

# APPENDIX A



## DAREBIN PLANNING SCHEME REVIEW REPORT 2010

21 February 2011

Strategic Planning Unit  
City Development  
Darebin City Council

## **GLOSSARY**

<b>ACZ</b>	Activity Centre Zone
<b>DDO</b>	Design and Development Overlay
<b>DPCD</b>	Department of Planning and Community Development
<b>DSE</b>	Department of Sustainability and Environment
<b>ESD</b>	Ecological Sustainable Development
<b>ESO</b>	Environmental Significance Overlay
<b>GFC</b>	Global Financial Crisis
<b>ITP</b>	Integrated Travel Plan
<b>IZ</b>	Inclusionary Zone
<b>LPPF</b>	Local Planning Policy Framework
<b>LPP</b>	Local Planning Policies
<b>M2030</b>	Melbourne 2030 Strategy
<b>MAC</b>	Major Activity Centre
<b>MSS</b>	Municipal Strategic Statement
<b>PAC</b>	Principal Activity Centre
<b>PDZ</b>	Priority Development Zone
<b>PPTN</b>	Principal Public Transport Network
<b>SLO</b>	Significant Landscape Overlay
<b>SPPF</b>	State Planning Policy Framework
<b>VCAT</b>	Victorian Civil and Administrative Tribunal
<b>VIHS</b>	<i>Victorian Integrated Housing Strategy</i> March 2010
<b>VPO</b>	Vegetation Protection Overlay
<b>VPP</b>	Victoria Planning Provisions
<b>VTP</b>	Victorian Transport Plan
<b>WSUD</b>	Water Sensitive Urban Design

## **1.0 PURPOSE**

The purpose of this report is to provide the Council with the findings of the Darebin Planning Scheme review and seeks a resolution to forward the report to the Minister for Planning.

In accordance with the requirements of Section 12B of the *Planning and Environment Act 1987* (the Act), the operation and performance of the Darebin Planning Scheme has been reviewed. The review audited the performance of the planning scheme, identified the policy gaps and provides recommendations for necessary amendments required to the planning scheme in order to improve its efficiency and performance.

Development of the new MSS and the subsequent amendments to the planning scheme as recommended by this report will follow this review process. Extensive stakeholder consultation will be undertaken at the visioning of the new MSS and the planning scheme amendment stages.

## **2.0 INTRODUCTION**

The Darebin Planning Scheme was initially gazetted in December 1999. Since then the Municipal Strategic Statement (MSS) was reviewed in November 2002 followed by Amendment C55 that introduced the new MSS which was gazetted on 22 December 2005.

### **2.1 Requirement by the Planning and Environment Act 1987**

In addition to the three year review of the MSS, Section 12B (1) of the *Act* requires the Council to regularly review the operation of its entire planning scheme. Given that Darebin Planning Scheme has not been reviewed since it was initially gazetted in 1999, the Council decided to undertake a review of the entire planning scheme.

Further, Section 12A (4) of the *Act* requires that the MSS must be consistent with the current Council Plan. Since the Darebin Council Plan 2009-2013 was adopted in June 2009, it is timely that the review could consider and incorporate the pertinent parts of the Council Plan in the new MSS and ensure the MSS will be consistent with the land use objectives of the Council Plan.

### **2.2 Other factors and changes trigger the review of the planning scheme**

In addition to the requirements by the *Act*, there are other factors and/or changes at State and local level that also necessitate the review of the planning scheme and are required to be considered in the review process. Such factors and changes are briefly discussed in the next section.

#### 2.2.1 State policies and initiatives

Since the last review there have been a number key policies and strategies released by the State Government. Some of the State policies have direct and indirect land use implications and have amended the State Planning Policy Framework (SPPF). This project will consider the new State policies that are relevant to the land use issues in Darebin and will incorporate appropriate directions from the State policies into the new MSS. The most relevant State policies are briefly discussed below:

- *Melbourne 2030: a planning update Melbourne @ 5 million*. The update provides complementary policy initiatives to the directions of *Melbourne 2030 Strategy*

(M2030). It highlights the new predicted population growth for Melbourne and provides broader strategic directions as to how future growth of Melbourne could be better managed. *Melbourne @ 5 million* is referred to as a 'Policy guidelines' document in various sections of the SPPF and is required to be considered as relevant in decision making (subject to recent changes in December 2010 resulting from Amendment VC75).

Darebin is an 'established municipality' and consists of both major and principal activity centres and it has the capacity to accommodate a portion of Melbourne's future population and housing. The review recognises the importance of and directions from the above update and will incorporate the directions into the new MSS.

- *Victorian Integrated Housing Strategy, 2010* identifies future strategic directions and emerging priorities that will be critical in ensuring more affordable, more accessible and more sustainable housing for all Victorians. Further directions are provided to address homelessness and to improve social and public housing, housing for indigenous population and people with disabilities. Innovative home designs and green housing are also emphasised.
- *Victorian Transport Plan, 2008* is designed to work in conjunction with *Melbourne @ 5 million*. The Plan encourages integrated transport oriented developments along public transport routes. Darebin being serviced by train, tram and bus services has the potential to contribute to achieve the objectives of the Plan and to benefit from the directions from it. The strategic directions will be considered as appropriate in relevant sections of the new MSS and in other clauses of the planning scheme.
- *Climate Change White Paper: Taking Action for Victoria's Future, 2010* is the Victorian Government's climate change strategy. The Strategy provides actions to address climate changes issues including reducing greenhouse gas emission and carbon pollution by 20 per cent in 2020.
- *Metropolitan Waste and Resource Recovery Strategic Plan 2009* sets state-wide targets for waste reduction, resource recovery and littering and specific targets and actions for Victoria's municipal and business sectors, including construction and demolition, commercial and industrial and residential sectors to deliver more sustainable use of resources by 2014.
- Activity Centre Zone (ACZ) was introduced into the Victorian Planning Provision in September 2009 which opens up opportunities for Darebin to explore the application of ACZ to the Principal and Major Activity Centres in Darebin.
- Amendment VC71 was gazetted in September 2010 and VC75 was gazetted in December 2010. The amendment revised and restructured the SPPF, introduced policies from *Melbourne @ 5 Million* and *Victorian Integrated Housing Strategy* into the SPPF, introduced new themes to recognise and address the emerging land use issues affecting Victoria and made changes to particular provisions.
- Other State policies and initiatives that are relevant to land use planning:
  - A Fairer Victoria: Standing together through tough times 2009
  - The Local Action on Affordable Housing (LAAH)
  - The Neighbourhood renewal program

- New Residential Zones for Victoria (draft)
- A review of the *Planning and Environment Act 1987*, and
- Proposed introduction of an urban development zone for Brownfield sites (former industrial sites and under-utilised urban land).
- Towards Zero Waste Strategy 2005

The re-write of the Darebin Planning Scheme will analyse all the relevant State policies and the policy guidelines as appropriate and incorporate the directions in the new MSS and in other policies in the planning scheme. The new MSS will also use the structure and format provided through the new SPPF and will be consistent with the subheadings provided through it.

### 2.2.2 Key changes in the Municipality

The Local Planning Policy Framework (LPPF) section of planning scheme reflects the local community needs and planning response. The changes in population, economy and environment alter communities' needs and priorities. As such the LPPF also needs to be amended to recognise and respond to the changes and provide strategic directions to stakeholders to proactively manage the change.

Some of the key changes that require strategic direction through land use planning are briefly highlighted below:

- Demographic changes

According to the population projections by *Victoria in Future 2008*, Melbourne will grow by a further 1.8 million between 2006 and 2036 and it will reach 5 million well before 2030. Darebin had an estimated population of 133,614 persons in 2006. In 2009, it was estimated that Darebin's population was 139,608, an increase of over 4,000 persons from the 2007 population estimate of 135,552. According to the municipal wide *id population forecast* (2011) in 2031 the population of City of Darebin will be 173,393, an increase of about 39,750 persons (29.75%) from 2006. This represents an average annual growth rate of 1.05%. The number of people aged under 15 is forecast to increase by 4,145 (19.4%), representing a rise in the proportion of the population to 16.1%. The number of people aged over 65 is expected to increase by 2,048 (9.9%), and represent 14.3% of the population by 2021.

In addition to the increase in numbers and age cohort household size, occupation, income levels, lifestyle and community needs also have been changing. These changes have significant implications for most aspects of land use planning at local level. Provision for housing, economic activity, employment, transport, service provision, environmentally sustainable development, maintaining amenity and heritage conservation are some of the challenges that require proactive planning to efficiently manage the changes.

- Housing

Changes in population and household sizes will continue to create demand for additional and diverse housing in Darebin. Based on the Housing Development Data, 2009 between 2004 - 2008 approximately 600 dwellings were built per annum in Darebin. The *id population forecast* shows about 721 dwellings were built between 2006 -2010 in the municipality per annum. Provision of timely, affordable and appropriate housing for the different demographic groups (including for the ageing population, people with limited mobility, student population, essential workers, low income earners, socially disadvantaged people and lifestyle living); facilitating a range of housing types and densities in suitable locations are some of the key housing issues requiring direction in the planning scheme.

It is also noted that affordable and appropriate housing for the low income and socially disadvantaged sectors of the community needs to be comfortable and efficient to run and maintain as well as to purchase or rent - this requires effective integration of environmental outcomes.

- Environmental Sustainability

The awareness of Ecological Sustainable Design and Development (ESD) in the built form has increased in recent years. In response several changes have been made at a broader level to the SPPF. Most recent changes include the ESD related policies via Amendment VC71. However considering the need and urgency for ESD the State Government's directions as to how ESD can be achieved through land use planning is minimal and the Councils are left with the option to negotiate with developers.

- Economic Development

In recent years Darebin has been losing its traditional manufacturing industries to either overseas or to other municipalities, whilst new industries with a focus on transport, storage and logistics have been establishing in the city's industrial precincts. Decreasing viability of traditional industrial uses has led to a number of rezonings of disused industrial land for residential uses. Continually losing industrial land for non-industrial uses will risk the economic viability and employment generating capacity of the municipality. Promoting a diverse local economy for local employment opportunities, protecting core industrial areas and viable industrial land for new types of industrial use and encroachment from residential uses, developing and strengthening the role of activity centres (including encouraging concentration of retail, entertainment, bulky goods and other commercial uses in or around activity centres), and ensuring an adequate supply of suitably zoned land for economic land uses are some of the key land use related economic challenges in Darebin.

- Strategic work at Council level

Adopted strategies since the last review in 2002

Since the last review there are various local policies and strategies that were either adopted by the Council or currently being undertaken. Some of these works are directly relevant to land use planning and provide strategic directions for future land use and development in Darebin.

The relevant strategies are listed below and these will be considered at Stage 2 of this project for appropriate reference in the MSS.

Strategies that have been adopted since the last review:

- Darebin Retail Activity Centres Strategy, 2005
- Darebin City Council Rental Housing Survey, 2006
- Northcote Major Activity Centre Structure Plan, 2007
- Preston Central Principal Activity Centre Structure Plan, 2006
- Plenty Road Integrated Land Use and Transport Study, 2009
- Residential Dwelling Stock and Residential Development Activity: 2004-2007, 2009
- Darebin Electronic Gaming Machine Policy and Strategic Action Plan 2010 – 2014, 2010
- Housing Growth Requirements Capacity Assessments, Pilot Project Methodology Report, 2009
- Responding to Housing Stress, A Local Action Plan 2010-2013, 2010

- Going Places - Darebin Transport Strategy, 2007-2027, 2007
- Darebin Open Space Strategy 2007-2017, 2008
- Darebin Climate Change and Peak Oil Adaptation Plan, 2009.
- Sustainable Water Use Plan, 2005
- Stormwater Management Plan Review 2007
- Sustainable Water Strategy 2007
- Waste Management Strategy 2007
- Drainage Asset Management Plan 2007

Current strategies underway:

- Reservoir Structure Plan
- Northland Structure Plan  
(Both structure plans aim to provide strategic directions for the future land use and development in the respective activity centres. The structure plans will identify appropriate locations and types of housing, non-residential uses that should be supported, and strategic directions to address various land use and associated issues that need to be addressed to facilitate future land use and developments in the centres).
- Darebin Heritage Study 2007 – Stage 4  
(The current Stage 4 is the preparation and exhibition of planning scheme amendments proposing to introduce the heritage overlay, on an interim and permanent basis to the individual sites and precincts identified for heritage significance in the Darebin Heritage Study 2007).
- Darebin Integrated Housing Strategy  
(The strategy investigates the current and future demand for housing type and density, appropriate locations for the provision of such housing, potential constraints that are to be overcome in order to facilitate future housing in the municipality).
- Tram Route 86 Development Facilitation Project  
(The project aims to investigate the reasons for slow development activities along Tram Route 86, and will provide strategies to address the issues from land use planning).
- Drainage Strategy Review

In addition to the above the following are other current studies/ strategic works undertaken by various internal units of the Council that have land use planning values and implications.

- Darebin Active and Healthy Ageing Strategy 2011-2011
- Darebin Leisure Strategy 2010 - 2020
- id population forecast for Darebin (2011).

All the above strategies will be considered in Stage 2 of the review project and will be recognised and incorporated as appropriate in the new MSS and other relevant provisions of the planning scheme.

- Planning Scheme Amendments since 2002 Review

As at September October 2010, there have been 54 amendments to the planning scheme that have been approved since the last review. The following is a list of the most significant amendments, including a brief description:

- **Amendment C16** was gazetted on 9 January 2003. The amendment rezoned industrial land in and around the junction of Plenty Road and High Street to a mix

of residential and business zones and introduced DDO3 and a local policy for the area.

