Planning and Environment Act 1987

Panel Report

Maroondah Planning Scheme Amendment C107
Ruskin Park Neighbourhood Residential Zone

28 February 2019
Planning and Environment Act 1987
Panel Report pursuant to section 25 of the Act
Maroondah Planning Scheme Amendment C107
Ruskin Park Neighbourhood Residential Zone
28 February 2019

Tim Hellsten, Chair
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List of Abbreviations

- **the Act**: Planning and Environment Act 1987
- **Council**: Maroondah City Council
- **DELWP**: Department of Environment, Land, Water and Planning
- **GRZ**: General Residential Zone
- **GRZ1**: General Residential Zone - Schedule 1 General Residential Areas
- **NRZ**: Neighbourhood Residential Zone
- **NRZ3**: Neighbourhood Residential Zone - Schedule 3 Canopy Cover Ridgeline Protection
- **NRZ6**: Neighbourhood Residential Zone - Schedule 6 Ruskin Park
- **PPF**: Planning Policy Framework
- **SLO3**: Significant Landscape Overlay - Schedule 3 Wicklow Hills Ridge and Loughnan Warranwood Ridge Landscape Protection Area
- **SLO4**: Significant Landscape Overlay - Schedule 4 Landscape Canopy Protection
Overview

### Amendment summary

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<td>Ruskin Park Neighbourhood Residential Zone</td>
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<td>Land in the City of Maroondah generally bound by Silvery Road, Ruskin Avenue, Mt Dandenong Road, Croydon and the eastern municipal boundary</td>
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<td>Maroondah City Council</td>
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<td>Planning Authority</td>
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Executive summary

(i) Summary

Ruskin Park is an established residential neighbourhood on the eastern edge of the City of Maroondah located between Hull Road, Croydon and Mount Dandenong Road, Kilsyth. The neighbourhood like many in the middle-outer regions of metropolitan of Melbourne, is experiencing the impacts of a growing population and medium density housing development pressures which is impacting the established landscaped and built form character of the area.

Amendment C07 to the Maroondah Planning Scheme has been proposed in response to the development of The Places We Live – Maroondah Housing Strategy 2016 (Maroondah Housing Strategy) and further character assessment work undertaken for the Ruskin Park area in 2016. The Amendment proposes to rezone part of the Ruskin Park neighbourhood from the General Residential Zone - Schedule 1 General Residential Areas to the Neighbourhood Residential Zone - Schedule 3 Canopy Cover Ridgeline Protection (NRZ3).

Exhibition of the Amendment attracted 33 submissions including two supportive proforma submissions and two submissions discovered by Council at the Panel stage of the Amendment. Supporting submissions identified the attractive landscape and spacious dwelling setting of the neighbourhood and the inappropriate impact on newer medium-density housing development. The opposing submissions identified concerns about the impact on site development opportunities and consistency with settlement and housing policy.

In response to changes to residential zones implemented through Amendment VC110, Council sought to replace the proposed application of the NRZ3 as exhibited (which applies to a number of neighbourhoods in the municipality) with a new Neighbourhood Residential Zone - Schedule 6 Ruskin Park (NRZ6). The proposed NRZ6 introduced five neighbourhood character objectives but otherwise retained the same content as NRZ3. The Panel was comfortable that, given the minor nature of the changes, and that the proposed character objectives were reasonably attributable to provisions within Clause 22.02 and Clause 42.03, along with the content of the later Character Assessment, that additional notice of the Amendment changes proposed by NRZ6 to submitters only was reasonable. No further submissions were made.

The Panel considers that the substitution of NRZ3 with NRZ6 is an appropriate change to the Amendment which had completed exhibition prior to Amendment VC110 coming into effect and, that it is a necessary response to ensure consistency with the Ministerial Direction on the Form and Content of Amendments. The application of the new NRZ6 does not, in the Panel’s opinion, alter the nature of the issues raised in submissions, the exhibited intent of the Amendment, the material provisions of the Zone or transform the Amendment.

The Panel accepts the evidence of Ms Scott that the Ruskin Park neighbourhood, despite the level of recent development activity, retains an appreciable landscape character that should be acknowledged and accommodated while not stifling further opportunities for more modest housing outcomes in the area consistent with Council’s Housing Strategy.

While in one sense this Amendment is out of sync with the Maroondah Housing Strategy which is yet to be progressed into the Maroondah Planning Scheme and tested through a planning
scheme amendment process, the Panel accepts that the Housing Strategy does identify the application of the NRZ to the Ruskin Park area and that there is some urgency in doing so. The Panel is also mindful that Council has acknowledged the need for an implementation strategy for both the Housing Strategy and the Neighbourhood Character Study review which will involve further localised enhancements of the NRZ.

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

The Panel concludes:

- That the Ruskin Park neighbourhood has a unique landscape character that warrants recognition and protection.
- The NRZ is the right planning tool to recognise and protect the identified character of the area.
- The NRZ as Amended (NRZ6) and included in Appendix D of this Report, is appropriate and strategically justified.

(ii) Recommendations

Based on the reasons set out in this Report, the Panel recommends that Maroondah Planning Scheme Amendment C107 be adopted as exhibited subject to the following:

1. Replace the proposed Neighbourhood Residential Zone Schedule 3 with the Neighbourhood Residential Zone Schedule 6 as shown at Appendix D of this Report.
1 Introduction

1.1 The Amendment

(i) Amendment description

The Amendment proposes to rezone land in the area known as Ruskin Park, Croydon from the General Residential Zone - Schedule 1 General Residential Areas (GRZ1) to the Neighbourhood Residential Zone - Schedule 3 Canopy Cover Protection (NRZ3).

(ii) Purpose of the Amendment

The Amendment implements one of the recommendations of The Places We Live - Maroondah Housing Strategy 2016 (Maroondah Housing Strategy) to apply the Neighbourhood Residential Zone (NRZ) to Ruskin Park to ensure that the neighbourhood and landscape character of the area is managed in a manner that provides for an appropriate balance between the provision of vegetation and built form.

(iii) The subject land

Amendment C107 applies to approximately 95 hectares of residential land in the Ruskin Park neighbourhood located within the suburbs of Croydon and Kilsyth in the municipality of Maroondah City Council. The subject land is generally located south of Hull Street, north of Mt Dandenong Road, between Silverley Road and Emmerson Street to the west and the eastern municipal boundary with the Shire of Yarra Ranges as shown in Figure 1.

Figure 1 The subject land
The urban design advice contained in the *Ruskin Park Character Assessment and Advice February 2018* (Character Assessment) and evidence from Ms Scott, described the subject land as having the following characteristics:

Ruskin Park is located within an undulating landscape, and is characterised by the widespread presence of vegetation, particularly large canopy trees (both native and exotic), and a sense of proximity to the Dandenongs. Views to the Ranges are available from the higher points in the neighbourhood.

The subdivision pattern is a modified grid, with some through streets, as well as cul de sacs. Lot sizes are large and unencumbered, ranging from approximately 700 square metres to 1,200 square metres. This partly accounts for the occurrence of infill and other residential redevelopment, with many examples of four to five units being constructed on single sites, and 8 or more units on larger or amalgamated sites.

The streets throughout Ruskin Park have a spacious and informal feel due to the wide grassy nature strips, and a mixture of front boundary treatments, including low and open fencing, or no fencing. Large, established street trees of mixed species are prevalent, and front gardens are generally grassy and/or well vegetated.

The area contains a mix of dwelling styles, including many simple Post War timber houses, brick veneer homes from later periods, and contemporary infill development. There are also a limited number of Pre War and bungalow style timber dwellings. Historically, houses have had generous front, side and rear boundary setbacks, allowing ample space for gardens and large trees. More recent development has tended to be constructed closer to the property boundaries, with side driveways often providing access to rear units.

Older dwellings in the precinct tend to be single storey, but there are now many examples of two storey homes. The majority of houses have tiled, low-pitched roofs. Overall, built form is low scale and sits well below the established tree canopy height, which provides a textured, green backdrop to the rooftops and dominates skyline views. Throughout Ruskin Park there is a balance between vegetation and built form, and in some areas, vegetation remains the most visually dominant feature of the landscape.

The Panel agrees with this characterisation of the neighbourhood which was not disputed by other parties to the Amendment.

Land to the north and south of the subject land is zoned GRZ1, while land to the east (an area also identified as being within the Ruskin Park Neighbourhood Area) is zoned NRZ3. Land to the immediate east within the Shire of Yarra Ranges is a mix of NRZ and General Residential Zone (GRZ).

The subject land is located within a Significant Landscape Overlay – Schedule 4 Landscape Canopy Protection (SLO4) which also extends over GRZ1 land to the north and south. Land to the west is within a Significant Landscape Overlay – Schedule 3 Wicklow Hills Ridge and Loughnan Warranwood Ridge Landscape Protection Area (SLO3).

### 1.2 Background

**(i) Maroondah Housing Strategy**

Adopted in June 2016, the Maroondah Housing Strategy was developed by Council with inputs from Spatial Economics and Charter Keck Cramer and peer reviewed by SGS Economics and Planning. The Strategy updates the 1997 Maroondah Housing Strategy (which is not a reference document) in response to the challenges of growth, housing affordability and
diversity, infrastructure, Plan Melbourne, the Maroondah 2040 community vision and major changes to the residential zone provisions.

