

Planning Panels Victoria  
Amendment C220whse to the Whitehorse  
Planning Scheme  
Whitehorse Residential Corridors Built Form  
Study (2019)

## 100 Station Street, Burwood

Date of Inspection: **14 April 2023**

Date of Report: **April 2023**

Report prepared for **Aveo Group Limited**

Report prepared by **Marco Negri**



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**Attachment 1** Expert Witness Declaration

**Attachment 2** Negri Version of Clause 21.06 and  
22.03

**Attachment 3** Negri Version of DDO11

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# 1 Introduction

- 1 I have been requested by Norton Rose Fulbright Australia, on behalf of Aveo Group Limited, to consider the planning implications of Amendment C220whse to the Whitehorse Planning Scheme (C220whse).
- 2 C220whse proposes to implement the built form directions of the Whitehorse Residential Corridors Built Form Study 2019 (WRCBFS).
- 3 The WRCBFS has been prepared to provide guidance in relation to the development of land in the Residential Growth Zone (Schedules 1 & 2) along the Whitehorse Road and Burwood Highway corridors.
- 4 Aveo Group Limited owns land at 100 Station Street, Burwood (**the Aveo Property**) which is partly contained in the Residential Growth Zone – Schedule 2 and is located within the Burwood Highway corridor. The land is developed and occupied by the Fountain Court Retirement Village.
- 5 C220whse proposes a variety of amendments to the Whitehorse Planning Scheme to implement the directions of the WRCBFS including the introduction of Schedule 11 to the Design and Development Overlay (D0011). The southern part of the Aveo Property (that part included in the Residential Growth Zone – Schedule 2) is proposed to be affected by the Design and Development Overlay – Schedule 11.

6 I have been instructed to:

...

*(1) review the background materials provided in your brief;*

...

*(2) prepare an expert report considering planning matters arising from the Amendment as relevant to the Land; and*

*(3) If appropriate, appear before the Planning Panel at the hearing which is expected to be held in the week of 1 May to present your evidence.*

...

7 In preparing this report, I have undertaken the following:

- Inspected the Aveo Property and the part of the Burwood Highway corridor that contains the property;
- Reviewed provisions of the Whitehorse Planning Scheme;
- Reviewed the Whitehorse Residential Corridors Built Form Study (2019);
- Reviewed the Whitehorse Housing Strategy (2014);



## 1 Introduction

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- Reviewed the City of Whitehorse Neighbourhood Character Study and Precinct Character Guidelines – Garden Suburban 4;
- Reviewed the Urban Design Guidelines for Victoria 2017;
- Reviewed Plan Melbourne 2017-2050;
- Reviewed the Agenda to the Council meeting on 29 January 2019 in relation to the Residential Corridors Built Form Study – Consultation outcomes and recommended built form controls;
- Reviewed the Agenda to the Council meeting on 20 September 2021 in relation to Amendment C220whse Residential Corridors Built Form Study Planning Scheme Amendment Authorisation;
- Reviewed the Department of Environment, Land, Water and Planning correspondence dated 17 February 2021 providing conditional authorisation to prepare an exhibit the amendment;
- Reviewed the Department of Environment, Land, Water and Planning correspondence dated 21 December 2021 that did not authorise the preparation and exhibition of Amendment C239whse in respect of the Whitehorse residential corridors;
- Reviewed the Agenda to the Council meeting on 8 August 2022 in relation to Amendment C220whse Residential Corridors Built Form Study Planning Scheme Amendment Re-authorisation;
- Reviewed the Agenda to the Council meeting on 27 February 2023 in respect of Amendment C220whse;
- Reviewed the exhibited version of Amendment C220whse and relevant background reports;
- Reviewed submissions in relation to Amendment C220whse; and
- Considered relevant Ministerial Planning Practice Notes and Ministerial Directions.

8 Attachment 1 provides a summary of my professional qualifications and experience.

## 2 The Amendment Land

### 2.1 Residential Growth Zone Corridors

9 Amendment C220whse applies to:

- Land that is zoned either Schedule 1 or 2 to the Residential Growth Zone (RGZ1 or RGZ2) along the Whitehorse Road and Burwood Highway corridors.

10 The amendment excludes RGZ1 or RGZ2 land generally affected by existing structure plans and/or urban design frameworks, being RGZ1 or RGZ2 land within:

- The Box Hill Transit City Activity Centre Structure Plan;
- Tally Ho Urban Design Framework; and
- Burwood Heights Activity Centre Structure Plan.

11 The amendment proposes, among other matters, to:

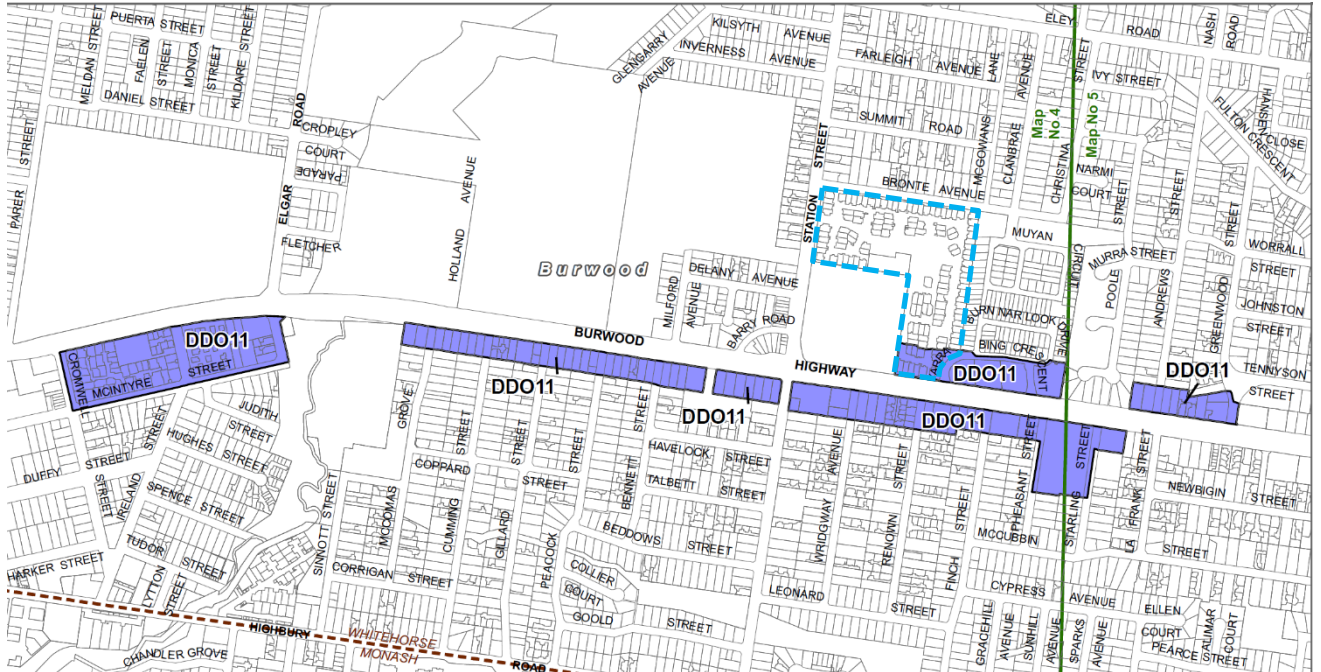
- Introduce Schedule 11 to Clause 43.02 (Design and Development Overlay) to the Whitehorse Planning Scheme.
- Include the *Whitehorse Residential Corridors Built Form Study, 2019* as a background document at Clause 21.06 and 22.03, and the Schedule to Clause 72.08.
- Make minor policy changes to Clauses 21.06 and 22.03 to reference the *Whitehorse Residential Corridors Built Form Study, 2019*.
- Amend the Whitehorse Planning Scheme maps to apply Design and Development Overlay – Schedule 11.



## 2 The Amendment Land

**Figure 2.1**  
Part of Proposed Design and Development Overlay –  
Schedule 11

Source: Amendment C220whse DDO11 Map 4 & 5



### 2.2 The Aveo Property

- 12 The southern portion of the Aveo Property is located within the Burwood Highway Corridor and is partly affected by the amendment.
- 13 The southern portion of the property is proposed to be located within a discrete sub-precinct of DDO11 that is located on the north side of Burwood Highway.
- 14 The Aveo Property forms an 'L' shaped parcel with an overall area of approximately 3.06 hectares and containing in the order of 130 individual lots accommodating dwellings that are collectively known as 'Fountain Court Retirement Village', an Aveo retirement village.
- 15 It has street frontages to Station Street (to the west), Bronte Avenue (to the north), Yarra Bing Crescent to the east, and Burwood Highway to the south.
- 16 The main vehicle access to the retirement village is from Station Street. There is also a driveway (gated) to Burwood Highway.
- 17 The Aveo Property has a southern and western abuttal to the commercially zoned land (Commercial 1 Zone) located on the south-eastern corner of Station Street and Burwood Highway, known as 301 Burwood Highway, Burwood. This property is known as the Greenwood Business Park and contains two (2) three-storey office buildings, with associated car parking.
- 18 The extent of the Property affected by the amendment includes that

## 2 The Amendment Land

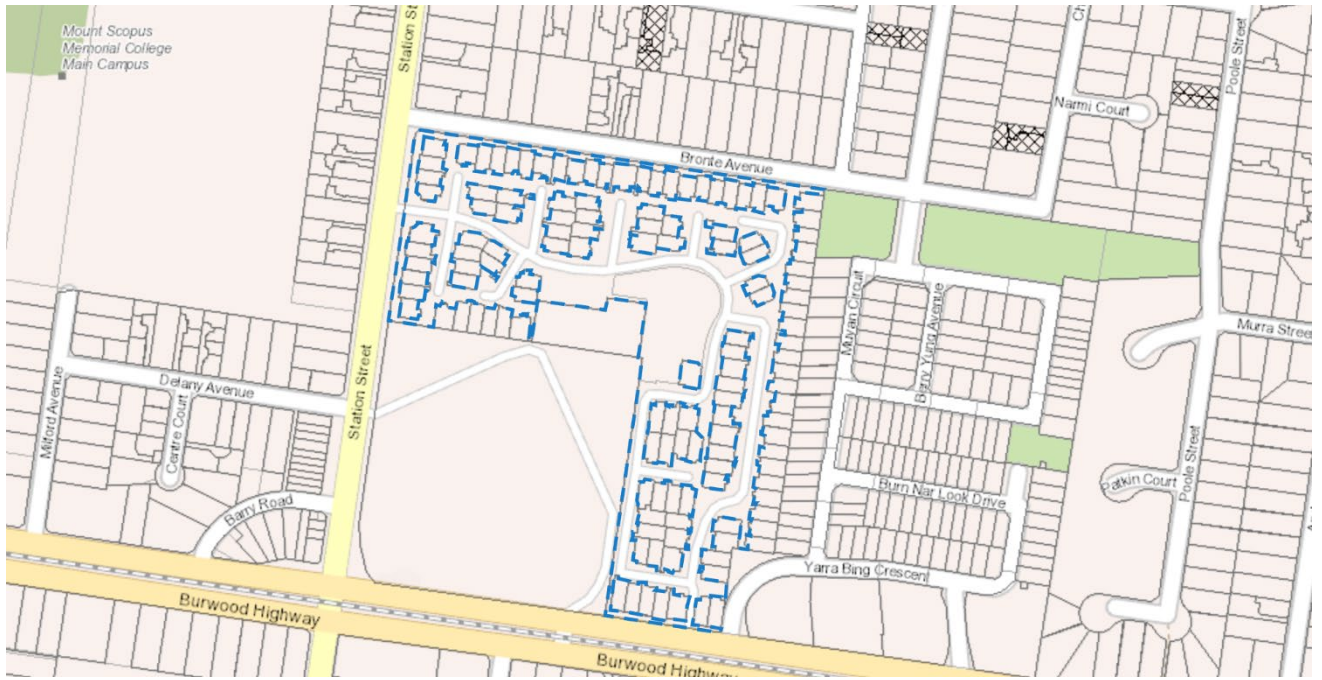
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part of the property with frontage to Burwood Highway. It is contained within the Residential Growth Zone – Schedule 2 and comprises of approximately twelve (12) lots, each containing a single storey retirement village dwelling. It has an approximate overall frontage to Burwood Highway of 83.95 metres.

- 19 Apartment buildings (2-3 storeys in height) occupy the land to the east of Yarra Bing Crescent. These properties are also proposed to be included within the discrete sub-precinct of DDO11.
- 20 To the south, the land has frontage to Burwood Highway.
- 21 Land on the opposite side of Burwood Highway is also contained within the Residential Growth Zone – Schedule 2 and is proposed to be included within the Design and Development Overlay – Schedule 11.

