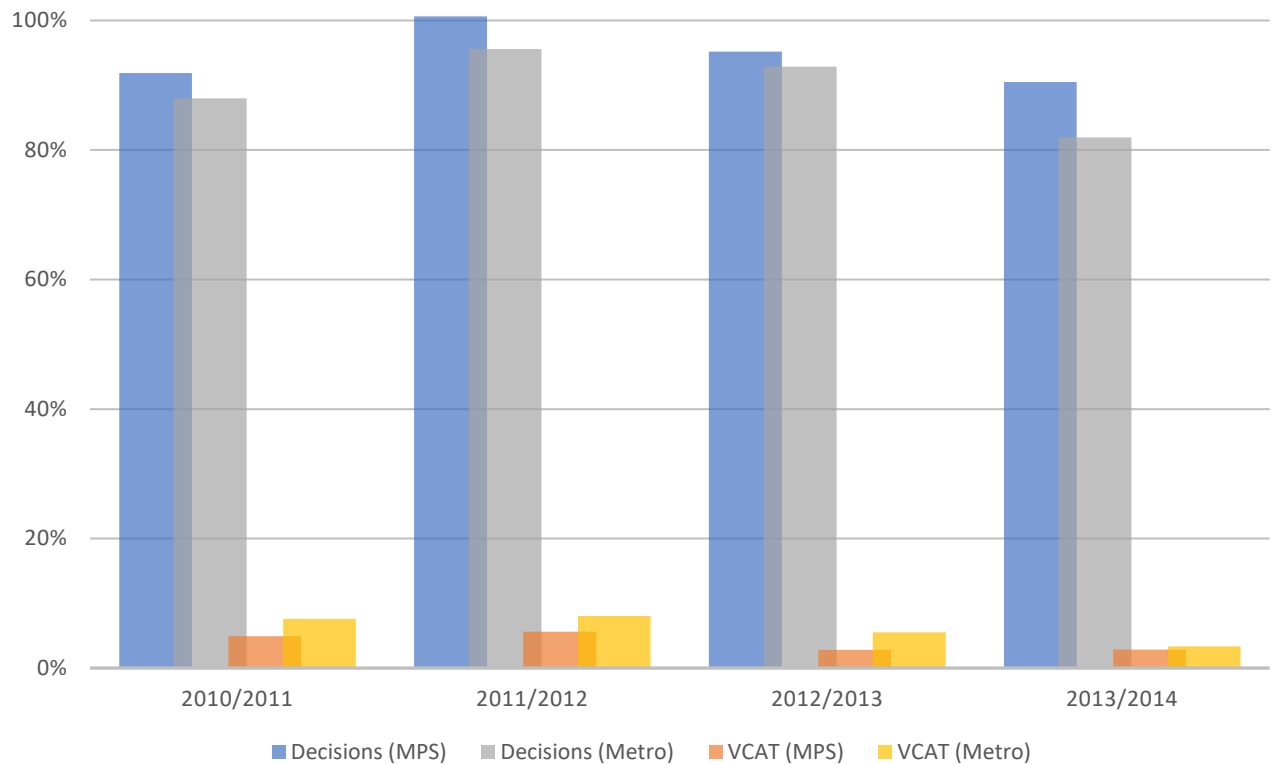
3.0 Appeal Types and Comparison at Metro level

Analysis has been conducted using the Shire's historical data of VCAT-related planning permit activity. The sample period spans from 1 January 2011 to 31 December 2017 and comprises 701 historical reviews. Planning permit activity data from the DELWP is also used to provide a comparison against the metropolitan region. Due to data constraints, however, the comparison is only available for the financial years 2010/2011 to 2013/2014.

Between 2010 and 2014, at least nine out of 10 planning permit applications submitted to the MPS received a decision (see Figure 1). This result is consistently higher than the Metro region, which has less than 90 per cent of applications decided in the financial years 2010/2011 and 2013/2014.

Over the same period, less than six out of 100 applications submitted went to the VCAT for review. This is consistently below the Metro region where as high as 8.1 per cent of applications were reviewed by the Tribunal in 2011/2012.

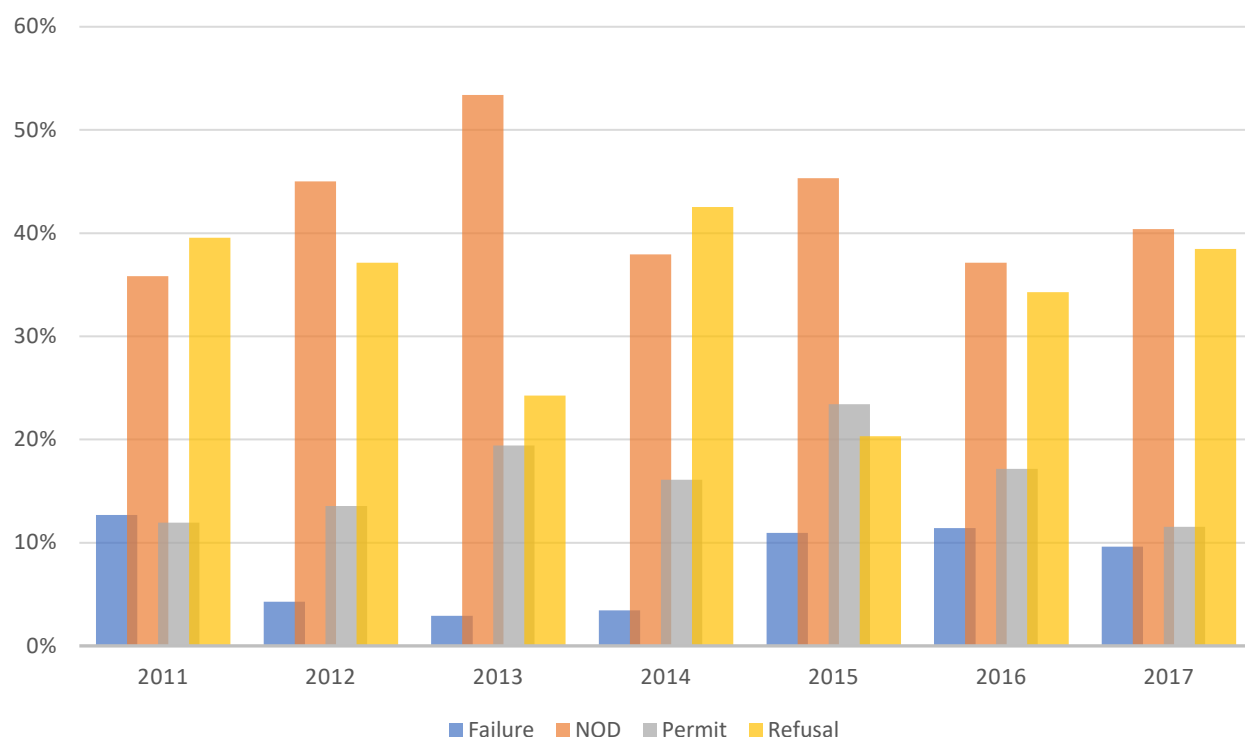
Figure 1: Decisions and VCAT Reviews (% of Total Applications Received)



3.1 Analysis by Council Decision Category

When the seven-year sample period is considered 42 per cent of all reviews were for the 'NOD' decision category (see Figure 3) while appeals against Council's refusal to grant a permit or an extension of time comprised 35 per cent. A relatively low 8 per cent of all reviews were for Council's failure to determine within the prescribed time, while the remaining 15 per cent were appeals against permit conditions or requests to cancel or amend a permit.

Figure 2: Council Decision Category - Annual



In summary, the 'NOD' and 'Refusal' categories tend to have a higher representation of appeals made to the Tribunal, with the former likely to have a higher frequency than the latter.

3.2 Failure to Determine Within the Prescribed Time

There were 54 VCAT reviews of Council's failure to determine within the prescribed time over the seven-year period from 2011 to 2017. Table 3 provides the annual breakdown of the total which shows that the number of such appeals varied widely from three to 17 per year.

Table 1: Failure to Determine Within the Prescribed Time – Annual Frequency

VCAT Review Type	2011	2012	2013	2014	2015	2016	2017	Total
Section 79	17	6	3	3	7	8	10	54

Table 2: VCAT Decision Outcome Regarding Failure to Determine Within the Prescribed Time

VCAT Review Type	VCAT Decision Outcome	Count	% of Category
Section 79	Affirmed (No Permit)	10	18.5
	Affirmed (Permit)	6	11.1
	Set Aside (Permit Amended)	1	1.9
	Set Aside (Permit)	27	50.0
	Withdrawn	10	18.5
Total		54	100.0

One in two VCAT decisions had the outcome of ‘Set Aside (Permit)’ (see Table 4), i.e. the Tribunal ordered the issue of a permit where no permit would have been granted if Council were to have determined within the prescribed time.

Proposals relating to a commercial, industrial or mixed use had an 18.5 per cent representation that is equally matched by multiple dwellings of four to seven. Dwelling additions and multiple dwellings of 14 to 52 each had nearly 15 per cent of representation.

3.3 Notice of Decision

Over the seven-year period 2011 to 2017, 295 appeals were lodged at the Tribunal seeking a review of permit conditions (s80) or Council's decision to grant a permit (s82). Table 5 shows that reviews of the latter consistently outnumbered those of the former.

Table 3: Notice of Decision – Annual Frequency

VCAT Review Type	2011	2012	2013	2014	2015	2016	2017	Total
Section 80	0	2	5	2	5	4	2	20
Section 82	48	61	49	31	24	22	40	275

Nearly one in two VCAT decisions affirmed Council's NOD (see Table 6) while around 36 per cent resulted in a variation to the permit. Under eight per cent of NODs was set aside.

Table 4: VCAT Decision Outcome Regarding Notice of Decision

VCAT Review Type	VCAT Decision Outcome	Count	% of Category
Sections 80 or 82	Affirmed	133	45.1
	Set Aside	23	7.8
	Struck Out	2	0.7
	Varied	108	36.6
	Withdrawn	29	9.8
Total		295	100.0

Of the 133 NODs affirmed by VCAT, 129 relate to a s82 review. Figure 5 below illustrates the types of proposal (and their relative proportions) that comprise the 129 s82 reviews that affirmed Council's NOD.

Nearly one in four reviews relate to a proposal to develop a dwelling while dwelling additions and double-storey dwelling proposals have nearly the same proportion – 14 and 13.2 per cent respectively. The proposals that comprise 'Other uses' relate to the following: airfield; lifesaving club; place of assembly; place of worship; restricted recreation facility; school; and telecommunications facility.

3.4 Permit Granted

One hundred and eight appeals lodged at the Tribunal over the period 2011 to 2017 sought a review where a permit had been granted by Council or issued by the Tribunal. More than six out of ten appeals were for a review of permit conditions, i.e. s80, while over one-third were for a cancellation or amendment of a permit granted by Council or issued by the Tribunal, i.e. s87 or s87A (Table 7). Only a handful made a request to the Tribunal to have a permit cancelled or amended, i.e. s89.

Table 5: Permit Granted – Annual Frequency

VCAT Review Type	2011	2012	2013	2014	2015	2016	2017	Total
Section 80	6	10	9	11	13	10	9	68
Section 87	9	5	6	2	1	2	2	27
Section 87A	1	4	3	1	1	0	0	10
Section 89	0	0	2	0	0	0	1	3

Over two-thirds of appeals resulted in the Tribunal varying the permit while around one in eight failed to have the permit cancelled or amended (Table 8).

Table 6: VCAT Decision Outcome Regarding Permit Granted

VCAT Review Type	VCAT Decision Outcome	Count	% of Category
Sections 80, 87, 87A or 89	Affirmed	14	13.0
	Set Aside	3	2.8
	Struck Out	1	0.9
	Varied	74	68.5
	Withdrawn	16	14.8
Total		108	100.0

Of the 74 VCAT decisions that varied the permit, 51 relate to a s80 review. Figure 7 below illustrates the types of proposal (and their relative proportions) that comprise the 51 s80 reviews that varied the permit.

Nearly two out of five reviews relate to a dwelling proposal while dwelling additions and commercial or mixed use have a representation of around 15.7 and 11.8 per cent respectively.

3.5 Refusal to Grant a Permit or Extension of Time

There were 244 appeals against Council's refusal to grant a permit, i.e. s77 review, or extension of time, i.e. s81(a) review over the seven-year period 2011 to 2017. While appeals against the former outnumbered the latter every year except 2013, the number of s81(a) reviews declined dramatically after 2013 (see Table 9).

Table 7: Refusal to Grant a Permit or Extension of Time – Annual Frequency

VCAT Review Type	2011	2012	2013	2014	2015	2016	2017	Total
Section 77	35	28	11	34	11	24	39	182
Section 81(a)	18	24	14	3	2	0	1	62

More than one in two appeals resulted in the Tribunal setting aside Council's decision while around 1 in four Council's decision were affirmed by the Tribunal (see Table 10). Less than one in five appeals were withdrawn by the appellant.

Table 8: VCAT Decision Outcome Regarding Refusal to Grant a Permit or Extension of Time

VCAT Review Type	VCAT Decision Outcome	Count	% of Category
Sections 77 or 81(a)	Affirmed	63	25.8
	Set Aside	136	55.7
	Struck Out	2	0.8
	Withdrawn	43	17.6
Total		244	100.0

3.5.1 Council Decisions Set Aside by VCAT

Of the 136 appeals where Council's decision was set aside, around two-thirds relate to a s77 review. Figure 8 on the following page illustrates the types of proposal (and their relative proportions) that comprise the 91 s77 reviews that set aside Council's decision of refusal.

Commercial proposals represent nearly one-tenth of the reviews, followed by proposals for three-to-ten dwellings and two-or-more-lot subdivision where both have an equal representation of nearly 8 per cent. Proposals in the 'Other uses' grouping comprise: a crossover; child care centre; animal boarding facility; caravan park; fence; and viewing platform.

3.5.2 Council Decisions Affirmed by VCAT

Of the 63 appeals where Council's decision was affirmed, 53 relate to a s77 review. Figure 9 below illustrates the types of proposals (and their relative proportions) that comprise the 53 s77 reviews that affirmed Council's decision of refusal.

Around 15 per cent of the reviews relate to a dwelling proposal while proposals for two-to-four dwellings have a representation of around 13 per cent. Proposals in the 'Other uses' grouping comprise: a three-lot consolidation; farm dam; place of assembly; and storage.

3.5.3 Notice of Decisions Varied by VCAT

Of the 108 NODs varied by VCAT, eight out of nine relate to a s82 review. Figure 6 on the following page illustrates the types of proposal (and their relative proportions) that comprise the 96 s82 reviews that varied Council's NOD.

Around 35.4 per cent of reviews relate to a dwelling proposal while dwelling additions and two-to-four dwelling proposals comprise around 14.6 and 11.5 per cent respectively. The proposals that comprise 'Other uses' relate to the following: caravan park; harbour residential; parks and recreation; poultry sheds; and service station.

4.0 Decisions with Significant Relevance to the MPPS

4.1 Decisions supporting strengths of MPPS

Specific planning scheme provisions that have been effective in guiding decision making by the Tribunal in supporting Council's objectives for the municipality include:

1. The protection of shared views objectives in specific DDOs gained significant support as demonstrated in *Charlton v Mornington Peninsula SC* and *Watkins v Mornington Peninsula SC* (see below for further analysis of decisions);
2. Guiding Future Township Development policy at Clause 21.07, including the sub-clauses of 21.07-2 Local Area Character and 21.07-3 Activity Centre (see *Poulopoulos v Mornington Peninsula SC* and *Lay v Mornington Peninsula SC* below); and
3. Non-Residential Uses in Residential Zones policy at Clause 22.12 (see *Jolly v Mornington Peninsula SC* below).

Charlton v Mornington Peninsula SC [2017] VCAT 1770 (30 October 2017)

This proceeding concerned a proposal to construct a double-storey house that had a 'cape cod' architectural style with a series of pitched roofs and gable ends and to remove vegetation. The site is within a GRZ that has two planning overlays – DDO2 and VPO1. Although Council supported the proposal, an adjoining land owner, who had a planning permit to build a two-storey house on their property opposed Council's decision because they contended the proposed design did not protect his view of Port Phillip Bay and other matters.

While there is no dispute amongst the parties that there is no legal right to a view, the Tribunal ruled that the relevant principles regarding view sharing derived from the decisions of *Tashounidis*⁹ and *Healy*¹⁰ need to be given added emphasis when the issue of views is specifically addressed in the MPPS. In this instance, the issue is addressed in DDO2 as a design objective which seeks to protect shared viewlines where reasonable and practical.

⁹ *Tashounidis v Flinders SC, Deligiannis & Ors* [1988] VicAATRp 2; (1988) 1 AATR 116 (20 January 1988).

¹⁰ *Healy v Surf Coast SC* [2005] VCAT 990 (26 May 2005)

Watkins v Mornington Peninsula SC [2017] VCAT 301 (28 February 2017)

This proceeding concerned a proposal to construct a single double-storey dwelling and remove vegetation. The site is within a GRZ with three planning overlays – DDO3, BMO2 and VPO1 – and is approximately 747 m² in area.

Adjoining land owners opposed Council's NOD to grant a permit arguing that the proposed development did not constitute a reasonable sharing of views and threatened to remove approximately 50% of the existing panorama, which included key features such as Mount Martha and the Melbourne CBD skyline. Both Council and the permit applicant however, considered the Bay views to be reasonably shared and protected in a reasonable and practical sense in accordance with the protection of shared views provision in the design objectives of DDO3.

