



# Amendment C231whse

Expert Town Planning Evidence prepared by Sandra Rigo

Instructed by Whitehorse City Council

1 February 2022

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This document has been published by  
Hansen Partnership Pty Ltd.

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# 1. Introduction

1. Amendment C231whse to the Whitehorse Planning Scheme seeks to rezone land at 34-40, 37-43, and 42-50 Moore Road, Vermont (the subject land) from General Residential Zone, Schedule 5 (GRZ5) to the Neighbourhood Residential Zone, Schedule 3 (NRZ3). It includes consequential minor changes to the maps at Clause 21.06 and Clause 22.03 of the Planning Scheme.
2. The subject land is situated at the end of Moore Road in Vermont and previously formed part of land reserved for the former Healesville Freeway corridor. All parcels of land were formerly owned by the Department of Transport (DoT) and have recently been sold to private land holders between 2017 to 2020.
3. The amendment is largely considered to be an administrative change to ensure the land is now located within the correct zone consistent with Council's strategic direction for the land and area.
4. I have been engaged and instructed by the City of Whitehorse (the Planning Authority) to prepare expert planning evidence in relation to the amendment.
5. My response to the Panel's Guide to Expert Witnesses is contained in Appendix 1 of this Statement together with my CV.
6. It is my opinion that the key question to be answered by the Panel in relation to this amendment is what the correct residential zone for the subject land is and whether there is sufficient strategic justification for the proposed zone. Having regard to the submissions made in relation to the amendment, my observations of the subject land and surrounds and the planning context, it is my opinion that the proposed NRZ3 is the most appropriate zone or 'fit' for the subject land and the amendment should be supported, as exhibited.
7. My conclusions are based on the following opinions:
  - The rezoning is effectively, a correction to the current zone that applies to the subject land, which will make it consistent with what the Planning Scheme already specifies about housing growth and neighbourhood character in this area.
  - The application of the GRZ5 to the land does not appear to have been supported by the necessary strategic work to justify it being the most appropriate land use zone for the land and was potentially a short term or default position that facilitated the disposal of the land.

- Based on the processes outlined within relevant practice notes, the appropriate application of residential zones is determined based on strategic justification provided in the form of a housing strategy and neighbourhood character study embedded within a MPS or LPPF.
  - The strategic work to justify the application of the NRZ3 to the subject land has already been carried out and implemented in various policies in the Planning Scheme.
  - Planning policy at a State and local level highlight the importance of taking a municipal-wide approach to planning for housing growth that identifies suitable locations for residential development that places increased housing growth in locations that can achieve sustainable development objectives and limiting growth in locations with valued characteristics.
  - Planning policy places the subject land within a location identified for limited/minimal housing change in line with its valued neighbourhood and landscape characteristics defined by the Bush Suburban 9 character precinct.
  - It is logical to apply the NRZ to limited change areas such as the subject land, an approach which is supported in the Planning Scheme and the Whitehorse Housing Strategy, and already implemented in the area and the broader Municipality.
  - Council's Neighbourhood Character Study is implemented in the Planning Scheme, identifying the character of the Bush Suburban 9 character precinct and the valued characteristics warranting protection via a preferred character statement.
  - The physical attributes of the subject land are such that they are consistent with as well as have the capacity to enhance the Bush Suburban 9 character precinct and are as such worthy of the same character designation.
  - Development that is not sympathetic to the valued attributes of this precinct would be of detriment to the character of the area. The most appropriate response to ensure its protection is rezoning the land to NRZ3 and formalising its location within the Bush Suburban 9 character precinct.
8. These and more detailed reasons contained in my Statement underpin my conclusion that the amendment should be supported.

## 2. Subject Land and Environs

### 2.1.1. Subject Land

9. The subject land consists of three properties located at 34-40, 37-43, and 42-50 Moore Road, Vermont. The land is situated at the southern end of Moore Road approximately 400m from the intersection with Boronia Road to the north. All three parcels form a combined area of approximately 2.7ha.
10. 34-40 Moore Road is located to the west of Moore Road. It is rectangular in shape and has an approximate area of 8,905sqm. A heritage listed single storey dwelling (Mirrabooka) is located at the rear of the property, accessed via a driveway from the Moore Road frontage. A range of large canopy trees are located within the site, generally at the front and rear of the site and along the north and south boundaries. A large portion of the site to the east of the dwelling is divided into paddocks with post and rail fencing.
11. 37-43 Moore Road is located to the east of Moore Road. It is rectangular in shape and has a total site area of approximately 9,303sqm. A single storey dwelling is centrally located within the site. It is accessed from a driveway from Moore Road. The site contains the most significant amount of vegetation of all parcels of land. I am instructed that there has been some recent illegal lopping of canopy trees on this site.
12. 42-50 Moore Road is located to the south of 34-40 Moore Road on the western side of Moore Road. It is rectangular in shape and has a total area of approximately 8,858sqm. A single storey dwelling is located along the rear boundary of the site, surrounded by vegetation. Access from Moore Road is provided centrally within the frontage. The site appears to have been recently used for horse husbandry purposes. Canopy trees are located along the northern boundary of the site and at the rear. I am instructed that there has been some illegal removal of canopy trees on this property.
13. The site is depicted in the following photographs.





Figure 1: Subject land aerial



Figure 2: 34-40 Moore Road, Vermont





*Figure 3: 37-43 Moore Road, Vermont*



*Figure 4: 45-50 Moore Road, Vermont*





*Figure 5: Existing dwelling on 37-43 Moore Road*



*Figure 6: Frontage of 37-43 Moore Road*





*Figure 7: Moore Road looking south with frontages of subject land*



*Figure 8: Moore Road looking north with frontages of subject land*





*Figure 9: View across 42-50 Moore Road from south east corner*



*Figure 10: View towards rear of 37-43 Moore Road (east of dwelling)*



## 2.1.2. Environs

14. The subject land is located in an established residential area of Vermont notable for its bushland character. Housing largely consists of detached single and double storey dwellings with pockets of unit and townhouse development. The vegetation is a key defining feature of the surrounds. The presence of tall canopy trees located around dwellings and within road reserves combined with low scale built form contributes to the suburban bushland character. The extent of vegetation coupled with the undulating topography ensures views to vegetation and treetops are a prominent feature of the area and provide a backdrop to most views. This is further discussed in later sections of my statement.
15. Vermont Secondary College is sited to the west of Nos. 34-40 and 42-50 Moore Street. A similarly large residential property adjoins the northern boundary of No. 37-43 Moore Street. This adjoining property, at 29-35 Moore Road is affected by a site specific Heritage Overlay (being H062). Further north are more traditional residential lots including the presence of medium density residential development. I note Moore Road narrows towards its southern end where it adjoins the subject land and is unconstructed. It terminates at the entry to No. 42-50 Moore Road.
16. I note the three sites which are the subject of this amendment were all previously part of a reservation (together with land to the south) for the Healesville Freeway, which has since been designated for a public open space corridor. The corridor will link to substantial public open space to the east and the Eastlink Trail along Dandenong Creek. The Eastlink Freeway is to the east of the trail and creek.



