



11 March 2016

The Hon Richard Wynne
Minister for Planning
Department Environment, Land Water and Planning
PO Box 500
Melbourne Vic 8002

Ask for: Kathleen McClusky
Phone: 9932 1004
Our Ref: A2333194

Dear Minister,

Managing Residential Development Advisory Committee

Thank you for the opportunity to provide feedback to the Managing Residential Development Advisory Committee.

The planning system is a critical part of Council's activities and is increasingly complex with high levels of public involvement and scrutiny. Council welcomes the Managing Residential Development Advisory Committee and looks forward to working with the Victorian Government to implement the reformed residential zones. Comments are provided in the attachment.

If you would like to discuss this submission further please contact Kathleen McClusky, Manager Strategy and Advocacy on 9932 1004 or email kmccclusky@hobsonsbay.vic.gov.au.

Yours sincerely,

Chris Eddy
Chief Executive Officer

Hobsons Bay City Council - Submission to the Managing Residential Development Advisory Committee

March 2016



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1.0 Executive Summary

- 1) The Victorian Government has established two advisory committees in relation to the implementation of the new residential zones in Victoria:
 - the Residential Zones Standing Advisory Committee (RZSAC)
 - the Managing Residential Development Advisory Committee (MRDAC)
- 2) The RZSAC was appointed in 2013 to assist councils and the Victorian Government in the rezoning of residential land. Its role included the preparation of a report that provided commentary on the application of the new zones; recurring issues experienced by councils and recommendations on how to proceed. This report is known as the Stage One Overarching Issues Report (the Stage One Report) and is generally supported with the exception of the proposal to remove reference to four storey development from the purpose of the Residential Growth Zone (RGZ).
- 3) The purpose of the MRDAC includes considering the process by which the new zones were implemented; advise on the level of evidence and justification needed when preparing relevant planning scheme amendments and recommending improvements to the residential zones.
- 4) Key issues include the lack of transparency arising from the inconsistent implementation process used to apply the new zones, and the varied approaches undertaken by councils and accepted by the RZSAC to determine the new zones application.
- 5) Part of the reason for the inconsistent approach is the ambiguity of the guiding principles and criteria of Practice Note 78 and Advisory Note 50 which were prepared to assist councils in applying the new zones. Many of the guiding principles have been interpreted differently.
- 6) There is concern regarding the level of evidence and justification used to strategically justify the new zones application. Some councils were allowed to directly translate existing policy into new zone controls while others had to strategically justify their application.
- 7) Recommendations to improve the zones include supporting a number of the recommendations provided in the RZSAC Stage One Report including:
 - updating and consolidating the planning practice notes relating to neighbourhood character and applying the residential zones
 - reviewing the integration of zone schedules and overlays
 - reviewing the ability to use a sliding scale in the NRZ coupled with the inclusion of a 'no net loss of dwellings' provision to protect existing multi-unit dwellings in the NRZ
- 8) Further consideration of residential development in proximity to industry including major hazard facilities is also required, as is the development potential of lot sizes, including width, as this can impact the type of development achievable on a lot.
- 9) The review of Ministerial Direction No. 16 (Residential Zones) should provide more guidance as to the way the new zones should be monitored and reviewed.
- 10) Hobsons Bay is preparing and updating a suite of policies as part of a package to strategically justify its implementation of the new zones. It supports the use of municipal housing strategies as a basis for the application of new zones provided they include capacity modelling and are complimented by additional policies such as a Neighbourhood Character Study.

- 11) Council supports robust debate on the implementation of the new zones and acknowledges the detailed advice provided by the RZSAC. Council is working towards implementing the new zones and looks forward to working with Planning Panels Victoria in their application in Hobsons Bay.