The Strategy forecasts up to 9,500 additional households in the municipality to 2036 and a requirement for around 500 dwellings per annum or a total of 12,500 additional dwellings to 2041. Most of this growth is to come from lone persons and couples with no children households, with much of this occurring in the Ringwood and Croydon housing markets. The Strategy identifies the challenge of meeting this housing demand while maintaining the valued environment and landscape, with a quarter of new residential production in NRZ areas. To meet this challenge the Housing Strategy seeks to:

- set dwelling targets for key activity centres including Ringwood and Croydon
- encourage greater development in lower order neighbourhood activity centres
- review and enhance areas of environmental quality
- review reformed residential zones and any unintended consequences of these zones including reviewing the NRZ in conjunction with vegetation controls and rezoning Ruskin Park and Wonga Park precincts to NRZ in response to infill development activity
- introduce the Housing Strategy into the planning scheme and review application of the residential zones.

The Housing Strategy identifies that the NRZ applies to some 29% of land in the municipality compared to the GRZ (40%) and RGZ (1%). The Panel notes that these figures differ considerably with those identified in the State Government’s January 2016 Residential Zones State of Play Report (40.5%, 55.5% and 0.8% respectively) which calculates zone proportions as a factor of zones that support housing activity (residential zones including the Mixed Use Zone and Low Density Residential Zone, and the Commercial 1 Zone) rather than the spatial proportion of all zones across the municipality.

Council is proposing to introduce the Housing Strategy into the Maroondah Planning Scheme as a background document in the next 12 months and implement other recommendations over time.

(ii) Ruskin Park Character Assessment

Council engaged Claire Scott Planning to provide urban design advice on the implications of Amendment VC110 and associated changes to the residential zones as they related to Ruskin Park. The Character Assessment included:

- an overview of existing scheme provisions including those relating to the Maroondah Neighbourhood Character Study, 2004 (2004 Character Study)
- a summary of community concerns relating to infill activity including site clearance and loss of canopy trees, loss of low scale and spacious garden setting, ‘gun barrel’ driveways and extent of hard surfacing
- an overview of Amendment VC110 changes
- a summary of recent VCAT decisions
- a neighbourhood character description (excerpt included at Chapter 1.1(iii) of this Report) and conclusions
- a discussion on zoning and overlay options.
The Character Assessment noted that the GRZ1 and exhibited NRZ3 were virtually the same in terms of provisions, as a result of VC110’s deletion of the two-dwelling maximum in the NRZ. The key distinction between the two zones and the determining factor identified in the Character Assessment, was the building height relative to tree canopy height (the default maximum building height in the GRZ being 11 metres and 3 storeys, and 9 metres and 2 storeys in the NRZ), allowing the tree canopy to dominate over the predominant building height in the area. The purpose of the NRZ was also considered more consistent with the Ruskin Park character and location.

The Character Assessment recommended the application of the NRZ to Ruskin Park, retaining the exhibited side and rear setback and open space provisions, but also recommending the inclusion of further requirement variations in the schedule:

- Decreasing the site coverage requirement from 60% to 50%, thus increasing the space available for the planting of vegetation, including canopy trees.
- Increasing the permeability requirement from 20% to 30% for the same reasons.
- Including a landscaping requirement that canopy trees be planted where more than one dwelling is proposed, and linking this requirement to site width and available permeable soil area e.g. Provision of a minimum of one canopy tree per 175 square metres of the site area, that will reach a minimum mature height that equals the height of the proposed development, including:
  - a minimum of one canopy tree within each area of secluded private open space; and
  - a minimum of one canopy tree within the front setback per 5 metres of width of the site (excluding the width of one driveway).
  - each tree should be surrounded by 20 square metres permeable surface with a minimum radius of 3 metres. Up to 50% of the permeable surface may be shared with another tree.

Council does not propose to include the recommended changes in the amended schedule (discussed at Chapter 1.3), indicating that this would take place as part of a review of the NRZ following the implementation of the Maroondah Housing Strategy.

1.3 Procedural issues

(i) Amendment VC110 and amended NRZ Schedule

At the Directions Hearing Council identified that the schedule to NRZ3 was proposed to be amended to respond to Amendment VC110.

State-wide reforms to the new residential zones were introduced on 27 March 2017 through Amendment VC110. The key changes introduced relating to the NRZ included:

- a revised purpose
- a requirement to include character objectives for the area
- removal of the two dwellings per lot default limit
- introducing a minimum garden area requirement

1 Standards A5 and B8 in Clause 54 and 55 respectively provide for a default 60 percent site coverage unless a schedule identifies a different amount
2 Standards A6 and B9 in Clause 54 and 55 respectively provide for a default 60 percent site coverage unless a schedule identifies a different amount
3 Achieved as an application requirement in the schedule
• introducing a revised default mandatory maximum height (increased to 9 metres and two storeys).

Amendment VC110 was introduced after the exhibition of Amendment C107. Given the nature of changes to both the GRZ and NRZ, Council placed the Amendment on hold while it considered the implications of Amendment VC110 informed by the Character Assessment.

In response to the extended timeframe to consider the impacts of Amendment VC110 and submissions, Council sought and received an extension to the Amendment timeframe to 21 May 2019 from DELWP on the 19 November 2018 (Document 5).

At the Directions Hearing, Council proposed to replace the NRZ3 (which already applied to a number of neighbourhood areas within the municipality) to the subject land, with a new neighbourhood specific Neighbourhood Residential Zone Schedule 6 – Ruskin Park (NRZ6) which:

• included five neighbourhood character objectives
• retained all other elements of the exhibited NRZ3.

A copy of NRZ6 is included in Appendix D with the changes highlighted in yellow. The revised schedule numbering accounts for Neighbourhood Residential Zone 5 proposed by Amendment C116. The neighbourhood character objectives were informed by Ms Scott’s Character Assessment rather than those identified in the 2004 Character Study, which Ms Scott indicated at the Hearing, were no longer considered to be best practice.

Table 1 includes a comparison of the GRZ1 provisions which currently apply to the Ruskin Park neighbourhood and the amended version of the NRZ.

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<th>Proposed NRZ6</th>
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<tr>
<td>No neighbourhood character objectives</td>
<td>5 Neighbourhood character objectives</td>
</tr>
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<td>No minimum lot size</td>
<td>No change</td>
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<td>Minimum side and rear setbacks requirements for A10 and B17</td>
<td>No change</td>
</tr>
<tr>
<td>Private open space requirements for A17 &amp; B28</td>
<td>No change (other than deletion of minimum widths for balcony and roof top open space areas)</td>
</tr>
<tr>
<td>Front fence height requirements for A20 and B32</td>
<td>No change</td>
</tr>
<tr>
<td>Maximum building height 11.0m and 3 storeys</td>
<td>Maximum building height 9.0m and 2 storeys</td>
</tr>
<tr>
<td>Garden area 25% - 35%</td>
<td>No change</td>
</tr>
</tbody>
</table>

The Panel was of the view that the changes to the Amendment were not transformative, however agreed with Council further notification of the proposed changes should be provided to all submitters. A written direction was issued by the Panel on the 13 September 2018 that required all submitters to be advised of the changes by the 5 October 2018 and provided with an opportunity to make further submissions or provide further requests to be heard. Additional notice beyond submitters was considered unnecessary given the minor nature of the changes, and that the proposed character objectives were reasonably attributable to
provisions within Clause 22.02 and Clause 42.03. In response to the further notification, clarification was received from Ms Burton (who had lodged a request to be heard but no submission) indicating she supported the Amendment. No further submissions were received.

(ii) Further submissions

At the commencement of the hearing, Council advised the Panel that it had identified that the submission from Mr Young (prepared by Millar Merrigan – Submission 30) while considered in the Council report of the 20 February 2018 had been, in error, excluded from the Panel notification processes. A written direction was issued by the Panel on the 23 November 2018 that Mr Young be provided with an opportunity to make a submission to the Panel and cross-examine Ms Scott if required. A second hearing day took place on the 21 February 2019 to hear Mr Young’s submission, however Mr Young advised the Panel in writing before commencement of the hearing that he withdrew his objection to the Amendment (Document 19). Nonetheless the Panel has considered Mr Young’s submission in this Report for completeness given it was made on behalf of a number of landowners.

On the 23 November 2018 the Panel was further advised by Council that it had identified a submission from Planning Sense (Submission 33) on behalf of various landowners, which had been overlooked and not identified in the Council report, nor was that submitter provided with an opportunity to participate in the Panel Hearing process. A further written direction was issued by the Panel on the 23 November 2018 to Planning Sense providing the submitter with an opportunity to make a submission to the Panel and cross-examine Ms Scott if required. Planning Sense advised the Panel on the 5 December 2018 (Document 18) that it would not be presenting a submission to the Panel.

Council explained that the error was in part, due to the way in which submissions had been received and recorded, the period over which the Amendment had been afoot, and the change in officers responsible for the Amendment assessment. The Panel is satisfied that this was simply a mistake. While it is unfortunate that these submissions were not captured in the lead up to the Hearing, the Panel is satisfied that Council has undertaken the necessary audit of submissions to ensure there are no other outstanding submissions. While the parties represented by Planning Sense were unable to participate in the Hearing, the submission has been considered by the Panel and raised similar issues to those identified in the Young submission.

1.4 Summary of issues raised in this Report

Exhibition of the Amendment attracted 33 submissions.