*Figure 11: Frontage to 29-35 Moore Road (adjoining subject land at 37-43 Moore Road)*





*Figure 12: Land fronting Moore Road, adjoining 37-43 Moore Road and opposite 42-43 Moore Road*



*Figure 13: Moore Road streetscape, view towards subject site outside No. 30 Moore Road (adjoining subject land at 34-40 Moore Road)*





*Figure 14: Moore Road streetscape, view north from frontages adjoining subject land*



*Figure 15View north towards Moore Road from south east corner of 42-50 Moore Road*





*Figure 16: Moore Road streetscape south of No. 10 Moore Road*



*Figure 17: Moore Street streetscape view to north outside No. 19-27 Moore Road*





*Figure 18: Moore Road just south of Boronia Road*



*Figure 19: Entry to 13-17 Moore Road*





*Figure 20: Entry to No. 19-27 Moore Road*



*Figure 21: More recent residential development at 6 and 8 Moore Road*





*Figure 22: Beleura Avenue streetscape south of Cowra Street*



*Figure 23: 2 Beleura Avenue and 8 Cowra Street*





Figure 24: 6 Beleura Avenue, backdrop of canopy trees behind more prominent housing



Figure 25: View to east from western end of Cowra Street





*Figure 26: Public open space corridor south of 42-50 Moore Road*



*Figure 27: Carlinga Drive, BS7 precinct*





Figure 28: View north from end of Livermore Close, towards public open space corridor



Figure 29: Verona Street streetscape, view to west (GS7 precinct)





*Figure 30: Winswood Close streetscape, view to east (GS7 precinct)*



*Figure 31: Winswood Close streetscape, view to west from intersection with Livermore Close*

### 3. The Planning Context

17. In considering the strategic merits of Amendment C231whse, I have had regard to the following planning policies and provisions of the Whitehorse Planning Scheme and strategic documents.

#### 3.1. Planning Policy Framework (PPF)

18. The key relevant provisions of the Planning Policy Framework (PPF) include:

- **Clause 11: Settlement**
  - Clause 11.01: Victoria
    - Clause 11.01-1S: Settlement
  - Clause 11.02: Managing Growth
    - Clause 11.02-1S: Supply of Urban Land
- **Clause 12: Environmental and Landscape Values**
  - Clause 12.05: Significant Environments and Landscapes
    - Clause 12.05-2S: Landscapes
- **Clause 15: Built Environment and Heritage**
  - Clause 15.01: Built Environment
    - Clause 15.01-5S: Neighbourhood Character
  - Clause 15.03: Heritage
- **Clause 16: Housing**
  - Clause 16.01: Residential Development
    - Clause 16.01-1S: Housing Supply
    - Clause 16.01-1R: Housing Supply – Metropolitan Melbourne

19. The key relevant provisions of the Local Planning Policy Framework include:

- Clause 21.01: Municipal Profile
- Clause 21.02: Key Issues
- Clause 21.04: Strategic Directions
- Clause 21.06: Housing
- Clause 22.03: Residential Development

## 3.2. Land Use Zones

20. The subject land is currently wholly located within the **General Residential Zone, Schedule 5 (GRZ5)**. The purpose of the GRZ is:

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

21. Schedule 5 does not include any Clause 54 or 55 variations.

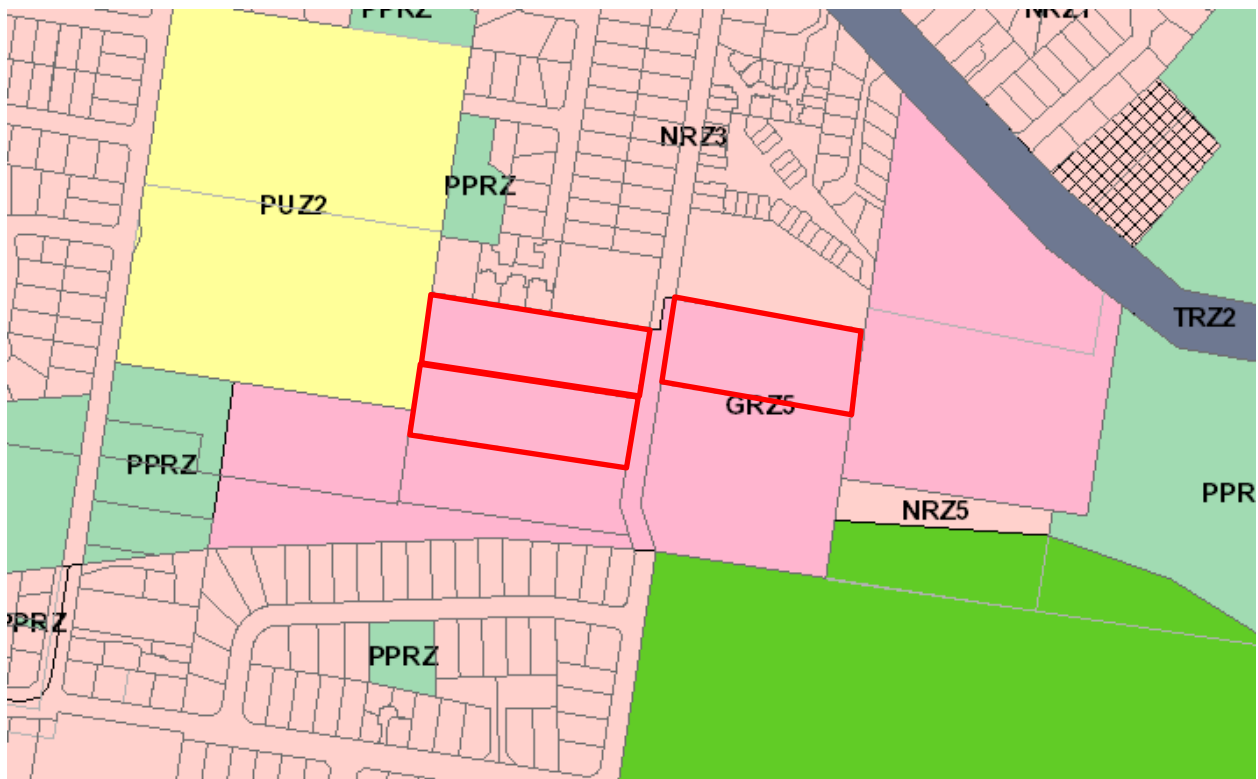


Figure 32: Zoning map



### 3.3. Overlays

22. The subject land is affected by the **Significant Landscape Overlay, Schedule 9 (SL09)**. The purpose of the SLO is:

- *To identify significant landscapes.*
- *To conserve and enhance the character of significant landscapes.*
- *Schedule 9 seeks to retain and enhance the canopy tree cover of the Garden and Bush Suburban Neighbourhood Character Areas by encouraging the retention of established trees and ensuring development is compatible with the landscape character of the area.*



Figure 33: Significant Landscape Overlay (SLO) map

25. No. 34-40 Moore Road is in the **Heritage Overlay (H063: Mirrabooka)**, a dwelling identified and protected for its "outstanding historical and aesthetic significance" typifying contemporary architecture of the late 1950s and an excellent example of the residential work architectural firm Grounds, Romberg & Boyd.

