

Appendix A: Existing
Planning Policy & Controls

General Planning Policy & Controls for the Yarra River Corridor

Planning Scheme policy and controls apply to the entire Yarra River corridor at the State level.

In addition, the Planning Schemes of each municipality adjoining the river manages development at the local level.

Melbourne Water, Parks Victoria and the Department of Sustainability and Environment are responsible for management of open spaces alongside the river and issues of water quality.

Overview

The planning schemes for each municipality along the Yarra River include policy and controls for the river and its environs. Key policy and controls that apply are:

- State Planning Policy at Clause 11.04-8 River Corridors
- Policies regarding the river in the Municipal Strategic Statement or Local policies of each planning scheme
- A range of urban, rural and public zones that relate to uses or development along the river
- A range of overlay controls that relate to specific management issues for landscape, environment, flooding and built form, and providing for public acquisition.

The policy and controls that apply to land in the Yarra corridor generally are detailed here. An overview of how they apply to the three municipalities within the Middle Yarra Study area then follows.

State Planning Policy Framework

In 2012, Amendment VC96 introduced a specific State policy on River Corridors to the State Planning Policy Framework (SPPF), at Clause 11.04-8. This clause aimed to 'protect and enhance the significant river corridors of Metropolitan Melbourne'.

On 21 December 2015, Amendment VC121 was gazetted giving effect to a strengthened River Corridors policy and a new 'Yarra River Protection' sub-policy within the State Planning Policy Framework. The new 'Yarra River Protection' policy provides a strengthened basis and rationale for the protection of the whole of the Yarra River corridor to inform decision making.

The new 'Yarra River Protection' policy provides a strengthened basis and rationale for the protection of the whole of the Yarra River corridor to inform decision making. The new policy clearly states the river's significance and importance through a 'statement of significance' objective and the body of the policy structured around four key strategic policy principles and strategies to achieve the objective.

The new 'River corridor' policy has been relocated from its previous location at Clause 11 (Settlements) to Clause 12 (Environment and landscape values) supporting a refocusing of the State's planning policy away from development within an urban setting, to one focused on protecting and enhancing its environmental and landscape setting. The new Yarra River protection policy is found at Clause 12.05 of the SPPF. The following is an extract:

Yarra River protection

Objective

Maintain and enhance the natural landscape character of the Yarra River corridor in which the topography, waterway, banks and tree canopy are dominant features providing a highly valued, secluded, natural environment for the enjoyment of the public.

Strategies

Strengthen the river's natural environment, heritage and overall health by:

- *Protecting the river's riparian vegetation, natural riverbank topography and flood management capacity.*
- *Ensuring development does not increase the rate or quantity of stormwater, sediment or other pollutants entering the river.*
- *Protecting and enhancing both terrestrial and aquatic habitats and their linkages along the river corridor.*

Maintain a sense of place and landscape identity by:

- *Retaining a dominant and consistent tree canopy along the river corridor and within its broader landscape setting.*
- *Ensuring that the appearance of development is subordinate to the local landscape setting, with any views of development being filtered through vegetation.*

Retain and enhance people's enjoyment of the river and its environment by:

- *Planning for the river and its environs as a recreation and tourism resource.*
- *Ensuring linkages and public access to the river and its parklands are maintained, enhanced and new links created where appropriate.*
- *Avoiding overshadowing of the river, its banks and adjacent public open space to ensure that the amenity of the public realm is maintained year round.*

Ensure that development is designed and sited to maintain and enhance the river's secluded and natural environment by:

- *Minimising the visual intrusion of development when viewed from major roads, bridge crossings, public open space, recreation trails and the river itself.*
- *Ensuring that the siting and design of buildings avoid contrast with the local natural landscape and environmental character.*
- *Ensuring building height is below the natural tree canopy and all development is set back a minimum of 30 metres, or greater, from the banks of the river.*

This amendment strengthened policy at the State level for the Yarra River, adding to policy at Clause 11.04-7 which identifies the river as a significant asset and Clause 11.03-1 which encourages public accessibility along waterways.

Another key policy in the SPPF that affects built form along the Yarra River is Clause 14.02-1 Catchment planning and management which specifies:

- *Retain natural drainage corridors with vegetated buffer zones at least 30m wide along each side of a waterway to maintain the natural drainage function, stream habitat and wildlife corridors and landscape values, to minimise erosion of stream banks and verges and to reduce polluted surface run-off from adjacent land uses.*

Local Planning Policy Framework

The Yarra River generally is identified as a key feature for municipalities in their the Municipal Strategic Statements (MSS), as an important environmental and recreational asset with landscape significance. An example of this is Manningham City Council's Clause 21.07 Green Wedge & Yarra River Corridor and the City of Yarra's Clause 21.07-2 Yarra River, Merri Creek & Darebin Creek.