Supporting submissions identified that the Amendment would:
- reduce further overdevelopment
- respond to community concerns about vegetation loss
- help preserve the existing character
- prevent increased street traffic volumes and on street carparking impacts.

The opposing submissions identified concerns that the Amendment:
- is inconsistent with planning policy and the Maroondah Housing Strategy
- will impact on development potential and property values
• does not reflect the level of environmental character
• will have limited impact on tree canopy given the application of SLO4
• process provided inadequate opportunity for community consultation
• did not reflect the views of the wider community beyond those of the Ruskin Park Residents Association.

The Panel notes that one of the key changes to the NRZ introduced by Amendment VC110, post exhibition of Amendment C107, was the removal of the two dwellings per lot default limit. The previous dwelling limit was a source of concern for some submitters to the proposed application of the NRZ to Ruskin Park.

1.5 Approach of the Panel

The Panel has assessed the Amendment against the principles of net community benefit and sustainable development, as set out in Clause 71.02-3 (Integrated decision making) of the Planning Scheme.

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

All submissions and materials have been considered by the Panel in reaching its conclusions, regardless of whether they are specifically mentioned in the Report.

This Report deals with the issues under the following headings:
• Planning context
• Ruskin Park neighbourhood character
• Policy support
• Form and content of the Amendment.

1.6 Limitations

While several opposing submissions identified the impact the rezoning to the NRZ would have on the ability to develop lots as they had anticipated, some submissions (submissions 5, 8 and 19) have specifically identified the impact of the Amendment on property values.

The possible impacts on property prices is not relevant when preparing or assessing planning scheme amendments or considering planning permit applications. This is due in part to the purposes of the Planning and Environment Act 1987 (the Act) which seek to balance the present and future interests of all Victorians, as well the difficulty in isolating potential impacts on property values from the many other factors and circumstances which influence property prices.

Several supporting submissions (submissions 2, 9, 14, 15, 20, 24, 25) identified issues associated with increased traffic and on street carparking from more intensive housing development. While the application of the NRZ may reduce site yield, site coverage and building size to accommodate vegetation, it is unlikely to have any appreciable impact on traffic volumes or on-street parking demand. Regardless, these are minor side matters and the focus of the Amendment is on the application of a residential zone that appropriately
responds to the character setting and preferred built form response. Issues relating to traffic and carparking have therefore not been further addressed in this Report.

Submissions 5 and 8 raise concerns about the Council’s engagement and notification process or the broader community views not being represented by the Ruskin Park Residents Association. The Panel is comfortable that Council has undertaken an appropriate engagement process in the development of the Maroondah Housing Strategy (which will involve its own future amendment process) and in the notification approach in exhibiting the Amendment.

While the Maroondah Housing Strategy and Explanatory Report identify the community’s desire for Council to address concerns about the level of development in the Ruskin Park area, it is not the weight of submission numbers for or against a proposal that informs the Panel’s considerations, rather it is the substance and relative merits of matters raised in them. The individual submissions (excluding the proforma submissions) are relatively evenly weighted in support or opposition to the Amendment and the range of character impact and policy issues raised in them are consistent for both positions. While the Panel, through the hearing process, primarily heard from supporters of the Amendment, all submissions have been considered. These issues of the weight given to certain submitters by Council are not materially substantial or relevant to the key considerations raised in submissions which relate to the merits of applying the NRZ to Ruskin Park, therefore the Panel’s Report does not further comment on them.
2 Planning context

2.1 Planning policy framework

Council submitted that the Amendment is supported by various clauses in the Planning Policy Framework (PPF), which the Panel has summarised and considered below.

Victorian planning objectives

The Amendment will assist in implementing the policy objectives set out in section 4 of the Act by facilitating the orderly and sustainable development of land in the Ruskin Park neighbourhood in a manner which responds to its neighbourhood and landscape character and balances the present and future interests of residents and those who might wish to live in the area.

Clause 11 (Settlement)

The Amendment supports Clause 11 by:
- accommodating the sustainable growth of residential suburbs and providing sufficient land supply taking into consideration opportunities for consolidation and redevelopment and neighbourhood and landscape considerations (Clause 11.02-1S Supply of urban land)
- contributing towards diversity of choice in a manner which takes advantage of existing settlement patterns and investment in transport, utility, community and commercial infrastructure and services.

Clause 12 (Environmental and Landscape Values)

While not identified in Council’s submission, the Amendment supports Clause 12 by:
- protecting and enhancing significant landscapes that contribute to character and ensuring development does not detract from the natural qualities of significant landscape areas (Clause 12.05-2S Landscapes).

Clause 15 (Built Environment and Heritage)

The Amendment supports Clause 15.01-5S (Neighbourhood character) by:
- delivering liveable and sustainable neighbourhoods which appropriately respond to the identified landscape, character and built form
- contributing positively to the identified local character and sense of place
- ensuring development in the Ruskin Park neighbourhood responds to its context and reinforces a sense of place and the valued features of the local environment and place by emphasising the:
  - pattern of local urban structure and subdivision
  - underlying natural landscape character and significant vegetation
  - heritage values and built form that reflect community identity.

Clause 16 (Housing)

The Amendment supports Clause 16 by:
- providing a range of housing types in the municipality to meet diverse needs by encouraging the development of well-designed medium density housing that
respects the neighbourhood character, improves housing choice and makes better use of existing infrastructure (Clause 16.01-3S Housing Diversity)

- providing certainty about the scale of growth by prescribing appropriate height and site coverage provisions for different areas and allowing for a range of minimal, incremental and high change residential areas that balance the need to protect valued areas, with the need to ensure choice and growth in housing provision as identified in the Maroondah Housing Strategy (Clause 16.01-1R Integrated Housing Metropolis Melbourne).

The Amendment appropriately reflects the intent of policy through the strategic application of residential zones based on a Housing Strategy and balancing the directions to support growth in appropriate locations and responding to built form and landscape character.

**Clause 21 (the Municipal Strategic Statement)**

The Amendment supports Clause 21 by:

- ensuring new development both maintains and contributes to the preferred neighbourhood character and recognises the highly valued neighbourhood character of Ruskin Park (Clause 21.06 Built Form and Urban Design)
- providing for diverse and sustainable housing opportunities by protecting existing urban and environmental quality and encouraging increased housing opportunities in identified locations consistent with the Maroondah Housing Strategy (Clause 21.07 Housing and Residential Land Use)
- ensuring housing opportunities protect and enhance areas of special environmental quality by ensuring development contributes and enhances preferred neighbourhood character and encouraging greater housing density around activity centres in Ringwood and Croydon) and through the application of Clause 22.02 (Residential Neighbourhood Character) and Significant Landscape Overlays (Clause 21.07)
- reviewing the Maroondah Municipal Housing Strategy.

**Clause 22 (Local Planning Policies)**

The Amendment supports local planning policy (Clause 22.02) by:

- ensuring development contributes to and enhances the preferred neighbourhood character of Maroondah as identified in the Maroondah Neighbourhood Character Study, 2004 (Figure 2 identifies the 24 neighbourhood areas identified in the 2004 Character Study)
- applying a zone that ensures development responds to the preferred character of the Ruskin Park Neighbourhood Area (Area 12):
  - Ensuring the development of complementary dwelling styles, derived from the horizontal form of existing housing stock in the older areas of the neighbourhood.
  - Encouraging the use of compatible materials, particularly in exclusively weatherboard areas.
  - Maintaining the current setback patterns, allowing space between buildings for gardens.
  - Ensuring the front setbacks are not dominated by car parking structures.
  - Ensuring the retention of existing vegetation, particularly canopy trees.
  - Encouraging low and open front fences where this predominates.
The Panel notes that the Amendment is only to be applied to the south eastern portion of the identified Ruskin Park Neighbourhood Area.

The Panel considers that the Amendment is consistent with the Municipal Strategic Statement and local planning policies. The relative strategic merits of the application of NRZ6 to the Ruskin Park neighbourhood are discussed in Chapters 3 and 4 of this Report.

Figure 2 Clause 22.02 Neighbourhood Character Map

2.2 Other relevant planning strategies and policies

(i) Plan Melbourne

Plan Melbourne 2017-2050 sets out strategic directions to guide Melbourne’s development to 2050, to ensure it becomes more sustainable, productive and liveable as its population approaches 8 million. It is accompanied by a separate implementation plan that is regularly updated and refreshed every five years.

Plan Melbourne is structured around seven Outcomes, which set out the aims of the plan. The Outcomes are supported by Directions and Policies, which outline how the Outcomes will be achieved. Outcomes that are particularly relevant to the Amendment are set out in Table 2.
Table 2 Plan Melbourne Outcomes, Directions and Policies

<table>
<thead>
<tr>
<th>Outcome</th>
<th>Directions and policies</th>
</tr>
</thead>
</table>
| Outcome 2 - Melbourne provides housing choice in locations close to jobs and services | • manage the supply of new housing in the right locations to meet population growth and create a sustainable city  
• facilitate an increased percentage of new housing in established areas to create a city of 20-minute neighbourhoods close to services, jobs and public transport  
• plan for and define expected housing needs  
• provide certainty about the scale of growth in the suburbs  
• support new housing in activity centres and other places that offer good access to jobs, services and public transport  
• provide greater choice and diversity of housing, and facilitate housing that offers choice and meets changing household needs  
• plan for residential change by providing a spectrum of minimal, incremental and high change areas to balance protection of valued areas with the need to ensure choice and housing growth |

Outcome 4 – Melbourne is a distinctive and liveable city with quality design and amenity | • support Melbourne’s distinctiveness  
• promote urban design excellence in every aspect of the built environment |

Outcome 5 - Melbourne is a city of inclusive, vibrant and healthy neighbourhoods | • create a city of 20-minute neighbourhoods  
• create mixed-use neighbourhoods at varying densities |

The Panel considers that the Amendment supports the Directions and Policies of Plan Melbourne by ensuring a strategic approach to the application of residential zones linked with the identification of landscape character values for Ruskin Park.