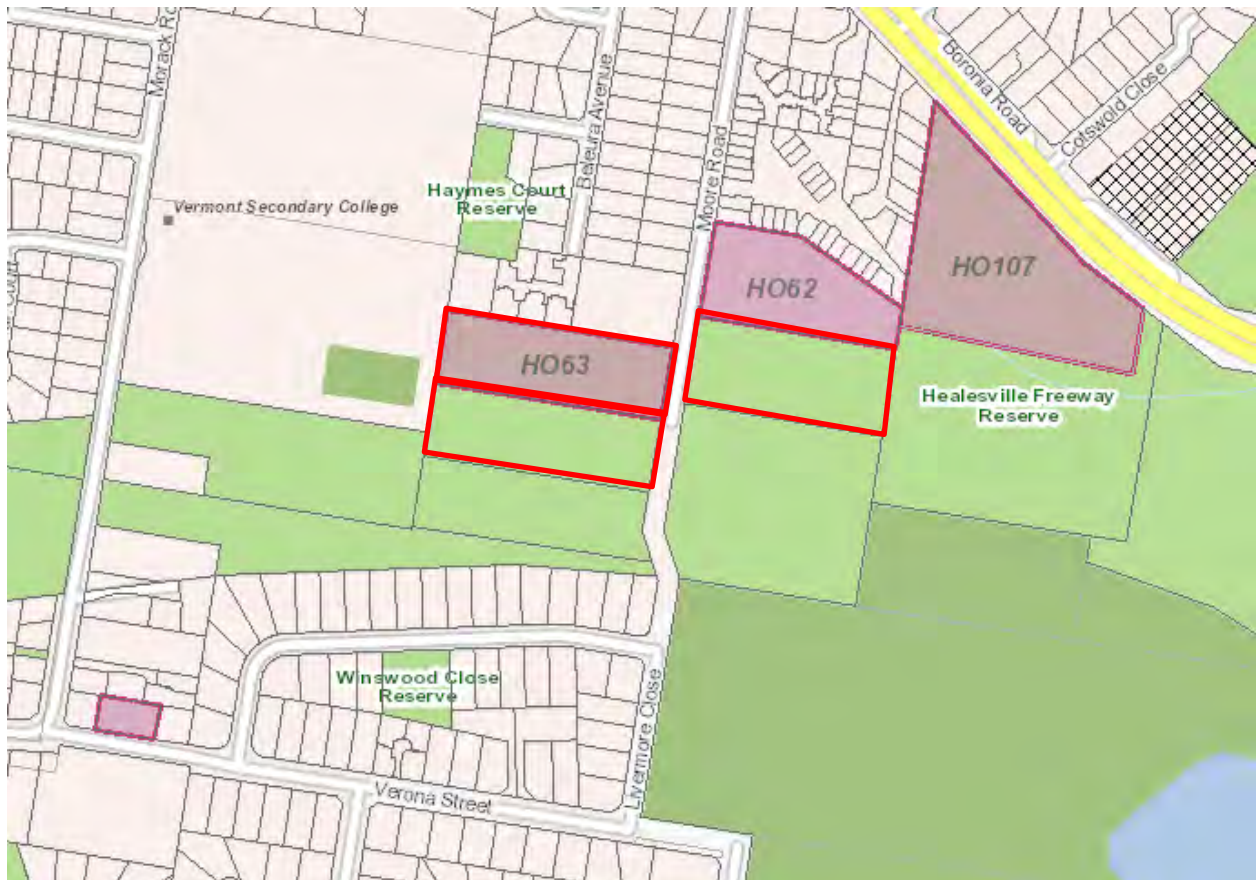


Figure 34: Heritage Overlay

### 3.4. Strategy Documents and Planning Practice Notes

26. I have had regard to a range of strategy and policy documents as outlined within this section, including:

- Whitehorse Housing Strategy 2014
- Whitehorse Neighbourhood Character Study 2014
- Planning Practice Note 46 (PPN46): Strategic Assessment Guidelines
- Planning Practice Note 90 (PPN90): Planning for Housing
- Planning Practice Note 91 (PPN91): Using the residential zones
- Minister's Direction No. 11 (MD11): Strategic Assessment of Amendments



## 4. Amendment C231 whse

27. It is proposed to rezone land at 34-40, 37-43, and 42-50 Moore Road, Vermont from General Residential Zone, Schedule 5 (GRZ5) to the Neighbourhood Residential Zone, Schedule 3 (NRZ3), as shown in Figure 35. Minor changes are also proposed to the Housing Framework Plan at Clause 21.06 and the Neighbourhood Character Precincts map at Clause 22.03.
28. I understand that the land previously formed part of the Healesville Freeway Reserve (HFR). The portion of the reserve within which the subject land is located between Springvale Road and Boronia Road was identified as being surplus to VicRoads' requirements in 2009. The Public Acquisition Overlay (PAO) that applied to the land was removed in 2019 via Amendment C224.
29. The subject land was sold to private owners in 2017 and 2020. I understand that surrounding land that is still in public ownership and forming part of the former freeway reserve will be rezoned to the Public Park and Recreation Zone (PPRZ). I am instructed that it is Council's understanding that this process is to be undertaken by DELWP as the Planning Authority. This land is to form part of a large linear reserve accommodating a public open space corridor.

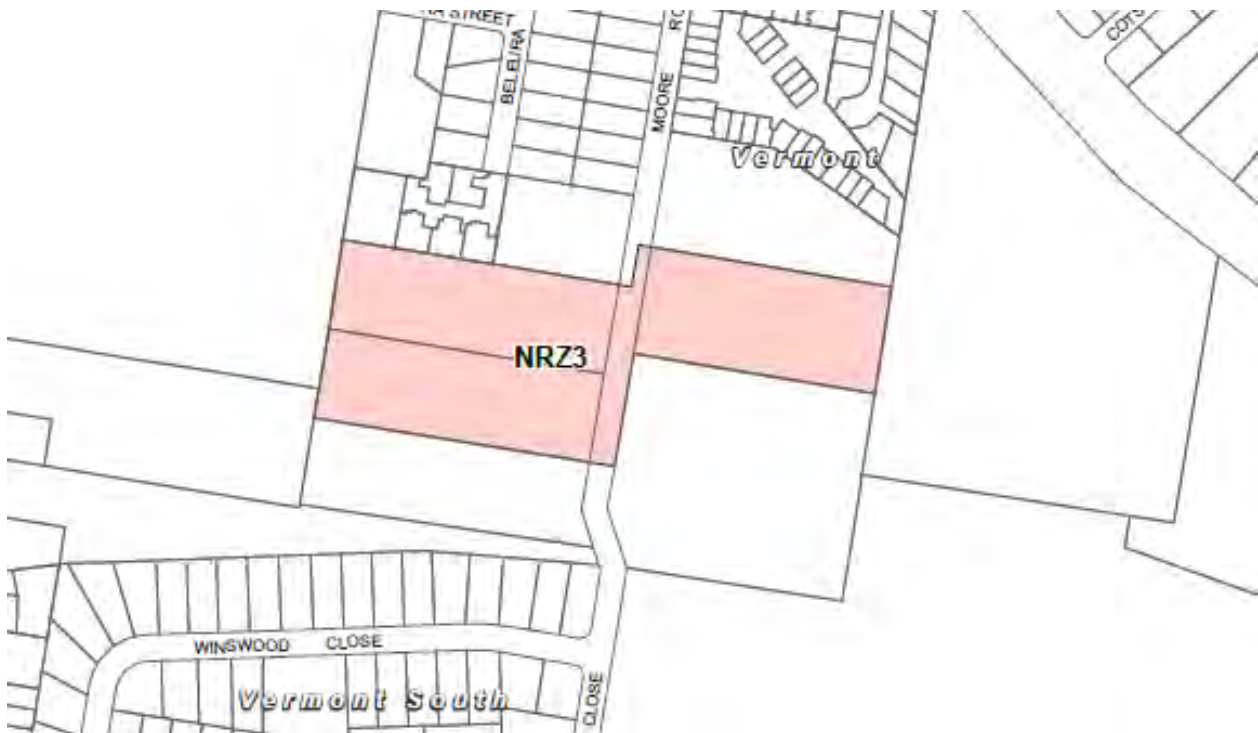


Figure 35: Proposed zoning map showing NRZ3

## 5. Key Strategic Planning Considerations

30. Having regard to my observations of the subject land and surrounds, the relevant provisions of the Whitehorse Planning Scheme, the submissions to the amendment, and other strategic and policy documents, it is my opinion that the key issue to be addressed is what the correct residential zone for the subject land is and why, that is, what is the strategic planning justification for proposing a rezoning of the land.
31. The key strategic planning considerations in relation to this matter are:
- What do relevant Planning Practice Notes say about applying residential zones?
  - What does planning policy say about housing growth on the subject land and surrounding area?
  - What is the correct residential zone for the subject land?
  - Does the subject land display the Bush Suburban character designation?
32. I have addressed these key questions and considerations in turn below.