Zones

A wide range of urban, rural and public uses zones apply along the Yarra River corridor which set out controls regarding the use or development of land. The zones that apply to the Study area are described in broad terms below. This should be read in conjunction with the zones map provided in *Appendix B: Planning Scheme Maps*. More detail regarding each zone can be found within the review of the individual municipalities policy and controls, provided within this Appendix.

Public Park & Recreation Zone & Public Conservation & Resource Zone

The Public Park and Recreation Zone (PPRZ) and Public Conservation and Resource Zone (PCRZ) relate to public land, and have been applied to large sections of the Yarra River corridor. The PPRZ recognises areas of public recreation and open space and protects areas of significance. The PCRZ focuses on the protection and conservation of the environment.

Land within the PPRZ is generally managed by Council, Parks Victoria, or a committee of management on behalf of the Crown. Land within the PCRZ is generally managed by Parks Victoria.

While many uses are allowed within these zones as of right, activities and development is usually limited by the statutory obligations of public land managers, the requirements of other relevant Acts and the zone controls. Important environmental assets, as well as recreational assets on the land, are also protected and enhanced for these reasons.

General Planning Policy & Controls for the Yarra River Corridor cont...

Residential Zones

In July 2014 new format residential zones replaced all Residential 1, 2 and 3 Zones in Victoria.

The new zones essentially seek to encourage varying levels of housing density and dwelling types across residential areas. They allow for schedules to be introduced that tailor development outcomes for different areas. Schedules can specify outcomes such as building height, setbacks, landscaping and site coverage.

The new residential zones are:

- Residential Growth Zone, which provides for housing growth by a mix of housing types that includes medium to higher density housing. This zone has a discretionary height limit of 13.5 metres, unless otherwise specified in a schedule.
- General Residential Zone, which will allow modest housing growth and housing diversity that respects the character of the neighbourhood. The discretionary 9 metre height limit of ResCode applies (or 10 metres on a sloping site) unless otherwise specified in a schedule.
- Neighbourhood Residential Zone, which restricts housing growth in areas identified for urban preservation. This zone has a 8 metres mandatory height limit (9 metres on a sloping site) and a maximum of two dwellings per lot, except where otherwise specified in the zone schedule.

The introduction and application of the new residential zones provides a timely opportunity for each council to consider which areas of the municipality have the greatest capacity to accommodate housing growth and change and to identify those locations with particular neighbourhood character, heritage and environmental values or poor amenity where future growth should be limited.

Much of the residential hinterland within the western section of the study area is located within the General Residential Zone. Areas close to the river in Ivanhoe and Warrandyte are included in the Neighbourhood Residential Zone. There are small pockets of land around activity centres within the Residential Growth Zone.

All residential zones trigger a permit to construct more than one dwelling built on a lot. The zones refer to ResCode (Clauses 54 and 55) which provides specific benchmarks for heights, setbacks and site coverage. The setbacks requirements of ResCode relate to neighbourhood character and restrict the extent of walls on boundaries for amenity purposes; it is not possible to consider river frontage setbacks under ResCode.

Low Density Residential Zone

The Low Density Residential Zone (LDRZ) provides for residential use within a low density environment. It restricts land use to two dwellings per lot and provides a standard minimum subdivision area of 0.2 hectares (with connected reticulated sewerage) and 0.4 hectares (without), however, this can be varied. There are large areas of LDRZ within the river's hinterland in Lower Plenty, Eltham, Templestowe and Warrandyte.

Rural Conservation Zone

The Rural Conservation Zone (RCZ) provides for rural land uses compatible with the protection of the natural environment. A minimum lot size can be specified.

The State Government's zone reform program has seen changes to RCZ provisions allowing opportunities to re-subdivide land and fewer permit requirements in relation to commercial activity and construction of buildings.

Special Use Zone

The Special Use Zone (SUZ) applies to small sections adjoining the river corridor, particularly within the western half of the Study area. The purpose of the Special Use Zone (SUZ) is to recognise or provide for the use and development of land for specific purposes. Examples uses include private education centres, golf courses, sports grounds and utility and service installations.

Urban Floodway Zone

The Urban Floodway Zone (UFZ) is applied to small, discreet areas of the river corridor to allow for the free passage and storage of water. It is a highly restrictive control and prevents subdivision except where it will not result in an increase in the number or the creation of new lots entirely within the zone.

Overlays

Overlay controls located along the Yarra River typically implement a specific policy direction. They provide a permit trigger for particular uses or development, and may specify built form outcomes. Looking at the broader river corridor, including urban areas, the overlay controls in operation are described below. This should be read in conjunction with the various overlay maps provided in *Appendix A: Planning Scheme Maps*. More detail regarding each overlay can be

found within the review of the individual municipalities policy and controls, provided within this chapter.

Design & Development Overlay

The purpose of the Design & Development Overlay (DDO) is to identify areas which are affected by specific requirements relating to the design and built form of new development. This has been applied along sections of the Yarra River to manage built form that interfaces with the river.

