

Delegate report - Planning Scheme Amendment

Local Planning Policy Framework Translation to the Planning Policy Framework format

Summary

Officers from Council and the Department of Transport and Planning have been working to convert the local policy content of the Maroondah Planning Scheme into a new format. A final draft has now been prepared for Council's consideration under delegation.

The draft is largely appropriate, and with some minor modifications will be a neutral translation of the existing content. It is recommended that the Minister for Planning be requested to prepare an amendment to implement the translation subject to these changes. As the amendment would contain no policy changes public exhibition is not expected to be required.

Purpose

The purpose of this report is to formally consider proposed changes to the Maroondah Planning Scheme in response to Amendment VC148. The changes:

- Translate the Local Planning Policy Framework of the Maroondah Planning Scheme to the new Municipal Planning Statement and integrated Planning Policy Framework format instigated by Amendment VC148.
- Make associated changes to the:
 - Vegetation Protection Overlay, Schedule 1.
 - Schedule to Clause 52.28 (Gaming)
 - Schedule to Clause 72.08 (Background Documents)
 - Schedule to Clause 74.01 (Application of Zones, Overlays and Provisions)
 - Schedule to Clause 74.02 (Further Strategic Work)
- Correct the Schedule to Clause 51.01, which outlines specific sites and exclusions to the general provisions of the Maroondah Planning Scheme.

It is proposed that, on Council's request, the amendment be formally prepared, adopted and approved by the Minister for Planning pursuant to section 20A of the *Planning and Environment Act 1987* (P & E Act).

Strategic / Policy Issues

The following directions contained in Maroondah 2040: Our Future Together and the Council Plan 2021 - 2025 (2022/23 Update) provide the strategic framework that underpins the purpose of this report.

Outcome Area: Well governed and empowered

Our Vision: In 2040, Maroondah will be an empowered community actively engaged in local decision making, led by an innovative community inspired Council that collaborates regionally and proactively champions local needs.

Key Directions 2021 – 2025:

- 8.1 Provide community inspired governance that is transparent, accessible, inclusive and accountable
- 8.3 Nurture a continuous improvement council culture of being collaborative, strategic, sustainable and employing best practice, that positions Maroondah as a leader in local government.
- 8.8 Ensure that all community members have access to, and are informed on, matters that affect them, including tailored information for under-represented and hard-to-reach groups.

Background

Amendment VC148 was approved by the Minister for Planning on 31 July 2018. The amendment changed the structure of the Victoria Planning Provisions and all planning schemes in Victoria by, amongst other things:

- Deleting the State Planning Policy Framework (SPPF) and replacing it with a new integrated Planning Policy Framework (PPF) in Clauses 10 to 19.
- Deleting Clauses 1.0 (Preliminary) and 2.0 (User Guide).
- Moving the planning scheme purposes from Clause 1.0 to new Clause 01 (Purposes of this planning scheme) and inserting new Clause 00 (Purpose and Vision).
- Moving the operational provisions for the Local Planning Policy Framework (LPPF) to new Clauses 23.02 and 23.03 and inserting a new Clause 23.01 to explain the relationship between the LPPF and the PPF.
- Amending provisions (including schedules) to update references to the new MPS and PPF and as a result of the restructure and reorganising of provisions.

The then Department of Environment, Land, Water and Planning then began a process of assisting Councils with translating their Local Planning Policy Framework into the new format. Many Councils, including Maroondah, elected to work with the Department to create a 'policy neutral' translation of the current provisions. The neutrality of the translations has allowed these to be formally prepared, adopted and approved by the Minister for Planning without the need for public consultation.

Council officers began working with Departmental staff in 2019 to translate Maroondah's local provisions to the new format. This work has been ongoing, and a final draft is now ready for consideration.

Issue / Discussion

The key issue for discussion is the neutrality of the proposed changes. This has been overwhelmingly achieved by:

- Tracking the source and destination of text to ensure concepts were neither added nor deleted.
- Ensuring that any text to be deleted was either
 - a duplication of text/concepts already present in the Planning Policy Framework, or
 - seeking to achieve goals that are beyond the scope of the P & E Act.
- Ensuring that maps, whilst updated, include the same information as those currently in the planning scheme.