### 5.1. What do Relevant Planning Practice Notes say about applying Residential Zones?

33. Planning Practice Notes provide guidance on the operation of the Victorian Planning Provisions and other planning processes and topics. Two key practice notes are relevant to this amendment:
- Planning Practice Note 90 (PPN90): Planning for Housing
  - Planning Practice Note 91 (PPN91): Using the residential zones
34. PPN91 was prepared to provide direction on the use of the reformed residential zones that were introduced in March 2017 as part of Amendment VC110. The purpose of the reformed zones was to provide greater certainty and clarity about housing growth and built form expectations.
35. The reforms related to the three key residential zones utilised in metropolitan Melbourne: Residential Growth Zone (RGZ), General Residential Zone (GRZ), and the Neighbourhood Residential Zone (NRZ). These residential zones were originally introduced into the VPPs in July 2013.
36. According to PPN91, the type of residential zone that is to be applied to land is to be based on the strategic underpinnings of a municipal wide strategic framework plan or residential development framework plan in the



Municipal Planning Strategy (MPS), or as guided by the Planning Policy Framework (PPF). PPN91 notes that when applying the right residential zone:

*“The ‘test’ is whether the residential zone implements the relevant strategic framework plan or residential development framework plan identified in the MPS.”*

37. The right zone will align with the true development capacity of the land and any special attributes or physical constraints identified within the MPS and PPF.
38. Figure 36 outlines the process provided in PPN91 of applying the residential zones.

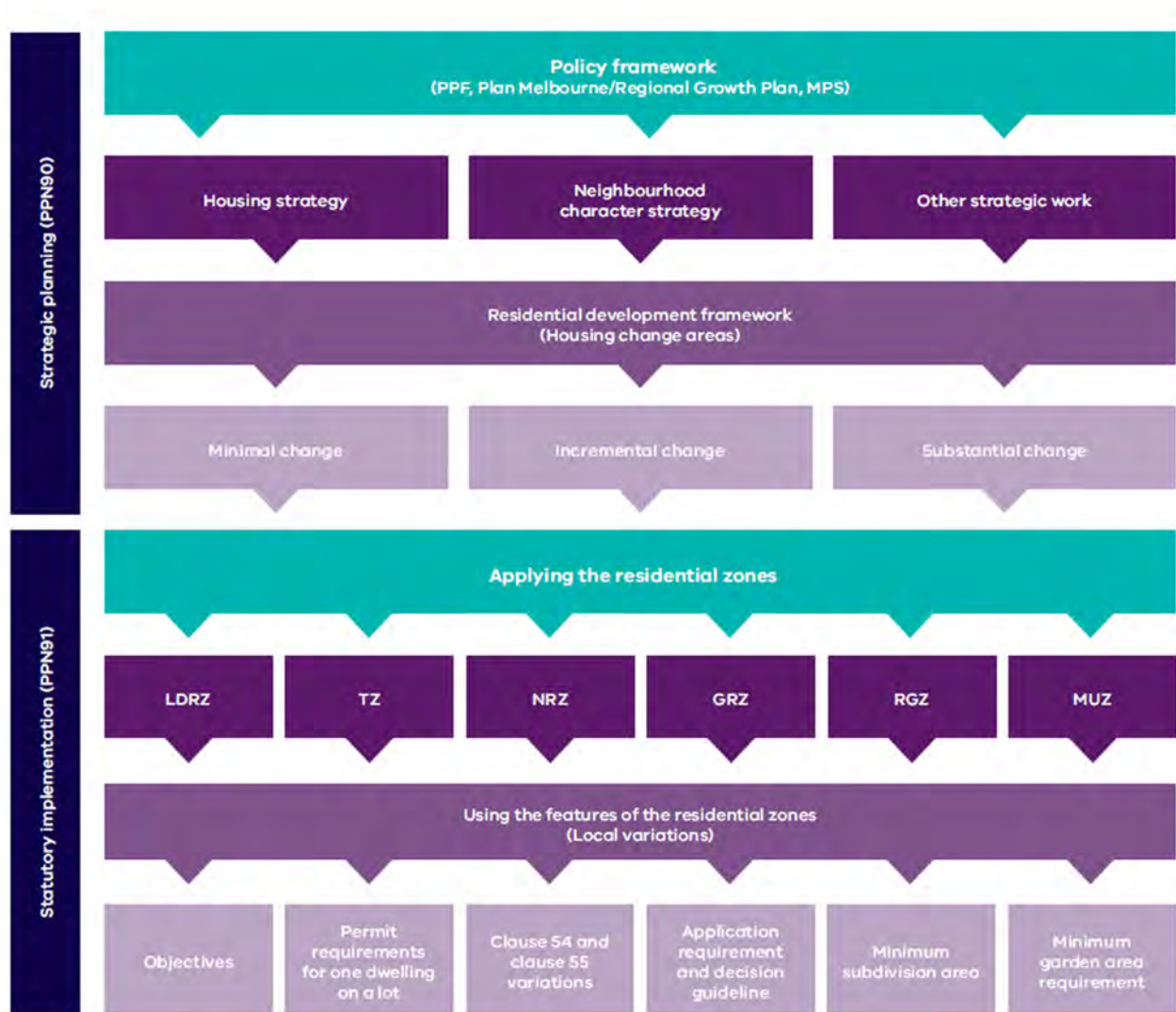


Figure 36: PPN91 strategic and statutory planning process for implementing residential zones

39. PPN90 provides guidance to Planning Authorities on planning for housing growth, protecting neighbourhood character, and how to manage residential development through the planning scheme. The practice note highlights the importance of local area planning to capture key details about the context and to guide the location and form of housing in response to the community's needs, attributes of the municipality, and Victoria's growing population. Such strategic planning provides certainty to the community about where change is likely to occur and the form it will take.
40. A housing strategy and neighbourhood character study are identified in PPN90 as key strategic documents to support changes to the planning scheme related to residential growth expectations and outcomes. A housing strategy determines the residential development framework while the neighbourhood character study identifies the valued characteristics of an area warranting protection.
41. PPN90 recommends the housing development framework identifies housing change areas based on three levels of change:
  - Minimal change areas are locations with limited potential for housing growth due to identified special characteristics (heritage, environmental, neighbourhood, or landscape) warranting protection. These characteristics are usually identified by the planning scheme through overlays.
  - Incremental change areas are locations with the capacity for housing growth and more diverse forms of housing. Neighbourhood character should be respected but it is expected to evolve and change over time.
  - Substantial change areas are locations closest to activity centres, along transport corridors, and strategic development areas that can accommodate housing that will be of substantially different scale and intensity.
42. Based on the processes outlined within PPN90 and PPN91, the appropriate application of residential zones is determined by the strategic justification provided in the form of a housing strategy and neighbourhood character study, which are embedded within the MPS or LPPF. This then provides the strategic basis for the application of zones.
43. In terms of the role and application of the GRZ, PPN91 notes that it should be:

*"Applied to areas where housing development of three storeys exists or is planned for in locations offering good access to services and transport."*
44. In terms of the NRZ, it should be:



*“Applied to areas where there is no anticipated change to the predominantly single and double storey character. Also to areas that have been identified as having specific neighbourhood, heritage, environmental or landscape character values that distinguish the land from other parts of the municipality or surrounding area.”*

45. An emphasis is placed on areas with good access to services and transport when applying the GRZ. Whereas the emphasis of applying the NRZ is on the protection of specific identified valued characteristics of a residential area.
46. Therefore, following the guidance of PPN90 and PPN91, it is logical to predominantly apply the NRZ to minimal change areas and the GRZ to locations expecting incremental change. The RGZ is to apply in locations where substantial levels of change. This is shown in Figure 37 from PPN 91.

