

Mornington Peninsula Planning Scheme Amendment C286morn

Ocean Beach Road Sorrento Built Form Review and Proposed DDO28

Part A Submission Planning Panels Victoria

Date: 16 April 2025

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- Attachment C: Amendment Submissions 36 to 77 (Redacted)
- Attachment D: Submissions Summary and Officers' Response
- Attachment E: Response to Key Submission Themes
- Attachment F: Mornington Peninsula Activity Centres Strategy and Appendices (May 2018)
- Attachment G: Ocean Beach Road Sorrento Built Form Review (May 2024)
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- Attachment I: Minister for Planning's Amendment Authorisation Letter (20 May 2022)
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1. INTRODUCTION

1. This submission is made on behalf of Mornington Peninsula Shire Council (**Council**), the Planning Authority for Amendment C286morn (**Amendment**) to the Mornington Peninsula Planning Scheme (**Scheme**) and forms Council's Part A Submission.
2. The Amendment seeks to implement the recommendations of Council's adopted *Ocean Beach Road Sorrento Built Form Review* (May 2024) (**Built Form Review 2024**). The Amendment seeks to replace the interim Schedule 28 to the Design and Development Overlay (DDO28) which currently applies to Sorrento's Ocean Beach Road commercial precinct (see Figure 1) with a revised and permanent schedule of comprising both mandatory and discretionary building height and setback controls.

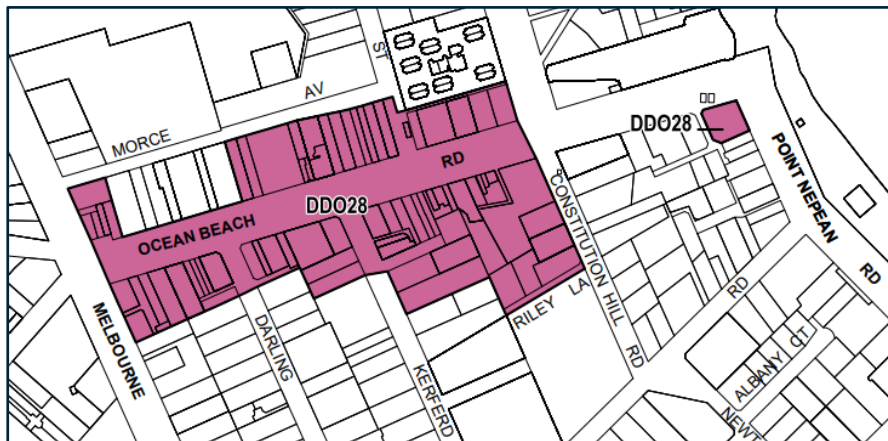


Figure 1: Map of existing DDO28 (see Attachment A)

3. More specifically, the Amendment proposes to:
 - amend the local policy at Clause 11.03-1L-01 – Activity centres - Mornington Peninsula of the Planning Policy Framework to exempt the Sorrento Activity Centre from the policy guidelines;
 - amend the existing Schedule 28 to Clause 43.02 – Design and Development Overlay (DDO28 – Ocean Beach Road Commercial Precinct) to reflect the design objectives and mandatory design controls recommended by the Built Form Review 2024, incorporate discretionary controls in response to submissions received, remove the existing expiry date of the overlay, and incorporate relevant provisions from the existing Schedule 10 to Clause 43.02 Design and Development Overlay (DDO10 – Ocean Beach Road, Sorrento);
 - remove DDO28 from 52 and 48A-50 Kerferd Avenue, Sorrento;
 - delete Schedule 10 to Clause 43.02 – Design and Development Overlay (DDO10 – Ocean Beach Road, Sorrento) to avoid duplication of planning provisions;
 - amend Section 2.2 of the Heritage Design Guidelines: Sorrento Historic Precinct (Expires 30 June 2026) incorporated document to state that “New buildings should not exceed 12 metres in height”;

- amend the Schedule to Clause 72.04 – Documents Incorporated in Planning Scheme to include the amended incorporated document;
- amend the Schedule to Clause 72.08 – Background Documents to include the Ocean Beach Road Sorrento Built Form Review (May 2024);
- amend the Schedule to Clause 74.01 – Application of Zones, Overlays and Provisions; and
- amend Planning Scheme Maps No. 22DDO to show the areas which are to be deleted from the DDO and amend the areas which are affected by DDO28.



Figure 2: Extract of exhibited Map No. 22DDO showing areas proposed to be deleted from a Design and Development Overlay

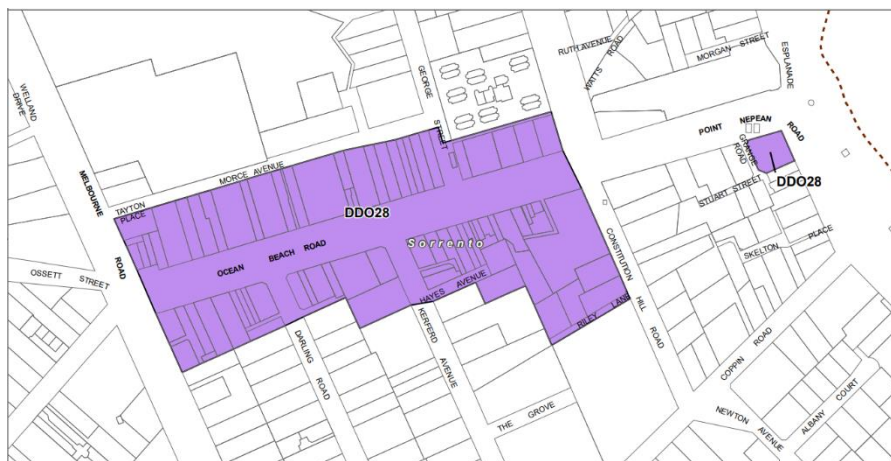


Figure 3: Extract of exhibited Map No. 22DDO showing areas proposed to be affected by DDO28

4. Copies of submissions received in response to the Amendment are provided in Attachment B & C.

5. A copy of Council's response to the submissions is provided in Attachment D & E.

2. PANEL DIRECTIONS

6. This submission responds to the Panel's Directions dated 28 March 2025 which require Council's Part A Submission to address:

Council Part A (background context) submission

10. Council must file a Part A (Background and context) submission by **12 noon on Wednesday, 16 April 2025** that includes:
- a) a summary of the physical context of the subject land and surrounds
 - b) background to the Amendment including chronology of events
 - c) a summary of the strategic context, including:
 - (i) relevant planning policies and provisions
 - (ii) any other recently approved or upcoming amendments that might impact on the Amendment
 - d) a summary of the key elements and findings of the:
 - (i) Built Form Review (November 2021)
 - (ii) Built Form Review (May 2024)
 - e) an overview of the following documents and their relevance to the Amendment:
 - (i) Heritage Design Guidelines Sorrento Historic Precinct
 - (ii) Interim Design and Development Overlay Schedule 28
 - f) conditions of letter of authorisation and how they have been met
 - g) regarding the informal response from Department of Transport and Planning (DTP) (referred to in the Council report of 25 February 2025, page 46):
 - (i) provide details of the DTP comments relating to ResCode requirements, and copies of relevant correspondence
 - (ii) explain Council's response with consideration of the Practitioner's Guide to Victoria's Planning Schemes
 - h) a built form comparison table with maps which identify:
 - (i) existing Design and Development Overlay built form requirements within the Amendment area
 - (ii) the proposed built form controls
 - (iii) properties affected by a heritage overlay
 - i) a summary of any permit applications or recently granted permits that might impact on the Amendment
 - j) a summary of the issues raised in submissions, including:
 - (i) an explanation of which (if any) of those issues have been resolved and how
 - (ii) a summary of how the Built Form Review (May 2024) addresses issues in the original submissions.

7. This submission responds to the above matters in subsequent sections with responses generally laid out in the same order as that set out in the Panel's Directions.

3. PHYSICAL CONTEXT OF THE SUBJECT LAND AND SURROUNDS

SURROUNDS

8. Sorrento is a seaside village located towards the western edge of the Mornington Peninsula municipality. It is approximately 100km from Melbourne's Central Business District (CBD) and is located inside the Urban Growth Boundary (UGB).
9. Sorrento has beaches facing Port Phillip Bay (the 'front' beach) and Bass Strait (the 'back' beach). Ocean Beach Road connects Point Nepean Road with Melbourne Road and accommodates the township's retail strip. Point Nepean Road merges into Ocean Beach Road at Constitution Hill Road, where Point Nepean Road takes a dog leg to the north, continuing on to Portsea (where it terminates).

SUBJECT LAND

10. The Amendment affects land facing Ocean Beach Road and some adjoining land in side streets which is currently in the Commercial 1 Zone (C1Z) and a property at 3293-3295 Point Nepean Road (which is also in the C1Z) as shown in Figure 1. Although the property at 3293-3295 Point Nepean Road is physically separated from the 'main' part of the Ocean Beach Road commercial precinct, it forms an important gateway from both the foreshore and Point Nepean Road.
11. More specifically, the Amendment applies to land located in the Ocean Beach Road Commercial Precinct shown below in Figure 4. This includes the following properties:
 - 2-8 to 174 Ocean Beach Road (even numbers);
 - 1-21 to 157-163 Ocean Beach Road (odd numbers);
 - 848 Melbourne Road;
 - 854 Melbourne Road;
 - 3293-3295 Point Nepean Road;
 - 21 Constitution Hill Road;
 - 19 Constitution Hill Road;
 - Lot 1 TP223941 (1-17 Constitution Hill Road);
 - 8 Riley Lane;
 - 1 Hayes Avenue;
 - 2 Hayes Avenue;
 - 56 to 60 Kerferd Avenue;
 - 45 to 49 Kerferd Avenue; and
 - 37 Darling Road.