Figure 2.2  
Cadastral Plan

Source: VicPlan

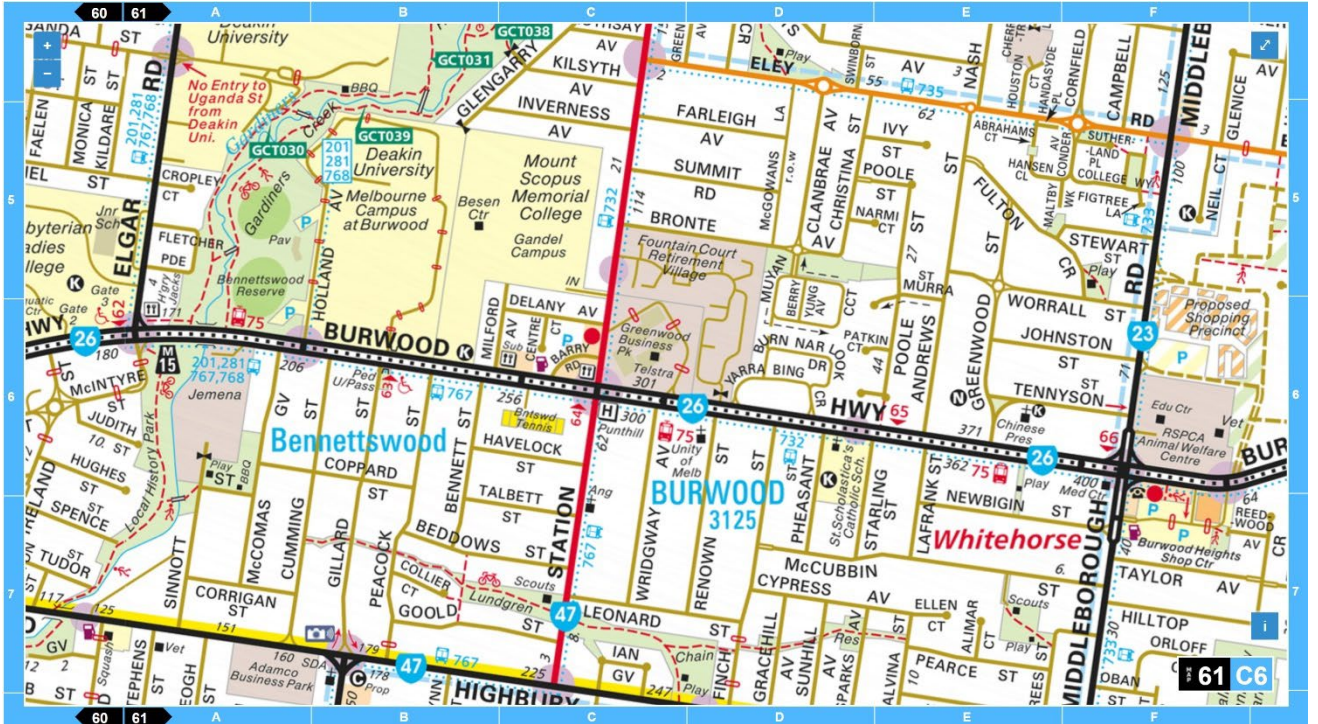




## 2 The Amendment Land

Figure 2.3  
Locality Plan

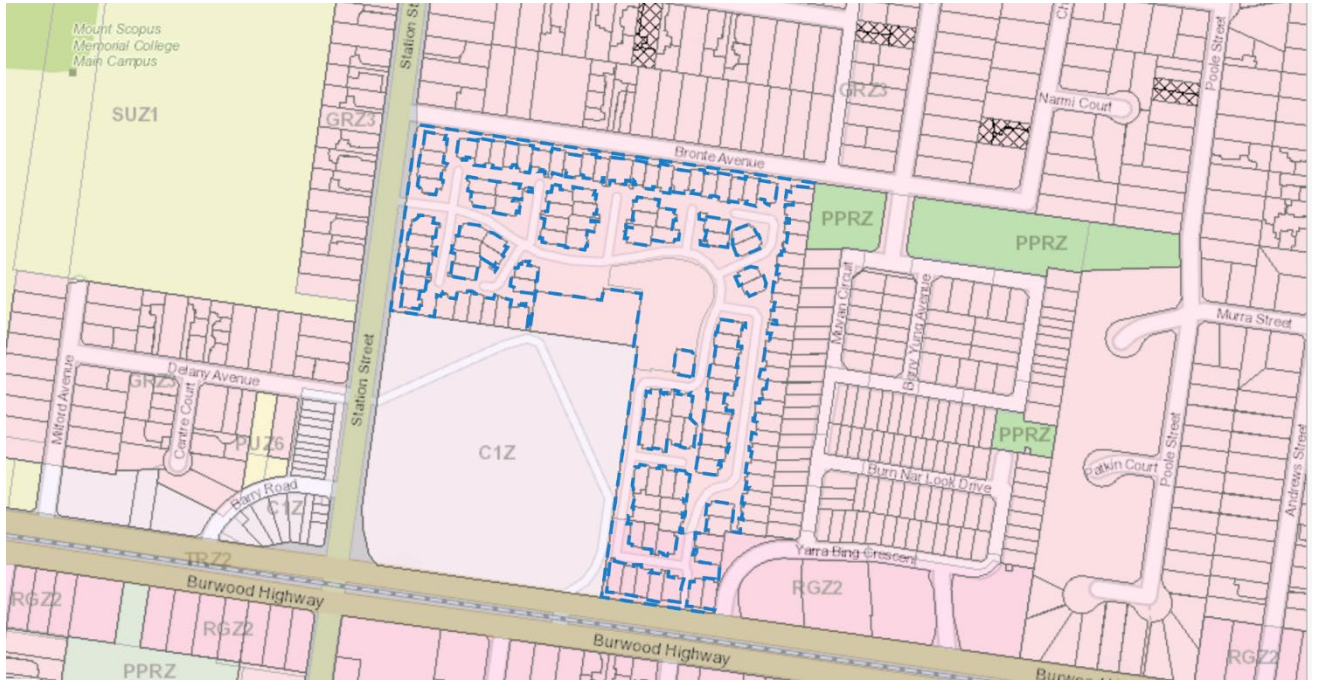
Source: Melways Online



## 2 The Amendment Land

Figure 2.4  
Zoning Plan

Source: Vicplan



### 2 The Amendment Land

Figure 2.5  
Aerial Photograph – 100 Station Street, Burwood

Source: Nearmap



## 2 The Amendment Land

Figure 2.6  
Aerial Photograph -Locality

Source: Nearthmap



# 3 Whitehorse Planning Scheme

## 3.1 Planning Policy Framework

22 The following clauses within the Planning Policy Framework are relevant to Amendment C220whse.

- Clause 11 Settlement
  - Clause 11.01 Victoria
  - Clause 11.01-1S Settlement
  - Clause 11.01-1R Settlement – Metropolitan Melbourne
  - Clause 11.02 Managing Growth
  - Clause 11.02-1S Supply of urban land
- Clause 13 – Environmental Risks and Amenity
  - Clause 13.05 Noise
  - Clause 13.07 Amenity and Safety
  - Clause 13.07-1S Land use compatibility
- Clause 15 – Built Environment and Heritage
  - Clause 15.01 Built Environment
  - Clause 15.01-1S Urban design
  - Clause 15.01-1R UD - Metropolitan Melbourne
  - Clause 15.01-2S Building design
  - Clause 15.01-4S Healthy neighbourhoods
  - Clause 15.01-4R HNs - Metropolitan Melbourne
  - Clause 15.01-5S Neighbourhood character
  - Clause 15.02 Sustainable Development
  - Clause 15.02-1S Energy and resource efficiency
- Clause 16 - Housing
  - Clause 16.01 Residential Development
  - Clause 16.01-1S Housing supply
  - Clause 16.01-1R HS - Metropolitan Melbourne
  - Clause 16.01-2S Housing affordability



### 3 Whitehorse Planning Scheme

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- Clause 18 - Transport
  - Clause 18.01 Land use and transport
  - Clause 18.01-1S Land use and transport integration
  - Clause 18.01-2S Transport system
  - Clause 18.01-3S Sustainable and safe transport
  - Clause 18.01-3R SST - Metropolitan Melbourne
  - Clause 18.02 Movement networks
  - Clause 18.02-1S Walking
  - Clause 18.02-2S Cycling
  - Clause 18.02-2R Cycling - Metropolitan Melbourne
  - Clause 18.02-3S Public Transport
  - Clause 18.02-3R Principal Public Transport Network
  - Clause 18.02-4S Roads
- Clause 19 - Infrastructure
  - Clause 19.02 Community Infrastructure
  - Clause 19.02-4S Social and cultural infrastructure
  - Clause 19.03 Development Infrastructure
  - Clause 19.03-1S Development and infrastructure contributions plans

### 3 Whitehorse Planning Scheme

#### 3.2 Local Planning Policy Framework

23 The following clauses within the Local Planning Policy Framework are relevant to C220whse.

- Clause 21 Municipal Strategic Statement
  - Clause 21.01 Municipal Profile
  - Clause 21.02 Key Issues
  - Clause 21.03 A Vision for the City of Whitehorse
  - Clause 21.04 Strategic Directions
  - Clause 21.05 Environment
  - Clause 21.06 Housing
  - Clause 21.07 Economic Development
  - Clause 21.08 Infrastructure
  - Clause 21.09 Monitoring and Review
- Clause 22 Local Planning Policies
  - Clause 22.03 Residential Development
  - Clause 22.04 Tree Conservation
  - Clause 22.10 Environmentally Sustainable Development
  - Clause 22.15 Public Open Space Contribution

24 Clause 21.04 contains the 'Strategic Framework Plan' (refer Figure 3.1 below).

25 The Aveo Property is situated between a Neighbourhood Activity Centre (to the west) and the Burwood Heights Major Activity Centre. There is a 'Strategic Redevelopment Site' located within Burwood Heights.

26 Clause 21.06-1 identifies, amongst other matters, that:

...

*The Council's Housing Strategy 2014 identifies areas of substantial, natural and limited growth. These categories of housing change are aligned with the neighbourhood character statements prepared for each area as part of the Neighbourhood Character Study 2014 and the planning controls applying to the land. These statements and controls*

### 3 Whitehorse Planning Scheme

*aim to direct housing growth across the municipality in a way which reflects the community's neighbourhood character aspirations, while balancing the future housing needs of Whitehorse. They are described as follows:*

- *Substantial Change areas provide for housing growth with increased densities, including inside designated structure plan boundaries and opportunity areas, in accordance with the relevant plans as well as around most train stations, adjoining tram routes and around larger activity centres.*
- *Natural Change areas allow for modest housing growth and a variety of housing types provided they achieve the preferred future neighbourhood character as identified in Clause 22.03 – Residential Development.*
- *Limited Change areas enable specific characteristics of the neighbourhood, environment or landscape to be protected through greater control over new housing development. These areas represent the lowest degree of intended residential growth in Whitehorse.*

...

27 That part of the Aveo Property contained in the Residential Growth Zone – Schedule 2 is identified to be within a 'Substantial Change Area B' and the balance of the land is contained in 'Natural Change Area' (Refer Figure 3.2) below.

28 Clause 21.06-2 identifies the following vision for housing in the Municipality:

...

*"To ensure that housing in the City of Whitehorse meets residents' needs in terms of location, diversity, sustainability, accessibility, affordability and good design."*

...

29 The following 'Key Housing Principles' are identified at Clause 21.06-2:

- *Develop housing in Whitehorse that shapes the City's urban structure to support environmental and social sustainability, resilience and the health and well being of residents.*
- *Encourage housing that supports preferred neighbourhood character objectives and urban design aspirations for the City.*
- *Promote housing growth and diversity in locations within*



### 3 Whitehorse Planning Scheme

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*walking distance of public transport and local services such as shops, parks and education.*

- *Limit residential growth in areas of valued landscape or built form character, and/or with infrastructure limitations.*
- *Support the housing directions of existing and future adopted Structure Plans and Urban Design Frameworks for activity centres.*
- *Provide a mix of housing that meets the life stage and cultural needs of residents.*
- *Ensure housing in substantial change areas is designed to achieve and enhance sense of place and identity, and facilitate neighbourhood participation.*
- *Support environmentally sustainable building, design and innovation in new housing development.*
- *Advocate for increases in affordable and social housing stock.*

30 Clause 21.06-3 sets out the following 'Key Issues' in respect of Housing Location in the Municipality:

- *Encouraging appropriate residential development within the municipality's established network of activity centres.*
- *Providing appropriate housing growth in locations with potential amenity considerations (eg. sensitive interfaces, rail corridors, tram lines, main roads).*
- *Ensuring timely provision of infrastructure and public realm improvements to support the growth of the municipality.*
- *Encouraging housing in locations with good access to public transport and services, which can minimise demand on the road network and better target the delivery of community and physical infrastructure and services.*

31 Clause 21.06-3 sets out the following Objectives for each of the residential 'Change Areas':

#### ***Limited Change Areas***

- *Conserve and enhance those elements which contribute to the valued environmental, heritage and neighbourhood character of the place.*
- *Ensure new development protects and reinforces the environmental, heritage values and / or preferred future neighbourhood character of the area.*

### 3 Whitehorse Planning Scheme

- *Ensure new development mainly takes the form of renovations to existing houses, replacement of single dwellings with new dwellings and some limited medium density development.*

#### **Natural Change Areas**

- *Support increased housing choice by allowing for a diversity of dwelling types, sizes and tenures.*
- *Ensure new development contributes to the preferred neighbourhood character of the precinct.*
- *Encourage new development applications to include landscape guidelines that show how the enhancement or retention of existing vegetation where possible will be achieved, at the outset of the design process.*

#### **Substantial Change Areas**

- *Support increased residential densities.*
- *Support increased housing choice by allowing for a diversity of dwelling types, sizes and tenures to suit a range of household types.*
- *Facilitate achieving a new, preferred character for these areas over time through quality developments.*
- *Support the master planning of larger sites to facilitate the development of diverse, high amenity precincts which have an identifiable sense of place.*
- *Encourage the provision of shop-top dwellings and low scale apartment developments in activity centres, particularly within key Neighbourhood Activity Centres and on sites abutting the Principal Public Transport Network and main roads.*
- *Provide space for planting, communal spaces and rooftop gardens to improve the amenity and liveability of dwellings.*

32 The implementation mechanisms relevant to Clause 21.06-3 include:

#### *Implementation*

- *Specify built form and landscape expectations for the three categories of change and the identified neighbourhood character precincts within Clause 22.03 – Residential Development.*
- *Zone residential areas identified for Limited Change to Neighbourhood Residential Zone.*

### 3 Whitehorse Planning Scheme

- 
- *Zone residential areas identified for Natural Change to General Residential Zone.*
  - *Zone residential areas identified for Substantial Change to General Residential or Residential Growth Zone as appropriate.*
  - *Apply a Significant Landscape Overlay or Neighbourhood Character Overlay to areas of significant neighbourhood character or landscape.*
  - *Apply the Heritage Overlay to buildings, structures and natural features of historical significance.*
  - *Apply a Development Plan Overlay or Design and Development Overlay to guide the design and built form of new development as appropriate.*