Zone	Special or constrained	Minimal	Incremental	Substantial
Low Density Residential Zone	✓	✓		
Mixed Use Zone			✓	✓
Township Zone		✓	✓	
Residential Growth Zone			✓	✓
General Residential Zone			✓	✓
Neighbourhood Residential Zone	✓	✓	✓	

Figure 37: PPN91 Aligning the housing change areas and the residential zones

47. This intent is captured by the purpose of each zone. In relation to housing, the purpose of the GRZ is (amongst other things):

*“To encourage development that respects the neighbourhood character of the area.”*

*To encourage a diversity of housing types and housing growth particularly in locations offering good access to services and transport.”*

48. Whereas, for the NRZ, the purpose is (amongst other things):

*“To recognise areas of predominantly single and double storey residential development.*

*To manage and ensure that development respects the identified neighbourhood character, heritage, environmental or landscape characteristics.”*

## 5.2. What does planning policy say about housing growth on the subject land and surrounding area?

49. Clause 11 (Settlement) of the Whitehorse Planning Scheme seeks to ensure that planning responds to the needs of existing and future communities through the provision of zoned and serviced land to support housing, employment, recreation, and other services. A key strategy of Clause 11.02 (Managing Growth) is ensuring a sufficient residential land supply to accommodate population growth over a 15-year period. This is important for providing a *“clear direction on locations where growth should occur”*. Planning for growth should consider, amongst other things, opportunities to intensify existing urban areas close to services and facilities, as well as other attributes such as neighbourhood and landscape character considerations.

50. Planning for residential development at Clause 16 (Housing) also places an emphasis on increasing the supply and diversity of housing close to services, activity centres, and public transport to support sustainable development. Clause 16.01-1R furthers this by outlining key locations for housing growth to support sustainable development including, areas identified for housing growth, places close to activity centres, urban renewal areas, and locations with good access to existing or proposed railway stations. The clause defines the approach to planning for housing growth based on minimal, incremental, and substantial changes areas:

*“Allow for a range of minimal, incremental and high change residential areas that balance the need to protect valued areas with the need to ensure choice and growth in housing.”*

51. At a local level, The *Whitehorse Housing Strategy 2014* is the key guiding document for housing policy within the Municipal Strategic Statement (MSS). It was introduced into the Whitehorse Planning Scheme in 2014 via Amendment C160 (I note the 2014 strategy was an update to an existing strategy from 2003). It is Council’s key strategic document underpinning housing growth and provides a picture of the Municipality’s housing challenges, population profile, housing needs, and a framework to guide housing growth and



development within the Municipality. The Housing Strategy is primarily implemented through Clause 21.06 (Housing) of the Planning Scheme.

52. The Municipal Profile at Clause 21.01 (Municipal Profile) and Clause 21.06 note that, similar to other middle ring municipalities, the housing stock within Whitehorse is dominated by detached dwellings. The demand for smaller housing is increasing as household sizes within the Municipality decrease as the population ages and younger adults move to the Municipality to take advantage of the tertiary education opportunities. Housing growth will therefore need to focus on housing diversity in appropriate locations to respond to these socio-demographic changes. However, this is to be carefully managed to ensure the character of the Municipality's residential areas is protected.
53. Clause 15 (Built Environment and Heritage) recognises the importance of ensuring appropriate building and urban design in new development to support the delivery of liveable and sustainable neighbourhoods and cities. Development that responds to the surrounding landscape and character is important for realising this objective. Key to achieving this in residential areas is ensuring new development recognises, supports, and protects neighbourhood character. As identified at Clause 15.01-5S (Neighbourhood Character), new development is supported where it respects the existing or contributes towards the preferred neighbourhood character. Contextually responsive development reinforces the valued characteristics of the local environment by respecting the:
  - *"Pattern of local urban structure and subdivision.*
  - *Underlying natural landscape character and significant vegetation.*
  - *Neighbourhood character values and built form that reflect community identity".*
54. A reoccurring theme within the MSS is the integral role trees play for the character of the Municipality, particularly within its established residential areas. Canopy trees and low scale (1-2 storeys) built form are the key determining characteristics contributing to the valued bushland character of key locations within Whitehorse. The bushland character within parts of the Municipality, such as Vermont, is recognised as being a unique characteristic of a municipality located within the middle ring of metropolitan Melbourne.
55. In balancing the need to accommodate housing growth and protecting the valued characteristics of the Municipality, and in line with PPN90 and PPN91 and Clause 16.01-1R of the PPF, the development framework within the Housing Strategy categorises the Municipality into three levels of housing growth change. This is recognised at Clause 21.06 of the Planning Scheme, which defines the following change areas:

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

56. These categories generally align with the minimal, incremental, and high change categories of Clause 16.01-1R and the relevant Practice Note.

57. Some of the subject land (being all of 34-40 Moore Rd and parts of 37-43 and 42-50 Moore Road), together with the residential zoned land surrounding the subject land is located within a limited change area as identified in Figure 38. The portions of Nos. 37-43 and 42-50 Moore Road which were excluded from the Housing Strategy (and thus excluded from the limited change area) were affected by the Public Acquisition

#### HOUSING FRAMEWORK PLAN

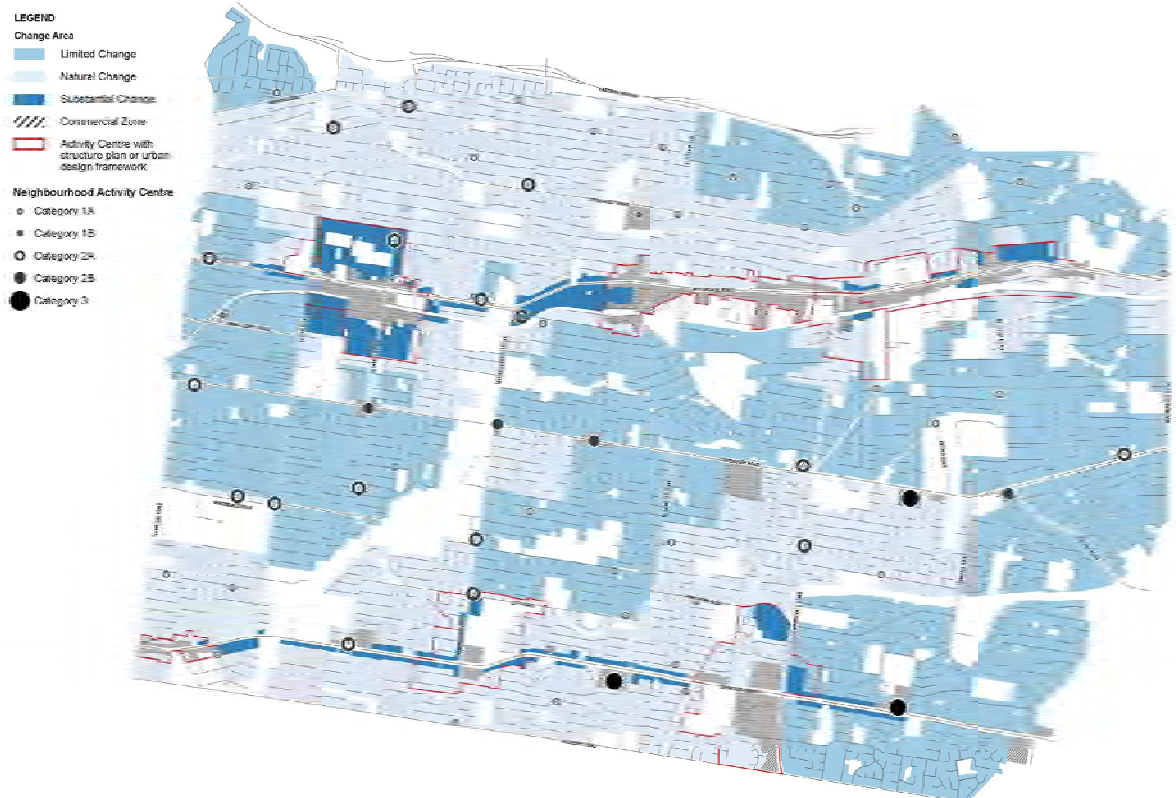


Figure 38: Housing Framework Plan 9 (Clause 21.06)



Overlay (which was removed in 2019). It is my understanding that this land was the subject of a separate structure planning process (the Healesville Freeway Reserve Renewal Project) that was being carried out by the Department of Transport at the time the Housing Strategy was being prepared. It is my understanding that this process recommended that the HFR land east of Terrara Road be put into the NRZ.