Whilst every effort has been made to achieve a neutral translation of existing content, there are some areas where modification is necessary. The discussion below addresses the following:

- Strategic Framework Plan
- Strategic Directions for Transport
- Environmentally Sustainable Development Policy
- Eastlink - Buildings, Works and Signage Policy
- Future strategic work
- Formatting, grammar and mapping updates

Strategic framework plan

The Maroondah Planning Scheme currently contains a Strategic Framework Plan within Clause 21.02-2. It is proposed that the plan be relocated to Clause 02.04. The form of the plan has been updated to improve readability for all, however its contents remain unchanged. The proposed translation changes the title to Strategic Land Use Framework Plan. It is considered that this is not a neutral translation as the plan relates to other matters, such as built form and vegetation, and not just land use. This can be seen in the key:

 Ringwood Metropolitan Activity Centre	 Industry
 Croydon Major Activity Centre	 Restricted Retail
 Heathmont Neighbourhood Activity Centre	 Maroondah Hospital Precinct
 Ringwood East Neighbourhood Activity Centre	 Waterway
 Apartment Style Housing	 Railway Station
 Greyfield Renewal Areas	 Railway line
 Ridge Protection Areas	 Proposed Major Arterial Road
 Landscape Protection Areas	 Municipal Boundary
 Urban Growth Boundary	

Introduction of the 'land use' descriptor inappropriately narrows the application of the plan and is not supported. Clause 19.02-1L refers to the Plan and should also be updated.

Strategic Directions for Transport

Clause 21.05 of the current scheme includes an objective to “create linked shared trails, walking paths and bicycle lanes that encourage cycling and walking”. It was proposed that this be translated into Clause 02.03-8 as the following strategic direction for transport:

Create shared trails, walking paths and bicycle lanes that provide access to facilities.

This text has been removed by the Department in the final stages of developing the draft. It is understood that the reason for this is that it is unnecessary as State policy addresses this issue. It is considered that this overlooks the purpose of the Strategic Directions, which is to outline Council's priorities. Reinstatement of the text is considered to be appropriate.

Environmentally Sustainable Development Policy

Council joined with other Council Alliance for a Sustainable Built Environment (CASBE) Councils to implement its Environmentally Sustainable Development (ESD) Policy, which is currently located at Clause 22.15 of the Scheme. Whilst the policy is substantially similar to policies introduced by other CASBE Councils, it contains minor wording differences to other Councils' policies.

The (now) Department of Transport and Planning have advised that all ESD policies that were within the planning schemes of CASBE Councils have been translated to the new form in an identical format.

There is currently no requirement in the Maroondah Scheme to provide any ESD information for an application to develop a new building for accommodation (other than a dwelling) regardless of its floor area, with the text referring to alterations and additions to buildings. The proposed clause refers to 'building' which covers both new structures and extensions to existing ones. Accommodation uses affected include residential aged care facility, motel, rooming house and retirement village.

If approved as proposed the amendment would make the following changes to the application requirements in Maroondah:

Proposed floor area / number of dwellings (total)	New floor area / number of dwellings	Current application requirement	Proposed application requirement
500 m ² to 999 m ²	New building	Nil	SDA
> 1000 m ²	New building	Nil	SMP and GTP
500 m ² to 999 m ²	<500 m ²	Nil	SDA
> 1000 m ²	<500 m ²	Nil	SMP and GTP
> 1000 m ²	500 m ² to 999 m ²	SDA	SMP and GTP

Whilst the desire for consistency is acknowledged, and it is recognised that the differences would appear to be unintended, they do introduce a new or altered application requirement for a range of applications. Examples of new requirements include planning applications for:

- A new nursing home.
- A 100 m² addition to an existing motel that currently has an area of 450 m².

Introduction of this requirement is not considered to be consistent with Council Plan directions that seek to involve our community in decisions that affect them. It is recommended that, in supporting the proposed amendment Council seek modifications to remove the inconsistencies with the current Clause 22.15. The changes proposed are included in Attachment 3.

Future actions

It would appear that Maroondah's unique ESD policy wording is as a result of an accidental omission or error in drafting the control. The Background Report to Amendment C137maro, which introduced the policy, contains the following tables which summarise the intended application requirements:

Table 3.2: Proposed thresholds for small residential development

Proposed Thresholds	Applications Requirements	Rationale
<ul style="list-style-type: none"> - 3- 9 dwellings; or - Development of a building for accommodation other than dwellings with a gross floor area of 500m² to 1000m²; or 	Sustainable Design Assessment (SDA)	<ul style="list-style-type: none"> - Balancing ambition with the work load - Majority of multi-dwelling development types captured - Same threshold to many other Metropolitan LGAs - Increase of ESD assessment