(ii) Maroondah Neighbourhood Character Study, 2004

The 2004 Character Study prepared by Planisphere, identified and evaluated the significant or dominant urban and environmental elements that contribute to Maroondah’s character, and identified a preferred future character for the residential areas of the City. The Study is a reference document in the Maroondah Planning Scheme at Clause 22.02.

The presence of established trees, gardens and extensive views to surrounding ridgelines were identified as features of the City particularly important to the community of Maroondah.

The Study identified a total of 24 neighbourhood areas based on preferred future character, a function of the existing relationship between buildings (era and style of development) and their relationship to the streetscape and broader landscape.

The Study identifies the following vision for the character of Maroondah:

Maroondah provides a living environment enjoyed for its variety of housing types and its strong landscape setting of heavily vegetated hills, vales and ridgelines. The
residential areas contribute to this setting through public reserves, private gardens and trees, which envelop the City in a ‘green blanket’.

The Character Study identified the Ruskin Park Neighbourhood Area as:

... located at the eastern edge of Maroondah, north of Mount Dandenong Road. The Ruskin Park Neighbourhood Area is set in established gardens and rolling topography. Well maintained gardens of exotic and native species are a feature of the area and established canopy trees contribute to the vegetated character of the municipality. This area is one of few neighbourhoods that contains large pockets of exclusively weatherboard dwellings, and many streets of a consistent low scale, horizontal built form character.

The identified existing character elements were:

- Undulating landscape with infrequent views to ridgelines within and outside the municipality.
- Architectural styles include a mix of 1950s and 1960s with a small cluster of 1970s – 1980s and some examples of modern dwellings.
- Dwellings are predominantly single storey.
- Materials are mixed with tiled roofing. Pockets of consistently weatherboard dwellings occur in older parts of the neighbourhood.
- Front setbacks are average, at around 6m - 7m with small to average side setbacks from both boundaries.
- Lot sizes range from 700m2 - 1200 m2 with some examples of smaller unit subdivisions.
- Gardens styles are mixed and established with many examples of exotic and native large canopy trees.
- Frontage treatments vary, with examples of low fences, high fences, open frontages and vegetation planted at the front boundary.
- Road patterns are generally angled and regular grids with cul de sacs. All streets are sealed with upstanding kerbs.
- Street trees are generally mixed in species but regularly spaced with some native species in the north of the area.

The preferred future character identified for the Ruskin Park Neighbourhood Area is an area:

... characterised by low scale dwellings, set in established gardens. The sense of formality in the streets throughout the neighbourhood will be strengthened by the existence of many avenues of street trees and canopy trees in private gardens. The vegetation of Ruskin Park will visually link with canopy trees throughout public and private domains. Frontage treatments will become more consistent with low fences and vegetation predominating.

The preferred future character is to be achieved by:

- ensuring the development of complementary dwelling styles, derived from the horizontal form of existing housing stock in the older areas of the neighbourhood;
- encouraging the use of compatible materials, particularly in exclusively weatherboard areas;
- maintaining the current setback patterns, allowing space between buildings for gardens;
- ensuring the front setbacks are not dominated by car parking structures;
- ensuring the retention of existing vegetation, particularly canopy trees; and
- encouraging low and open front fences where this predominates.

The Character Study is currently being reviewed by Council through the development of the 2018 Neighbourhood Character Study Review.
2.3 Planning scheme provisions

A common zone and overlay purpose is to implement the Municipal Planning Strategy and the Planning Policy Framework.

(i) Zones

The land in Ruskin Park is zoned GRZ1. The purposes of the Zone include:

- To encourage development that respects the neighbourhood character of the area.
- To encourage a diversity of housing types and housing growth particularly in locations offering good access to services and transport.
- To allow educational, recreational, religious, community and a limited range of other non-residential uses to serve local community needs in appropriate locations.

The Amendment proposes to apply the NRZ3. The purposes of the Zone include:

- To recognise areas of predominantly single and double storey residential development.
- To manage and ensure that development respects the identified neighbourhood character, heritage, environmental or landscape characteristics.
- To allow educational, recreational, religious, community and a limited range of other non-residential uses to serve local community needs in appropriate locations.

The GRZ is typically applied in areas where moderate housing growth and diversity can occur while respecting urban character. The GRZ applies to approximately 55.5% of residential zoned land in the municipality.

The NRZ is usually applied in areas where housing growth is not identified such as areas of recognised neighbourhood character, environmental or landscape significance. The NRZ applies to approximately 40.5% of residential zoned land in the municipality. The area affected by the Amendment represents an additional 95.3 hectares of land which will result in an increase in the area affected by the NRZ to 43.1% and a reduction of 52.8% for the GRZ.

The key differences in provisions between the two zones are highlighted in Table 1. The current distribution of residential zones is shown in Figure 2 and Figure 3. Figure 3 is an excerpt from Ms Scott’s evidence and contained in the Draft Maroondah Neighbourhood Character Study Review, Stage 2: Residential Character Assessment, September 2018 (2018 Character Study Review).

(ii) Overlays

The land is subject to the SLO4. The purposes of the Overlay include:

- To identify significant landscapes.
- To conserve and enhance the character of significant landscapes.

The landscape character objectives to be achieved by SLO4 are:

- To conserve the existing pattern of vegetation, landscape quality and ecosystems within the area.
- To encourage the re-generation of vegetation.
- To maintain a dense vegetation canopy that contributes to the special environmental character of Maroondah.
• To maintain the overall scenic beauty of the municipality.

SLO4 does not trigger a planning permit for buildings and works but does require one to remove, destroy or lop some vegetation, particularly trees over 5 metres in height.

The SLO4 is widely applied across the municipality (and typically correlates with the application of the GRZ). SLO3 applies to key ridgelines (and predominantly correlates with the application of the NRZ) and triggers a permit for certain buildings and works. The landscape character objectives to be achieved by SLO3 are:

• To conserve the existing pattern of vegetation, landscape quality and ecosystems within the area and encourage the re-generation of vegetation.
• To maintain a dense vegetation canopy that contributes to the environmental significance of the area.
• To control or minimise the effect of future development upon natural features, particularly canopy trees and ridgelines.
• To ensure that the development, use and management of land is compatible with the existing character and landscape protection of the area.
• To maintain the overall scenic beauty of the municipality.

The current distribution of Significant Landscape Overlays is shown in Figure 4 (an excerpt from the 2018 Character Study Review).

Figure 3 Distribution of residential zones
2.4 Amendment VC148

Amendment VC148 was gazetted on 31 July 2018, after Amendment C107 was exhibited. VC148 made substantial changes to the structure and content of the planning policy framework, as well as other provisions in the Planning Scheme. The Amendment makes no policy changes or changes to other elements of the Planning Scheme that have been altered because of VC148. Council should however, review the Amendment documentation carefully prior to adoption to ensure that they are consistent with the changes introduced by Amendment VC148.
2.5 Ministerial Directions and Practice Notes

(i) Ministerial Directions

Ministerial Direction on the Form and Content of a Planning Scheme

The Amendment has prepared in accordance with the Ministerial Direction. The proposed NRZ6 has been prepared to reflect changes to the structure of zone schedules introduced through Amendment VC110. The proposed neighbourhood character objectives are written in a manner consistent with the relevant style guides.

Ministerial Direction 9 – Metropolitan Strategy (Plan Melbourne 2017-2050: Metropolitan Planning Strategy)

The Amendment responds to the directions and initiatives in the Metropolitan Strategy as identified in Chapter 2.2.

Ministerial Direction 11 (Strategic Assessment of Amendments)

The Explanatory Report discusses how the Amendment meets the relevant requirements of Ministerial Direction 11. The proposed amendment responds to the Reformed Residential Zones introduced by Amendment VC110 in that the Neighbourhood Residential Zone proposed in Ruskin Park acknowledges the specific character of the area, whilst still enabling the provision of housing diversity and choice.

(ii) Planning Practice Notes

The Explanatory Report discusses how the Amendment meets the relevant requirements of Planning Practice Note 46: Strategic Assessment Guidelines for preparing and evaluating planning scheme amendments – August 2018 and that discussion is not repeated here.

Planning Practice Note 43: Understanding Neighbourhood Character – January 2018 (PPN43)

PPN43 sets out guidance for applicants, the community and councils about:

- understanding what is meant by neighbourhood character
- preparing or assessing a permit application for a residential development, including a neighbourhood and site description, a design response, and meeting the neighbourhood character objectives and standards in the planning scheme.

The Practice Note identifies that neighbourhood character is about the interaction of the private and public realm and the features of the area that give an area its own particular character to create a sense of place that has community meaning. PPN43 identifies that these features can include the pattern of development of the neighbourhood (such as building height and setbacks, the pattern of landscaping and street tree planting), built form and scale, and notable features or characteristics such as significant vegetation.