- **Amendment C15** was gazetted on 27 March 2003. The amendment introduced four new local policies (Retail Centres, Urban Character, Darebin Creek and Outdoor Advertising policies) to the planning scheme.
- **Amendment C50** was gazetted on 12 August 2004. The amendment introduced the municipal wide Development Contribution Plan Overlay and associated incorporated document and amended Clause 52.01 to specify provisions for open space contributions at the time of subdivision.
- **Amendment C10 Part 1** was gazetted on 21 October 2004. The amendment rezoned parcels of industrial land throughout the municipality, amended the Industrial and Commercial Activity Policy and inserted a new local policy to guide development on land zoned Industrial 1 and 3 and Business 3.  
**Amendment C10 Parts 2-4** followed between Dec 2005 and Oct 2007 rezoning various parcels/areas of industrial land to implement the recommendations of the Darebin Industrial Land Use Strategy.
- **Amendment C47** was gazetted on 22 December 2005. The amendment introduced Design and Development Overlay 5 to land in High Street, together with the *High Street Corridor Land Use and Urban Design Policy; Residential and Mixed Use Development of Less than 4 Storeys in Business 1 and Business 2 Zones Policy* and *Residential and Mixed Use Development of Four or More Storeys Policy* (Clauses 22.08, 22.09, and 22.10).
- **Amendment C53** was gazetted on 22 December 2005. The amendment replaced the Retail centres Policy with the *Activity Centres Policy* at Clause 22.03 and implemented recommendations of the *Retail Activity Centres Strategy* through land rezonings.
- **Amendment C55** was gazetted on 22 December 2005. The amendment amended the LPPF to introduce a new MSS by replacing Clause 21.
- **Amendment C67** was gazetted on 7 June 2007. The amendment rezoned the Preston Market site to Priority Development Zone to facilitate development in accordance with the *Preston Market Incorporated Plan* March 2007.
- **Amendment C88** was gazetted on 23 October 2008. The amendment amended the MSS and replaced Clause 22.04 with a new *Neighbourhood Character* clause to implement the *Darebin Neighbourhood Character Study and Precinct Guidelines 2007*.
- **Amendment C94** was gazetted on 8 January 2009. The amendment identifies suitable land in Bundoora which may be used in accordance with the '*Biosciences Research Centre Incorporated Document*, June 2008'.
- **Amendment C95** was gazetted on 28 May 2009. The amendment introduced a new local policy at Clause 22.11 to implement the Northcote Major Activity Centre Structure Plan on an interim basis.
- **Amendment C68** was gazetted on 15 July 2010. The amendment implemented the Preston Central Structure Plan, including zone, zone schedule and policy changes.

Current major amendments (that have been through a Panel process) include:

- **Amendment C81.** The amendment proposes to implement the Northcote major Activity Centre Structure Plan on a permanent basis, including zone, overlay and policy changes.
- **Amendment C92.** The amendment proposes to rezone a large parcel of industrial land on Arthurton Road (the Australian Horizons site) within the Northcote MAC to provide for integrated mixed use development.
- **Amendment C87.** The amendment proposes to change the MSS to include the key urban design and land use objectives of the *Bell Street Corridor Strategy*

2006 and to introduce a new Local Policy for use of land in specified areas of Bell Street in Preston.

- Other factors

Whilst the Planning Scheme Review audits the performance of the relevant provisions of the planning scheme, it also identifies and corrects any errors, anomalies, updates information with new data and removes duplications and redundant policies.

- Policy gaps

The review also identifies existing policy gaps that are essential to provide strategic directions for emerging land use and development issues.

### **Consultation undertaken prior to the review**

Since the 2002 review and the gazettal of Amendment C55 the Council has consulted with the community on a broad range of land use planning issues in a variety of ways. These include, but are not limited to:

- Formal notification of Planning Scheme amendments
- Formal notification of applications for planning permits
- Public forums, including workshops established to seek the views of stakeholders in the preparation of structure plans and major strategies
- Informing residents of major strategies and projects via local print media, electronically via Council's website and the use of Council newsletters
- Writing directly to stakeholders deemed to be potentially affected by a particular land use or development proposal where no statutory notification procedure is in place, and
- Council meetings.

There has also been ongoing consultation between Council departments regarding the full range of Council's functions and how these impact on or are impacted upon by planning issues.

### **Consultation for the current review**

A series of workshops were conducted in June and July 2010 involving:

- Darebin Planning Scheme Review Project Management Team,
- Statutory Planning Unit – questionnaire survey, workshop and one to one where necessary.
- Strategic Planning Unit – questionnaire survey, workshop and one to one where necessary, and
- Other internal units – mini - questionnaire survey, workshop and one to one where necessary.

During the consultation both via questionnaire and in workshops the participants were invited to comment on their experiences with using the planning scheme and identify areas for improvement, including policy gaps. Equally, those aspects of the planning scheme deemed to be working well were discussed.

In addition to issues discussed above under the subheadings of Housing, Sustainability and Economic Development the following issues that are relevant to land use planning also emerged from the consultations:

- Electronic gaming machine related: In particular, concerns over the social and economic impacts of the use of Electronic Gaming Machines (EGM) in Darebin

and an exploration of how the planning scheme can seek to address these impacts.

- Darebin Active and Healthy Ageing Strategy 2011-2011: How to provide for the housing and health needs of an ageing population, including issues of accessibility and inclusion.
- Accessibility: Gaps in the planning and building approval systems that effectively exclude access to buildings and places for people with impaired mobility.
- Changing demography, including issues of social disadvantage and cultural diversity. Responding to changing needs particularly in respect of housing, employment and access to services.
- Urban Design, Heritage and Neighbourhood Character: How to respond appropriately to these key issues whilst also ensuring that housing and economic development imperatives are addressed through a balancing of these competing interests to ensure the most efficient use of land.
- Natural Environment: How to manage development pressures on the Darebin and Merri Creek environments, encouraging Water Sensitive Urban Design (WSUD) and protecting vegetation on private land.
- Amenity issues associated with mixed use developments (particularly in activity centres): How to minimise and effectively manage land use conflicts between a mix of residential and non-residential uses in these areas.
- Food security related issues: How to encourage and provide food growing opportunities on private and public land and access to fresh food options.
- Infrastructure provision (social, community, physical), including equity issues in respect of developer contributions: Ensuring infrastructure is provided in a timely way and is equitably funded.
- Difficulties with implementing strategies, particularly the resources and time required to prepare and implement structure plans, including costly Panel hearings: How to minimise Council's costs and implement changes more efficiently.
- Need to ensure that heritage overlays nor overshadowing from neighbours do not unnecessarily restrict the optimal placement and efficiency of environmentally efficient technologies such as solar panels, solar hot water systems and rain tanks.

The above and other issues are addressed as appropriately in the relevant sections of this report.

### **3.0 REVIEW OF THE CURRENT PLANNING SCHEME**

#### **State Planning Policy Framework**

Section 2.2.1 above briefly discussed the State initiatives that are relevant to local land use planning including Amendments VC71 and VC75. VC71 revised the SPPF and introduced new themes, a new structure and updated references to various State policies and strategies. Amendment VC75 changes references in Clause 16 of the SPPF that relate to the location of residential development and strategic redevelopment sites.

It is also noted that the recent changes in the government may result in some updates to policies and policy directions that may have land use planning implications, as such ongoing monitoring and review of State policies is essential for the Council to be consistent with the State directions.

In this section the provisions in the new SPPF is briefly reviewed to assess its capacity to support the land use issues of Darebin. Clauses 10 to 19 of the SPPF have been replaced as follows:

#### **Clause 10: Operation of the State Planning Policy Framework**

This clause sets out the purpose, goal and application of State policy, promotes integrated decision making, emphasises the SPPF to be considered in local planning and introduces the new structure of the SPPF by listing its themes. The themes form the basis of Clauses 11 – 19.

#### **Clause 11: Settlement**

This clause provides broad strategic directions for settlement in Victoria. The new MSS could take direction from the subthemes that are relevant to Darebin. The most relevant subthemes include activity centres, urban growth, structure planning, open space planning, and metropolitan Melbourne.

#### **Clause 12: Environmental and landscape values**

This clause provides direction to the protection, conservation and sustainable management of Victoria's environmental and landscape assets. The clause pays more attention to coastal environment and which has less value for Darebin. However the subtheme biodiversity and native vegetation management provides policy guidelines which can be considered when preparing local biodiversity strategies and provisions surrounding environmentally sensitive areas are directly relevant to Darebin and Merri creek environments. The provisions for landscape protection are also relevant for Darebin, particularly in light of significant assets in Bundoora Park and protection of open space linkages.

#### **Clause 13: Environmental Risks**

This clause provides direction for the management of man-made and naturally occurring environmental risks. The directions for floodplain management, noise and air quality are relevant to Darebin and the listed policy guidelines could be considered and used in local decision making.

#### **Clause 14: Natural resource management**

This clause provides direction for the sustainable use and management of natural resources and some of the subthemes discussed are not directly relevant to Darebin. Directions relevant for Darebin include provisions for catchment planning and management, water quality and water conservation which also could be considered when siting and designing land use activities.

**Clause 15: Built environment and heritage**

This clause provides direction to a wide range of design of buildings, places, heritage conservation and energy and resource efficiency that are relevant to Darebin. The clause discusses various urban design principles and provides strategies for each of the principles. The key State Government design guidelines such as the *Safer Design Guidelines for Victoria, 2005*, *Activity Centre Design Guidelines, 2005*, *Design Guidelines for Higher Density Residential Development, 2004* and the *Urban Design Charter for Victoria, 2009* are included as policy guidelines in this clause.

In regards to heritage, it also states that planning should consider as relevant the findings and recommendations of the Victorian Heritage Council and the *Aboriginal Heritage Act 2006* for all Aboriginal cultural heritage.

**Clause 16: Housing**

Clause 16 recognises housing issues in general and the need for affordable and social housing and provision of aged care facilities. It also emphasises housing diversity to meet the varying housing needs of Victorians. VC75 amended the directions in relation to location of residential development and strategic redevelopment sites; in particular it stresses the importance of integrated housing developments with infrastructure and services. Appropriate locations for housing in Darebin are identified in structure plans and precinct plans based on the existing infrastructure, services, proximity to activity centres and public transport services and are consistent with the State policy directions.

**Clause 17: Economic development**

This clause provides direction to the planning and development of economic activities. These could be considered in the future economic development strategies for Darebin.

**Clause 18: Transport**

This clause provides direction to an integrated and sustainable transport system that provides access to social and economic opportunities, whilst contributes to environmental sustainability.

**Clause 19: Infrastructure**

This clause provides direction to the planning and development of social and physical infrastructure.

**Gaps in State planning matters**

There are a number of policy gaps identified in the VPP that require State directions and planning tools to address the issues at local level. The policy gaps areas that are more critical to Darebin include:

- Lack of planning tools to encourage social and affordable housing and housing for the ageing population (including accessible homes)
- Lack of planning tools for mandatory Environmentally Sustainable Design requirements, and
- Lack of planning tools to encourage accessible homes.

Inclusionary Zone (IZ) is a statutory planning tool that has been used in the USA, UK and in some parts of New South Wales to facilitate the provision of affordable housing. However the current Victoria Planning Provisions (VPP) do not contain Inclusionary Zone; as such the application of IZ for Darebin requires a VPP amendment by the State Government to include the IZ into the VPP first and then into the Darebin Planning Scheme. The Council continues to advocate and formally request the Minister for Planning for IZ and to use Darebin as a test case municipality for the new zone.

Recommendation (changes to the VPP and in the SPPF):

- That Council lobby the State government to amend the Victorian Planning Provisions to allow for the use of inclusionary zoning targets, and include provision for mandatory ESD and accessible home requirements.
- That the Council continue to monitor any updates and changes to the policies and directions at State level that may have land use planning implications and review its local policies as appropriate to be consistent with the State directions.

### **3.1 LOCAL PLANNING POLICY FRAMEWORK**

#### **3.1.1 EFFECTIVENESS OF THE MUNICIPAL STRATEGIC STATEMENT (Clause 21)**

Overview

In order to streamline the material in the MSS to assist in decision making, the level of descriptive detail needs to be reviewed. If the material does not directly assist in land use and development assessment and decision making it should be removed. Particular reference is made to statistical data and how such data directly assists in issue identification.

At a general level, the current 51 page MSS has been identified as being an overly lengthy document that contains outdated information, inconsistencies between policies and a number of errors. In parts it is also ambiguous, provides only 'motherhood' statements simply copied from the SPPF and lacks clear, definite directions. As a planning tool used in decision making, it is rarely referred to other than on a fairly superficial level with a clear preference given to Clause 22 policies. Usefulness of the current MSS in its current form is therefore questioned.

In order to improve the usability and efficiency of the LPPF the content, structure and format of the MSS need to be revised and improved.

Structure and format of the new MSS

The format and content of the new MSS will generally be consistent with the directions of the VPP Practice note *Format of Municipal Strategic Statements 1999*, and the new VPP Practice Note *Writing a Municipal Strategic Statement 2010*. It is observed that the MSS is generally consistent with the structure and format of the new SPPF and takes advantage of its policy directions.