Table 3.6: Proposed thresholds for large residential development

Proposed Thresholds	Applications Requirements	Rationale
<ul style="list-style-type: none"> - 10 or more dwellings; or - Development of a building for accommodation other than dwellings with a gross floor area more than 1000m². - Alterations and additions creating 1000m² or more of additional gross floor area (excluding outbuildings). 	Sustainability Management Plan (SMP) Green Travel Plan (GTP)	Consistency with threshold of other LGAs

These tables would indicate that it was Council's intention to apply the provision to new buildings and to smaller extensions that result in a floor area of between 500 m² and 1000 m². This, however, was not included in the exhibited version of amendment C137maro. In the event that the Minister for Planning changes the proposed amendment as requested, adjustments of the ESD policy should be contemplated as part of the current planning scheme review process.

EastLink - Buildings, Works and Signage Policy

Clause 22.14 currently contains Council's policy with respect to buildings, works and signage on land near the Eastlink corridor. The Clause states that:

The policy will apply:

- *To sites that abut the freeway corridor;*
- *To sites that have an immediate proximity to the freeway corridor and that are prominent from the freeway.*

The translated policy includes links to maps which show where the policy applies. It is considered that providing a map of the extent of the policy provides more certainty than the current 'immediate proximity' wording, and that the sites shown can reasonably be classed as having such proximity to the roadway. As a result it is considered that the change is likely to be policy-neutral.

However, the maps are not proposed to be included within or incorporated into the scheme. As a result, they would not be readily available to all users. It is recommended that in place of the document "Corridor Plans - City of Maroondah (ConnectEast, August 2022)", a single map showing the same information be included in the new Clause 18.01-1L. The suggested form is included in Attachment 4.

Future strategic work

The current Maroondah Planning Scheme includes descriptions of future strategic work in a number of locations. One of the outcomes of Amendment VC148 is that all of these references are to be consolidated into the Schedule to Clause 74.02. In order for identified future strategic work to be translated into the new Schedule it needed to be reasonably able to be implemented through the planning scheme and also not to have been completed. A review of the actions included indicated that a large number of them could not appropriately be translated into the new Schedule. As a result a decision was made to omit all of them.

Council is actively working to improve planning of the municipality through a range of strategic planning work. As part of this, it is currently undertaking a review of the Maroondah Planning Scheme. In order to ensure that this record of previously-identified 'future' strategic work is not lost, the Planning Scheme Review will include an analysis of each of the actions currently in the scheme. The Schedule to Clause 72.04 will then be populated with a list of strategic work. Whilst the Schedule provides an indication of Council's workplan, the lack of detail within it will not alter the way that the Scheme functions.

Formatting, grammar and mapping updates

A review of the final draft supplied to Council indicates instances where:

The formatting of text does not appear to meet State Government guidelines.

Minor grammatical or similar text changes would improve readability of the text.

The maps utilised are not to an appropriate resolution or are not the final copies agreed to.

It is considered that these do not alter the intent of the Scheme, but that addressing them will result in a superior document. The Department has indicated that they are aware of some of the issues with the maps, and will address these prior to gazettal, however provision of a complete list of these minor matters is considered to be appropriate.

Next Steps

It is proposed that the following steps be taken in relation to the amendment and Council's review of the Maroondah Planning Scheme as a whole:

1. Consideration of the draft Amendment C144maro by Council's delegate (this report).
2. Council to request that the Minister for Planning formally prepare, adopt and approve Amendment C144maro with specified changes as detailed in the recommendation to this report.
3. Minister for Planning considers Council's request and prepares Amendment C144maro (with or without any suggested changes), adopts and approves it.

During the translation process it has become apparent that there is need for a significant review of some aspects of the Maroondah Planning Scheme, however this will be conducted separately as part of the current Planning Scheme Review process. This process is expected as follows, noting that the final timeframe assumed that Amendment C144maro would be gazetted by 31 May 2023, and additional time may be required as a result:

4. Following gazettal of Amendment C144maro Council officers finalise their review of the Maroondah Planning Scheme, including the translated policy clauses.
5. The Planning Scheme Review is reported to Council, along with a proposal to seek authorisation of planning scheme amendments to implement the Review, by 31 October 2023.
6. The Review is submitted to the Minister for Planning.

Financial / Economic Issues

Expenses associated with the approval of the Amendment will be covered through Council's operational budget.

The Amendment, subject to the changes recommended, constitutes a neutral translation of existing planning policy and will not generate any ongoing financial or economic issues.