2.0 Introduction

12) The Minister for Planning has appointed the MRDAC to report on the new zones. The purpose of the MRDAC is to:

- consider the process used to implement the new zones
- review the application of the new zones
- advise on the level of strategic justification needed to apply the new zones
- recommend improvements to the new zones
- provide councils with the opportunity to be heard

13) Hobsons Bay welcomes the opportunity to submit its views to the Committee and contribute to the improvement of the planning system including the new zones.

2.1 Municipality in Context

14) Hobsons Bay is situated approximately seven to 20 kilometres south west of the Central Business District (CBD) with a 22 kilometre frontage onto Port Phillip Bay and covering an area of 66 square kilometres. The municipality has a population of approximately 90,663 (2016) which is forecast to increase by 18 per cent by 2036¹.

15) The municipality has:

- established residential areas such as Altona, Brooklyn, Laverton, Newport and Williamstown. Williamstown is one of the oldest areas in Melbourne and extensive heritage overlays cover the suburbs of Williamstown, Newport and Spotswood which were predominantly developed between the 1850s and 1940s. Post World War II saw the establishment of Altona, Altona North and Brooklyn with more recent development occurring in Altona Meadows and Seabrook
- three activity centres identified in Plan Melbourne being Altona, Altona North and Williamstown
- an extensive coastline onto Port Phillip Bay. This coastline may be impacted by climate change induced sea level rise in the future which will affect the Altona and Williamstown activity centres
- nine Strategic Redevelopment Areas (SRAs) identified in the *Hobsons Bay Industrial Land Management Strategy, 2008* (ILMS). Six of these areas were identified as potentially suitable for residential redevelopment subject to strategic justification. It is envisaged these sites will accommodate a significant proportion of future residential growth in Hobsons Bay
- some of the state's most significant industries including a rail maintenance centre, petrochemical storage and refinement and resin manufacturing. There are eight major hazard facilities (MHFs), including Mobil, Viva, Qenos and Dow. Some of these are located next to established residential areas
- the Somerton to Altona Petroleum pipeline and the Westernport, Altona, Geelong (WAG) Pipeline running through the municipality. These pipelines are regulated by their own legislative framework but still require consideration as they may impact the types of uses and densities that can occur in certain areas of the municipality

¹ Source: forecast.id for Hobsons Bay City Council.

- a number of significant interfaces in the municipality which impact on the type and level of residential density proposed. These include the national freight rail line, the Westgate Freeway and the Port of Melbourne
- 16) Despite the municipality being serviced by three train lines (including the Laverton/Altona Loop) and a number of bus routes, there is inequitable access to public transport across the municipality which is exacerbated by poor service reliability and infrequent services. As a result, residents remain dependent on private motor vehicles to travel to work and participate in the local economy.
- 17) Road congestion is exacerbated by the growth areas of Wyndham and Melton. Both municipalities project significant population growth rates until 2021 leading to increasing road congestion. Given the significant increase in population on the fringes of Hobsons Bay, demand for public transport is expected to exceed supply. Whilst it was anticipated that the addition of the Regional Rail Link would lead to an increase in service and reliability, these changes have not been realised.

3.0 Implementation of the New Zones

- 18) The planning system is a critical part of Council activities and is increasingly complex with high levels of public involvement and scrutiny. Significant work is required to provide robust strategic justification for the implementation of the new residential zones in Hobsons Bay
- 19) To provide the necessary strategic justification for the implementation of the new zones, council has been reviewing, updating and preparing a range of policy documents specifically related to their implementation. This has included the preparation of a Housing Strategy and updating the Neighbourhood Character Study 2002 and Activity Centre Strategy 2006. Council is also revising its Municipal Strategic Statement, Heritage Study and preparing an Integrated Transport Plan.