Figure 4: Aerial view of Ocean Beach Road precinct

4. BACKGROUND TO THE AMENDMENT AND CHRONOLOGY OF EVENTS

12. Below in Table 1 is the chronology of events that informed the Amendment, as well as the key dates involved with the Amendment:

Table 1: Amendment C286morn chronology

Date	Event	Summary details
15 December 2016	Approval of Amendment C203morn	A section 20(4) Ministerial amendment which implemented an interim DDO28 control while permanent controls were processed via Amendment C204morn.
25 January 2018	Approval of Amendment C204morn	Amendment C204morn is approved which implemented the 'Ocean Beach Road Commercial Precinct Sorrento Heritage Policy, September 2015' and the current interim DDO28 control.
31 July 2019	Approval of Amendment C264morn	A section 20(4) Ministerial amendment which extended the expiry date of interim DDO28 by 6 months.
22 January 2020	Approval of Amendment C268morn	A section 20(4) Ministerial amendment which extended the expiry date of interim DDO28 by two

		years.
2019 – November 2021	Preparation of draft Ocean Beach Road Sorrento Built Form Review	Drafting of the document and preparation of accompanying built form modelling.
13 December 2021	Adoption of original Ocean Beach Road Sorrento Built Form Review (November 2021)	Council meeting held where it was resolved to: <ul style="list-style-type: none"> • adopt the Ocean Beach Road Sorrento Built Form Review (November 2021); and • request authorisation of Amendment C286morn.
28 January 2022	Approval of Amendment C242morn	A section 20(4) Ministerial amendment which extended the expiry date of interim DDO28 by 18 months.
20 May 2022	Authorisation of Amendment C286morn	Council received written confirmation from the Minister that Amendment C286morn had been authorised.
28 July 2022 – 24 October 2022	Public exhibition of Amendment C286morn	First exhibition: 73 submissions received.
November 2022 – February 2023	Review of submissions and key issues	Council officers proceeded to review and prepare responses to submissions.
4 April 2023	Council meeting - Extension of existing DDO28 expiry	<p>Council meeting held to provide details of the public exhibition outcomes and the review of submissions.</p> <p>The further review of submission issues was flagged in this report.</p> <p>Council resolved to request the Minister for Planning prepare and approve Amendment C299morn, which sought to extend the expiry date of the interim DDO28 by 12 months, from 31 July 2023 to 31 July 2024.</p>
March 2023	Peer review of Amendment C286morn and Built Form Review document	Urban design and planning review was commissioned by Shire officers.
22 June 2023	Approval of Amendment C299morn	A 20(4) Ministerial amendment which extended the expiry date of interim

		DDO28 by 12 months.
April 2023 – January 2024	Review and refresh of Built Form Review document and Amendment C286morn	Further details of the refreshed Built Form Review document and revised DDO28 are summarised later in this document.
28 May 2024	Council meeting - Adoption of revised Built Form Review and updated DDO28 Further amendment to extend DDO28 expiry	Council meeting held where it was resolved to: <ul style="list-style-type: none"> • adopt the refreshed <i>Ocean Beach Road Sorrento Built Form Review (May 2024)</i>; • re-exhibit the revised Amendment C286morn; and • request the Minister for Planning prepare and approve Amendment C305morn to extend the expiry date of the interim DDO28 by 12 months to July 2025.
18 July 2024	Approval of Amendment C305morn	A section 20A prescribed amendment which extended the expiry date of interim DDO28 by 12 months.
25 July - 6 September 2024	Re-exhibition of revised Amendment C286morn	The revised amendment was re-exhibited for public comment for a period of 6 weeks. 7 submissions were received.
September 2024 – early 2025	Review and preparation of responses to submissions	Review of submissions following the closure of the re-exhibition of the Amendment.
25 February 2025	Council meeting – Planning Panel decision	Council meeting held where it was resolved to request the Minister for Planning appoint a Planning Panel for the amendment.
28 March 2025	Directions Hearing	The Panel's Directions were set.
25 March 2025	Amendment C310morn lodged	A section 20A Prescribed amendment which seeks to extend the expiry date of interim DDO28 by 12 months.
7 May – 9 May 2025	Panel Hearing	

5. RELEVANT PLANNING POLICIES AND PROVISIONS

13. This section provides an overview of the Amendment's strategic basis and supplements the re-exhibited Explanatory Report.
14. The Amendment implements the following objectives of planning in Victoria:
 - To provide for the fair, orderly, economic and sustainable use and development of land.
 - To provide for the protection of natural and man-made resources and the maintenance of ecological processes and genetic diversity.
 - To secure a pleasant, efficient and safe working, living and recreational environment for all Victorians and visitors to Victoria.
 - To conserve and enhance those buildings, areas or other places which are of scientific, aesthetic, architectural or historical interest, or otherwise of special cultural value.
 - To protect public utilities and other assets and enable the orderly provision and co-ordination of public utilities and other facilities for the benefit of the community.
 - To facilitate development in accordance with the objectives set out above.
 - To balance the present and future interests of all Victorians.
15. as it provides guidance on the use and development of land in the Sorrento township.
16. An outline and assessment against the relevant provisions of the Scheme is set out below.

PLANNING POLICY FRAMEWORK

17. The following adopted State policy is relevant to the Amendment.

Clause 11.01-1S – Settlement

18. This policy seeks to "...facilitate the sustainable growth and development of Victoria and deliver choice and opportunity for all Victorians through a network of settlements".
19. The Amendment achieves the objectives of this policy by providing for sensible built form and development within the core of the Sorrento Township in accordance with the recommendations of the adopted Built Form Review 2024.

Clause 11.02-1S – Supply of urban land

20. This policy seeks to "...ensure a sufficient supply of land is available for residential, commercial, retail, industrial, recreational, institutional and other community uses".
21. The Amendment responds to this by providing additional commercial and mixed use opportunities within the core of the Sorrento Township in accordance with the recommendations of the adopted Built Form Review 2024.

Clause 11.02-2S – Structure planning

22. This seeks to “...facilitate the fair, orderly, economic and sustainable use and development of urban areas”.
23. The Amendment addresses this by implementing an adopted Council strategy – specifically, the Built Form Review 2024, and integrating it into the Scheme. This follows the principles of orderly planning.

Clause 11.03-1S – Activity centres

24. This policy seeks to “...encourage the concentration of major retail, residential, commercial, administrative, entertainment and cultural developments into activity centres that are highly accessible to the community.” This is achieved through supporting the “role and function of each centre in the context of its classification” as well as undertaking “strategic planning for the use and development of land in and around activity centres”.
25. The Amendment addresses this policy by acknowledging the designation of Sorrento as a ‘Small Township’ in the hierarchy of town centres on the Mornington Peninsula (as identified in Council’s adopted Activity Centre Strategy 2018). It also seeks to manage the scale of built form and development in the township so that it is commensurate with the function and historical significance of the township, as well as community expectations.

Clause 11.03-4S – Coastal settlement

26. This clause seeks to encourage “...sustainable coastal development” and achieves this through planning and managing “...coastal population growth and increased visitation so that impacts do not cause unsustainable use of coastal resources”.
27. The Amendment responds to this strategy by facilitating sensible commercial development within the Sorrento township.
28. The requirements of DDO28 provide clear guidance on the expected built form and design outcomes and give landowners and developers certainty regarding what is to be expected for design responses within the core of the township.

Clause 11.03-5S – Distinctive areas and landscapes

29. This policy seeks to “...recognise the importance of distinctive areas and landscapes to the people of Victoria and protect and enhance the valued attributes of identified or declared distinctive areas and landscapes”.
30. The policy also references the *Mornington Peninsula Localised Planning Statement* (2014) (**Statement**), which emphasises that the Mornington Peninsula will be “...planned as an area of special character and importance with a role clearly distinct from and complementary to metropolitan Melbourne and designated growth areas”.
31. Of particular relevance to the Amendment, the Statement identifies that the Mornington Peninsula will not ‘accommodate major population growth’ and encourages the ‘establishment of strong and consistent overall policy framework for future land use and

development, including the use of mandatory controls and standards where necessary, due to the particular pressures on the Peninsula's rural landscapes, coasts, towns and villages, and the risk of unintended and unplanned change through cumulative impacts'.

Clause 12.02-1S – Protection of the marine and coastal environment

32. This seeks to "...protect and enhance the marine and coastal environment" and this will be achieved through strategies such as protecting coastal and foreshore environments by "focusing development in areas already developed or in areas that can tolerate more intensive use".
33. The Amendment responds to this by providing built form and design guidance which will ensure that new development is of a scale and massing that reflects the low scale coastal character of the township.

Clause 12.02-1L – Protection of coastal areas – Mornington Peninsula

34. This clause builds on the above state policy and provides specific guidance for development within foreshore environments. The commercial area of Sorrento is not located in a foreshore area, but parts about the Port Phillip Bay foreshore. For this reason, the strategies of this clause should be acknowledged for future development and to ensure the quality of the foreshore reserve is not diminished by inappropriate development.

Clause 13.02-1S – Bushfire planning

35. This policy seeks to "...strengthen the resilience of settlements and communities to bushfire through risk-based planning that prioritises the protection of human life".
36. The Amendment complies with this policy as it does not increase bushfire risk for existing and future residents, property and community infrastructure on affected or nearby land. It is also noted that all land affected by the Amendment is within a highly urbanised context, being the commercial centre of the Sorrento township. None of the properties (or nearby adjoining land) are covered by the Bushfire Management Overlay (BMO), indicating that the precinct and its immediate surrounds are not at significant risk of extreme bushfire hazards.
37. A small number of properties at the western end of the precinct are within the Bushfire Prone Area (BPA). These include:
 - properties on the north side of Ocean Beach Road (i.e. 164, 166-168, 170, 172 and 174 Ocean Beach Road, and 854 Melbourne Road); and
 - properties on the south side of Ocean Beach Road (i.e. 141-145, 149-151, 153-155 and 157-163 Ocean Beach Road and 848 Melbourne Road).
38. Any new built form on these properties is required to satisfy the bushfire construction standards set out in the relevant regulations of the *Building Act 1993* irrespective of the proposed Amendment.
39. The Amendment does not increase bushfire risk to these or other properties within the broader precinct as:

- it seeks to maintain the existing relatively low-scale nature of built form on affected land, limiting the extent of permissible infill development;
- it will not result in the introduction or intensification of development in high risk locations, being those locations assessed as having a radiant heat flux of higher than 12.5 kilowatts/square metre under *AS 3959-2009 Construction of Buildings in Bushfire-prone Areas* (Standards Australia, 2009);
- it does not alter any provisions that would impact the way landowners can modify vegetation in response to bushfire risk;
- it would not result in the introduction of bushfire hazard by way of increasing canopy tree cover or understorey vegetation;
- it does not impact the availability of, or safe access to, areas assessed as a BAL-LOW rating under *AS 3959-2009 Construction of Buildings in Bushfire-prone Areas* (Standards Australia, 2009) where human life can be better protected from the effects of bushfire.

40. The views of the Country Fire Authority (**CFA**) were sought during both the exhibition and re-exhibition of the Amendment. The CFA provided submissions to both processes which have been responded to in Attachment D & E.

Clause 15.01-1S – Urban design

41. This policy seeks to “...create urban environments that are safe, healthy, functional and enjoyable and that contribute to a sense of place and cultural identity”. This clause provides crucial guidance for the Amendment, with the following strategies being the most relevant:
- Require development to respond to its context in terms of character, cultural identity, natural features, surrounding landscape and climate.
 - Ensure development contributes to community and cultural life by improving the quality of living and working environments, facilitating accessibility and providing for inclusiveness.
 - Ensure the interface between the private and public realm protects and enhances personal safety.
 - Ensure that development provides landscaping that supports the amenity, attractiveness and safety of the public realm.
 - Ensure that development, including signs, minimises detrimental impacts on amenity, on the natural and built environment and on the safety and efficiency of roads.
42. The Amendment addresses this policy by implementing the Built Form Review 2024 which has been prepared based on the principles of the provision, and other key State policies.

Clause 15.01-2S – Building design

43. The objective of this clause is to “...achieve building design outcomes that contribute positively to the local context and enhance the public realm”. This is realised through strategies such as:
- Ensuring a comprehensive site analysis forms the starting point of the design process and provides the basis for the consideration of height, scale and massing of new development.
 - Ensure development responds and contributes to the strategic and cultural context of its location.
 - Minimise the detrimental impact of development on neighbouring properties, the public realm and the natural environment.
 - Ensure the form, scale, and appearance of development enhances the function and amenity of the public realm.
 - Ensure buildings and their interface with the public realm support personal safety, perceptions of safety and property security.
 - Ensure development is designed to protect and enhance valued landmarks, views and vistas.
44. The Amendment is informed by the strategies of this Clause 15.01-2S, including providing guidance around the character, scale, form and appearance of new development.

