

*Planning and Environment Act 1987*

**Panel Report**

**Stonnington Planning Scheme Amendment C285ston  
Prahran and Malvern East neighbourhood character areas**

**13 March 2020**

### How will this report be used?

This is a brief description of how this report will be used for the benefit of people unfamiliar with the planning system. If you have concerns about a specific issue you should seek independent advice.

The planning authority must consider this report before deciding whether or not to adopt the Amendment.  
[section 27(1) of the *Planning and Environment Act 1987* (the Act)]

For the Amendment to proceed it must be adopted by the planning authority and then sent to the Minister for Planning for approval.

The planning authority is not obliged to follow the recommendations of the Panel, but it must give its reasons if it does not follow the recommendations. [section 31 (1) of the Act, and section 9 of the *Planning and Environment Regulations 2015*]

If approved by the Minister for Planning a formal change will be made to the planning scheme. Notice of approval of the Amendment will be published in the Government Gazette. [section 37 of the Act]

The Amendment may be revoked by a resolution of either House of Parliament within 10 sitting days after notice of the Amendment is given to that House. [section 38(2) of the Act]

Alleged defects in procedures may be referred to the Victorian Civil and Administrative Tribunal. There are limits on the timing of such referrals. [section 39(1) of the Act]

### *Planning and Environment Act 1987*

Panel Report pursuant to section 25 of the Act

Stonnington Planning Scheme Amendment C285ston

Prahran and Malvern East neighbourhood character areas

13 March 2020



Tim Hellsten, Chair

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## Glossary and abbreviations

Act	<i>Planning and Environment Act 1987</i>
Character Review	<i>Stonnington Neighbourhood Character Review 2013, Planisphere</i>
Character Review addendum	<i>Stonnington Neighbourhood Character Review Addendum 2019, Ethos Urban</i>
Council	Stonnington City Council
DDO	Design and Development Overlay
DDO22	Design and Development Overlay Schedule 22: (Fences – Lalbert Crescent, Cairnes Crescent, Bruce Street and Camino Terrace)
DELWP	Department of Environment, Land, Water and Planning
LPPF	Local Planning Policy Framework
MPS	Municipal Planning Strategy
MSS	Municipal Strategic Statement
NCO	Neighbourhood Character Overlay
NCO8	Neighbourhood Character Overlay Schedule 8 (Early Modern and Post-war Significant Character Area - Lalbert Crescent Precinct)
NCO9	Neighbourhood Character Overlay Schedule 9 (Interwar and Post-war Significant Character Areas– Bruce Street and Cairnes Crescent Precincts)
NCO10	Neighbourhood Character Overlay Schedule 10 (Post-war Significant Character Area – Camino Terrace Precinct)
NRZ	Neighbourhood Residential Zone
NRZ2	Neighbourhood Residential Zone Schedule 2 (Garden River & Garden Suburban Precincts)
NRZ3	Neighbourhood Residential Zone Schedule 3 (Inner Urban Precincts)
NRZ5	Neighbourhood Residential Zone Schedule 5 (Significant Character Precincts)
The Amendment	Stonnington Planning Scheme Amendment C285ston
VPP	Victoria Planning Provisions

## Overview

### Amendment summary

<b>The Amendment</b>	Stonnington Planning Scheme Amendment C285ston
<b>Common name</b>	Prahran and Malvern East neighbourhood character areas
<b>Brief description</b>	Implements the <i>Stonnington Neighbourhood Character Review 2013</i> and <i>Stonnington Neighbourhood Character Review Addendum 2019</i> through the application of the Neighbourhood Residential Zone Schedule 5 (Significant Character Precincts), the Neighbourhood Character Overlay to four precincts of distinctive Interwar, Early Modern and Post-war neighbourhood character and the Design and Development Overlay Schedule 22 (Fences - Lalbert Crescent, Cairnes Crescent, Bruce Street and Camino Terrace)
<b>Subject land</b>	<ul style="list-style-type: none"> <li>• Lalbert Crescent Precinct, Prahran:             <ul style="list-style-type: none"> <li>- 535-541 (odd numbers) Orrong Road</li> <li>- All properties in Lalbert Crescent</li> <li>- 21-27 Kelvin Grove</li> </ul> </li> <li>• Cairnes Crescent Precinct, Malvern East:             <ul style="list-style-type: none"> <li>- All properties except 12 and 47-55 Cairnes Crescent</li> </ul> </li> <li>• Bruce Street Precinct, Malvern East:             <ul style="list-style-type: none"> <li>- All properties in Bruce Street</li> <li>- 29-33 (odd numbers) and 48-62 (even numbers) in Sutherland Street</li> <li>- 1 and 3 Paul Street</li> <li>- 1-8 Thomas Street</li> </ul> </li> <li>• Camino Terrace Precinct, Malvern East:             <ul style="list-style-type: none"> <li>- 1-7 (odd numbers) and 2-18 (even numbers).</li> </ul> </li> </ul>
<b>The Proponent</b>	Stonnington City Council
<b>Planning Authority</b>	Stonnington City Council
<b>Authorisation</b>	4 March 2019
<b>Exhibition</b>	10 October – 11 November 2019
<b>Submissions</b>	Number of Submissions: 11 Opposed: 9 Refer to Appendix A

### Panel process

<b>The Panel</b>	Tim Hellsten
<b>Directions Hearing</b>	Malvern Town Hall, 6 February 2020
<b>Panel Hearing</b>	Malvern Town Hall, 3 March 2020
<b>Site inspections</b>	Unaccompanied, 6 February 2020

<b>Appearances</b>	Stonnington City Council represented by Mimi Marcus, Solicitor of Marcus Lane Group supported by Dilhara Lodewyke and Georgie Birch of Stonnington City Council who called expert evidence from Lisa Riddle, Town Planner of Ethos Urban on urban design and planning James and Megan Smorgon Julie Groves
<b>Citation</b>	Stonnington PSA C285ston [2020] PPV
<b>Date of this Report</b>	13 March 2020

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## Executive summary

Stonnington Planning Scheme Amendment C285ston (the Amendment) is proposed to provide additional neighbourhood character protection. It seeks to implement the *Stonnington Neighbourhood Character Review 2013* (Character Review) and *Stonnington Neighbourhood Character Review Addendum 2019* (Character Review Addendum) through the application of the Neighbourhood Residential Zone Schedule 5 (Significant Character Precincts) and the Neighbourhood Character Overlay to four precincts of distinctive Interwar, Early Modern and Post-war neighbourhood character in Prahran and Malvern East - Lalbert Crescent Precinct, Bruce Street and Cairnes Crescent Precincts and the Camino Terrace Precinct. The Amendment also applies Design and Development Overlay Schedule 22 (Fences - Lalbert Crescent, Cairnes Crescent, Bruce Street and Camino Terrace) to these precincts to manage fencing outcomes.

Key issues raised in submissions that did not support the Amendment as proposed included:

- the character of the precincts is eroded and does not warrant further control
- adequate controls exist
- the cost burden and additional requirements
- impact on property values
- lack of strategic support.

The Panel has considered all material referred to it, including the submissions. It concludes that the Amendment is strategically justified. The application of the Neighbourhood Character Overlay to the four precincts is part of an ongoing program by Council to apply the Overlay to the 23 character precincts identified in the Character Review in a strategic and balanced manner. The Panel finds the Character Review methodology for identifying the four precincts robust and supported by the recent 2019 analysis which has enabled the application of the Neighbourhood Character Overlay to be refined, allowing for development activity and changes to the provisions of the Residential Zones.

The Panel is satisfied that the identified neighbourhood character of the proposed precincts justifies the application of the Neighbourhood Character Overlay and the Design and Development Overlay as exhibited to appropriately manage new development and front fencing.