33 Clause 21.06-4 sets out the following 'Key Issues' in respect of Housing Diversity in the Municipality:

- *Meeting the continuing high demand for private rental accommodation, which puts pressure on housing affordability.*
- *Providing high quality and accessible housing to meet the needs of the students that will continue to be attracted to Deakin University Burwood Campus and Box Hill Institute of TAFE and will require housing with high quality accessibility and services.*
- *Improving access to the housing market for the City's large proportion of first and second generation residents from non English speaking backgrounds, many of whom currently experience barriers inhibiting their entry to the market.*
- *Encouraging a broader range of housing types to meet the differing needs of the future population through the lifecycle.*

34 Clause 21.06-6 sets out the following 'Key Issues' in respect of Housing Design in the Municipality:

- *Ensuring new developments do not result in a loss of the existing vegetation coverage and tree canopy.*
- *Encouraging appropriate development within the municipality's established areas.*
- *Maintaining the preferred neighbourhood character of Limited Change Areas.*

### 3 Whitehorse Planning Scheme

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- *Providing adequate space for substantial vegetation in Limited and Natural Change Areas.*
- *Strengthening and improving the preferred neighbourhood character in Natural Change Areas.*
- *Creating a valued and identifiable sense of place in Substantial Change Areas and providing an appropriate design response in locations with potential to support additional housing.*
- *Ensuring new developments adjoining or close to environmentally significant and sensitive areas are carefully and respectfully designed.*
- *Ensuring that physical and community infrastructure is adequate and maintained at a standard to meet the future demand.*
- *Encouraging private sector provision of housing that improves the environmental performance of the municipality and minimises ongoing running costs for the residents.*
- *Encouraging continued improvement in housing design for better functionality, universal access and adaptability to improve access for people with mobility or other physical limitations and to lessen future costs in modifications to meet the current or future occupants' needs.*

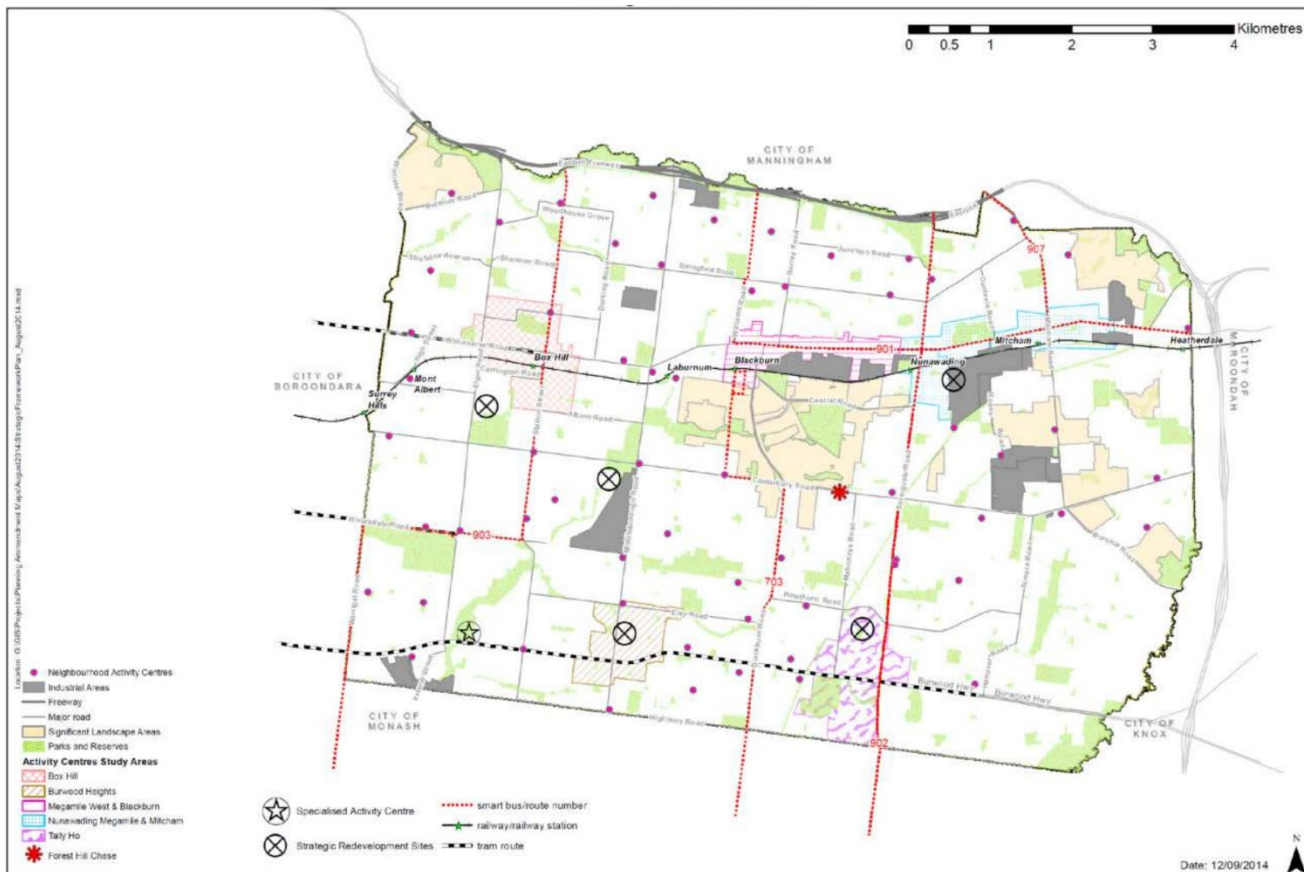
35 Clause 21.06-6 sets out the following Objectives for Housing Design:

- *To enhance the design quality and character of residential development.*
- *To build resilience in the City's housing stock to the impacts of climate change.*
- *To improve the environmental performance of new and existing housing.*
- *To protect environmentally sensitive areas from inappropriate development.*
- *To encourage the provision of well designed, adaptable and accessible housing.*

### 3 Whitehorse Planning Scheme

Figure 3.1  
Strategic Framework Plan

Source: Clause 21.04, Whitehorse Planning Scheme

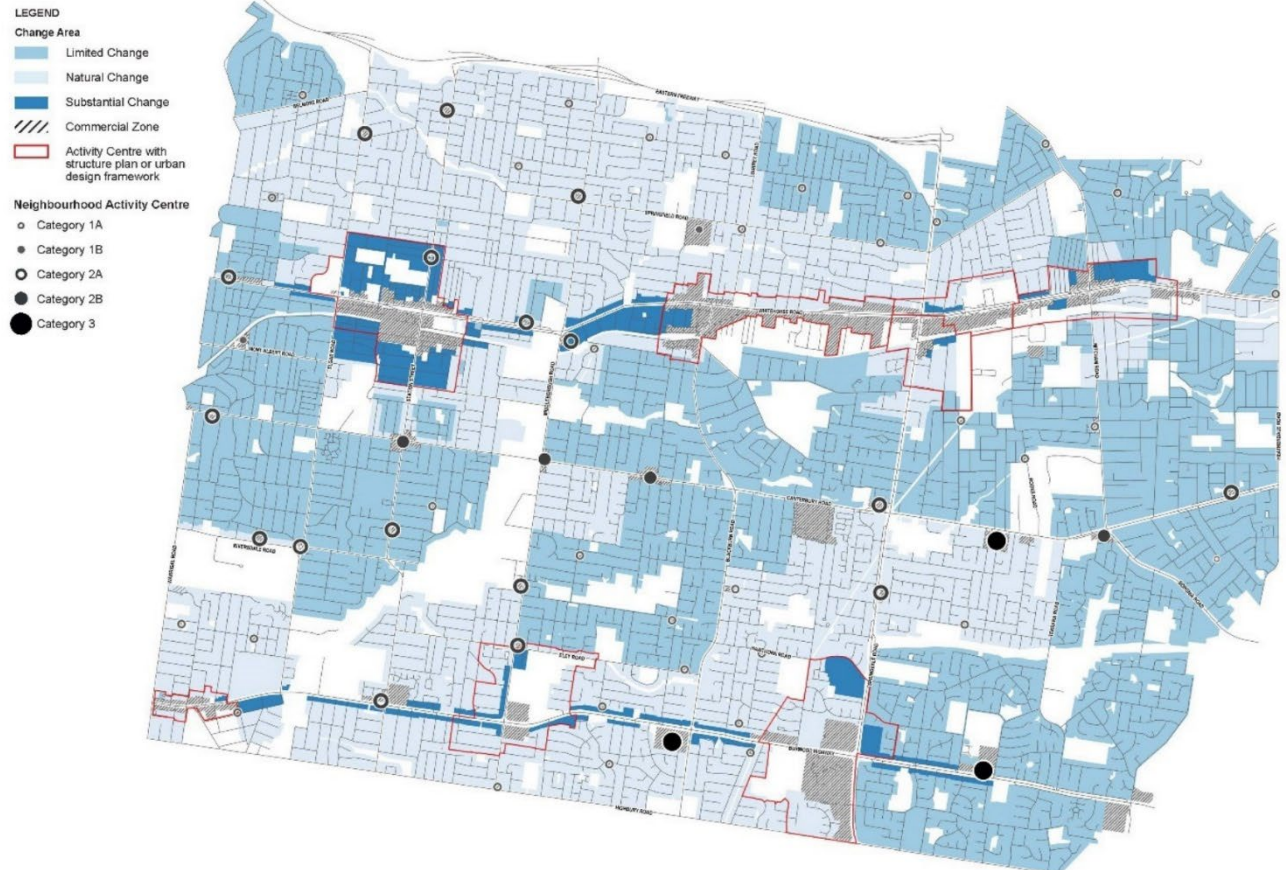


### 3 Whitehorse Planning Scheme

Figure 3.2  
Housing Framework Plan

Source: Clause 21.06, Whitehorse Planning Scheme

#### HOUSING FRAMEWORK PLAN



36 The Objectives of Clause 22.03-2 – Residential Development are:

- *To ensure that residential development within the City of Whitehorse is consistent with the built form envisaged for the three categories of housing change, those being limited, natural and substantial change.*
- *To ensure development contributes to the preferred neighbourhood character where specified.*
- *To provide certainty to the community about the areas targeted for and protected from increased development.*
- *To ensure that new development minimises the loss of trees and vegetation.*
- *To ensure that new development does not detract from the natural environment and ecological systems.*
- *To ensure that new development provides adequate vegetation and gardens consistent with the preferred neighbourhood character.*

### 3 Whitehorse Planning Scheme

- 
- *To recognise the potential for change as a result of new social and economic conditions, changing housing preferences and State and local planning policies.*
  - *To accommodate the population increases in the municipality in the areas identified as being able to sustain higher density based on environmental and infrastructure considerations.*
  - *To recognise that areas of substantial and natural change will make a significant contribution to increases in housing stock.*
  - *To facilitate development in areas of substantial change.*
  - *To limit dwelling densities in the limited change areas identified as having either character, heritage, environmental or infrastructure constraints.*

37 The Strategies for each of the categories of Housing Change of Clause 22.03-4 are:

#### ***Strategies for Limited Change Areas***

- *Ensure residential development is of a scale, form and character that is consistent with the surrounding area, and will predominantly comprise:*
  - *Detached dwellings*
  - *Semi-detached dwellings*
- *Provide some diversity of dwelling sizes and tenures, including affordable housing, where feasible.*
- *Ensure the scale and appearance of new housing respects the appearance of surrounding development and the environmental, heritage and neighbourhood character values of the area.*
- *Encourage the retention of older dwellings in areas where these buildings dominate, and limit new development to two dwellings per lot.*

#### ***Strategies for Natural Change Areas***

- *Encourage low and medium density housing in the following forms:*
  - *Detached houses.*
  - *Semi-detached dwellings, townhouses, row or terrace houses.*

### 3 Whitehorse Planning Scheme

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- *Units or townhouses.*
- *Support new medium density developments in Natural Change Areas that:*
  - *Contribute to the preferred neighbourhood character for the location.*
  - *Provide a sensitive and appropriate interface with adjoining streetscapes, buildings and residential areas.*
- *Provide a range of dwelling types, sizes and tenures, including affordable housing, in larger developments.*
- *Locate medium density housing, in the form of townhouses or units, close to transport, activity centres and community infrastructure.*
- *Ensure that the siting and design of new dwellings is respectful of surrounding development.*
- *Ensure buildings interfacing sensitive areas and uses in natural change areas are of a scale and massing appropriate to the character and scale of their context.*
- *Consider the retention of older dwellings in areas where these buildings dominate*

#### ***Strategies for Substantial Change Areas***

- *Encourage the following forms of housing in Substantial Change areas:*
  - *Townhouses.*
  - *Units.*
  - *Flats and apartments.*
- *Shop-top dwellings and low scale apartment developments in activity centres:*
  - *Are encouraged at locations within key Neighbourhood Activity Centres identified in Schedule 4 to the Design and Development Overlay and in designated areas abutting the Principal Public Transport Network and main roads.*
  - *Should provide a sensitive and appropriate interface to adjoining streetscapes, buildings and residential areas.*