4.0 The Current Review

4.1 The Implementation Process

4.1.1 Application of Practice Note 78 and Advisory Note 50

- 20) The implementation of the new zones is an important yet complex task and the implementation process has been uncertain. Practice Note 78 and Advisory Note 50 were prepared to provide the guidance and criteria to assist councils in applying the residential zones. However, some of the principles are ambiguous and led to the new zones being interpreted and applied in different ways by councils resulting in an inconsistent approach.
- 21) For example, one of the principles in applying the RGZ is in 'locations offering good access to services, transport and other infrastructure' but defining 'good' is open to subjectivity.
- 22) Another example is the principle in applying the NRZ which states 'Areas where more than 80 per cent of lots currently accommodate detached dwellings'. Some councils relied too heavily on this criteria to justify the application of the NRZ resulting in large tracts of well serviced land being locked down.

- 23) The lack of clarity and direction resulted in many councils undertaking significant work, sometimes at significant cost, only to have the proposed new zones rejected. Clearer direction should have been provided to assist with the implementation process.

4.1.2 Level of evidence and justification used

- 24) Another key issue with the implementation process relates to the level of assessment, analysis and strategic justification used by councils to apply the new zones, including consideration of zones which abut other municipal boundaries. This is discussed further in Section 4.2.
- 25) Some councils were allowed to directly translate existing policy into the new zone controls while others had to strategically justify their application. This has resulted in concerns around the transparency of the new zones process.
- 26) A number of councils relied on policy documents that had been prepared prior to the development of the new residential zones and as such may not be compatible with the new zones. For example, one council utilised a housing framework from 2002 and there is concern that it does not reflect current future housing and population demands. In addition to this the same council used a neighbourhood character study that was updated in 2011.

4.1.3 Application of the zone schedules

- 27) Due to the ambiguity of the implementation process and the application of Practice Note 78 and Advisory Note 50, the way in which councils have prepared schedules to the zones has also been inconsistent.
- 28) The wording used in schedules has been inconsistent and some councils have prepared detailed schedules while others are generic covering the wider municipal area. For example, the City of Stonnington has a total of 19 schedules, while the City of Greater Dandenong has five and the City of Moreland three.
- 29) In summary, the transparency of the new zones process is questioned as some council's appear to have been given a 'clear run' in applying the new zones and schedules while others were subjected to scrutiny via the RZSAC.

4.2 Review of application of the new zones

- 30) Councils' application of the new zones has largely been based on housing strategies and neighbourhood character studies. A review of these strategies established that use of the terminology Substantial, Moderate and Limited Change Areas (or similar) in municipal housing strategies is common practice. These terms can translate into different things across various municipalities yet they have still generally informed the location of the new zones as follows, RGZ for Substantial Change Areas, GRZ for Moderate Change Areas and NRZ for Limited Change Areas.
- 31) While the concept is plausible, the reality is vastly different depending upon the municipality. For example, demolition of a single dwelling and construction of a four storey apartment block represents substantial change in most areas but not in all. In outer suburban areas i.e. Cardinia, Hume and Wyndham, multi unit development could be classified as substantially changing an area that essentially consists of single detached houses on larger lots while in the inner and middle ring suburbs multi unit development is more likely to be seen as moderate change.