Accordingly the revised MSS should include the following major headings:

- Clause 21.01 Darebin Key Issues and Strategic Vision
  - Clause 21.01-1 Municipal Profile (snapshot of Darebin only)
  - Clause 21.01-2 Key influences (that affect land use planning)
  - Clause 21.01-3 Key issues (that are to be addressed by land use planning)
  - Clause 21.01-4 Strategic vision (by major theme)
  - Clause 21.01-5 Strategic framework plan (maps only)
- Clause 21.02 Settlement
- Clause 21.03 Environmental and landscape values
- Clause 21.04 Environmental risks
- Clause 21.05 Natural resource management
- Clause 21.06 Built environment and heritage
- Clause 21.07 Housing
- Clause 21.08 Economic development
- Clause 21.09 Transport

- Clause 21.10 Infrastructure
- Clause 21.11 Local Areas

The structure of each of the above clauses will include:

- Objectives - that set out clear aims ;
- Strategies - that outlines how the aims and objectives can be achieved, and
- Policy guidelines - that list the policies and other relevant background documents to be considered in decision making.

The new Clause 21 will be a combined MSS that will accommodate and merge as appropriate the local policies contained in the current LPPF (Clause 22). Policy objectives and directions from Clause 22 will be transferred under suitable themes in the new MSS whilst local policies that contain development requirements will be translated into suitable VPP tools (overlays and schedules to overlays) to ensure mandatory compliance and quality outcomes.

The following section reviews and provides commentary of the performance, relevance and scope of each clause in the current MSS and makes recommendations for required improvements including the repositioning of provisions in a new format Clause 21.

### **Clause 21.01 Introduction**

The main purpose of the Clause is to introduce the MSS. It includes a map showing the City of Darebin and surrounding context and a 'Key Features' map. Much of the background content adds little value in assessments and could be deleted (particularly regarding how the MSS was developed) or condensed to a minimum.

One aspect of the content that should be closely reviewed is the introduction of the Precinct Planning Model that is subsequently built on in other clauses in the MSS. One of the strategic gaps identified in the 2002 review and set out in the C55 Panel Report was the completion of the precinct profiles for communities/neighbourhoods within Darebin. Whilst the precinct profiles provide useful information there are two issues identified with their inclusion in the MSS.

- The first is that they constantly require updating in order for them to remain relevant. In particular references to population, house prices, tenure and levels of education (census derived data in general) invariably become outdated either before or soon after they are included in the planning scheme.
- The second issue relates to the value that the information brings to the planning scheme. Updating of the information should be undertaken by the Council as a matter of course however the value of the information does not rest with it being included in the planning scheme.

#### Recommendation:

- That Council redistribute relevant material as it relates to the municipal profile, and key influences and issues into Clauses 21.01-1 – 21.01-3. This is likely to result in the deletion of much of the existing clause content.
- That all references to the precinct planning model be removed.

### **Clause 21.02 Municipal Profile**

This clause includes a historical snapshot of Darebin as well as an overview of Darebin in context 'today'. Unfortunately much of what purports to be current content is outdated. The historical context adds little to the Planning Scheme.

Recommendation:

- That Council revise the municipal profile to provide a short and concise statement about Darebin and reposition it in a new Clause 21.01-1.

**Clause 21.03 Key Influences and Issues**

This clause sets out key influences and issues under 9 headings which are then picked up and expanded upon in Clause 21.05. The 9 themes are: Changing Demographics; ESD; Housing Diversity; Urban Character and Heritage; Economic Development and Employment; Cultural Diversity; Natural Environment; Transport; and Infrastructure; but these do not have a clear link to the SPPF.

There is an opportunity to review and consolidate the themes and recognise and include other issues that have emerged since the last review. According to the consultations the four key issues confronting land use and development in Darebin are *Settlement and Housing*; *Economic Development*; *Sustainability and Environment* (including ESD) and *Transport and Infrastructure*.

There will be overlap between themes. For example *housing* must address changing demographics and housing diversity (including general access and mobility issues and universal access design requirements for people with limited mobility, , affordability and social housing) whilst changing demographics takes into account cultural diversity. Issues of urban character and heritage are also a relevant subset of housing. Similarly, *economic development* includes employment, transport and activity centre planning limbs (among other things). Activity centre planning must in turn have regard to issues of urban design and heritage and infrastructure and will overlap with *Housing* and *ESD*. *Transport and Infrastructure* includes community infrastructure and development infrastructure (including transport infrastructure). It also takes into account associated issues of accessibility and inclusion and community safety. *Sustainability and environment* are key priorities across all aspects of land use and development planning. It overlaps with *Housing* and *Economic Development* and encompasses the natural and built environments (including heritage considerations), transport and infrastructure and seeks to address the impacts of climate change.

Recommendation:

- That Council identify all key influences in relation to Darebin and reposition them in a new, short and concise Clause 21.01-2.
- That Council consolidate the four strategic themes discussed above to form the basis of a new Clause 21.01-3.

**Clause 21.04 Darebin Tomorrow – Our Vision**

This clause includes the 'Framework Plan'. Curiously, the 9 themes under Clause 21.03 are expressed as 10 'key elements' with a number of variations from those appearing at 21.03. Comments provided above for Clause 21.03 apply equally to Clause 21.04 including the content which is out of date and it refers to the Council (Corporate) Plan 2003-2005.

The content will change in accordance with the outcomes of the MSS visioning exercise and then need to be repositioned in the new Clause 21.01-4 *Strategic vision*.

Recommendations:

- That Council review Clause 21.04 to ensure consistency with Clause 21.03 and update necessary out of date references and delete unwanted information and the clause will be retitled to Strategic Vision.
- That the Framework Plan be reviewed and updated as necessary; be renamed 'Strategic Framework Plan'; and repositioned in Clause 21.01-5.

**Clause 21.05-1 Element 1: Sustainability**

Much of the clause has recently been amended through the inclusion of Amendment C68 in July 2010 (Preston Central Structure Plan related). One of the strategic gaps identified in the 2002 review and set out in the C55 Panel Report was the need to develop a local ESD policy. This has not occurred to date. Councils' attempts in the past to include ESD requirements in planning permit conditions without a local policy have not been consistently supported by VCAT. Discussions with DPCD revealed the possibility for a State-wide policy and the Councils are to receive directions from the State policy. However the timing for the State level policy is not clear and the Council is left to achieve the outcomes through negotiations. Whilst the review supports a local ESD policy to ensure environmentally sustainable developments in Darebin it is also understood that DPCD's support and approval is required for Council to introduce and implement such policy through the planning system.

The statements around ESD in this clause should be simplified with clear ESD expectations. Appropriate reference documents are to be included as policy guidelines.

Recommendation:

- That Council continue to advocate for State level directions and mandatory ESD requirements through planning with flexibility for local variations to ESD requirements in appropriate situations.
- That Clause 21.05-1 be revised to provide clear ESD messages that applies to all land use and development in Darebin.
- That the revised clause be positioned at the new Clause 21.06 (Sustainable development).

**Clause 21.05-2 Element 2: Housing**

Much of the clause has recently been amended through the inclusion of Amendment C68 in July 2010 (Preston Central- Priority Development Zone related). Internal consultations highlighted that this clause lacks clear direction in relation to the full range of housing matters confronting the municipality except for the policy statements provided in relation to Preston Central. General statements in the clause do little more than state what is both obvious and already stated in the SPPF. The clause needs to provide a clear guidance as to where Council is actively promoting increased housing densities, or conversely seeking to limit housing growth based on environmental, infrastructure, heritage or special character constraints. A Housing Framework Plan is to be included which could be derived from the current housing strategy.

In addition clear policy statements are lacking in relation to affordable, social and public housing, aged care facilities (also a health issue), and rooming housing (the MSS builds little on policy at Clause 16.05-2). Directions from the *Victorian Integrated Housing Strategy 2010* should be taken into consideration in the new clause for housing.

Recommendation:

- That Council consider the recommendations in respect of housing under the 'policy gaps' section of this report and from the Victorian Integrated Housing Strategy 2010.
- That the Council continues to advocate and formally request the Minister for Planning for Inclusionary Zone and to use Darebin as a test case municipality for the new zone.
- That as an interim measure, Clause 21.05-5 be repositioned at the new Clause 21.07 (Housing) and additional emphasis be given to social housing and housing affordability.
- A Housing Framework Plan is included in the new clause.

**Clause 21.05-3 Element 3: Urban Design**

The language used in this clause is likely to be confusing to some users of the planning scheme. Jargon and overly technical terms should be avoided and where possible plain English expression is used.

One of the objectives in this clause relates to sustainability. There are a number of policies in Clause 22 that are primarily urban design focused (Clauses 22.08, 22.09 and 22.10 being the main ones), whilst other policies and various schedules to DDOs also have significant urban design content. As mentioned in Clause 21.05-1 ESD requirements should sit in the MSS as a stand alone direction applying to all use and development, and avoid unnecessary overlap and repetition, where necessary DDO schedules should be used in lieu of policies.

Preparation of a 'whole of Darebin Urban Design Vision', urban design guidelines for activity centres, key precincts, public transport corridors and identified gateway areas and to develop a local Gateway policy are some of the future strategic works listed. It is considered that the development of a local Gateway policy is no longer relevant to Darebin. Visioning exercise for the new MSS could develop a 'whole of Darebin Urban Design Vision', whilst individual urban design guidelines could be developed for key areas.

It was also raised during consultation that the increase in the number and intensity of mixed use developments in activity centres has resulted in increased complaints from residents about a range of amenity concerns. These issues can be addressed through appropriate urban design and need to be emphasised.

Recommendation:

- That Clause 21.05-3 be reviewed to provide clear overarching urban design direction in plain English, and to avoid overlaps, duplications and motherhood statements.
- The reviewed clause is repositioned in a new Clause 21.06 (Urban environment).
- Specific requirements from the clause should be translated into DDO schedules as appropriate.

**Clause 21.05-4 Element 4: Heritage, Culture and Arts**

Future strategic work includes:

- the development of a heritage policy within the MSS to guide decisions on land use, developments and demolition of heritage places and the use of heritage places for the purposes that are otherwise prohibited under the scheme.

- The examination of the need to prepare an ‘art built-in’ local planning policy to ensure that there is a public art component in high profile and/or major developments.

Some of the strategic work specified in this clause has been/is being undertaken as part of the *Darebin Heritage Study 2007*. For example, ‘compiling a database including all current heritage citations from studies and assessments undertaken by the City of Darebin or its predecessors’ is part of the Stage 3 work of the *Darebin Heritage Study 2007*. This Clause therefore needs to be updated according to the work that is being completed as part of the *Darebin Heritage Study 2007*.

The preparation of a heritage policy is supported. It should be a single ‘generic’ clause in the MSS with reliance placed on the work from the *City of Darebin Heritage Study 2007*.

It is also important to note that any approach to heritage policy should be cognisant of the development capacity of land to ensure that an appropriate balance is struck between conservation and furthering housing and economic development policies.

Overall, it is considered that the existing clause is overly wordy and difficult to use, and the 37 reference documents listed are excessive. The clause should be reviewed and simplified and outdated reference documents removed.

Recommendation:

- That Clause 21.05-4 be reviewed as discussed above.

**Clause 21.05-5 Element 5: Economic Development**

This clause includes an ‘Economic Development’ map and 7 reference documents. There is a degree of overlap between the content of this clause and the content of Clause 21.05-6 Element 6: Activity Centres. The messages in this clause are not clear. The statements and information do not reflect current circumstances and need. Specifically the need to support business growth and local employment, identification of economic strengths, and the need to protect industrial areas from residential and other non-industrial encroachment/redevelopment should be given greater emphasis, particularly in relation to core industrial areas. Similarly the clause should also encourage the rezoning of disused industrial land that are no longer viable for industrial activities into other appropriate land uses such as residential and mixed uses.

Internal consultation highlighted that despite the economic development framework plan showing East Preston as a core industrial area and supporting statements highlighting the importance of protecting core industrial areas, there are other apparently conflicting statements that proponents of retail use and developers use arguing that East Preston is in decline and that Council should be encouraging retail development.

The *Industrial Land Use Strategy – A Framework for Decision Making 2001* should be reviewed as a priority given major changes in the manufacturing sector in recent years. The review could examine all the economic land uses in the municipality that include industrial land use as well. The ‘Economic Development’ map should also be reviewed and updated to reflect the changes and priorities.

Recommendation:

- That the Clause be reviewed and strengthened with clearer policy statements regarding economic strengths and the need to support business growth and local employment and the need to protect viable industrial areas from residential and other non-industrial encroachment/redevelopment.
- That duplication between the clause and Clause 21.05-6 be removed.
- That a revised clause be positioned at a new Clause 21.08 (Economic development) as an interim measure pending the preparation of an Economic Development Strategy, which, among other things, reviews the Industrial Land Use Strategy 2001 and the Economic Development Strategy 1998.

**Clause 21.05-6 Element 6: Activity Centres**

This clause includes the *Preston Central Framework Plan* and 8 reference documents. Much of the clause has been amended through the inclusion of Amendment C68 in July 2010 (Preston Central Structure Plan related). Despite it being a recent addition, many of the strategies for Preston Central are difficult to follow without making reference to the Framework Plan which is clear and detailed. Combining more of the text from the policy with the Framework Plan may overcome this issue.

The subject matter of this clause requires clear policy directions that build on the relevant State policies. There is a duplication of provisions between this clause and Clause 22.03 Activity Centres Policy and a repetition in respect of ESD, urban design and integrated transport themes (among others). A single policy would benefit from a clearer and more detailed retail activity centre framework plan, together with individual plans as each structure plan is implemented.

Recommendation:

- That Clause 21.05-6 and Clause 22.03 be reviewed together with a view to consolidating content and repositioning into a new clause 21.02 (Activity centres).