PPN28 provides guidance on planning for neighbourhood character including preparing a neighbourhood character study, and the application of character provisions in the planning scheme, including the level of strategic justification required.
The Practice Note identifies that:

Neighbourhood character is only one of a number of residential policy objectives in the SPPF. The encouragement of urban consolidation, higher land-use densities near major public transport interchanges and routes, the need to improve housing choice, the better use of existing infrastructure and the provision of ecologically sustainable development are also State planning policy objectives that need to be achieved when considering neighbourhood character and residential development.

The Practice Note further identifies that if a planning authority decides to establish local neighbourhood character objectives, they must be considered within this broader strategic context and be balanced with other State planning policy objectives.

In relation to the development of a neighbourhood character study, PPN28 indicates that:

The purpose of a neighbourhood character study is to identify and then support actions to achieve good development outcomes in both the public and private realms. An objective and independent assessment of the character of areas will establish existing character attributes. Actions can then be identified to ensure that existing character is respected or a preferred new character is achieved.

The Practice Note further sets out that a neighbourhood character study:

- provide an assessment that identifies the comparative significance of each neighbourhood character area. In assessing the significance of areas, comparisons need to be made, not only with other parts of the municipality but with the wider metropolitan area
- identify why differences are important. It is these differences that lie at the heart of the strategic justification for additional neighbourhood character provisions
- demonstrate that additional or locally varied neighbourhood character provisions are necessary to either protect or enhance the existing character of an area or to achieve a preferred future neighbourhood character.

PPN28 identifies that the application of the neighbourhood character amendment can affect the provision of housing in the municipality and the extent to which housing demands will be met. It identifies that a level of analysis of the impact of the amendment is necessary to demonstrate that other housing objectives have not been prejudiced. This includes an analysis of five housing tests:

1. What is council’s projected population for the next 30 years;
2. How many new households will be required;
3. Given the existing number of dwellings, how many additional dwellings are required to meet population and household projections over an initial 15-year period;
4. How will these additional dwellings be provided within the municipality; and
5. What impact will the implementation of the neighbourhood character amendment have on achieving the number of dwellings that need to be provided to meet other housing objectives over the initial 15-year period.

Planning Practice Note 78: Applying the Residential Zones – June 2015 (PPN78)

While PPN78 is no longer current following the introduction of VC110 and is to be replaced with a new Practice Note, it provides some useful guidance regarding the level of strategic planning analysis required to underpin the application of zones including:

- identifying how they implement the strategic directions of Plan Melbourne
- identifying how they support state and local planning policies
- ensuring the zones being applied consistent with their purpose
• giving effect to an adopted Housing Strategy which includes consideration of demand, growth, infrastructure capacity, heritage and environmental constraints
• providing for a balanced approach that provides housing choice and diversity.

PPN78 provided principles and criteria for applying the residential zones.

2.6 Discussion and conclusion

For the reasons set out in the following chapters, the Panel concludes that the Amendment is supported by, and implements, the relevant sections of the PPF, and is consistent with the relevant Ministerial Directions and Practice Notes. The Amendment is sufficiently well founded and strategically justified, and the Amendment should proceed subject to addressing the more specific issues identified by the Panel as discussed in the following chapters.
3 Ruskin Park neighbourhood character

3.1 The issues

The issues are:

- Whether the Ruskin Park neighbourhood has a unique character that warrants recognition and protection?
- Is the NRZ the right planning tool to recognise and protect the identified character of the area?

3.2 Evidence and submissions

(i) Extent of character

Many of the supportive submissions for the Amendment (submissions 4, 9-12, 15, 18, 20-27) identified the characteristics of the neighbourhood that attracted them to the area or were special to them including:

- established gardens
- mature canopy trees
- sense of greenery and associated bird life
- relatively low building scale, feeling of openness and space between buildings.

These characteristics were further identified at the Hearing with submissions from Mr Ashman (Submission 27) and Ms Raymant (Submission 20). Ms McMahon (Submission 22) described the area’s canopy trees (made up of liquidambers, oaks, conifers and eucalypts), as being “emblematic of the area”.

Conversely the submission from Planning Sense (Submission 33) suggests the area has “limited, sparse and degraded tree coverage” and an “absence of any unique, sensitive, pristine or special neighbourhood character”.

The evidence from Ms Scott summarised her Character Assessment which was informed by the 2018 Character Study Review which included an audit of all 24 Neighbourhood Areas identified in the 2004 Character Study\(^4\). Ms Scott indicated that the audit revealed that while many of these character elements were still present, those relating to architectural style, building height, garden style and frontage treatments were not, predominantly as a result of recent development activity (refer Table 3).

Ms Scott however, concluded the vegetation cover and existence of large canopy trees was still the defining character element of the area and provided an important visual link to the Dandenongs. She identified that the prevalence of vegetation is important both as a ratio to built form, and as the dominant element in elevation when viewed from the street. In support of this position Ms Scott provided a series of photos of the area in her PowerPoint presentation (of Alamein Avenue, Moomba Court, Timms Avenue, Pascoe Avenue and Ervin

\(^4\) The 2004 Character Study identified character elements for the Ruskin Park neighbourhood area are identified in Chapter 2.2(ii)
Road) which identified vegetated backdrops, mature canopy trees in front and rear gardens and the role played by established street trees.

Table 3 Ruskin Park Character Assessment Audit findings

<table>
<thead>
<tr>
<th>2004 Character Study - Ruskin Park character elements</th>
<th>Audit findings</th>
</tr>
</thead>
<tbody>
<tr>
<td>Architectural styles a mix of 1950s and 1960s with small cluster of 1970s – 1980s and some modern dwellings</td>
<td>New development in the form of infill, multi-unit developments and townhouse developments has occurred throughout the neighbourhood since 2005, but particularly in the eastern area. This has resulted in the loss of older housing stock</td>
</tr>
<tr>
<td>Dwellings predominantly single storey</td>
<td>The majority, if not all, new development is double storey</td>
</tr>
<tr>
<td>Gardens styles are mixed and established with many examples of exotic and native large canopy trees</td>
<td>The clearing of sites associated with multi-unit developments had resulted in the loss of canopy trees and the inability to support substantial garden vegetation</td>
</tr>
<tr>
<td>Frontage treatments vary, with examples of low fences, high fences, open frontages and vegetation planted at the front boundary</td>
<td>Some new developments are dominated by hard surfacing, including driveways, within the front setback</td>
</tr>
</tbody>
</table>

Many submissions expressed concern about the loss of these character values as a result of recent development in the Ruskin Park area (submissions 2, 4, 9-15, 18, 20-27), particularly the removal of canopy trees and the lack of adequate garden space for replacement canopy trees to survive and flourish. Other concerns related to the loss of built form character, the scale of new development and lack of space between buildings, as well as the pace of development activity and a concern that the valued character was being eroded. Submissions from Mr Ashman, Ms Monk (Submission 1) and Ms McMahon identified impacts associated with the extensive removal of vegetation for new development on the habitat and passive cooling values of the areas tree cover. Ms McMahon, Ms Kopecek and Ms Raymant provided photos of recent development sites where all mature vegetation had been removed.

Highlighting the extent of change in the area, Mr Ashman provided a series of images (as summarised in Figure 5) which identified the distribution of single dwellings (orange), two dwellings on a lot (brown) and other medium density housing development (pink and mauve) in the subject area, and sites where development was understood to be planned (red).

The written submission prepared by Millar Merrigan for Mr Young and others included a plan which also identified the extent of medium density housing development and resultant subdivision activity in the area. Both the Ashman and Millar Merrigan maps identify large medium density housing developments at the periphery of the Amendment area along Hull Road and Mount Dandenong Road. The Planning Sense submission considered that the extent of housing change in the area should be taken into consideration when contemplating applying a control which would, in its opinion, further limit opportunities for development.

Ms Scott identified that the Ruskin Park area was one of several neighbourhoods in the Municipality that were experiencing significant change (refer Figure 6 map excerpt from the
2018 Character Study Review). She considered that Ruskin Park had undergone a medium to high level of change. In response to a question from the Panel, Ms Scott indicated that despite this level of change she did not think, that as Mr Stock’s submission (Submission 17) put it, the horse had already bolted. She referred to a set of aerial images in Council’s Part A submission from 2003 and 2018 that showed that while the level of development activity over this timeframe was apparent, the extent of tree canopy cover was still relatively intact. She concluded that the tipping point had not been reached, but that action was required now to ensure this point was not soon reached.

Ms Scott indicated that despite some concentrated areas of development having imposed upon the streetscape and landscape character, she considered it unnecessary to reduce the proposed Amendment area to exclude larger periphery medium density housing developments, identifying that it was important to take the longer-term view of the Amendment’s vegetation outcomes.

Figure 5  Dwelling type distribution - Ashman submission
Council further identified, that despite the audit observations of an increase in dwelling height, the area is still one where single and double storey residential development predominates.

Figure 6  Neighbourhood Area extent of change

(ii)  Using the NRZ

The submissions from Mr Young, Planning Sense, K and L Lui (Submission 7) and Mr Stock considered that adequate policy and planning measures existed in the Maroondah Planning Scheme to ensure appropriate housing outcomes which reflected the character of the Ruskin Park neighbourhood including:
the GRZ1 purpose and schedule variations which allow for additional requirements for side and rear setbacks and open space
the neighbourhood character and significant tree provisions of Clause 54 and 55
the application of the SLO4
Clause 22.02.