### 3 Whitehorse Planning Scheme

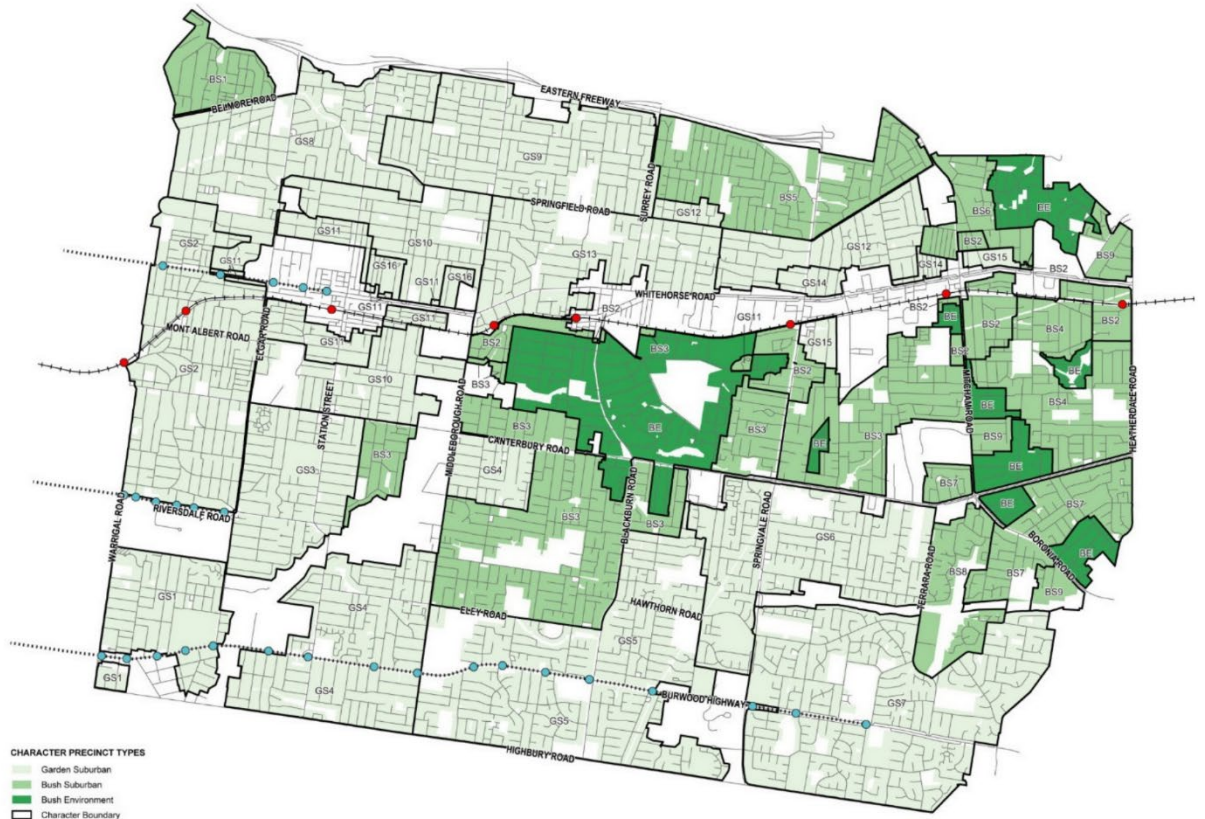
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- *Locate new development in the form of flats and apartments in Substantial Change Areas only.*
- *Provide a range of dwelling types, sizes and tenures, including affordable housing, in larger developments.*
- *Ensure buildings interfacing sensitive areas and uses have a scale and massing appropriate to the character and scale of their context.*
- *Create a new, higher density urban character in areas located away from sensitive interfaces.*
- *Prioritise works to improve the appearance, function and safety of the public realm in locations subject to the greatest increase in residential density.*
- *In new street layout, add to and extend the pattern of surrounding streets, and provide convenient, safe and frequent pedestrian connections into surrounding areas.*
- *Ensure streets and other spaces are designed and managed as public spaces with unconstrained access, with high quality and durable finishes.*
- *Ensure new development provides space for planting, communal spaces and rooftop gardens to improve the amenity and liveability of dwellings.*
- *Ensure adequate infrastructure is in place to support substantial change areas.*

### 3 Whitehorse Planning Scheme

Figure 3.3  
Map 1 – Neighbourhood Character Precincts

Source: Clause 22.03, Whitehorse Planning Scheme



38 Clause 22.03-5 contains the 'Preferred Character Statements' for each of the residential areas within the Municipality.

39 The Aveo Property is identified to be contained within 'Garden Suburban 4' (refer Figure 3.3 above) for which the following Character Statement applies:

*The area will retain its classic garden suburban characteristics of modest, pitched roof dwellings in formal garden settings. The defined pattern of regular front setbacks and side setbacks from both side boundaries will be maintained, allowing sufficient space for planting and growth of new vegetation. Low or open style front fences will provide a sense of openness along the streetscape, and allow views into front gardens.*

*Properties abutting or situated close to Gardiner's Creek will contain substantial vegetation, and development will be sited so that the overall visibility of buildings is minimised when viewed from the creek corridor.*

*In areas along the tram corridor on Burwood Highway*

### 3 Whitehorse Planning Scheme

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*(Substantial Change) infill development including medium density housing and apartment developments will be common, however new buildings and additions will be set back at upper levels to minimise dominance in the streetscape and impact on nearby standard residential areas.*

*Areas with good access to trams and shops will accommodate more dwellings, including well designed medium density housing, with slightly more compact siting than the remaining residential areas, but with space for large trees and gardens.*

40 The Objectives of Clause 22.04-2 – Tree conservation are:

- *To improve the tree canopy cover in residential areas across the municipality.*
- *To protect and strengthen the preferred neighbourhood character of residential areas within the municipality.*
- *To recognise the positive contribution of tree canopy to development and built form outcomes.*
- *To assist in the management of the City's tree canopy by ensuring that new development minimises the loss of significant trees.*
- *To ensure that new development does not detract from the natural environment and ecological systems.*
- *To identify techniques to assist in the successful co-existence of trees and new buildings or works.*
- *To promote the regeneration of trees through the provision of adequate open space and landscaping areas in new development.*

### 3 Whitehorse Planning Scheme

#### 3.3 Plan Melbourne

- 41 Plan Melbourne 2017-2050 is the current Metropolitan Strategy for Melbourne. In accordance with Ministerial Direction No. 9, Plan Melbourne must be considered by the Planning Authority when preparing the Amendment.
- 42 Plan Melbourne identifies various outcomes including:
- Outcome 2: Melbourne provides housing choice in locations close to jobs and services.
  - Outcome 4: Melbourne is a distinctive and liveable city with quality design and amenity.
  - Outcome 5: Melbourne is a city of inclusive, vibrant and healthy neighbourhoods.
  - Outcome 6: Melbourne is a sustainable and resilient city.
- 43 Policy 2.1.2 supports Outcome 2 and seeks to *Facilitate an increased percentage of new housing in established areas to create a city of 20-minute neighbourhoods close to existing services, jobs and public transport.* Among other matters it provides that:

*Victoria in Future projections indicate that around 65 per cent of all new dwellings will be in Melbourne's established areas, with 35 per cent in growth area greenfield sites. Figure 7 provides likely housing distribution figures from 2015-2051 based on Victoria in Future 2016. It also provides an alternate aspirational scenario of housing distribution if 70 per cent of new housing was to be provided within Melbourne's established areas.*

*To remain liveable and become more productive and sustainable, Melbourne must build on this current trend.*

*Since 2014 around 70 per cent of all new housing built has been in established areas.*

*Planning will be undertaken to ensure that the best parts of Melbourne are maintained and the benefits experienced in established inner and middle suburbs of Melbourne from compact, walkable neighbourhoods can also be realised in middle and outer areas.*

*This approach will support greater housing diversity and offer better access to services and jobs. It will also encourage the right mix of housing by enabling local residents to downsize or upsize without leaving their neighbourhood.*

### 3 Whitehorse Planning Scheme

- 
- 44 Policy 2.1.3 supports Outcome 2 and seeks to *Plan for and define expected housing needs across Melbourne's regions*. Among other matters it provides that:

*Planning for housing at a regional level will help identify planned residential change across Melbourne, including areas identified for residential growth, moderate housing growth and areas of limited change.*

*Metropolitan regions should facilitate a housing market that creates ongoing and substantial new housing opportunities near jobs, services and transport. Local governments need to consider housing policy and planning in the context of their own municipal boundaries as well as the broader housing objectives of their region.*

*Regional planning must make adequate provisions for future housing needs and ensure:*

- *defined housing change areas, as well as redevelopment sites and areas, are identified to support long-term housing growth, choice and diversity for a range of household types.*
- *planning for residential change areas facilitates ongoing investment and creates relatively high levels of housing opportunity.*
- *new development is directed to areas with appropriate infrastructure, and greater density is supported where it optimises the value of existing infrastructure.*
- *a spectrum of minimal, incremental and high-change residential areas are allowed to balance the need to protect valued areas with the need to ensure choice and growth in housing markets across the metropolitan area.*
- *information is collected and reported in relation to changes to household types, housing needs and population growth—thereby informing future planning decisions.*

- 45 Policy 2.1.4 supports Outcome 2 and seeks to *Provide certainty about the scale of growth in the suburbs*. Among other matters it provides that:

*There is a need to provide greater certainty and facilitate long-term growth and housing choice in the right locations.*

*Local government and the community also need confidence that the built form objectives they sign up to will be adhered to.*

### 3 Whitehorse Planning Scheme

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*The review of residential zones will give greater certainty to the community by strengthening mandatory height provisions and site coverage requirements in each of the residential zones.*

*In areas where greater change is expected—such as urban renewal precincts and mixed-use and activity centre areas—requirements to adhere to preferred heights will also be strengthened. This will be achieved by improving the way height in strategic locations is managed and decisions are made.*

- 46 Direction 2.2 seeks to *Deliver more housing closer to jobs and public transport*. Among other matters it identifies that:
- 47 Locating medium- and higher-density development near services, jobs and public transport supports the objectives of consolidation and housing choice.
- 48 For this direction to be achieved, the standards of higher-density housing need to be raised.

*There are significant opportunities for housing development in and around the central city. There are also opportunities for more medium- and higher-density development in middle suburbs close to jobs and services including:*

...

- *areas identified for residential growth.*

...

*Encouraging mixed-use developments and greater housing diversity and density near employment and transport will create opportunity and choice for medium- and low-income households.*

- 49 The Plan Melbourne 2017-2050 Addendum 2019 has been prepared in recognition of changes made since the release of Plan Melbourne. It provides an update on various matters including key land use and planning initiatives. It describes the Suburban Rail Loop. The Suburban Rail Loop is proposed to include a station at Burwood to the on the opposite side of Burwood Highway from the Deakin Burwood Campus.

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#### 3.4 Zoning

- 50 The Amendment Land includes properties that are contained in the Residential Growth Zone – Schedule 1 and Schedule 2.
- 51 The Aveo Property is partly contained in the Residential Growth Zone – Schedule 2 (land fronting Burwood Highway). The remainder of the property is contained in the General Residential Zone – Schedule 3.

### 3 Whitehorse Planning Scheme

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#### Residential Growth Zone

52 The purpose of the Residential Growth Zone is:

*To implement the Municipal Planning Strategy and the Planning Policy Framework.*

*To provide housing at increased densities in buildings up to and including four storey buildings.*

*To encourage a diversity of housing types in locations offering good access to services and transport including activity centres and town centres.*

*To encourage a scale of development that provides a transition between areas of more intensive use and development and other residential areas.*

*To ensure residential development achieves design objectives specified in a schedule to this zone.*

*To allow educational, recreational, religious, community and a limited range of other non-residential uses to serve local community needs in appropriate locations.*

53 Schedule 2 to the Residential Growth Zone applies to the Substantial Change B precinct. It includes variations to Clause 54 and Clause 55, as follows:

- Minimum street setback:

*Any new wall on a boundary should be setback at least 12 metres from the front boundary or 3 metres further than the average set back of the buildings on adjoining allotments, whichever is the lesser.*

- Landscaping:

*Provision of at least one canopy tree that has the potential of reaching a minimum mature height of 8 metres. The species of canopy trees should be native, preferably indigenous.*

- Walls on boundaries:

*Walls should only be constructed on one side boundary.*

- Private open space:

*A dwelling should have private open space consisting of an area of 80 square metres or 20 per cent of the area of the lot, whichever is the lesser, but not less than 40 square metres. At least one part of Private open A17 space the private open space should consist of secluded private open space with a minimum*

### 3 Whitehorse Planning Scheme

*area of 35 square metres and a minimum dimension of 5 metres and convenient access from a living room. It cannot include a balcony or roof top terrace. (Standard A17); or*

*A dwelling or residential building should have private open space consisting of an area of 40 square metres, with one part of the private open space at the side or rear of the dwelling or residential building within a minimum area of 35 square metres, a minimum dimension of 5 metres and convenient access from a living room. It cannot include a balcony or roof top terrace. This does not apply to apartment developments. (Standard B28)*

- Front fence height:

*Front fence height in streets in a Road Zone Category 1 or 2 should not exceed 1.8 metres and should have at least 20% transparency. A front fence within 3 metres of a street should not exceed 1.2 metres in 'other streets'.*

- 54 A permit is required to construct more than one dwelling on a lot and to construct a residential building (Clause 32.07-5). The development is required to meet the requirements of Clause 55 (development up to 4 storeys) or Clause 58 (development of 5 or more storeys). A retirement village and residential aged care facility is not included in the definition of dwelling and the definition of residential building.
- 55 Schedule 2 does not specify a maximum building height requirement for a dwelling or residential building. As a result, the default preferred height at Clause 32.07-9 (building height should not exceed 13.5m) applies to those uses.
- 56 A permit is required to construct a residential aged care facility. A development must meet the requirements of Clause 53.17. Among other matters, Clause 53.17 includes a provision that the maximum building height for a residential aged care facility should not exceed 16m in the Residential Growth Zone and must not exceed a height of 16m in the General Residential Zone.
- 57 The following Decision Guidelines apply at Clause 5.0 of Schedule 2 to the RGZ:

*The following decision guidelines apply to an application for a permit under Clause 32.07, in addition to those specified in Clause 32.07 and elsewhere in the scheme which must be considered, as appropriate, by the responsible authority:*

- *Whether the development provides for an appropriate built form transition to residential properties in the Neighbourhood Residential Zone and General Residential Zone.*
- *Whether the vegetation in the street setback will contribute*