**Clause 21.05-7 Element 7: Natural Environment**

This clause includes an 'Environment' map and 14 reference documents. Internal consultations raised an issue relating to the Merri and Darebin Creek environments, specifically whether adequate controls are in place to ensure appropriate development outcomes along these two waterways. Implementation actions under this clause relevantly include *"Monitor and review the effectiveness of building height, works and tree removal controls along the Darebin and Merri Creeks after three (3) years of implementation"*. The controls in question are ESO1 and ESO2 (refer comments under the 'Effectiveness of Overlays and Schedules' in this report).

A second issue raised relates to the broader issue of vegetation protection in the municipality. It is recommended that a significant tree study followed by necessary amendments to the planning scheme is needed if significant trees located on public and private land are to be protected. However, the Council should be mindful of unnecessary planning triggers (without compromising the integrity of the requirements) and the subsequent demand on planning resources of such initiatives.

As with much of the MSS content, there are provisions (strategies) which are not suitable for inclusion in the planning scheme as they go to matters that either do not rely on the operation of the scheme or which the scheme cannot have any control over. Examples include *"Reduce the impact of environmental weeds by delivering*

*education programs and 'remove and replace' programs for residents" and "Facilitate indigenous revegetation and regeneration initiatives on private and public land".*

A number of the strategies can be consolidated so as to reduce repetition and the length of the clause. The majority of the actions listed under the heading "Other actions" should be removed as they are not matters that can be controlled through the planning scheme (for example undertaking education programmes and the like). There is also a degree of overlap between this clause and Clause 21.05-8 given much of Darebin's natural areas comprise of vegetated creek corridors that also perform the important function as open space and recreation resources. The potential for the two clauses to be merged should be explored, having regard also to the desirability of following headings in the SPPF in any rewrite of Clause 21.

Recommendation:

- That Clause 21.05-7 be reviewed and simplified and repositioned in a new clause 21.03 (Environmental and landscape values).

**Clause 21.05-8 Element 8: Open Space and Recreation**

As noted above, there is a degree of overlap between this clause and Clause 21.05-7. Among other things, further strategic work under the clause includes preparing a local planning policy to implement the Merri Creek Development Guidelines. As recommended earlier such guidelines (as with the Darebin Creek guidelines) should become two new schedules to the DDO as opposed to a local policy.

The clause would benefit from a review of its content, including the documents referenced under it (such as the *Darebin Open Space Strategy, 2007-2017* and the *Darebin Leisure Strategy 2010-2020* as appropriate).

Recommendation:

- That Clause 21.05-8 be reviewed and simplified and repositioned in a new clause 21.02 (Open space).
- That the Darebin Open Space Strategy, 2007-2017 be referred in Clause 21.02 (Open space).

**Clause 21.05-9 Element 9: Transport and Access**

The Council promotes sustainable transport and transit orientated developments, however this is not given sufficient direction in the MSS. Among other things, Clause 21.05-9 introduces the *Darebin Integrated Travel Plan (ITP)* entitled *Going Places* as adopted by Council in June 2001. The ITP is intended to guide all decisions affecting travel in Darebin with the aim of achieving real improvements in the accessibility and street environment of the municipality and contributing to environmental outcomes.

Future strategic works identified under the clause includes a parking strategy (including parking precinct plans), a Barriers to movement policy: a Walking Action Plan and Policy (including disabled access), and a Travel Plan policy. The clause lacks clear directions for integrated transport (see comments on 'policy gaps' section). The Darebin Transport Study 2007 is a comprehensive document that provides guidance for future transport including community transport in Darebin and this study should be referred in the new Clause 21.09.

Recommendations:

- That Clause 21.05-9 be reviewed and rewritten to refer to the key directions from the Darebin Transport Study 2007.

- That Council prepare an integrated transport policy in conjunction with a review of its position in respect of car parking rates and parking precinct plans and position it in a new Clause 21.09 (Transport).

#### **Clause 21.05-10      Element 10: Physical Infrastructure**

Internal consultations did not suggest that there are particular problems with this clause (though concern was expressed with its subject matter). It is concerned with the provision of equitably funded infrastructure and, among other things, refers to applying a Development Contributions Plan to fund the provision of social and physical infrastructure and reviewing the *City of Darebin Development Contributions Plan, 2003*.

Aside from the clause referring to changes to the scheme that are already in place and others which appear not to have occurred (such as the preparation of 10 year asset management plans despite being included on list of further work identified by the C55 Panel), the clause is a good example of content that could readily be reduced from 2 pages to a couple of paragraphs and effectively get the same key message across: that Darebin needs to provide upgraded infrastructure that is both sustainable and equitably funded through a DCP. The concerns raised with regard to the DCP suggest the need for a review of DCP.

#### Recommendation:

- That the clause be reviewed and simplified and repositioned in a new Clause 21.10 (Infrastructure).

#### **Clause 21.06    Monitoring and Review**

This clause describes in some detail the manner in which Council will monitor the performance of the Planning Scheme. Based on advice from DPCD, the clause can be deleted.

#### Recommendation:

- That the Clause be removed from the Planning Scheme.

#### **General comments for Clauses 21.01 – 21.05**

The following comments apply to the content and drafting of the MSS in a general sense.

#### Reference documents

There are currently 134 reference documents listed in the MSS. Whilst there is a small degree of overlap of the reference documents between the respective Clause 21.05 themes, the number of reference documents is high. Moreover many of them are over 10 years old and their relevance to the subject matter is doubtful. The documents that do not provide background or supporting information should be removed to avoid confusion.

#### Recommendation:

- That all reference documents be reviewed to determine if they are necessary to provide background or supporting information that will assist in understanding the basis for the MSS and their appropriateness in terms of changing land use issues and contained data information.

### Non-planning strategies and implementation actions

Each of the Clause 21.05 provisions incorporates non-planning strategies/ implementation actions that should be removed from the planning scheme (for example refer Objective 2 and Strategies in Clause 21.05-5 Economic development). In this example strategies, implementation measures and other actions that cannot be achieved through land use planning are included. The MSS should only be used to provide directions that can be achieved through land use planning. Non- planning actions and strategies should find other appropriate documents for inclusion (e.g. Council Plan, Municipal Health Plan, and the like).

### Recommendation:

- All the non planning actions and strategies should be removed from the MSS.

### **Conclusion**

The number of reference documents suggests that older documents, perhaps many that are not utilised and/or are of no relevance are rarely reviewed.

Clause 21 has been growing. Whilst adding additional layers to the MSS with each major amendment the existing layers should be reviewed and outdated and or superfluous information should be removed. This practice will assist to avoid the key messages of importance being buried in the voluminous duplicated and outdated content.

When reviewing and rewriting the MSS careful consideration should be given to:

- Ensure clear and concise directions that are relevant to Darebin/local area are given for each subject matter
- Where necessary appropriate cross reference is made
- Only the updated and appropriate documents are included in the list of reference documents
- Avoid inclusion of non-planning actions and strategies
- Avoid duplication and overlaps (where appropriate)
- Avoid repetition from SPPF and other provisions
- Avoid motherhood statements that are obvious.

### 3.1.2 EFFECTIVENESS OF LOCAL POLICIES (CLAUSE 22)

There are 12 local planning policies covering a broad range of land use and development issues. The following commentary briefly addresses each of the policies, focusing on the particular subject matter, whether there is a 'use' or 'development' emphasis (or both) and highlights aspects that require review.

#### Clause 22.01 Northland Regional Activity Centre

This policy is largely concerned with a commitment to public consultation regarding the submission of development plans and management plans and how such consultation is to take place. Policy only relates to the consultation process and does not demonstrate how three of the four policy objectives will be achieved. For this reason alone, the policy is poorly drafted.

Additionally, the policy purports to empower the Council to do something that it cannot do (at least under some circumstances) given the provisions of the Incorporated Plan Overlay (IPO) which applies to the site (Clause 43.03-2): *An application under any provision of this scheme which is generally in accordance with the incorporated plan is exempt from the notice requirements of Section 52(1)(a), (b) and (d), the decision requirements of Section 64(1), (2) and (3) and the review rights of Section 82(1) of the Act.* One purpose of the IPO is 'To exempt an application from notice and review if it is generally in accordance with an incorporated plan'. Under the schedule to the IPO, A permit may be granted for buildings and works that are not generally in accordance with the incorporated plan. Under these circumstances there is an opportunity for public consultation (s52 of the Act). A planning scheme amendment is required before the incorporated plan can be changed. Decision guidelines under Clause 4.0 of the schedule set out the required consultation (non-public) in relation to an application that is generally in accordance with the IP. This takes precedence over the policy.

It is noted that the *Northland Principal Activity Centre Structure Plan* is currently being prepared, however as the policy only relates to public notification issues there is no reason why the policy should remain in the planning scheme in any form.

#### Recommendation:

- That the policy be removed from the planning scheme.

#### Clause 22.02 The Junction Local Area Plan

This policy applies to all land located in and around the intersection of High Street, Bell Street and Plenty Road, Preston. Feedback from the internal consultation suggests that the policy provides little guidance on how to address interface issues with sensitive residential areas where larger developments are proposed. Planners are referring to the *High Street Corridor Land Use and Urban Design* (Clause 22.08) for guidance.

There is an overlap between certain provisions of the policy and provisions of DDO3 (DDO for the *Junction Area*). There is an opportunity to revise DDO3 and include all the built form requirements for the entire Junction Local in the DDO and address the residual 'use' issues through a clause in the MSS this will avoid unnecessary duplication.

Recommendation:

- That the clause be reviewed in conjunction with a review of DDO3, the local policy deleted and 'land use' issues be repositioned into a new clause 21.02 (Activity centres).

**Clause 22.03 Activity Centres Policy**

The policy applies to land in activity centres identified in the *Activity Centres Framework Plan* which forms part of the policy and the *Retail Activity Centres Strategy 2005*. The policy is largely 'use' focused, with only few references to development.

Whilst the policy is useful in providing directions for use and development in Darebin's activity centres the gradual completion and implementation of structure plans for activity centres make the relevance of the policy diminish over time. Policy directions for neighbourhood activity centres and local convenience centres are useful however they do not negate the need for structure plans for these centres.

During internal consultation it was noted that the bulky goods/homemaker retailing section of the policy is vague and needs to be made clearer, especially directions on where this type of retailing is encouraged.

Policies that cannot be implemented through the exercise of discretion such as "*Encourage a mix of uses with an emphasis on the provision of basic retail services such as milk bar/general store, newsagent, hairdresser, etc*" should be avoided.

Key statements about activity centre planning should be repositioned in a new Clause 21.02 (Activity centres) whilst particular design and development directions that come out of the structure plans be translated into existing or new DDOs or zone schedules depending on where the particular activity centre sits in the hierarchy of centres.

Recommendation:

- That Clauses 22.03 and 21.05-6 be reviewed together with a view to consolidating content and repositioning into a new clause 21.02 (Activity Centres).

**Clause 22.04 Neighbourhood Character**

The policy applies to Residential 1 zoned land covered by the Neighbourhood Character precinct plan that forms part of the clause and it concentrates on development and works.

As noted in the Background and Key Issues Paper, one of the main issues that emerged from both the internal consultation and a review of numerous VCAT decisions is the extent to which Council's Neighbourhood Character Study ("NCS") (and the policy) is undermining development capacity and quality design outcomes. One of the main issues that emerged from both the internal consultation and a review of numerous VCAT decisions is the extent to which Council's Neighbourhood Character Study ("NCS") (and policy at Clause 22.04) is undermining development capacity and quality design outcomes.

It is recommended that '*Preferred Character Statement*' are reviewed in tandem with the Darebin Integrated Housing Strategy which ultimately identifies all areas within

the municipality (and not just confined to those areas to which the policy applies) as being 'Substantial Change', 'Incremental Change' or 'Minimal Change' areas.

Statements of Desired Future Character should form part of the policy. The NCS should be reviewed and ultimately amended to reflect the outcomes of a housing strategy and less emphasis should be placed on prescribing how designs should achieve the Desired Future Character.

Recommendation:

- That the policy and the NCS be reviewed in conjunction with a Darebin Integrated Housing Strategy to identify areas suitable for substantial, incremental and minimal change and prepare future character statements accordingly.
- That the areas suitable for substantial, incremental and minimal change are clearly marked and mapped and implemented through DDOs.
- The NCS should be removed from substantial and incremental change areas.

**Clause 22.05 Darebin Creek - Adjacent Land Design and Development**

The policy applies to all land adjacent to the Darebin Creek, which is located within a Darebin Creek "Character Area" which forms part of and is attached to the policy. The policy is 'development' focused and references, among other things, the *City of Darebin, Darebin Creek, Design and Development Guidelines*, June 2000. Internal consultations suggest a need for design guidelines to be implemented through the planning scheme in order to respond to increasing development pressures on the creek environs. The content of this policy and the design and development guidelines would be more suitably included in a new DDO schedule. It is also noted that Environmental Significance Overlay 2 (ESO2): *Darebin Creek and Environs* makes reference to matters not strictly consistent with the purpose of the tool (such as landscape and character objectives). There is scope as part of a review of ESO2 to include such matters in any new DDO for the creek environs.

Recommendation:

- That the policy be absorbed into a new schedule to the DDO following a review of the City of Darebin, Darebin Creek, Design and Development Guidelines, June 2000.
- That as an interim measure, the policy be reviewed and simplified and repositioned in a new clause 21.03 (Environmental and landscape values).

**Clause 22.06 Outdoor Advertising Policy**

The policy applies to all land within the City of Darebin and references the *City of Darebin Outdoor Advertising Policy and Guidelines, Darebin City Council, August 1998, revised January 2001*.