In deciding in favour of Council's NOD to grant a permit to the respondents, the Tribunal ruled that while the objectors have recourse to the principle of *legitimate expectations*¹¹ – a principle added by Senior Member Wright QC in *Middleton v Mornington Peninsula SC* [2016] VCAT 1164 (2 July 2016) to the shared-views principles derived from the decisions of *Tashounidis*¹² and *Healy*¹³, they failed to meet one of the two *Tashounidis* requirements needed to pass the reasonableness test set by the shared-views protection objective in DDO3, i.e. those objecting have taken all appropriate steps to optimise development of their own properties. In other words, the Tribunal regards the loss of views to be reasonable and acceptable considering that there is sufficient scope for the objectors to recapture and enhance their views through, for example, further glazing, extension and widening of their existing balcony to the west.

Poulopoulos v Mornington Peninsula SC [2017] VCAT 1078 (26 July 2017)

This proceeding concerned a proposal to construct a four-storey building not including basement to accommodate two retail spaces at ground level and 23 dwellings. The site is within a C1Z with no planning overlay and approximately 1,625 m² in area. Council's NOD to grant a permit was opposed by several residents who were concerned that the proposed development:

- Was out of character with the area;
- Was too large and bulky;
- Would create unreasonable traffic impacts and congestion;
- Would have a detrimental impact on the amenity of surrounding residents; and
- Was not site-responsive.

¹¹ The objectors' expectation that views from their property will remain is legitimate given that their property was acquired at a time when DDO3 was in force.

¹² *Tashounidis v Flinders SC*, Deligiannis & Ors [1988] VicAATRp 2; (1988) 1 AATR 116 (20 January 1988).

¹³ *Healy v Surf Coast SC* [2005] VCAT 990 (26 May 2005)

Council, however, argued that the proposed development was consistent with the purposes of the zone as the site sits within the commercially zoned area of the Rosebud Activity Centre, where more intense development is not only expected but encouraged.

In deciding in favour of Council's NOD to grant a permit, the Tribunal ruled that:

- The site has State and local policy support for a higher form of development;
- The site is located within the Rosebud Activity Centre where development is encouraged; and
- The proposed development was a well-articulated building with a high-quality design that reflected coastal themes and provides for a variety of setbacks at different elevations which result in a building of 'light and shade' and visual interest.

Regarding the objectors' view that the development was too large and bulky, the Tribunal argued that if mere visibility becomes the test across metropolitan Melbourne, then it will be virtually impossible to construct buildings above the prevailing scale. Although the development had a proposed building height that was 2 metres above the 14-metre height limit control stipulated in the Rosebud Activity Centre Structure Plan, the document was given limited weight by the Tribunal considering that it was yet to be considered by a Panel at the time of the hearing even though it had been through a public consultation process.

Jolly v Mornington Peninsula SC [2017] VCAT 728 (23 May 2017)

This proceeding concerned a proposal to extend and convert an existing dwelling into a medical centre which exceeds 250 m² in floor area. The site is within a GRZ and affected by three planning overlays – DDO3, ESO28 and VPO1. Total area of the site is approximately 4,054 m². While the site lies outside of Balnarring's activity centre, it is around 400 metres away from the commercial precinct around Russell Street.

An adjoining property owner opposed Council's NOD out of concerns that included:

- The appropriateness of the size of the centre in its location;
- An increase in traffic movements;
- The impact on the residential amenity of the area;
- The lack of landscaping and screening along the boundary;
- Overlooking and light spillage; and
- The question of need.

The permit applicant argued that the proposed medical centre was appropriate having regard to:

- The zoning of the land – a medical centre is permissible although a discretionary use in the GRZ if it exceeds 250 m² in floor area and meets other conditions;
- The compliance with policy – Clause 11 of the SPPF broadly seeks to locate new small community facilities that meet local needs in or next to Neighbourhood Activity Centres while the Health Facilities policy at Clause 19 seeks to facilitate such facilities in locations where they can be integrated with local and regional communities; and
- The ability of the facility to limit the impact on the amenity of adjoining properties – Clause 21.07 of the LPPF seeks to ensure that proposals for non-residential uses in residential areas respect the character and amenity of residential areas.

Council agreed that the proposed medical centre was appropriate in the GRZ and identified several key issues which it considered relevant to the proceeding, including neighbourhood character and built form issues, traffic and car parking matters, need for the proposed facility, and landscaping.

In deciding against Council's NOD to grant a permit, the Tribunal argued that:

- The proposed facility, although walkable from Balnarring's Small Township Activity Centre, would detract from the function of the centre considering that the centre has a defined boundary and beyond that, the properties are residential in nature with a rural 'feel' given the level of landscaping on the road reserve and larger lots;
- The proposal would not be consistent with the Non-Residential Uses In Residential Zones policy at Clause 22.12, which seeks to, inter alia, prevent out-of-centre commercial developments in residential areas that undermine the Activity Centres policy at Clause 21.07-3; and
- As a permit-required use due to it exceeding the 250 m² floor area limit, the proposed facility fails to meet one of the GRZ purposes which requires non-residential uses that serve local community needs to be established in 'appropriate locations' because its scale and intensity are considered inconsistent with the semi-rural neighbourhood of the surrounding residential area and expected to generate an unacceptable volume of daily traffic.

Lay v Mornington Peninsula SC [2018] VCAT 17 (4 January 2018)

This proceeding concerned a proposal to construct nine dwellings around a central common driveway comprising seven double-storey dwellings and two single-storey dwellings. The site is within a GRZ with no planning overlay and approximately 2,090 m² in area. It is also within 400 metres away from the Large Township Activity Centre of Bentons Square.

Council refused to grant a permit raising concerns that relate to the:

- Impact on the character of the surrounding neighbourhood;

- Extent of solar access to areas of secluded private open space; and
- Lack of a passing bay in the common accessway.

The permit applicant, however argued that the site is appropriate to support a higher intensity of development compared to other nearby examples of medium-density housing considering:

- Its proximity to the Bentons Square activity centre;
- Its accessibility to a range of services and facilities within the Mornington township;
- The lack of ResCode variations in the schedule to the underlying GRZ;
- The absence of planning overlays; and
- That the Shire's local policies fail to identify a special character for the area.

In deciding in favour of Council's refusal to grant a permit, the Tribunal argued that while not much weight could be given to the recently adopted Housing and Settlement Strategy considering the early status of the work and Council has as a future task the creation of a neighbourhood character policy, the proposed development is not an appropriate response to the context and character of the site and its surrounds because, among other reasons:

- The site is in a location where the intensity and scale of development should be moderated in order to transition to the lower scale development and more spacious garden settings that occurs in the residential neighbourhood to the north of the review site;
- The proposed development would contrast with the surrounding housing forms, particularly those to the north of the site, given the strong building presence proposed by the extent of double-storey form throughout the site, minimal breaks between dwellings, and narrow front setbacks.

Essentially, the Tribunal agreed with the Local Area Character policy in the LPPF of the MPPS that the approval of the proposed development would add to "the cumulative effect of market driven changes that may adversely affect the features of residential environments which are valued by existing residents."

4.2 Decisions highlighting weaknesses in MPPS

4.2.1 Lack of weight given to the LPS and the requirement for neighbourhood character studies

Decisions where Council have relied upon the character objectives in the LPP alone in refusing an application have generally not had the support of the Tribunal. It is clear from commentary out of proceedings that where the subject site has been located in the GRZ without the benefit of any other controls, decisions have been predominantly made in context of a balance of existing and evolving character, which are often at odds with the more modest character the LPP seeks to achieve.

As outlined by the Tribunal in *Bentons Blossom Pty Ltd v Mornington SC*, *the absence of a statement about existing or preferred neighbourhood character in the MPPS necessitates the existing neighbourhood character of the area to be considered in the context of one of the GRZ purposes which is acknowledging that change is to be expected.*

Commentary has clearly identified that in the absence of a defined neighbourhood character study, particularly in the case of medium density residential proposals located in the GRZ there is no further 'protection' offered by the LPP as evidenced by the decisions of the Tribunal in *Bentons Blossom Pty Ltd v Mornington Peninsula SC*, *Mulholland v Mornington Peninsula SC*, *Green v Mornington Peninsula SC* and *Shelrain Pty Ltd v Mornington Peninsula SC* (see below for further analysis of these decisions).

4.2.2 NRZ as a more effective tool in achieving 'in character' outcomes

The outcomes of Tribunal decisions clearly identify that the ability to include mandatory controls or variations to (predominantly) Clause 55 in the NRZ and schedules to the zone, would offer a superior outcome in achieving Council's preferred character objectives that align to its LPPs. It is clear that reliance on LPP's alone does not generate support from the Tribunal in achieving character objectives as evidenced in *Bentons Blossom Pty Ltd v Mornington Peninsula SC*, *Mulholland v Mornington Peninsula SC* and *Shelrain Pty Ltd v Mornington Peninsula SC*.

4.2.3 Impacts of the introduction of VC110

Outcomes of proceedings since the introduction of VC110 in relation to Councils position, particularly in regard to proposed medium density product, clearly demonstrate that in the absence of a statement about existing or preferred neighbourhood character in the MPPS, decision making by the Tribunal will be made in context of the GRZ 'purposes' which threaten to propagate inappropriate development across the Shire's highly valued and established neighbourhoods if not met with an appropriate local response.

Again, this is often not in context with the direction of the Scheme's LPP's. This is evidenced in *Bentons Blossom Pty Ltd v Mornington Peninsula SC*, *Mulholland v Mornington Peninsula SC*, *Green v Mornington Peninsula SC* and *Shelrain Pty Ltd v Mornington Peninsula SC*.

Bentons Blossom Pty Ltd v Mornington Peninsula SC [2017] VCAT 352 (5 May 2017)

This proceeding concerned a proposal to construct 52 dwellings. The site is within a GRZ with no planning overlay and is approximately 19,546 m² in area. Although Council failed to decide within the prescribed time of 60 days, Council officers

subsequently recommended that the application be approved subject to conditions of which one was to reduce the number of dwellings to 47. Council, however, resolved to reject the recommendation arguing that the proposed development was:

- Inconsistent with the objectives of the SPPF and LPPF including Clause 11.14-1 *Localised Planning Statement* and Clause 21.07-2 *Local Area Character* on the basis that the scale, density and development pattern is not responsive to the existing neighbourhood character of the area;
- An over-development of the site as it is neither respectful of the existing neighbourhood character nor compatible with the existing lot size or development pattern within the area;
- Inconsistent with the objectives and decision guidelines of Clause 55.02-1 *Neighbourhood Character* and Clause 55.02-2 *Residential Policy* as it is neither responsive to the existing neighbourhood character nor contributory to the preferred character; and
- Inappropriate having regard to its context and density, and would result in a poor planning outcome contrary to Clause 65 of the MPPS and the orderly planning of the area.

The Tribunal decided against Council arguing that:

- The site's location within the UGB and proximity to the Large Township Activity Centre of Bentons Square support an intensification of residential development within existing settlements and residentially zoned areas that is consistent not only with State and local policies but also the Shire's Strategic Framework Plan at Clause 21.04 which seeks to distinguish the character and development opportunities between rural and urban areas;
- The absence of a planning overlay suggests that the site does not have sensitivities requiring greater control;
- The GRZ, unlike the NRZ, does not include mandatory controls or variations to the Clause 55 requirements applicable to two or more dwellings on a lot, and its purposes seek to encourage a diversity of housing types and growth in locations with good access to services and transport rather than recognise areas of predominantly single and double-storey dwellings;
- The deletion of the word 'moderate' in relation to housing growth and deletion of the reference to 'implementing neighbourhood character policy and adopted neighbourhood character guidelines' in the purposes of the GRZ effected by Amendment VC110 (gazetted on 27 March 2017) represent a shift in emphasis towards allowing more residential development in the GRZ than was previously the case; and
- The absence of a statement about existing or preferred neighbourhood character in the MPPS necessitates the existing neighbourhood character of the area to be considered in the context of one of the GRZ purposes which is acknowledging that change is to be expected.

Regarding Council's argument that the proposal was an over-development of the site, the Tribunal was of the view that from a neighbourhood character perspective, the intensity of built form and visual relationship with surrounding development are the critical factors rather than the number or density of dwellings. The Tribunal argued that

the development can create its own internal character considering that the site is so large.

Regarding Council's argument that the proposal neither respected nor responded to the existing neighbourhood character, the Tribunal argued that the development does 'fit in' in the manner set out in PPN4, that:

- Respecting character does not mean preventing change.
- The neighbourhood character standard is not intended to result in the replication of existing building stock or stop change;
- Neighbourhood character is one of many objectives that must be met; and
- Respect for the character of a neighbourhood means that the development should try to 'fit in' either by respecting the scale and form of surrounding development, or respecting the architectural style of surrounding development.

Mulholland v Mornington Peninsula SC [2016] VCAT 2070 (9 December 2016)

This proceeding concerned a proposal for a multi-unit development comprising 15 dwellings. The site, consisting of two parcels totalling approximately 4,046 m² in area, is within a GRZ with no planning overlay. While Council officers supported the original plans for 16 dwellings subject to modification, Council opposed the development arguing that the increasing intensity and density of multi-unit developments over time was detracting from the special character of Green Island Avenue and the western end of the street.

The Tribunal decided against Council arguing that:

- One of the purposes of the GRZ is to provide housing diversity;
- There is no planning overlay applicable to the site or nearby properties;
- There is neither express statement of preferred character nor character policy or statement that articulates an appropriate density of development to maintain a requisite balance of landscape and built form in relation to the site and its environs; and
- The site is proximate to the Bentons Square shopping centre and a limited range of public transport services, and hence suitable for infill development and consolidation within the context of availability and accessibility of infrastructure and services as supported by Shire's local policy.

Regarding objectors' argument that the proposed 15 dwellings on the site was too many given that the adjacent land at 21 Green Island Avenue, which is equivalent in size, only had 10 dwellings, the Tribunal held the view that such an argument does not take account of dwelling sizes. In this regard, a comparison in terms of number of bedrooms would yield similar figures between the site and 21 Green Island Avenue.

Regarding objectors' argument that the positioning of two double-storey dwellings on the front of the subject land is inconsistent with the pattern of single-storey

developments along the western end of Green Island Avenue, the Tribunal stated that there is no basis to reject double-storey dwellings in terms of the directions provided by the MPPS. It then further advised that if it were essential to limit development to single-storey for character reasons, then Council should pursue this through a planning scheme amendment where such a proposition can be strategically tested.

Green v Mornington Peninsula SC [2018] VCAT 358 (10 April 2018)

This proceeding concerned a proposal for three double-storey dwellings. The site is within a GRZ with no planning overlay and approximately 733 m² in area. Council refused to grant a permit because of issues relating to policy (e.g. the Shire's Localised Planning Statement), neighbourhood character, landscaping and design detail.

Regarding Council's submission that the proposal did not respond acceptably to the policy context – that Capel Sound is regarded a local centre and therefore not sufficiently resourced to support the proposed development density – the Tribunal agreed with the decision in *Shelrain Pty Ltd v Mornington Peninsula SC (Corrected) [2018] VCAT 356 (14 March 2018)* saying that the site is in an established urban area with connection to all necessary infrastructure and services. It is also proximate to the local activity centre, has access to the foreshore, recreation areas and the bus route along Point Nepean Road which provides convenient access to the Rosebud Major Activity Centre. These factors support the site as a suitable candidate for medium-density housing development.

Regarding neighbourhood character, Council argued that the double-storey nature of the development was incompatible with the single-storey streetscape and low-profile character of the area. To the Tribunal, however, the dominance of single-storey development was not a sufficient reason to prevent the introduction of two-storey dwellings; rather, it is more important that dwellings are designed to acknowledge and respond to their surrounds.

Shelrain Pty Ltd v Mornington Peninsula SC (Corrected) [2018] VCAT 356 (14 March 2018)

This proceeding concerned a proposal for seven double-storey dwellings. The site is approximately 831 m² in area and within the GRZ with no planning overlays. Council refused to grant a permit arguing that it:

- Is was overdevelopment that fails to respect the neighbourhood's character; and
- The proposal failed to meet many objectives and standards of clause 55.

Council relied on the Statement, which was incorporated into the MPPS under Clause 11.05-2, requiring that the Statement envisages that residential development will be of a type and scale that maintains the existing valued character of each town or

settlement, and that development within each settlement will only be of a scale and character appropriate to the role, function and location of that settlement. Additionally, Council advised that the recently adopted HSS, which builds on the Statement and other recent changes to the planning framework, proposes to place Capel Sound in the NRZ with a minimum lot size control of 450 m² per dwelling.

The Tribunal, however, did not consider the specific provisions in the Statement and HSS to be fatal to the proposal arguing that:

- While the Statement seeks different futures for metropolitan Melbourne and the Peninsula, the direction is set at a high strategic level with an emphasis on maintaining the distinction between the Peninsula's settlements and its agricultural areas;
- The Statement's direction on character is general in that it states that development within each settlement will be of a scale and character appropriate to the role, function and location of that settlement – in the case of Capel Sound, the Tribunal considered its role and function is of a residential hinterland that is part of a band of existing housing linking Rosebud and Tootgarook, rather than that of a local centre, a view held by Council;
- While existing local policy encourages more intensive housing in Major Townships, it does not curtail the proposed development at the site in Capel Sound which the Tribunal considers to be close enough to schools, services and larger centres for medium-density development types;
- The valued attributes of local character, rather than their role and function, need to be further developed if the Statement's direction is to be strengthened; and
- While the HSS goes further than the Statement in articulating the importance of protecting the valued attributes of local character, it is not so far advanced to carry great weight in the Tribunal's deliberations.

Regarding Council's contention that the proposal did not achieve the balance between open space, vegetation and density that currently constitutes the character of Capel Sound which, in Council's view, is predominantly of dwellings with regular front setbacks that are separated from both boundaries, and that sit beneath a treed canopy, the Tribunal argued that some aspects of this characterisation (e.g. setbacks and separation from boundaries) are too heavily weighted towards the neighbourhood's older housing stock.