Clause 15.03-1S – Heritage conservation

45. This policy encourages the conservation of places of heritage significance through a number of strategies, including:
- Provide for the conservation and enhancement of those places that are of aesthetic, archaeological, architectural, cultural, scientific or social significance.
 - Encourage appropriate development that respects places with identified heritage values.
 - Retain those elements that contribute to the importance of the heritage place.
 - Encourage the conservation and restoration of contributory elements of a heritage place.
 - Ensure an appropriate setting and context for heritage places is maintained or enhanced.
46. The Amendment responds to this policy by applying controls which will enhance the heritage characteristics of the Township and respond to its broader historical significance, which statewide policies acknowledge and seek to preserve.

Clause 15.03-1L-01 – Heritage conservation - Mornington Peninsula

47. This local policy applies to sites within or abutting a Heritage Overlay (HO). The built form and design controls proposed by the Amendment respond to the relevant policy strategies listed below.

48. For land affected by a HO:
- Support the continued original use of a building by enabling it to be upgraded to meet present day requirements and standards.
49. For land abutting a HO:
- Ensure development respects the values of the heritage place in terms of architectural form and layout including setbacks, size, height, materials, landscaping and colours.
 - Support the replacement of non-contributory buildings with new development that responds positively to the historic context provided by any nearby heritage place.

Clause 16.01-1S – House supply

50. This clause facilitates “...well-located, integrated and diverse housing that meets community needs”. The strategies of this policy relevant to the Amendment include:
- Ensure that an appropriate quantity, quality and type of housing is provided, including aged care facilities and other housing suitable for older people, supported accommodation for people with disability, rooming houses, student accommodation and social housing.
 - Increase the proportion of housing in designated locations in established urban areas (including under-utilised urban land) and reduce the share of new dwellings in greenfield, fringe and dispersed development areas.
 - Encourage higher density housing development on sites that are well located in relation to jobs, services and public transport.
 - Identify opportunities for increased residential densities to help consolidate urban areas.

Clause 16.01-1R – House supply - Metropolitan Melbourne

51. This policy seeks to ensure that opportunities for new housing are provided to meet population growth in strategic locations. The Amendment and the proposed controls support several of the policy strategies including:
- Provide certainty about the scale of growth by prescribing appropriate height and site coverage provisions for different areas, and
 - Allow for a range of minimal, incremental and high change residential areas that balance the need to protect valued areas with the need to ensure choice and growth in housing.

Clause 17.01-1S – Diversified economy

52. This broadly seeks to strengthen and diversify the economy. The Amendment will assist in improving access to jobs closer to where people live and facilitate growth in a range of employment sectors, which this policy aims to achieve.

Clause 17.02-1S – Business

53. This clause seeks to “...encourage development that meets the community’s needs for retail, entertainment, office and other commercial services”. This is achieved through key strategies such as planning for “...an adequate supply of commercial land in appropriate locations” as well as locating “...commercial facilities in existing or planned activity centres”.
54. The Amendment addresses this policy by providing additional and appropriate commercial opportunities within the commercial core of Sorrento, which is consistent with the future commercial needs of the township as identified within Council’s *Activity Centre Strategy 2018*.

Clause 17.04-1S – Facilitating tourism

55. This policy seeks to encourage tourism development to maximise the economic, social and cultural benefits of developing the state as a competitive domestic and international tourist destination. The provisions proposed by the Amendment will facilitate development outcomes that deliver on the key policy strategies, including the encouragement of tourism-based investment.

Clause 17.04-2S – Coastal and maritime tourism and recreation

56. This clause seeks to “...encourage a diverse range of strategically located and well-designed coastal and maritime tourism and recreational opportunities that strengthen people’s connection with the marine and coastal environment”. The Amendment’s proposed controls will achieve this by ensuring that development is “...of an appropriate scale, use and intensity relative to its location and minimises impacts on the surrounding natural, visual, environmental and coastal character. This has been tested and justified in the Built Form Review which informed the Amendment.

ZONES

Clause 34.01 – Commercial 1 Zone (C1Z)

57. The land affected by the Amendment is zoned C1Z, as shown below.

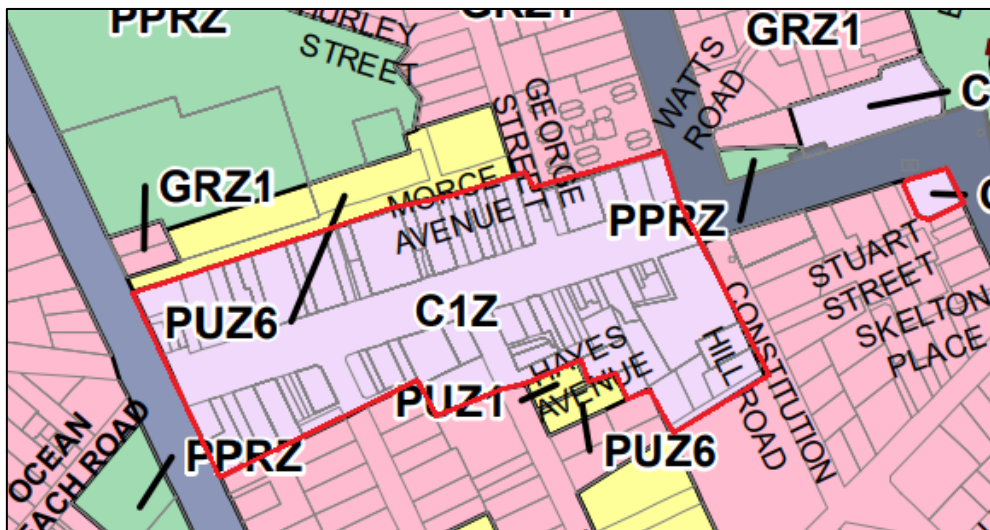


Figure 5: Existing zoning for the Sorrento Township.

58. The purpose of the C1Z is to:

- To implement the Municipal Planning Strategy and the Planning Policy Framework.
- To create vibrant mixed use commercial centres for retail, office, business, entertainment and community uses.
- To provide for residential uses at densities complementary to the role and scale of the commercial centre.

59. Land in the following zones is also found adjacent to or in the vicinity of the Amendment area:

- General Residential Zone – Schedule 1 (GRZ1);
- Public Use Zone – Schedule 1 (PUZ1 – Service and Utility);
- Public Use Zone – Schedule 6 (PUZ6 – Other public use);
- Public Park and Recreation Zone (PPRZ);
- Transport Zone 2 (TRZ2 – Principal road network);
- Transport Zone 3 (TRZ3 – Significant municipal road).

OVERLAYS

Clause 42.01 – Environmental Significance Overlay – Schedule 25 (ESO25)

60. ESO25 applies to land to the east of the Amendment area, specifically the 3293-3295 Point Nepean Road site. This is highlighted in Figure 6 below.

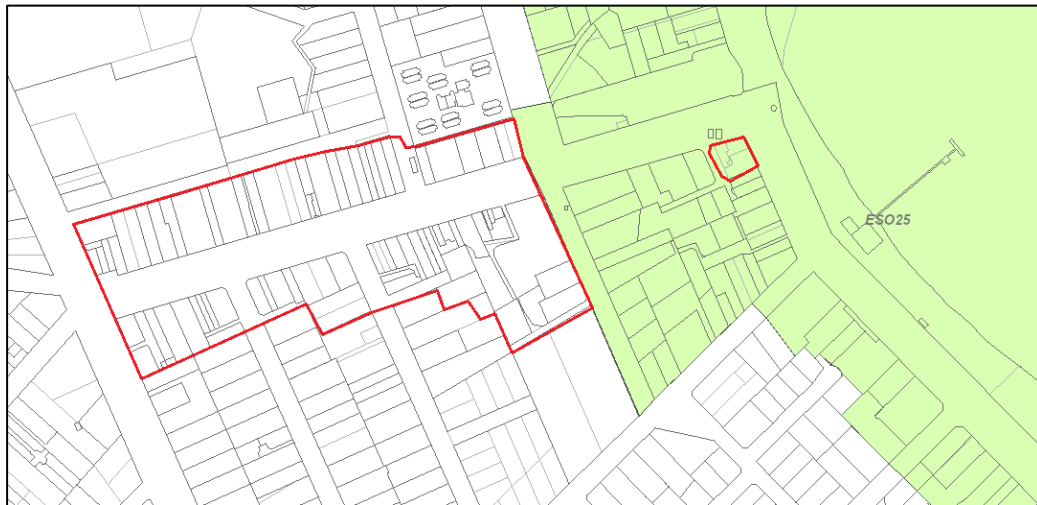


Figure 6: Map of the existing ESO25

61. The Statement of Environmental Significance within the ESO25 states that:
- “The Port Phillip coastal area and adjoining offshore areas contain some of Victoria’s most significant cultural and natural features, including sites of ecological, archaeological, geological, geomorphological, aesthetic and cultural heritage value. These places are of cultural, scientific and educational value to current and future generations”.
62. The Environmental objectives to be achieved within this overlay include:
- To protect and enhance the natural features, vegetation, ecological diversity, landscape quality, heritage values and recreation opportunities of the Port Phillip Bay coastal area and associated intertidal and marine habitats.
 - To promote excellence in design of buildings, facilities and structures in the coastal area.
 - To promote coordinated management of the Port Phillip coastal area.

Clause 43.01 – Heritage Overlay (HO)

63. Much of the commercial area is subject to a HO as shown in Figure 7 below.

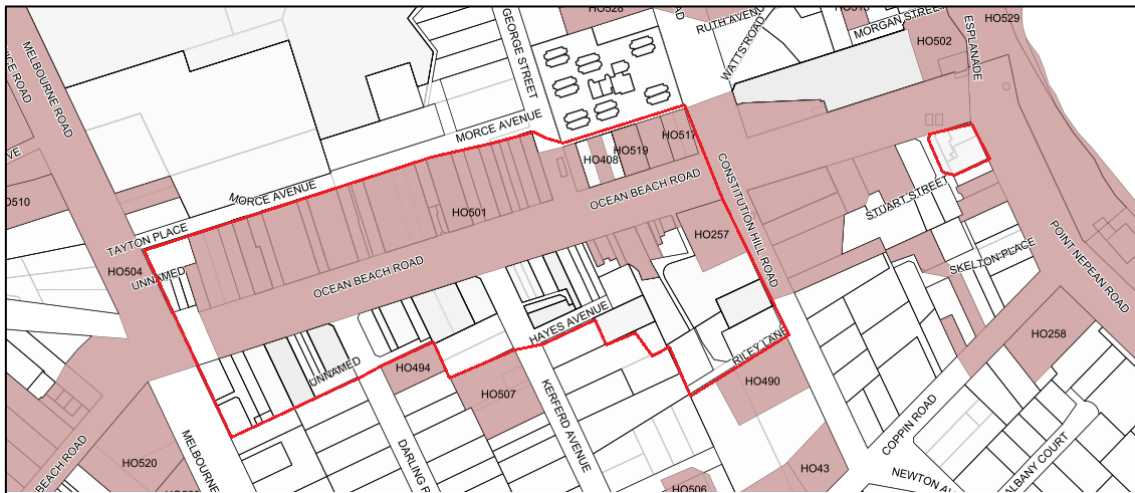


Figure 7: Map of the existing Heritage Overlays and its relationship to the Amendment

64. HO501- Sorrento Commercial Precinct was applied to the area shown in Figure 8 by Amendment C262morn (Pt 2) on 26 May 2022.