- 32) Although the types of development occurring in the outer suburbs may not reflect apartment style living, the RGZ encourages this type of development. Context needs to be considered when applying the new zones. There is concern that areas zoned RGZ will be subject to development pressures for multi level apartment blocks and that such development, when located 400 metres or 800 metres from a centre, will detrimentally impact on a neighbourhood. Consequently consideration should be given to the whether an alternate zone such as the GRZ, may be more appropriately applied to reflect the particular municipal built form context.
- 33) With regard to Hobsons Bay, there is concern with the Housing and Neighbourhood Character Strategy recently adopted by Wyndham City Council. Wyndham proposes to apply the RGZ in parts of Point Cook including along part of the boundary with Hobsons Bay. Council is concerned that although some of this area is located within 800 metres of a railway station it experiences poor amenity and has access to limited services. While there may be the need to increase dwelling numbers to improve services in the area Hobsons Bay is not convinced a balanced approach has been undertaken.
- 34) It is suggested that the application of the GRZ or NRZ in this location can still provide for increased densities while protecting the strong neighbourhood character that exists and better reflect the type of development occurring.
- 35) The application and content of some of the new zones is not underpinned by robust policy or strategically justified. This is particularly evident where neighbouring municipalities have not considered development beyond their municipal boundary resulting in inconsistent application of zones. An example is the boundaries between Glen Eira, Monash and Stonnington adjacent to Chadstone Activity Centre (see Figure 1).
- 36) Chadstone is a designated Activity Centre in Plan Melbourne and the largest shopping centre in Victoria. It appears that each Council has taken a different approach to the implementation of the new zones which has resulted in the application of various zones that contain different purposes and requirements. While it is considered that some variations will exist across municipal boundaries, this example highlights the inconsistencies and lack of integrated land use and transport planning that can occur. This is not an isolated case; another is the City of Melbourne having the GRZ and RGZ adjacent NRZ in the City of Moreland.