4.2.4 The need for a Green Wedge Management Plan to guide decision making

In relation to approving dwellings in the GWZ subject to the requirement of a land management plan, VCAT decisions and commentary identify that where a lot in the GWZ is not sufficiently large enough to support traditional agricultural practices, this is not of itself a sufficient justification to approve a permissible use that is non-agricultural.

This is evidenced in *Proctor v Mornington Peninsula SC* (below), where commentary supported that the purposes of the GWZ should still be pursued even if the lot is among others of a similar size such that the scope of combining several together to support traditional agricultural practices is non-existent. Findings supported the importance of 'robust' land management plans as *"planning decisions should not accept a proposed use that is unlikely to be achieved in practice, or which is likely to cause long-term deterioration of the land resource."*

Analysis reveals that Council needs to be more judicious when applying the local policy as well as the GWZ provisions and decision guidelines in its assessment of permit applications given that the conditions that affect rural amenity vary tremendously between lots in the Green Wedge, as evidenced in commentary in *Allonmere Pty Ltd V Mornington Peninsula SC* (see below).

Proctor v Mornington Peninsula SC [2016] VCAT 1766 (24 October 2016)

This proceeding concerns a proposal for the use and development of a single dwelling (with an outside swimming pool) that included an associated partially double-storey 'pool house' (intended for use as 'bed and breakfast' accommodation without food preparation facilities) and a machinery shed. The two-hectare site is within a GWZ2 and affected by four planning overlays – ESO4, ESO28, ESO17 and VPO2. The proposed machinery shed would incorporate a 'farm gate' sales area intended for the sale of produce from the property. Around 49.5% of the site was designated in the land management plan as 'production area' comprising five paddocks for lucerne hay production and a fruit orchard.

Council issued a NOD on the basis that:

- It considered the proposed land use to be compatible with the Green Wedge Zone;
- Small-scale farming operation within the carrying capacity of the land is required given that the small size of the local lots (including the review site) renders them unable to support 'viable farming enterprise';
- The review site was 'hemmed in' on all sides by two-hectare lots and roads, and there are no larger agricultural operations on any of the adjoining lots that would be able to combine and reasonably use the subject site for expansion purposes.
- A relatively large portion of the land would be retained for agricultural use, with the proposed dwelling not compromising the agricultural viability of surrounding land;
- The visual impact of the dwelling would be minimised by it being single-storey and of muted tones, with extensive tree planting assured through the proposed land management plan;

- The environmental and landscape values of the land would not be compromised, and no unreasonable amenity loss will result from the proposed use and development of the land;
- A Section 173 agreement relating to the land use could be used to ensure some form of farming to continue within the rural landscape; and
- The proposal was consistent with the interim policy 'Rural Dwellings Including Bed and Breakfast Accommodation' through its provision of a domestic envelope, a land management plan, and building design and siting that responds to the rural landscape.

The objector argued that:

- The proposed land use would erode planning controls in the Shire and the GWZ because it aligns more with 'rural residential' use rather than the primary purposes of the Green Wedge;
- It did not show an integral link between hay production and the need for a dwelling;
- It would remove an unreasonable amount of productive land from agricultural production;
- It contradicted Shire policy to manage urban encroachment to within town boundaries;
- The land management plan failed to convey confidence that it provided for or promoted sustainable agriculture;
- Farming income for residents of the review site would be secondary to other sources of income; and
- A dwelling on the land would greatly increase the value of the land beyond that which would attract use for agricultural production.

While the Tribunal acknowledged that the review site is surrounded by other development such that there is no potential for it to be consolidated with other land to provide for a larger agricultural operation, it found that the land management plan lacked substantiation as a workable and sustainable proposal such that the purposes and objectives of the GWZ and Council's interim policy 'Rural Dwellings Including Bed and Breakfast Accommodation' were not satisfied. Specifically, the Tribunal argued that:

- While agriculture is not the only permitted land use, the GWZ clearly emphasises in its purposes the encouragement of agriculture, farming activity and the environment consistent with sustainable land management;
- The opportunity and potential for agriculture, as an as-of-right use in the GWZ, should not be diminished within the zone;
- No satisfactory link between the proposed dwelling (and its non-productive immediate surrounds) with agriculture had been demonstrated considering that, *inter alia*, there is no requirement for a dwelling on the land for the oversight of pasture for hay production;
- The land management plan failed to identify the unsuitability of the soil for the growing of lucerne;

- Allocating nearly 51% of the site for non-productive uses presents a substantial removal of land from agricultural production considering that similar scales of reduction have occurred at other nearby properties;
- Although the distance between the proposed dwelling and the nearest broiler shed is further than the minimum separation mandated in the *Victorian Code for Broiler Farms 2009*, this would limit development potential for broiler farms or any other agricultural practice that requires a buffer from sensitive uses within the vicinity even though agriculture is a primary purpose of the GWZ; and
- Council should seek an amendment to the planning scheme if it wishes for the local area to become a rural living 'enclave' considering that the cluster of 11 two-hectare lots resulting from an old subdivision of about 90 years ago has limited the capacity of the area to achieve full agricultural potential.

Allonmere Pty Ltd v Mornington Peninsula SC [2015] VCAT 815 (10 June 2015)

This proceeding concerned a proposal for a 150-patron restaurant, cellar door sales, art gallery and sculpture park. The proposal also sought to demolish and re-erect two heritage buildings, re-subdivide (consolidate) land, remove an easement, and alter access to a Road Zone Category 1.

While the proceeding concerned several lots, the decision primarily centred on the lot located within a GWZ and affected by several planning overlays – ESO11, ESO20, ESO21, ESO28, SLO2, HO288, BMO and VPO2. The size of this lot is around 47 hectares, which is above the 40-hectare minimum required to permit a restaurant in the GWZ.¹⁴

Two key concerns underpinned Council's refusal to grant a permit:

- Operating hours; and
- Patron numbers.

Opening hours

Council's draft Condition 14 proposed restaurant opening times of 9 am to 5 pm Sunday to Thursday and 9 am to 10 pm Friday and Saturday, except with the written consent of the responsible authority. The permit applicant, however, sought to alter its original proposed opening times through submissions to the Tribunal to 9 am to 5 pm Sunday to Wednesday and 9 am to 11 pm Thursday to Saturday.

Council's decision to restrict the closing time on Thursdays to 5 pm, and Fridays and Saturdays to 10 pm was based primarily on issues relating to the potential impact on

¹⁴ The size of this lot was initially below the 40-hectare minimum when the permit applicant first applied for a planning permit; it was a prominent reason underlying Council's refusal. The issue, however, was resolved when the permit applicant amended the proposed subdivision plans to create three lots rather than four as initially proposed. The reconfigured subdivision locates the proposed commercial activities within this lot with an increased area of around 47 hectares.

rural amenity from additional traffic, noise and light. This decision was informed by: (i) the decision guidelines in the GWZ which require the responsible authority to consider whether the site is suitable for the use or development and the compatibility of the proposal with adjoining uses; and (ii) the Commercial and Industrial Uses in Rural Areas policy at Clause 22.07 which states that restaurant facilities in rural areas should generally avoid night time operation due to the potential impact on rural amenity from additional traffic, noise and light.

In deciding against Council's decision, the Tribunal agreed with the permit applicant's submission that it is not unreasonable to adopt restaurant opening hours commensurate with other commercial restaurants in the area because:

- Night time operation of restaurants associated with wineries and vineyards in the GWZ is part of the Mornington Peninsula experience;
- Several prominent restaurants associated with agricultural activity on the Mornington Peninsula have closing hours later than 10 pm generally on Fridays and Saturdays;
- All the commercial buildings are grouped centrally within the subject land, approximately 350 metres south of the Frankston-Flinders Road;
- The nearest dwellings on the north side of Frankston-Flinders Road are well set back from the road and screened by trees such that the impact of headlights or noise associated with traffic flows in or out of the site is not expected to be significant.

Patron numbers

Considering that the GWZ provisions at Clause 35.04-1 require a restaurant to operate in conjunction with other specific uses (i.e. Agriculture, Natural systems, Outdoor recreation facility, Rural industry or Winery) and the total number of patrons present must not exceed 150 patrons, or 150 patrons at any time if used in conjunction with a Function centre, Council argued on the basis of implied logic that the 150-patron limit should be applied to the whole site at any one time even though the proposal did not seek a Function centre. The permit applicant, however, argued that the 150-patron limit should be applied only to the restaurant.

The Tribunal decided in favour of the permit applicant arguing that:

- While the purpose of linking the use 'Function centre with 'Restaurant' is to control large functions that may occur on a regular basis, resulting in unreasonable detriment to rural amenity, this control does not have a broader application;
- The patron limit is specific to a Restaurant, and a Function centre if used in conjunction with a restaurant, while any one of the other uses that need to operate in conjunction with the restaurant does not have a patron limit;
- The correct approach is to draw on the policy guidance provided at Clause 22.07 which places rural amenity to the fore when assessing commercial

activities in the GWZ and in which the Tribunal regards the amenity impacts from the proposal to be acceptable having considered that: (i) the proposed restaurant and cellar door sales have a clear link with agricultural production on the land; (ii) the proposed gallery, sculpture park and heritage buildings will offer a significant cultural and recreational experience; (iii) the size of the property provides sufficient area to buffer the centrally located commercial activities from surrounding residents; and (iv) the subject land abuts a main road;

- The permit applicant's proposed Operational Management Plan is likely to be a more effective tool for managing peak visitation and special events such as a wine and food festival or art exhibition; and
- The fact that a restaurant in the GWZ is also conditional upon being located on a lot of at least 40 hectares is not a reason to extent the restriction on patrons across the whole lot because the intent of the minimum lot size is to protect the landscape and rural amenity, not for restricting the number of patrons.

5.0 Implications for the Planning Scheme Review

The VCAT proceedings discussed provide several insights into the MPPS. Specific local provisions of the planning scheme that have been of use to the Tribunal in guiding its decision-making towards achieving Council's objectives for the municipality include the:

- Protection of shared views provision in the design objectives of specific DDOs;
- Guiding Future Township Development policy at Clause 21.07, including the sub-clauses of 21.07-2 Local Area Character and 21.07-3 Activity Centres; and
- Non-Residential Uses in Residential Zones policy at Clause 22.12

Nonetheless, some of the proceedings highlight specific weaknesses of the MPPS that need to be addressed in the planning scheme review. They include:

- A lack of a neighbourhood studies to clearly articulate local neighbourhood character;
- Absence of planning controls in specific areas where neighbourhood character protection is desired either through schedules to the GRZ or a DDO;
- Insufficiency of the Localised Planning Statement in protecting neighbourhood character due to its overly-broad directions; and
- Attempt to moderate residential development within a GRZ at locations with good access to services and transport where such moderation is not supported by the purpose of the zone; in other words, an alternative zoning such as the NRZ might be more appropriate in moderating residential development.

VCAT commentary has clearly identified that in the absence of a defined neighbourhood character studies, particularly in the case of medium density residential proposals located in the GRZ there is no further 'protection' offered by the LPP's.

Council's recent adopted Housing Settlement Strategy 2017, and subsequent Amendment C219 to implement the NRZ and schedules to the Peninsula will provide significant strategic support to guide decision making. Council have undertaken significant work in preparing character studies across the Shire since the last Planning Scheme Review in 2014 including for Beleura Hill, Hastings, Rosebud, Dromana and Sorrento. Further strategic work will be required to initiate and implement character studies across the Mornington Peninsula to support decision making.

Regarding approving dwellings in the GWZ, decisions reveal that just because a lot in the GWZ is not sufficiently large to support traditional agricultural practices is not itself a sufficient justification to approve a permissible use that is non-agricultural.

The Tribunal's reliance on Council's June 2011 'Interim Policy in Relation to Rural Dwellings Including Bed and Breakfast Accommodation' in its decision in the Proctor proceeding indicates that this policy needs to be elevated in status by incorporating its provisions into, for example, a Green Wedge Management Plan. Specifically, the incorporated provisions should detail the information that needs to be provided by permit applicants in the required land management plan, and that such information should relate to the specific nature of the primary use be it agricultural, biodiversity conservation, recreational, etc.

In this regard, Council is currently finalising a new Green Wedge Management Plan (GWMP) to replace the existing interim plan originally adopted by the Shire in 2012. The GWMP is a major piece of strategic work that will have implications for the planning scheme. It is anticipated that the plan will strengthen local planning policies

References

- Allonmere Pty Ltd v Mornington Peninsula SC [2015] VCAT 815 (10 June 2015)
- Autumn Care Pty Ltd v Mornington Peninsula SC [2016] VCAT 1295 (1 August 2016)
- Bentons Blossom Pty Ltd v Mornington Peninsula SC [2017] VCAT 352 (5 May 2017)
- Charlton v Mornington Peninsula SC [2017] VCAT 1770 (30 October 2017)
- Figliola v Mornington Peninsula SC [2018] VCAT 120 (30 January 2018)
- Fulstonvale Pty Ltd v Mornington Peninsula SC (Corrected) [2018] VCAT 762 (17 May 2018)
- Graphos (Aust) Pty Ltd v Nillumbik SC [2008] VCAT 2321
- Green v Mornington Peninsula SC [2018] VCAT 538 (10 April 2018)
- Healy v Surf Coast SC [2005] VCAT 990 (26 May 2005)
- Jolly v Mornington Peninsula SC [2017] VCAT 728 (23 May 2017)
- Lay v Mornington Peninsula SC [2018] VCAT 17 (4 January 2018)
- Middleton v Mornington Peninsula SC [2016] VCAT 1164 (2 July 2016)
- Mulholland v Mornington Peninsula SC [2016] VCAT 2070 (9 December 2016)
- Poulopoulos v Mornington Peninsula SC [2017] VCAT 1078 (26 July 2017)
- Proctor v Mornington Peninsula SC [2016] VCAT 1766 (24 October 2016)
- Shelrain Pty Ltd v Mornington Peninsula SC (Corrected) [2018] VCAT 356 (14 March 2018)
- Tashounidis v Flinders SC, Deligiannis & Ors [1988] VicAATRp 2; (1988) 1 AATR 116 (20 January 1988)
- Watkins v Mornington Peninsula SC [2017] VCAT 301 (28 February 2017)

APPENDIX 4: Audit of Particular Provisions (after Amendment VC148 gazetted)

Clause	Title	Schedule	Comment
53.01	Public Open Space Contribution and Subdivision	Subdivision of land described in Map 1 to the Schedule: Land contribution: 9% land value, Cash-in-lieu contribution: 12% land value Combination contribution: land contribution 9% portion to be subdivided PLUS 12% site value remaining portion Land affected by DDO11: 5% site area or 5% of site value to be subdivided; and further 5% of site area or 5% of site value with exemptions 1440 Frankston-Flinders Road Tyabb, Land contribution of 7.5% 470-474 Browns Road, Rye 10% of site value of the land Other Residential subdivision, Commercial and Industrial 5%	The Schedule refers to superseded Residential zone (R1Z). This reference needs to be updated to General Residential Zone (GRZ). 1440 Frankston-Flinders Road Tyabb (Lot 2 LP91280) was the subject of a combined planning scheme amendment C117 and planning approval CP08/001 for subdivision of the land into 35 lots in 2010. The approval was subject to a Section 173 Agreement which included cash contributions for road and playground works. The agreements also identified the sum of \$4,500 per lot (35 lots) for Path & Picnic Area contributions. A number of other contributions/works were detailed as part of this Agreement. It would appear that the land contribution identified for this site has been exhausted as part of this permit and Agreement. The reference to this parcel of land should be removed. 470-474 Browns Road, Rye was the subject of a planning permit approval P17/0498 for subdivision of the land into three lots including building envelopes, removal of vegetation and associated works in October 2017. A condition of permit was the payment of a Public Open Space Contribution of 10% of site value. Valuation completed on the parcel in 22 Dec 2017. POS to be paid

Clause	Title	Schedule	Comment
			within 12 months of valuation (by 22 Dec 2018). Payment not yet received. Recommended to check prior to finalisation of report and remove reference to this property once confirmation that POS paid.
52.02	Easements, Restrictions and Reserves	Under Section 23 of the Subdivision Act The Schedule specifies site specific restrictions for Ranelagh Estate, Mount Eliza, 5 parcels in Leyden Ave, Portsea and a site in McCrae. Removal of covenant from 105 Latrobe Pde, Dromana Under Section 36 of the Subdivision Act 5 sites identified where easements have been removed.	Variations to covenants still relevant to noted identified parcels. Covenant for 105 Latrobe Parade was been removed in 2010 – reference to the covenant should be removed from the schedule. Easements removed under Section 36 of Subdivision Act no longer required to be noted in schedule – should be removed.
51.01	Specific Sites and Exclusions	The Schedule specifies site specific controls for 27 individual sites.	Dromana Mixed Use Development, June 2002. Reference to this document should be removed as it has expired. See Section 13.2 for further information. Land on the McCrae foreshore, McCrae. Conditions for Use and Development of Temporary Facilities for the Rosebud Life Saving Club, November 2003. This

Clause	Title	Schedule	Comment
			document has expired and should be removed. See Section 13.2 for further information.
52.04	Satellite Dish	None specified	Refer to Township Zone under Scope. Reference to Township Zone to be removed.
52.05	Signs	1 Schedule with no specifications.	No change necessary
52.06	Car Parking	None specified	Potential for local variations pending introduction of the Parking Overlay and associated parking precinct plans.
52.08	Earth and Energy Resources Industry	None specified	No change necessary
52.09	Stone Extraction and Extractive Industry Interest Areas	None specified	No change necessary
53.10	Uses with Adverse Amenity Potential	None specified	No change necessary
52.11	Home Based Business	None specified	No change necessary
52.12	Bushfire Protection: Exemptions	None specified	No change necessary
52.13	2009 Bushfire Recovery	None specified	No change necessary
52.14	2009 Bushfire – Replacement Buildings	None specified	No change necessary
52.15	Heliport and Helicopter Landing Site	None specified	No change necessary
52.16	Native Vegetation Precinct Plan	1 Schedule with no specifications	No change necessary
53.11	Native Vegetation	1 Schedule specifying whole municipality scheduled weed.	No change necessary
52.18	Timber Production	None specified	No change necessary
52.19	Telecommunications Facility	None specified	No change necessary