The policy and the reviewed guidelines are old and predate the amendments to the State provisions. Clause 52.05 *Advertising Signs* was amended on 15/9/2008 by VC49 to include new decision guidelines and application requirements. It is noted that much of what Clause 22.06 seeks to do is now included (in one form or another) in Clause 52.05.

At a minimum, the policy and guidelines require substantial revisions in light of their age and the changes to the State advertising signage provisions.

A better course would be to remove the policy given the improvements made to the State advertising sign provisions at Clause 52.05.

Recommendation:

- That the policy be removed from the planning scheme.

**Clause 22.07 Industrial and Commercial Activity**

The policy applies to all land in the Industrial 1 Zone, Industrial 3 Zone and Business 3 Zone, building on Clause 21.05-5 *Economic development* and implements the recommendations of the *Industrial Land-Use Strategy – A Framework for Decision Making*, 2001 and the *Economic Development Strategy 1998/2002*. As discussed earlier in this report, both of these strategies should be reviewed as part of a municipal wide economic land use strategy to be undertaken as a high priority. The policy addresses use and development considerations (including subdivision) and comprises of detailed provisions under a series of thematic headings, including Design, Use, Subdivision, Landscaping, Amenity, Transport/Access and Signage. There is a degree of duplication between the Clause 22.07 provisions and other State and Local provisions in the Scheme. Examples include use (Clause 17.02 *Industry*), advertising signage (Clauses 22.06 and 52.02) and transport/access (Clauses 18.02, 52.06 and 52.07). The clause is also repetitious in terms of the content of each theme.

Other provisions add little to or merely restate the provisions of the three zones to which the policy applies, particularly in respect of amenity/interface issues and the respective decision guidelines under the three zones. Similarly, there is a degree of overlap with the decision guidelines under Clause 65.01. Despite these observations, there is a clear need for local policy direction on industrial and commercial use and development in the zones to which the existing policy applies.

This policy would not be a suitable candidate for a DDO, however there is potential for a new schedule to be developed and applied to industrial areas subject to the findings of any urban design studies undertaken for Darebin's industrial areas. On balance, this should be seen as a low priority for the Council.

The policy should be reviewed and repositioned in a new Clause 21 at Clause 21.08 (Economic development), with a focus on removing duplication (including in respect of the existing Clause 21.05-5) and emphasising the important use aspects, whilst also including key design and development provisions specific to the subject matter in Clause 21.06 (Urban development). The repositioned and revised provisions will in time need to be further reviewed and revised to implement the findings of any new economic development strategy undertaken by the Council.

Recommendation:

- That the policy be reviewed and revised and the use provisions positioned in a new Clause 21.08 (Economic development) and the design and development provisions positioned in a new Clause 21.06 (Urban development).
- Undertake an economic land use strategy as a high priority.

**Clause 22.08 High Street Corridor Land Use and Urban Design**

The policy applies to land located along the High Street corridor from Merri Creek, Westgarth to Wild and Mason Streets, Regent, as shown on maps forming part of the

policy. It implements the High Street land use and urban design objectives and strategies set out in the MSS and the recommendations of the *High Street Urban Design Framework* and Precinct Guidelines (It is noted that that the design guidelines miss out the entire Junction section of High Street, and The Junction Area Development Plan is also missing design guidelines for the High Street section).

The policy has encouraged development investment – now obvious on the ground with several mixed use developments constructed and occupied along the High Street spine. The level of detail, which includes quantifiable performance measures and diagrams illustrating how the design guidelines are to be implemented in respect of a range of matters including building heights, setbacks, sightlines and the like, is set out in a way that makes the policy a perfect candidate for the DDO tool.

The diagrams in their current form are however difficult to read and interpret. More particularly, the policy is one that should be progressively reduced in its application as structure plans are implemented in the planning scheme (Preston Central and Northcote Major Activity Centres) having been implemented (the latter being on an interim basis at the time of writing). Implementation has/should be in the form of schedules to zones and/or new/amended DDO schedules. All design and development requirements should be translated into a series of DDO schedules for each area to which the policy applies. 'Use' provisions should be included in the new MSS.

Recommendation:

- That the policy be reviewed and rewritten by removing design and development provisions for translation into DDO schedules and the key land use directions be repositioned in a new Clause 21.02 (Activity centres).

**Clause 22.09 Residential and Mixed Use Development of Less Than Four Storeys in Business 1, Business 2 and Priority Development Zones 1 and 2**

The policy applies to residential development and mixed-use development which includes a residential use of less than four (4) storeys in the Business 1, Business 2 and Priority Development Zones 1 and 2. The policy is structured around 12 design elements, each with one or more objectives and design guidelines.

The *High Street Study Urban Design Framework*, David Lock Associates and Planisphere, 2005 and the *Preston Central Structure Plan 2006* City of Darebin and David Lock Associates are referenced by the policy.

As with Clause 22.08 (which does not apply to land in High Street Preston zoned PDZ2), the policy is set out in a way that makes it a suitable candidate for the DDO tool. Unlike Clause 22.08 however, it does not include the same degree of quantifiable performance measures, nor does it include diagrams illustrating how the design guidelines are to be implemented, therefore additional work may be required in order to draft a suitable DDO schedule.

The policy should be reviewed, with particular attention paid to consistency between its content and Schedules 1 and 2 to the PDZ which seek to implement the *Preston Market Incorporated Plan (2007)* and *Preston Central Incorporated Plan (2007)* respectively.

Recommendation:

- That the policy be reviewed and opportunities for the inclusion of design and development directions into a DDO schedule be investigated as part of a review of other schedules to the DDO that affect land zoned Business 1 and Business 2.
- That the provisions relating to development of land zoned PDZ1 and PDZ2 be included in the relevant zone schedules.
- That as an interim measure, the concise form of the design and development directions be repositioned in a new Clause 21.06 (Urban environment).

**Clause 22.10 Residential and Mixed Use Development of Four or More Storeys**

This policy applies to residential development and mixed-use development which includes a residential use of four (4) or more storeys in all zones.

As highlighted in the Background and Key Issues Paper, the policy adds another layer to the assessment of applications that must be assessed against Clause 19.03 (replaced by Clause 15.01) and the DSE *Guidelines for Higher Density Residential Development* (2004).

An outcome of internal consultations was that the policy has been identified as being overly lengthy, not readable (user friendly) and lacking in quantifiable measures. There is also some confusion as to whether the policy is called up in situations where a Clause 55 assessment is required for a 3 storey building that also includes a basement (4 storeys in total) given the policy does not discriminate between storeys used for accommodation and a storey used as a basement.

The policy should be removed and any aspects that are found to remain relevant (i.e. where there is no overlap with another policy or overlay) could be considered for inclusion in a revised policy at Clause 21. If the policy is to be retained (not recommended) following the Residential Zone Review, further assessment should be undertaken to determine if the policy should be retained, especially in light of any State requirements for buildings over 4 storeys.

Recommendation:

- That the policy be removed from the planning scheme.

**Clause 22.11 Northcote Major Activity Centre**

The policy applies to all land in the Northcote Activity Centre as identified on *Map 1 Activity Centre and Precincts* forming part of the policy. It was introduced into the planning scheme by Amendment C95 on 28 May 2009 and expires on 10 May 2011. The policy is receiving support at VCAT. Decision such as *Northcote Development v Darebin CC* [2009] VCAT 2261 provide an example of how policy with clear directions can be the key influence for the Tribunal in its decision making process. Being an interim policy, there is no need to make recommendations, noting that permanent controls proposed by Amendments C92 and C81 have gone through a Panel process in 2009 and are now with to the Minister for Planning for approval.

Recommendation

- That as an interim measure, the policy be repositioned in a new Clause 21.02 (Activity centres) pending the outcome of Amendment C81.  
Or
- The policy should be removed.

### **Clause 22.12 Preston Central (Incremental Change)**

The policy applies to Precincts K-T as identified in the *Preston Central Structure Plan*, 2006 and shown on Policy Areas Map 1 that forms part of the policy. It was introduced into the planning scheme as part of Amendment C68 in July 2010 and applies to land zoned Residential 1 and Public Use Zone 4.

The policy is to be read in conjunction with policy at Clause 22.04 *Urban Character* and the detailed provisions contained in Clauses 54 and 55.

At the time of writing, the extent of a future Activity Centre Zone boundary for the Preston Principal Activity Centre remains unclear. For this reason, it is recommended that the policy only be reviewed after the ACZ (with schedule) is applied, noting that policy could potentially (at least in part) be incorporated into a schedule if the ACZ were to be applied to land currently zoned Residential 1 in addition to land zoned PDZ (schedules 1 and 2).

Given the policy provides guidance on preferred built form outcomes (particularly in relation to building scale) in addition to land use considerations, there would potentially be scope for application of the DDO with a new schedule to the policy area to more appropriately address the former.

#### Recommendation:

- That the policy be retained and reviewed once the Activity Centre Zone is applied to land forming the Preston Principal Activity Centre, such that it substantially or fully forms part of the zone schedule.
- That the policies be implemented in the form of a new DDO schedule in the event that the Activity Centre Zone is not applied to the land currently zoned Residential 1.
- That as an interim measure, the policy be repositioned in a new Clause 21.02 (Activity centres).

## 3.2 EFFECTIVENESS OF ZONES AND SCHEDULES

There are 15 zones in the Darebin Planning Scheme as follows:

### Residential Zones

- **Residential 1 Zone (R1Z)**  
Default Schedule only - Schedule not filled out, can be used to specify preferred types and density different precincts.
- **Mixed Use Zone (MUZ)**  
Schedule used for setting maximum leasable floor areas for shop and office use.  
No ResCode variations included.

### Industrial Zones

- **Industrial 1 Zone (IN1Z)**  
Default Schedule only - Schedule not filled out.
- **Industrial 3 Zone (IN3Z)**  
Schedule used for setting a minimum leasable floor area for restricted retail premises at 216-218 Bell Street, Preston.

### Business Zones

- **Business 1 Zone (B1Z)**  
Schedule used for setting maximum leasable floor areas for shop and office use.
- **Business 2 Zone (B2Z)**  
Schedule used for setting maximum leasable floor areas for shop use.
- **Business 3 Zone (B3Z)**  
Default Schedule only - Schedule not filled out.
- **Business 4 Zone (B4Z)**  
Default Schedule only - Schedule not filled out.
- **Business 5 Zone (B5Z)**  
No Schedule.

### Public Land Zones

- **Public Use Zone (PUZ)**  
Default Schedule only - Schedule not filled out.
- **Public Park and Recreation Zone (PPRZ)**  
Default Schedule only - Schedule not filled out
- **Public Conservation and Resource Zone (PCRZ)**  
Schedule used for setting landscape plan requirements for land in Mahoneys Road, Reservoir.
- **Road Zone (RDZ)**  
No Schedule.

### Special Purpose Zones

- **Urban Floodway Zone (UFZ)**  
Default Schedule only - Schedule not filled out.
- **Priority Development Zone (PDZ)**  
Schedule used. Schedule 1 relates to Preston Market (Amendment C67 – 7/6/2007). Schedule 2 relates to Preston Central (Amendment C68 – 15/7/2010)

Internal consultations and desktop research suggests that the zone selection is generally appropriate as is the content of schedules. The following observations are however relevant to an assessment of zone selection.

#### General observation on zonings

DPCD are currently reviewing the Residential Zones, piloting an Activity Centre Zone within the five 'market ready' PACs, and revising the Mixed Use Zone. The review outcomes will influence the operation of the above zones. In particular, new Residential zones will provide directions and tools to implement housing diversity, density, and character preferences areas.

A number of observations have been made during consultation about the MUZ, whilst the zone encourages mixed uses and achieves its objectives it also gives rise to potential and actual land use conflicts by allowing residential use as-of-right. Necessary measures should be undertaken to avoid conflicts between uses and associated amenity issues.

Despite the overall zone selection being appropriate, there are however isolated examples of sites that are inappropriately zoned. Examples emerged from consultation include:

- A number of Council owned/managed open space reserves that are zoned Residential 1 which should be zoned Public Park and Recreation.
- Established dwellings on land zoned Industrial 3 and privately held land used for retail purposes being zoned Public Use 6.

It is also apparent that a number of properties are within two zones, whilst others are only partly covered by an overlay (such as the Heritage Overlay). Compiling a complete list of sites is required followed by an amendment to address the above. Structure Plan processes could also be used to identify appropriate zones within the structure plan area.

#### Recommendations:

- That Council keep a record of inappropriate zonings/zoning anomalies as they become known and undertake housekeeping Planning Scheme Amendments regularly.
- That all zones and schedules be reviewed to ascertain whether they are achieving their intended purpose and are the most appropriate VPP tool to implement the strategic objectives of the MSS.

#### Activity Centre Zone

At a broader strategic level, the Activity Centre Zone (ACZ) is widely seen as the most appropriate zone for the Preston Principal Activity Centre and the Northcote Major Activity Centre. Both centres have completed Structure Plans and are at various stages of Structure Plan implementation. Preston Central was recently the subject of approved Amendment C68 (July 2010) and Northcote had interim controls approved via Amendment C95 in May 2009. It is however noted that the Planning Panel for amendment C81 (for the permanent controls for Northcote MAC) has expressed its disappointment that the ACZ, whilst available prior to the conclusion of the Panel Hearing, was not a priority of DPCD for Major Activity Centres at that time.

As one of the five 'market ready' activity centres, Preston will be high on the list of Principal Activity Centres (PAC) to be rezoned to ACZ; and the Major Activity Centres including Northcote and Northland that have either completed and or currently undertaking structure plans could also consider applying an ACZ.