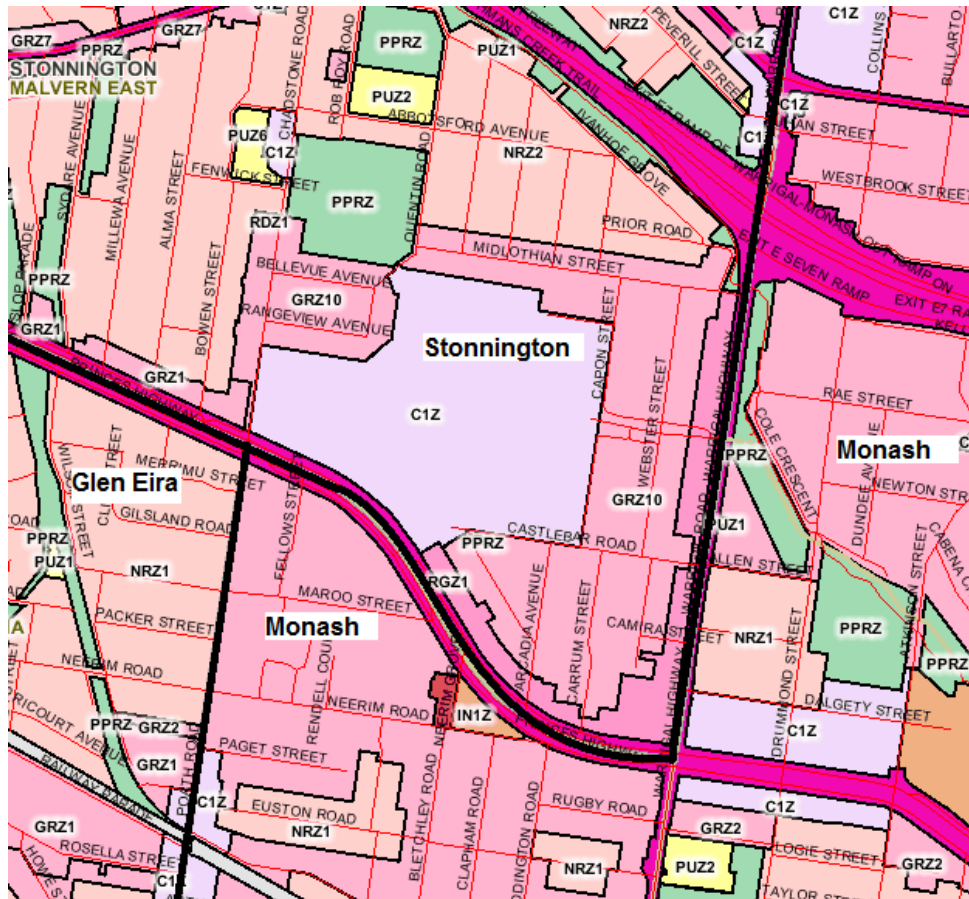


Figure 1: Municipal Boundary Glen Eira, Monash and Stonnington City Councils

- 37) It is acknowledged that the NRZ does not prevent development however the default provision restricts development to two dwellings per lot. There is concern that a number of well serviced municipalities have been afforded protection under the NRZ and that the controls have been applied inconsistently across municipalities.
- 38) The information provided in the State of Play Reports released by the MRDAC indicates that considerable drops to dwelling yield will occur in a number of well serviced municipalities as a result of the application of the NRZ. In addition, many outer suburban areas have strong neighbourhood character and are remote from services yet have been afforded little protection from development pressure. While the character of these areas may not be particularly valued they are nevertheless cohesive and this should be recognised and respected.
- 39) The State of Play reports provide information on a number of key indicators and this data needs to be carefully considered to account for relativity and unintended consequences of the new zones. For example, Hobsons Bay and Whitehorse are both classified as middle ring municipalities. Hobsons Bay has averaged an increase of 350 dwellings per annum (2010-2014) while Whitehorse has averaged 700 over the same period. On the surface it would appear that Whitehorse has taken on a significantly greater share of new dwellings however, Hobsons Bay is approximately 55 per cent of the size of Whitehorse (in terms of population and number of dwellings). Consequently each Council has contributed proportionately with Whitehorse only marginally ahead.

- 40) Additionally, the figures provided show the application of the NRZ would have prohibited 71 developments in Bayside and 123 in Brimbank (based on a default of two dwellings per lot in the NRZ). What this doesn't account for is the loss in dwelling yield or the ability of each Council to accommodate any lost dwellings in alternate zones such as the RGZ.
- 41) The Victorian Government and council refer to different datasets when forecasting population projections. Hobsons Bay uses modelling from id. Consulting which is derived from the Australian Bureau of Statistics. This data is more calibrated to the local level. The Victorian Government use forecasts from Victoria in Future (VIF) which is generally much higher than the .id data. As a consequence the projected population for Hobsons Bay in the State of Play report does not align with Council's forecast. While there is sound basis in both forecasting methodologies (as acknowledged in the Hobsons Bay Housing and Demographic Report prepared by DEWLP, 2015), Council prefers to use work prepared by id. as it is considered to better reflect local conditions.
- 42) Although the rezoning of specific sites falls outside the Terms of Reference for this Advisory Committee it is suggested that where councils did not participate in the RZSAC, the process, application and evidence used to justify the implementation of the new zones should be reviewed.

4.3 Advice on the level of evidence and justification needed when preparing relevant planning scheme amendments

- 43) Council is preparing and updating a number of policy documents as part of a package to support and implement the new zones. The suite of policies includes the:
- Municipal Strategic Statement
 - Housing Strategy
 - Neighbourhood Character Study
 - Activity Centre Strategy
 - Heritage Study
 - Integrated Transport Plan
- 44) Council considers this to be a thorough approach and acknowledges that not all Councils will have the resources to undertake such extensive planning projects simultaneously. However, it is considered that a suite of policies should be prepared and aligned to ensure up to date robust strategic justification for the implementation of the new zones.
- 45) The primary determinant Council is using in the applying the new zones in Hobsons Bay is the Housing Strategy. It includes detailed capacity modelling, population growth and a housing needs assessment. This will be supported by the Neighbourhood Character Study that will inform the schedules to the new zones.
- 46) While Council agrees that the ability to meet capacity should not dictate the application of the zones, an understanding of the correlation between population/housing growth (or decline) and capacity is critical to ensure cohesive development occurs.
- 47) Development should be concentrated around the core of a centre and filter outwards. It is not considered orderly planning to apply a blanket RGZ 400 metres or 800 metres from a centre simply based on proximity; nor is it appropriate to apply the NRZ because housing targets can be met. As previously mentioned, Council is

concerned that multi level apartment blocks located 400 metres or 800 metres from a centre could be detrimental to a neighbourhood.