Clause	Title	Schedule	Comment
53.04	Convenience Restaurant and Take-away Food Premises	None specified	No change necessary
52.21	Private Tennis Court	None specified	No change necessary
52.22	Crisis Accommodation	None specified	No change necessary
52.23	Shared Housing	None specified	No change necessary
52.24	Community Care Unit	None specified	No change necessary
52.25	Crematorium	None specified	No change necessary
53.08	Cattle Feedlot	None specified	No change necessary
52.27	Licence Premises	1 Schedule with no specifications	No change necessary
52.28	Gaming	1 Schedule. Prohibition of gaming machines within 9 of the Shire's shopping complexes and all strip shopping centres.	No change necessary
52.29	Land Adjacent to a Road Zone, Category 1, or a Public Acquisition Overlay for a Category 1 Road	None specified	No change necessary
53.05	Freeway Service Centre	None specified	No change necessary
53.09	Broiler Farm	None specified	No change necessary
52.32	Wind Energy Facility	1 Schedule. Wind energy facilities prohibited on all land.	No change necessary
52.33	Post Boxes and Dry Stone Walls	None specified	No change necessary
52.34	Bicycle Facilities	None specified	No change necessary
53.12	Racing Dog Keeping and Training	None specified	No change necessary

Clause	Title	Schedule	Comment
53.13	Renewable Energy Facility (other than Wind Energy Facility and Geothermal Energy Extraction)	None specified	No change necessary
53.06	Live Music and Entertainment Noise	1 Schedule with no specifications.	No change necessary
53.15	Statement of Underlying Provisions	None specified	No change necessary
52.14	Resource Recovery	None specified	No change necessary
53.03	Brothels	None specified	No change necessary
52.47	Planning for Bushfire	None specified	No change necessary
51.02	Metropolitan Green Wedge Land	1 Schedule. Exempts 6 specific sites from application of Core Planning Provisions of Clause 57.01	Potential for amendment upon completion and adoption of the Green Wedge Management Plan.
66.04	Referral of Permit Applications Under Local Provisions	1 Schedule referencing applications with an ESO25 to DELWP as determining referral authority for an application relating to land within or abutting a PPRZ or PCRZ.	No change necessary

APPENDIX 5: Audit of Incorporated Documents

No.	Name of document	Introduced by Amendment	Comment	Retain Document?
1.	Conditions for Use and Development of a Patrol Base and associated works for the Rosebud & District Life Saving Club, July 2001	C30	Occupancy Permit: C3103/03 issued 05 June 2006 for construction of patrol base station. However, the incorporated document includes ongoing conditions of use which are still current where the development has been started and completed within expiry timeframes at condition 22. The document is therefore still current.	✓
2.	Conditions for Use and Development of Temporary Facilities for the Rosebud Life Saving Club, November 2003	C63	Conditions for Use in document note: Use of the temporary clubrooms must cease by 23 April 2004. The two shipping containers and any associated equipment must be removed by 23 April 2004 or within 7 days of the Certificate of Occupancy being issued for the permanent Patrol Base, whichever is sooner. This document has expired and should be removed.	✗
3.	Dromana Mixed Use Development, June 2002	C40 (Part 1)	Dromana Mixed Use Development, June 2002: The expiry date of the incorporated document is noted as 30 June 2006 (where the approved use and	✗

No.	Name of document	Introduced by Amendment	Comment	Retain Document?
			development is not started) and 31 December 2006 (where development is not completed). It is noted that the parcels in question have been developed with residential uses: • 71 Nepean Highway, Safety Beach is a 33m² plantation reserve owned by the Shire; • 104 Country Club Drive, Safety Beach was developed into aged care units subject to P01/0046; • 111 Country Club Drive, Safety Beach, were developed into a nursing home subject to P94/1698; • 130 Country Club Drive, Safety Beach was developed into an aged care facility subject to E01/0006; and • 140 Country Club Drive, Safety Beach was developed into a 39 dwelling residential development subject to P12/1993. Reference to this document should be removed as the uses outlined were never	

No.	Name of document	Introduced by Amendment	Comment	Retain Document?
			implemented and it has expired.	
4.	Inghams Somerville Redevelopment Incorporated Document, February 2010	C139	Still current	✓
5.	Kinfauns Development Plan, April 2004	C73 (Part 1)	Incorporated document refers to Lot Development Plans that nominate site coverage and setbacks. These elements are not the subject of the Section 173 Agreement over the original development. The incorporated document has no expiry and is therefore still current.	✓
6.	Moorooduc Coolstore, August 2015	C192	Still current.	✓
7.	Mornington Homemakers Centre, April 1999	NPS1	Still current.	✓
8.	Mt Eliza Centre Subdivision, April 1999	NPS1	Still current. Partial subdivision. Amendment C208 – applies a Heritage Overlay (HO399) to 33-33A Jacksons Road, Mount Eliza, on an interim basis. This has no effect on the incorporated document which identifies as plan of subdivision and requirements with no expiry provision.	✓
9.	Peninsula Link Project, Incorporated	C195	P11/0894 Issued June 2011 to develop and use	✗

No.	Name of document	Introduced by Amendment	Comment	Retain Document?
	Document, July 2009 (amended June 211 and February 2014)		the site for two freeway service stations. C6871/14 all works completed in stage 2. C1023/15 all works completed in stage 1. The works the subject of the incorporated document have been completed. This document has expired and should be removed.	
10.	Subdivision prohibition in the Public Conservation and Resource Zone outside the Urban Growth Boundary, April 2014	C176 (Part 2)	Still current.	✓
11.	The National Golf Course and Cape Schanck Resort Development, July 2014	C180	Still current. Ongoing development.	✓
12.	Trig Point Subdivision, April 1999	NPS1	Still current.	✓
13.	Woodlands Estate Somerville, April 1999	NPS1	Plan of Subdivision PS334568 (Part A) and PS336090 (Part B) completed in general accordance with the Woodlands Residential Estate Concept Plan (attachment to incorporated document). Development Plan required as part of the incorporated document was never submitted as part of the subdivision approval. This document	✗

No.	Name of document	Introduced by Amendment	Comment	Retain Document?
			has expired and should be removed.	
14.	Searoad Ferries – Sorrento Terminal Building and Associated Uses and Works Incorporated Document, October 2017	C209	Still current.	✓
15.	Figure 3 Mornington Peninsula Shire Council Ballar Creek, Mount Eliza Landslide Zone Plan, 11 July 2000	C17	The subject of a LPP C22.16 -the report prepared by Coffey identifies a Landslide Zone Plan which indicates four zones. C22.16 identifies building & works requirements, and potential engineering works. The LPP also makes provision for request for geotechnical engineering report. EMO3 is mapped to cover the Ballar Creek alignment and covers the area identified in the incorporated document. Specifically it requires that: <i>'land affected by zone IV of the incorporated document titled, Figure 3 Mornington Peninsula Shire Council Ballar Creek, Mount Eliza Landslide Zone Plan dated 11 July 2000'</i> requires a geotechnical engineering investigation. Further work is required to ascertain if the EMO	✓

No.	Name of document	Introduced by Amendment	Comment	Retain Document?
			should include further scope that is covered in the LPP.	
16.	Flinders Christian Community College, Master Plan, November 2009	C94	Referenced in SUZ7. Still current.	✓
17.	Hastings Port Industrial Area Land Use Structure Plan, April 1996	NPS1	Still current.	✓
18.	Moonah Links Comprehensive Development Plan, May 1999	C2	Referenced in CDZ as Schedule 1. Still current.	✓
19.	Plans Incorporated under Clause 43.01-2 Plan No. 1 Merricks General Sore, July 2004	C65 (Part 2)	Referenced in HO285 as an incorporated document. Still current.	✓
20.	Plans Incorporated under Clause 43.01-2 Plan No. 2 Crib Point Public Cemetery, February 2005	C65 (Part 2)	Referenced in HO274 as an incorporated document. Still current.	✓
21.	Plans Incorporated under Clause 43.01-2 Plan No. 3 Palm Beach Estate Somers, February 2005	C65 (Part 2)	Referenced in HO290 as an incorporated document. Still current.	✓
22.	Restructure Plans Incorporated Under Clause 45.05 – Arthurs Seat Restructure Plan, March 2004	C67	RO7 - identified restructure lots have not been consolidated. Still current.	✓
23.	Restructure Plans Incorporated Under Clause 45.05 – Bittern Crib Point	C135 (part 1)	RO1 - identified restructure lots have not been consolidated. Still current.	✓

No.	Name of document	Introduced by Amendment	Comment	Retain Document?
	Restructure Plan, April 2013			
24.	Restructure Plans Incorporated Under Clause 45.05 – Bungower Road Area Restructure Plan, December 2011	C165	RO9 – to be removed as identified parcels have been consolidated as part of planning approval CP11/002 for realignment of boundaries on 09 May 2013.	x
25.	Restructure Plans Incorporated Under Clause 45.05 – Creswell Street Restructure Plan, October 2009	C126 (Part 1)	RO4. Amendment C210 seeks to delete the RO4 where it applies to part of the amendment area. Status Panel Report to Planning Authority. Still current until C210 Gazetted.	✓
26.	Restructure Plans Incorporated Under Clause 45.05 – Disney Street Industrial Restructure Plan, October 2009	C68 (Part 1)	RO3 - identified restructure lots have not been consolidated. Still current.	✓
27.	Restructure Plans Incorporated Under Clause 45.05 – Hastings business 4 Restructure Plan, October 2009	C126 (part 1)	RO5 - identified restructure lots have not been consolidated. Still current.	✓
28.	Restructure Plans Incorporated Under Clause 45.05 – Hellicars Road Estate Restructure Plan, April 2004	C68 (Part 1)	RO6 - identified restructure lots have not been consolidated. Still current.	✓
29.	Restructure Plans Incorporated Under Clause 45.05 – Naval Base Estate Restructure Plan, March 2012	C135 (Part 1)	RO2 - identified restructure lots have not been consolidated. Still current.	✓

No.	Name of document	Introduced by Amendment	Comment	Retain Document?
30.	Restructure Plans Incorporated Under Clause 45.05 – St Andrews Beach Restructure Plan, March 2012	C135 (Part 1)	RO8 - identified restructure lots have not been consolidated. Still current.	✓

APPENDIX 6: 2018 Planning Scheme Review Implementation Plan

In some sections of the Planning Scheme Review 2018, certain recommendations have been identified and replicated in other sections of the Review. As a result, where replication has occurred, the recommendation numbers are 'grouped' in the implementation plan.

No:	Recommendation:	Timing:
R1, R7, R12, R191	Continue to pursue approval of Amendment C219 (Neighbourhood Residential Zone & Housing Settlement Strategy) to the planning scheme. Council has adopted a new Housing and Settlement Strategy which has formed the basis of Amendment C219 currently with the Minister for Authorisation. This strategic work clarifies Council's position regarding the scale of residential development anticipated for the Peninsula going forward. It proposes three new NRZ schedules to all residential areas currently zoned General Residential 1 (GRZ1), except for select areas zoned GRZ1 within the Mornington, Rosebud and Hastings Major Activity Centres (MACs).	Ongoing
R2	Further strategic work to prepare and implement future neighbourhood character studies. Given the generally accepted 'lower-scale' and 'coastal' character of the Peninsula, attempts through the planning scheme amendment process to implement mandatory controls – particularly regarding height – were often criticised by Panels. Criticism was often based around the need for strategic work to be undertaken by Council to provide solid foundations for decision making, and underpin further planning scheme amendments going forward.	Ongoing
R3, R14	Continue preparation and adoption of current strategic plans and township structure plans. In context of continuing to plan for strategic issues affecting townships within the Mornington Peninsula Shire, Council are currently undertaking work to prepare Structure Plans for Balnarring, Somerville and Baxter townships. In context of the recommendations of the <i>Planning for Sea Level Rise Guidelines Port Phillip and Westernport Region</i> , and given the amount of coastline located within the Mornington Peninsula Shire, and potential climate change impacts on coastal towns and settlements,	Coastal Villages Study 2018/2019 Baxter, Balnarring & Somerville Townships 2018/2019

No:	Recommendation:	Timing:
	particularly along Western Port Bay - Council is preparing its <i>Coastal Villages and Neighbourhood Strategy</i> .	
R4, R15	Amend the policy and provisions of planning scheme to ensure alignment with adopted strategic plans and neighbourhood character studies.	2019/2020 - 2020/2021
R5, R57	Upon adoption of the Green Wedge Management Plan, update the local planning policy framework (including MSS and policies) to articulate the key strategic directives of the plan.	2018/2019
R6	Continue the detailed review and refinement of the existing local planning policy framework for translation to the new Planning Policy Framework.	2018/2019
R8	Engage with DELWP to commence proceedings for the declaration of the Mornington Peninsula under section 46A (Distinctive Areas and Landscapes) of the <i>Planning and Environment Act 1987</i>. The Mornington Peninsula Localised Planning Statement is identified as a policy document under Clause 11.03-5S, however, the new legislation establishes the power for the Governor General to officially 'declare' an area or landscape as distinct in the Government Gazette (Section 46AO1), specifying a range of criteria that must be satisfied before the Minister for Planning can recommend declaration (Section 46ASP1).	Ongoing
R9	Review the Localised Planning Statement for translation to a Statement of Planning Policy as per the requirements of section 46AV.	2018/2019
R10, R16, R66	Prepare an amendment to the Planning Scheme to implement a local policy for affordable housing at Clause 16.01-4. Introduction of Housing Affordability legislative framework to allow for the provision of affordable housing via voluntary arrangements with the private sector will be supported by Councils affordable housing position and associated policy directives in the <i>Triple A Housing Plan</i> currently on exhibition. This work coupled with further strategic work will enable the preparation of amendment to the planning scheme to facilitate an Affordable Housing Policy at Clause 16.01-4.	2018/2019

No:	Recommendation:	Timing:
R11	Amend the local planning policy framework (as necessary) with any updated strategic directives. DELWP have advised as part of Amendment VC148, State Policy content has been updated where possible. Certain policies, references and policy documents are known to be in need of review, but have not been updated as part of Amendment VC148 as they are being addressed as part of other subject specific reviews. These reviews include projects relating to major hazard facilities, airports and environmentally sustainable development. As these State level policies are released, and as local policy is reviewed against the new State policy framework, any 'gaps' in local content will become plainly visible, giving Councils a clear agenda for future policy work.	Ongoing
R13, R236	Engage with DELWP to apply the Urban Growth Boundary around the urban areas of Balnarring Beach, Merricks Beach, Merricks and Point Leo under section 46AG of the <i>Planning and Environment Act 1987</i>. Apart from introducing the NRZ and associated changes to the LPPF, the HSS also recommends that Council advocate to the State government to place an Urban Growth Boundary around the urban areas (i.e. GRZ and LDRZ zoned land), of Balnarring Beach, Merricks Beach, Merricks and Point Leo.	2018/2019
R17	Translate relevant contextual material from the <i>Mornington Peninsula Economic Development Strategy 2016-2019</i> into the local planning policy framework, including any associated Economic Framework Plan.	2018/2019
R18	Include the <i>Mornington Peninsula Economic Development Strategy 2016-2019</i> as a Reference Document to the scheme.	2020/2021
R19	Undertake further strategic work in consultation with Economic Development to identify land that may be the subject of an amendment to the Planning Scheme to facilitate a 'Marine' Special Use Zone along Western Port. The Economic Development Strategy identifies that current marine infrastructure is not sufficient to enable business to capitalise on growth opportunities that are present in the marketplace. A key proposed initiative is to introduce a Marine Special Use Zone to simplify and expedite planning approval in Port related Special Use Zoning along Western Port. Whilst this action has	Ongoing

No:	Recommendation:	Timing:
	been targeted for a 1-2 year implementation, it must be undertaken as part of comprehensive planning for the Port area once the State Government decides the future role and development of the Port of Hastings.	
R20	Amend the local planning policy framework to integrate the vision, objectives, key directives and revised hierarchy of the <i>Mornington Peninsula Activity Centres Strategy Review</i> (April 2018).	2018/2019
R21	Include the <i>Mornington Peninsula Activity Centres Strategy Review</i> (April 2018) as a reference document to the planning scheme.	2018/2019
R22	Amend the local planning policy framework to integrate the vision, objectives and key directives of the <i>Mornington Peninsula Industrial Areas Strategy</i> (April 2018).	2018/2019
R23	Include the <i>Mornington Peninsula Industrial Areas Strategy</i> (April 2018) as a reference document to the planning scheme.	2018/2019
R24	Further investigate recommendations of the <i>Mornington Peninsula Industrial Areas Strategy</i> (April 2018) including potential industrial rezonings. The Industrial Areas Strategy recommends further investigating the opportunity for industrial rezonings in land adjacent to existing industrial areas at Somerville, Hastings and Tyabb, with opportunities on the western side of the Peninsula considered more constrained.	2020/2021
R25	Translate relevant contextual material from the <i>Mornington Peninsula Marine Precincts Strategy</i> (January 2015) into the local planning policy framework once updated. The Marine Precincts Strategy was adopted by Council in January 2015. The Strategy is required to be review 2018/2019. The Strategy recommends that Council apply a Special Use Zone ('SUZ') to marine precincts and nodes that are classified as regional facilities. Further work as identified at Recommendation 19 will be required to inform any rezoning.	Ongoing (as updated)
R26	Translate relevant contextual material from the <i>Marine Precinct Economic Analysis</i> once completed and adopted by Council into the local planning policy framework	Ongoing