#### Recommendation:

- That the Council make representations to DPCD seeking directions to apply ACZ to its Principal and Major Activity Centres as appropriate.

#### Residential use in the Business 1 Zone

Another issue identified by the Council is the extent to which residential use and development is occurring on land zoned Business 1, often to the exclusion of other uses. Under the B1Z provisions, residential use is either as-of-right or discretionary (permit required). Whilst residential use and development is encouraged in activity centres (provided it does not occur at ground level where active frontages are promoted), its location in other areas raises questions about the appropriateness of the zoning in those areas.

#### Industrial zoned land

The Council continues to receive requests to rezone industrial zoned land to enable residential use and development (predominantly) as well as for business use. Whilst the Council supports rezoning it also need to ensure current and future employment opportunities are retained and that former industrial land is not solely used and developed for residential purposes. Given the likely continuation of requests for the rezoning of industrial land, it is considered that the MSS should provide clear directions for the industrial land that should be kept for economic and employment generation activities and indicate the land that can be rezoned for other uses.

However as a long term solution an economic land use strategy, which includes a detailed review of industrial zoned land, other land uses and zonings that are to be retained and encouraged for economic development and employment generation activities needs be undertaken as a priority. While doing so other associated issues with rezoning such as amenity, urban design, environmental impacts, traffic and car parking issues should also be addressed concurrently.

### 3.3 EFFECTIVENESS OF OVERLAYS AND SCHEDULES

There are 12 overlays in the Darebin Planning Scheme as follows:

#### Environment and Landscape Overlays

- Environmental Significance Overlay (ESO)
- Vegetation Protection Overlay (VPO)

#### Heritage and Built Form Overlays

- Heritage Overlay (HO)
- Design and Development Overlay (DDO)
- Incorporated Plan Overlay (IPO)
- Development Plan Overlay (DPO)

#### Land Management Overlays

- Land Subject to Inundation Overlay (LSIO)
- Special Building Overlay (SBO)

#### Other Overlays

- Public Acquisition Overlay (PAO)
- Environmental Audit Overlay (EAO)
- Road Closure Overlay (RXO)
- Development Contributions Plan Overlay (DCPO)

Most of the overlays have at least one schedule varying in complexity. A brief overview of the overlay and schedule and issues arising from internal consultations and research are given below.

#### Environmental Significance Overlay

##### Schedule 1 – Merri Creek and Environs

The schedule lists objectives under five themes: Natural Systems, Waterway Function, Recreation Use, Landscape Character, and Heritage.

The reference to various 'use' objectives strictly goes beyond the purpose of the overlay. Similarly a number of landscape character objectives (particularly as they relate to the siting of buildings) would potentially be more appropriate for another type of overlay.

Decision guidelines are extensive and need to be simplified.

##### Schedule 2 – Darebin Creek and Environs

The schedule includes a reference to 'activities' in *Environmental objectives*. Like in Schedule 1, there is reference to 'preferred recreational use' in the fourth dot point of the decision guidelines. Objectives relating to amenity of residential and industrial areas and landscape and character objectives should be reviewed, noting that they are more suited to a SLO or DDO schedule.

Both ESO1 and ESO2 perform an important function for the respective creek environments, however much of their content does not strictly accord with the purpose of the VPP tool. Both schedules should be reviewed to simplify the extensive decision guidelines and to provide permit exemptions for minor works that do not add value through the planning process. Review also needs to ensure there is no inconsistency or unnecessary duplication between the provisions of the schedules and the *Aboriginal Heritage Act 2006*.

#### Recommendations for ESO1 and ESO2:

- That Council review and rewrite both schedules ensuring that inappropriate references to land use and amenity requirements are removed and decision guidelines are simplified.
- That where appropriate include permit exemptions in the schedules for minor works that do not add value through the planning process.
- That consideration be given to the design guidelines referenced under each schedule forming the basis of two new schedules to the DDO or SLO following a review of the guidelines.
- That both schedules be reviewed to ensure there is no inconsistency or unnecessary duplication between their provisions and the *Aboriginal Heritage Act 2006*.

#### **Vegetation Protection Overlay**

##### Schedule 2 – Former Kingsbury Centre – Significant Vegetation

The schedule at Clause 3.0 provides that “A permit is required to remove, destroy, lop any tree or shrub identified on the plan “Vegetation Survey – Former Kingsbury Centre Site Bundoora Map 2”. It is noted that the document does not appear to be referenced anywhere in the planning scheme other than at Clauses 3.0 and 4.0 of the schedule.

##### Schedule 3 - Mount Cooper, Bundoora - Significant Vegetation

The schedule at Clause 3.0 provides that “A permit is required to remove, destroy, lop any tree or shrub identified for retention in the attached plan for Mount Cooper, “City of Darebin, Mount Cooper Estate, Bundoora, Tree Retention Plan”, but once again the document is not referred in the planning scheme.

#### Recommendation for Schedule 2 and 3:

- That where appropriate include permit exemptions for minor works that do not add value through the planning process.
- Provide reference in planning scheme for the documents that are referred in the schedule and make them available for users of the planning scheme.

#### **Schedule 4 – Springthorpe – Significant Vegetation**

The purpose of the schedule is to protect the significant vegetation in the Springthorpe estate. The Council in July 2010 sought ministerial authorisation to prepare Amendments C105 and C113 to the planning scheme to include, on an interim basis, up-to-date tree assessments to protect significant vegetation in the estates covered by VPO3 and VPO4.

The schedule provides that “Written consent from the responsible authority is required to remove or relocate any Tree Conservation Zone fencing or any other protective barrier established to define the Tree Conservation Zone” and “Written consent from the responsible authority is required for any buildings or works in a Tree Conservation Zone as specified on the Tree Conservation Plans”. Whilst the protection requirements seem reasonable, it is doubted that they can suitably be accommodated under the VPO. A more appropriate option would be to introduce a new DDO schedule that addresses these and other ‘buildings and works’ type requirements, potentially as permit requirements. An example of a similar provision is DDO8 in the Banyule Planning Scheme which applies to land also affected by a VPO.

The schedule also refers to various Tree Conservation Plans (TCPs) and the 'Mont Park Development Plan Existing Tree Survey and Arboriculture Assessment' prepared by Tree Logic P/L neither of these documents are referred in the planning scheme.

Decision guidelines require simplification.

Recommendations:

- That Council review and rewrite the schedule to remove references to buildings and works requirements and simplify decision guidelines.
- That Council consider applying a DDO that introduces a permit requirement for buildings and works within a Tree Protection Zone and for the removal or relocation of any Tree Protection Zone fencing in lieu of addressing such requirements as a consent matter under the VPO.
- That where appropriate includes permit exemptions for minor works that do not add value through the planning process.
- Provide reference in planning scheme for the documents that are referred in the schedule and make them available for users of the planning scheme.

### **Schedule 5 – Lancaster Gate - Significant Vegetation**

The purpose of the schedule is to protect the significant vegetation in the Lancaster Gate estate. Most of the issues with the schedules are similar to Schedule 4 and thus the above comments apply equally to Schedule 5 to the VPO. The Tree Protection Plans (TPP's) referred in the schedule should be referred in the planning scheme. Also as with VPO4, decision guidelines should be simplified.

Recommendations:

- That Council review and rewrite the schedule to remove references to buildings and works requirements and simplify decision guidelines.
- That Council consider applying a DDO that introduces a permit requirement for buildings and works within a Tree Protection Zone and for the removal or relocation of any Tree Protection Zone fencing in lieu of addressing such requirements as a consent matter under the VPO.
- That where appropriate includes permit exemptions for minor works that do not add value through the planning process.
- Provide reference in planning scheme for the documents that are referred in the schedule and make them available for users of the planning scheme.

### **Heritage Overlay**

The current Heritage Overlay (HO) has one schedule with 181 places listed (including buildings and structures) to precincts. A comprehensive Heritage Study (*Darebin Heritage Study 2007*) has recently been undertaken by Context Pty Ltd, however at this stage only a small part of it has been referenced in the planning scheme at Clause 21.05-4 as part of Amendment C68 together with changes to the schedules to include places that form part of the Preston Principal Activity Centre.

The current Stage 4 of the Darebin Heritage Study (2007) is the preparation and exhibition of Planning Scheme amendments. It introduces the HO on an interim basis (already in place via C107) and permanent basis (proposed C108) to 109 identified individual sites and to 18 precincts. It also proposes the inclusion of the 'Darebin HO Permit Exemptions incorporated Plan 2011' which will provide for additional permit exemptions for minor works in land affected by the heritage overlay.

In the following stages of the Darebin Heritage Study (2007) assessments of Natural Heritage will be completed and further planning scheme amendments will be prepared.

Whilst heritage significant places are protected it is also necessary for the Council to consider that heritage conservation does not undermine the development capacity of the municipality. Given the population projection and Darebin's strategic position in metropolitan Melbourne it is vital for Darebin to maximise its development capacity. The HO Schedule, Incorporated documents and any other heritage control should be carefully written to ensure that heritage significances are conserved without undermining development potential. Most importantly a single heritage building on the street should not control the type, scale and density of all developments on the street. For example, permit exemptions and incorporated documents such as the 'Darebin HO Permit Exemptions Incorporated Plan 2011' should be encouraged. There are various examples in Darebin and in Melbourne to learn how heritage conservation could be incorporated and achieved with modern developments. The current controls should be reviewed with the above in mind and also to provide exemptions where appropriate.

#### Recommendation

- That the extent of the schedule be reviewed to minimise controls that undermine the development capacity of key sites, its surroundings and locations.
- That the findings of the Darebin Heritage Study 2007 be implemented as appropriate upon the completion of the study.

### **Design and Development Overlay**

#### **Schedule 1 - Central Creek Grasslands Residential Area North of Davidson Street (DDO1)**

DDO1 applies to a residential subdivision adjacent to Central Creek at the northern boundary of the municipality in Reservoir. The subdivision comprises approximately 77 lots. However a review of aerial photography from December 2009 shows that the majority of the land affected by DDO1 has now been developed with only 5 lots remaining vacant. It is likely that this number has been further reduced at the time of writing.

The schedule provides that a permit is not required to construct a building or carry out works etc provided that *"Any dwelling shall be designed to achieve a four star energy rating, using the Sustainable Energy Authority of Victoria 'FirstRate' system or equivalent"*. This is an outdated requirement and has been replaced by a standardised requirement in the building regulations (the building approvals process addresses this). Additionally, the objective of *achieving a high standard of passive solar energy efficiency* is not necessarily achieved under a four star rating or its replacement in the building regulations (a 5 star requirement is now imposed).

The schedule also provides that a permit is not required to construct a building or construct or carry out works provided that the building and works are in accordance with the Building Envelope Specifications shown on the Building Envelope Plan No. 1 and Building Envelope Plan No. 2 "attached to this schedule". It is noted that no such plan is attached to the schedule.

Given the limited number of lots that are yet to be developed, it is not appropriate to review and rewrite the schedule (noting also the outdated provisions of the schedule and the non-inclusion of the building envelope plan). It is recommended that Council

remove the schedule and the overlay upon the remaining lots forming the subdivision affected by the overlay being developed. The status of development should be investigated prior to the preparation of any planning scheme amendments to implement the recommendations of the review.

Recommendations:

- That Council remove the schedule and overlay upon the development of the remaining lots.
- The Council investigate the status of development prior to the preparation of any planning scheme amendments to implement the recommendations of the planning scheme review.

**Schedule 2 - Central Creek Grasslands Residential Area North of Bartrop Street (DDO2)**

DDO2 applies to a small parcel of land adjoining the Central Creek Grasslands that is commonly described as 28-30 Bartrop Street, Reservoir. The schedule provides that no more than 3 dwellings can be constructed on the land. This requirement cannot be varied with a permit. The use of the DDO for such purpose is irregular and arguably goes beyond what the overlay can achieve.

The schedule was amended by Amendment C75 in June 2008 (an amendment to correct various administrative anomalies in different sections of the scheme).

Review of aerial photography from December 2009 shows that the land has now been developed with three dwellings. A review of the cadastre also shows that the land has been subdivided into three lots and common property. For these reasons, it is reasonable to conclude that the schedule has served its intended purpose and is no longer required.

Recommendation:

- That Council remove the schedule and overlay if it satisfied that after consulting with the Wurundjeri Tribe Land Compensation and Cultural Heritage Council Incorporated that there are no ongoing monitoring requirements.

**Schedule 3 – The Junction Area**

The schedule, among other things, sets out requirements in relation to building heights and setbacks. It is unclear whether it is intended that a permit can be granted to vary maximum building height requirements.

It is noted that there has been significant redevelopment of land in that part of the Junction Area covered by the overlay (particularly on land located between High Street and Plenty Road). A review of the 'as built' outcomes should be undertaken in order to assess whether the overlay is achieving its design objectives. Further, as noted above, there is an opportunity to include built form considerations for the entire Junction Local area (as mapped under Clause 22.02) under a single DDO and address the residual 'use' issues through policy at Clause 21. Such approach would make better use of appropriate VPP tools and avoid unnecessary duplication of provisions.

Recommendation:

- That Council review the schedule in conjunction with a review of Clause 22.02 and consider expanding the extent of the overlay and amend its provisions to include the entire Junction Area.

#### **Schedule 4 – 2-2A High Street, Northcote**

The schedule relates to land that has recently been developed with medium density housing and is now known as 4 High Street, Northcote. It would appear that the schedule is no longer required.

##### Recommendation:

- That Council investigate the status of the land and development thereon and review the need for the Schedule as necessary.