- 48) Furthermore, there needs to be recognition that an area evolves over time and with that the suitability of the new zones applied may also need to change or the implementation of the new zones may need to be staged. For example, in Hobsons Bay there are a number of areas that are not suited to a higher density zone at this time but may be ready in the future, in which case the zone could be monitored and reviewed in five years.

4.3.1 Monitoring and review of the new zones post implementation

- 49) More clarity and guidance is required on the monitoring and review of the new zones once they have been implemented to identify the impacts that the new zones have had on an area and whether the zone applied needs to be reviewed. Ministerial Direction No. 16 (Residential Zones) requires that '*A planning authority must evaluate and monitor the implications of the application of any of the three residential zones within two years of their gazettal into a planning scheme*'.
- 50) However, there is little guidance on what this review should entail, further guidance should be required so that all councils are reporting in a standardised way for transparency.

4.4 Recommendations to improve the zones

4.4.1 Recommendations from RZSAC (Stage One)

- 51) Council is supportive of a number of the recommendations provided in the Stage One Report prepared by RZSAC including:

- *Review the integration of the zone schedules and overlays. This review should address the respective roles of residential zones and overlays and which of these should be used to manage built form outcomes and how to best reconcile potential conflicts*
- *Reconcile the schedule to the General Residential Zone with the commentary for the schedule template in Ministerial Direction on the Form and Content of Planning Schemes, in relation to the permit requirement for the construction or extension of one dwelling on a lot*
- *Amend Clause 32.09-8 of the Neighbourhood Residential Zone to read as follows:*
 - *The maximum height of a building used for the purpose of a dwelling or residential building must not exceed the building height specified in a schedule to this Zone. If no building height is specified, the height of a building must not exceed 8 metres, plus any applicable flood level, unless the slope of the natural ground level at any cross section wider than 8 metres of the site of the building is 2.5 degrees or more, in which case the height of the building must not exceed 9 metres, plus any applicable flood level*

- 52) Although Council is supportive of reconciling reference to building heights in the purpose of the RGZ with the provisions of the zone, it is suggested that a default mandatory four storey height limit apply. The new zones were introduced to provide

greater clarity to the community and developers about the type of development that can be expected in any residential area. Building height is a contentious issue and clear guidance is required to provide developers, the community and councils with greater certainty.

- 53) Councils could be given the option to vary the default height, subject to strategic justification (i.e. a Structure Plan) and where a council has elected to vary the height reference to the Design Guidelines for Higher Density Residential Development (Department of Sustainability and Environment 2004) included in the schedule.
- 54) The Victoria Planning Provisions provide alternative zones that accommodate, support and encourage higher development including the Activity Centre Zone, Comprehensive Development Zone and Mixed Use Zone (MUZ). There is concern that development applications for six, eight, even 12 or more storeys could be applied for in the RGZ and Councils would be limited in preventing such development.
- 55) The preservation and enhancement of neighbourhood character is highly valued by Council and the community and there is concern that the RGZ does not consider neighbourhood character. The purpose to the NRZ, GRZ and MUZ include a provision relating to neighbourhood character however no such clause exists in the RGZ. It is considered that the RGZ should be updated to include the provision '*To encourage development that respects the neighbourhood character of the area*' in the purpose to the zone.
- 56) One of the key issues which Council is trying to manage in relation to the application of the new zones in Hobsons Bay is the protection of existing multi-unit developments (i.e. walk up flats) within heritage areas/areas suitable for the application of the NRZ. These housing types provide diversity to areas dominated by detached dwellings and the retention of these housing types are important. The inclusion of these sites within the NRZ would mean that any redevelopment could only be replaced with a maximum of two dwellings on a lot. The only alternative is to rezone the individual sites to the GRZ which would be cumbersome and result in spot rezonings.
- 57) During the RZSAC process a number of councils proposed a provision addressing no net loss of dwellings within the NRZ. Council would welcome this provision as a way to address this problem to retain this housing type. Some of the older blocks/flats are reaching the end of their life and redevelopment that maintains housing diversity should be encouraged.
- 58) Also during the RZSAC process, a number of councils proposed a sliding scale in the NRZ to allow for additional dwellings on larger lots. The Stage One Report concluded that the NRZ does not allow for a sliding scale. Council suggests that this provision be reviewed.