No:	Recommendation:	Timing:
	and amend the planning scheme to initiate rezonings to facilitate the recommendations of the Analysis.	
R27	Translate relevant contextual material from the <i>Mornington Peninsula Sustainable Transport Strategy 2015-2020</i> into the local planning policy framework, including any associated Transport / Movement Framework Plan.	2018/2019
R28	Continue to pursue approval of Amendment GC088 (Licensed Premised - Packaged Liquor). South East Melbourne group of councils (SEMCA) have prepared Amendment GC088 which is currently with the Minister for Authorisation. The amendment seeks to insert a new local planning policy, the Licensed Premises (Packaged Liquor) Policy into the planning schemes of the eight SEMCA Council's.	Ongoing
R29	Subject to revision/update of the <i>Mornington Coastal Management Plan</i>, translate contextual material into the Municipal Planning Strategy as relevant. It is noted that, in addition to its CMPs, Council relies on the comprehensive framework for coastal management provided by the <i>Victoria Coastal Strategy (2014)</i> and associated Regional Coastal Plan and local Coastal Action Plans (CAPs) for decision-making affecting the Shire's foreshores and coastlines. The <i>Victorian Coastal Strategy</i> is set to be reviewed and strengthened as part of the replacement of the existing <i>Coastal Management Act 1995</i> with the new ' <i>Marine and Coastal Act</i> '. Under the new Act, the Coastal Strategy will be renamed the ' <i>Marine and Coastal Strategy</i> '. The Mornington Coastal Management Plan is due for review/update as a ' <i>Marine and Coastal Strategy</i> ' under the new ' <i>Marine and Coastal Act</i> '. It is recommended that once updated the findings of the 'Strategy' be incorporated into the planning scheme as relevant.	Ongoing (as updated)
R30	Subject to revision/update of the <i>Mornington Harbour Precinct Plan</i>, translate contextual material into the Municipal Planning Strategy as relevant. It is noted that, in addition to its CMPs, Council relies on the comprehensive framework for coastal management provided by the <i>Victoria Coastal Strategy (2014)</i> and associated Regional Coastal Plan and local Coastal Action Plans (CAPs) for decision-making affecting the	Ongoing (as updated)

No:	Recommendation:	Timing:
	Shire's foreshores and coastlines. The <i>Victorian Coastal Strategy</i> is set to be reviewed and strengthened as part of the replacement of the existing <i>Coastal Management Act 1995</i> with the new ' <i>Marine and Coastal Act</i> '. Under the new Act, the Coastal Strategy will be renamed the ' <i>Marine and Coastal Strategy</i> '. The Mornington Harbour Precinct Plan is due for review/update as a ' <i>Marine and Coastal Strategy</i> ' under the new ' <i>Marine and Coastal Act</i> '. It is recommended that once updated the findings of the 'Strategy' be incorporated into the planning scheme as relevant.	
R31	Subject to revision/update of the <i>Safety Beach Coastal Management Plan</i>, translate contextual material into the Municipal Planning Strategy as relevant. It is noted that, in addition to its CMPs, Council relies on the comprehensive framework for coastal management provided by the <i>Victoria Coastal Strategy (2014)</i> and associated Regional Coastal Plan and local Coastal Action Plans (CAPs) for decision-making affecting the Shire's foreshores and coastlines. The <i>Victorian Coastal Strategy</i> is set to be reviewed and strengthened as part of the replacement of the existing <i>Coastal Management Act 1995</i> with the new ' <i>Marine and Coastal Act</i> '. Under the new Act, the Coastal Strategy will be renamed the ' <i>Marine and Coastal Strategy</i> '. The Safety Beach Coastal Management Plan is due for review/update as a ' <i>Marine and Coastal Strategy</i> ' under the new ' <i>Marine and Coastal Act</i> '. It is recommended that once updated the findings of the 'Strategy' be incorporated into the planning scheme as relevant.	Ongoing (as updated)
R32	Translate relevant contextual material from the <i>Sorrento Coastal Management Plan</i> into the Municipal Planning Strategy. It is noted that, in addition to its CMPs, Council relies on the comprehensive framework for coastal management provided by the <i>Victoria Coastal Strategy (2014)</i> and associated Regional Coastal Plan and local Coastal Action Plans (CAPs) for decision-making affecting the Shire's foreshores and coastlines. The <i>Victorian Coastal Strategy</i> is set to be reviewed and strengthened as part of the replacement of the existing <i>Coastal Management Act 1995</i> with the new ' <i>Marine and Coastal Act</i> '. Under the new Act, the Coastal Strategy will be renamed the ' <i>Marine and</i>	2018/2019

No:	Recommendation:	Timing:
	<i>Coastal Strategy</i> . The Sorrento Coastal Management Plan is due for review/update as a <i>'Marine and Coastal Strategy'</i> under the new <i>'Marine and Coastal Act'</i> . It is recommended that once updated the findings of the <i>'Strategy'</i> be incorporated into the planning scheme as relevant.	
R33	Subject to revision/update of the <i>Rosebud Coastal Management Plan</i>, translate contextual material into the Municipal Planning Strategy as relevant. It is noted that, in addition to its CMPs, Council relies on the comprehensive framework for coastal management provided by the <i>Victoria Coastal Strategy (2014)</i> and associated Regional Coastal Plan and local Coastal Action Plans (CAPs) for decision-making affecting the Shire's foreshores and coastlines. The <i>Victorian Coastal Strategy</i> is set to be reviewed and strengthened as part of the replacement of the existing <i>Coastal Management Act 1995</i> with the new <i>'Marine and Coastal Act'</i> . Under the new Act, the Coastal Strategy will be renamed the <i>'Marine and Coastal Strategy'</i> . The Rosebud Coastal Management Plan is due for review/update as a <i>'Marine and Coastal Strategy'</i> under the new <i>'Marine and Coastal Act'</i> . It is recommended that once updated the findings of the <i>'Strategy'</i> be incorporated into the planning scheme as relevant.	Ongoing (as updated)
R34	Translate relevant contextual material from the Carbon Neutral Policy into the Municipal Planning Strategy.	2019/2020
R35	Translate relevant contextual material from the Smart Water Plan into the Municipal Planning Strategy.	2019/2020
R36	Include the <i>Smart Water Plan: An Integrated Approach to Water Management for the Mornington Peninsula (adopted in 2013, updated 2018)</i> as a Reference Document to the scheme.	2019/2020
R37	Prepare planning scheme amendment to introduce EMO's upon completion of further studies. Landslide susceptibility modelling has been undertaken for the whole of the Mornington Peninsula. However, there is significant work still required to translate the outcomes into Erosion Management Overlay mapping. Council's adopted Water	Ongoing

No:	Recommendation:	Timing:
	Conservation Management Plan – <i>Smart Water Plan: An Integrated Approach to Water Management for the Mornington Peninsula</i> recommends research to support the development of new erosion management provisions in the planning scheme. This work has not yet commenced	
R38	Undertake further strategic work as identified in the TWMP to inform the basis of an amendment to the Planning Scheme including amending ESO30 and rezoning of land at 92 Elizabeth Street, Capel Sound to PCRZ. The Tootgarook Wetland Management Plan (TWMP), adopted by Council on 14 May 2018, is an environmental management plan that forms part of the stewardship and advocacy role of Council in protecting and enhancing the Mornington Peninsula's biodiversity. The Plan contains specific recommended actions that seek to protect and conserve the valued ecosystem of the Tootgarook Wetland as well as promote the area as an ecotourism destination including (but not limited to): • Appointment of a professional ecologist/hydrogeologist to review the Wetland extent and boundary of Environmental Significance Overlay Schedule 30 (ESO30); and • Rezoning of Council land at 92 Elizabeth Avenue, Capel Sound to the Public Conservation and Resource Zone (PCRZ).	2018/2019
R39	Continue to pursue approval of Amendment C214 (Heritage Review Stage 2). The <i>Mornington Peninsula Shire Heritage Review</i> (the Heritage Review), not yet completed, encompasses a review of European Heritage across the Shire, including a review of previous heritage studies under the former Hastings, Flinders and Mornington Shires, a new Thematic History, and the identification of potential additional heritage places to be included in the Heritage Overlay. The Review has been divided into four separate stages/ study areas. Stage 2 of the Heritage Review, which includes a new shire-wide Thematic History, has been completed (adopted by Council October 2017). The findings are sought to be implemented into the planning scheme (updates to Heritage Overlay and Reference	2018/2019

No:	Recommendation:	Timing:
	documents) via proposed Amendment C214. Public exhibition for this amendment concluded in June 2018.	
R40	Following completion and adoption of Stage 3 of the Heritage Review, seek to incorporate the findings into the planning scheme via an amendment. The <i>Mornington Peninsula Shire Heritage Review</i> (the Heritage Review), not yet completed, encompasses a review of European Heritage across the Shire, including a review of previous heritage studies under the former Hastings, Flinders and Mornington Shires, a new Thematic History, and the identification of potential additional heritage places to be included in the Heritage Overlay. The Review has been divided into four separate stages. Stage 3 includes Blairgowrie, Sorrento and Portsea and is currently underway (not completed, not adopted).	2019/2020
R41, R63	Upon completion and adoption of Stage 4 of the Heritage Review, seek to incorporate its findings via an amendment to the Heritage Overlay and Planning Scheme as appropriate. The <i>Mornington Peninsula Shire Heritage Review</i> (the Heritage Review), not yet completed, encompasses a review of European Heritage across the Shire, including a review of previous heritage studies under the former Hastings, Flinders and Mornington Shires, a new Thematic History, and the identification of potential additional heritage places to be included in the Heritage Overlay. The Review has been divided into four separate stages/ study areas. Stage 4 includes Somerville, Hastings, coastal townships and rural areas is yet to commence.	Ongoing
R42	Review the SUZ3 to ensure decision guidelines align with adopted Tyabb Airfield Precinct Plan (TAPP). The TAPP among other matters, in relation to the planning scheme recommends that a review of the purpose and decision guidelines of the SUZ3 be undertaken, to ensure greater alignment with the adopted TAPP.	2019/2020
R43	Prepare and apply a new Design and Development Overlay to control built form for the protection of the Tyabb Airfield. The Tyabb Airfield Precinct Plan (TAPP) among other matters, in relation to the planning scheme recommends application of a	2019/2020

No:	Recommendation:	Timing:
	Design and Development Overlay to the approach and departure paths and public safety areas of the Airfield to prevent structures being constructed which may reduce safety. Specifically, to protect the aerodrome's airspace surfaces in accordance with CAAP 92-1(1) and NASF Guideline F and Public Safety Areas. The DDO should: - o limit building heights on land in the immediate vicinity of the runway (including vegetation, infrastructure installations, phone towers etc); and - o control the siting and design for outbuildings over 350 square metres on the properties along the west side of Stuart Road.	
R44	Prepare and introduce a new local planning policy to recognise the activities of the airfield and assist the exercise of planning discretion to avoid future land use conflicts. The Tyabb Airfield Precinct Plan (TAPP) among other matters, in relation to the planning scheme recommends preparation of a Tyabb Airfield Local Planning Policy to recognise the activities of the airfield and assist the exercise of planning discretion to avoid future land use conflicts. Specifically, to require the consideration of the impact that all new use and development would have on the operation of the airfield, as well as the effect of the airfield operations on proposed new use and development.	2020/2021
R45	Include the Tyabb Airfield Precinct Plan (TAPP) as a reference document to the planning scheme.	2020/2021
R46	Continue to pursue approval of Amendment C190 (Hastings Town Centre Structure Plan 2014). Amendment C190 was submitted to the Minister for approval in November 2017, it was also the subject of a Panel review and report in August 2017 where it was generally supported with specific recommendations around the requirement for further work to justify any mandatory height provisions. The amendment is currently still with the Minister. The amendment proposes to implement the strategic directions in Hastings Town Centre Structure Plan 2014.	Ongoing
R47	Review and amend the application of Schedule 1 and 2 of the Design and Development Overlay in accordance with the Rye Township Urban Design	Ongoing

No:	Recommendation:	Timing:
	Framework Plan. The Plan makes various recommendations to amend the planning scheme, including reviewing the application of Schedule 1 and 2 of the Design and Development Overlay (to occur in the next 3-5 years, following the completion of the commercial Urban Design Framework.	
R48	Rezone identified residential areas to the Mixed Use Zone in accordance with the Rye Township Plan. The Plan makes various recommendations to amend the planning scheme, including rezoning certain residential areas with the township boundary to the Mixed Use Zone (expected to occur in the next 5-10 years).	Ongoing
R49	Develop and apply a Development Contributions Plan Overlay over the Rye Township.	Ongoing
R50	Include the Rye Township Plan (December 2017) as a reference document to the scheme.	Ongoing
R51	Continue to pursue approval of Amendment C206 (Rosebud Activity Centre Town Centre Structure Plan 2014). Amendment C206 was submitted to the Minister for approval in November 2017, it was also the subject of a Panel review and report in August 2017 where it was generally supported with specific recommendations around the requirement for further work to justify any mandatory height provisions. The amendment is currently still with the Minister. The amendment proposes to implement the strategic directions in Rosebud Activity Centre Structure Plan 2016.	Ongoing
R52	Review C219 against the adopted Dromana studies to ensure consistency and avoid duplication of provisions in zone and proposed DDO. In July 2017, Council adopted neighbourhood character assessments for two separate residential investigation areas of Dromana where no Design and Development Overlays currently apply. The studies recommended the application of Design and Development Overlay controls with a mix of mandatory and performance-based standards. Council pursued the design controls via proposed Amendment C213, however, the amendment did not receive Ministerial	2018/2019

No:	Recommendation:	Timing:
	Authorisation on account of it being inconsistent with the Amendment C219 (NRZ and HSS Amendment).	
R53	Investigate and pursue appropriate design controls to implement the Dromana Residential Investigation Area as part of the planning scheme amendment to follow the Dromana Township Plan. In July 2017, Council adopted neighbourhood character assessments for two separate residential investigation areas of Dromana where no Design and Development Overlays currently apply. The studies recommended the application of Design and Development Overlay controls with a mix of mandatory and performance-based standards. Council pursued the design controls via proposed Amendment C213, however, the amendment did not receive Ministerial Authorisation on account of it being inconsistent with the Amendment C219 (NRZ and HSS Amendment). The Minister also found that a Design and Development Overlay is not the most appropriate planning tool to achieve the stated objectives for the area. Council now intends to merge the findings and recommendations of the two character studies into the Dromana Township Plan and associated amendment.	2018/2019
R54	Translate relevant contextual material from the Roadside Equestrian & Mountain Bike Trails Strategy 2014-2019 into the Heritage Overlay. The Strategy identified strategic planning actions that include: • Ensure cultural heritage is protected, preserved and key elements interpreted where appropriate. Implement recommendations of the Conservation Management Plan for the Red Hill Railway. Identify other key local heritage features of trail network and interpret where appropriate.	2018/2019
R55	Undertake further strategic work to identify specific parts of the Planning Scheme where the Roadside Equestrian & Mountain Bike Trails Strategy 2014-2019 should be implemented e.g. Environmental Significance Overlays.	2018/2019

No:	Recommendation:	Timing:
R56	Include the Playspace Strategy 2015-2020 as an incorporated document to any future Development Contribution Plan or Development Contributions Plan Overlays to the Planning scheme if necessary.	Ongoing
R58	Pursue further strategic work identified in the Green Wedge Management Plan (GWMP) and pursue associated planning scheme amendments. Council has recently developed the draft Mornington Peninsula Green Wedge Management Plan 2018 (GWMP). Once adopted, the GWMP is to replace the existing interim plan which was adopted by Council in 2012. Drawing from the above list, once the GWMP is adopted - the highest priority amendments to the planning scheme are: • An amendment to include a local policy for 'Dwellings in the Green Wedge Policy'. • An amendment to include a local policy for 'Camping and Caravan Park Outside the Urban Growth Boundary'. • An amendment to delete Clause 22.03 (Dwelling density, excision and realignments in rural areas). • An amendment to update LPPF to refer to and support the GWMP and the Shire's Biodiversity Conservation Plan. • An amendment to local policy, to provide that concentrated precincts of tourism based commercial activity within the Green Wedge are not supported. • An amendment to revise local policy 22.08 (Integrated Recreational and Residential Development in Rural Areas). In addition to the above, the findings of the GWMP will necessitate a broader review of other local planning policies presently within the scheme that relate to rural areas: • Clauses 22.06 (Development along Highways, Main Roads and Tourist Routes), • Clause 22.07 (Commercial and industrial uses in rural areas), • Clause 22.08 (Integrated Recreational and Residential Development in Rural Areas), and • Clause 22.15 (Landscape Protection and Broiler Farms).	Ongoing

No:	Recommendation:	Timing:
R59	Upon adoption of the Biodiversity Conservation Management Plan, update the local planning policy framework (including MSS and policies) to articulate the key strategic directives of the plan. It is anticipated that many of the findings of the Plan may necessitate corresponding updates to the planning scheme's local environmental policies and provisions, including content within the current MSS and local planning policies (such as Clause 22.14: Mornington Peninsula Land Units), as well as the mapping and content of the Environmental Significance, Significant Landscape and Vegetation Protection Overlays.	2019/2020
R60	Amend schedules to zones and overlays as appropriate to accord with the Biodiversity Conservation Management Plan, including, but not limited to the Environmental Significance and Vegetation Protection Overlays. It is anticipated that many of the findings of the Plan may necessitate corresponding updates to the planning scheme's local environmental policies and provisions, including content within the current MSS and local planning policies (such as Clause 22.14: Mornington Peninsula Land Units), as well as the mapping and content of the Environmental Significance, Significant Landscape and Vegetation Protection Overlays.	2019/2020
R61	Upon adoption of the Integrated Transport Plan, update the local planning policy framework (including MSS and policies) to articulate the key strategic directives of the plan. There is no 'current' integrated transport strategy for the Mornington Peninsula with the most recent study – the Mornington Peninsula Access and Mobility Study, completed in 2007. This is a significant gap in critical strategic work. In May/June 2018 Council engaged consultant input to prepare a research paper (<i>Towards Mornington Peninsula Shire's Transport Future – A proposed process for developing an integrated transport plan during 2018 to 2020 – recognising key contexts and drivers</i>) to provide advice for a process for preparing and delivering an Integrated Transport Plan (ITP). It is intended that Council will use this research paper as a basis to start this significant	Ongoing