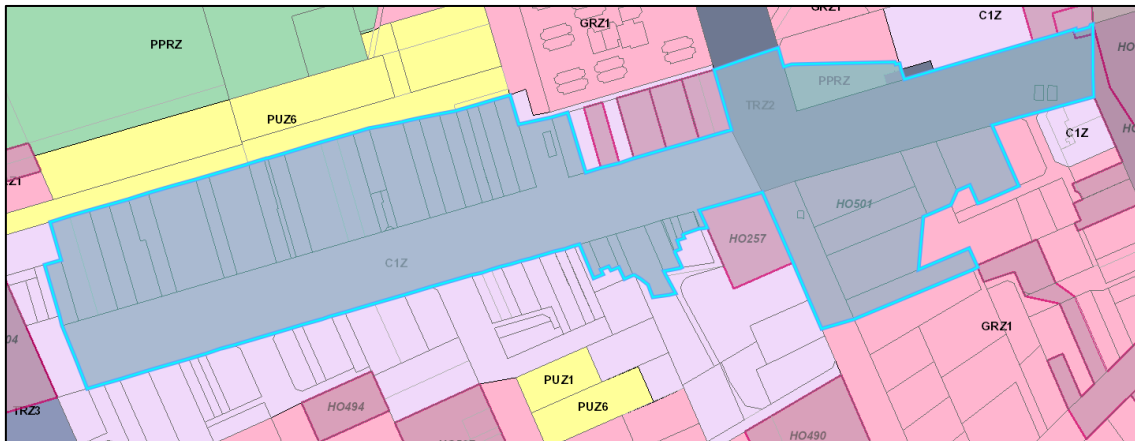


Figure 8: HO501 (blue outline)

65. Not all buildings within HO501 are of heritage value. The significant, contributory and non-contributory buildings in the HO501 precinct are identified in Figure 9.



Figure 9: HO501 Sorrento Historic Precinct Commercial Precinct Map

66. There are also five individually significant buildings present in the Activity Centre as shown in Figure 7. These are subject to their own HO and includes:

- Continental Hotel (HO257) – 1-21 Ocean Beach Road;
- Athenaeum (HO408) – 1/26 Ocean Beach Road;
- Stringers Store (HO517) – 2-8 Ocean Beach Road;
- Former Sorrento Post and Telegraph Office (HO518) – 10-16 Ocean Beach Road;
- Former Oriental Coffee Place (HO519) – 18 Ocean Beach Road; and
- Athenaeum (HO408) – 10-16 Ocean Beach Road.

Clause 43.02 – Design and Development Overlay – Schedule 10 (DDO10)

67. The DDO10 applies to several parcels of land within the Amendment area on the north side of Ocean Beach Road (as shown in Figure 10 below).



Figure 10:- DDO10 and its location within the amendment area

68. This control includes the following mandatory requirements:
- All new development must be connected to:
 - A reticulated sewerage system or an alternative approved by the responsible authority.
 - A reticulated drainage system or alternative approved by the responsible authority.
 - No building may exceed a building height of more than 8 metres or contain more than two storeys above natural ground level at either the Morce Avenue or Ocean Beach Road frontage.
 - No building may exceed a maximum building height of 12 metres above natural ground level.
 - No building may be erected closer to Ocean Beach Road than any existing limestone building on the lot.
 - The prevailing building line along the Ocean Beach Road frontage must be maintained.
 - No development may provide for a retail frontage to Morce Avenue.
69. DDO10 is proposed to be removed as part of the Amendment and replaced with proposed DDO28 control which incorporated relevant provisions from the existing DDO10 .
70. The removal of DDO10 (applying to the existing north-west sub precinct) is also intended to avoid duplication of controls in two adjacent overlays. The original Built Form Review recommended that the north-west sub precinct be expanded to include properties in DDO10. The maximum building height of 12 metres is proposed to be retained. The DDO10 was originally applied to a cluster of heritage buildings, many of which were constructed in limestone, hence the reference to limestone in the DDO10 objectives. The proposed version of DDO28 includes objectives and design guidelines to ensure that development across the precinct responds and respects all heritage places, not limited to the limestone buildings in the north-west section of the precinct.

Clause 43.02 – Design and Development Overlay – Schedule 28 (DDO28)

71. The existing interim DDO28 covers the majority of the Activity Centre (see Figure 11) and is currently due to expire on 4 July 2025. Council has recently lodged a section 20A Prescribed Amendment with the Minister for Planning to extend the expiry by a further 12 months, which is required to accommodate the remainder of the statutory process for the Amendment (i.e. Panel report consideration, Council decision & Minister's decision).

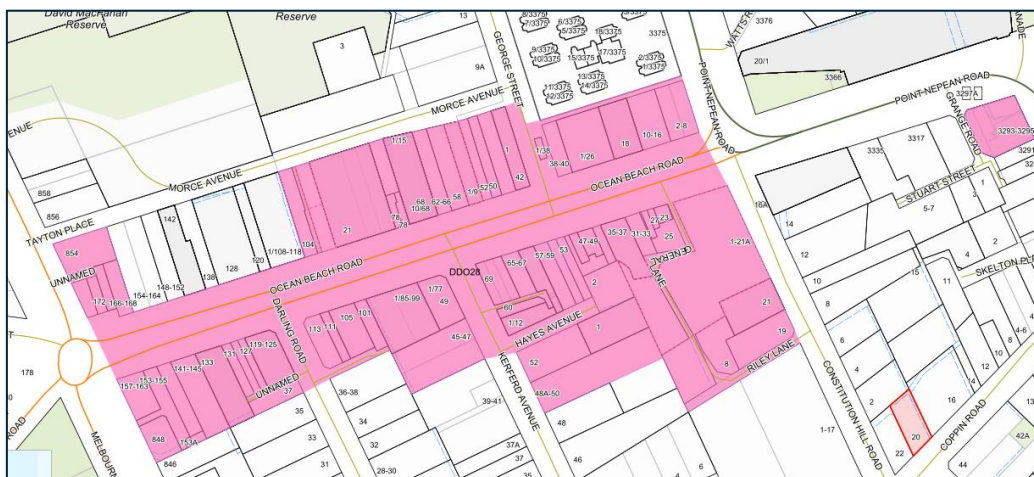


Figure 11: Existing DDO28

72. DDO28 divides the Activity Centre into four precincts and provides mandatory street wall, building height and setback requirements as shown in Figures 12 and 13.

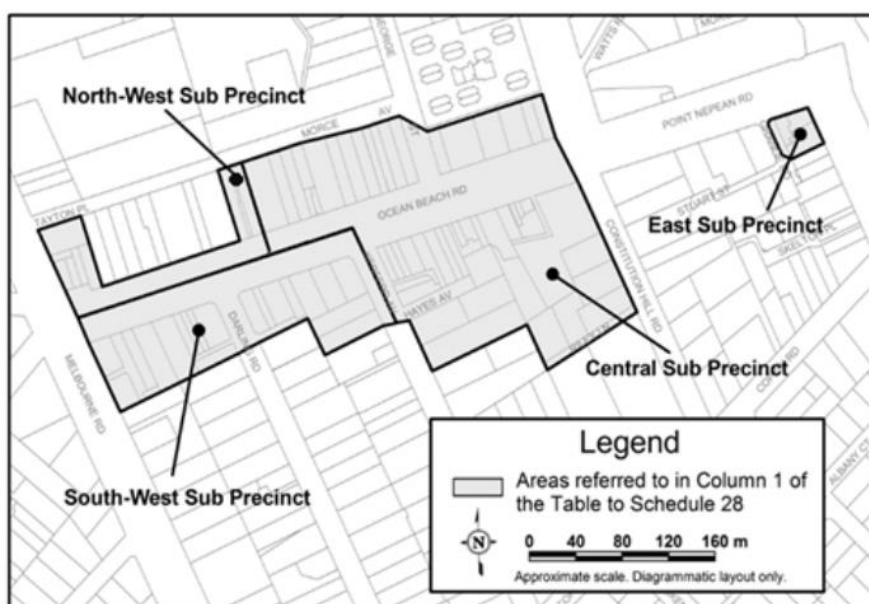


Figure 12: Precinct map from existing DDO28



Table 1			
Column 1 Sub Precincts	Column 2 Maximum building height at road frontage	Column 3 Maximum building height at the minimum building setbacks specified in Column 4	Column 4 Minimum building setback
East	8 metres (comprising no more than 2 storeys)	8 metres (comprising no more than 2 storeys)	Any first (ground floor) and second storey must: <ul style="list-style-type: none"> match the setback of the building on the adjoining lot or the average of the setback the buildings on either side of the lot.
Central	8 metres (comprising no more than 2 storeys)	11 metres (comprising no more than 3 storeys)	Any third storey must be setback: <ul style="list-style-type: none"> a minimum of 8 metres from the front building line of the second storey below; and where the site is on a corner with a named road or lane, a minimum of 3 metres from the side street building line or the second storey below.
North West	8 metres (comprising no more than 2 storeys)	11 metres (comprising no more than 3 storeys)	Any first (ground floor) and second storey: <ul style="list-style-type: none"> 5 metres from Ocean Beach Road. Any third storey must be setback: <ul style="list-style-type: none"> a minimum of 8 metres from the front building line of the second storey below; and where the site is on a corner with a named road or lane, a minimum of 3 metres from the side street building line or the second storey below.
South West	8 metres (comprising no more than 2 storeys)	11 metres (comprising no more than 3 storeys)	Any third storey must be setback: <ul style="list-style-type: none"> a minimum of 8 metres from the front building line of the second storey below; and where the site is on a corner with a named road or lane, a minimum of 3 metres from the side street building line or the second storey below.

Figure 13: Table of mandatory controls in existing DDO28

OTHER RELEVANT COUNCIL STRATEGIC DOCUMENTS

Activity Centres Strategy 2018

73. The *Mornington Peninsula Activity Centres Strategy 2018 (Strategy)*, adopted by Council on 30 April 2018, is a review of and update on Council's previous Activity Centres Strategy.
74. A key element of the previous strategy was the identification of an activity centres hierarchy where centres of different hierarchical levels perform different but complementary roles.
75. Figure 14 below, provides a visual of the Activity Centres Hierarchy across the Mornington Peninsula and identifies Sorrento as being one of six "Small Townships":



Figure 14: Mornington Peninsula Activity Centres Strategy - Activity Centre Hierarchy

76. The Strategy provides that Small Township Activity Centres (including Sorrento) are "centres serving medium-sized settlements on the Mornington Peninsula (5,000-plus people) and meet most of the basic retail, commercial and other needs of their surrounding population. Small township centres typically comprise around 3,000m² to 10,000 m² of floorspace and are often an important focus for community interaction and local identity".