The Amendment is consistent with Council's Housing Policy (Clause 21.05) and its identification of the precincts as limited or minimal change areas and will therefore have minimal impact on Council achieving its broader municipal housing objectives. The Amendment appropriately aims to manage change rather than prohibit it or unreasonably restrict it.

The Panel supports Council's post-exhibition changes to ensure the Amendment is consistent with Planning Practice Note 91 and does not trigger a requirement for a planning permit for the demolition of outbuildings not visible from the street.

### Recommendations

Based on the reasons set out in this Report, the Panel recommends that Stonnington Planning Scheme Amendment C285ston be adopted as exhibited subject to the following:



- 1. Amend section '3.0 Permit requirement' of Neighbourhood Character Overlay Schedules 8, 9 and 10 to add after 'Demolish or remove a building' the words "other than an outbuilding not visible from the street".**
- 2. Amend section '2.0 Neighbourhood character objective' of Neighbourhood Character Overlay Schedules 8, 9 and 10 to delete the second objective 'To encourage the retention of the features of intact, original dwellings that contribute to the preferred neighbourhood character of the area'.**

# 1 Introduction

## 1.1 The Amendment

### (i) Amendment description

The purpose of the Amendment is to implement the *Stonnington Neighbourhood Character Review 2013* (Character Review) and the *Stonnington Neighbourhood Character Review Addendum 2019* (Character Review Addendum).

The Amendment proposes to apply neighbourhood character controls to four precincts of distinctive Interwar, Early Modern and Post-war neighbourhood character in order to provide additional protection to areas within the municipality with a consistent and identifiable character and of high neighbourhood significance.

Specifically, the Amendment proposes to make the following changes to the Stonnington Planning Scheme:

- insert and apply a new Schedule to Clause 32.09 Neighbourhood Residential Zone Schedule 5 (Significant Character Precincts) (NRZ5)
- insert and apply new Schedules to Clause 43.05 Neighbourhood Character Overlay (NCO):
  - Schedule 8 (Early Modern and Post-war Significant Character Area - Lalbert Crescent Precinct) (NCO8)
  - Schedule 9 (Interwar and Post-war Significant Character Areas– Bruce Street and Cairnes Crescent Precincts) (NCO9)
  - Schedule 10 (Post-war Significant Character Area – Camino Terrace Precinct) (NCO10)
- insert and apply a new Schedule to Clause 43.02 Design and Development Overlay, Schedule 22 (Fences – Lalbert Crescent, Cairnes Crescent, Bruce Street and Camino Terrace) (DDO22) to all places within proposed NRZ5.

### (ii) The subject land

The Amendment applies to land within four precincts:

- Lalbert Crescent Precinct, Prahran
  - 535-541 (odd numbers) Orrong Road
  - All properties in Lalbert Crescent
  - 21-27 Kelvin Grove
- Cairnes Crescent Precinct, Malvern East
  - All properties except 12 and 47-55 Cairnes Crescent
- Bruce Street Precinct, Malvern East
  - All properties in Bruce Street
  - 29-33 (odd numbers) and 48-62 (even numbers) in Sutherland Street
  - 1 and 3 Paul Street
  - 1-8 Thomas Street
- Camino Terrace Precinct, Malvern East
  - 1-7 (odd numbers) and 2-18 (even numbers) in Ramona Avenue
  - 2-16 Camino Terrace.

The following zones currently apply within these precincts and will be replaced with the NRZ5 together with the Neighbourhood Character Overlay and DDO22 as summarised in Table 1:

- Neighbourhood Residential Zone Schedule 2 (Garden River & Garden Suburban Precincts) (NRZ2)
- Neighbourhood Residential Zone Schedule 3 (Inner Urban Precincts) (NRZ3).

**Table 1 Existing zones and proposed zones and overlays**

Precinct	Existing zones and overlays to be replaced	Proposed zones and overlays
Lalbert Crescent	NRZ3	NRZ5 NCO8 DDO22
Cairnes Crescent	NRZ2	NRZ5 NCO9 DDO22
Bruce Street	NRZ2	NRZ5 NCO9 DDO22
Camino Terrace	NRZ2	NRZ5 NCO10 DDO22

Council's Part A submission<sup>1</sup> provided a comparative analysis of the current requirements of Clauses 54 and 55 of the Stonnington Planning Scheme (ResCode standards) for the NRZ2 and NRZ3 compared with NRZ5. While NRZ2 and NRZ3 include some variations to side and rear setbacks, walls on boundaries and for front fences and landscaping standards, no variations are proposed in NRZ5. Instead, the Amendment proposes to use the clause variation provisions of the NCO.

The Amendment introduces three new schedules to the NCO and applies them to the four Precincts. The schedules include:

- a statement of neighbourhood character
- neighbourhood character objectives
- permit requirements
- modifications to Clause 54 and Clause 55 standards relating to street setbacks, side and rear setbacks, walls on boundaries, design detail and deep soil and canopy tree planting.

<sup>1</sup> Document 1 pages 11-18

Council's Part A submission<sup>2</sup> and Part B submission<sup>3</sup> provided a detailed comparative analysis of the Clause 54 and 55 standard variations proposed in the NCOs. The key differences are summarised in Table 2.

**Table 2 Summary of key differences in provisions for NCO8, NCO9 and NCO10**

Standard	NCO8	NCO9	NCO10
Street setback A3 & B6:			
- Minimum front street setback	6 m	6 m	8 m
- Corner site side street setback	2 m	2 m	2 m
Side and rear setbacks A10 & B17	2 m side setback for walls within 8 m of front façade	1.5 m side setback for walls within 8 m of front façade (includes side setbacks for building pairs)	Same as NCO8
Walls on boundaries A11 & B18	Buildings more than 8 m from front façade Carparking structure 3 m behind most recessed part of façade (one side boundary only)	Same as NCO8 other than for dwelling pairs where allowing for common walls or alignment with adjoining boundary wall	Same as NCO8
Design detail A19 & B31	New development to respect specific preferred character Interpret detailed elements of original contributory character buildings in a contemporary manner Design detail for car parking structures Front setback hard paving areas minimised	Same as NCO8 and: Dwelling pairs to present as single dwellings to street Second storey elements sited and designed so single storey element roof is dominant and second storey setback 8m from front façade and behind roof ridge line	Same as NCO8 but without design detail for car parking structures
Deep soil areas and canopy trees	25 per cent of site area for canopy trees	Same as NCO8	Same as NCO8

The proposed DDO22 requires a planning permit to construct a fence within 3 metres of the street frontage unless it does not exceed 0.8 metres in height and is constructed of brick or

<sup>2</sup> Pages 11-18

<sup>3</sup> Document 3 pages 24-32

rendered masonry. DDO22 is proposed rather than providing for ResCode fence standard A20 and B32 variations in the NRZ5.

## 1.2 Background

### (i) Stonnington Neighbourhood Character Review 2013

The Character Review was prepared for Council over 2012 and 2013 by Planisphere and included a review of the *Stonnington Neighbourhood Character Study 2006*. The Character Review identified:

- 4 character types – Inner Urban, Garden River, Garden Estate and Garden Suburban
- 8 neighbourhood character precincts based on: lot size and street dimensions; dwelling spacing and setbacks; scale of vegetation and landscape quality; building scale, articulation and roof form; era of development and architectural style
- 23 areas of significant neighbourhood character recommended for inclusion in the NCO because they were *“considered to be rare or exemplary, are particularly intact or have distinctive and strong neighbourhood character”*
- The need for additional control of front fencing in 12 of the 13 NCO areas including the Lalbert Crescent, Cairnes Crescent, Bruce Street and Camino Terrace Precincts.