No:	Recommendation:	Timing:
	strategic work and anticipate delivery in mid to late 2020. It is recommended that this Strategy once finalised and adopted be incorporated into the planning scheme.	
R62	Include the Integrated Transport Plan as a reference document to the scheme. There is no 'current' integrated transport strategy for the Mornington Peninsula with the most recent study – the Mornington Peninsula Access and Mobility Study, completed in 2007. This is a significant gap in critical strategic work. In May/June 2018 Council engaged consultant input to prepare a research paper (<i>Towards Mornington Peninsula Shire's Transport Future – A proposed process for developing an integrated transport plan during 2018 to 2020 – recognising key contexts and drivers</i>) to provide advice for a process for preparing and delivering an Integrated Transport Plan (ITP). It is intended that Council will use this research paper as a basis to start this significant strategic work and anticipate delivery in mid to late 2020. It is recommended that this Strategy once finalised and adopted be incorporated into the planning scheme.	Ongoing
R64	Review the existing <i>Boatshed and Bathing Box Heritage Study (November 2000)</i> and further amend the Heritage Overlay as necessary, in conjunction with DELWP. Stage 4 of the Heritage Review is yet to commence. Upon completion of Stage 4, Council intends to review the existing <i>Boatshed and Bathing Box Heritage Study (November 2000)</i> and further amend the Heritage Overlay as necessary, in conjunction with DELWP.	Ongoing
R65	Include any heritage citations from the Heritage Review Stage 4 as reference documents to the scheme. Under Amendment VC148, the Heritage Overlay will now need to include citations within the overlay itself. This requirement is not retrospective but relates to any amendments to the HO after gazettal of VC148.	Ongoing
R67	Update the local planning policy framework (including MSS and policies) to articulate the key strategic directives of the <i>Triple A Housing Plan 2018-2033</i> in context of State policy review.	2018/2019

No:	Recommendation:	Timing:
R68	Include the <i>Triple A Housing Plan 2018-2030</i> and <i>Social and Affordable Housing Policy 2018</i> as a reference document to the scheme as part of the planning scheme amendment.	2018/2019
R69	Finalise and adopt The Briars Master Plan. The Briars Master Plan will identify a strategic framework over a 10-year period. The master plan builds on the previous Briars Management Plan to provide a strategic vision for the site. The Plan is still in draft form, and will be due for adoption by Council in late 2018.	2018/2019
R70	In association with the preparation of The Briars Master Plan, prepare and pursue an amendment to rezone GWZ land within The Briars to PCRZ. Currently, the Wildlife Sanctuary (approximately 90 hectares) is zoned as PCRZ while the balance of The Briars (approximately 140 hectares) is zoned GWZ. Early actions of the Draft Master Plan have identified that to deliver the initiatives of the Plan, and to better align to the uses occurring at The Briars now and into the future, re-zoning of the GWZ parts of The Briars to PCRZ should be undertaken.	2019/2020
R71	Include The Briars Master Plan as a reference document to the scheme.	2019/2020
R72	Include the Sports Capacity Plan 2018 (once adopted) into any introduction of a Development Contributions Plan Overlay to the planning scheme upon preparation and adoption of a staged, Shire-wide Development Contributions Plan if necessary. The Mornington Peninsula Shire's Sports Capacity Plan is currently in draft form and is scheduled for adoption mid 2018. It comprises three separate but integrated studies of sports fields, indoor sport and other sports (non field-based). A recommendation of the Planning Scheme Review is investigation into a Shire-wide Development Contributions Plan and associated DCPO for all relevant infrastructure and services. The Sports Capacity Plan has significant relevance and identifies implementation for ongoing planning and maintenance of public open spaces (sports fields), and should be included as a referenced document in the staged approach to introducing DCPs across the Shire.	Ongoing

No:	Recommendation:	Timing:
R73	Undertake a planning scheme amendment once the <i>Port Phillip Hazard Assessment</i> has been completed to introduce LSIO to affected properties. Council have prepared Amendment C216 Land Subject to Inundation Overlay at the request of Melbourne Water. The amendment finished exhibition on the 26th April 2018. It seeks to apply the Land Subject to Inundation Overlay to land identified by Melbourne Water as vulnerable due to hazards associated with coastal erosion, flooding, sea level rise and storm surge around Western Port as identified in the Planning for Sea Level Rise Guidelines Port Phillip and Westernport Region. Note that the Third Phase Hazard Assessment is yet to be completed.	Ongoing
R74	Implement findings of the <i>Coastal Villages Study</i> into Municipal Planning Scheme once adopted with introduction of LPPF changes, zone or DDO provisions. The Strategy will address coastal climate change impacts and adaptation for villages allocated along Western Port Bay and provide a design and character framework for each specified village. The Strategy has been initiated in July/August of 2018 and is anticipated to be completed within 12 months.	2019/2020
R75	Implement findings of the <i>Balnarring Structure Plan</i> into Municipal Planning Scheme once adopted with introduction of LPPF changes, zone or DDO provisions. In context of continuing to plan for strategic issues affecting townships within the Mornington Peninsula Shire, Council have engaged consultant input to prepare a Structure Plan for Balnarring. Work on the Structure Plan has been initiated in August/September of 2018, and is anticipated to be completed within 12 months.	2019/2020
R76	Implement findings of the <i>Somerville Structure Plan</i> into Municipal Planning Scheme once adopted with introduction of LPPF changes, zone or DDO provisions. In context of continuing to plan for strategic issues affecting townships within the Mornington Peninsula Shire, Council have engaged consultant input to prepare a Structure Plan for Somerville. Work on the Structure Plan has been initiated in August/September of 2018, and is anticipated to be completed within 12 months.	

No:	Recommendation:	Timing:
R77	Implement findings of the <i>Baxter Structure Plan</i> into Municipal Planning Scheme once adopted with introduction of LPPF changes, zone or DDO provisions. In context of continuing to plan for strategic issues affecting townships within the Mornington Peninsula Shire, Council have engaged consultant input to prepare a Structure Plan for Baxter. Work on the Structure Plan has been initiated in August/September of 2018, and is anticipated to be completed within 12 months.	2019/2020
R78	Ensure that local nuance is retained when the LPPF is translated into the new PPF format (revised VPPs). Overall, the majority of State Policy themes, objectives and strategies are applied at the local level via the LPPF. The following recommendations will ensure that local policy implements the objectives of State Policy more effectively and comprehensively, without compromising the requirement for nuance, and connection of State Policy issues, on the Mornington Peninsula.	2018/2019
R79	Remove duplication of State Policy in the LPPF when the LPPF is translated into the new PPF format (revised VPPs).	2018/2019
R80	Undertake further work required to ‘fill’ the policy gap between State Policy 15.02 Sustainable Development and Local Policy. The review has highlighted a clear policy gap between the local and State Policy – being that there is no Local Policy application of State Policy 15.02 Sustainable Development. Council is undertaking work to produce a local ESD policy. For further work to inform local WSUD policy, this Review has flagged the opportunity to review Council's Smart Water Plan and Wastewater Management Policy. Once complete, this work will need to be translated into local policy (or a new provision created under the revised VPP's).	Ongoing
R81	Clause 21.01 – Delete entire clause. Clause 21.01 contains material that relates solely to operational matters – i.e. explaining what an MSS is and how it is used. It does not comprise any policy guidance and is therefore superfluous. In light of the proposed PPF, it is recommended that Clause 21.01 be deleted altogether.	2018/2019

No:	Recommendation:	Timing:
R82	Clause 21.02 – Remove redundant and out-of-date data and statistics. Noting that the last update to Clause 21.02 was via State amendment VC37 back in January 2006 (which only implemented reformatting corrections to renumber clauses), the clause also comprises a great deal of redundant content that ought to be removed.	2018/2019
R83	Retain relevant background material, update and rewrite into a more concise format for translation to the MPS. It is noted that detailed reporting of census data (including specific statistics on car ownership, number of jobs, number of vacant lots, percentage split in demographic cohorts, etc) will not feature heavily in the new PPF's Municipal Planning Strategy. This is because such data is often superseded much faster than a planning scheme can be amended to keep pace. Instead, data quoted in the MPS will likely be confined to key higher order figures such as an overall population growth projection. As such, the redundant data currently in Clause 21.02 ought to be removed. Any relevant background material should then be updated (as necessary), and re-written in a much more concise manner for direct translation into the new MPS.	2018/2019
R84	Clause 21.03 – Retain relevant contextual material and update to ensure alignment with the Localised Planning Statement, current Council Plan, Health and Wellbeing Plan, and other relevant strategies recently adopted by Council. The clause should be amended to ensure closer alignment with the key tenets of the Localised Planning Statement, with the vision to echo the current Council Plan. Similarly, the vision and actions of Council's recently adopted Health and Wellbeing Plan must be acknowledged.	2018/2019
R85	Clause 21.03 – Re-write and refine for translation to the MPS. Much of the contextual material outlined in this clause that is locally specific to the Peninsula ought to be retained for ultimate translation to the MPS. Nevertheless, updates will need to be made in so far as ensuring the clause reflects the most up-to-date strategic issues and directives facing the Shire identified in the wealth of strategic work recently completed by Council	2018/2019
R86	Clause 21.04 – Remove superfluous operational content.	2018/2019

No:	Recommendation:	Timing:
	The first three paragraphs of the clause simply explain what a Strategic Framework is and why it is important. Such content is descriptive and operational in nature, and does not assist in decision-making. It should therefore be removed.	
R87	Clause 21.04 – Update the Strategic Framework Plan and associated policy directives to ensure alignment with the Localised Planning Statement, current Council Plan, Health and Wellbeing Plan, and other relevant strategies recently adopted by Council. The list of major strategic directions and Framework Plan that follows both need to be revised to reflect the Localised Planning Statement, Council Plan and recently adopted strategic document.	2018/2019
R88	Clause 21.04 – Re-write and refine for translation to the MPS.	2018/2019
R89	Clause 21.05 – Delete. Clause 21.05 comprises a sole paragraph that describes what the balance of the MSS comprises and how it is to be read. This type of “operational” content is superfluous and strongly discouraged under the new PPF as it does not provide policy direction.	2018/2019
R90	Clause 21.06 – Retain relevant contextual material for translation to the MPS.	2018/2019
R91	Clause 21.06 – Retain genuinely local content (i.e. objectives and strategies) for translation to a dedicated settlement policy in the PPF.	2018/2019
R92	Clause 21.06 – Revise all implementation and further strategic work actions to reflect current conditions and translate to the appropriate location within the reformatted VPPs.	2018/2019
R93	Clause 21.07 – Remove redundant content and duplication with State policies at Clauses 11 (Settlement), 12 (Environmental and landscape values), 13 (Environmental risks and Amenity), 14 (Natural resource management), 15 (Built environment and heritage), 16 (Housing), 18 (Transport) and 19 (Infrastructure).	2018/2019
R94	Clause 21.07 – Update contextual content and retain for translation to the MPS.	2018/2019

No:	Recommendation:	Timing:
R95	Clause 21.07 – Update objectives and strategies to ensure alignment with strategic directives from recently adopted Council policies and strategies, and translate as policy content for the PPF.	2018/2019
R96	Clause 21.07 – Revise all implementation and further strategic work actions to reflect current conditions and translate to the appropriate location within the reformatted VPPs.	2018/2019
R97	Clause 21.08 – Remove duplication with State policies at Clauses 11.03 (11.03-1S Distinctive areas and landscapes) and 12.02 (Coastal areas).	2018/2019
R98	Clause 21.08 – Retain contextual content for translation to the MPS.	2018/2019
R99	Clause 21.08 – Audit approved local Coastal Management Plans for relevant content worthy of inclusion. The Review notes a number of Coastal Management Plans have been approved and adopted by Council, such that Council now has a complete framework for the management of coastal areas in the Shire. The <i>Victorian Coastal Strategy</i> is set to be reviewed and strengthened as part of the replacement of the existing <i>Coastal Management Act 1995</i> with the new ' <i>Marine and Coastal Act</i> '. Under the new Act, the Coastal Strategy will be renamed the ' <i>Marine and Coastal Strategy</i> '. All Coastal Management Plans will be required upon review/update to be prepared as ' <i>Marine and Coastal Strategies</i> ' under the new ' <i>Marine and Coastal Act</i> '. It is recommended that once updated the findings of all Strategies as adopted be incorporated into the planning scheme as relevant. This includes integration into Clause 21.08.	2018/2019
R100	Clause 21.08 - List approved Marine and Coastal Strategies in the future 'Background and Incorporated Documents' VPP if updated.	2018/2019
R101	Clause 21.08 – Include a reference requiring referral to relevant public land managers and/or designated foreshore committees where necessary.	2018/2019
R102	Clause 21.08 – Ensure the <i>Victorian Best Practice Guidelines for Assessing and Managing Coastal Acid Sulfate Soils (DSE, October 2010)</i> are appropriately referenced Local Policy.	2018/2019

No:	Recommendation:	Timing:
R103	Clause 21.08 – Revise all implementation actions and further strategic work to reflect current conditions and translate to the appropriate location within the reformatted VPPs.	2018/2019
R104	Clause 21.09 – Remove duplication with State policies at Clauses 12 (Environmental and landscape values), 13 (Environmental risk and amenity), 14 (Natural resource management) and 17.04 (Tourism).	2018/2019
R105	Clause 21.09 – Review content upon finalisation and adoption of the Green Wedge Management Plan and Biodiversity Conservation Plan	2018/2019
R106	Clause 21.10 – Retain existing strategic directives until such time as the future role and development of the Port is confirmed by State Government, but be amended to include reference to <i>Port of Hastings Land Use and Transport Strategy (Port of Hastings Corporation, 2009)</i> .	2018/2019
R107	Clause 21.10 – Remove content that duplicates State policies at Clauses 17.03 (Industry), 18.03 (Ports) and 12.01 (Biodiversity).	2018/2019
R108	Clause 21.10 – Retain remaining policy context for translation to the future MPS, and content regarding key issues, objectives, strategies and actions for translation to a Port-related policy in the PPF.	2018/2019
R109	Clause 21.10 – Revise all implementation actions and further strategic work to reflect current conditions and translate to the appropriate location within the reformatted VPPs.	2018/2019
R110	Clause 22.11 – Delete entire clause. Clause 21.11 comprises operational content concerning the ongoing monitoring and review of the planning scheme – it does not comprise any policy directives. Whilst commonly seen in older planning schemes, this clause is not required to be in the scheme under section 12A (Municipal Strategic Statements) of the <i>Planning and Environment Act 1987</i> .	2018/2019
R111	Clause 21.12 – Complete audit of reference documents and update as necessary.	2018/2019

No:	Recommendation:	Timing:
R112	Clause 21.12 – Translate the revised list of reference documents into new Clause 72.04 ‘Documents Incorporated in this Planning Scheme’ and Clause 72.08 ‘Background Documents’ now introduced through Amendment VC148.	2018/2019
R113	Clause 21.13 – Remove redundant content, i.e. actions under the implementation section.	2018/2019
R114	Clause 21.13 – Augment clause to include additional local area plans for areas where a structure plan has been prepared, e.g. Rosebud and Hastings once gazetted.	2018/2019
R115	Clause 21.13 – Translate to the appropriate location within the reformatted VPPs.	2018/2019
R116	Clause 22.01 – Update contextual content for inclusion in the MPS.	2018/2019
R117	Clause 22.01 – Remove any duplication with State policy at Clause 17.03 (Industry).	2018/2019
R118	Clause 22.01 – Update with the vision and directives of the <i>Mornington Peninsula Industrial Areas Strategy (April 2018)</i> .	2019/2020
R119	Clause 22.01 – Amend the policy to recognise and respond to the gradual ‘dilution’ of industrial areas across the Shire since the changes to as-of-right uses in the Industrial 3 Zone were introduced by Amendment VC100 and VC142.	2018/2019
R120	Clause 22.01 – Strengthen policies and design standards, particularly with respect to landscaping and interface issues.	Ongoing
R121	Clause 22.02 – Revise content to reflect, acknowledge and respond to the simplification of the Business 1, 4 and 5 Zones to the C1Z.	2018/2019
R122	Clause 22.02 – Amend the clause to recognise and respond to the dilution of Commercial Zones and IN3Z.	2018/2019
R123	Clause 22.02 – Remove duplicates with State policy and update with the vision and directives of the <i>Mornington Peninsula Activity Centres Strategy (May 2018)</i> .	Ongoing
R124	Clause 22.02 – Prepare individual local planning policies for each activity centre for which a Structure Plan or Township plan has been adopted.	Ongoing
R125	Clause 22.03 – Delete policy. The contents of Clause 22.03 are largely redundant, owing to the removal of provision for excisions in the Green Wedge Zone, and the inability to	2018/2019