77. The Strategy describes the Sorrento Activity Centre specifically as:

- Sorrento is a street-based activity centre located on both sides of Ocean Beach Road between Point Nepean Road and Melbourne Road. Many buildings of heritage value remain in the centre, which attracts significant tourist/visitor trade throughout the year. This is reflected in the large number of high-end fashion retail tenants and the considerable café and restaurant offering along the strip.
- Approximately 15,000m² of retail and commercial floorspace is located in the Sorrento activity centre, including 12,000m² of shopfront floorspace. An IGA supermarket operates from a relatively new development at the southern end of the centre, in a tenancy formerly occupied by Coles for a brief period. Vacant floorspace accounts for just 2% of shopfront floorspace in the centre.
- The extended and non-continuous nature of development in the centre limits the degree of integration between uses, although the adverse implications of this are limited by the high degree of exposure to Point Nepean Road for all tenants.
- Total retail and commercial floorspace is approximately 15,800m², including 13,900m² in shopfront floorspace. Retail uses account for 10,800m² of floorspace, or 78% of total shopfront floorspace. A very high share of non-retail shopfront tenancies is occupied by real estate- related firms, reflecting the high share of holiday homes in this part of the Mornington Peninsula. The centre has a vacancy rate of 4%.

	Floorspace
Retail	11,000m ²
Shopfront	12,000m ²
Total Commercial	15,000m ²
Source:	Council floorspace audit and Essential Economics, 2015
Note:	Shopfront includes Retail
	Figures rounded

Figure 15: Existing commercial floorspace in Sorrento (2018).

78. The Sorrento township is subject to “a large tourism market, businesses in many activity centres on the Mornington Peninsula face challenges relating to seasonal fluctuation in trade and activity”.
79. The implementation plan of the Strategy recognises that the outlook for the Sorrento activity centre “Although residential growth in the Sorrento catchment is expected to be relatively limited, and no additional commercial land is considered necessary, current development proposals demonstrate that there is still scope for infill/re-development based particularly on mixed use and visitor oriented development.”
80. It goes on to state “The primary challenge in this context is to ensure that new development is appropriate to the historic and coastal character of Sorrento, which is its greatest competitive advantage.
81. A copy of the Strategy is available as at Attachment F.

Mornington Peninsula Localised Planning Statement

82. The *Mornington Peninsula Localised Planning Statement (MPLPS)* makes no specific references to Sorrento, it does however introduce the role and value of the Mornington Peninsula to the State of Victoria which includes “providing for a clear separation of the Mornington Peninsula from metropolitan Melbourne, preventing expansion of the metropolitan area onto the Peninsula and maintaining the current settlement patterns”.
83. One of the integrated planning statement strategies includes “maintaining and enhancing the character and role of the settlements, towns and villages on the Mornington Peninsula, both individually and as part of a hierarchy of settlements, and to effectively managing future change”.
84. Some strategies to “protect the role and character of the Mornington Peninsula’s settlements, towns and villages” include:

“The hierarchy of settlements on the Mornington Peninsula will be recognised and maintained, with provisions to reinforce the distinction between major activity centres and other townships through appropriate density, height and built form controls and provisions to avoid out of centre commercial development”.

 - “Boundary, whether within residential, commercial or other areas, will be of a type and scale that maintains the existing valued character of each town or settlement, or supports a change to a preferred future character that is clearly established through community consultation and the adoption of a relevant local area plan. In the assessment of any planning permit application, priority will be given to any local character statement or policy adopted by the responsible authority”.
 - “Future planning for the settlements on the Peninsula will be based on principles of good design, Integrated Local Area Planning and Environmentally Sustainable Development, all in accordance with the character, scale, role and functions of each settlement, including:
 - “provision for commercial development, tourism and other activities that contribute to the development of local employment opportunities, the vitality of town centres and the economic wellbeing and prosperity of the community, and located to reinforce the role of different townships and activity centres on the Peninsula”
 - “integration of transport, access and land use planning”
 - “careful attention to achieving good design which responds to and is appropriate to the character and function of the particular place, including consideration of built form and scale, access and connectivity, environmentally sensitive design, heritage, streetscape and landscape values, including the retention of vegetation where this is a key element of township character”
85. An objective of the MPLPS is to “protect landscape and cultural values” which can be achieved through strategies such as:
 - Designating and protecting areas of special character, beauty and significance, including areas of strategic importance necessary to maintain the sense of separation between townships.

- Protecting the character of the Peninsula's rural area, rural landscapes, coastlines and seascapes, including:
 - conservation of sites and areas of historic, scientific and cultural value;
 - provisions to ensure the appropriate siting and appearance of buildings and works;
 - provisions to prevent intrusive commercial development, including service stations and signage on major roads.
86. Of particular importance to the Amendment is Strategy 7 within the MPLPS, which sets out and supports:
- The establishment of a strong and consistent overall policy framework for future land use and development is essential, including the use of mandatory controls and standards where necessary, due to the particular pressures on the Peninsula's rural landscapes, coasts, towns and villages, and the risk of unintended and unplanned change through cumulative impacts.
87. The Amendment includes mandatory provisions, which are supported by a rigorous built form analysis and also the MPLPS which seeks "*mandatory controls 'where necessary on the Peninsula's landscapes, coasts, towns and villages and the risk of unintended and unplanned change through cumulative impacts'*".
88. Sorrento is a sensitive coastal township that is particularly susceptible to cumulative inappropriate impacts through unplanned change. At present only interim height, setback and materiality controls apply to the commercial areas of the township, which will expire without the Amendment being progressed to implement permanent mandatory controls.
89. The Amendment responds to the MPLPS by giving statutory effect to the Ocean Beach Road Sorrento Built Form Review which recognises the specific land use and design needs and values of this activity centre.

Sorrento Commercial Precinct Statement of Significance

90. The *Sorrento Commercial Precinct Statement of Significance* (February 2022) is an Incorporated Document under HO501. It identifies that the following built form elements contribute to the significance of the HO501 precinct.

For the Late Victorian period:

- Two storey buildings in limestone, some with brick quoining elements, most with later shopfronts under skillion post- verandahs.
- A single storey shop in limestone with timber windows and skillion verandah.
- Large limestone four storey Continental hotel with square tower, verandahs and brick quoining to sections. 1930s ground floor additions to streetscape and new shopfront addition to south.
- Skillion post-verandahs to front facades, with iron and timber decoration.
- Hipped and gable corrugated iron roofs, unpainted, hidden behind parapets.

For the Federation period:

- Freestanding houses setback from the street, in limestone with brick quoining.
- Some are asymmetrical with projecting front gable and prominent windows in gable ends.
- Verandahs in both skillion and bullnose and ornate moulded timber front doors with sidelights.
- An elegant former Post Office, with brick and stucco walls, a distinctive side arrangement to street and verandah with timber decoration.
- Two storey buildings in limestone, some with prominent brick quoining elements, most with later shopfronts under skillion post-verandahs.
- Single storey weatherboard and masonry asymmetrical houses with projecting gables. Hipped and gabled corrugated iron roofs, some very prominent. (Some roofs have been reclad with red colorbond which is inappropriate.)

For the Inter-War period:

- Face brick two storey building with multiple shopfronts below single post-verandah (which should be cantilever) and apartments above.
- Hipped and gabled corrugated iron roofs, some behind raised parapets, some painted or reclad with red colorbond (which is inappropriate).
- Freestanding brick / limestone shop with raised parapet, cantilever verandah and glass shopfront windows framed with metal mullions.
- Single storey weatherboard houses with asymmetrical façade and projecting gable.

91. This policy will continue to guide development in HO501 in the future.

Ocean Beach Road Commercial Precinct Sorrento Heritage Policy

92. The *Ocean Beach Road Commercial Precinct Sorrento Heritage Policy – For Planning Applications for Places in the Heritage Overlay* (September 2015) (**Heritage Policy**) prepared by HLCD Pty Ltd is a background document in the Planning Scheme and referred to in the existing DDO28.
93. The Heritage Policy sets out the history of Sorrento and provides a comprehensive summary of the key local heritage buildings and provides guidance on new buildings. It does so by dividing the area into the sub-precincts which formed the basis of the existing DDO28. The Heritage Policy captures an area larger than the application of the existing HO501, and it also includes a now outdated Statement of Significance.

Heritage Design Guidelines Sorrento Historic Precinct

94. The *Heritage Design Guidelines Sorrento Historic Precinct* (January 2022) (**Heritage Design Guidelines**) are incorporated into the Scheme, and are currently due to expire on 30 June 2026.

95. The Heritage Design Guidelines apply across the area shown in Figure 16, including HO501.

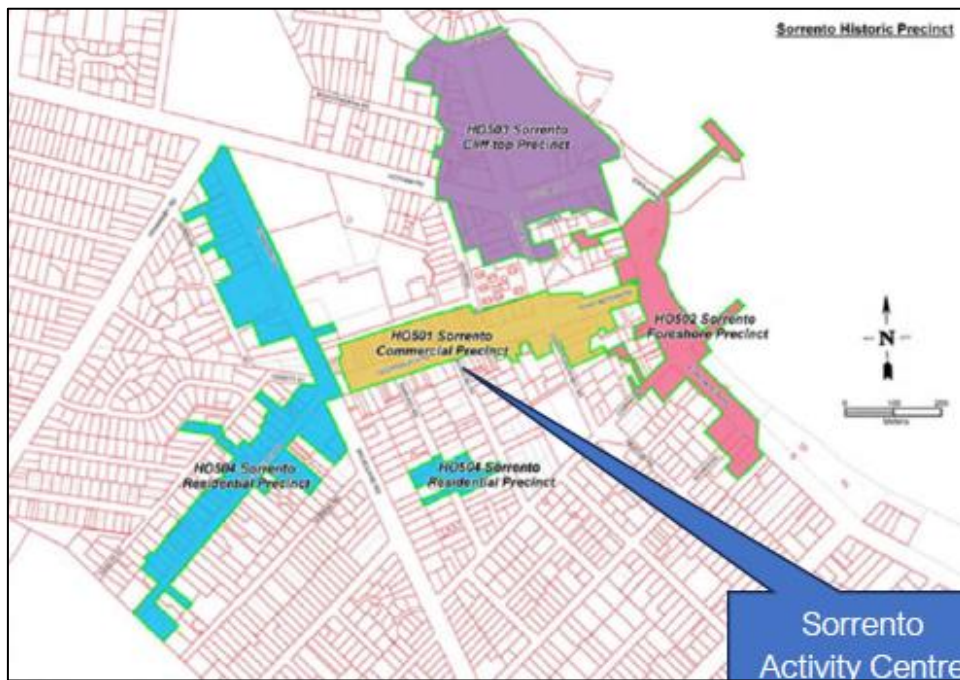


Figure 16: Excerpt from Heritage Design Guidelines

96. The objectives for the commercial heritage precinct set out in the Heritage Design Guidelines are as follows:
- To conserve the historical integrity of the Continental Hotel and Stringers Stores as landmark features at the entry to the main commercial area.
 - To ensure public services and works, such as street furniture, plantings and signs, do not detract from the historical main street layout.
 - To retain the diversity of building styles as evidence of the different periods of development along the street and within individual buildings.
 - To maintain the commercial focus in the section of Ocean Beach Road east of Melbourne Road.
 - To integrate, in functional and visual terms, development in the area of the Morce Avenue extension with the Ocean Beach Road development.
 - To provide pedestrian linkages between Ocean Beach Road and the Morce Avenue extension.
 - To conserve and enhance the character and ambience of Ocean Beach Road east of Melbourne Road in terms of its scale, building height and setback, verandahs, wide footpaths, converted residential premises and variety of building style and design.
 - To conserve and enhance the character and ambience of converted residential premises through the retention of the existing building fabric, single-storey development and gardens.
 - To create an entrance to Sorrento's main street at the corner of Point Nepean Road and Esplanade which recognises the heritage values of the Precinct.