### 3 Whitehorse Planning Scheme

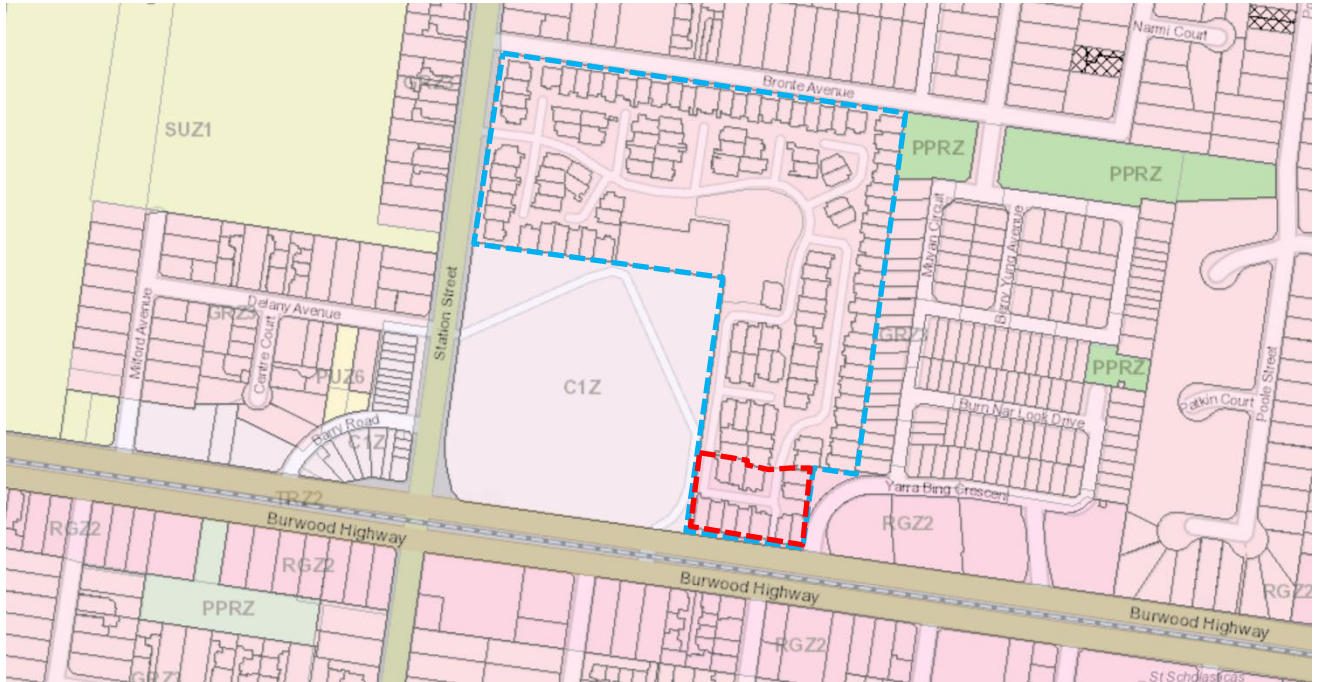
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*to the preferred neighbourhood character and the public realm.*

- *The potential impact on the amenity of existing adjoining residential dwellings in the Residential Growth Zone.*
- *How the proposal responds to the requirements of any relevant adopted Structure Plan or Urban Design Framework.*
- *Development should provide for the retention and/or planting of trees, where these are part of the character of the neighbourhood.*

### 3 Whitehorse Planning Scheme

Figure 3.4  
Zoning Plan – Aveo Property



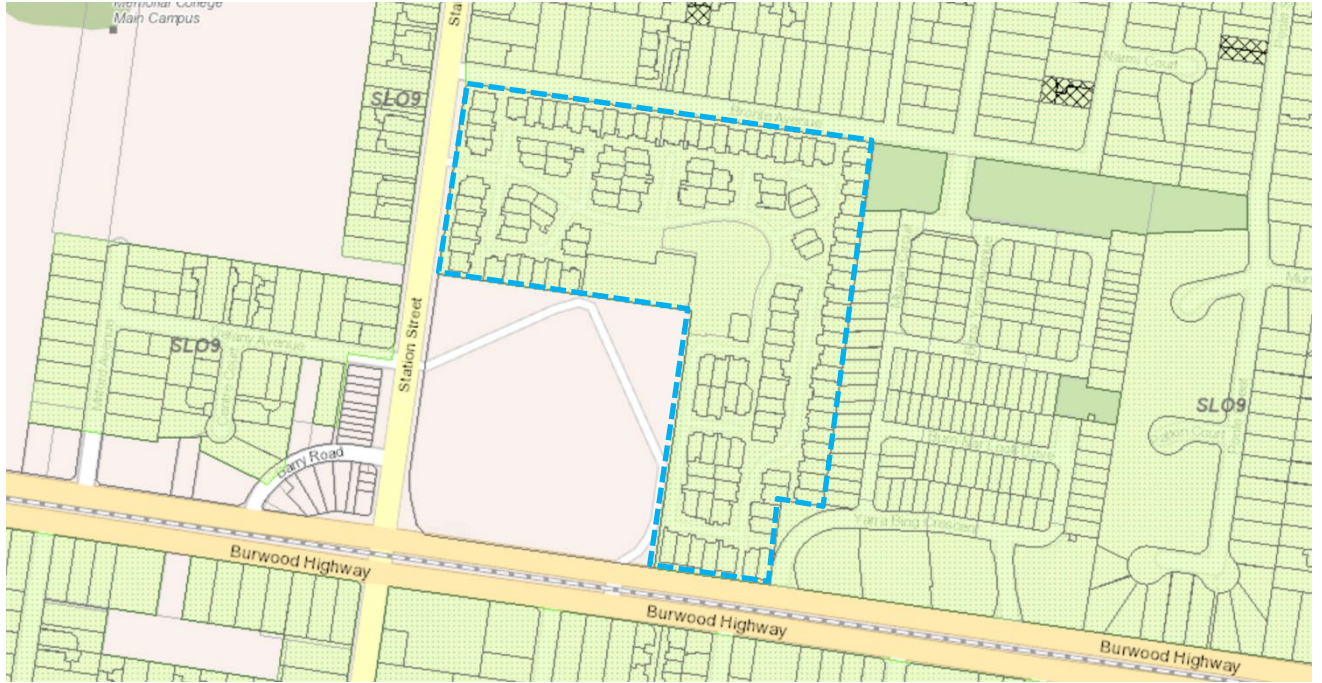
### 3.5 Overlays

58 The Aveo Property is affected by:

- Significant Landscape Overlay – Schedule 9 (SL09)

### 3 Whitehorse Planning Scheme

Figure 3.5  
Significant Landscape Overlay – Schedule 9 Plan –  
Aveo Property



## 4 The Amendment

59 Amendment C220whse proposes to implement the built form directions of the Whitehorse Residential Corridors Built Form Study 2019 (WRCBFS).

60 The Explanatory Report to Amendment C220whse indicates that:

*Council undertook the Whitehorse Housing Strategy, 2014 (the Strategy) to support the implementation of the new residential zones. As part of implementing the zones through Amendment C160, Council sought mandatory height limits in Schedule 1 (3 storeys / 11 metres) and Schedule 2 (4 storeys / 13.5 metres) of the Residential Growth Zone (RGZ). These heights were removed when Amendment C160 was approved on 1 October 2014.*

*Since the introduction of the new residential zones through Amendment C160, concern has been raised about the development outcomes in areas zoned RGZ along key corridors in the municipality, such as Burwood Highway and Whitehorse Road, particularly where the RGZ interfaces with more traditional residential development in the Neighbourhood Residential Zone (NRZ) and to a lesser extent the General Residential Zone (GRZ). This includes concern about the height of new buildings and amenity impacts include overlooking and overshadowing of adjoining buildings. Concerns have also been raised about inadequate setbacks to the street and neighbouring properties and consequentially, the limited space for landscaping and vegetation.*

*Overall, it is considered that the provisions of the RGZ are providing inadequate guidance for built form, zone transition and building height in these areas. This has prompted Council to undertake the Study to support the implementation of further planning controls, which is sought by an Implementation direction for Housing Location under Clause 21.06-3 of the Municipal Strategic Statement (MSS) of the Whitehorse Planning Scheme to “Apply a Development Plan Overlay or Design and Development Overlay to guide the design and built form of new development as appropriate”.*

*The Strategy notes that substantial change areas (translated largely into RGZ through Amendment C160) are to provide for housing growth with increased densities, located around larger Activity Centres, train stations and sites immediately along tram routes. Council has completed further work to support the application of controls that reinforce the aspirations of the Strategy. Additionally, the further work has demonstrated that greater height is now justified, in conjunction with the proposed setbacks and sufficient space for landscaping.*

*The Study proposed the application of a DDO as the most appropriate tool to implement the recommendations of the*



## 4 The Amendment

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*Study into the Planning Scheme.*

...

61 In respect of Aveo Property, the Amendment proposes to:

- Introduce Schedule 11 to Clause 43.02 (Design and Development Overlay) over part of the property currently contained within the Residential Growth Zone.
- Include the Whitehorse Residential Corridors Built Form Study, 2019 as a background document at Clause 21.06 and 22.03, and the Schedule to Clause 72.08.
- Undertake minor policy changes to Clauses 21.06 and 22.03 to reference the Whitehorse Residential Corridors Built Form Study, 2019.

62 The design objectives identified within Schedule 11 are:

*To ensure development achieves high quality public realm and public open space in relation to human scale and micro-climate conditions by providing a comfortable, pedestrian-friendly urban environment.*

*To ensure that the height of new buildings provides an acceptable built form interface with adjoining development in other zones.*

*To ensure the height and built form of new buildings do not visually dominate the street or compromise the character and amenity of adjacent low-rise residential areas.*

*To maintain the visual prominence of landscaping and ensure space for medium and large trees on site, particularly within the front and rear setbacks.*

*To encourage lot consolidation in order to achieve the maximum building heights and to provide for sufficient building setbacks to deliver high levels of internal amenity.*

63 The exhibited provisions of the Design and Development Overlay – Schedule 11 proposed to include mandatory built form requirements in relation to building height and front boundary setbacks. Following exhibition, the Council resolved to also seek mandatory side and rear boundary setbacks.

64 The requirements now proposed include:

- A mandatory maximum building height of 19 metres and 6 storeys.
- A mandatory minimum front setback of 5 metres with an

## 4 The Amendment

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additional 3 metres to levels above 4 storeys.

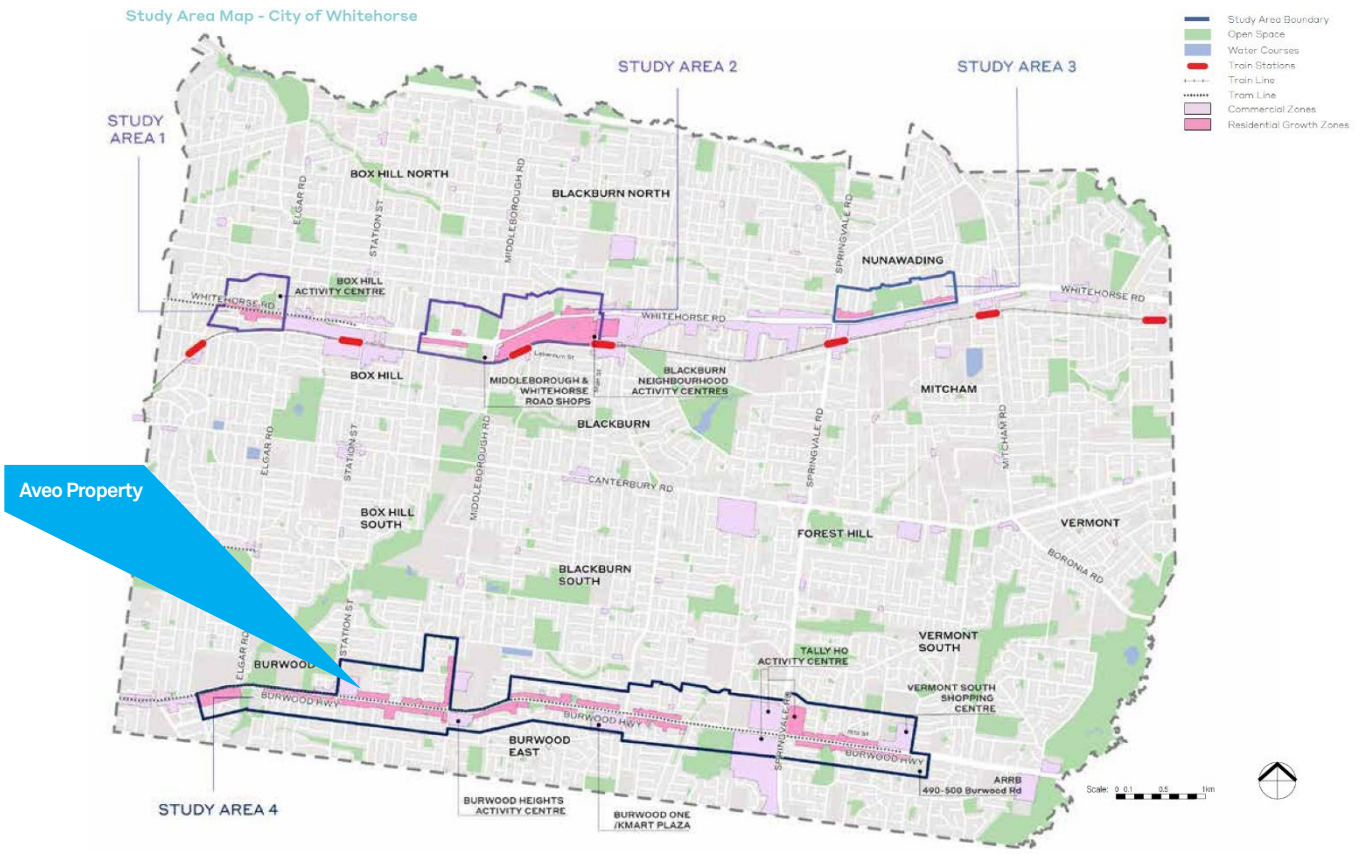
- A mandatory minimum side setback of 4.5 metres with an additional 4.5 metres to levels above 4 storeys.
- A mandatory rear setback of 9 metres.