Environmental / Amenity Issues

The Amendment, subject to the changes recommended, constitutes a neutral translation of existing planning policy and will not generate any environmental or amenity issues.

Social / Community Issues

The Amendment, subject to the changes recommended, constitutes a neutral translation of existing planning policy and will not generate any social or community issues.

Community Consultation

The Amendment, subject to the changes recommended, constitutes a neutral translation of existing planning policy and as a result has not undergone public consultation. It is considered that inclusion of this report and its attachments on Council's website is an appropriate measure to ensure transparency in the matter.

Conflict of Interest

No Council officer involved in the preparation or authorisation of this report has a general or material conflict of interest in the proposed Amendment as defined in Part 6, Division 2 of the *Local Government Act 2020*.

Conclusion

Subject to relatively minor changes, the proposed Amendment constitutes a neutral translation of the Local Planning Policy Framework contained in the Maroondah Planning Scheme to the new Municipal Planning Strategy and Planning Policy Framework format required by the Victorian State Government. It is therefore appropriate that Council request that the Minister for Planning prepare and approve the amendment without public notification.

Attachments

Attachment 1: Clauses 11.01 - 23.03, plus relevant local schedules marked up to show new and deleted text.

Attachment 2: Clean copy of the Maroondah PPF and local content proposed to replace current content.

Attachment 3: Requested modifications to Clause 15.01-2L Environmentally Sustainable Development.

Attachment 4: Requested modifications to Clause 18.01-1L.

Attachment 5: Suggested formatting, grammar and mapping changes.

Recommendation

It is recommended that Council:

1. Write to the Minister for Planning and request that they exercise their power under section 20A of the *Planning and Environment Act 1987* to prepare Amendment C144maro to the Maroondah Planning Scheme, and to adopt and approve the amendment, which would replace the following clauses of the Maroondah Planning Scheme:
 - Clauses 20-23 (Local Planning Policy Framework)
 - Schedule 1 to Clause 42.02 (Vegetation Protection Overlay)
 - Schedule to Clause 51.01 (Specific Sites and Exclusions)
 - Schedule to Clause 52.28 (Gaming)
 - Schedule to Clause 72.08 (Background Documents)
 - Schedule to Clause 74.01 (Application of Zones, Overlays and Provisions)
 - Schedule to Clause 74.02 (Further Strategic Work)

With those contained in Attachment 2, subject to the following modifications:

- a. The map title and text “Strategic Land Use Framework Plan” in Clause 02.04 and Clause 19.02-1L replaced with “Strategic Framework Plan”.
- b. Insertion of a second strategic direction for transport in Clause 02.03-8 reading:
Create shared trails, walking paths and bicycle lanes that provide access to facilities.
- c. The Policy Guidelines for Residential development within Clause 15.01-2L Environmentally Sustainable Development altered as follows:

POLICY GUIDELINES

Residential

A Sustainable Design Assessment (including an assessment using BESS, STORM or other methods) for:

- 3-9 dwellings.

- Alterations and additions to a building used for accommodation other than dwellings, creating with an increase in gross floor area of between 500sqm and 999sqm.

A Sustainability Management Plan (including an assessment using BESS/Green star, STORM/MUSIC or other methods) and a Green Travel Plan for:

- 10 or more dwellings.
- Alterations and additions to a building used for accommodation other than dwellings, creating with an increase in gross floor area of more than 1000sqm.

As detailed in Attachment 3.

- d. Clause 18.01-1L Eastlink environs altered as follows:

Policy application

This policy applies to applications for development (excluding subdivision) on land identified in the policy document ~~Corridor Plans – Maroondah (Connect East, August 2022)~~ to this clause shown as EastLink Environs Policy Area in the map below.

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Policy documents

Consider as relevant:

Approved outdoor advertising site locations on EastLink (ConnectEast, June 2010)

EastLink Advertising Code (Linking Melbourne Authority, November 2010)

~~*Corridor Plans – Maroondah (Connect East, August 2022)*~~


EastLink Environs Policy Map

<< Insert map which corresponds to the ConnectEast plans >>

As detailed in Attachment 4.

2. Advise the Minister that it has identified possible formatting, grammar and mapping updates which would improve the readability and presentation of the Scheme, as detailed in Attachment 5.
3. Place this report and the attachments on Council’s website.

Signed:



Authorised officer: Steve Kozlowski
Chief Executive Officer

Date: 20 June 2023