Significant Landscape Overlay

The Significant Landscape Overlay identifies, conserves and enhances the character of significant landscapes. It has been applied along some sections of the Yarra River to protect the corridor's landscape.

Environmental Significance Overlay

The Environmental Significance Overlay (ESO) aims to identify areas where development of land may be affected by environmental constraints and where identified environmental values need to be protected. The ESO is commonly applied along the Yarra River to areas of particular environmental significance.

Vegetation Protection Overlay

The Vegetation Protection Overlay (VPO) aims to protect vegetation, particularly native and significant vegetation. The VPO has been applied in some areas along the Yarra River to protect vegetation.

Heritage Overlay

The Heritage Overlay (HO) aims to conserve and enhance heritage places of natural or cultural significance. The overlay protects sites, built form and vegetation of heritage significance. This generally applies to specific properties along the river, affecting buildings sited along the river, bridges or gardens and structures in open space. It may also be applied to sites of Aboriginal cultural heritage.

Land Subject to Inundation Overlay

The Land Subject to Inundation Overlay (LSIO) applies to land located within the 1 to 100 year flood storage

or flood fringe areas. The purpose of this overlay is to ensure that development maintains the free passage and temporary storage of floodwaters, minimises flood damage, is compatible with the flood hazard and local drainage conditions, and will not cause any significant rise in flood level or flow velocity.

City of Banyule: Key Studies & Reports

Strategic Direction for Lower Plenty

Banyule City Council is progressing development of strategic direction for an area of land in Lower Plenty within the Low Density Residential Zone, through the recently completed Neighbourhood Character Strategy. The preferred future character of Lower Plenty is a low density neighbourhood within the Yarra River corridor, within a well treed landscape. Council is undertaking this work to support a continued minimum lot size for the area of 0.4ha, in view of the reduced minimum lot size allowance under the reformed zones.

Policy for Environmentally Efficient Design

Planning Scheme Amendment C73 proposes the introduction of this policy which includes guidelines for buildings and works to mitigate downstream impacts on waterways, particularly the Yarra River.

Warringal Parklands & Banyule Flats Cultural Heritage Assessment & Management Plan (Underway)

This ongoing study is investigating two significant Aboriginal cultural heritage sites adjacent to the Yarra River. Commissioned in 2012, it aims to provide Council with information to ensure appropriate future management of the Warringal Parklands and Banyule Flats.

Work to date suggests that that parklands and flats have State heritage significance for inclusion on the Victorian Heritage Register because of their association with the important artistic and cultural traditions for the Heidelberg School of artists who drew inspiration from the landscape setting within the river valley.

Heritage Strategy (2013)

The Heritage Strategy reviewed the Heritage Overlay in the Banyule Planning Scheme and informed planning scheme amendments C77 and C64. This has resulted in an expanded Heritage Overlay and a new Local Planning Policy for Cultural Heritage Conservation. Sites within the river valley are included in these provisions.

Yarra Flats Impressionist Lab (gallery) (2012)

Banyule City Council is proposing to develop a new cultural facility within Yarra Flats Park which is one of three projects being proposed as part of the Preliminary Yarra Flats Park Concept Plan developed by Parks Victoria. This document provides information about the Impressionist Lab (gallery).

Neighbourhood Character Strategy (2012)

The Neighbourhood Character Strategy has recently been introduced to the planning scheme with a new Local Planning Policy for Residential Neighbourhood Character. It documents the physical features of Banyule's residential areas and describes the preferred neighbourhood character for each precinct.

A number of neighbourhood character precincts lie adjacent to the Yarra River corridor: Garden suburban 1, Garden Suburban 2, Garden Suburban 5 and Bush Woodland 2. Design guidelines have been set out for each area, which include how built form should respond to the riverside environment. The Strategy has recently been implemented through Amendment C68, with inclusion of the Neighbourhood Character Policy at Clause 22.02.

Landscape Assessment for Significant Ridgelines in Banyule (2012)

This Study identifies the significant ridgelines within the municipality, and was prepared in support of the Neighbourhood Character Strategy. Three significant ridgelines were identified, which are formed around the geography of the river corridors and valleys.

A view-shed analysis was undertaken that includes land outside Banyule and the Yarra River Corridor with Banyule. The Study assesses the existing and potential impact of development upon these ridgelines and makes recommendations for their protection.

Heidelberg Structure Plan (2010)

The Structure Plan has been included into the Banyule Planning Scheme, with changes to the MSS (Local Places) and a new DDO. The DDO includes design guidance for managing the built form interface between the activity centre and the river.