65 The 'Whitehorse Residential Corridors Built Form Study, 2019' is proposed to be included as a Policy reference at Clause 22.03-10 and is also to be included as a Background Document in the Schedule to Clause 72.08.

### 4 The Amendment

**Figure 4.1**  
**Study Area –Whitehorse Residential Corridors Built Form Study**

Source: p.8 Whitehorse Residential Corridors Built Form Study (Ethos Urban, 2019)



# 5 Ministerial Directions

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66 The following Ministerial Directions are relevant to the consideration of the proposed Amendment:

- Ministerial Direction – Form and Content of Planning Schemes (updated)
- Direction No. 9 – Metropolitan Planning Strategy
- Direction No. 11 – Strategic Assessment of Amendments
- Direction No. 15 – The Planning Scheme Amendment Process

67 The following Planning Practice Notes are relevant to the consideration of the amendment.

- PPN46 – Strategic Assessment Guidelines
- PPN59- The Role of Mandatory Provisions in Planning Schemes
- PPN90 – Planning for housing
- PPN93 – Wind impacts in apartment developments





# 6 Strategic Assessment

## 6.1 Preamble

- 68 The Aveo Property is partly located within a residential growth corridor on the north side of Burwood Highway.
- 69 It is used and developed for the purposes of a retirement village and a residential aged care facility. I am instructed that the use of the land for these purposes is intended to continue.
- 70 There is a tram line along Burwood Highway forward of the site.
- 71 A Neighbourhood Activity Centre is nearby to the west on the corner of Station Street and Burwood Highway.
- 72 The Burwood Heights Major Activity Centre and the Burwood Brickworks Shopping Centre are also nearby to the east.
- 73 The neighbouring land to the south and west of the L-shaped Aveo Property located on the north-east corner of Station Street and Burwood Highway is developed and used for office purposes.
- 74 The Deakin University Burwood Campus is located further west of the Aveo Property.
- 75 The Burwood Highway corridor provides opportunity for increased housing close to jobs and public transport. The inclusion of the southern part of the property in the Residential Growth Zone acknowledges this opportunity and provides encouragement for housing at increased residential densities.
- 76 The Aveo Property provides a significant opportunity to accommodate increased residential densities and a diversity of housing type within this corridor given its substantial footprint and limited sensitivity of residential interface. The intended ongoing use for the purpose of a retirement village and residential aged care facility responds to this strategic opportunity.
- 77 In respect of the interfaces, Aveo Property has frontages to Bronte Ave, Station Street, Burwood Highway and Yarra Bing Cres.
- 78 Bronte Ave provides separation to residential properties to the north.
- 79 Station Street provides separation to residential properties to the west.
- 80 Yarra Bing Cres provides separation to apartment buildings to the east (also within the Burwood Highway residential growth corridor).
- 81 The eastern boundary generally interfaces with the rear yard areas of a row of attached dwellings to the east. There is also an area of open space adjoining the northern part of this boundary.
- 82 To the south and west are commercial buildings and car parking areas.
- 83 The part of the Aveo Property in the Residential Growth Zone does not have an interface with land (other than the residual Aveo Property) in



## 6 Strategic Assessment

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the General Residential Zone. It adjoins land in the Commercial 1 Zone to the west and land in the Residential Growth Zone to the east.

- 84 The internal boundary between the Residential Growth Zone and the General Residential Zone follows the boundaries of individual retirement village dwellings.
- 85 Given the context on the north side of Burwood Highway, adjoining land in the Commercial 1 Zone and without an external interface to land in the General Residential Zone or Neighbourhood Residential Zone, it offers a greater opportunity for increased housing densities and built form change than other properties within the Burwood Highway corridor.
- 86 The explanatory report to the amendment indicated that it had been prepared in response to concerns

*...raised about the development outcomes in areas zoned RGZ along key corridors in the municipality, such as Burwood Highway and Whitehorse Road, particularly where the RGZ interfaces with more traditional residential development in the Neighbourhood Residential Zone (NRZ) and to a lesser extent the General Residential Zone (GRZ)...*

- 87 The amendment essentially adopts the same built form requirements to the whole of the Burwood Highway growth corridor and the whole of the Whitehorse Road growth corridor. There are no varied requirements proposed to address different physical or strategic contexts.
- 88 The Aveo Property has a physical context that distinguishes it from other parts of the growth corridors. In responding to the submission made by Aveo the Residential Corridors Built Form Study Amendment C220whse – Submissions Review Final Report (7 February 2023) essentially acknowledges this difference. In this regard the summary response to the submission was:

*In terms of the interfaces to commercial areas, there are few interfaces from the proposed DDO11 areas to commercial areas. In most cases, amenity impacts are usually considered from commercial areas to residential areas rather than mitigating amenity impacts from residential areas to commercial areas. This issue does not require a change to the Amendment.*

- 89 The acknowledgment that there are *few interfaces* between the Commercial 1 Zone and the Design & Development Overlay is no justification for adopting the same built form requirements in these locations as is proposed for more sensitive locations. Particularly where the controls are proposed to be mandatory and compromise site specific design responses. Rather, it provides the basis for the drafting of provisions that respond to the specific circumstances of the different parts of the growth corridor.

## 6 Strategic Assessment

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- 90 In addition to having an interface to land in the Commercial 1 Zone, the Aveo Property does not interface *more traditional residential development*. It interfaces a contemporary medium density development to the east (RGZ) and office buildings to the south and west (C1Z).
- 91 The part of the Aveo Property proposed to be included in the Design & Development Overlay (DDO11) is located along the Burwood Highway corridor. It is to apply to the part of the Aveo Property in the Residential Growth Zone. The northern boundary of DDO11 interfaces with the residual portion of the Aveo Property. This part of the Aveo Property is included in the General Residential Zone and is developed with retirement village units. It is not the *more traditional residential development* referenced in the Explanatory Report.
- 92 As a result, the part of the Aveo Property in the Residential Growth Zone does not have the sensitivity of interface that is sought to be protected by the amendment.
- 93 In my view, the amendment is not an appropriate strategic response to the context of the Aveo Property and this part of the Burwood Highway Residential Growth Property.

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### 6.2 Summary of recommended changes to C220whse

- 94 The Amendment should be modified to better emphasis the strategic role of the corridors to promote larger buildings that are capable of accommodating increased housing densities and a diversity of housing type. The proposed local planning policy content (Clauses 21.06 and 22.03) requires modification to achieve this outcome.
- 95 In respect of the application of the Design & Development Overlay – Schedule 11, I have considered the following options:
- Removal of the Aveo Property and the discrete properties east of Yarra Bing Road from DDO11; or, in the alternative
  - Modification to the drafting of Schedule 11 to provide more performance based built form guidance.
- 96 Whilst I have considered these recommendations as alternatives having regard to the specific context of the Aveo Property, I consider that modification to schedule 11 should be considered at a broader strategic level to provide a performance based assessment tool.

#### Removal of the Aveo Property from the Proposed DDO11

- 97 Given the lack of sensitivity in interface and the form of development that has already occurred within the discrete sub-precinct of the residential growth corridor that contains the Aveo Property, inclusion within Schedule 11 to the Design & Development is unnecessary and in my view the Amendment C220whse should be modified to remove this sub precinct.
- 98 It is a sub-precinct that contains properties that have recently been

## 6 Strategic Assessment

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developed with apartment buildings. The Aveo Property is located between this row of apartment buildings and land used and developed for commercial purposes. The sub-precinct does not have a sensitive interface to the more traditional low scale residential areas.

### Drafting of Schedule 11 to the Design & Development Overlay

- 99 In the event that the sub-precinct is retained in the Design & Development Overlay, the built form guidance should be performance based to promote a contextual design response that optimises the opportunity to accommodate housing at increased densities and a diversity of housing type in an appropriate location.
- 100 The mandatory requirements apply irrespective of whether the land has a direct interface with a lower order residential zone. In the case of the Aveo Property, it interfaces with Commercial 1 Zoned land to the west and is separated from adjoining Residential Growth Zone land to the east by a local road.
- 101 On this basis I do not support the application of mandatory controls in relation to:
- Building height;
  - Front boundary setbacks; and
  - Side and rear boundary setbacks.
- 102 Whilst I generally support referencing a preferred building height of 19m for the residential growth corridor, it should be discretionary to allow consideration of different built form and physical contexts
- 103 I also consider the proposed 9m rear setback to be excessive. Such a setback fails to provide for the efficient use of land designated for substantial change. It is wasteful of the strategic resource on the Burwood Highway Corridor to accommodate increased housing densities in a location close to jobs, public transport, activity centres and social infrastructure.
- 104 The establishment of mandatory side boundary setbacks also provides an unnecessary limit on the opportunity to provide housing at increased residential densities in an appropriate location. Discretionary guidance that focusses on the outcome to be achieved is preferred.

## 6 Strategic Assessment

### 6.3 Proposed Planning Controls

105 Amendment C220whse proposes:

- Inclusion of the *Whitehorse Residential Corridors Built Form Study, 2019* as a Background Document in the Schedule to Clause 72.08;
- Amendments to Clause 21.06 – Housing, to reference the *Whitehorse Residential Corridors Built Form Study, 2019* and to include related strategy;
- Amendments to Clause 22.03 to include policy in relation to Residential Corridors and to reference the *Whitehorse Residential Corridors Built Form Study, 2019*;
- The introduction of Design & Development Overlay – Schedule 11 and its application to part of the Aveo Property.

#### Background Document

106 The *Whitehorse Residential Corridors Built Form Study, 2019* should not be included as a Background Report in its current form given the reference to mandatory built form requirements.

107 Subject to clear drafting of the relevant strategy, policy and DDO schedule, I do not consider the inclusion of a modified version of the study (adopting a performance based approach) to be necessary.

#### Local Planning Policy Framework

##### Clause 21.06 - Housing

108 The amendment proposes to alter the Overview of Clause 21.06 to add the following paragraph:

...

*The Whitehorse Residential Corridors Built Form Study, 2019 identifies built form controls to manage the sensitive interface between development in substantial change areas along major road corridors, and development in adjoining and adjacent low-rise residential areas.*

...

109 In my view, this paragraph tends to place too great an emphasis on the management of interfaces between substantial change areas and sensitive interfaces without clearly describing the strategic opportunity of the residential growth corridors. The paragraph should be amended to read:

*Increased housing densities and a diversity of housing is promoted within the substantial change areas along major road corridors depicted on the Housing Framework Plan. Schedule 11 to the Design & Development Overlay guides the*

## 6 Strategic Assessment

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*built form change necessary to achieve this outcome and to provide a sensitive interface to low rise residential areas outside the corridor.*

110 The following objective is also proposed to be included for Substantial Change Areas at Clause 21.06:

- *Provide an acceptable built form interface with adjoining and adjacent development in other change areas*

111 The objective should be modified to provide clear guidance in respect of the outcome sought for the residential growth corridors. In this regard the objective should read:

- *Support mid-rise buildings that accommodate higher density residential development in the substantial change areas along major road corridors depicted on the Housing Framework Plan that provide an acceptable built form interface with low rise residential areas outside the corridor.*

### Clause 22.03-7 – Residential Development

112 The exhibited version proposes to insert a new Clause 22.03-7 to include the following in relation to 'Residential Corridors':

*Built form controls have been identified to guide development outcomes along key road corridors in the municipality where Substantial Change Areas interface with low-rise residential development.*

*The controls focus primarily on the major east-west tram and road corridors, where there is an interface between the Residential Growth Zone and General Residential Zone or Neighbourhood Residential Zone to the rear or side. Specifically, Burwood Highway, generally between Elgar Road, Burwood and Hanover Road, Vermont South and Whitehorse road in Month Albert, Laburnum and Nunawading.*

*The controls relate to building setbacks, architecture and height, building separation, overshadowing, landscaping and pedestrian and vehicle access. In this area the built form of new development should not visually dominate and should transition to the low-rise scale of adjoining development. New development should respect the character and amenity of the surrounding area.*

...

113 With the exception of the last two sentences, the proposed wording simply describes the existence of built form controls. This is not necessary.

114 The last sentence promotes new development that is respectful of the

## 6 Strategic Assessment

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character of the neighbourhood. This is not appropriate given that the Residential Growth Zone and Substantial Change Area promotes change.

115 The other sentence seeks buildings that do not visually dominate and seeks a transition to low rise scale of adjoining buildings. The paragraphs should be worded to acknowledge that change is specifically promoted.

116 In this regard the provision should read:

*Mid-rise buildings that accommodate higher density residential development are promoted in the substantial change areas along major road corridors depicted on the Housing Framework Plan at Clause 21.06. Development of these areas should accommodate an increased intensity of developed that is designed to achieve a human scale that does not dominate street frontages and is massed to provide an acceptable interface to the traditional residential areas outside the corridor.*

117 I have drafted my preferred version of Clauses 21.06 and 22.03 and have included copies at Attachment 2.

### **Design and Development Overlay**

118 I support the application of a Design & Development Overlay to provide built for guidance for the growth corridors. The proposed DDO11, however, is overly restrictive and fails to promote site specific responses in the delivery of higher density housing and a diversity of housing type.

119 The requirements should be discretionary to allow for site specific responses.

120 The design objectives of DDO11 should also be drafted to provide a clear understanding of the extent of change promoted for the growth corridors.

121 The requirement and decision guideline in relation to landscaping should be removed. The objective, standard and decision guidelines at Clause 58.03-5 (Landscaping objectives) are sufficient.

122 The application requirement in relation to wind should be removed. The objectives, standard and decision guidelines at Clause 58.04-4 (Wind impacts objective) are sufficient.