4.4.2 Other recommendations

- 59) In determining the application of the RGZ, Council is concerned about the lot sizes and the width of the frontages in achieving a higher density outcome. A significant barrier to achieving higher density residential development has been lot size and width or more importantly the impacts that development on narrow or small lots has on adjacent properties.
- 60) Lot consolidation in the RGZ has been encouraged by some councils and higher density guidelines have also been proposed. Council supports these initiatives however there has been a lack of discussion on what happens if or when lots become isolated (should others consolidate around them). Council requests that the

MRDAC discuss the implications of lot size and width when applying the new zones and provide some guidance.

4.4.3 Review of Ministerial Direction No. 16 (Residential Zones)

61) The Ministerial Direction No. 16 (Residential Zones) should be reviewed with removal of the reference (at section 9.0) to²:

- *At least 50 percent of metropolitan Melbourne's residential zoned land (other than land zoned Mixed Use, Township or Low Density Residential) must comprise of the Neighbourhood Residential Zone*

62) Further guidance is also required to ensure that there is a standardised approach across municipalities in the monitoring and review of the new zones implementation.

4.5 Other matters that require consideration

63) Council welcomes the Major Hazard Facilities Advisory Committee (MHFAC) and considers this to be a particularly important issue for Hobsons Bay. The recommendations of the MHFAC are expected to be influential in applying the new zones. It is requested that in the absence of a final report by the MHFAC this Committee provide some comment on density around major hazard facilities.

64) Hobsons Bay has a considerable amount of residential land adjacent to industrial zoned land. While residential development is an as of right of use there can be issues associated with increasing development near uses with adverse amenity impacts.

65) Council also has a significant number of pipelines (above and below ground gas and oil pipeline infrastructure) traversing the municipality, including the WAG pipeline that can impact on density and development. Pipelines are regulated by their own legislative framework and not specifically addressed in planning schemes, however as part of orderly planning they should be considered and guidance on how to address these interfaces would be welcomed.

66) As part of the work being undertaken to implement the new zones, Council has identified existing residential zoned sites potentially suitable for redevelopment such as former service stations. In some instances these are located in areas with strong neighbourhood character or heritage significance and potentially earmarked for the NRZ. The NRZ would be problematic on these sites as although smaller, they are generally able to accommodate more than two dwellings. While spot rezoning would alleviate this problem it is considered cumbersome and consideration of a provision that addresses these types of sites would be supported.

5.0 Conclusion

67) Council welcomes the appointment of the MRDAC and submits that it has a number of concerns with the process used to implement the new residential zones and their application. Council requests a number of improvements to the zones be considered including a sliding scale for the NRZ based on lot size coupled with the provision of a no net loss of dwellings.

68) Council supports robust debate on the implementation of the new zones and acknowledges the detailed advice provided by the RZSAC. Council is working

² Depending on the outcome of the Plan Melbourne refresh.

towards implementing the new zones and looks forward to working with Planning Panels Victoria in their application in Hobsons Bay.

- 69) Council is likely to request to be heard at any advisory committee hearing and acknowledges the challenging timeframes imposed on the MRDAC. Council will endeavour to meet these timeframes as required but would support any application to the Minister for Planning to extend the timeframes should it be requested by the MRDAC. In recognition of this Council submit that it is yet to fully digest the information provided as part of the State of Play Reports and may seek to provide additional input during the advisory committee hearing process.