#### **Schedule 5 - High Street Corridor View Protection**

The schedule sets desirable building heights of between 8 and 12 metres so as to maintain views of landmarks and features from specified areas along the High Street corridor. Buildings can exceed these heights, provided (in the case of All Nations Park) that it can be demonstrated that views are maintained.

Whilst the object of the DDO is sound, it is noted that building heights are relatively low having regard to the activity centre context of much of the land that the control relates to (i.e. 12 metres equates to 3 storeys which may constitute underdevelopment in an activity centre context). It is also noted that approved development (particularly non-Council approved residential development adjacent to Northcote Plaza) exceeds the 12 metre height by a significant amount.

The schedule should be reviewed to determine if a) development outcomes are achieving the objects of the control and b) if the control is unnecessarily constraining activity centre development. Internal consultations raised the question of whether a sky-line study should be undertaken. Any review of DDO5 may assist in answering that question, however there is merit in undertaking such a study.

##### Recommendation:

- That Council review development outcomes under the schedule to assess its performance, including whether the schedule is unnecessarily constraining activity centre development.

#### **Schedule 9 – Noise Amenity Area**

The schedule relates to land proximate to industrial activity and is of a form that is increasingly used in planning schemes in order to protect core industries from residential use and development that does not provide for appropriate noise attenuation measures to ensure reasonable internal amenity. If the land has been developed for any of the uses for which the overlay establishes a permit requirement for buildings and works, (including accommodation), the ongoing need for the schedule/application of the overlay to the property should be reviewed (having regard to any ongoing permit requirement for noise attenuation measures).

##### Recommendation:

- That Council investigate the status of the land and use and development thereon and review the application of the overlay/schedule as necessary.

### **Schedule 10 - Aviation Obstacle Referral Height Area**

DDO10 is concerned with facilitating safe helicopter operations/flight paths associated with the West Heidelberg Emergency Medical Services (EMS) helipad located in the City of Banyule.

The schedule is a relatively recent addition to the planning scheme and was introduced at the request of the Department of Human Services which is a referral authority under the provisions of the schedule. The need for the schedule should only be reviewed at the request of the Department of Human Services.

#### Recommendation

- That the schedule be retained in its current form.

### **Schedule 11 - Aviation Obstacle Referral Height Area**

As with the above schedule, DDO11 is also concerned with facilitating safe helicopter operations/flight paths associated with the West Heidelberg Emergency Medical Services (EMS) helipad located in the City of Banyule.

The schedule was introduced into the planning scheme at the same time as DDO10. As the two schedules relate to one another, this schedule should also be retained in its current form.

#### Recommendation

- That the schedule be retained in its current form.

### **Schedule 12 - Railway Noise Attention Area**

The schedule relates to land zoned Mixed Use. If the land has been developed for mixed use, including a residential component, the ongoing need for the schedule/application of the overlay to the property should be reviewed (having regard to any ongoing permit requirement for noise attenuation measures), acknowledging that as-of-right residential use might justify its retention.

It is noted that Council proposes to apply DDO12 to other land zoned for residential use adjoining rail corridors therefore the schedule should be retained.

#### Recommendation:

- That Council investigate the status of land affected by DDO12 and development thereon and review the application of the overlay as necessary.

### **Schedule 13 – Gadd Street Northcote**

The schedule was recently introduced into the planning scheme by Amendment C64 on 18 February 2010. It is therefore considered premature to provide any commentary on its performance.

#### Recommendation

- That the schedule be retained in its current form.

### **Incorporated Plan Overlay**

Schedule 1 - Northland Shopping Centre (Concept Plan and Building Envelope Plan, Northland Plan No 3, September 2000)

The schedule sets out requirements in relation to the development of the Northland Shopping Centre. The schedule will only need to be reviewed/amended to facilitate any future redevelopment of Northland that represents a significant departure from the Incorporated Plan.

#### Recommendation

- That the schedule be retained in its current form.

#### **Development Plan Overlay**

- Schedule 1 - Former Larundel Psychiatric Hospital
- Schedule 2 - Aged Care Facility Glasgow Avenue Reservoir
- Schedule 3 – Mount Cooper
- Schedule 4 – Central Creek
- Schedule 5 - Former Preston and Northcote Community Hospital
- Schedule 6 - Former Mont Park, Gresswell, Macleod and Plenty Hospitals.
- Schedule 7 - 93-103 High Street, Preston (former Howe Leather Factory)
- Schedule 8 - Former Kennedy-Taylor Building, 26-36 High Street, Northcote
- Schedule 9 - Former Thornbury/Darebin Secondary College, corner Gooch Street and Sparks Avenue, Thornbury and 328-342 Gooch Street, Thornbury

Many of the schedules relate to large developments that are either fully completed (and have been for some time) or are nearing practical completion. A thorough review of the current status of each site will determine what aspects of the use and development provisions of each schedule remain relevant (if any). Based on the review, schedules should either be removed/updated accordingly and/or other more suitable overlays should be applied.

#### Recommendation:

- That each schedule to the DPO be reviewed and the overlay and schedules be removed from land as appropriate.

#### **Land Subject to Inundation Overlay**

The schedule to the overlay (LSIO) is the default schedule – there is no local content. Discussions with Council staff did not point to the lack of a ‘filled out’ schedule being problematic in any way – it would seem that the number of permit applications generated by the overlay is relatively low; however where appropriate permit exemptions could be given for minor buildings and works. This can be contrasted with the Special Building Overlay as discussed below.

#### Recommendation

- That the schedule be reviewed to provide exemptions where appropriate for minor buildings and works.

#### **Special Building Overlay**

The schedule to the overlay (SBO) is the default schedule – there is no local content. Discussions with Council staff suggest that the overlay generates a significant number of planning permit applications per annum in circumstances where there is no ‘value adding’ in the process. The Melbourne Water is currently reviewing the mapping but no planning scheme amendment is initiated as yet.

#### Recommendations:

- That discussions between Council and Melbourne Water are facilitated to determine minor buildings and works that could be exempt from a permit requirement and included in a schedule to the overlay.
- That Council request Melbourne Water to initiate a Planning Scheme Amendment to ensure land subject to overland flows based on the most up to date data and is covered by SBO.
- That discussions between Council and Melbourne Water are facilitated to seek written agreement on standard permit conditions that might be applied to certain classes of development applications without the need for referral of those permit applications to the Corporation.

#### **Public Acquisition Overlay**

The schedule comprises of the following three acquisitions:

- **PAO1** VicRoads (Road construction or widening)
- **PAO3** City of Darebin (Creation of Public Open Space)
- **PAO4** City of Darebin (Footpath widening)

A review of the application of PAO4 is currently underway, otherwise the schedule can be said to be working well with modifications being made as required.

#### Recommendation:

- That the schedule be reviewed to determine whether land is still required by the acquiring authorities and where no longer needed PAO should be removed.

#### **Environmental Audit Overlay**

This overlay (EAO) does not have a schedule. The EAO identifies land requiring environmental audit clearance prior to it being used for a 'sensitive use' or developed in association with a sensitive use. Outcomes of the consultation process suggest that the overlay has been applied to properties where it may not necessarily be required, posing a potential unnecessary cost impost on owners which in turn may be preventing the redevelopment of land/more efficient use of land.

It is noted that Council has recently sent Amendment C106 to DPCD for certification. The amendment seeks to remove the EAO from No's: 2, 4 and 6 Martin Street Thornbury, 622 and 624 High Street Thornbury and 2 Eastment Street Northcote.

#### Recommendation:

- That the full extent of land affected by the EAO be reviewed in consultation with Environment Protection Authority and the overlay should be removed from land where there is no clear basis for its application.

#### **Road Closure Overlay**

#### Recommendation

- That the extent of land affected by the overlay (mapping) remain unchanged.

#### **Development Contributions Plan Overlay**

The *City of Darebin Development Contributions Plan* ('DCP') applies to the entire municipality (implemented by Schedule 1 to the overlay).

The DCP has been in existence for approximately 6 years and has not been reviewed in that time. Discussions with Council staff suggest that the DCP may result in inequitable outcomes across the municipality. Given the age of the DCP and equity considerations, the DCP should be reviewed and revised.

Recommendation:

- That the DCP be reviewed and revised to ensure contributions reflect the true cost of infrastructure provision arising from new development.

### **3.4 EFFECTIVENESS OF SCHEDULES TO THE PARTICULAR PROVISIONS**

There are 10 opportunities in Clause 52 of the Darebin Planning Scheme for Council to specify local variations to the particular provisions. The following provides a brief summary of the clauses and the schedules thereto including those that contain local content:

#### **Clause 52.01 - Public Open Space Contribution and Subdivision**

This clause provides that, among other things, a person who proposes to subdivide land must make a contribution to the council for public open space (percentage of the site value or percentage of the land) specified in the schedule to the clause. The schedule sets out a sliding scale of public open space contributions under the *Subdivision Act 1988*. The use of this schedule is supported.

##### Recommendation

- That the schedule be retained in its current form.

#### **Clause 52.02 - Easements, Restrictions and Reserves**

The purpose of this clause is to enable the removal and variation of an easement or restrictions to enable a use or development. The schedule sets out various removal and variations of restrictive covenants under s 23 of the *Subdivision Act 1988* and the removal of a reservation under s 24A of the same Act. No changes to the schedule are required.

##### Recommendation

- That the schedule be retained in its current form.

#### **Clause 52.03 – Specific Sites and Exclusions**

The purpose of this clause is to recognise specific controls designed to achieve a particular land use and development outcome. The schedule sets out two exclusions, being the Melbourne Sewerage Project and the Biosciences Research Centre. No changes to the schedule are required.

##### Recommendation

- That the schedule be retained in its current form.

#### **Clause 52.05 – Advertising Signs**

Among other things, the purpose of this clause is to regulate the display of signs and associated structures to ensure the signs are compatible with the amenity and achieve the desired visual character. The schedule to the clause is 'default' only – there is no local content. Unless the Council wish to develop advertising sign policy and specific sign requirements for precincts, no changes to the schedule are required at this stage.

##### Recommendation

- That the schedule be retained in its current form.

### **Clause 52.06 – Car Parking**

This clause sets out permit requirements in relation to the provision of car parking for specified land uses. Council is obliged to use the table of parking rates for assessments. However the table is outdated and has been the subject of Department's review for a number of years. The schedule is the 'default schedule' with no local content.

Given Darebin's commitment to encouraging sustainable transport, including a reduction in private motor vehicle use, the schedule could be used to incorporate parking precinct plans and special car parking rates at precinct level, off-site parking provisions and other requirements. The current parking precinct study could be used to investigate specific parking requirements at precinct level and a new schedule could be included in this clause.

In order to be able to introduce any meaningful basis for the assessment of car parking, there must first be consensus between and within internal Council departments on what the Council is trying to achieve in terms of car parking.

#### Recommendation:

- That Council review its position in respect of car parking rates and parking precinct plans as part of a wider consideration of sustainable transport issues.
- That Council explore the potential advantages in utilising the schedule to Clause 52.06 as part of a wider review of transport policies as part of the car parking study
- Based on the above study or similar investigations include a schedule to Clause 52.06 that specify special car parking rates to land uses.

### **Clause 52.16 - Native Vegetation Precinct Plan**

The purpose of this clause includes the protection and conservation of native vegetation to reduce the impact of land and water degradation and provide habitat for plants and animals and to provide for the protection, management and removal of native vegetation in accordance with a native vegetation precinct plan.

A native vegetation precinct plan is a plan relating to native vegetation within a defined area which is incorporated into the scheme and listed in the schedule to the clause. A permit is not required for the removal, destruction or lopping of native vegetation if it is in accordance with a native vegetation precinct plan incorporated into the scheme. The schedule is the 'default schedule' only – there is no local content. No changes to the schedule are required as the subject matter is of limited relevance to Darebin given minimal pressures for native vegetation removal.

#### Recommendation

- That the schedule be retained in its current form.

### **Clause 52.17 - Native Vegetation**

This clause sets out permit requirements in respect of the removal, destruction or lopping of native vegetation. The schedule is the 'default schedule' only – there is no local content. No changes to the schedule are required as the subject matter is of limited relevance to Darebin given minimal pressures for native vegetation removal.

#### Recommendation

- That the schedule be retained in its current form.

### **Clause 52.27 - Licensed Premises**

The purpose of this clause is to ensure that licensed premises are situated in appropriate locations and that the impact of the licensed premises on the amenity of the surrounding area is considered. The schedule includes local content, specifically that a permit is not required for a general licence for a hotel, bar and tavern or for an on-premises licence for a café or restaurant.

It is noted that use terms 'Café' and 'Bar' are not defined under Clause 74 of the planning scheme. Though the exemptions from a permit requirement for the listed uses is supported, the schedule should be reviewed and land use terms from Clause 74 applied in order to provide certainty as to land uses that are exempt from permit requirements, and the review should also consider the recent changes to the liquor licensing regulations and recommend for any amendments to the schedule.

#### Recommendation:

- That Council review and revise the schedule to:
  - bring the land use definitions into conformity with Clause 74 of the planning scheme, and
  - to be consistent with the recent changes made to the liquor licensing regulations.

### **Clause 52.28 - Gaming**

The purpose of the clause is to ensure that gaming machines are situated in appropriate locations and premises; that the social and economic impacts of the location of gaming machines are considered and to prohibit gaming machines in specified shopping complexes and strip shopping centres (via the schedule). A permit is required to install or use a gaming machine unless they are prohibited by the clause or the machine is in an approved venue under the *Gambling Regulation Act 2003* on 18 October 2006 and the maximum number of gaming machines is not exceeded.