58. The Housing Strategy aligns with the Neighbourhood Character Study 2014 prepared at the same time as the Housing Strategy. The Neighbourhood Character Study 2014 (a review of the 2003 Study and update to align it with the new residential zones) identifies how new residential development will respond to and respect the identified existing and preferred future neighbourhood character of the Municipality. The Study categorises the Municipality across three broad character types, which are made up of smaller precincts. These character types are:

- **Garden Suburban Areas**, which are typically locations with formalised streets, modified grid subdivision pattern, visible buildings along the street, established exotic gardens, well defined property boundaries, and consistent building siting.
- **Bush Suburban Areas**, which are typically locations with a mix of formal and informal streetscapes, a dominance of vegetation with buildings partially hidden, less formal gardens with many canopy trees, detached dwellings, and mixed boundary definitions.
- **Bush Environment Areas**, which are typically locations with informal streetscapes, dominant vegetation with buildings partially or completely concealed, informal native gardens, non-existent property boundaries, and detached dwellings.

59. Clause 22.03 (Residential Development) adds local guidance to Clause 15.01-5S (Neighbourhood Character) and implements the Neighbourhood Character Study. No 34-40 Moore Road together with portion of 37-43 and 42-50 Moore Rd (being the land not part of the previous PAO) together with land to the north (and partly to the east) is located within the Bush Suburban Precinct 9 (BS9), whereas land to the south of the HFR is in the Garden Suburban Precinct 7 (Figures 39 and 40).
60. I note the land which was subject to the PAO (including a portion of the subject land) was included as non-residential land in the BS9.
61. At the time of preparation of the Character Study, it was intended that this land would be set aside for a freeway reserve and thus its designation as 'non-residential' land in the precinct is logical. Now that the land is no longer required for this purpose, it is logical that the whole of the subject land is in the BS9, with the public open space reserve creating a transitional space between the residential area of BS9 and the adjoining GS7 to the south.

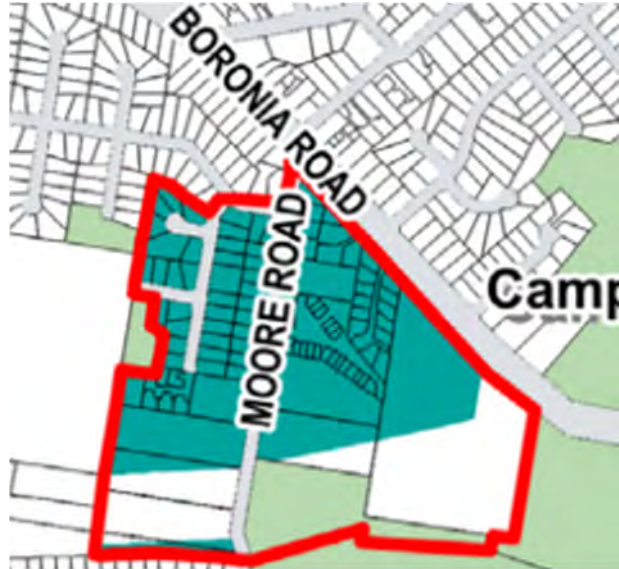


Figure 39: Moore Road section of Bush Suburban Precinct 9





### 5.3. What is the correct zone for the subject land?

63. Minister's Direction No. 11 (MD11): Strategic Assessment of Amendments requires that an amendment respond to a number of strategic considerations. In my opinion, the key strategic considerations for this amendment, as expanded upon within 'Planning Practice Note 46 (PPN46): Strategic Assessment Guidelines', are:
- Why is the amendment required and is it supported by strategic work or a study?
  - Does the amendment make proper use of the Victorian Planning Provisions (VPPs) and does it use the most appropriate tool to achieve a strategic objective?
  - Is the amendment consistent with the PPF and LPPF and does it give effect to any relevant policies?
64. As I outline below, it is my opinion that sufficient strategic planning work has been carried out to justify the amendment, it makes appropriate use of the VPPs, and it is supported by, and helps to implement the PPF and LPPF.
65. It is my understanding that the subject land was transitioned to the GRZ5 by the Minister for Planning via Amendment C200 as a 'neutral translation' of the former Residential 1 Zone (R1Z). I say 'transitioned' because I note the land was already in a residential zone (albeit affected by the Public Acquisition Overlay given its reservation status). No variations were made to Schedule 5 at the time to guide the future development of the land. As the future role of the land did not appear to have been decided at the time that the GRZ5 was applied, the application of this zone was not based on strategic planning work by the Department to determine the most appropriate residential zone for the land. Conversely, a large portion of the HFR was rezoned to the Public Park and Recreation Zone (PPRZ) once a decision on its future role as part of a linear open space reserve by the former (Liberal) State government was made. I note in its July 2016 Residential Zone Review report, the Managing Residential Development Advisory Committee commented that the NRZ was not intended to be used as a default zone in the translation of the residential zones. Rather, the General Residential Zone was typically used.
66. The process of applying the correct residential zone to land is to be based on strategic work as outlined within PPN90 and PPN91. This work should identify the most appropriate zone to ensure the planning control is reflective of the role of the land in providing for housing growth as well as recognising its physical and strategic characteristics.



67. In this regard, Whitehorse has already carried out the necessary strategic work identified within PPN90 and PPN91 to determine its approach to housing growth across the Municipality and subsequently, the application of appropriate residential land use zones. The work has included the preparation of a housing strategy, including a residential development framework specifying locations of limited (minimal), natural change (incremental), and substantial areas of change, and neighbourhood character study identifying locations with specific physical characteristics warranting protection. These studies considered population growth and forecasted socio-demographic changes within the Municipality (as required) and considered the implications for the growth and diversity of housing. All this strategic work is identified within PPN90 and PPN91 as the necessary and appropriate steps to apply the most appropriate residential land use zone.
68. Based on this strategic work, the most logical zone to apply to the subject land is the NRZ, consistent with the physical and planning context of its surrounds. This is consistent with all the background work that has been strategically justified, implemented into the Planning scheme, and subjected to the rigours of a planning scheme amendment process previously. This work has identified at length, the appropriate location for housing growth across the Municipality, with the area around the subject land (as well as part of the subject land) identified for limited housing change. It is therefore appropriately located within the NRZ. As I outline further below, the subject land contains the same physical characteristics of the Bush Suburban 9 character precinct attributed to the immediately surrounding residential land to the north and east. It is therefore logical that it contains the same planning controls as this land.
69. It is my opinion that there are not sufficient strategic planning grounds to indicate that the subject land is significantly different to the surrounding land to warrant a different residential zoning designation. The purpose of the housing strategy is to identify a 15-year supply of land to accommodate housing growth (Clause 11). The 2014 Housing Strategy appropriately identified where such growth is to be accommodated with necessary consideration given to the valued characteristics of the Municipality warranting protection and the strategic strengths of the locations where increased housing growth should be focused. I note the housing strategy was prepared with the exclusion of the residential land that was subject to the PAO at the time. I do not believe sufficient change has occurred or significant time has lapsed since the introduction of the housing strategy to warrant reconsidering its strategic merits with respect to its vision for residential growth within this part of Vermont.
70. Furthermore, the subject land is unsuited to a GRZ designation based on its location with respect to services and facilities. As noted by the purpose to the GRZ, the zone is to *"encourage a diversity of housing types and housing growth particularly in locations offering good access to services and transport"*. I have provided a contextual map in Appendix 2 of my statement. As shown by the 800m radius on this map, there are limited