PLANNING PRACTICE NOTES

PPN59: The Role of Mandatory Provisions in Planning Schemes

97. Planning Practice Note 59 (**PPN59**) recognises that there will be locations where a mandatory provision will provide certainty and ensure a preferable and efficient outcome.
98. It suggests that this may include areas of “high heritage value, strong and consistent character themes or sensitive environmental locations such as along the coast”, which is applicable to the Sorrento Township’s local context.

PPN60: Height and Setback Controls for Activity Centres

99. Planning Practice Note 60 (**PPN60**) provides guidance on the preferred approach to the application of height and setback controls for activity centres. It states the following:
100. PPN60 states that mandatory height and setback controls will only be considered in exceptional circumstances. In the case of the Amendment, the exceptional circumstances listed in PPN60 that are relevant to the Ocean Beach Road precinct include:
 - “sensitive coastal environments where exceeding an identified height limit will unreasonably detract from the significance of the coastal environment” and,
 - “significant heritage places where other controls are demonstrated to be inadequate to protect unique heritage values”.

6. OTHER RELEVANT PLANNING SCHEME AMENDMENTS

AMENDMENT C203MORN

101. Amendment C203morn introduced interim design and development controls over the land shown in Figure 12 earlier. These controls were included in the original DDO28 which applied to the area known as “Ocean Beach Road Commercial Precinct”.
102. The interim provisions were required while a separate amendment, Amendment C204morn, was progressed which proposed permanent controls for the Ocean Beach Road Commercial Precinct.
103. Amendment C203morn was prepared and approved by the Minister for Planning under section 20(4) of the *Planning and Environment Act 1987*. Amendment C203morn was gazetted on 15 December 2016.

AMENDMENT C204MORN

104. Amendment C204morn implemented the Heritage Policy, by applying an updated version of DDO28 to the Ocean Beach Road Commercial Precinct.
105. This amendment was approved by the Minister for Planning, but only on the condition that DDO28 was applied on an interim basis. This conditional approval was imposed because the Minister was not satisfied that sufficient strategic work and testing (including 3D modelling) had been provided with the amendment to warrant permanent mandatory controls (see Attachment I).

AMENDMENT C219MORN

106. Amendment C219morn proposes to implement a key action of the *Mornington Peninsula Housing and Settlement Strategy: Refresh 2020 – 2036* (July 2020) (**Housing and Settlement Strategy**) by amending:
 - the Planning Policy Framework, zones and overlays to incorporate neighbourhood character provisions in the adopted Mornington Peninsula Neighbourhood Character Study and Guidelines (Ethos Urban, September 2019) and other adopted studies;
 - the Municipal Strategic Statement to accord with updated census and projections data on demographics and housing, and the strategic directions of the HSS;
 - the Design and Development Overlay schedules to remove unnecessary permit triggers and simplify those that have been retained; and
 - the zones to correct mapping anomalies.
107. Amendment C219morn applies to:
 - all land in the General Residential Zone;
 - all land in the Neighbourhood Residential Zone;
 - all land in the Low Density Residential Zone; and
 - all land affected by various schedules to the Design and Development Overlay located across the residential areas of the Mornington Peninsula.
108. Amendment C219morn was adopted by Council on 6 August 2024 and was submitted to the Minister for Planning for their decision on 19 September 2024. A decision on this amendment is yet to be received.
109. The adopted version of Amendment C219morn classifies the Ocean Beach Road Commercial Precinct area as a "substantial change" housing change area, as shown in Figure 17. This corresponds with the three storey height limits supported by the adopted Built Form Review 2024.

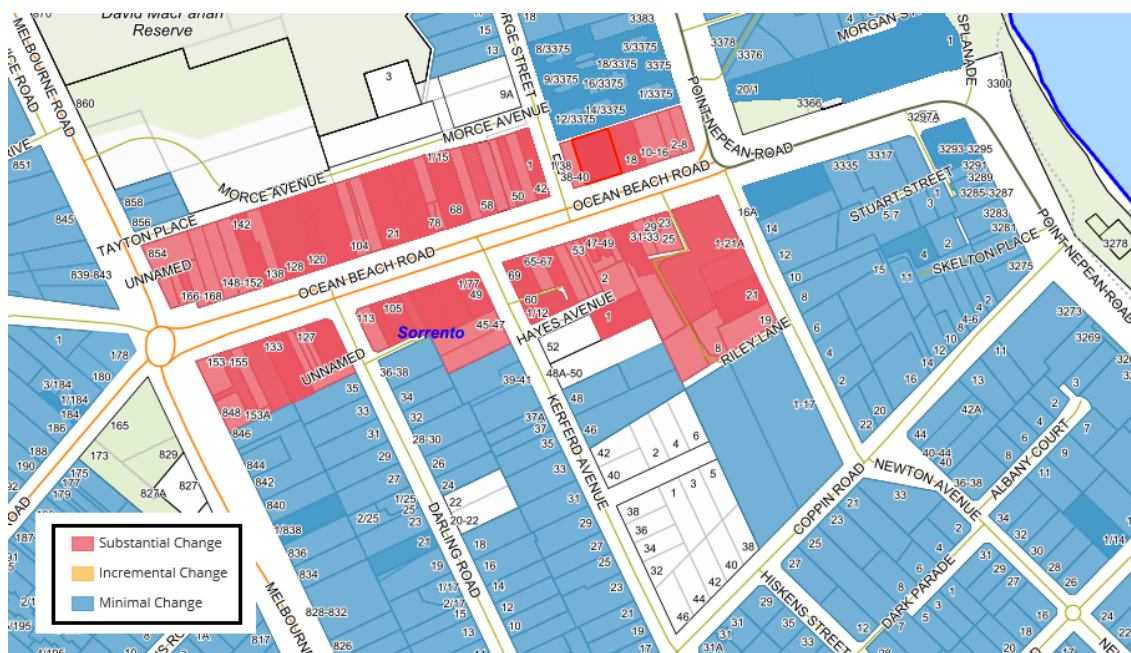


Figure 17: Amendment C219morn housing change area map

AMENDMENT C262MORN - PART 2

110. Amendment C262morn (Pt 2) implemented the findings of Council's adopted *Mornington Peninsula Heritage Review, Area 3* which looked at the townships of Blairgowrie, Sorrento and Portsea.
111. Relevantly, this amendment applied the Heritage Overlay (HO501) to the 'Sorrento Commercial Precinct' as shown in Figure 9 earlier, which covers a large portion of the Ocean Beach Commercial Precinct area.
112. The Statement of Significance for this area identifies that the precinct is of 'aesthetic significance for its large collection of intact limestone and brick buildings dating from the 1870s to 1915' (see Attachment J).

VARIOUS AMENDMENTS – EXTENSION OF INTERIM DDO28 EXPIRY DATE

113. The Minister for Planning approved Amendment C204morn on the condition that DDO28 was applied on an interim basis until 19 January 2019. This condition was imposed because the Minister for Planning was not satisfied that sufficient strategic work and testing (including 3D modelling) had been provided to warrant permanent mandatory controls.
114. To allow Council time to undertake the necessary further work to justify permanent mandatory controls, the Minister for Planning granted an initial 18-month expiry for the interim overlay. In total, the expiry date for the interim DDO28 control has been extended six times whilst the strategic work that sits behind the Built Form Review 2024 (and its predecessor) and this Amendment was undertaken.

115. The six amendments listed in Table 2 below extended the expiry date of the interim DDO28. The original expiry date was 31 July 2019 as approved by amendment C204morn.

Amendment No.	Type	Details
C264morn	Ministerial – s20(4)	Expiry date extended by six months to 31 January 2020.
C268morn	Ministerial – s20(4)	Expiry date extended by two years to 31 January 2022.
C242morn	Ministerial – s20(4)	Expiry date extended by 18 months 31 July 2023.
C299morn	Ministerial – s20(4)	Expiry date extended by 12 months 31 July 2024.
C305morn	Prescribed – s20A	Expiry date extended to 4 July 2025.
C310morn	Prescribed – s20A	This amendment proposes to extend the expiry date by 12 months to 4 July 2026. Note: This amendment is awaiting the Minister's decision at time of submission drafting.

Table 2: List of amendments to extend the expiry of interim DDO28

116. As detailed in the above table, the interim DDO28 control is currently set to expire on 4 July 2025.
117. Council officers recommended that a further 12-month extension be sought to ensure sufficient time remains to finalise the Amendment process. Amendment C310morn therefore proposes to further extend the expiry date to 4 July 2026. This is a fast-track application given its administrative nature. At this time, a decision in respect of Amendment C310morn has not yet been received from the Minister for Planning.
118. The various extensions to the interim DDO28 control are relevant to this Amendment as the existing DDO28 comprises a mix of mandatory and discretionary building height and setback requirements for the various sub-precincts. Should the existing interim DDO28 control expire without being replaced by a permanent DDO28, there will be no mandatory height, setback and design controls for the areas. However, it is noted that parts of the precinct will remain covered by the HO, which protect heritage values.

7. SUMMARY OF THE BUILT FORM REVIEWS

OCEAN BEACH ROAD SORRENTO BUILT FORM REVIEW (NOVEMBER 2021)

119. The *Ocean Beach Road Sorrento Built Form Review* (November 2021) (**Built Form Review 2021**) is the original review that provided the strategic justification for the changes sought in the Amendment, as evident in the initial exhibition period. A copy of the Built Form Review 2021 is provided at Attachment H.

120. The Built Form Review 2021 was prepared in response to the Minister for Planning's conditional approval of Amendment C204morn (which implemented the Heritage Policy), forming the basis of the strategic work required to justify permanent mandatory controls for the proposed DDO28.
121. The Built Form Review 2021 identified several factors that should influence design controls in DDO28, including:
 - achieving a well-proportioned street cross-section;
 - an analysis of the height and character of existing heritage built form;
 - the stated desire to retain views to the bay to the east and dunes to the west;
 - the stated objective of retaining centres on the Mornington Peninsula that are distinct in character from those in metropolitan Melbourne;
 - the desire to retain the two storey character of Ocean Beach Road; and
 - the need to accommodate future growth.
122. Based on the outcomes of modelling and testing, the Built Form Review 2021 recommended that a mandatory three-storey height limit be imposed for the precinct, with the third storey to be recessed from the street frontage. To achieve the preferred built form outcomes identified in the Built Form Review 2021, updates were proposed to the extent of land to which DDO28 currently applies and the composition of sub precincts, design objectives and the schedule's building height and setback requirements.