The submissions from Mr Young and Planning Sense suggested that the Ruskin Park area lacked the level of environmental significance to warrant the application of the NRZ given the lack of any heritage, environmental significance, erosion management, heritage or design and development overlays in place. The submissions also identified that as the SLO4 rather than SLO3 applied to the area, the vegetation present was of a lower level of landscape significance.

The submission from Mr Ho (Submission 5) suggested abandoning the application of the NRZ and developing a new schedule to the GRZ with more specific requirements for landscaping and open space, while the submission from Mr Stock supported the exclusion of any properties with abuttal to road zones from the Amendment.

A number of supporting submissions made the point that sufficient pervious open spaces created by building setbacks were necessary to support the establishment or right growing conditions for canopy trees to flourish. Ms McMahon’s submitted that a sufficient root zone free from compaction was required to enable canopy trees to spread, develop natural forms, capture light and maintain vitality. She suggested that this area would require a minimum dimension of 9 metres (significantly more than the 5 metre dimension identified in the current GRZ1 and NRZ3 provisions or the proposed NRZ6 schedule variations to Clause 54 and 55 requirements).

Ms Scott’ in her evidence and response to questions from the Panel, identified the following key reasons for applying the NRZ over the GRZ to the Ruskin Park neighbourhood area:

• the default NRZ building height of 9 meters and two storeys which will maintain the dominance of tree canopy over building height
• the height provisions of the NRZ better responded to the “existing low scale built form that characterises the area”
• that only the NRZ allows the introduction of character objectives including special character related to landscaping and not just built form
• the GRZ schedules were more focused on strategic application of the zone rather than a precinct or character-based application
• it would help bolster the intent of the objectives and policies of Clause 22.02 which she considered not particularly effective
• it would further support and elevate the objectives and provisions of SLO4.

Ms Scott’s Character Assessment also explored the application of the Neighbourhood Character Overlay to the area but concluded that it was not an appropriate tool in this instance, as the character of the area “relates less to built form, and more to vegetation and canopy tree cover, and the balance between buildings and greenery”.

The evidence from Ms Scott identified that the ability to retain and require canopy trees relates to the space available to plant and sustain them, which in turn relates to the ratio of building footprint and hard surfaces to permeable site area. Ms Scott indicated that while
scope existed to apply variations through both the GRZ and NRZ to support canopy vegetation planting, building height relative to tree canopy height was the determining factor:

The visual dominance of vegetation and canopy trees also relates to the height of buildings. That is, throughout Ruskin Park it is not only important that buildings are surrounded by vegetation, but that built form sits below the established tree canopy height. This maintains a skyline dominated by leafy, green treetops as opposed to roof tops, and strengthens the visual links to the nearby Dandenong Ranges. The default maximum mandatory building height is one of the few differences between the NRZ and the GRZ.

While not including Ms Scott’s suggested variations relating to site coverage, impervious area and canopy tree planting, Council acknowledged that the Amendment represented a stepped implementation approach, with subsequent amendments to follow a review of all character neighbourhoods (2018 Character Study Review), consequential changes to Clause 22.06 and a strengthening of SLO4, as well as the addition of three to six new variations to NRZ6.

Council submitted that the Amendment was consistent with PPN28 and PPN43 given:

- (it) is supported by a rigorous analysis and assessment of neighbourhood character
- (the) Ruskin Park Character Assessment considers the interaction between the features and neighbourhood characteristics of the locality and makes recommendations as to which of the features and characteristics are significant and how they contribute to the character of the neighbourhood
- the proposed area exhibits specific characteristics that need to be protected or changed to achieve a preferred character;
- the area, relative to the rest of the municipality, requires a specific approach to neighbourhood character
- the application of local policy, the standard provisions of Clause 54 and Clause 55 or the residential schedule will not satisfy the neighbourhood character objectives identified in the local planning policy framework (LPPF) for that particular area.

### 3.3 Discussion

During the Panel’s inspection of the Ruskin Park area the vegetated character established by landscaped front gardens and canopy trees in the public and private realm was evident. While the area subject to the Amendment is large, the Panel noted the built form was generally characterised by single and two storey detached dwellings with generous front and side setbacks. The Panel noted that the vegetation character within the Ruskin Park Neighbourhood Area to the north of Hull Road was markedly different, with a general lack of canopy trees or mature garden settings and a more varied dwelling setback.

The Panel supports Ms Scott’s characterisation of the area as identified in her evidence and the Character Assessment, and the strong role that canopy vegetation plays in establishing the character of that part of the Ruskin Park neighbourhood proposed to be included in the NRZ. Canopy vegetation provides an important role as a backdrop to the neighbourhood and the Dandenongs and in reinforcing a more modest building form. The Panel considers that the Character Assessment has been developed in a sufficiently robust manner, consistent with PPN28 and PPN43, and refined its examination to an area smaller than the Ruskin Park Neighbourhood Area identified in the 2004 Character Study.
The extent of change occurring in the area from medium density housing activity and subdivision is visually apparent and highlighted in the maps provided by Mr Ashman and Millar Merrigan. While these developments represent significant change in the neighbourhood, many of the built form responses are broadly consistent with the preferred character identified in Clause 22.02. What distinguishes these developments from their context however, is the lack of remnant canopy trees (they were absent from most sites observed and in photos provided by submitters to the Panel) or any meaningful established gardens (including trees likely to form a canopy habit).

The Panel agrees with Council and Ms Scott, that despite recent development activity and the loss of canopy trees and other site vegetation, canopy trees and other vegetation within the private and public realm remain strong and distinguishing visual elements in the area and the ‘tipping point’ has not been reached where the Amendment would have minimal benefit (refer aerial image from VicPlan for part of the Ruskin Park area in Figure 7).

**Figure 7** Vegetation extent (VicMap)

While the Maroondah Housing Strategy does not signal that this part of Ruskin Park is of ‘high environmental character’ (because it is not in the mapped SLO3 area) this does not imply that it has no or limited environmental value or character or that, that was inferred. The Panel considers that it is sufficient that the existing vegetation character is recognised by SLO4 (and remains readily apparent through visual observation and a Character Assessment) to establish that the vegetation qualities of the area are of level of significance to meet the objectives of Clauses 12, 15, 21.06, 21.07 and 22.02. The Panel further considers that it is not necessary for the area to also have other overlays in place (Heritage, Vegetation Protection, Environmental Significance, Design and Development Overlays for example) to establish a character worth recognising and enhancing as proposed.

The canopy tree character of this part of the Ruskin Park Neighbourhood Area has been acknowledged since the 2004 Character Study and through the application of Clause 22.02 and SLO4. The Amendment further acknowledges and reinforces this character. Despite references in the Explanatory Report and Maroondah Housing Strategy and several submissions that the Amendment is more a culmination of community pressure and concern
about development activity in the area, the Panel is satisfied that Council has undertaken the work to identify what is important about the character of the area and consider the strategic analysis to understand the broader housing policy implications of the NRZ. Critically, no other evidence was provided to the Panel to indicate a lack of landscape character in the area worth acknowledging and enhancing.

The Panel accepts that there is a case to be made to further enhance the canopy vegetation character of the Ruskin Park Area. Setback provisions, permeability and site coverage variations are all considered necessary to support the establishment and health of canopy trees. Building height variations can also be appropriate to manage the relationship between building height and bulk and visual impact of canopy vegetation. As identified in submissions, there are a number of ways that this character could be recognised or enhanced including through policy strengthening, a revised GRZ schedule or through the application of the NRZ.

Based on Council’s submission and Ms Scott’s evidence including identification of several Victorian Civil and Administrative Tribunal decisions, policy alone is not achieving the preferred character and landscaping outcomes being sought and the area is undergoing dramatic change as a result.

As identified earlier in this Report, the GRZ and proposed NRZ6 contain the same variations relating to open space and setbacks and the Clause 54 and Clause 55 provisions are currently the same for both zones for site coverage (60%) and permeability area (20%). Accordingly, the existing GRZ1 schedule could be amended to provide additional variations for site coverage and permeability (which would then apply to all areas where the GRZ1 exists regardless of landscape character) or a new schedule applied just to the Ruskin Park Area. While this would go some way to addressing the landscape outcome that Council is seeking, the application of a new localised GRZ would create greater strategic uncertainty and potentially result in the creation of several precinct based GRZ’s rather than using a housing policy themed based approach (for example to support higher densities in areas within a certain distance of train stations or neighbourhood activity centres). There are three primary reasons why the NRZ is favoured; strategic fit with the zone purpose, identification of character objectives and height provisions.

The GRZ is usually applied in most residential areas, where moderate growth and diversity of housing that is consistent with neighbourhood character is to be provided and encouraged. These areas typically have a diversity of housing stock, diversity of lot size and a more varied neighbourhood character. As further discussed in Chapter 4, this is not an area that Council is looking to direct growth or encourage significant housing diversity. The area generally comprises larger lots and single and double storey detached dwellings.

The NRZ is more often applied in areas where single dwellings prevail, and change is not identified, for example areas of recognised neighbourhood character or landscape significance that are sought to be retained. These areas typically have more than 80% of lots accommodating detached dwellings and may not have good supporting infrastructure, facilities and services. While the Ruskin Park area has a reasonable level of access to services

and an increasing number of medium density dwellings, the form is still predominantly detached and the landscape character well established.