services and facilities proximate to the subject land other than areas of public open space and a secondary school, nor does it have good access to public transport. It is a significant distance from an activity centre providing the day-to-day goods of residents and is therefore less able to deliver the State policy emphasis on 20-minute neighbourhoods, compared with other locations within the Municipality. This further reinforces that, in addition to the valued characteristics of the land, the strategic disadvantages of the land with respect to its proximity, and ability to consolidate growth around, existing services and facilities is not sufficiently apparent to justify the continued application of the GRZ.

71. Accordingly, it is my opinion that the strategic work to justify the application of the NRZ3 to the subject land has already been carried out and implemented in the Planning Scheme. It has already undergone scrutiny through the planning scheme amendment process and thus there is no reason for me to form the view that it is unsound or simply wrong. The proposed rezoning of the subject land is therefore largely a correction of the current zoning to make it consistent with what the Planning Scheme already specifies for this location.
72. I am of the opinion that the application of the GRZ5 to the land did not involve the necessary strategic work to justify it. Consistent with the approach to the introduction of the new residential zones around the same time, it appears to me to be a holding zone until the role of the land in relation to the HFR or public open space as part of the proposed linear reserve, was decided. Now that these matters have been resolved, the rezoning of the land to the NRZ3 is logical to ensure the controls of Schedule 3 and planning policy assist in ensuring appropriate development outcomes for the land. That is, built form outcomes which are in line with its location with respect to its valued landscape (and heritage) characteristics together with its proximity and accessibility to services and facilities.

## 5.4. Does the Subject Land display the Bush Suburban Character Designation?

73. As highlighted in previous sections, a relatively minor portion of the subject land is not included on the housing strategy map and this portion is identified as non residential land in the neighbourhood character precinct plan. As part of this amendment, both maps will be updated in the Planning Scheme to locate all of the subject land within a limited change area and as residential land in the Bush Suburban 9 character precinct, consistent with immediately adjoining land along Moore Road to the north. As noted in the previous section, the boundary of the character area includes the subject land, which indicates the land formed part of the assessment when determining the existing and preferred character statements.
74. The submission by the landowners of 37-43 and 42-50 Moore Road maintains that the subject land does not contain the required valued characteristics to warrant its location within the Bush Suburban 9 character



- precinct. Moreover, the submission maintains that the location of Moore Road itself within the character precinct is not justified based on existing unit development, built form, landscape qualities, and the level of open space.
75. Accordingly, I have turned my mind to the question as to whether the subject land displays the characteristics of its Bush Suburban character designation.
76. The character guidelines for the precinct are provided in the Neighbourhood Character Study. The guidelines note that the precinct is underpinned by its proximity to the Dandenong Creek Corridor and the 'bushy' landscape character derived from this location. The existing characteristics statement notes the well-planted gardens, which include mature canopy trees that contribute to the bush canopy of the area. The architectural style of the area is mixed and obscured by its more dominant vegetation characteristics.
77. The preferred character statement for the Bush Suburban Precinct 9 outlined at Clause 22.03 (Residential Development) and implemented through the guidelines of the character brochure seeks to maintain tall canopy trees within private gardens as the key characteristic of the area and ensure dwellings, which will have a consistent setback from the street and provide for generous space around and between dwellings, continue to be partially hidden behind vegetation. The informal nature of the streetscape is also highlighted and is to be enhanced through the absence of front fencing or use of low open style fencing.
78. On my site visit I noted that upon turning into Moore Road, the primary role that vegetation plays towards the character of the precinct is immediately apparent with built form playing a secondary role. The vegetation is made up of mature canopy trees within both the public and private realms. The undulating topography means the tops of canopy trees also provide a backdrop to the visible roof elements and adds to the bushy landscape setting as you move through the precinct. Even where built form is more apparent in the streetscape, there is a backdrop, or presence of tall canopy trees behind. This is equally evident in the three medium density housing developments within the precinct, two of which front Moore Street and the third which fronts Boronia Road. The approach to Moore Road itself from Boronia Road has a very strong landscape presence.
79. This bushland setting becomes even more apparent as one approaches the end of Moore Road near the subject land. The denser vegetation creates more of a bushland setting as the road narrows and becomes less formalised. Glimpses of dwellings and built form become less apparent, with buildings well setback on the larger lots. Views towards the creek corridor through the more open aspects where the vegetation opens adds to the sense of the bushland setting with dense vegetation creating a perimeter around this part of Vermont.

80. Based on my site visit and review of the neighbourhood character descriptions and guidelines, I am of the opinion that the physical attributes of the subject land are such that they are consistent with the surrounding bushland character and as such, are worthy of the same character designation. The land has a stronger relationship with the Bush Suburban Precinct 9 than the Garden Suburban Precinct 7 to the south, which displays a far greater suburban character with less vegetation and less of a relationship to the creek corridor and surrounding reserves. I envisage the future linear open space corridor creating the transitional space between the two character precincts. In my opinion, the subject land has capacity to contribute to the enhancement of the preferred character for the precinct.
81. The valued landscape characterises of this location are recognised through the Significant Landscape Overlay, Schedule 9 (SLO9). This overlay also recognises the important contribution that canopy trees provide towards the bushland and garden suburban characteristics of Whitehorse more broadly, applying to the GRZ and RGZ (subject to exemptions). PPN90 notes that places with overlays reflecting characteristics that may limit development potential, such as environmental, landscape, or heritage values, are relevant considerations when designating land as minimal change areas. It is my understanding from the Neighbourhood Character Study and in reviewing Clause 21.06, that the area comprising BS9 (together with two other confined locations) were recommended to be further reviewed for the possible inclusion in the SLO. I am instructed this has not eventuated given the implementation of the SLO9 as an interim measure.
82. In addition, 34-40 Moore Road is affected by the Heritage Overlay (HO63), recognising the significance of the 'Mirrabooka' residence located at the rear of the site. This provides further justification to temper development expectations on this part of the subject land.
83. I am instructed that the nearby medium density development within the Moore Road precinct referenced in the landowners' submission were approved prior to the preparation of the Neighbourhood Character Study. No. 13-17 Moore Road was approved by VCAT in October 2012 and likely constructed sometime between 2015 and 2016. No. 134-140 Boronia Road was constructed in 2010 and No.19-27 Moore Road was constructed in the early 2000s. These approved and/or constructed developments were therefore considered as part of the 2014 neighbourhood character study and were not all subject to the current controls and policies applying to the precinct. It is not representative of an emerging or changing character trend in the precinct that would justify abandonment of the current approach to character guidance in the precinct.
84. In my opinion, the Neighbourhood Character Study has adequately identified the character of the precinct and the valued characteristics warranting protection and enhancement through Clause 22.03 and Schedule 3 to the NRZ. The subject land is not sufficiently different to the remainder of the precinct to warrant a different designation. Nor is it sufficiently different to the Bush Suburban characterisation of land to its west more



broadly to justify a move away from the Bush Suburban character precinct designation itself. It comfortably conforms to the Bush Suburban character description and warrants the same level of protection.