OCEAN BEACH ROAD SORRENTO BUILT FORM REVIEW (MAY 2024)

123. The Built Form Review 2024 (Attachment G) was adopted by Council on 28 May 2024 and replaced the previous Built Form Review 2021.
124. Primarily, the Built Form Review 2024 was prepared in response to the submissions received in response to the original exhibition of the Amendment.
125. Having replaced the Built Form Review 2021, the Built Form Review 2024 now provides the strategic justification for the changes sought in the Amendment.
126. Specifically, the Built Form Review 2024:
 - analyses the commercial precinct's planning, physical and historical context;
 - lists the overall opportunities and constraints that inform potential growth and future built form outcomes in the precinct;
 - provides 3D modelling which demonstrates potential future built form outcomes within the precinct;
 - tests various building heights, building setbacks and development scenarios as viewed from several key vantage points throughout the commercial precinct;
 - analyses various components of the commercial precinct, including the Ocean Beach Road streetscape, heritage buildings, the Morce Avenue interface, the 3293-3295 Point Nepean Road site (former 'East sub precinct'), side streets, and residential interfaces to commercial development.

127. The Built Form Review 2024 affirmed the following development controls for all buildings abutting Ocean Beach Road:
- a maximum street wall height no greater than 9 metres or two storeys;
 - a maximum overall building height no greater than 12 metres.
 - only three levels of the building may be visible from the footpath directly opposite the relevant land in Ocean Beach Road.
 - any third level must be set back a minimum of 4 metres from Ocean Beach Road (for upper-level additions to non-heritage buildings).
128. The key recommendations of the Built Form Review 2024 include:
- to update the extent of the existing DDO28;
 - to refine the existing design objectives and mandatory requirements of DDO28;
 - to implement a two storey, 9 metre building height limit for new development fronting Point Nepean Road (at 3293-3295 Point Nepean Road);
 - to implement a three-storey, 12 metre height limit for new development abutting Ocean Beach Road;
 - in addition to the above building height limit, new development must also not exceed two stories or 9 metres at the street frontage and any third storey must be set back at least 4 metres from the street frontage (this excludes heritage sites);
 - to implement a 12 metre building height limit for new development abutting Morce Avenue and side streets within the Activity Centre.

8. BUILT FORM COMPARISON

129. As part of re-exhibition of the Amendment, Council prepared summary documents which outline the proposed built form and design controls in respect of the existing DDO28, initial exhibited DDO28 and re-exhibited DDO28 controls (see Attachments O & P).
130. Council is currently preparing a further summary document which will compare the proposed DDO28 controls against the versions previously exhibited. Council expects to provide this further document alongside its Part B Submission.

9. DETAILS OF CONSULTATION AND ENGAGEMENT

AUTHORISATION (MAY 2022)

131. Following the Council Meeting held on 13 December 2021, Council resolved to seek authorisation from the Minister for Planning to prepare the Amendment to the Scheme (and undertake exhibition following authorisation).
132. On 20 May 2022, the Amendment was authorised under delegation from the Minister for Planning (see Attachment I). The letter of authorisation permitted Council to prepare the Amendment subject to the following conditions:
- Ensure the DDO28 is drafted in accordance with the Ministerial Direction on form and content of planning schemes. DELWP has prepared a track changes version of

the schedule that will be provided to council via email following authorisation to assist with this drafting.

- The DDO28 is not applied to 1 Esplanade 48A and 50 Kerferd Road, Sorrento, unless further strategic justification is provided to the satisfaction of the Department which supports their inclusion.

133. The conditions have been met by:

- drafting proposed DDO28 controls in accordance with the Ministerial Direction on form and content of planning schemes;
- excluding 1 Esplanade, 48A Kerferd Road and 50 Kerferd Road from the area proposed to be affected by the Amendment;
- undertaking further strategic work, supported by urban design and planning peer reviews, as outlined in the Built Form Review 2024; and
- ultimately, re-exhibiting the Amendment to take into account the Built Form Review 2024.

EXHIBITION (2022)

134. The Amendment was authorised by the Minister in May 2022 and publicly exhibited by for 12 weeks from 28 July to 24 October 2022.

135. 73 submissions were received, most of which (80%) objected to the Amendment in full or in part. citing concerns about overdevelopment, amenity impacts and the restrictive nature of proposed controls in certain parts of the precinct. All submissions to the 2022 exhibition are included in Attachment B & C.

136. Notice of the Amendment was given by public notices in the Government Gazette and Southern Peninsula News as well as a dedicated webpage on the Shire's website.

137. Individual letters with Amendment notices were also sent to:

- owners and occupiers of land in Sorrento (see Figure 18 below);
- local community groups, resident associations and historical societies;
- prescribed ministers, and State and Federal MPs of the Mornington Peninsula area; and
- public authorities including the Country Fire Authority, Melbourne Water, South East Water, the Department of Transport and Planning, and Heritage Victoria.

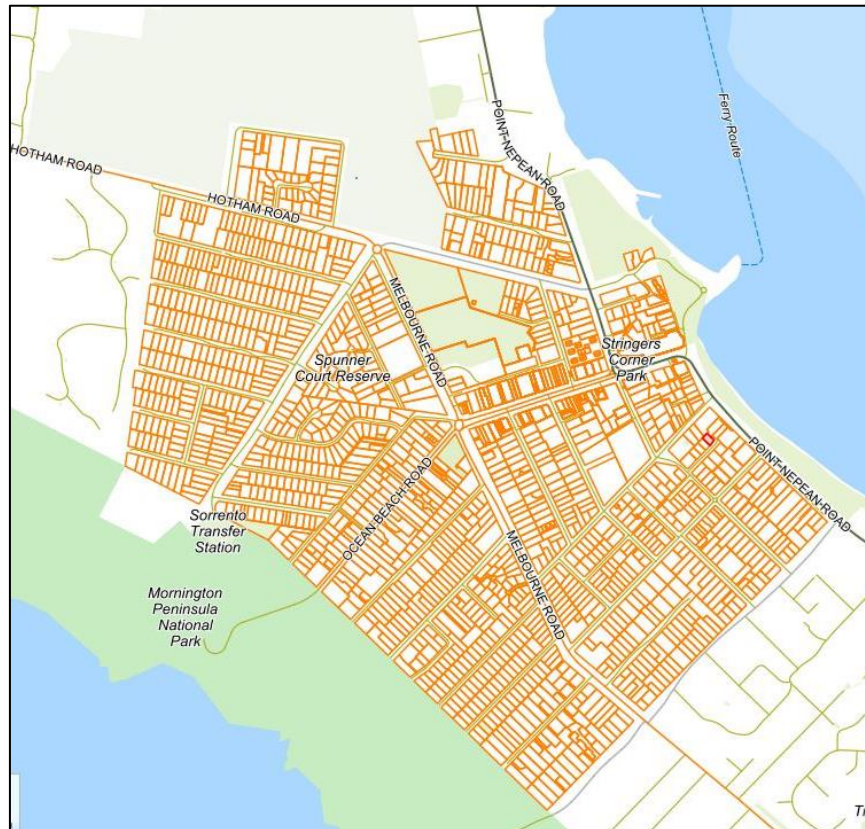


Figure 18: 2022 public exhibition notification area

138. During the initial exhibition period, members of the community could enquire about the Amendment with Shire officers via phone or email, or by arranging an in-person appointment at Shire offices.

Exhibition submission issues

139. Key themes or issues raised in objecting submissions are summarised as follows:

140. East sub precinct

- A desire to see the East sub-precinct removed from the Amendment entirely.
- Opposition to the proposed controls in the East sub-precinct, namely the increase in mandatory maximum building height to three storeys / 12 metres, and requirement for the first (ground level) and second floors to be built to the street boundary instead of setback to match adjoining properties.
- Concern that the proposed controls for the East sub-precinct – which is considered a ‘gateway’ to the precinct – will result in buildings that are inappropriate and out of proportion with nearby heritage buildings and will block sightlines to existing heritage buildings (including the Stringers Store buildings and the Continental Hotel), the foreshore and for vehicles using Point Nepean Road.

141. Central sub-precinct

- Concern that new buildings taller than two storeys will lead to 'overdevelopment' of the Stringer Store sites.
- Concern that future commercial development on the north side of Ocean Beach Road could overshadow neighbouring residential properties between George Street and Point Nepean Road, with submitters calling for rear building setback requirements in this area.

142. Issues with other sub-precincts and the overall amendment

- Concern that the proposed building heights of three storeys / 12 metres are inappropriate and should be reduced to two storeys / 8 metres across the entire commercial precinct to maintain the existing character and streetscape of Ocean Beach Road and prevent overdevelopment.
- Concerns with requiring new buildings to be built to the street boundary instead of setback to match adjoining properties.
- Opposition to the existing 8-metre third-storey setback being reduced to 4 metres.
- The need for an additional requirement in the DDO28 for new development to be constructed using materials that are similar to heritage buildings (e.g. limestone).
- The need for signage requirements to be included in the DDO to protect the heritage and character of the street.
- Opposition to the (existing) exemption of building service infrastructure (e.g. lift overruns, air conditioner units) to exceed the maximum height limit by 10%.
- The need to exempt some named lanes from proposed setback controls.

143. Supporting and other submissions

Two submissions expressed support for the Amendment on the grounds that the Amendment would retain the existing character and streetscape of the township, while another provided support for the proposed building height and setback requirements being discretionary (if there is opposition to mandatory controls), but only on the condition that the nominated maximum building heights and minimum setbacks remained as exhibited.

Ten separate submissions stated that they did not oppose the Amendment but requested that properties 19 and 21 Constitution Hill Road be exempted from the mandatory first and second floor setbacks proposed for the Central sub-precinct to ensure that future development has a similar or the same setback from the road boundary as existing buildings along the road.

PRE RE-EXHIBITION

144. Prior to re-exhibition of the Amendment, Council sought informal feedback from the Department of Transport and Planning (**DTP**).

145. On 19 July 2024, DTP provided informal feedback to Council (see Attachment Q). DTP informally recommended that:
- The format of the DDO28 is substantially different to what was considered at authorisation. However, it is noted that the design outcomes sought (maximum building height etc) are largely the same.
 - The original authorisation did not include amendments to local policy. However, the proposed changes to 11.03-1L-01 are considered logical and consistent with the strategic intent of the amendment as authorised.
 - Inclusion of numerous ResCode standards should be reconsidered. The DDO should be able to identify suitable design requirements to achieve council's preferred outcomes and list them, rather than just referring to a ResCode standard. DTP also notes that the C1Z contains decision guidelines relating to the impacts of overlooking and overshadowing of adjoining residential properties.
 - Some of the definitions could be reconsidered or reworded, namely the definition of building height. Given it is listed in 73.01, it does not need to be repeated in the DDO schedule. DTP also notes that the exemptions to the maximum building height would be better listed under the mandatory requirements where the building heights are outlined.
146. Prior to re-exhibition of the Amendment, Council considered the informal feedback provided by DTP. Council noted the first two comments provided by DTP.
147. In response to DTP's third comment, Council officers did not agree that the ResCode requirements should be removed as this formed part of the recommendations included in the Built Form Review 2024 which is based on a substantial body of work and peer reviews. Council officers were of the view that drafting specific design requirements would effectively duplicate the ResCode requirements. It was also considered that the proposed DDO28 control is simplified by replicating the applicable ResCode standards and deferring to Clause 54. Following Council's decision at the Council Meeting held on 28 May 2024, the Rescode requirements were not removed in the re-exhibition version of DDO28. It is noted that the proposed DDO28 controls (endorsed for review of the Panel at Council's meeting held on 25 February 2025) are currently improved with diagrams to assist in providing a clearer understanding of the ResCode requirement.
148. In response to DTP's fourth comment, Council officers agreed that there was no need to have the definition in the DDO28 as it duplicates content of another provision of the planning scheme (i.e. Clause 73.01) which does not comply with the State Government's drafting rules for planning scheme ordinance. This refinement was included in the re-exhibition version of DDO28.