123 I do not support the mandatory nature of the building height and street, side and rear setback requirements having regard to the guidance contained within Planning Practice Note 59. In respect of the Aveo Property, the application of mandatory controls is not warranted having regard to the specific interfaces. The opportunity for the land to be developed to accommodate higher density housing should not be

## 6 Strategic Assessment

unnecessarily constrained by mandatory controls. Rather, a performance based approach is preferred.

- 124 There are also difficulties in applying the mandatory front, side and rear boundary setbacks in the context of a body corporate subdivision that has a complex subdivision arrangement and multiple allotments containing dwellings that back on the Burwood Highway.
- 125 In my view, the schedule 11 to the Design & Development Overlay should include maps that describe 'Street Interface' and 'Sensitive Interface'. The building form provisions can then set out setback requirements for each of the interface types. This will avoid confusion and clearly present the outcome that is sought.

**Figure 6.1**  
Suggested Interface Map



### Mandatory Requirements

- 126 Planning Practice Note 59 (The role of mandatory provisions in planning schemes) provides that:

*Mandatory provisions in the VPP are the exception. The VPP process is primarily based on the principle that there should be discretion for most developments and that applications are to be tested against objectives and performance outcomes rather than merely prescriptive mandatory requirements.*



## 6 Strategic Assessment

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*Nevertheless, there will be circumstances where a mandatory provision will provide certainty and ensure a preferable and efficient outcome. Although these circumstances cannot be common practice, they may include areas of high heritage value, strong and consistent character themes, or sensitive environmental locations such as along the coast.*

*A balance must be struck between the benefits of a mandatory provision in the achievement of an objective against any resulting loss of opportunity for flexibility in achieving the objective.*

127 It further provides that:

*Mandatory provisions will only be considered in circumstances where it can be clearly demonstrated that discretionary provisions are insufficient to achieve desired outcomes.*

*The criteria below should be used to assess whether or not the benefits of any proposed mandatory provision outweigh any loss of opportunity and the flexibility inherent in a performance-based system.*

- *Is the mandatory provision strategically supported?*
- *Is the mandatory provision appropriate to the majority of proposals?*
- *Does the mandatory provision provide for the preferred outcome?*
- *Will the majority of proposals not in accordance with the mandatory provision be clearly unacceptable?*
- *Will the mandatory provision reduce administrative cost?*

128 I consider each of these criteria in detail as follows:

Is the mandatory provision strategically supported?

129 The application of the DDO11 is sought to facilitate a transitional built form outcome to adjoining lower order residential zones (General Residential Zone and Neighbourhood Residential Zone).

130 In my view, the application of 'blanket' mandatory controls within DDO11 does not adequately consider built form transitions to interfaces other than lower order residential zones, e.g. commercially zoned properties or land contained within an activity centres, where a more robust built form outcome could be accommodated, without being detrimental to the residential hinterland.

## 6 Strategic Assessment

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### Is the mandatory provision appropriate to the majority of proposals?

- 131 I do not consider that the mandatory provisions, in their current form, are appropriate to the majority of proposals. They appear to have been drafted on the basis of managing the sensitive interface between development in substantial change areas and development in adjoining and adjacent low-rise residential areas, however the provisions, as drafted, would apply to all interfaces of property within the DDO11.
- 132 To the extent that the Aveo Property may be regarded as one of a few *interfaces to commercial areas*, this provides reason for its exclusion from the mandatory controls rather than inclusion as part of a blanket of like controls across the whole of the residential growth corridors.

### Does the mandatory provision provide for the preferred outcome?

- 133 The mandatory provisions provide for the preferred outcome insofar as it relates to a transition in built form outcome to adjoining lower order residential zones, however these are not the only interfaces that land within DDO11 share.
- 134 Discretion is required to ensure that appropriate development outcomes are achieved on sites that share interfaces with non-residential land, or with land within activity centres where a more robust built form outcome is warranted.

### Will the majority of proposals not in accordance with the mandatory provision be clearly unacceptable?

- 135 The existing urban framework is sought to be transformed in order to repair deficiencies (i.e. to facilitate a transition in scale to the adjoining lower order residential zones). There are properties of varying size and proportion as well as less sensitive interfaces, that have differing development opportunity.
- 136 It is a circumstance where discretionary controls, consistent with the guidance at PPN59 should be applied.

### Will the mandatory provision reduce administrative cost?

- 137 I do not consider that the application of mandatory controls will impact administrative cost.
- 138 Public notice of an application will still be required.
- 139 There will continue to be a requirement for the responsible authority to exercise discretion.

I have drafted my recommended wording of Schedule 11 to the Design & Development Overlay and have included a copy at Attachment 3.

## 7 Conclusion

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# 7 Conclusion

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- 140 Amendment C220whse proposes provisions to implement the Whitehorse Residential Corridors Built Form Study (2019).
- 141 Schedule 11 to the Design & Development Overlay should be modified to frame the building form requirements as discretionary (preferred) rather than mandatory.
- 142 Further consideration should be given transitions in built form scale to non-sensitive interfaces, or those interfaces in which a more robust built form outcome is encouraged elsewhere in the planning scheme.
- 143 There are some further drafting issues described in this report that should be addressed.

MARCO C NEGRI  
DIRECTOR  
CONTOUR CONSULTANTS AUST PTY LTD

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# Attachment 1

## Expert Witness Declaration

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**A1**

**Attachment 1 - Expert Witness Declaration**

<b>Name and Address</b>	Marco Cristofero Negri is a Director of Contour Consultants Australia Pty Ltd, Town Planners and Practices from Level 1, 283 Drummond Street, Carlton, in Victoria.
<b>Professional Qualifications</b>	Bachelor of Applied Science (Planning) Graduate Diploma of Planning & Design Member of the Planning Institute of Australia
<b>Professional Experience</b>	1986-1995: Town Planner in Local Government 1995-2002: Senior Town Planning Management in Local Government 2002- 2005: Town Planning Consultant 2005 – Present: Director Contour Consultants
<b>Areas of Expertise</b>	Strategic and Statutory Planning. Planning assessment of land use and development applications including major retail, residential and commercial developments. Expert advice to local government on a variety of statutory and strategic planning projects including policy development in relation to housing, retail, environmental and heritage issues. Advice to commercial clients covering the management of urban development.
<b>Expertise to Prepare this Report</b>	Professional training and experience in town planning.
<b>Instructions which Defined the Scope of this Report</b>	I received instructions from Norton Rose Fulbright to consider the planning implications of Amendment C220whse to the Whitehorse Planning Scheme.
<b>Facts, Matters and Assumptions Relied Upon</b>	Refer to Section 1 of my Report.
<b>Documents Taken Into Account</b>	Refer to report.
<b>Identity of Persons Undertaking the Work</b>	I prepared this report.
<b>Relationship with Applicant</b>	I have no private or business relationship with the applicant, other than being engaged to prepare this report. Contour Consultants Aust Pty Ltd assisted with the preparation of a submission in respect of the amendment. I was not involved.
<b>Summary of Opinion</b>	Refer to Conclusion of my report.
	I have made all the inquiries that I believe are desirable and appropriate and that no matters of significance which I regard as relevant have to my knowledge been withheld from the Panel.
	MARCO C NEGRI DIRECTOR CONTOUR CONSULTANTS AUST PTY LTD

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# Attachment 2

Negri Version of Clause 21.06  
and 22.03

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**A2**

**21.06**14/07/2016  
C177**HOUSING****21.06-1**

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Proposed C220whse

**Overview**

The City of Whitehorse is a middle ring municipality providing housing for a wide range of household types, ages and cultural groups. In general, the population is slightly older than the metropolitan average, indicating an ageing population, however the majority of households are families with or without children. The types of residential development in the City vary between medium rise apartment buildings around Box Hill metropolitan activity centre, small unit developments in areas with good access to public transport and amenities, and standard detached dwellings in the majority of the residential areas.

The City of Whitehorse is under increased pressure to accommodate more people who are attracted to the area due to its strategic location, high amenity residential areas and quality services and facilities. The community is concerned about maintaining the high quality residential environment and ensuring that areas of environmental, heritage or special character are protected as the City's population grows. The municipality's leafy character is particularly valued, strengthened by the presence of quality canopy trees and other native and exotic vegetation. Trees and vegetation are considered one of the most significant determinants of neighbourhood character in the municipality, and therefore tree preservation and regeneration is of vital importance if the character of residential areas is to be maintained and enhanced.

Change and growth in urban areas with good public transport access can occur while contributing to the City's valued neighbourhood character. Areas such as the Box Hill metropolitan activity centre are able to accommodate increased housing growth in an urban setting while providing high levels of amenity for residents.

The Council's *Housing Strategy 2014* identifies areas of substantial, natural and limited growth. These categories of housing change are aligned with the neighbourhood character statements prepared for each area as part of the *Neighbourhood Character Study 2014* and the planning controls applying to the land. These statements and controls aim to direct housing growth across the municipality in a way which reflects the community's neighbourhood character aspirations, while balancing the future housing needs of Whitehorse. They are described as follows:

- Substantial Change areas provide for housing growth with increased densities, including inside designated structure plan boundaries and opportunity areas, in accordance with the relevant plans as well as around most train stations, adjoining tram routes and around larger activity centres.
- Natural Change areas allow for modest housing growth and a variety of housing types provided they achieve the preferred future neighbourhood character as identified in Clause 22.03 – Residential Development.
- Limited Change areas enable specific characteristics of the neighbourhood, environment or landscape to be protected through greater control over new housing development. These areas represent the lowest degree of intended residential growth in Whitehorse.

In addition, there are a number of identified "strategic redevelopment sites" in the City, plus opportunities within the Box Hill Metropolitan Activity Centre and in other Activity Centres for residential growth.

The *Neighbourhood Character Study 2014* further defines the preferred future character of precincts within the City. Council agrees with the concern within the community that poorly designed residential development is eroding the character and quality of some residential areas. Based on the *Neighbourhood Character Study 2014*, residential areas have been identified as being within precincts of the following neighbourhood character types:

- Garden Suburban Area.
- Bush Suburban Area.
- Bush Environment.

Council will use the three categories of change and the identified character types to supplement 'ResCode' to encourage high quality development design that is responsive to the site constraints and opportunities whilst making a positive contribution to neighbourhood character.

~~The Whitehorse Residential Corridors Built Form Study, 2019 identifies built form controls to manage the sensitive interface between development in substantial change areas along major road corridors, and development in adjoining and adjacent low rise residential areas.~~

Increased housing densities and a diversity of housing is promoted within the substantial change areas along major road corridors depicted on the Housing Framework Plan. Schedule 11 to the Design & Development Overlay guides the built form change necessary to achieve this outcome and to provide a sensitive interface to low rise residential areas outside the corridor.

The City also needs to respond to issues of housing affordability and promote environmentally sustainable development. Sustainable and well-designed housing can improve affordability over the long term, and contribute to the preferred neighbourhood character of residential areas. Non-residential uses in residential areas continue to require monitoring and control to ensure that amenity issues are managed.

**21.06-2**

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**Vision**

The vision for housing in the City is “*To ensure that housing in the City of Whitehorse meets residents’ needs in terms of location, diversity, sustainability, accessibility, affordability and good design.*” There are a number of key challenges facing the City of Whitehorse in relation to housing. These are:

- Accommodating an additional 12,997 dwellings to house the projected population growth in the City to 2036.
- Ensuring established residential areas continue to play an important role in providing additional housing.
- Ensuring activity centres can accommodate additional housing growth and are the focus of increased housing and employment densities, public transport and service provision. Each activity centre in Whitehorse has a different level of capacity and is equipped in different ways to support increased housing density.
- Preserving areas of valued character and vegetation or landscape significance.
- Better utilising transport corridors including train and tram routes for medium and higher density housing.
- The pressure of higher property prices on housing affordability and the type of dwellings constructed due to Whitehorse’s attractive leafy character, dominance of detached dwellings and locational attributes.
- A higher demand for private rental housing, a proportion of which will need to be affordable to low income tenants.
- A higher proportion of lone person households may require smaller housing types including town houses, units and apartments. However in some instances, these housing types are more costly to buy or rent than older housing stock, and can contribute to housing affordability problems.
- The provision of specific assistance to access appropriate accommodation for new and first generation migrant populations in suitable locations.
- The need to provide more accommodation for students, and accommodation which better meets their needs in terms of quality and affordability in areas near Deakin University Burwood Campus and Box Hill Institute of TAFE.
- The need to develop or implement Structure Plans with objectives to improve housing affordability and special needs housing opportunities in activity centres.
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### **Key Housing Principles**

Develop housing in Whitehorse that shapes the City's urban structure to support environmental and social sustainability, resilience and the health and well being of residents

- Encourage housing that supports preferred neighbourhood character objectives and urban design aspirations for the City.
- Promote housing growth and diversity in locations within walking distance of public transport and local services such as shops, parks and education.
- Limit residential growth in areas of valued landscape or built form character, and/or with infrastructure limitations.
- Support the housing directions of existing and future adopted Structure Plans and Urban Design Frameworks for activity centres.
- Provide a mix of housing that meets the life stage and cultural needs of residents.
- Ensure housing in substantial change areas is designed to achieve and enhance sense of place and identity, and facilitate neighbourhood participation.
- Support environmentally sustainable building, design and innovation in new housing development.
- Advocate for increases in affordable and social housing stock.

### **21.06-3**

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### **Housing Location**

#### **Key Issues**

- Encouraging appropriate residential development within the municipality's established network of activity centres.
- Providing appropriate housing growth in locations with potential amenity considerations (eg. sensitive interfaces, rail corridors, tram lines, main roads).
- Ensuring timely provision of infrastructure and public realm improvements to support the growth of the municipality.
- Encouraging housing in locations with good access to public transport and services, which can minimise demand on the road network and better target the delivery of community and physical infrastructure and services.

#### **Objectives**

#### **Limited Change Areas**

- Conserve and enhance those elements which contribute to the valued environmental, heritage and neighbourhood character of the place.
- Ensure new development protects and reinforces the environmental, heritage values and / or preferred future neighbourhood character of the area.
- Ensure new development mainly takes the form of renovations to existing houses, replacement of single dwellings with new dwellings and some limited medium density development.