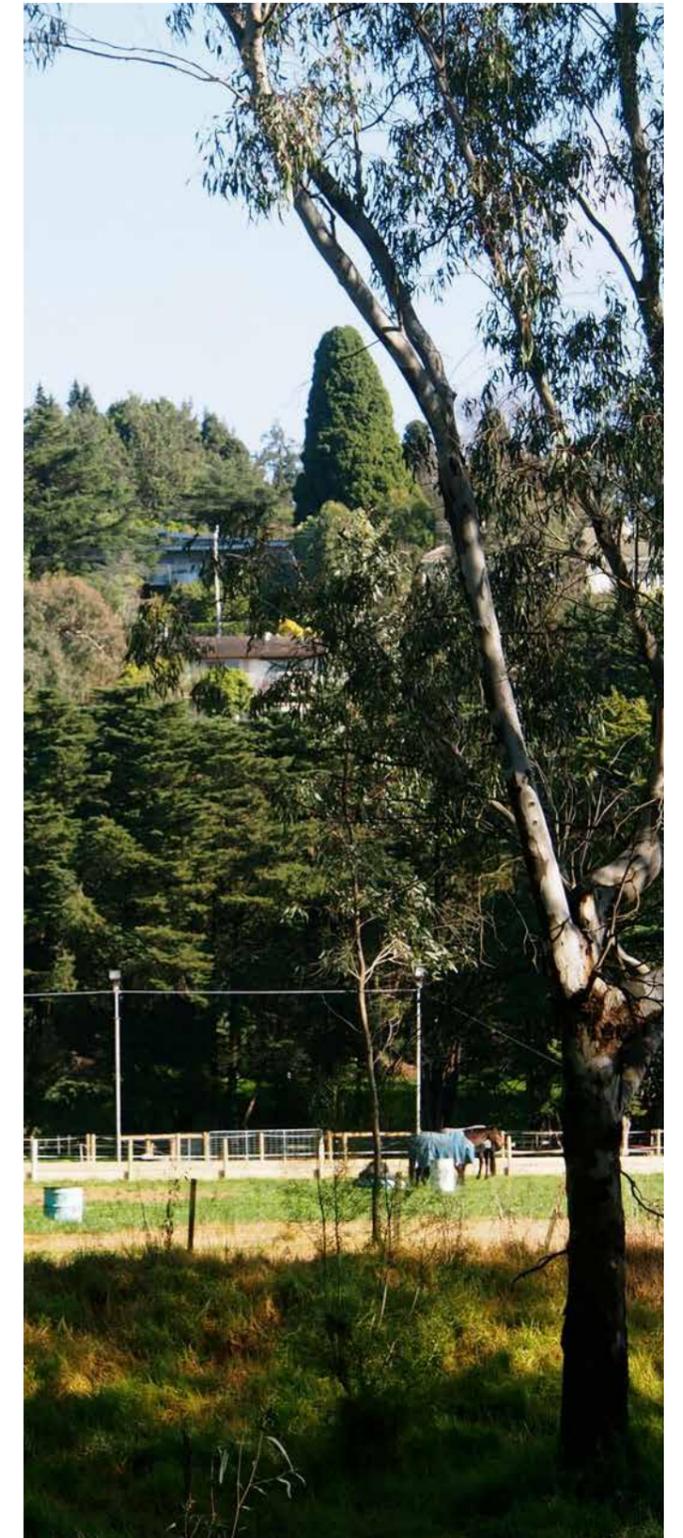
Aboriginal Heritage Study (1999)

This study investigated the location of pre-European Aboriginal archaeology within the City of Banyule. It focused particularly on areas along the Yarra and Plenty River and Darebin Creek.

The Study sets out key recommendations for the protection of Aboriginal archaeological sites through planning scheme controls.

Warringal Parklands Landscape Masterplan (1994)

This plan outlined the existing and preferred landscape character for the Warringal Park site. Recognising its value and significance, the plan detailed concepts for specific areas of improvement within the park.



Banyule Planning Scheme: Policy & Controls

Municipal Strategic Statement

Banyule City Council recognises in the MSS the importance of the Yarra River as a recreational and environmental resource and as a place of notable natural and cultural heritage.

The MSS recognises the influence of the built form on the natural environment and has objectives to protect and enhance the value of the Yarra River and its adjoining parkland environment. Particularly, its vision is to contribute to the aesthetic and environmental attributes of the Yarra River Corridor.

The Municipal Profile at Clause 21.01 includes reference to the significance of the Yarra River valley and vegetation corridor to Banyule.

Clause 21.05 'Natural Environment', identifies the important role of Banyule's natural environment and the function it plays within the municipality. Objective 2 aims to protect and enhance the natural values of waterways and wetlands through rehabilitation, buffering from development and appropriate management of stormwater run-off. These goals will be achieved through the implementation of the appropriate zones and overlays.

The MSS lists a number of reference documents. Of particular relevance are:

- Middle Yarra River Concept Plan, Dights Falls to Burke Road (1990)
- The Middle Yarra Concept Plan - Burke Road to Watsons Creek (1993)
- Banyule Environment Policy and Strategy: Protecting and Enhancing our Local Environment (1997)
- Banyule City Council Annual State of the Environment Report
- Yarra River Action Plan (2006).