Council has implemented the recommendations of the Character Review through a series of completed amendments to the Stonnington Planning Scheme between 2014 and 2016 as summarised in Table 3. Council’s Part A submission (pages 22-25) and Part B submission (pages 3 and 4) and Ms Riddle’s planning and urban design evidence (Document 3, pages 4-6) provided an overview of the purpose and outcomes of these amendments including relevant panel recommendations.

**Table 3 Implementation of Neighbourhood Character Overlays**

Category	Precinct	Amendment
Victorian & Edwardian	May Road Spring Street (including Irene Place) Willis Street Bidey Street & Pakington Place	C185 - NCO4
Edwardian	Closeburn Avenue Bailey Avenue & Valentine Grove Stanhope Street Dixon and Jordan Streets Ardrie Road	C185 - NCO5
Edwardian & Inter-war	John and Boardmans Streets Kenilworth Grove & Glentilt Road Manning Road	C217 – NCO6
Californian Bungalows	McGregor Street Boston and Washington Avenues Sycamore Street	C217 – NCO7
Early modern & Post-war	Lalbert Crescent	C285 (current)

Category	Precinct	Amendment
Interwar & Post-war	Allenby Avenue	Subject to further review
	Cairnes Crescent	C285 (current)
	Bruce Street	C285 (current)
Post-war	Green Gables	Subject to further review
	Camino Terrace	C285 (current)
Priority areas	Baldwin & Clarence Streets	C168 – NCO2 & NCO3

Key elements of the Character Review including a Neighbourhood Character Policy (Clause 22.23) were included into the Stonnington Planning Scheme by Amendment C175.

### (ii) Authorisation

The Amendment was authorised under delegation by the Department of Environment, Land, Water and Planning on 4 March 2019 subject to seven conditions including:

- removal of land at 1997-2005 Malvern Road, Malvern East
- preparation of a new NCO consistent with zone format changes introduced by Amendment VC110
- provide justification for the inclusion of 12 Cairnes Crescent, Malvern East
- review local policy regarding the location of residential development GRZ land in the Bruce Street and Camino Terrace Precincts.

The authorisation letter encouraged Council to review existing neighbourhood character controls in conjunction with a future review of residential land. Additional time was sought by Council to address DELWP's conditions including undertaking a review of the Character Review.

Council's Part A submission (pages 4-5) outlined how it had satisfied the authorisation conditions through the removal of 1997-2005 Malvern Road, Malvern East, 12 Cairnes Crescent, Malvern East and land within the GRZ1 and GRZ7 in the Bruce Street and Camino Terrace precincts from the Amendment. The Panel is satisfied that Council had addressed all authorisation conditions prior to exhibition of the Amendment.

### (iii) Stonnington Neighbourhood Character Review Addendum 2019

The Character Review Addendum was prepared for Council by Ethos Urban in response to DELWP's authorisation conditions. It reviewed the Amendment in the context to changes introduced by Amendment VC110 and Council's Housing Strategy and a further analysis of the four precincts the subject of this Amendment. The analysis identified the extent of change in each of the precincts as a result of recent development activity. The Character Review Addendum recommended the reduction of the extent of the Cairnes Crescent, Bruce Street, Camino Terrace Precincts to exclude larger development sites and GRZ zoned sites to avoid inconsistent provisions regarding height. The extent of NCO precinct changes since the Character Review is discussed in Chapters 5, 6 and 7.

### **1.3 Summary of issues raised in submissions**

Eleven submissions were received following exhibition of the Amendment, nine of which opposed the Amendment. One of the two supporting submissions sought further changes to NCO10 relating to permit triggers. The key issues were:

- the character of the precincts is eroded and does not warrant further control
- adequate controls exist
- the burden of cost and additional requirements
- impact on property values
- lack of strategic support.

No submissions were received in relation to the Cairnes Crescent Precinct.

### **1.4 Post-exhibition changes**

Council identified one change to each of the NCO precincts in response to submission 3 to exempt the demolition of outbuildings from a planning permit. Council considered that this was a minor change that reduced the application requirements proposed by the NCO and that further notice was not required. At the Hearing, Council identified further wording refinements regarding this aspect of the control. The Panel discusses the proposed post-exhibition change in Chapter 8.

### **1.5 The Panel's approach**

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

The Panel considered all written submissions made in response to the exhibition of the Amendment, observations from site visits, and submissions, evidence and other material presented to it during the Hearing. It has reviewed a large volume of material, and has had to be selective in referring to the more relevant or determinative material in the Report. All submissions and materials have been considered by the Panel in reaching its conclusions, regardless of whether they are specifically mentioned in the Report.

This Report deals with the issues under the following headings:

- Planning context
- Strategic justification
- Common issues
- Lalbert Crescent Precinct
- Bruce Street Precinct
- Camino Terrace Precinct
- Form and content of the Amendment.

### **1.6 Limitations**

As there were no submissions regarding the application of NCO9 to the Cairnes Crescent Precinct, the Panel has not made any specific conclusions relating to its application or the character of the precinct although it did visit the precinct. The Panel's findings and recommendations relating to the application of NCO9 more broadly are discussed in Chapter 6.

## 2 Planning context

### 2.1 Planning Policy Framework

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

#### Victorian planning objectives

The Amendment will assist in implementing State policy objectives set out in section 4 of the Act by ensuring the existing neighbourhood character of the four precincts is respected and considered in the context of future development applications.

Council identified that the Amendment is expected to have positive environmental, social and economic effects by:

- protecting the city's valued neighbourhood character in the areas where the Neighbourhood Character Overlay applies
- ensuring that development outcomes contribute positively to local neighbourhood character while minimising adverse impacts on neighbouring properties, resulting in an improved built environment and sense of place
- conserving areas that are of local social and historical significance
- providing greater guidance, certainty and direction for future housing development.

#### Clause 15 Built Environment

Council submitted the Amendment implements the objectives of:

- Clause 15.01-1S (Neighbourhood Character) to *"recognise, support and protect neighbourhood character, cultural identity, and sense of place"* by establishing a clear preferred and future neighbourhood character in each of the four precincts, in turn ensuring future development in these precincts responds appropriately to this identified character and reinforces a sense of place and the valued features and characteristics of the place emphasising the:
  - pattern of local urban structure and subdivision.
  - underlying natural landscape character and significant vegetation.
- Clause 15.01-2S (Energy and resource efficiency) to *"achieve building design outcomes that contribute positively to the local context and enhance the public realm Local Planning Policy Framework"*.

#### Clause 21 (Municipal Strategic Statement)

Council submitted that the Amendment implements the objectives and strategies of the City's Municipal Strategic Statement by identifying areas of distinguishable character and ensuring their protection and enhancement through neighbourhood character and fencing controls. It identified that the Amendment implemented or was consistent with the following:

- ensuring new built form is well-designed and respects the valued, traditional built form character elements (Clause 21.03 Vision)
- limiting the extent of land in the Neighbourhood Residential Zone where limited or minimal change is expected and appropriate (Clause 21.05 Housing)



- ensuring that the qualities and attributes that define the City's valued urban character are recognised and inform the design of new developments and that the varied, distinctive and valued character elements of residential neighbourhoods protected and enhanced with areas of special character identified for inclusion in the NCO (Clause 21.06 Built Environment and Heritage).

### Local Planning Policy Framework

Council submitted that the Amendment implements the objectives and strategies of the Local Planning Policy Framework by ensuring development contributes to preferred character (Clause 22.23 Neighbourhood Character Policy).

## 2.2 Other relevant planning strategies and policies

### (i) Plan Melbourne

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

Plan Melbourne is structured around seven outcomes, which set out the aims of the plan. The outcomes are supported by directions and policies, which outline how the outcomes will be achieved. Outcomes that are particularly relevant to the Amendment are set out in Table 4.