#### **Natural Change Areas**

- Support increased housing choice by allowing for a diversity of dwelling types, sizes and tenures.
- Ensure new development contributes to the preferred neighbourhood character of the precinct.
- Encourage new development applications to include landscape guidelines that show how the enhancement or retention of existing vegetation where possible will be achieved, at the outset of the design process.

### Substantial Change Areas

Support increased residential densities

- Support increased housing choice by allowing for a diversity of dwelling types, sizes and tenures to suit a range of household types.
- Facilitate achieving a new, preferred character for these areas over time through quality developments.
- Support the master planning of larger sites to facilitate the development of diverse, high amenity precincts which have an identifiable sense of place.
- Encourage the provision of shop-top dwellings and low scale apartment developments in activity centres, particularly within key Neighbourhood Activity Centres and on sites abutting the Principal Public Transport Network and main roads.
- Provide space for planting, communal spaces and rooftop gardens to improve the amenity and liveability of dwellings.
- ~~Provide an acceptable built form interface with adjoining and adjacent development in other change areas~~

~~Support mid-rise buildings that accommodate higher density residential development in the substantial change areas along major road corridors depicted on the Housing Framework Plan that provide an acceptable built form interface with low rise residential areas outside the corridor.~~

### Strategies

- Council will assess new applications for dwellings and subdivisions against the relevant objectives, strategies and preferred character statements as specified in Clause 22.03 – Residential Development and in the *Whitehorse Neighbourhood Character Study 2014*.

### Implementation

- Specify built form and landscape expectations for the three categories of change and the identified neighbourhood character precincts within Clause 22.03 – Residential Development.
- Zone residential areas identified for Limited Change to Neighbourhood Residential Zone.
- Zone residential areas identified for Natural Change to General Residential Zone.
- Zone residential areas identified for Substantial Change to General Residential or Residential Growth Zone as appropriate.
- Apply a Significant Landscape Overlay or Neighbourhood Character Overlay to areas of significant neighbourhood character or landscape.
- Apply the Heritage Overlay to buildings, structures and natural features of historical significance.
- Apply a Development Plan Overlay or Design and Development Overlay to guide the design and built form of new development as appropriate.

21.06-4

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### Housing Diversity

#### Key Issues

- Meeting the continuing high demand for private rental accommodation, which puts pressure on housing affordability.
- Providing high quality and accessible housing to meet the needs of the students that will continue to be attracted to Deakin University Burwood Campus and Box Hill Institute of TAFE and will require housing with high quality accessibility and services.
- Improving access to the housing market for the City's large proportion of first and second generation residents from non English speaking backgrounds, many of whom currently experience barriers inhibiting their entry to the market.

**Garden Suburban 16**

The combination of heritage, older style dwellings and well designed contemporary buildings set within gardens will continue to form the key characteristics of this area. New dwellings will be sited to reflect the spacious qualities and the dominance of gardens in the streetscape. Dwelling design will respond to the characteristics of the older dwellings including heavily articulated forms, 1-2 storey scale, pitched roofs and front and side setbacks that allow for planting, without replicating earlier styles. Low or open style front fences will allow private gardens to contribute to the leafy character of the area.

This area will undergo further investigation to determine whether additional Neighbourhood Character or Heritage Overlay controls are warranted.

**22.03-6**

14/10/2014  
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**Nominated large sites**

A number of large sites have also been identified including 1 Lake Road, Blackburn, 131-173 Central Road, Nunawading, 57-67 Central Road, Blackburn and 15 Virgillia Street, Blackburn North. Other large sites may be identified in the future.

**Desired future character**

The properties at 1 Lake Road, Blackburn, 131-173 Central Road, Nunawading and 57-67 Central Road, Blackburn are located within the Blackburn Lake environs. Each site is presently used for institutional purposes including aged care accommodation and education facilities. While these uses must be supported for their contribution to the community, these sites also have the possibility to make a significant contribution to the future residential housing stock.

Each site makes a contribution to the special character of the Blackburn Lake Surrounds because of its location and landscape qualities. The landscape significance of the Blackburn Lake Surrounds is attributed to the quality of the environment, which includes vegetation notable for its height, density, maturity and high proportion of indigenous trees, which it is sought to retain and enhance.

The property at 15 Virgillia Street Blackburn North is a remaining large residential site with botanical significance and plays an important role in contributing to the biodiversity of the Blackburn North area.

The preferred future character is to provide for the development of these sites for residential and institutional purposes through a site layout and built form which is subservient to the landscape character. In considering any permit application for development, including subdivision, consideration should be given to the Statement of nature and key elements of the landscape and the objectives of the Significant Landscape Overlay – Schedule 5 that applies to these sites and the Statement of Environmental Significance and environmental objectives of the Environmental Significance Overlay – Schedule 1 for the property at 131-173 Central Road, Nunawading and Schedule 2 for the property at 15 Virgillia Street Blackburn North.

**22.03-7**

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**Residential Corridors**

~~Built form controls have been identified to guide development outcomes along key road corridors in the municipality where Substantial Change Areas interface with low rise residential development.~~

~~The controls focus primarily on the major east west tram and road corridors, where there is an interface between the Residential Growth Zone and General Residential Zone or Neighbourhood Residential Zone to the rear or side. Specifically, Burwood Highway, generally between Elgar Road, Burwood and Hanover Road, Vermont South and Whitehorse Road in Mont Albert, Laburnum and Nunawading.~~

~~The controls relate to building setbacks, architecture and height, building separation, overshadowing, landscaping and pedestrian and vehicle access. In this area the built form of new development should not visually dominate and should transition to the low rise scale of adjoining development. New development should respect the character and amenity of the surrounding area.~~

Mid-rise buildings that accommodate higher density residential development are promoted in the substantial change areas along major road corridors depicted on the Housing Framework Plan at Clause 21.06. Development of these areas should accommodate an increased intensity of developed that is designed to achieve a human scale that does not dominate street frontages and is massed to provide an acceptable interface to the traditional residential areas outside the corridor.

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# Attachment 3

## Negri Version of DD011

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**A3**

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## SCHEDULE 11 TO CLAUSE 43.02 DESIGN AND DEVELOPMENT OVERLAY

Shown on the planning scheme map as **DDO11**.

### RESIDENTIAL GROWTH CORRIDORS

#### 1.0 Design objectives

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To promote mid-rise development in the residential growth corridors to accommodate housing at increased densities and a diversity of housing type.

To ensure the height and built form of new buildings provides a suitable transition from the residential growth corridors and adjoining commercial areas to neighbouring lower scale residential areas in the General Residential Zone and the Neighbourhood Residential Zone do not visually dominate the street or compromise the character and amenity of adjacent low-rise residential areas.

To ensure development achieves-contributes to a high quality public realm-and public open space in relation to human scale and micro-climate conditions by providing a comfortable, pedestrian-friendly urban environment.

To ensure that the height of new buildings provides an acceptable built form interface with adjoining development in other zones.

To ensure the height and built form of new buildings do not visually dominate the street or compromise the character and amenity of adjacent low-rise residential areas.

To maintain the visual prominence of landscaping and ensure space for medium and large trees on site, particularly within the front and rear setbacks.

To encourage lot consolidation in order to achieve the maximum building heights and to provide for sufficient building setbacks to deliver high levels of internal amenity.

#### 2.0 Buildings and works

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A permit is not required to construct a building or construct or carry out works for a development up to 3 storeys.

A permit is required to construct a front fence.

##### Building height

- A building must-should not exceed a height of 19 metres and 6 storeys, except where the height of an existing building on the land already exceeds 19 metres, in which case new buildings and works must not exceed the height of the existing building in metres and storeys. A permit cannot be granted to vary this requirement.
- Building height excludes rooftop services, such as plant rooms, air conditioning, lift overruns, roof-mounted equipment and the like, that cannot be seen from any adjoining public space or are designed as architectural roof top features.

##### Building setbacks

- The setback of a building to a road identified as a street interface Buildings and works must-should be in accordance with the front-street interface setback specified in the Table 1 to this schedule. A permit cannot be granted to vary this requirement.

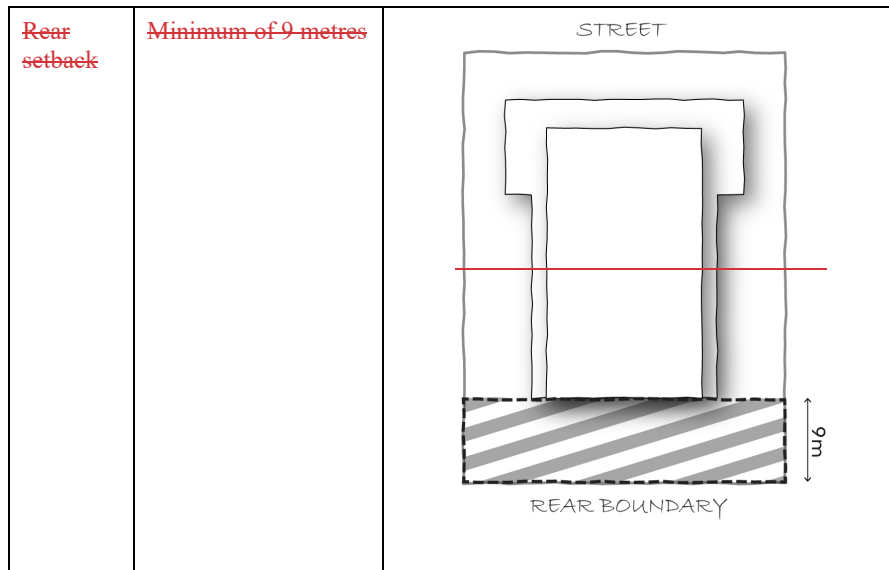
**Table 1 to Schedule 11**

Measure	
<p><b>Front Street Interface setback</b></p>	<p>Minimum 5 metres with an additional 3 metres to levels above 4 storeys</p>

**Table 2 to Schedule 11**

- Any part of a building above 3 storeys in height should be setback a minimum of 4.5m from a boundary to land (other than a road) in the Residential Growth Zone. Buildings and works should must be in accordance with the side and rear setbacks specified in Table 2 to this schedule. A permit cannot be granted to vary this requirement.
- The setback of a building to the boundary identified as a Sensitive Interface must meet the requirements of Clauses 55.04-1, 55.04-2 & 55.04-3 along that boundary and should be sufficient to accommodate canopy planting.

Measure	
<p><b>Side setback</b></p>	<p>Minimum of 4.5 metres with an additional 4.5 metres to levels above 4 storeys</p>



**Pedestrian interface**

- Buildings at the ground floor should:
  - Present attractive, pedestrian orientated frontages, which avoid blank walls, car parking areas and wide car park entrances.
  - ~~Avoid~~ Minimise service areas and other utility requirements, including fire hydrants and mailboxes, unless they are integrated into a landscaped front setback.
  - Avoid unscreened waste storage areas when viewed from a street.
  - Maximise windows at ground level and avoid high front fences to provide passive surveillance of the street.

**Overshadowing**

- Developments should not result in additional shadowing to adjacent public open space between 12pm and 2pm on 22 September.

**Landscaping**

- ~~Developments should:~~
  - ~~Provide a minimum deep soil area relative to tree height, which is a minimum depth of 800mm (for small trees), 1000mm (for medium trees) and 1200mm (for large trees).~~
  - ~~Ensure the green character and tree canopy of the area is enhanced with deep soil plantings in the front, side and rear setbacks.~~

**3.0**

**Subdivision**

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~~None specified.~~ A permit is not required to subdivide land.

**4.0**

**Signs**

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None specified.



## 5.0 Application requirements

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The following application requirements apply to an application for a permit under Clause 43.02, in addition to those specified elsewhere in the scheme and must accompany an application, as appropriate, to the satisfaction of the responsible authority:

- ~~A wind tunnel assessment prepared by a suitably qualified person that:
 
  - ~~Models the wind effects of the proposed development and its surrounding buildings.~~
  - ~~Demonstrates the proposed development will not cause unsafe wind conditions.~~
  - ~~Explains the effect of the proposed development on the wind conditions in publicly accessible areas.~~
  - ~~Shows the development will allow for comfortable sitting in any public open space, standing in any pedestrian entrance and walking in any pedestrian walkway.~~~~

## 6.0 Decision guidelines

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The following decision guidelines apply to an application for a permit under Clause 43.02, in addition to those specified in Clause 43.02 and elsewhere in the scheme, which must be considered, as appropriate, by the responsible authority:

- Whether the development provides an appropriate transition from the residential growth corridor and any adjoining commercial area to lower scale residential areas in the General Residential Zone and the Neighbourhood Residential Zone an adjoining residential zone or public open space.
- Whether the development ~~maintains~~ achieves a mid-rise scale to accommodate housing at increased densities and a diversity of housing type that enhances the sense of openness, maintains access to expansive sky views along the corridor ~~and allows maximum solar access to low rise residential development in the adjoining and adjacent areas.~~
- ~~Whether the development provides for adequate sun penetration at street level and mitigates wind down draughts through upper level setbacks.~~
- Whether the development achieves an acceptable built form interface with the public realm, so as not to ~~dominate the streetscape or~~ appear as a continuous wall at street level or nearby vantage points if adjoining and/or nearby sites are developed in a similar manner.
- ~~Whether the development allows for deep soil planting and landscaping within the front, side and rear setbacks.~~
- ~~Whether the development achieves high architectural quality.~~
- ~~Whether the development provides adequate sunlight, daylight and privacy, and outlook from habitable rooms, for both existing and proposed developments.~~
- Whether any additional overshadowing of adjacent public open space will:
  - Reduce the extent to which sunlight will be available between 12 pm and 2 pm on 22 September, including the cumulative impacts if adjacent land is developed in accordance with the planning scheme.
  - Have an adverse impact on the landscaping, including plants, trees and lawn or turf surfaces in the public open space.
  - Compromise the existing and future use, quality and amenity of the public open space.