85. Development that is not sympathetic to the valued attributes of this precinct would be of detriment to the character of the area. The most appropriate response to ensure its protection is rezoning the land to NRZ3 and formalising its location within the Bush Suburban 9 character precinct. These controls will ensure:
- Vegetation in the form of large canopy trees forms a fundamental part of any future development.
  - Appropriate setbacks and sufficient areas of open space to ensure built form remains a secondary visual aspect within the precinct.
  - Adequate separation is provided between dwellings to allow for a sense of openness and establishment of landscaping.
  - Limited front fences to retain the less formalised character of the public realm.
  - A building form and materials that contribute to the landscape character and does not detract from the dominance of the landscape.

## 6. Conclusion

86. Rezoning the subject land from the GRZ5 to the NRZ3 will ensure appropriate planning controls are consistently in place to reflect the strategic role of the land for accommodating housing growth. The subject land is located within an area identified for minimal/limited housing growth, reflective of its valued neighbourhood and landscape characteristics. Following the guidance of PPN90, PPN91, relevant planning policy, and the purpose of the zones, it is therefore logical to rezone the land to the NRZ3. Council has previously carried out the necessary and appropriate strategic work to justify the application of the NRZ3 to the subject land through its Housing Strategy in 2014.
87. Council's Neighbourhood Character Study 2014 has also adequately identified the valued characteristics of the Moore Road precinct, which is reflective of the Bush Suburban 9 character precinct. The subject land conforms with the attributes of the precinct and warrants the same planning controls to ensure new development is sympathetic to the valued characteristics.
88. I have made all the inquiries that I believe are desirable and appropriate and no matters of significance which I regard as relevant have to my knowledge been withheld from the Panel.



**Sandra Rigo BPD (Hons) PIA Fellow**



Appendix 1  
Response to Planning Panels Victoria  
Expert Witnesses Guide and CV

# Response to Planning Panels Victoria Expert Witnesses Guide April 2019

This statement of evidence has been prepared in accordance with the Planning Panels Victoria Guide for Expert Witnesses April 2019.

## Expert's particulars

My name is Sandra Rigo and I am a Director of Hansen Partnership Pty Ltd, Urban Planning, Urban Design and Landscape Architecture, Level 4, 136 Exhibition Street Melbourne.

## Qualifications and experience

I hold a Bachelor of Planning and Design (Honours) from the University of Melbourne.

I have practiced as a town planner for over 25 years. I have worked in both local government and in the private sector. My areas of expertise cover the statutory planning approvals process across a broad range of land use and development proposals, including in rural areas, coastal and landscape sensitive areas, as well as strategic planning for local government clients. I have appeared before the Tribunal and Panels on numerous occasions.

I have been employed at Hansen Partnership Pty Ltd since 1999 and became a Director of the firm in 2003 and a Fellow of PIA in 2019. A copy of my CV is included at Appendix 1 of this Statement.

## Details of any other significant contributors to the statement

I have been assisted by Mr Joel Schmetzer, Planner and Associate at Hansen Partnership Pty Ltd.

## Instructions that define the scope of the statement

I was engaged by the Whitehorse City Council on the 23 December 2021.

I was instructed by Ms Tessa Bond, Strategic Planner at Whitehorse City Council by email to be a planning expert in this matter.

## Facts, matters and assumptions relied on in preparing the statement

In preparing this Statement I have:

- Inspected the subject land from Moore Rd and surrounds as well as the environs on the 25 January 2022;
- Reviewed the current planning controls and policies relating to the subject land in the Whitehorse Planning Scheme and those proposed in Amendment C231whse, including the Whitehorse Housing Strategy 2014 and the Neighbourhood Character Study 2014 and related guidelines;
- Reviewed the Discussion Paper and Strategic Justification Planning Scheme Amendment C231whse by the City of Whitehorse, dated March 2021, in particular the planning background to the subject land; and
- Reviewed the submissions received in response to the exhibition of Amendment C231whse.

## **Documents and materials used in preparing the statement**

In preparing my Statement I have used the following documents:

- Whitehorse Planning Scheme
- Whitehorse Housing Strategy 2014
- Whitehorse Neighbourhood Character Study 2014
- Planning Practice Note 46 (PPN46): Strategic Assessment Guidelines
- Planning Practice Note 90 (PPN90): Planning for Housing
- Planning Practice Note 91 (PPN91): Using the residential zones
- Minister's Direction No. 11 (MD11): Strategic Assessment of Amendments
- Planning and Environment Act 1987
- Plan Melbourne 2017-2050, DELWP
- Managing Residential Development Advisory Committee Residential Zone Review 14 July 2016
- City of Whitehorse Discussion Paper and Strategic Justification Planning Scheme Amendment C231whse March 2021



## Summary of opinion

Having regard to the submissions made in response to the amendment, together with my observations of the subject land and surrounds and the planning context, that the proposed NRZ3 is the most appropriate zone for the subject land and accordingly, the amendment should be supported, as exhibited.

My reasons for reaching this conclusion and opinion are detailed in my Statement.

# Sandra Rigo

## Director

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## Summary of Experience

Sandra Rigo holds more than 25 years' experience in statutory and strategic planning at a senior level in local government, and in the private sector at **Hansen Partnership**. Her experience encompasses all elements of the development approvals process for a wide range of land uses and developments, including residential development, use and development of land in rural areas, assessment of proposals in heritage areas, coastal locations and other environmentally sensitive areas.

Sandra's responsibilities include the preparation and presentation of development proposals in the public forum, liaison with relevant stakeholders (both private and public sector), conducting community consultation meetings, advocacy at VCAT and Panel Hearings and presentation of expert planning evidence at VCAT and Panel Hearings. Her expertise extends to strategic planning projects, including built form reviews, urban character studies, structure plans and urban design framework plans. Responsibilities include coordinating and conducting community consultation programs and writing of planning policies and controls.

## Current

Director  
**Hansen Partnership**  
September 2003 – present

## Experience

### **Hansen Partnership**

- Associate (August 2001 - August 2003)
- Senior planner (August 1999 - August 2001)

### **Mornington Peninsula Shire Council**

- Team leader development planning (June 1998 – July 1999)
- Development planner – (February 1994 – June 1998)

### **City of Caulfield**

- Planning officer (April – July 1993)

## Qualifications

Bachelor of Planning and Design (Honours),  
University of Melbourne (1993)

## Affiliations

- Planning Institute of Australia (PIA) - Fellow
- Victorian Planning and Environmental Law Association (VPELA) – Member

## Specialisations

- VCAT and Planning Panels expert witness
- Residential infill development
- Land use and development in coastal areas
- Land use and development in green wedge and rural zones
- Tourism and recreational development

## Appendix 2

### Maps & Diagrams





Amendment C231  
34-40 Moore Road, Vermont  
37-43 Moore Road, Vermont  
42-50 Moore Road, Vermont

Aerial map

Legend

- Subject site
- Main Road
- Local Road



Project Ref: 20210810  
Dwg No.: TP-001  
Scale: 2500 @A3  
Date: 25.01.2022  
Revision: A








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Amendment C231  
34-40 Moore Road, Vermont  
37-43 Moore Road, Vermont  
42-50 Moore Road, Vermont

Context Aerial map

Legend

- Subject site 
- 800m Radius 
- Watercourse 
- Bus Stops 
- Bus Routes 
- Main Road 
- Local Road 



Project Ref: 20210810  
Dwg No.: TP-001  
Scale: 7500 @A3  
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