Local Planning Policy

The Neighbourhood Character Policy at Clause 22.02 includes specific direction for residential areas in adjoining the Yarra River corridor and its floodplains. This relates to maintenance of the low density environment of areas around Lower Plenty, protection of the tree canopy and native vegetation environment, designing buildings to reflect the undulating topography (where a feature of the area), and encouraging the use of natural or muted tones in new development. The Policy has been recently updated to include specific requirements for each of the new residential zones within each neighbourhood character precinct.

The Cultural Heritage Conservation Policy at Clause 22.06 relates to many sites within the Yarra River Corridor. Clause 22.06 outlines the policy basis and objectives for cultural heritage sites controlled by a Heritage Overlay. It sets out detailed policies and objectives which aim to conserve heritage places and control new and existing development in areas of heritage and cultural significance.

Zones

Zones that apply to the Study area within Banyule City Council are described below. A zoning map is provided in *Appendix B: Planning Scheme Maps*.

Public Parks & Recreation Zone (PPRZ)

This zone covers large areas of public land along or near the Yarra River, including the Ivanhoe Golf Course, Heidelberg Park and Cricket Ground and parklands in Lower Plenty. Together with land included in the PCRZ, the PPRZ provides an almost continual buffer of highly vegetated parkland along the river (at varying widths). There are no specific siting or design requirements in this zone.

Public Conservation & Resource Zone (PCRZ)

The PCRZ is the most prevalent zone along the Yarra River, covering large segments of the river corridor along the boundary of the municipality. It includes the major open spaces of the Yarra Valley Parklands, the Banyule Flats Reserve and the Warringal Parklands. There are no specific siting or design requirements in this zone.

Special Use Zone (SUZ)

The SUZ is applied to the Rosanna Golf Course, which has a small area of interface with the river. The Schedule to the zone (SUZ1) identifies the land as private sports grounds with the purpose of ensuring orderly and proper use and development that does not detract from the amenity of the surrounding neighbourhood. There are no specific siting or design requirements in this zone.

Rural Conservation Zone (RCZ)

The RCZ applies to parts of Lower Plenty and Viewbank. There is a small part of the zone intersecting the river. The schedule to this zone highlights the environmental values of land in close proximity to the Yarra River. The schedule limits the minimum subdivision area to 2ha. Broad decision guidelines require consideration of environmental and landscape values and the impact of new development upon vistas.

Neighbourhood Residential Zone (NRZ)

The NRZ is applied to areas immediately adjoining the riverside parklands of Ivanhoe, Eaglemont, Rosanna and Viewbank, including those areas within the Significant Landscape Overlay.

A maximum of two dwellings per lot may be constructed and a mandatory height limit of 8m (9m on a sloping site) applies. The schedule to the NRZ implements a permit requirement for dwellings on a lot less than 500m².

General Residential Zone (GRZ)

Areas of the GRZ stretch beyond the NRZ into the river's wider hinterland, through the suburbs of Ivanhoe, Heidelberg, Rosanna and Viewbank.

These areas are mostly included within schedule 2 to the GRZ: Incremental areas (GRZ2) which stipulates a requirement of a maximum 40% site coverage and for 1 tree to be provided per 400m², including 1 large tree in the front setback. Building height requirements of ResCode apply (discretionary 9m height limit or 10m on a sloping site).

Several small areas are included in schedule 1 to the GRZ: Accessible areas (GRZ1) which triggers a permit for a single dwelling on a lot greater than 300m², has the requirement of 1 large tree in the front setback, and applies the discretionary building height requirements of ResCode.

Residential Growth Zone (RGZ)

The RGZ is applied to residential areas around the Heidelberg Activity Centre. The discretionary height limit of 13.5m applies.

Low Density Residential Zone (LDRZ)

The LDRZ is applied to land in Lower Plenty, which interfaces the river and extends to the north-eastern corner of the municipality, close to the boundary. The schedule sets the minimum lot size at 0.4ha and Council is currently undertaking strategic justification work to apply this requirement to the new format zone schedule. Decision guidelines for subdivision make reference to landscape values, but there are no specific requirements for building heights, setbacks or site coverage.

Urban Floodway Zone (UFZ)

Two small areas of UFZ are located in Heidelberg, including a nursery on Banksia Street and low density residential sites nearby, adjoining the riverside the parkland. Use and development of land is limited in this zone and comprehensive review of how it might be affected by flooding is required.

Commercial 1 Zone (C1Z)

A small part of commercial land within in the Heidelberg Activity Centre is included in the study area, which allows a

Banyule Planning Scheme: Policy & Controls cont...

wide range of commercial and mixed use development, many of which do not require a planning permit.

Overlays

Overlays that apply to the Study area within Banyule City Council are described below. A set of overlay maps are provided in Appendix B: Planning Scheme Maps.