**Table 4** Relevant parts of Plan Melbourne

Outcome	Directions	Policies
4 Melbourne is a distinctive and liveable city with quality design and amenity	4.3 Achieve and promote design excellence	4.3.1 Promote urban design excellence in development to create places that are safe, diverse, comfortable, accommodate and celebrate social, cultural and natural heritage

## 2.3 Planning scheme provisions

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

### (i) Zones

Land within the four proposed character precincts is in the Neighbourhood Residential Zone (Schedules 2 and 3). The purposes of the Neighbourhood Residential Zone (NRZ) are:

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

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

To allow educational, recreational, religious, community and a limited range of other non-residential.

uses to serve local community needs in appropriate locations.

The NRZ allows a schedule to the zone to identify:

- neighbourhood character objectives
- permit requirements for constructing and extending outbuildings, demolish a building and remove or lop vegetation
- modifications to Clause 54 and 55 standards
- decision guidelines.

## **(ii) Overlays**

The Amendment proposes to apply a Design and Development Overlay (DDO) over the four precincts. The purposes of a DDO are:

- To identify areas which are affected by specific requirements relating to the design and built form of new development.

The DDO allows a schedule to the overlay to identify:

- design objectives
- building and works requirements
- application requirements and decision guidelines.

The Amendment also proposes to apply the NCO over the four precincts. The purposes of the NCO are:

To identify areas of existing or preferred neighbourhood character.

To ensure that development respects the neighbourhood character.

To prevent, where necessary, the removal of buildings and vegetation before the neighbourhood character features of the site and the new development have been evaluated.

The NCO allows a schedule to the overlay to identify:

- a statement of neighbourhood character and objectives
- permit requirements
- modifications to Clause 54 and Clause 55 standards
- permit notification exemptions
- decision guidelines.

## **2.4 Ministerial Directions and Practice Notes**

### **Ministerial Directions**

The Explanatory Report discusses how the Amendment is consistent with the Ministerial Direction on the Form and Content of Planning Schemes and meets the relevant requirements of Ministerial Direction 11 (Strategic Assessment of Amendments) and Planning Practice Note 46: Strategic Assessment Guidelines, August 2018 (PPN46). That discussion is not repeated here.

## Planning Practice Notes

### (i) **Planning Practice Note 28: Using the Neighbourhood Character Provisions in Planning Schemes (2004) (PPN28)**

Council's Explanatory Report identified that the Amendment applied the NCO consistent with PPN28.

While PPN28 no longer exists and is effectively replaced by Planning Practice Note 91 it provides useful context to the application of the NCO. PPN28 supported the use of the NCO where:

- the proposed area exhibits specific characteristics that need to be protected or changed to achieve a preferred character
- the area, relative to the rest of the municipality, requires a specific approach to neighbourhood character
- the application of local policy, the standard provisions of Clause 54 and Clause 55 or the residential zone schedules will not satisfy the identified neighbourhood character objectives
- is not applied as a 'blanket' control across the municipality and that it should be applied strategically to areas where the application of the residential development standards consistently fails to meet the objectives for neighbourhood character for a particular area
- a rigorous character study has been undertaken that identifies the physical aspects of character in the area that need to be translated into the provisions of the NCO
- the proposal is supported by appropriate community consultation.

The Explanatory Report for this Amendment identified that the NCO was appropriate to apply to the four identified precincts because it afforded a greater level of control in relation to neighbourhood character considerations including front setbacks, second storey additions, garages, side and rear setbacks, walls and boundaries and design detail. It considered the DDO22 the most appropriate and effective mechanism to encourage complementary front fencing styles, which cannot be provided for in the NCO or through a ResCode variation in a residential zone schedule.

### (ii) **Planning Practice Note 90: Planning for Housing (PPN90) December 2019 and Planning Practice Note 91: Applying the Residential Zones, (PPN91) December 2019**

PPN90 provides guidance about planning for housing growth and protecting neighbourhood character to ensure a balanced approach to managing residential development in planning schemes.

PPN91 provides guidance about how to use the residential zones to implement strategic work and use local policies and overlays with the residential zones. Council submitted that the application of the NCO satisfies the following criteria in PPN91:

- the proposed area exhibits existing characteristics that need to be protected, or need to be changed to achieve a preferred character
- the area, relative to the rest of the municipality, can be demonstrated to require a specific approach to neighbourhood character

- the application of local planning policy, the objectives and standards of Clause 54 and Clause 55 or variations to those clauses in the schedules to the NRZ will not meet the neighbourhood character objectives for that area
- strategically to areas where variations to Clause 54 and Clause 55 standards fail to meet the specific objectives for neighbourhood character, and locally tailored standards are required and can be justified.

## **3 Strategic justification**

### **3.1 The issue**

The issue is:

- whether the Amendment is strategically justified.

### **3.2 Evidence and submissions**

Submission 1 considered that the application of the NCO to maintain large gardens and setbacks was inconsistent with future housing needs and the proximity to services and facilities. Submissions 5 and 6 expressed similar comments identifying that to meet Melbourne's housing needs required areas like Bruce Street with close proximity to infrastructure to provide further housing opportunity such as dual occupancy. Submissions 5 and 10 further suggested that the Amendment was inconsistent with state and local housing policy (Clauses 21.02 and 21.05) and PPN28 and that the existing NRZ3 along with Clause 22.23 provides an adequate level of guidance for built form responses. Submission 11 agreed that existing controls provided appropriate management of new built form in a manner that respected the neighbourhood character.

Council's submission reinforced that the Amendment was based on sound strategic work and subsequent analysis and was consistent with the Planning Policy Framework including its Housing Policy by limiting the NCO to areas within existing NRZ areas identified for limited or minimal change. It considered that the Amendment was about respecting identified neighbourhood character values and not about protecting the precincts from development at all costs; indeed some level of change was anticipated in all four precincts.

In support of its position, Council referred to:

- Panel findings for Amendments C168, C175 and C185 (Part 2) to the Stonnington Planning Scheme which generally considered the methodology of the Character Review to be thorough and consistent with Planning Practice Notes and the application of implementing NCOs strategically sound
- the housing supply analysis included in the Character Study which forecast a total loss of only 70 potential additional dwellings when applying the NCO to all identified character precincts. Council identified that Ms Riddle's evidence considered this insignificant.

Ms Riddle's evidence summarised the methodology applied to the development of the Character Review including:

- the process undertaken to determine the most appropriate planning tools to manage identified character
- how key characteristics such as the degree of visual consistency and distinctiveness were identified
- the role of contributory and non-contributory buildings
- the level of comparative analysis undertaken.

Council, supported by the evidence of Ms Riddle, submitted that the Local Planning Policy Framework, Clause 22.23 and ResCode objectives and standards did not sufficiently

implement or achieve the outcomes sought in the Character Review. It said they did not articulate the specific character and significance of the precincts or how the preferred neighbourhood character is to be preserved and enhanced. Council submitted that applying the controls would ensure greater siting consistency, guidance on design detail and greater site area to accommodate deep soil and canopy trees. In doing so, Council considered that the Amendment:

[struck] the right balance of ensuring future development respects and enhances areas of significant neighbourhood character while having negligible impact on realising housing policy to meet the future needs of the municipality.

### **3.3 Discussion**

The Panel agrees with Council (and the findings of the Panels in Stonnington Planning Scheme Amendments C168, C175 and C185) that the Character Review which underpins the Amendment is robust. The methodology for undertaking the Character Review was sound, involving a survey of every street in the municipality and a comparative analysis of areas of similar visual consistency and coherent character in Stonnington and other areas of Melbourne. The result is the identification of a number of district precincts of significant character rather than a widespread blanket coverage approach.

The Character Review and NCOs have been prepared in a manner consistent with PPN91. The use of the NCO as a planning tool is considered consistent with the Planning Policy Framework.