The Panel considers that the NRZ6 is an appropriate zone to apply to the area to reflect the landscape character of the area and is a more appropriate fit than the GRZ1. The Panel is of the view that the landscape character alone (rather than the built form character) is an appropriate basis for applying an NRZ and is consistent with the zone purpose and its outcome intent.

The Panel considers that the extent of the NRZ6 is appropriate and that it is not necessary to remove large medium density housing sites or other sites along major roads from it. This is because the character objectives sought relate to vegetation and tree cover and the NRZ will enable future development to re-establish canopy trees where they have been lost and enable remaining canopy trees and vegetation to survive.

It is not considered significant that if adopted, the Amendment will create the first NRZ area within an SLO4 (all others are within the SLO3). The relationship between the NRZ and SLO4 is historic and not a deliberate strategy. SLO3 reflects landscape significance in a geological and topographical setting quite different to this part of Ruskin Park. Landscape character is only one element relevant in the application of an NRZ and it does not mean that this Amendment provides justification for all SLO4 areas to have an NRZ applied. It is critical that both the importance of landscape or neighbourhood character elements are appropriately established and the broader strategic analysis and justification made as it has in this instance, before the zone is applied.

The proposed character objectives are considered appropriate. The Panel considers they reasonably draw from source materials such as the Character Assessment and relate to the landscape rather than built form which are already set out in Clause 22.02.

While the Panel considers it somewhat optimistic, that without the additional variations proposed to the NRZ schedule by Ms Scott (which she considered would support the development of canopy trees of 9 metres or more), that the proposed NRZ6 would enable canopy vegetation to dominate over two storey buildings. It will however enable existing and replacement vegetation to become stronger visual elements within a neighbourhood comprising one and two storey dwellings.

The Panel supports Council’s intention to make further changes to the NRZ6 to fine tune it with appropriate variations consistent with Ms Scott’s evidence as part of the next phase of implementing the Maroondah Housing Strategy and 2018 Character Study Review. This will provide further opportunity for submitters to have input into the further shaping of NRZ6 in the broader context of the Maroondah Housing Strategy and 2018 Character Study Review.

3.4 Conclusions

The Panel concludes:

- That the Ruskin Park neighbourhood has a unique landscape character that warrants recognition and protection
- The NRZ is the right planning tool to recognise and protect the identified character of the area.
4 **Policy support**

4.1 **The issue**

The issue is:
- Whether the application of the NRZ to the Ruskin Park neighbourhood is strategically justified?

4.2 **Evidence and submissions**

Several submissions suggested that the application of the NRZ was inappropriate because:
- it did not account for the infrastructure and other attributes of the area that made it suitable for housing development
- there were no special environmental characteristics present to warrant it
- it was not strategically consistent with the PPF and Maroondah Housing Strategy
- it would limit housing supply, diversity and choice.

The submission from Mr Ho identified the diversity of lot sizes present and larger lot sizes that suited further housing development. Mr Stock’s submission identified larger medium density housing developments, a retirement village, medical services and commercial activity at the periphery of the area which contributed to a character less suitable for the NRZ. The submission from Planning Sense identified that the physical suitability and infrastructure capacity was present to absorb additional housing change, and the proximity to services and facilities including public transport and open space were ideal for supporting moderate housing growth, consistent with the purpose of the GRZ. Similar observations were made in the Young submission.

The submission from Millar Merrigan for Mr Young indicated that the NRZ was inconsistent with:
- the PPF particularly:
  - Clause 16 (Housing) by reducing the potential for more affordable housing, not meeting community housing needs for diversity and choice, underutilising well located and serviced land thereby decreasing supply.
  - Clause 21.07 (Housing and Residential Land Use) as the area is appropriately identified as a “conventional residential precinct” not in a “high environmental quality” area as indicated in the Maroondah Housing Strategy.
- Plan Melbourne, as it acts as a barrier to diversity and the intent of the reformed residential zones and limits the ability for Council’s policy to “maintain and enhance the mix of housing types and residential densities to cater for the changing profile of the population”
- the purpose of the Maroondah Housing Strategy, by not meeting the communities diverse and changing needs by providing a broad range of housing across Maroondah, and the neighbourhood not being within an area of “high environmental quality (SLO)” as identified in the Housing Framework
- the Victoria in Future growth projections are higher than those identified for Maroondah in the Maroondah Housing Strategy background report and the
application of the NRZ will further reduce the potential for additional dwellings and market diversity

- the provisions of the GRZ which are to encourage development that respects neighbourhood character, provides diversity and moderate growth.

The Millar Merrigan submission also suggests that Maroondah Housing Strategy should be implemented before or as part of the current Amendment.

Council’s Part A and Part B submissions identified the strategic policy basis that supported the Amendment. This is generally outlined in Chapter 2 of this Report and not repeated here.

Council identified that area affected by the Amendment created an additional 95.3 hectares of NRZ land, increasing the area of the Municipality within the NRZ to 43.1% and reducing the GRZ area to 52.8%, and that:

These figures are anticipated to be refined further over time, as the area-specific impacts of Maroondah’s policy neutral implementation of the residential zones become clearer. This refinement of the Municipality’s zoning, following the policy neutral amendment, is considered to be an appropriate, measured and necessary process.

Council concluded that the Amendment was:

- the culmination of significant strategic work and investigations supported by an independent assessment of the factors that underpin the application of the Neighbourhood Residential Zone to Ruskin Park
- underpinned by a robust and contemporary housing strategy and fulfils a key priority of the Maroondah Housing Strategy
- achieving a balance between housing growth and maintaining neighbourhood character and vegetation without prejudicing the overall strategic framework of meeting housing growth needs with housing diversity
- acknowledging the need for planning to be dynamic to respond to shifts in policy, demographic changes influencing housing demand and supply and allowing for further fine tuning of the residential zones as anticipated by the Maroondah Housing Strategy
- requiring modest changes that are reasonable, well founded and strategically justified.

In supporting this position, Council indicated that Clause 21.07 anticipates a spectrum or blend of residential precincts which support increased residential development around activity centres and areas closer to transport hubs (such as the Ringwood Metropolitan Activity Centre, Croydon Major Activity Centre, Ringwood East and Heathmont Neighbourhood Activity Centres), conventional residential precincts (incremental growth), and areas of high environmental quality which had been identified for some time, such as ridgelines (SLO3). Council considered that the level of residential development anticipated near activity centres cannot be the expectation in all areas, with a transition or ‘stepping down’ of built form and the level of development intensity appropriate as distance from activity centres increases and greater respect is provided for existing and preferred character.
4.3 Discussion

The Panel agrees that the Ruskin Park neighbourhood area exhibits characteristics that make it suitable for medium density development including large lots, gentle topography, services, minimal constraints and access to open space and a primary school. The subject area is (at its edges) approximately 1 – 1.5 km from Mooroolbark and Croydon Stations and served by bus services along Hull and Mount Dandenong Roads. The Kilsyth Shopping Centre is located to the south-east of the precinct with the Croydon Major Activity Centre approximately 1.2 km to the west. Landscape character aside, Ruskin Park is a neighbourhood that has strategic attributes appropriate for the application of a GRZ and modest housing change.

Clause 22.02 and the application of the SLO4 however, anticipate a more measured approach to development that responds to the character of the area particularly in relation to retaining canopy trees and ensuring the landscape character is a strong element in the neighbourhood setting.

Clause 21.07 and the Maroondah Housing Strategy seek to provide a balanced approach to meeting the Municipalities future housing needs and protecting areas of landscape character. During the Hearing, Council indicated that its existing housing policies were starting to take effect around the major activity centres with higher density housing proposals coming forward, with even greater activity anticipated in response to the revised 2018 Ringwood Development Plan.

The Panel does not believe that the Amendment is premature on the basis that the Maroondah Housing Strategy has only been adopted by Council and not tested through its own amendment process. While this Amendment has not provided a basis for critical assessment of the Housing Strategy through a more extensive amendment process, the Panel considers that the Amendment supports the first phase of implementation of the Maroondah Housing Strategy as it relates to Ruskin Park. The adopted Maroondah Housing Strategy is however, considered to be sufficiently robust and consistent with the 5 Housing Steps approach identified in PPN28 and with the level of strategic planning identified in the former PPN48. Significantly the draft Maroondah Housing Strategy was peer reviewed (by SGS Economics and Planning) before adoption. Given the level of development activity in the Ruskin Park area it is considered reasonable to deal with this element of the Maroondah Housing Strategy more urgently.

Council is however, strongly encouraged to progress an amendment to introduce the Maroondah Housing Strategy before introducing any further residential zone changes. The Panel on day 2 of the Hearing requested Council to provide an update on its strategy for implementing both the Maroondah Housing Strategy and the Character Study Review. Council subsequently advised (Document 20) that it is intending to introduce the Maroondah Housing Strategy as a reference document. In relation to the Character Review, Council advised that an implementation timetable, subject to Council approval, is intended to be presented to Council in late April 2019, undergo a community engagement phase over May 2019 and presented back to Council for adoption in July 2019. The implementation plan anticipates further amendments to the Schedule to the NRZ. Council highlighted other strategic work in train arising from the Housing Strategy including, a review of vegetation controls (notably the ridgeline SLOs), a further heritage study, a review of the Ringwood Master Plan and the
Croydon Structure Plan as well as the local planning policy framework transition into the new VC148 Planning Policy Framework format.