ESO1: Yarra River, Plenty River & Darebin Creek

The Environmental Significance Overlay Schedule 1 applies to the slopes and environs close to the river's edge. The Overlay aims to enhance the conservation and maintenance of the streamside environment and minimise the loss of vegetation along the river's edge. It requires a permit to remove, lop or prune any significant vegetation, and to construct a fence or a building over 4.5m in height. Decision guidelines include consideration of the visual amenity of the natural and landscaped character of the area and a minimum requirement of 50% site permeability.

The Overlay makes reference to a number of documents including:

- The Middle Yarra River Concept Plan - Dights Falls to Burke Road, August (1990)
- Middle Yarra Concept Plan - Burke Road to Watsons Creek (1991)
- An Inventory of Sites of Environmental Significance in the City of Banyule and Adjoining Areas, Banyule City Council, September (1995)
- Wildlife Corridor Program, Banyule City Council, (2000).

ESO4: Significant Trees & Areas of Vegetation

The Environmental Significance Overlay Schedule 4 aims to protect and enhance trees and areas of vegetation that are significant within the municipality. There are numerous sites near to the river corridor included within ESO4. The Overlay requires a permit to remove, lop or prune any significant vegetation. ESO4 is not specific to vegetation around the river. The table within the schedule lists specific locations of significant vegetation.

Reference is made to:

- City of Banyule – Significant Trees and Vegetation Study (March 2000)
- Banyule City Council Significant Trees and Vegetation

Register

- National Trust (Victoria) Significant Trees Register.

SLO1: Watercourse Environs

The Significant Landscape Overlay Schedule 1 relates to the wider river environment, beyond the extent of ESO1 which follows the river's edge. It is located to the east of Burke Road and up to the eastern municipal boundary.

The overlay aims to protect watercourses and their immediate environs from inappropriate development that detracts from the appearance of the area. It aims to maintain a vegetation screen for views to and from the river. A permit is required for a building with a wall over 8 metres or any other part over 12 metres, and to remove native vegetation or exotic trees.

The decision guidelines include ensuring that buildings or works are in keeping with the character of the area and protecting vistas from the river, nearby streets, adjoining open spaces or prominent scenic viewpoints. A minimum requirement of 50% site permeability applies and buildings when viewed from the river or on ridgetops must be totally screened by vegetation. There are no building height or setback requirements.

SLO2: Yarra Valley Landscape Area

The Significant Landscape Overlay Schedule 2 relates to the wider river environment, mostly west of Burke Road, beyond the extent of ESO1.

This overlay aims to protect views into and out of significantly identified areas within the municipality, particularly from ridgetops. It requires a permit for buildings over 6 metres in height. Specifically it also gives direction to enhance the views and retain a sense of remoteness in the valleys of the watercourse.

Similar decision guidelines to SLO2 apply. There are no building height or setback requirements.

The Overlay makes particular reference to the Middle Yarra Concept Plan (1990) with the objective of encouraging development that is consistent with the recommendations outlined in the Concept Plan.

VPO1: Plenty River East Area

The Vegetation Protection Overlay Schedule 1 applies to land east of the Plenty River, in Lower Plenty. The purpose of

the overlay is to conserve the existing pattern of vegetation, landscape quality and ecosystems within the area, which is subject to ongoing development. A permit is required to remove, lop or destroy native vegetation.

The overlay makes reference to a number of documents including the Wildlife Corridor Program, Banyule City Council (2000).

VPO3: Eaglemont, Ivanhoe East & Ivanhoe

The Vegetation Protection Overlay Schedule 3 applies to the garden suburban neighbourhoods within this area identified in the Neighbourhood Character Strategy. The purpose of the overlay is to protect the contribution that trees make to neighbourhood character, local identity and habitat links, particularly in relation to the Yarra River valley and wildlife corridor. A permit is required to remove, lop or destroy trees over a specified height and size.

VPO5: Substantial Tree Protection Area

The Vegetation Protection Overlay Schedule 5 applies to the garden court and garden suburban neighbourhoods identified in the Neighbourhood Character Strategy. This includes an extensive part of the City's residential neighbourhoods. The purpose of the overlay is to protect the contribution that trees make to neighbourhood character, local identity and habitat links. A permit is required to remove, lop or destroy trees over a specified height and size.

DDO5: Heidelberg Specialised & Major Activity Centres

The general purpose of DDO5 is to promote development that positively contributes to the built form and the public realm. Specifically relating to the Yarra River, one of the objectives aims to provide consistent building setbacks along Burgundy Street, Hawdon Street and Cape Street in order to retain valued views to the Yarra River Corridor. For sites directly adjoining the riverside parklands a maximum height of 10m applies.