No:	Recommendation:	Timing:
	establish second dwellings on a lot (other than Dependant Relative Units). Since amendment of the Green Wedge Zone provisions, officers have instead been relying upon Council's web-based policy 'Dwellings in the Green Wedge Zone' which is being reviewed as part of the Green Wedge Management Plan. Those parts of the policy regarding the realignment of lot boundaries, and the requirement to prepare a Land Conservation and Rehabilitation Plan as an alternative to a Farm Management Plan will be retained and consolidated into a comprehensive rural / green wedge planning policy following adoption of the GWMP.	
R126	Clause 22.03 – Retain content regarding the realignment of lot boundaries and include in the new rural / green wedge local planning policy to be prepared upon adoption of the Green Wedge Management Plan.	2018/2019
R127	Clause 22.04 – Remove duplication with State planning policies at Clauses 15.03 (Heritage) and 15.01-1S (Urban Design).	2018/2019
R128	Clause 22.04 – Strengthen policy directives around what is considered an appropriate design response for the development of land abutting identified heritage places.	Ongoing
R129	Clause 22.05 – Remove content that duplicates State policy at Clause 15.03-2S (Aboriginal Cultural Heritage).	2018/2019
R130	Update with locally specific content in consultation with the Bunurong Land Council Aboriginal Corporation (BLCAC).	Ongoing
R131	Clause 22.06 – Remove content that duplicates State policies at Clauses 11.03-5S (Distinctive areas and landscapes), 17.02 (Commercial), 18.02 (Movement networks) and 15.01 (Built environment).	2018/2019
R132	Clause 22.06 – Revise local content to align with the GWMP (once adopted) and translate into the new rural / green wedge local planning policy.	2018/2019
R133	Clause 22.07 – Remove content that duplicates State policies at Clauses 11.03-5S (Distinctive areas and landscapes), 17.02 (Commercial) and 17.04 (Tourism).	2018/2019

No:	Recommendation:	Timing:
R134	Clause 22.07 – Revise local content to align with the GWMP (once adopted) and translate into the new rural / green wedge local planning policy.	2018/2019
R135	Clause 22.08 – Remove content that duplicates State policies at Clauses 11.03-5S (Distinctive areas and landscapes) and 14.01 (Agriculture).	2018/2019
R136	Clause 22.08 – Revise local content to align with the GWMP (once adopted) and translate into the new rural / green wedge local planning policy.	2018/2019
R137	Clause 22.09 – Retain and translate into appropriate section of the new VPP format.	2018/2019
R138	Clause 22.09 – Update content after completion of planned Western Port Coastal Villages Study.	2019/2020
R139	Clause 22.10 – Remove content duplicated at Clause 52.05 (Signs).	2018/2019
R140	Clause 22.10 – Ensure new content introduced by Amendment VC148 strengthens objectives, and retain locally specific directions for translation to the PPF if the clause does not protect local objectives.	2018/2019
R141	Clause 22.10 – Undertake further strategic work to provide better guidance around Major Promotion Signs, light pollution, landscape and character impacts (over and above traffic issues) that is specific to Mornington Peninsula's conditions, including the character of townships and villages, and amend Clause 22.10 and Clause 52.05 as appropriate.	Ongoing
R142	Clause 22.11 – delete policy due to duplication with Clause 13.02 (Bushfire) and Clause 53.02 (Planning for bushfire).	2018/2019
R143	Clause 22.11 – Translate relevant contextual material to the MPS.	2018/2019
R144	Clause 22.11 – List the following existing reference documents in the new Background and Incorporated Document provision of the reformatted VPPs: CFA Requirements for Water Supplies and Access for Subdivisions in Residential 1 and 2 and Township Zones (CFA, 2006). CFA Requirements for Water Supplies and Access for Subdivisions in Rural Zones (CFA, 2006).	2018/2019

No:	Recommendation:	Timing:
	Regional Bushfire Planning Assessment – Melbourne Metropolitan Region (Department of Planning and Community Development, 2012).	
R145	Clause 22.12 – Remove content that duplicates the State policies at Clauses 11.03-1S (Activity Centres) and 17.02 (Commercial).	2018/2019
R146	Clause 22.12 – Remove content that is superfluous to the local policies at Clauses 21.07-3 (Activity centres) and 22.02 (Activity Centres).	2018/2019
R147	Clause 22.12 – Update archaic zoning terms with conventional ones (e.g. General Residential Zone and Commercial Zone instead of Residential 1 Zone and Business Zone respectively).	2018/2019
R148	Clause 22.12 – Revise content to improve policy efficacy by defining non-residential uses and providing specific guidance on managing detrimental amenity impacts.	2019/2020
R149	Clause 22.13 – Remove content that duplicates the State policies at Clauses 11 Settlement, 12 Environmental and Landscape Values, 13 Environmental Risks and Amenity, 14 Natural Resource Management, 15 Built Environment and Heritage, and 52.17 Native Vegetation.	2018/2019
R150	Clause 22.13 – Update archaic zoning terms with conventions ones (e.g. General Residential Zone and Commercial Zone instead of Residential 1 Zone and Business Zone respectively).	2018/2019
R151	Translate relevant contextual material from the Smart Water Plan 2018.	Ongoing
R152	Clause 22.13 – Update content with new policy provisions for ESD and WSUD.	Ongoing
R153	Clause 22.14 – Remove content that duplicates the State policies at Clauses 11 Settlement, 12 Environmental and Landscape Values, 13 Environmental Risks and Amenity, 14 Natural Resource Management, and 15 Built Environment and Heritage.	2018/2019
R154	Clause 22.14 – Remove superfluous decision guidelines content.	2018/2019
R155	Clause 22.14 – Merge remaining content into relevant sections of the MPS.	2018/2019
R156	Clause 22.15 – Retain policy and merge with new overall Rural Policy in the PPF of the new VPP format.	2018/2019

No:	Recommendation:	Timing:
R157	Clause 22.15 – Revise content with up-to-date content, and provide the numbering of the specific ESO Schedules where a proposed broiler farm is discouraged.	2018/2019
R158	Clause 22.16 – Remove duplicate content in decision guidelines.	2018/2019
R159	Clause 22.16 – Merge remaining content with Clause 22.20 Landslide susceptibility.	2018/2019
R160	Clause 22.17 – Remove reference to State policies at Clause 15.11 (Heritage) (noting that this Clause has been superseded by Clause 15.03 (Heritage), Clause 19.03 (Development Infrastructure), Municipal Strategic Statement, Clause 22.04-2 (Heritage Places and Abutting Land).	2018/2019
R161	Clause 22.17 – Remove reference to Clause 42.02 (Vegetation Protection Overlay), Clause 43.01 (Heritage Overlay) and Clause 43.02 (Design Development Overlay).	2018/2019
R162	Clause 22.18 – Update policy basis content to rectify referencing issues.	2019/2020
R163	Clause 22.18 – Merge content under objectives and policy sections with the State policy at Clause 11.03 Activity Centres.	2018/2019
R164	Clause 22.18 – Update content to match any recommendations in the new Activity Centres Strategy relevant to the Mornington major activity centre.	2019/2020
R165	Clause 22.18 – Add a further work section to provide for future Parking Overlays and/or Development Contributions Plan Overlays.	2018/2019
R166	Clause 22.19 – Delete entire clause.	2018/2019
R167	Clause 22.19 – Address the regulation of camping and caravan parks via the GWMP and reintroduce into the planning scheme following adoption of the Plan.	2019/2020
R168	Clause 22.20 – Translate relevant content within the objectives and policy sections to applicable State policies at clauses 13.04 Soil Degradation and 14.02 Water.	2018/2019
R169	Clause 22.20 – Translate content within the decision guidelines and policy reference sections to one or more relevant schedules of the EMO.	2019/2020
R170	Clause 22.20 – Add a further work section to the policy to provide for future infrastructure works.	2018/2019
R171	Clause 22.21 – Retain policy and translate into appropriate section of the PPF.	2018/2019

No:	Recommendation:	Timing:
R172	Clause 22.21 – Update provisions in Precinct 6 to maintain consistency with the Housing Settlement Strategy.	2019/2020
R173	Clause 22.22 – Retain policy, and translate contents to the new PPF.	2018/2019
R174	Pursue the Mixed Use rezonings identified by the <i>Mornington Activity Centre Structure Plan (2007)</i> and <i>Rye Township Plan (2017)</i> over the next 5-10 years. The <i>Mornington Activity Structure Plan (2007)</i> <u>identifies preferred locations for mixed use development, particularly along Main Street.</u> Whilst Amendment C95 sought to implement some of the key strategic directions of the Structure Plan (ie. DD013), it did not advance any identified MUZ rezoning opportunities. Such rezonings would need to be pursued as a separate amendment(s) to the planning scheme over the next 5-10 years. The <i>Rye Township Plan (2017)</i> also identifies various Mixed Use rezoning opportunities that have not yet been actioned. As with those mooted for the Mornington Major Activity Centre, these rezonings are expected to occur in the next 5-10 years.	2018/2019 - 2019/2020
R175	Retain the Commercial 1 Zone as the primary business zone for the Shire's Major Activity Centres. The C1Z is presently applied extensively throughout the Shire's activity centres – especially the Major Activity Centres of Mornington, Rosebud and Hastings. The <i>Mornington Peninsula Activity Centre Strategy Review (2018)</i> confirms the primacy of the C1Z in this regard and does not foreshadow any specific increases in C1Z zoned land.	Ongoing
R176	Investigate site-specific rezoning of land to the Commercial 2 Zone as per the recommendations of the <i>Industrial Areas Strategy (2018)</i>. The <i>Industrial Areas Strategy (2018)</i> recommends that Council consider the merits of rezoning land in parts of the Mornington-Tyabb Road industrial precinct to the C2Z, pending detailed investigation of the current role and function of businesses and activities within the locality vis-à-vis the role and mix of uses in the nearby Mornington Major Activity Centre. The Strategy also recommends all, or part of land within the Mornington North precinct, as well as land located on the south-west corner of the Nepean Highway and Wilsons Road be rezoned to the Commercial 2 Zone. The practicality of the above rezonings is contingent upon a	2018/2019 - 2019/2020

No:	Recommendation:	Timing:
	range of factors, including identified environmental, servicing and land ownership constraints – each of which require comprehensive assessment before a planning scheme amendment can be pursued.	
R177	Maintain the Industrial 3 Zone (IN3Z) as the primary zone for managing industrial land use and development within the Shire. The <i>Industrial Areas Strategy (2018)</i> identifies that the continued application of the Industrial 3 Zone within the Shire remains appropriate.	Ongoing
R178	Undertake further detailed investigations into the merits of site-specific rezonings recommended by the <i>Industrial Areas Strategy (2018)</i>. The Strategy identifies areas where increased application of the INZ3 may be appropriate to ensure that the long-term supply of industrially zoned land on the Peninsula is maintained. Areas for further investigation include land located to the south and east of the existing Dromana industrial precinct, and any surplus Special Use Zone 1 land adjacent to existing Bittern-Crib Point industrial area. The Strategy also recommends that part of land adjacent to the Hastings industrial area be rezoned from Special Use Zone 1 to Industrial 3.	2018/2019 - 2019/2020
R179	Retain the existing application of both the Green Wedge and Farming Zones and associated schedule provisions. Council is currently finalising a new Green Wedge Management Plan (GWMP) to guide land use and decision-making in the Shire's Green Wedge and Farming Zoned land. Whilst the GWMP makes recommendations to amend several local planning policies, it does not foreshadow any changes to the application or provisions of either the Green Wedge or Farming Zone.	Ongoing
R180	Complete the comprehensive audit of public open spaces across the Shire and rezone all parcels of land functioning as public open space to the appropriate zoning (i.e. PPRC, PUZ or PCRC). Public Use Zoned land has not been comprehensively audited for currency for some time. As such, unintended zoning anomalies or errors may exist. It is therefore recommended that all PUZ zoned land across the Peninsula be reviewed and	Ongoing

No:	Recommendation:	Timing:
	rectified as necessary as part of a general amendment to follow this planning scheme review.	
R181	Pursue the recommendations of the <i>Tootgarook Wetland Management Plan (2018)</i>, specifically the rezoning of land at 92 Elizabeth Street, Capel Sound to PCRZ. The recently adopted <i>Tootgarook Wetland Management Plan (May 2018)</i> identifies that Council-owned land at 92 Elizabeth Avenue, Capel Sound should be rezoned to the PCRZ to facilitate the objectives of the Management Plan.	2018/2019
R182	Pursue any relevant rezonings arising from the review of Council's <i>Open Space Strategy (MPSC, 2003)</i> and adoption of Council's new <i>Active Recreation (Sports Capacity Study)</i>. Council intends to undertake a comprehensive review of its current <i>Open Space Strategy (2003)</i> and prepare a new <i>Active Recreation (Sports Capacity Study)</i> . These initiatives may result in recommendations to rezone land to the PPRZ.	Ongoing
R183	Complete an audit of all PUZ land to identify any anomalies in use or ownership that might warrant rezoning and amend the planning scheme as necessary. In addition to planning for, and zoning new areas of public open space, the 2014 Planning Scheme Review recommended that Council audit all existing areas across the Shire that currently function as open space to ensure they are correctly zoned as such. This audit commenced in late 2017, resulting in the identification of several parcels of land – including public parks and recreation areas – as being inappropriately zoned for urban purposes (e.g. General Residential Zone, Industrial Zone or the like).	2018/2019
R184	SUZ3 (Airfield Development) – review the purpose and decision guidelines and amend as appropriate to ensure consistency with the <i>Tyabb Airfield Precinct Plan (TAPP)</i>. The Plan recommends that the purpose and decision guidelines of the SUZ3 be reviewed and amended to ensure compliance with the TAPP.	2018/2019 - 2019/2020
R185	Comprehensively review the ordinance and mapping of all environmental overlays (ESOs, SLOs and VPOs) upon finalisation and adoption of the <i>Green Wedge Management Plan</i> and <i>Biodiversity Conservation Plan</i>. A comprehensive review of the	2019/2020-2020/2021

No:	Recommendation:	Timing:
	mapping and ordinance of the Shire's environmental overlays will occur following adoption of the Green Wedge Management Plan and Biodiversity Conservation Management Plan. Part of this review will be required to capture the Shire's Vegetation Protection Overlays. Early reviews have identified that the location of overlays in the mapping system may not be correctly aligned and therefore may not be applying the overlay in the correct position to protect associated vegetation. An example of at least one VPO2 alignment that is incorrect has been identified, however there may be more.	
R186	Further strategic work to review submission by Balcombe Estuary Reserves Group Mt Martha Inc. (BERG) in regard to implementation of ESO to Balcombe Estuary Reserves, and subject to the outcomes of this an amendment to the planning scheme to facilitate the ESO. BERG have put forward a submission that argues that Balcombe Estuary Reserves are of Regional to State significance, based on the range of significant flora and fauna species they support, and their high habitat value. Their submission identifies that the Ecological Vegetation Classes (EVCs) within the reserves are all considered rare on the Mornington Peninsula, while the estuary itself is unique. These features all contribute to the reserves educational and scientific importance, and magnify their cultural significance. It is recommended that further work is undertaken to investigate the inclusion of an ESO to Balcombe Estuary Reserves.	2019/2020
R187	Continue to pursue Amendment C214 to implement the findings of Stage 2 of the Heritage Review. To date, heritage reviews and citations have been completed for Stages 1-2, with Stage 1 implemented into the Planning Scheme via approval of Amendment C174. The findings of Stage 2 are sought to be implemented via approval of Amendment C214.	Ongoing
R188	Upon completion of works for Stage 3 and Stage 4, prepare and pursue an amendment to further update the Heritage Overlay. Stage 3 of the review is currently underway (not completed, not adopted) and Stage 4 has not yet commenced.	Ongoing

No:	Recommendation:	Timing:
	The Heritage Overlay is also yet to be updated pending review of the Shire's existing <i>Boatshed and Bathing Box Heritage Study (November 2000)</i>. This work was recommended as part of the 2014 Planning Scheme Review, with the policy to be re-assessed in conjunction with the Heritage Review. This work, however, was deferred upon recommendation from the heritage consultant engaged by Council to complete the heritage studies. The advice to Council is to instead review the Bathing Box Study once Stage 4 of the Heritage Review is completed, with investigations and any associated changes to the Heritage Overlay to be carried out in consultation with DELWP.	
R189	Amend the Planning Scheme to correct the HO Schedule mapping reference number for 'Balcombe Gates, Oval and Carpark' from HO142 to HO326. A technical error was identified in the gazettal of Amendment 71 – in which duplication of 'HO142' appeared and 'HO326' was removed from the Schedule entirely. 'Map reference number' HO142 is repeated twice in the Schedule as: • 'HO142 Former Vicarage 64 King Street, Hastings'; and • 'HO142 Balcombe Gates, Oval and Carpark 18 Tal Tals Crescent, Mount Martha'.	2018/2019
R190	Amend the Planning Scheme to apply the Heritage Overlay to the 'Former Commonwealth Aircraft Corporation Hangar' (VHR094). Technical errors have also been identified (by DELWP) with respect to land included on the Victorian Heritage Register (VHR094). The property is the <i>Former Commonwealth Aircraft Corporation Hangar located at 110 Stuart Road, Tyabb</i>, which despite its State significance, is not located within the Heritage Overlay. The omission of this property is considered a technical amendment which requires rectification.	2018/2019
R192	Amend DDO Schedule 1 to include dwelling extension or alteration and outbuilding as permit triggers if they do not meet the General Requirements of the Schedule.	Ongoing
R193	Amend DDO Schedule 19, 20 and 23 to include dwelling extension or alteration and outbuilding as permit triggers if they do not meet the General Requirements of the Schedule.	Ongoing