The Panel notes that the application of the NRZ6 does not necessarily stifle or prevent well designed medium density housing activity. It is not the intent of Clause 21.07 or Clause 22.02 or the Maroondah Housing Strategy to lock the area away from development. Nor does it signal an approach to apply the NRZ more widely. Council and indeed many residents, identified that a level of development and change was anticipated (submissions 11, 12, 14, 15 and 20), but that it just needed to more appropriately respond to the landscape and neighbourhood character of the area.

A key concern for some submitters (Mr Ho, submissions 6, 8 and 13) was the two-dwelling limit that previously applied in the NRZ (prior to introduction of Amendment VC110 and post exhibition of the Amendment). The removal of this provision from the NRZ no longer provides for an arbitrary dwelling limitation, rather it requires a development to appropriately respond to the identified neighbourhood character elements and zone schedule variations (which are currently the same in the GRZ1, NRZ3 and NRZ6). For the Ruskin Park area this is likely to mean modest development of one and two storeys and site layout responses which allow for the retention and planting of potential canopy trees.

The Panel observes that the area has already demonstrated that it can absorb medium density housing of an appropriate scale and design and has arguably already contributed to the supply of housing anticipated in the Maroondah Housing Strategy. The Maroondah Housing Strategy identified that:

Research data indicates that 69% of all residential development projects in Maroondah are small scale, resulting in either one or two net additional dwellings. Despite the high levels of project activity, small scale projects accounted for only 29% of all net additional dwellings during 2013. It further notes that it is important that land use policy in Maroondah considers this trend and ensures that liveability objectives are not compromised.

It is anticipated that the application of the NRZ6 to Ruskin Park will still enable smaller scale development to occur in a way in which will still make a meaningful contribution to overall supply and housing diversity and to meet changing household types and will not prejudice the achievement of the overall Municipal strategic framework.

The Panel is of the therefore of the view that the application of the NRZ is strategically appropriate and provides an appropriate balance of competing policy objectives.

4.4 Conclusions

The Panel concludes:

- That the application of the NRZ to the Ruskin Park neighbourhood is strategically justified.
5 Form and content of the Amendment

5.1 Post-exhibition changes

Following exhibition of the Amendment and an analysis of the residential zone changes introduced by Amendment VC110, Council submitted a new NRZ schedule (NRZ6) to replace the proposed application of the NRZ3. The proposed NRZ6, included in Appendix D, is specific to the Ruskin Park area.

The Panel is satisfied that the changes to the Amendment (specifically the application of NRZ6 rather than NRZ3) are necessary to give effect to the Amendment. This is to ensure:

- the schedule includes character objectives as required
- the zone is reasonably differentiated from the GRZ1 in terms of development outcomes
- changes are not required to the NRZ3 (to include character objectives for Ruskin Park) as this zone applies to other neighbourhood areas within the municipality which possess quite different character attributes
- the Amendment does not need to be abandoned and recommenced.

Council advised the Panel that a further iteration of the NRZ6 to introduce variations is likely as part of the introduction of the Maroondah Housing Strategy and the 2018 Character Study Review. The Panel considers that this is a reasonable approach in the circumstances and will enable the Amendment to proceed and any further changes be subject to a further Amendment process in the context of the Maroondah Housing Strategy and the 2018 Character Study Review.

The Panel notes that the application of the NRZ6 to the Ruskin Park area creates a discrepancy with the spatial arrangement of residential zones shown on the map to Clause 22.02. While the purpose of the map is to identify the 24 neighbourhood areas identified in the 2004 Character Study this is potentially confusing to the reader. The Panel considers that the map to Clause 22.02 should be updated as appropriate as part of a broader implementation of the Maroondah Housing Strategy and the 2018 Character Study Review.

The Panel notes that the schedule title for NRZ6 is Ruskin Park although NRZ6 will only apply to a portion of the Ruskin Park Neighbourhood Area as identified in Clause 22.02 and the 2004 Character Study. The Panel considers that this title could lead to confusion to residents and landowners living inside the Ruskin Park Neighbourhood Area but outside the NRZ6. The Panel notes however, that a similar approach is proposed by Council in Amendment C116 for a small precinct within the Jubilee Neighbourhood Area (Area 17). The Panel suggests that Council could consider using different schedule titles if it is proposing to apply them more widely to portions of identified Neighbourhood Areas in future.

5.2 Recommendations

The Panel recommends:

1. Maroondah Planning Scheme C107 be adopted as exhibited subject to the following change:
a) Replace the exhibited Neighbourhood Residential Zone Schedule 3 with the proposed Neighbourhood Residential Zone Schedule 6 as shown in Appendix D of this Report.
## Appendix A  Submitters to the Amendment

<table>
<thead>
<tr>
<th>No.</th>
<th>Submitter</th>
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<tbody>
<tr>
<td>1</td>
<td>Daniel Hopewell for David Hodgett MP and on behalf of Jane Monk</td>
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<tr>
<td>2</td>
<td>Frank and Shirley Lepore</td>
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<tr>
<td>3 &amp; 13</td>
<td>Alf Mangano</td>
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<td>4</td>
<td>Marise Cortese</td>
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<td>5</td>
<td>Clement Ho</td>
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<td>6</td>
<td>Jenny Blizzard</td>
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<td>7</td>
<td>Kelvin and Lance Lui</td>
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<td>8</td>
<td>Joyce Li</td>
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<td>9</td>
<td>G Toomey</td>
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<td>10</td>
<td>Cherie Dodds</td>
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<tr>
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<td>Kelvin Dodds</td>
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<td>12</td>
<td>David and Helen Baker</td>
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<td>Harold Turner</td>
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<td>15</td>
<td>Neil Mitchell</td>
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<td>CFA North East Region</td>
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<td>17</td>
<td>James Stock</td>
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<td>18</td>
<td>Cheryl Davis</td>
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<td>19</td>
<td>Ann Rogers for Edward and Joyce Gibbs</td>
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<td>Wendy and John Raymant</td>
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<td>Tanya Lyon</td>
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<td>30</td>
<td>Millar Merrigan for Grant Young and ors</td>
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## Appendix B  Parties to the Panel Hearing

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<thead>
<tr>
<th>Submitter</th>
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<tbody>
<tr>
<td>Maroondah City Council</td>
<td>Ms Maria Marshall of Maddocks, who called the</td>
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<tr>
<td></td>
<td>following expert witness:</td>
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<tr>
<td></td>
<td>· Claire Scott, Urban Design, Claire Scott Planning.</td>
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<tr>
<td>Ian Ashman</td>
<td>Ian Ashman</td>
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<td>Margaret Rockow</td>
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<td>Rob and Glen Keedle</td>
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<td>Malcolm Alexander</td>
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<td>John &amp; Judith Isherwood</td>
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<td>Harry &amp; Gaye Bell</td>
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<td>Peter Garbett</td>
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<td>Clarissa Cowland</td>
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<td>Edward Rodda</td>
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<td>Jennifer Beale</td>
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<td>Jane Kopecek</td>
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<td>Wendy Raymant</td>
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<td>Grant Young</td>
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# Appendix C  Document list

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Appendix D  Neighbourhood Residential Zone
Schedule 6
SCHEDULE 6 TO CLAUSE 32.09 NEIGHBOURHOOD RESIDENTIAL ZONE

Shown on the planning scheme map as NRZ6.

RUSKIN PARK

1.0 Neighbourhood character objectives

- To maintain and increase the vegetation cover, particularly the existence of large canopy trees.
- To enhance visual links from Ruskim Park to the heavily vegetated Dandenong Ranges.
- To ensure that vegetation and canopy trees remain the dominant visual feature of the landscape.
- To ensure that there is a balance between the provision of vegetation and built form, by requiring an adequate amount of permeable land for planting and sustaining vegetation.
- To ensure that the skyline is dominated by tree canopies as opposed to rooftops and built form.

2.0 Minimum subdivision area

None specified

3.0 Permit requirement for the construction or extension of one dwelling or a fence associated with a dwelling on a lot

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4.0 Requirements of Clause 54 and Clause 55

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</tr>
</tbody>
</table>
### Maroondah Planning Scheme

<table>
<thead>
<tr>
<th>Standard</th>
<th>Requirement</th>
</tr>
</thead>
<tbody>
<tr>
<td>Walls on boundaries</td>
<td>A11 and B18 None specified</td>
</tr>
<tr>
<td>Private open space</td>
<td>A17 An area of 80 square metres, with one part of the private open space at the side or rear of the dwelling with a minimum area of 60 square metres, a minimum dimension of 2 metres and convenient access from a living room.</td>
</tr>
<tr>
<td></td>
<td>B28 An area of 80 square metres, with one part of the private open space at the side or rear of the dwelling with a minimum area of 60 square metres, a minimum dimension of 5 metres and convenient access from a living room.</td>
</tr>
<tr>
<td>Front fence height</td>
<td>A20 and B32 Streets in a Road Zone, category 1 1.2 metres Other streets 0.9 metres</td>
</tr>
</tbody>
</table>

#### 5.0 Maximum building height requirement for a dwelling or residential building

None specified

#### 6.0 Application requirements
- None specified

#### 7.0 Decision guidelines
- None specified