The Panel agrees with Council that the significant character elements identified in the Character Review and the four Precincts require the application of the NCO since Clause 22.23 and the provisions of the NRZ do not provide the design guidance required.

The identified character elements of the four precincts have been confirmed by the Character Review Addendum and refined where appropriate to remove larger non-contributory redevelopment sites or residential zones with higher growth aspirations. The Amendment has appropriately limited the four NCO precincts to areas already within a NRZ identified for limited or minimal change. The application of the NCO will have minimal impact on the achievement of Council's broader Housing Policy objectives and an inconsequential impact on new dwelling yields in the context of the rest of the municipality.

### **3.4 Conclusion**

The Panel concludes that the Amendment is supported by and implements the relevant sections of the Planning Policy Framework, and is consistent with the relevant Ministerial Directions and Practice Notes. The Amendment is well founded and strategically justified and should proceed subject to addressing the more specific issues raised in submissions as recommended by the Panel.

## 4 Common issues

This chapter refers to issues which apply across more than one precinct.

### 4.1 Need for further permissions for buildings and works

#### (i) The issue

The issue is:

- whether it is appropriate to introduce new permit triggers for development.

#### (ii) Evidence and submissions

Submissions 1, 8, 9 and 11 did not support the Amendment, considering they would be burdened or disadvantaged by further restrictions, 'red tape' and a constrained ability to undertake the construction of carports, garages and high fences compared with properties in other precincts.

Submission 4 foreshadowed repairs and alterations to their dwelling including fence replacement and expressed concern about the Amendment creating a burden of additional planning applications.

Submission 6 identified that existing homes offer an amenity standard less than new homes that could provide more comfortable, modern living and energy efficiency improvements and that the Amendment had not achieved the right balance between character and sustainability. It considered that the proposed controls would make it difficult for owners to repair older dwellings such as 31, 33 and 47 Bruce Street.

Ms Groves (Submission 11) presented to the Panel and further articulated her concerns about the ability to erect a high front fence to provide security, locate a carport forward of the dwelling façade or conduct minor dwelling alterations such as replacement of a door or new windows. She expressed frustration about not being able to obtain sufficient or consistent information about the impacts of the Amendment on her property or what building changes would require a planning permit or be acceptable.

Council acknowledged that the NCO introduced another layer of control and imposes additional permit triggers. However, it submitted this was a well-recognised and generally accepted consequence of planning controls and that the controls were necessary to ensure character values were properly identified and respected. It reinforced that the NCO did not prohibit the opportunity to repair, extend or redevelop sites and that there were no triggers for repairs, maintenance or internal works. Ms Riddle's evidence supported this position.

Council's Part B submission referred to several Panel reports (paragraphs 71-78) where an NCO had been applied, identifying a number of consistent themes, including that such controls:

- should be well founded, benefit the community and be effective in producing the intended outcomes
- accommodate the adaption of existing houses to meet modern needs including through design innovation and interpretation in a manner which respects key character elements.

Council submitted that future redevelopment opportunities are matters that should be appropriately considered at a planning permit stage and that the Panel should focus on whether the tools are appropriate to achieve the outcomes sought and the Amendment is strategically justified.

### **(iii) Discussion**

The Panel acknowledges that the application of the NCOs and DDO22 will provide an additional layer of control on the four precincts and will trigger the need for planning permits for alterations, extensions and new buildings.

It is important that additional controls are not imposed on properties unless they are strategically justified and are likely to achieve their intended planning outcomes. In this instance, the Panel is satisfied that the Character Review provides a robust basis for identifying special neighbourhood character that needs to be appropriately managed to support a broader community benefit.

The Panel considers that the content of the proposed controls is directly attributable to the findings of the Character Review (and confirmed by the Character Review Addendum). They clearly and unambiguously articulate the important neighbourhood objectives to be achieved. The proposed permit triggers and standards to be achieved are considered necessary and balanced in the circumstances.

In a number of instances, the ResCode standard variations are not substantially different (for example front setbacks) to those currently in NRZ2 and NRZ3. The standard variations that are proposed (side setbacks and first floor levels and carparking structure locations) can be readily attributable to the identified character values. The standard variations and character objectives will allow new structures or the adaption of existing houses to meet modern needs and the use of different design techniques including innovation and interpretation in a manner which respects key character elements, rather than inhibiting development activity.

The Panel considers that the provisions of the NCOs provide clear identification of the preferred character elements that will assist applicants and Council's decision making where a planning permit is required. The Panel notes that some more straightforward building alterations associated with a dwelling are capable of being managed through the VicSmart process in Clause 59 of the Stonnington Planning Scheme.

### **(iv) Conclusions**

The Panel concludes that the provisions of the NCOs and DDO22:

- are directly related to the Character Review and will be effective in achieving the intended preferred neighbourhood character outcomes
- will manage anticipated development in the four precincts and allow capacity for contemporary and innovative design responses in a manner which respects key character elements.



## **4.2 Property value and financial implications**

### **(i) The issue**

The issue is:

- whether impacts on property value or other financial implications are relevant when assessing neighbourhood character or when deciding whether to apply the Neighbourhood Character Overlay.

### **(ii) Submissions**

Submissions 1, 2, 9 and 11 raised concerns relating to the cost burdens of having to maintain the neighbourhood character which may include a reduction in development potential or may negatively impact property values. The owner of 18 Lalbert Crescent (Submission 5) presented copies of plans for the construction of a dwelling on that site (Document 4) and submitted that the introduction of controls before construction was completed would have significant financial impacts on them by having to redesign the building to meet the neighbourhood character objectives of NCO8.

Council submitted that the private financial impacts for property owners were not relevant matters to take into account when considering an amendment and were more appropriately considered if a planning permit was required. It considered that the financial impacts identified by the submitters were expressed at a site level basis and not at the broader community level.

### **(iii) Discussion**

The Act and the Stonnington Planning Scheme require social and economic matters and the principles of net community benefit and sustainable development to be considered. Council's Part B submission (paragraphs 85-98) cited several Panel reports which reinforced the consistent position that property value or the impairment of the ability to repair, renovate or replace buildings was not material to the amendment stage of the planning process. These reports also emphasised that the consideration of economic impacts of the amendment related to the interests of the broader community. It is not necessary to recite these conclusions here as the principles have been well established.

Social and economic impacts are difficult to quantify and often intangible in the absence of any analysis and evidence. The Panel acknowledges that the Amendment may have a potential economic impact on land owners, however it regards this as principally a private economic impact rather than a broader community impact. The Panel does not consider that the private impacts identified in submissions outweigh the broader community benefit of the Amendment that flows from ensuring that the significant neighbourhood character of areas within Stonnington are properly recognised and managed.

### **(iv) Conclusion**

The Panel concludes:

- Impacts on property value or other personal financial implications are not relevant when assessing neighbourhood character or when deciding whether to apply the Neighbourhood Character Overlay.