DDO8: Plenty River East Neighbourhood Character

This DDO applies to residential neighbourhoods to the north-east of the Yarra and Plenty Rivers confluence. The purpose of DDO8 is to ensure that buildings do not penetrate the

tree canopy, retain the area's heavily vegetated character and maintain the spaciousness and bush character of front gardens. A permit is required for buildings over 8 meters in height or within the dripline of a tree protected under a VPO or ESO, or to construct a fence. No building height or setback requirements are stipulated.

Land Subject to Inundation Overlay

The LSIO is applied along the length of the Yarra River within Banyule, to the parklands and the adjoining residential interface beyond. A permit is required for specified buildings and works and for subdivision. No building height, setbacks or site coverage requirements are stipulated.

Heritage Overlay

There are a number of identified sites, including buildings and open spaces, with heritage overlays throughout the municipality which are concentrated along the river. Significant sites include the Yarra Flats (HO134), Wilson Reserve (HO167), Chelsworth Park (HO168), the Banyule Homestead (HO13) and the Viewbank Homestead (HO).

Manningham City Council: Key Studies & Reports

Open Space Strategy (2014)

This strategy is a 10-year plan that sets out priorities and guidelines for the protection, development and use of all public open space in the municipality. The vision is for an accessible and well connected open space network that supports a healthy community and environment by valuing, expanding and enhancing the open space network. The strategy includes a comprehensive inventory and analysis of open space across the municipality.

Healthy Habitats - Bushland Management Strategy for Council Managed Land (2012)

The purpose of this strategy is to outline a strategic approach for the planning and delivery of bush land management within the municipality. The Strategy is underpinned by four key objectives: to maintain and restore ecological processes, to manage and minimise threatening processes, to improve habitat and to protect threatened species.

The Strategy puts forward an extensive list of long term and short term recommendations aimed at achieving the four key objectives. In addition, it supplements the recommendations with a number of practical implementation methods.

Development Guide for Areas of Environmental & Landscape Significance (2011)

This guide provides existing and potential property owners a clear understanding, in 'user-friendly' language, of what Council expects and what information is required for planning permit applications in Manningham's areas of environmental and landscape significance. In particular, the Guide requires and encourages:

- Co-ordinated site planning for all development features to achieve an integrated outcome for a site;
- Avoiding and minimising the removal of, or adverse impacts upon, native vegetation;
- An approach to development with techniques to minimise the need for, and extent of, earthworks that preserve and enhance natural drainage lines and waterways;
- Building forms that respect and are responsive to the landscape; and
- Environmentally sustainable designs and developments.

Green Wedge Action Plan 2020 (2011)

The Green Wedge Action Plan provides a strategic framework for the future management of the Green Wedge and is underpinned by the 2004 Green Wedge Strategy. It documents a number of land use controls and objectives,

giving direction to partner with other agencies to manage and preserve Green Wedge areas. The Plan recognises the Manningham Green Wedge as a part of the larger Yarra Valley corridor. It includes actions for management of the environmental, landscape and recreational attributes of the river corridor.

Manningham Active for Life Recreation Strategy (2011)

This Strategy was developed to guide recreation provision in Manningham up to 2025. It aims to broadly address the recreation and cultural wellbeing needs of the community.

Key objectives of the Strategy are to increase the participation in recreation, ensure the community has a diverse range of recreational choices, provide excellent places for people to recreate and to inspire people to recreate.

This strategy complements a number of other public health and cultural community strategies.

Wildlife Movement & Habitat Needs in Manningham (2009)

Arising from recommendation A75 of Manningham City Council's Green Wedge Strategy (2004), this study explores opportunities for improving existing habitat corridors for wildlife within the municipality.

The study developed new methods of research which found a number of factors influencing wildlife corridors, such as the maintenance of native tree cover, the need for re-vegetation in key habitat areas, the use of local indigenous plant species and encouraging the community to use native plants. The Study also identified a number of ways in which the Planning Scheme could contribute to the protection of habitat corridors through the use of the Environmental Significance Overlay. Amendment C54 (2013) saw the inclusion of this study as a reference document in the Manningham Planning Scheme.

Warrandyte Township Heritage Guidelines (2007)

The Warrandyte Township Heritage Guidelines were prepared to assist with the ongoing conservation and protection of the heritage values of the Warrandyte Township Heritage Precinct. The Precinct comprises residential, civic and commercial buildings, as well as parkland and open space in the township. Parts 1-7 of the Guidelines are incorporated in the Manningham Planning Scheme.

Yarra Street Warrandyte Urban Design Framework (2005)

This urban design framework provides strategic planning direction and policy support to manage change within the Warrandyte town centre. Specifically the Yarra Street Precinct has been identified as having significant cultural and heritage values and is also a major tourist attraction. The Framework identifies the core values of the precinct and provides strategies and objectives to minimise any future threats. With a review every five years, the Framework provides a long term vision for the future of the township.

Manningham Green Wedge Strategy (2004)

This Strategy guides planning, use and management of non-urban areas within Manningham. It contains long term visions for the future and includes reference to the cultural, environmental and landscape issues of the Yarra River corridor, for both public and private land. In particular, it emphasises the application of the Rural Conservation Zone.