RE-EXHIBITION (2024)

149. The Amendment was re-exhibited for a period of 6 weeks, from July to September 2024. A further nine submissions were received of which four were new submissions, while the remaining five were supplementary submissions from parties who provided a submission to the original exhibition process.

150. Notice of the Amendment was given by public notices in the Government Gazette and Southern Peninsula News as well as a dedicated webpage on the Shire's website.
151. Individual letters with Amendment notices were also sent to:
 - owners and occupiers of land in the entire Sorrento township (postcode) area
 - local community groups, resident associations and historical societies
 - prescribed ministers, and State and Federal MPs of the Mornington Peninsula area
 - public authorities including the Country Fire Authority, Melbourne Water, South East Water, the Department of Transport and Planning, and Heritage Victoria
 - individuals who provided a submission to the original exhibition of the Amendment in 2022 (73 submitters)
 - a list of the Shire's most frequent customers to the Shire's Statutory Planning department (including planning permit applicants, local planning consultants, builders, drafts people, surveyors, etc.).
152. During the re-exhibition period, members of the community could enquire about the Amendment with officers from the Shire's Strategic Planning team via phone or email, or by arranging an in-person appointment at Shire offices.
153. Two in-person community information sessions were also held at the Sorrento Community Centre to provide further opportunities for community members to speak directly with a Shire officer in person. Seven community members attended across the two information sessions held on:
 - Session 1: Monday, 12 August (10.00am – 2:00pm)
 - Session 2: Wednesday 14 August (5:30pm – 7:30pm)

Re-exhibition submission issues

154. Most issues raised in re-exhibition submissions relate to the 3293-3295 Point Nepean Road site (former East sub-precinct) as summarised below:
 - The application of Design and Development Overlay – Schedule 3 (Coast and Landscape Design) (DDO3) to the 3293-3295 Point Nepean Road site (former East sub-precinct) should be considered instead of the proposed DDO28.
 - The proposed DDO28 does not reference the protection of views to other heritage buildings such as 'Quamby' (located on an adjacent site).
 - Concerns that upper-level setbacks proposed for the 3293-3295 Point Nepean Road site will result in new built form that will conceal views to important landmarks.
 - Further clarification of what the exact height of new development could be on the 3293-3295 Point Nepean Road site.
 - New development on the 3293-3295 Point Nepean Road site and the potential amenity and view line impacts this could have on residents to the north of the site.

155. Other more general issues raised in re-exhibition submissions included:

- The potential impact of future commercial development on residential land between George Street and Point Nepean Road that is directly adjacent the proposed DDO28.
- More specific requirements are needed to address issues concerning waste storage and better access for fire fighting vehicles in laneways.
- The proposed controls being excessive and diminishing the character of Sorrento.
- The removal of sub-precincts from DDO28 is problematic.
- The design objectives of the revised DDO28 are too broad and poorly drafted.
- A map-based approach to the application of the built form controls should be adopted in the DDO28 instead of the proposed written format, to avoid confusion between controls that reference buildings 'fronting' a road compared with 'abutting' a road.
- Suggestion that the exhibition process is a formality and that although submissions are received and considered, they may not be properly considered in a decision.
- The assumptions adopted in the Built Form Review 2024 which inform the proposed built form controls are faulty and incorrectly apply the literature referenced in the report.
- The increased need for car parking due to allowing three storeys of development has not been addressed.
- The impact of wind down Ocean Beach Road due to allowing three storeys of development has not been addressed.
- Improved spatial enclosure of the street would be better achieved by tree planting instead of increased building heights and setbacks.

10. CHANGES IN RESPONSE TO SUBMISSIONS

156. As stated earlier in this report, 73 submissions were received during the original exhibition of the Amendment in 2022, with 4 new submissions and 5 supplementary submissions received during re-exhibition in 2024. Therefore, 77 submissions have been received for the Amendment in total.

RESPONSE TO SUBMISSIONS

157. The table included in Attachment D to this report provides a summary of Council adopted officer responses and recommendations to each submission. Many of the responses can be categorised by common themes. These themes and corresponding responses are provided in Attachment E to this submission.

PURPOSE OF THE BUILT FORM REVIEW 2024

158. In response to the first tranche of submissions received during original exhibition of the Amendment, Council undertook further strategic work to review and refresh the Built Form Review 2021 and associated Amendment documentation.

Peer review

159. Given the range and complexity of issues raised by submissions, Council officers commissioned independent planning and urban design peer reviews of the Built Form Review 2021 and associated Amendment documentation.
160. Kinetica was appointed to complete a peer review of the proposed DDO28 from an urban design perspective. Although, Kinetica was generally supportive of the proposed controls, key recommendations in response to urban design issues were as follows:
 - Making street wall heights discretionary for properties on the western end of Ocean Beach Road (170-174 and 157-163);
 - Increasing the maximum building height in all sub precincts to a discretionary four storeys;
 - Replacing building setback requirements above the street wall to a requirement that upper levels have limited visibility from within Ocean Beach Road, including in oblique views, and introducing a building setback requirement above the street wall from side streets;
 - Moving land within the central sub precinct with rear frontage to Morce Avenue into the north-west sub precinct;
 - Amending the north-west sub precinct front setback requirement to a discretionary requirement to match neighbouring setbacks and excluding the 0 metre front building setback requirement for properties fronting Constitution Hill Road;
 - Deleting the Morce Avenue building setback requirements within the north-west sub precinct (including land formerly within the central sub-precinct);
 - Deleting the east sub precinct third storey setback requirement;
 - Introducing a definition for building height within DDO28 to be the vertical distance from the footpath at the centre of the primary street frontage to the highest point of the building, excluding rooftop services; and
 - Introducing a street wall façade design provision to ensure that development maintains the existing character of white or cream masonry materials featuring vertical articulation.
161. Glossop Town Planning was appointed to complete a peer review of the proposed DDO28 from a town planning perspective. Glossop Town Planning concluded that the extent of mandatory controls proposed by the Amendment did not satisfy the criteria set out in Planning Practice Notes, including PPN60. Glossop Town Planning therefore recommended that Council re-visit its strategic justification for the application of mandatory controls in the precinct having regard to the changes in heritage significance, and by providing more detail about the significance of the coastal environment and associated views to and from the activity centre.

Built Form Review and DDO28 Refresh

162. Given the findings of the above peer reviews, Council officers commissioned a review of the Built Form Review 2021, in the form of the Built Form Review 2024, to ensure that there was sufficient strategic justification to support permanent built form controls in the Sorrento Activity Centre. The refresh was undertaken by Glossop in partnership with Design Urban (the author of the Built Form Review 2021) with input from Council's external heritage advisor – Landmark Heritage, as well as Council's planning, heritage and urban design officers.

163. The Built Form Review 2024 responded to submissions and recommendations of independent peer reviews by providing:
- A comprehensive analysis of the Activity Centre's planning and physical context to identify overall opportunities and constraints that inform potential growth and future built form outcomes; and
 - A more thorough built form framework based on modelling and testing which addresses various components of the Activity Centre, including the Ocean Beach Road streetscape, heritage buildings, detailed design (i.e. building materiality), the Morce Avenue interface, the east sub-precinct site, side streets, and residential interfaces to commercial development.

COUNCIL ADOPTED DDO28

164. It is noted that most of the opposing submissions will remain unresolved. However, Council officers have identified some instances where refinement of the controls in the proposed DDO28 are warranted. These are:

- 1) Refinements to the wording of several buildings and works requirements to make it clear that they apply to new buildings, as well as additions or renovations to existing buildings. For example, some requirements currently reference "For all buildings...", however the updated wording will now reference "*For all new buildings and works on sites...*".
- 2) Removing the current definition of 'abutting' listed in DDO28 which is: "Abutting means a building on or within 200mm of a boundary." This change will remove any potential ambiguity as a building slightly more than 200 millimetres from the front boundary would not need to comply with the mandatory height controls.
- 3) Relocation and refinement of wording to confirm that a permit must not be granted for new buildings or the replacement of existing buildings that exceed the maximum building height, with some exemptions to this rule listed including architectural features, e.g., masts, building services (lift overruns) and stairwells. This exemption ensures that existing heritage-listed buildings with elements that already exceed the height requirements (e.g. the Continental Hotel) could be reconstructed if damaged.
- 4) Updating the fourth Design Objective to include reference to maintaining views to the heritage listed 'Quamby' building (3317 Point Nepean Road).
- 5) Updating the mandatory building height requirement for sites abutting Ocean Beach Road to clarify how the visibility of three buildings levels will be measured (see below).

"The overall building height must not exceed 12 metres and only the ground floor level, Level 1 and Level 2 may be visible when viewed from 1.6 metres above natural ground level at the street boundary of the site (or sites) directly opposite the centre of the subject site, as shown in Diagram 1. If there is no site directly opposite (if there is a road) the view line should be taken from what would be the continuation of the street boundary"

A diagram has also been included below the requirement to aid interpretation of this control.

- 6) Adding a discretionary front setback requirement for side street sites. This states that buildings should have “A front set back the same distance of the existing building on the adjoining lot, or 4 metres, whichever is the lesser”.
 - 7) Updating a general requirement that references ResCode standards to state that sites which “abut an unnamed laneway which directly abuts land in a residential zone” should also achieve the standard listed. Additionally, reference to the side and rear setback standard (Standard B17) has been removed and replaced with a separate general requirement and two accompanying diagrams, which demonstrate setbacks that should be achieved under the two scenarios.
165. In response to the above changes, a ‘track changes’ version of the DDO28 was prepared and endorsed at the 25 February 2025 Council Meeting where the Council resolved to proceed to a Planning Panel (Attachment K). The track changed DDO28 can be viewed in Attachment L.
166. At this stage, Council intends on circulating a further refined version of the DDO28 pursuant to Direction 19.

11. SUMMARY OF PERMIT APPLICATIONS OR RECENTLY GRANTED PERMITS

167. Council has prepared a table which lists permits issued and applications received in the period from 1 January 2024 to 15 April 2025 that might impact on / be impacted by the Amendment (see Attachment R).

12. IMPORTANCE OF AMENDMENT

168. Council highlights the following in respect of the Amendment:
- The Amendment is informed by sound strategic planning work which includes the Ocean Beach Road Sorrento Built Form Review (May 2024) and associated Built Form Modelling. This document has been informed by expert planning and urban design advice.
 - The proposed DDO28 will ensure that the valued low scale coastal character of the township is protected. This includes mandatory planning provisions that are essential to ensuring development remains at an appropriate scale.
 - Sorrento is at risk of further inappropriate development in the event that Amendment C286morn is not approved and the existing interim controls expire.
169. Council’s Part B Submission will address responses to submissions received, evidence and Council’s final position on the Amendment.