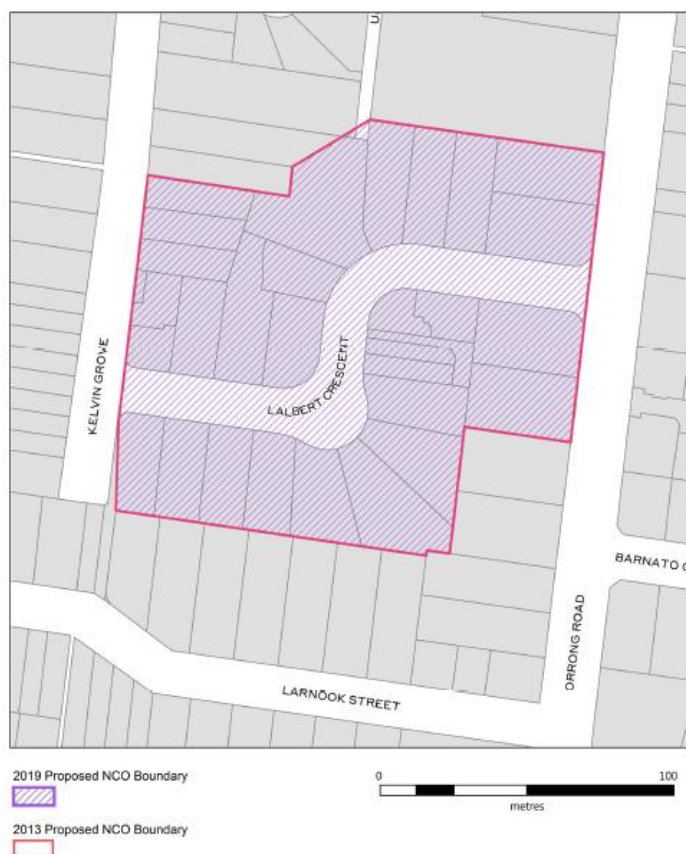
- The Amendment will have a positive net community benefit by protecting and enhancing areas of significant neighbourhood character in the City of Stonnington.

## 5 Lalbert Crescent Precinct

### 5.1 What is proposed?

The Amendment proposes to apply the NRZ5, NCO8 and DDO22 to the Lalbert Crescent Precinct. The Precinct area affected by the Amendment is the same as that identified in the Character Review (refer Figure 1).

**Figure 1** Lalbert Crescent Precinct



Source: Stonnington Neighbourhood Character Review Addendum 2019

The NCO8 Statement of neighbourhood character identifies:

The Lalbert Street Precinct comprises Post-war and Early Modern dwellings of a grand scale, set within well-established gardens. The dwellings along Orrong Road and Kelvin Grove provide gateways to the precinct, particularly the distinctive flat-roofed Early Modern building at the corner of Lalbert Crescent and Orrong Road. The precinct's significance is due to the consistency of its original dwellings which are mostly of two to three storeys and constructed of brick with terracotta tiled roofs. Architectural features of the original buildings include bulls-eye windows, curved facades, defined porch entrances, projected front rooms and decorative brickwork. Front fences are typically low brick and designed to match the dwellings.

The preferred neighbourhood character of the Lalbert Crescent precinct is defined by the continued presence of grand brick Post-war and Early Modern dwellings, and new dwellings that reflect the key characteristics of the streetscape including:

- Grand, detached buildings of two to three storey scale.
- Pitched hipped or gabled roofs and projecting front room.

- Parallel orientation of buildings to the street with consistent front and side setbacks.
- Established planting, including canopy trees, in the front, side and rear setbacks.
- Use of red clinker or orange brick, or render, with contrasting detail.
- Red terracotta tiled roofs.
- Vehicle access and car parking structures non-existent or car parking and car parking structures located behind the dwelling with side driveway access or integrated within the dwelling form.
- Low brick front fences, often with brick columns.

## 5.2 The issues

The issues are:

- whether the application of NRZ5, NCO8 and DDO22 are appropriate for the Precinct.

## 5.3 Evidence and submissions

Submission 2 identified that buildings in Lalbert Crescent had been demolished and redeveloped in a different style.

Submission 5 related to 18 Lalbert Crescent for which demolition of the original dwelling had occurred. The submission identified a range of architectural styles in the precinct with setback inconsistencies and carports or garages presenting to the street that did not justify the application of the NCO. The owners of the site attended the Hearing and presented concept plans for the construction of a two storey dwelling on the now vacant lot, expressing concerns that despite stage 1 building approval having been obtained (footings, swimming pool, front fence and retaining wall) and about to commence, approval of the Amendment before completion of the dwelling could create a scenario where a planning permit would be required. Stage 2 building approval for the dwelling was anticipated shortly.

Submission 10 noted that the front fence character throughout the Precinct was variable and considered that the NCO was not necessary because the existing NRZ3 and Clause 22.23 provided appropriate weight to neighbourhood character and built form guidance for the precinct.

Ms Riddle's evidence was relied on by Council. It summarised the findings of the Neighbourhood Character Review Addendum which identified that little change had occurred in the precinct since 2013 aside from the demolition of 18 Lalbert Crescent and minor demolition to the rear of 3 Lalbert Crescent to accommodate an extension. She identified that while there were a range of architectural eras present within the precinct, there was a predominance of grand two storey Early Modern clinker brick dwellings. The setbacks or siting, brick materials, general height, roof form, front fence style and gardens were still the predominant features that created a distinctive neighbourhood character. She observed that while there were several sites with setbacks less than 6 meters and car parking structures on the side of structures (and only one instance of a garage projecting into the dwelling setback) this was due to the subdivision pattern, road alignment and the number of corner lots.

## 5.4 Discussion

The Panel inspected the Lalbert Precinct. It observed a predominance of two storey brick dwellings with pitched, tiled roofs and low brick fences and carparking structures generally setback from the dwelling frontage. The modern dwellings in the street did not largely intrude into the street character given consistent setbacks, roof form and materiality. Landscaped front setbacks were apparent which integrated with the established canopy street tree character.

The Panel agrees with Ms Riddle that while a range of architectural styles are apparent, this is just one element that makes up the streetscape character. It considers that the application of the NCO is warranted to manage the established character beyond that available through the NRZ ResCode standard variations. The application of the NRZ5 has little appreciable difference to the existing NRZ3 with key provisions transferred into NCO8 and identifying the particular existing and preferred character attributes of the precinct. The consistency of existing fence materials and height within Lalbert Crescent also warrants the application of DDO22.

The Panel appreciates Mr Smorgon's predicament however the circumstances of having a live building permit when new controls are introduced is common given the long lead times for planning scheme amendments. While Council observed that there were many elements of the Smorgon's schematic plans that respond to the identified character objectives including setbacks, it was correct in observing that the particular circumstances would need to be assessed by Council at the time an Amendment came into effect. The introduction of a contemporary building emphasised however, that the control was seeking to manage built form responses in a manner which respected the preferred character rather than inhibiting contemporary or innovative design responses.

## 5.5 Conclusions

The Panel concludes:

- There is a distinct neighbourhood character present that warrants the application of NRZ5 and NCO8 to the Lalbert Crescent Precinct.
- The application of DDO22 is appropriate for the Lalbert Crescent Precinct.

## 6 Bruce Street Precinct

### 6.1 What is proposed?

The Amendment proposes to apply the NRZ5, NCO9 and DDO22 to the Bruce Street and Cairnes Crescent Precincts. The extent of the Bruce Street Precinct affected by the Amendment has been reduced from that identified in the Character Review to remove properties along Waverley and Dandenong Roads (refer Figure 2).

**Figure 2 Bruce Street Precinct**



Source: Stonnington Neighbourhood Character Review Addendum 2019

The NCO9 Statement of neighbourhood character identifies:

These streetscapes are distinctive areas of Interwar and Post-war development set in established gardens. The significance of these areas is due to the consistency of original red, cream or orange brick dwellings, with pitched tiled roofs. Distinctive features of the buildings include entrance canopies sometimes with curved forms, decorative brickwork, flat-faced gables and chimneys, in both simple and elaborate forms. Low brick front fences are designed to match the dwelling style.

The preferred neighbourhood character of the Bruce Street and Cairnes Crescent precincts are defined by the continued presence of original dwellings and new dwellings that reflect the key characteristics of the streetscapes including:

- Single storey detached built form with second storeys recessed behind the front façade.
- Parallel orientation of buildings to the street with consistent front and side setbacks.
- Established planting, including canopy trees, in the front, side and rear setbacks.
- Use of brick or brick and light-coloured render (cream, orange and red brick).
- Dark terracotta tiled pitched roofs.
- Car parking and car parking structures located behind the dwelling with side driveway access.
- Low brick front fencing.