No:	Recommendation:	Timing:
R194	Amend DDO Schedule 1, 2, 3, 4, 5, 6 and 7, 11, 17, 22, 23 and 24 to remove dependent persons unit from 'no permit required'. Insert dependent persons unit under permit requirements to specify that a permit is required if a dependent persons unit does not meet the General Requirements of the Schedule.	Ongoing
R195	Amend DDO Schedules 1, 2, 6, 7, 11 and 24 to remove reference to ' <i>except for the purpose of constructing an in ground swimming pool</i> ' under General Requirements.	Ongoing
R196	Amend all DDO Schedules that include permit trigger for cut/fill under General Requirements to consistently worded requirement: ' <i>The difference between finished ground level and natural ground level as a result of excavation and filling must not exceed one metre and must be properly batter or retained</i> '.	Ongoing
R197	Amend DDO Schedules 1, 2, 3, 5, 11 to change reference under General Requirements from ' <i>no building may exceed a wall height of 5.5 metres or a building height of 6 metres</i> ' to ' <i>a building must not exceed a wall height of 5.5 metres or a building height of 6 metres</i> '.	Ongoing
R198	Amend DDO Schedules 2 to change reference under General Requirements for subdivision for Birdrock/Clarkes Avenue precinct to table.	Ongoing
R199	Further Strategic Work to inform a Detailed Design Development Overlay Review. Further strategic work identified in this Review in regard to the preparation of neighbourhood character studies, will identify character issues associated with materials and colours and provide strategic justification for any changes to DDO's.	Ongoing
R200	Amend the planning scheme to Remove DDO Schedule 8 Buffer Distances from oil and Gas Pipelines. The existing provisions of the Schedule are outdated and have no effect on decision making. The Major Hazard Facilities Advisory Committee Final Report (2016) considered the deficiencies of planning schemes in managing land use and development proximate to pipelines. Recommendations of the report included developing Environmental Significance Overlay schedules to address the issue. It is considered appropriate to delete this Schedule from the Mornington Peninsula Planning Scheme and	Ongoing

No:	Recommendation:	Timing:
	participate in future work led by Energy Safe Victoria and Department of Environment, Land, Water and Planning.	
R201	Amend the planning scheme to Remove DDO Schedules 9 Acoustic Design. The Schedule is only relevant to two sites in proximity of one another with the purpose to ensure that future development was designed to protect residents from external noise. Both sites have now been developed, with consideration given to the Schedule, so the Schedule no longer serves a purpose. It is recommended that the schedule be deleted from the Mornington Peninsula Planning Scheme.	Ongoing
R202	Amend the DDO Schedule 11 to remove reference to the requirement for a Section 173 Agreement under the Subdivision clause. This Schedule relates specifically to Mount Eliza (north of Tower Road) development Design Review. The Schedule contains a Mandatory Condition that requires that an agreement subject to Section 173 of the Planning and Environment Act 1987 related to development contributions and public open space be entered into when subdividing. In <i>Cameron Manor Pty Ltd v Mornington Peninsula (Red Dot)</i> [2007] VCAT 1822 (5 October 2007), Member Helen Gibson concluded that the head clause does not include a power to specify that a permit must include any conditions in a Schedule to the overlay'. It is noted that successive officer's reports have acknowledged this decision. It is noted that the landscape design guidelines and net gain response to native vegetation can be managed via standard planning permit conditions.	Ongoing
R203	Amend the DDO Schedule 11 to remove the requirement for a public space/walkway connection between Clendon Close and Marlo Grove under the Subdivision clause. The requirement for the provision of a public open space/walkway connection between Clendon Close and Marlo Grove was approved and developed in accordance with permit P08/2237. The requirement is therefore redundant and recommended for removal.	Ongoing
R204	Amend the DDO Schedule 12 to remove Clause 4.0 Advertising signs. The advertising sign Requirement of the Schedule is an outdated and unnecessary addition that does not	Ongoing

No:	Recommendation:	Timing:
	provide any specific information that is not already addressed within the Design and Development Overlay. Within Clause 52.05, Category 1 – Business Areas has been amended to Category 1 – Commercial areas. Furthermore, the Commercial 1 zoning of all the land affected by the Schedule ensures that any applications for signage would need to be considered under Category 1 – Commercial areas irrespective of specification of it within the Schedule. It is recommended that the entire advertising signs requirement within the schedule be deleted.	
R205	Amend the DDO Schedule 13 to move requirements for 3 dimensional modelling and site context and design response to a new Clause ‘Application Requirements’. This Schedule regards Mornington Activity Centre. The General Requirements of the Schedule specify that any application to construct a building over 7 metres should be accompanied with a representation of the proposal in electronic format, suitable for use in the ‘Simurban’ computer model. Following discussions with officers, the ‘Simurban’ model is now outdated and difficult to use. In order to ensure that the intention of the Requirement can still be accomplished it would be recommended that the reference to ‘Simurban’ be amended to instead simply provide a three-dimensional modelling of the proposal alongside existing adjoining development. It is also noted that the specific request for such detail would be more appropriately suited to an Application requirements provision as opposed to a General Requirement. This is also applicable to the site context and design response requested in the second dot point of the Schedule’s General requirements.	Ongoing
R206	Amend the DDO Schedule 13 to remove reference to ‘Simurban’ and replace with ‘three-dimensional modelling’. This Schedule regards Mornington Activity Centre. The General Requirements of the Schedule specify that any application to construct a building over 7 metres should be accompanied with a representation of the proposal in electronic format, suitable for use in the ‘Simurban’ computer model. Following discussions with officers, the ‘Simurban’ model is now outdated and difficult to use. In order to ensure that the intention of the Requirement can still be accomplished it would be recommended that	Ongoing

No:	Recommendation:	Timing:
	the reference to 'Simurban' be amended to instead simply provide a three-dimensional modelling of the proposal alongside existing adjoining development.	
R207	Amend the DDO Schedule 24 to change the reference to 'should' in <i>Table 1 Modified Requirements of Clause 54 (One Dwelling on a Lot) and clause 55 (Two or More Dwellings on a Lot and Residential Buildings) Standards</i> to 'must'.	Ongoing
R208	Delete redundant DPO3, DPO5, DPO6, DP08, DP010, DP011, DP013, DP014, DP015, DPO16, and DPO18 from the planning scheme, and retain remaining schedules. An audit of schedules reveals that a number sites have been developed in accordance with the corresponding approved development plan (refer Table 7 below). As such, these schedules are now redundant and ought to be removed from the planning scheme. It is noted that Amendment C219 (presently awaiting Ministerial Authorisation) proposes to remove DPO6, DPO10, DPO11, DPO13, DPO14 and DPO16. The remaining redundant schedules can be removed as part of the general amendment to follow this planning scheme review.	2018/2019
R209	Continue to monitor the completion of approved Development Plans, and remove corresponding schedules as appropriate.	Ongoing
R210	Merge the application requirements of EMO3 into EMO1, delete the schedules for EMO2 and EMO3, and renumber mapping of EMO2 and EMO3 to EMO1. In the interests of reducing duplication in the scheme, and ensuring consistency between provisions with the same permit requirements, these three schedules ought to be consolidated. That is, merge the application requirements of EMO3 into EMO1, delete EMO2 and EMO3, and renumber all mapping to EMO1.	2020/2021
R211	Complete the comprehensive review and update of the Shire's landslip susceptibility data and modelling, and update the ordinance and mapping of the Shire's EMOs.	2020/2021
R212	Update and amend application of the LSIO upon completion of the Third Phase Coastal Hazard Assessment for the Port Phillip coastline. Further modelling for the	Ongoing

No:	Recommendation:	Timing:
	balance of the Shire (i.e. Port Phillip side) will be undertaken as part of the Third Phase Coastal Hazard Assessment for Sea Level Rise and Inundation by DELWP and Melbourne Water. This work is due for completion on 2019, with an amendment to follow in 2020.	
R213	Investigate application of the Special Building Overlay (SBO) to ensure local overland flooding risk is appropriately captured and managed by the planning scheme. The Shire has recently completed mapping for overland flooding and temporary storage, and is presently updating report and consent mapping. For clarity and transparency of flooding regulation, this data and associated requirements ought to be translated into SBO mapping. This will ensure overland flooding risks are captured in the scheme and appropriately managed at the planning stage.	Ongoing
R214	Review application of PAO1 and PAO6 with the Roads Corporation and South Eastern Integrated Transport Authority respectively, and amend the overlay as necessary. those parcels of land affected by PAO1 ought to be reviewed in consultation with the Roads Corporation to ascertain ongoing need. Given projects such as the extension of Peninsula Link through to Rye have not yet been approved or actioned, the PAO1 will need to remain on land reserved for the extension. Similarly, the PAO1 will need to remain in place for land reserved for the potential long-term widening of Mornington-Tyabb Road. In other areas where road construction or widening has already occurred, the PAO1 ought to be removed from affected land with consent from the Roads Corporation. PAO6 has been applied to land reserved for Peninsula Link. Whilst this major piece of road infrastructure has now been delivered, sections of land adjoining the road have been reserved for potential future widening or additional interchange works. Those areas where works have already occurred (e.g. Bungower Road intersection) may no longer need the PAO6. As such, application of PAO6 ought to be reviewed in consultation with the South Eastern Integrated Transport Authority (SEITA) and amended or repealed as appropriate.	Ongoing

No:	Recommendation:	Timing:
R215	Confirm ongoing currency of PAO5 with the Department of Education, Employment and Training and remove the overlay if appropriate. PAO5 relates to the land acquired by the Minister for Education for the use and development of Benton Junior College. As the site has since been transferred to the Department of Education, Employment and Training (DEET) for ownership and the College has been constructed, PAO5 may no longer be required. As such, Council should seek consent from the DEET to remove PAO5.	2018/2019
R216	Continue to apply the EAO to identified contaminated sites. The purpose of the EAO is to ensure that potentially contaminated land is suitable for a use which could be significantly adversely affected by any contamination.	Ongoing
R217	Finalise the review and audit of land for inclusion in EAO and amend application of the EAO accordingly. Council is currently conducting an internal audit and review of all known sites within the Shire that comprise potentially contaminated land, as well as identifying any additional parcels that require further investigation. In the event that additional sites of contamination are identified, the EAO should be applied.	2019/2020
R218	Delete Restructure Overlay Schedule 9: Bungower Road Area Restructure Plan and associated Incorporated Plan listed in the schedule to Clause 81. (Documents Incorporated in this Scheme). Sites affected by the RO have been audited to determine whether the restructures have been completed in accordance with the schedules and Incorporated Plans. The results identify that only one of the nine restructures has been effectively implemented.	2018/2019
R219	Investigate introduction of the Development Contributions Plan Overlay to the planning scheme upon preparation and adoption of a staged, Shire-wide Development Contributions Plan. A Development Contributions Plan (DCP) is a mechanism used by Council's to levy new development for contributions to planned infrastructure needed by the future community. Whilst not presently in the Mornington Peninsula Planning Scheme, investigation into a Shire-wide Development Contributions Plan and associated DCPO for all relevant infrastructure and services is prudent. Owing	Ongoing

No:	Recommendation:	Timing:
	to the nature of the Shire's settlements, ongoing pressures for infill development, limited and aging infrastructure (especially regarding sewerage and drainage), ongoing planning and maintenance of public open spaces, and challenges posed by recent rate-capping, a coordinated and transparent approach to levying contributions would be of significant benefit to the Shire. As the strategic work involved in preparing such a Shire-wide DCP would be considerably onerous, it is recommended that a staged approach to introducing DCPs across the Shire be investigated and adopted	
R220	Investigate the potential to introduce the Parking Overlay to the planning scheme for application in the Shire's townships, especially the Major Activity Centres. Whilst not currently in the scheme, the 2014 Planning Scheme Review recommended that the appropriateness of this overlay and associated provisions be investigated for the Shire's town centres – especially the Major Activity Centres of Hastings, Rosebud and Mornington. Strategic work around traffic and transport has been undertaken for some parts of the Shire since the last Review (e.g. Sorrento township). However, owing to budgetary constraints, a comprehensive investigation into the merits of introducing the Parking Overlay to the planning scheme has not yet been undertaken. This recommendation nevertheless remains a prudent action for Council.	Ongoing
R221	Amend Clause 52.01 to replace reference to Residential Zone 1 (R1Z) to General Residential Zone (GRZ) and Neighbourhood Residential Zone (NRZ) subject to outcome of Amendment C219.	2018/2019
R222	Review Planning Permit information for 1140 Frankston-Flinders Road Tyabb against Section 173 Agreement to confirm if requirement of Agreement has been undertaken. If the works have been completed, amend Clause 52.01 to remove reference to property.	2019/2020
R223	Monitor outcome of POS payment for 470-474 Browns Road, Rye, subject of P17/0498. Amend Clause 52.01 to remove reference to this property once the payment has been confirmed.	2019/2020

No:	Recommendation:	Timing:
R224	Amend Clause 52.02 to remove reference to 105 Latrobe Parade. A comprehensive audit of all particular provisions and associated schedules was carried out as part of this review. The audit found that, whilst Council has taken the opportunity to include local content in some of the schedules to strengthen the overall operation of the scheme, there are a range of further options to specify local variations in Clause 52 and Clause 66.	2018/2019
R225	Amend Clause 52.02 to remove reference to easements. A comprehensive audit of all particular provisions and associated schedules was carried out as part of this review. The audit found that, whilst Council has taken the opportunity to include local content in some of the schedules to strengthen the overall operation of the scheme, there are a range of further options to specify local variations in Clause 52 and Clause 66.	2018/2019
R226	Amend Clause 52.03 to remove reference to Dromana Mixed Use Development, June 2002. A comprehensive audit of all particular provisions and associated schedules was carried out as part of this review. The audit found that, whilst Council has taken the opportunity to include local content in some of the schedules to strengthen the overall operation of the scheme, there are a range of further options to specify local variations in Clause 52 and Clause 66.	2018/2019
R227	Amend Clause 52.03 to remove reference to land on the McCrae Foreshore for Development of Temporary Facilities for the Rosebud Life Saving Club, November 2003. A comprehensive audit of all particular provisions and associated schedules was carried out as part of this review. The audit found that, whilst Council has taken the opportunity to include local content in some of the schedules to strengthen the overall operation of the scheme, there are a range of further options to specify local variations in Clause 52 and Clause 66.	2018/2019
R228	Amend Clause 52.04 to remove reference to Township Zone. A comprehensive audit of all particular provisions and associated schedules was carried out as part of this review. The audit found that, whilst Council has taken the opportunity to include local content in	2018/2019

No:	Recommendation:	Timing:
	some of the schedules to strengthen the overall operation of the scheme, there are a range of further options to specify local variations in Clause 52 and Clause 66.	
R229	Remove reference to <i>Conditions for Use and Development of Temporary Facilities for the Rosebud Life Saving Club, November 2003</i>. There are 31 local 'Incorporated Documents' listed in the Schedule to Clause 81.01 of the Mornington Peninsula Shire Planning Scheme. A review of the suite of documents has been undertaken to ascertain currency. The review has found that most are still relevant, however some need to be removed.	2018/2019
R230	Remove reference to <i>Dromana Mixed Use Development, June 2002</i>. There are 31 local 'Incorporated Documents' listed in the Schedule to Clause 81.01 of the Mornington Peninsula Shire Planning Scheme. A review of the suite of documents has been undertaken to ascertain currency. The review has found that most are still relevant, however some need to be removed.	2018/2019
R231	Remove reference to <i>Peninsula Link Project, Incorporated Document, July 2009 (amended June 2011 and February 2014)</i>. There are 31 local 'Incorporated Documents' listed in the Schedule to Clause 81.01 of the Mornington Peninsula Shire Planning Scheme. A review of the suite of documents has been undertaken to ascertain currency. The review has found that most are still relevant, however some need to be removed.	2018/2019
R232	Remove reference to <i>Woodlands Estate Somerville, April 1999</i>. There are 31 local 'Incorporated Documents' listed in the Schedule to Clause 81.01 of the Mornington Peninsula Shire Planning Scheme. A review of the suite of documents has been undertaken to ascertain currency. The review has found that most are still relevant, however some need to be removed.	2018/2019
R233	Remove reference to <i>Restructure Plans Incorporated Under Clause 45.05 – Bungower Road Area Restructure Plan, December 2011</i>. There are 31 local 'Incorporated Documents' listed in the Schedule to Clause 81.01 of the Mornington Peninsula Shire Planning Scheme. A review of the suite of documents has been	2018/2019

No:	Recommendation:	Timing:
	undertaken to ascertain currency. The review has found that most are still relevant, however some need to be removed.	
R234	Rezone land located 1A Foreshore Road, Balnarring from GRZ1 to PCRZ. Land identified as part of parcel 1A Foreshore Road, Balnarring and owned by DELWP, generally located along south side of Foreshore Road Balnarring identified in mapping (Map No 31) as General Residential Zone 1. This is a mapping issue that requires correction. The correct zoning is PCRZ. DELWP have confirmed in writing that the mapping 'anomaly' requires a planning scheme amendment to correct.	2019/2020
R235	Review current RO1 arrangement and subject to outcome of review, an amendment to the planning scheme to facilitate movement of the RO1 across 2 parcels. Land parcel located at 2-8 Mayman Street in Bittern in the Low Density Residential Zone, with RO1 across the parcel. The parcels that the RO1 cover include 2 parcels to the south in separate ownership and a road reserve (Mayman Street and 17 and 19 Daly Street). Potential to seek an amendment that would result in 2-8 Mayman being consolidated, and 17-19 Daly Street consolidating with 7 Daly Street (already in the same ownership). This would still result in the same subdivision potential – no further subdivision potential would be created by the consolidation. There are no sewer services to this area – but there are water mains both through Mayman Street and 17 Daly Street.	2020/2021
R236	Engage with DELWP to apply the Urban Growth Boundary around the urban areas of Balnarring Beach, Merricks Beach, Merricks and Point Leo under section 46AG of the <i>Planning and Environment Act 1987</i>. Amendment C219 was adopted by Council on 5 February 2018, and forwarded to the Minister for Planning for authorisation on 16 February 2018. At the time of preparing this report, Amendment C219 is still awaiting authorisation. Apart from introducing the NRZ and associated changes to the LPPF, the HSS also recommends that Council advocate to the State government to place an Urban Growth Boundary around the urban areas (i.e. GRZ and LDRZ zoned land), of Balnarring Beach, Merricks Beach, Merricks and Point Leo.	Ongoing