The schedule includes local content, specifically that gaming machines are prohibited in the Northcote Central Shopping Centre, Northcote Plaza Shopping Centre and Northland Shopping Centre and in all strip shopping centres on land covered by the planning scheme.

As it currently stands, there is no opportunity to prohibit gaming machines by any means in the schedule other than provided for by the head clause (i.e. limited to shopping centres). The *Darebin Electronic Gaming Machine Policy and Strategic Action Plan 2010 – 2014* as adopted by the Council in August 2010 sets out Council's position on electronic gaming. Among other things, it is the position of the Council that it:

- Does not support EGM gaming in the municipality. Council will work to prevent proliferation of new venues or increases in locational density within Darebin.
- Will seek to employ measures to reduce the current number of EGMs from the current average of 9.16 EGM per 1000 adults to be in line with the state average of 6.81 EGMs per adult or by 25% of the current 986 EGMs (246), whichever is the greater.
- Will vigorously campaign and contest gaming license applications before the Victorian Commission on Gaming Regulation (VCGR) where possible.
- Will not support EGM on Council owned or managed land.

Whilst this report recommends that the Council seek to implement the planning related objects of the adopted EGM policy in the planning scheme at Clause 21, it would not be appropriate to express an upper limit of EGMs - there is a limit to what Clause 21 can achieve in respect of Council's adopted position on gaming. A VPP amendment to Clause 52.28 would be required in order to expand the scope of possible prohibitions on electronic gaming in Darebin.

Recommendation

- That the schedule be reviewed in light of the recommendations in *Darebin Electronic Gaming Machine Policy and Strategic Action Plan 2010 – 2014*.
- That the Council lobby the State government to amend Clause 52.28 to enable local schedules to prohibit gaming machines on the basis of additional criteria, including but not limited to, machine numbers either in absolute terms or such that numbers do not exceed the State average of machine numbers per 1000 adults.

**Clause 52.37 - Post Boxes and Dry Stone Walls**

The schedule is the 'default schedule' only – there is no local content. No changes to the schedule are required as the subject matter is of limited relevance to Darebin.

Recommendation

- That the schedule be retained in its current form.

## 4.0 POLICY GAPS

### Housing

Housing has been one of the significant land use issues in the municipality and requires clear strategic direction in the MSS. The current MSS does not reflect current and future housing needs and Council's responsibility in facilitating future housing in the municipality instead, it provides 'motherhood' statements.

In addition to the broader issue of housing, clear policy statements are lacking in respect of affordable, social and public housing, and rooming housing, aged care facilities and other special housing needs.

#### Recommendations:

- That Council continue to prepare its Integrated Housing Strategy having regard to the above issues identified through the review process.
- That prior to its completion, Council consult with DPCD to seek guidance on how to fully implement the findings of the Integrated Housing Strategy in the Planning Scheme, with specific reference to formulating local policy on affordable housing and social housing.
- That Council continue to negotiate with developers to achieve positive affordable and social housing outcomes independently of mandated requirements and formal statutory mechanisms.

### Economic Development Strategy

The *Industrial Land-Use Strategy 2001* and the *Economic Development Strategy 1998* are key strategies that are in need of review. As discussed earlier, a municipal wide economic land use strategy needs to be undertaken as a high priority. The strategy should also consider the appropriateness of out-of-centre developments for inclusion in a new format Clause 21.

### Environment Sustainable Design

Despite some local policies and schedules to overlays including ESD related objectives there is a lack of emphasis in the MSS for specific ESD related requirements. The experience of Council at VCAT is that ESD requirements tend not to be supported, save for those that are required through the building approval process or where the requirement is not being disputed by a permit holder/applicant. It is at the moment left to Council officers to negotiate outcomes with permit applicants on ESD matters with varied results.

An ESD strategy together with assessment guidelines is to be prepared and adopted by the Council. However, DPCD's consent and support is required to give statutory effect to such a strategy so as to implement it through the planning scheme. It is noted that on 26 March 2010 Moreland City Council and Banyule City Council lodged a joint Request for Authorisation with the Minister for Planning to prepare a Planning Scheme Amendment to introduce a Local Planning Policy for ESD into their respective Planning Schemes. The progress of those two Council's attempts to introduce ESD policies should be monitored.

#### Recommendations:

- That Council consult with DPCD to seek an update on the preparation of a State wide ESD policy.

- That Council consult with DPCD to seek guidance on how to most effectively prepare a local ESD policy.
- That Council prepare a local ESD policy with guidelines in consultation with DPCD if a suitable level of commitment to supporting the preparation of such policy is provided and include it at Clause 21.06 of the scheme.
- That Council continue to negotiate with developers to achieve positive ESD outcomes independently of mandated requirements and formal statutory mechanisms.

### **Integrated Transport**

The Council is promoting sustainable transport and transit orientated developments, however this is not given sufficient direction in the MSS. Further, if the Council intends to pursue the requirements of Travel Plans and sustainable transport for applications more strategic work followed by appropriate emphasis through the planning scheme are essential.

#### Recommendations:

- That Council prepare an integrated transport policy in conjunction with a review of its position in respect of car parking rates and parking precinct plans and include it at Clause 21.09 of the scheme.

### **Accessibility and inclusion**

Universal accessibility to buildings needs to be addressed in the MSS. It is directly tied to an ageing population and personal mobility. As with ESD requirements, it does not go far enough in respect of building regulations relating to accessibility.

#### Recommendations:

- That Council continue to negotiate with developers to achieve positive development outcomes in respect of accessibility independently of mandated requirements and formal statutory mechanisms.
- That Council prepare a local Accessibility and Inclusion policy with guidelines in consultation with DPCD if a suitable level of commitment to supporting the preparation of such policy is provided.

### **Whole of Darebin Urban Design Vision**

One of the standout features of the Darebin Planning Scheme is the extent and quality of urban design frameworks that have been undertaken and implemented, or are expressed as future strategic work to be undertaken. The High Street urban design policies and design controls provide an excellent example of how to build on State policies and achieve quality land use and development planning outcomes. A continuation of this approach is supported.

#### Recommendation:

- That Council continues to prepare and implement urban design frameworks for all activity centres.

### **Discretionary Uses in Residential Areas**

Many planning schemes throughout Victoria have a fairly generic policy that provides decision making guidance on discretionary uses in residential zones. The benefit of

such a policy is that it covers a broad range of uses by applying a set of guiding principles which negate the need to include specific policy references relating to particular uses elsewhere in the scheme. Whilst not a high priority, the incorporation of such a policy in a new format Clause 21 is recommended.

## **5.0 OTHER ACTIONS REQUIRED**

### Detailed review of 'under the counter policies'

Existing 'under the counter' policies need to be reviewed to determine if there is justification for them being introduced and or incorporated in the MSS. The majority of these policies do not have sufficient strategic merit to stand alone in the scheme however some of them could be incorporated within relevant themes in the MSS. The existing 'under the counter' policies include:

- Child Care Centres Interim Policy February 1996
- East Preston Industrial Precinct Economic Assessment, May 2006
- Factory Outlet Sales Interim Policy February 1996
- Health and Medical Centres Policy, February 1996
- Peripheral Sales Interim Policy, 1996
- Retail Activity – Active Frontage Policy, January 1996
- Student Accommodation Draft Local Policy,
- Telecommunications Facilities Policy, December 1999
- Tree Preservation Policy and Guidelines.

### Recommendation:

- That the Council review all 'under the counter' policies to determine their relevance; where necessary incorporate them into the MSS under suitable themes and or where needed use suitable tools from the VPP to provide statutory weight in assessments.

### Review of Strategies Undertaken by Other Council Units (Non-Planning)

There are a range of strategies being prepared by units across the Council that are not strictly planning strategies but have land use and development elements to them. These include, among others, food security, food growing opportunities in Darebin, alcohol and liquor licensing, gaming, responding to housing stress, active and healthy ageing strategy, community climate change action plan, climate and peak oil adaptation plan, sustainable water plan, biodiversity baseline report – areas of biodiversity significance, storm water management plan, litter strategy, waste management strategy, sustainable water strategy, and sustainable water use plan.

These strategies need to be reviewed across the organisation to determine which should be referenced /referred to in the MSS.

There will be the inevitable temptation to include many of them in the planning scheme, however the default position should be that they not be included unless there is a policy gap identified that can only be addressed through their inclusion.

Recommendation:

- That a restructure/rewrite of the MSS and LPP into a single local policy clause should include a detailed review of all non-planning strategies to determine their relevance for inclusion into the planning scheme at the time of the rewrite.

## **6.0 PROCESS RELATED MATTERS**

Whilst beyond the scope of this review, a number of issues relating to planning process and resourcing are noted below as they are necessary to improve planning outcomes.

- A need for greater dissemination of information that may impact upon the operations of other areas of Council.
- Planning staff to become more familiar with the functions of other Council units in order to gain an understanding of what types of applications should be referred for internal comment.
- Enforcement of permit conditions has a strong connection to the ultimate planning outcomes. Lack of routine, proactive enforcement of permit conditions will potentially compromise otherwise good planning outcomes.
- Continuous staff training in areas required to effectively administer the provisions of the Planning Scheme.
- Delays in planning scheme amendment process outside Council are also concerns and should be addressed at DPCD level. In particular major amendments take more than two years to be gazetted. Communities' needs and other changes are happening quickly and if the amendment processes are lengthy and delayed the original purpose and urgency would be changed. It is noted that regular meetings between DPCD and Council are arranged in January 2011 to discuss the updates and policy discussion - this should continue and improvements in the amendment process should also be achieved through these meetings.

Recommendation:

- That Council commit to conducting a process review of Council's planning functions.
- That the Council work with DPCD to improve the amendment process and time.

## **7.0 MONITORING AND REVIEW**

Despite there being no formal review of the planning scheme since 2002, it is evident from the internal consultation that the Council does regularly monitor the performance of the planning scheme and is aware of the issues that need to be addressed, either through additional strategic work or a review of outdated provisions. Despite the above, it is recommended that a more structured monitoring and review procedure be adopted and that the Council:

- Considers the implications of each VC amendment on local content at the time of gazettal. In addition the recent changes in the government may result in some updates to policies and policy directions that may have land use planning implications, as such ongoing monitoring and review of State policies is essential.
- Considers, summarises and reports the findings of VCAT decisions to Council in cases involving issues of local policies.
- Considers, summarises and reports all Panel recommendations to Council.
- Records planning scheme anomalies when they are identified.

- Ensures regular meetings between statutory and strategic planning staff for the purpose of making all planning staff aware of planning issues as they arise and the issues are recorded to be used in the successive planning scheme review.
- Ensures regular meetings between strategic planning staff and DPCD to enable a discussion of planning policy issues as they arise.
- Ensures other Council units are regularly kept informed of the status of strategic projects and any proposed changes to the planning scheme.
- Ensures the MSS is reviewed every three years as required by the *Planning and Environment Act 1987* and the whole planning scheme is reviewed as needed.

## 8.0 CONCLUSION

There are many positives in the Darebin Planning Scheme. The LPPF is particularly strong in a few areas, including activity centre planning, particularly for Preston and Northcote and in expressing clear and achievable urban design/urban character outcomes, especially as a result of the High Street and Urban Character studies.

It is evident however, that some of the work has gone too far, particularly in relation to policy that creates unnecessary layers in the assessment of medium density housing and mixed use proposals not assessed under ResCode.

At 51 pages, the Darebin MSS is lengthy, often lacking in relevance, difficult to use and apply in routine decision making and can be improved without losing its key strategic messages. The *Making Local Policy Stronger* recommendations has influenced many Planning Scheme reviews undertaken in other municipalities to focus on reducing the level of unnecessary and irrelevant information contained within the MSS, in an effort to improve clarity and usability of the Scheme.

Whilst the breadth of work being undertaken across Council departments is commendable, there is the real risk that local policy within the Darebin Planning Scheme will continue to grow and lose meaning and clarity if other means of implementing Council policies and strategies are not fully explored. By contrast some policies in Clause 22 have clarity and there is a need to combine with Clause 21.

Of concern is the number of 'non-planning' strategies that have either been completed or are currently underway that are seen by many as suitable for inclusion in the planning scheme either as reference documents or as the basis of new policies.

The planning scheme should not be seen as the vehicle to carry all of the Council's aspirations – that is a role that the Council Plan should perform.

Many Victorian Councils have repositioned much of the MSS into the Council Plan which is the correct approach.

Legitimate concerns such as food security and food growing opportunities; community responses to climate change; a litter strategy and the like are not appropriate policy inclusions in the planning scheme. In contrast, the implementation of ESD in all aspects of use and development should be clearly expressed as a local planning policy and where possible, be included in zone and overlay schedules.

It is also clear that the Council is seeking to improve the LPPF in respect of housing, sustainable transport, economic development and ESD issues, however much of the strategic work that has been undertaken has not been effectively implemented in the planning scheme, or is currently underway.

Much of this comes back to the issue of the time and resources that must be expended in order to bring about meaningful change to the planning scheme. The

preparation of activity centre structure plans and other major strategic studies whilst yielding positive results on the ground for the Darebin community, take an inordinate amount of time and money to be taken from conception through to implementation.

This is not a reflection on the Council - it is a reflection on the Victorian planning system.

#### **KEY RECOMMENDATIONS**

- That Council adopt the final review report as the review required pursuant to Section 12B(1) of the Planning and Environment Act 1987.
- That Council forward the final review report to the Minister for Planning pursuant to s 12B(1) of the Planning and Environment Act 1987.