## 6.2 The issues

The issues are:

- whether the application of NRZ5, NCO9 and DDO22 are appropriate for the Precinct.

## 6.3 Evidence and submissions

The Amendment was not supported by submissions 4, 6 and 11.

Submission 6 identified that the character of the Precinct extended beyond the Interwar and Post-war era with developments at 1 and 6 Thomas Street and 1, 13, 16, 25 and 37 Bruce Street and the recently approved development at 14 Bruce Street introducing appropriate modern forms that had contributed to the higher property values. The submission considered that the exclusion of Waverley Road and Dandenong Road properties from the precinct which displayed similar characteristics was inconsistent. It considered the controls unnecessary, with the current NRZ2 providing the right balance of maintaining character and providing for sustainable development.

Ms Groves (Submission 11) considered that the existing controls in Bruce Street provided adequate guidance for new development, with recent development in the street being tasteful. At the Hearing she further clarified her concerns, considering that her property did not possess the significant architectural elements of other homes, other than it was a brick dwelling with a pitched, tiled roof. She submitted that no real reason had been advanced as to why her property could not be removed from NCO9.

Ms Riddle's evidence summarised the findings of the Character Review Addendum which identified that scattered development had occurred in the precinct since 2013 including demolition approvals not acted on (6 and 14 Bruce Street and a partial demolition of 29A Sutherland Street), new dwellings at 1, 13, 25 and 37 Bruce and partial demolition undertaken 15 Bruce Street. She considered that despite this activity the precinct overall retained a strong character and the features identified in NCO9 still observable.

Council relied on the evidence of Ms Riddle in support of the Amendment.

## 6.4 Discussion

The Panel inspected the Bruce Street precinct which included Thomas Street and parts of Sutherland and Paul Street. It observed a predominance of single storey brick dwellings with pitched, tiled roofs and low brick fences and carparking structures generally set back from

the dwelling frontage and a consistency of front and side setbacks. A number of dwelling had recessed second storeys. There was a very strong consistency in architectural style in Sutherland Street with the rest of that street already within an NCO (NCO7). The modern dwellings in Bruce Street do not intrude into the street character given consistent setbacks, roof form and materiality. Landscaped front setbacks were apparent which integrated with the established canopy street tree character.

The Panel agrees with Ms Riddle that while a range of architectural styles are apparent, this is just one element that makes up the character of the streetscape. It considers that the application of the NCO is warranted to manage the established character beyond that available through the NRZ ResCode standard variations. The application of the NRZ5 has little appreciable difference to the existing NRZ3 with key provisions transferred into NCO9 and identifying the particular existing and preferred character attributes of the precinct. The consistency of existing fence materials and height within Bruce, Thomas, Sutherland and Paul Streets also justify the application of DDO22.

The Panel questioned Ms Riddle and Council about whether the large proportion of newer dwellings in Thomas Street (which is a short street terminating at a park) required an additional level of management to warrant an NCO. While Council identified that nothing turned on the removal of those dwelling solely fronting Thomas Street, it and Ms Riddle considered that there was a consistency of setbacks for 1, 3 and 4 Thomas Street, a sense of cohesion and a strong visual connection to Bruce Street and the adjacent park.

On balance, the Panel agrees. Further development is still possible on many of the lots in Thomas Street and these dwellings are visually connected to Bruce Street to warrant development of those sites to be managed in a manner consistent with the preferred character.

While the Panel understands Ms Groves' confusion and concerns about the implications of the controls on her property, the Panel does not support excluding 18 Bruce Street or the other newly developed sites from NCO9. The Panel accepts the evidence of Ms Riddle that while 18 Bruce Street was not rich in architectural detail like other dwellings, it reflects other consistent character elements including materials, roof form and setbacks and is contributory to a prevailing streetscape character. The Panel considers that to exclude the site would undermine the achievement of the Precinct's existing and preferred character. While a permit may be required for dwelling alterations including a carport or garage, the NCO9 would provide an appropriate tool to manage an appropriate and respectful design response.

As identified by Council, while DDO22 triggered the need for a permit over 0.8 metres in height, scope existed for a permit to be granted for higher or setback fencing to achieve a balance of privacy and neighbourhood character consistency.

While no submissions were made in relation to the Cairnes Crescent Precinct, the Panel's site visit identified a consistent built form character that reflected the identified neighbourhood character.



## **6.5 Conclusions**

The Panel concludes:

- There is a distinct neighbourhood character present that warrants the application of NRZ5 and NCO9 to the Bruce Street and Cairnes Crescent Precincts.
- The application of DDO22 is appropriate for the Bruce Street and Cairnes Crescent Precincts.

## 7 Camino Terrace Precinct

### 7.1 What is proposed?

The Amendment proposes to apply the NRZ5, NCO10 and DDO22 to the Lalbert Crescent Precinct. The extent of the Camino Terrace Precinct affected by the Amendment has been reduced from that identified in the Character Review to remove properties along Waverley Road and Dandenong Road and at the western end of Camino Terrace which have been substantially redeveloped (refer Figure 3).

**Figure 3** Camino Terrace Precinct



Source: Stonnington Neighbourhood Character Review Addendum 2019

The NCO10 Statement of neighbourhood character identifies:

The Camino Terrace Precinct comprises distinctive 1950s to 1960s Post-war development set in established gardens. The significance of this precinct is due to the consistency of original double and triple-fronted brick dwellings. At the northern end of the precinct, buildings are one or two storey, with car parking structures integrated into the lower ground level of double storey dwellings. The southern end of the precinct is predominantly single storey. Distinctive features of this area include the brick materiality, decorative wrought iron railings on balustrades and gates as well as mullioned doors and windows. Camino Terrace includes a small reserve, which gives the properties at this end of the precinct an open, landscaped feel.

The preferred neighbourhood character for the Camino Terrace precinct is defined by the continued presence of original dwellings and new dwellings that reflect the key characteristics of the streetscape including:

- Single or double storey detached built form.
- Double and triple fronted building form.
- Parallel orientation of buildings to the street with consistent front and side setbacks.
- Established planting of low formal gardens including some canopy trees, in the front, side and rear setbacks
- Use of cream, orange or red bricks.
- Dark terracotta tiled pitched hipped roofs.
- Car parking and car parking structures integrated into the built form of the dwelling, either:
  - On single storey dwellings: to the side set behind the facade with side driveway access, or
  - On double storey dwellings for properties facing Camino Reserve: integrated into the ground floor.
- Low brick front fencing or open frontages with no fencing.

## **7.2 The issues**

The issues are:

- whether the application of NRZ5, NCO10 and DDO22 are appropriate for the Camino Terrace Precinct.

## **7.3 Evidence and submissions**

Submissions 3 and 7 supported the Amendment.

Submissions 1, 8 and 9 opposed the Amendment and sought removal of the NCO on the basis of new dwelling forms and changes within the Precinct. Submission 9 identified that new development at 6, 18-20 and 22 Camino Terrace and new fences at 3 and 5 Romana Terrace had resulted in the Precinct no longer meeting the criteria for neighbourhood character recognition.

Ms Riddle's evidence summarised the findings of the Character Review Addendum which identified that scattered development had occurred in the Precinct since 2013 including isolated new builds in the western section of Camino Terrace, new development at 18, 20 and 22 Camino Terrace which had been excluded from the Precinct as they comprised elements inconsistent with the rest of the precinct and one side setback anomaly (6 Camino Terrace) which did not detract from the significance of the Precinct.

Council relied on the evidence of Ms Riddle in support of the Amendment.

## **7.4 Discussion**

The Panel inspected the Camino Terrace Precinct which included Ramona Avenue. The panel observed two distinct areas within the Precinct – Ramona Avenue (including the dwelling at 2 Camino Terrace) and Camino Terrace including the adjoining park on the north side of the street. Ramona Avenue comprised a group of dwellings with a strong consistency in built form, materiality (predominantly single storey, brick, tiled pitched roof dwellings),

front and side setbacks and low or transparent fence forms. Camino Terrace has a less obvious consistency in built form in part due to the introduction of newer dwellings especially since dwellings only present on one side of the street.

The Panel agrees with Ms Riddle, that the dwellings within Ramona Avenue and 2 Camino Terrace share a very consistent and cohesive Post-war built form. It considers that the application of the NCO is warranted to manage the established character beyond that available through the NRZ ResCode standard variations. The application of the NRZ5 has little appreciable difference to the existing NRZ3 with key provisions transferred into NCO10 and identifying the particular existing and preferred character attributes of the precinct. The consistency of existing fence materials and height within Ramona Avenue also warrants the application of DDO22.

The Panel questioned Ms Riddle and Council about whether the large proportion of newer dwellings in Camino Terrace and limitation of the built streetscape to one side of the street required an additional level of management to warrant an NCO. Ms Riddle considered that there was sufficient consistency of setbacks and build form (materiality and roof forms) and low fence forms and an important visual relationship with the park to warrant the NCO10 and DDO22.

On balance, the Panel agrees. Further development is still possible on many of the lots in Camino Terrace and these dwellings are visually connected to the adjacent park and the northern extent of Ramona Avenue to justify the application of NCO10 and DDO22. The modern dwellings more visually remote at 18-22 Camino Terrace are appropriately excluded from the Amendment.

The consistent larger setbacks within the Precinct warrant the application of an 8 metre front setback. Given the NRZ already applies to the Precinct this will not appreciably impact development opportunity.

The Panel does not support excluding 3 Ramona Avenue from NCO10. The Panel accepts the evidence of Ms Riddle and submission of Council that this property exhibits the majority of the identified Precinct characteristics. The Panel considers that to exclude the site would undermine the achievement of the Precinct's existing and preferred character.

## **7.5 Conclusions**

The Panel concludes:

- There is a distinct neighbourhood character present that warrants the application of NRZ5 and NCO10 to the Camino Terrace Precinct as exhibited.
- The application of DDO22 is appropriate for the Camino Terrace Precinct.

## 8 Form and content of the Amendment

### 8.1 Permit requirements

#### (i) The issue

The issue is:

- whether the NCO requirements for a permit for alterations and dwellings are appropriate.

#### (ii) Submissions

Submission 3 suggested the NCO10 be amended to provide permit exemptions for dwelling additions 8 metres behind the front façade and the construction or demolition of outbuildings.

Council did not support widening the permit exemptions to reflect those identified in Submission 3 considering the exhibited permit triggers were necessary to ensure building extensions or outbuildings visible from the street were assessed against the identified character objectives. However, Council's post-exhibition changes outlined in its Part A submission proposed to add after the words 'Demolish or remove a building' the words "This does not apply to the demolition of an outbuilding" under the permit requirement section of each NCO. Council considered that this was a minor change that reduced the application requirements proposed by the NCO that did not necessitate further public notice.

At the Hearing Council identified that further changes were required to qualify its post-exhibition change to avoid any debate about what was meant by 'outbuilding'. Council suggested two additional wording options for the Panel's consideration that identified the provision would not include "*an outbuilding not seen from the streetscape*", or that it would "*include carports and garages that presented to the street*". Council considered the words 'street' or 'public realm' could be interchanged with 'streetscape'.

#### (iii) Discussion

The Panel does not support exempting dwelling additions to the rear of the front façade or the construction of outbuildings from requiring a permit. To do so would undermine the objectives of applying the NCO and ensuring that structures which will be visible in the streetscape complement the identified character elements.

However, the Panel supports Council's refinement of the wording relating to the demolition of outbuildings, particularly where these structures are not visible from the street or public realm. Outbuildings not visible from the street make no contribution to the identified character of the four precincts and their exclusion potentially reduces the need for unnecessary permit applications. The Panel supports Council's revised position that exempting outbuildings from the need for a permit for demolition requires further refinement to limit the exemption to those outbuildings not visible from the street. It prefers the broader use of the term outbuilding in this qualification so as to capture more structures and the use of the word 'street' rather than 'public realm'.

The Panel considers that this change does not transform the Amendment as existing outbuildings are not structures identified as an integral or distinctive part of the neighbourhood character or preferred character. The Panel considers that removing the permit trigger for demolition of outbuildings as qualified is an appropriate change and would reduce the impact of the Amendment on land owners.

#### **(iv) Conclusions and recommendation**

The Panel concludes:

- It is appropriate to retain a permit requirement in the NCO for the construction of an outbuilding normal to a dwelling.
- The NCO triggers for a permit for demolition of buildings should be varied to exclude the demolition of outbuildings not visible from the street.

The Panel recommends:

- 1. Amend section '3.0 Permit requirement' of Neighbourhood Character Overlay Schedules 8, 9 and 10 to add after 'Demolish or remove a building' the words "other than an outbuilding not visible from the street".**

## **8.2 Neighbourhood Character Overlay character objectives**

### **(i) The issue**

The issue is:

- whether the second character objective of NCO8, NCO9 and NCO10 relating to the retention of features is appropriate.

### **(ii) Evidence and submissions**

Submission 10 considered that the neighbourhood character objective *"To encourage retention [Panel's emphasis] of the features of intact, original dwellings that contribute to the preferred neighbourhood character of the area"* commonly included in the proposed NCOs (second objective) was inappropriate and inconsistent with PPN28 by preventing demolition.

Ms Riddle opined that this was not the intent of the objective, rather:

The NCO is therefore intended to influence the design of new dwellings prior to the demolition of the existing. It provides the opportunity to ensure that new dwellings retain the key characteristics of the area in terms of setbacks, massing, roof forms and materials that contribute to the identified character of the area.

Ms Riddle recommended that the second objective be amended to replace the word 'features' with *"key characteristics"*. Council was open to this recommendation.

### **(iii) Discussion**

While the Panel understands that the second objective was proposed to ensure that characteristics of existing buildings were reflected in new development, it implies a restriction on demolition of existing building elements. During the Hearing the Panel indicated that the amended version of the second objective still retained the introductory

words 'To encourage retention of ...' and that these words still implied a restriction on demolition.

Council agreed that an objective requiring the retention of building elements was contrary to PPN91. It considered that the intent of the objective was in fact reflected in the other character objectives and was consequently served no purpose and could be deleted. The Panel agrees with this position and considers that its removal will not impact on the effectiveness of the control.

**(iv) Conclusion and recommendation**

The Panel concludes:

- the second character objective of NCO8, NCO9 and NCO10 relating to the retention of features is inappropriate and unnecessary and should be deleted.

The Panel recommends:

- 2. Amend section '2.0 Neighbourhood character objective' of Neighbourhood Character Overlay Schedules 8, 9 and 10 to delete the second objective 'To encourage the retention of the features of intact, original dwellings that contribute to the preferred neighbourhood character of the area'.**

## Appendix A Submitters to the Amendment

No.	Submitter
1	Chris Nicol
2	Dahlia Tauber
3	Mary and John Hawkins
4	Ena Shaw and Barrie Green
5	James and Megan Smorgon
6	Steven and Courtney Fraraccio
7	Mark Strong
8	Laurie and Suzanne Neville
9	Gary and Elizabeth Weeks
10	Galvia Pty Ltd
11	J and B Groves

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## Appendix B Document list

No.	Date	Description	Provided by
1	25/2/2020	Council Part A submission	Council
2	“	Expert witness statement of Ms Riddle	Council
3	3/3/2020	Council Part B submission	Council
4	“	Schematic designs for 18 Lalbert Street	Mr Smorgon

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