Manningham (Biosites) Sites of Biological Significance Review (2004)

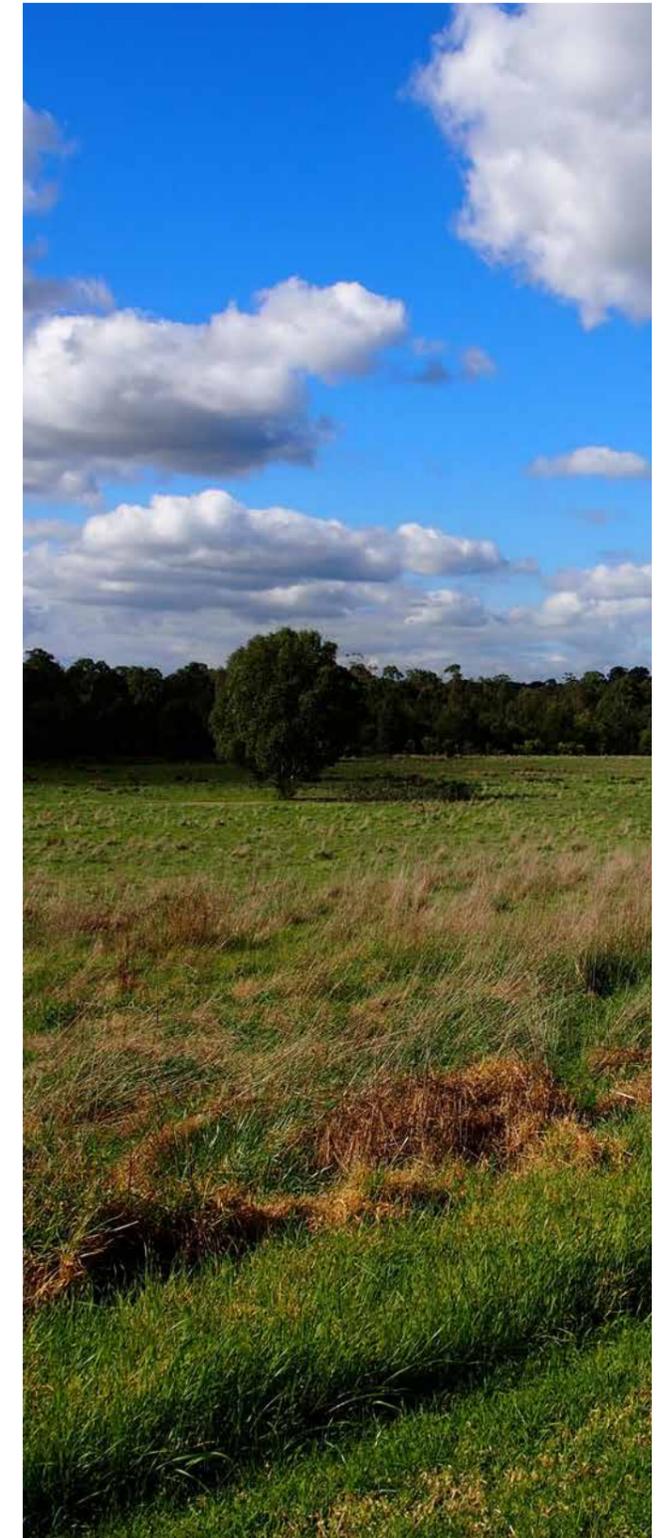
This review is a culmination of a number of studies initiated in 1992 aimed at defining, classifying and describing all areas of biological or biodiversity significance with the municipality.

The Biosites Review was divided into three phases which included a detailed survey of remnant indigenous vegetation, the collation of existing and new biological information and a formal identification and classification of all Biosites. By way of Amendment C54 (2013), this study is now a reference document in the Manningham Planning Scheme.

Yarra Valley Backdrop Policy (1993)

The Yarra Valley Backdrop Policy was included in the former Doncaster and Templestowe Planning Scheme. The Policy aimed to protect areas along rivers from visual intrusion, encourage development in keeping with the river's character, protect vistas from the river and parklands and protect habitat. Importantly, it also aimed to protect and enhance 'a sense of remoteness' in the Yarra Valley. The Policy implemented the 1993 Middle Yarra Concept Plan.

A permit was required to construct a building with a wall over 8 metres or any other part over 12 metres. It has now been replaced by the ESO1: Yarra River Environs.



Manningham Planning Scheme: Policy & Controls

Municipal Strategic Statement

Manningham City Council's MSS makes numerous references to the Yarra River Corridor and the Green Wedge as key focus areas within the municipality. They are highly valued as places of open space and recreation, for their cultural and heritage significance, as tourism attractors, and for their environment, landscapes and visual interest.

Clause 21.02 'Municipal profile' refers to the Yarra River catchment as a major resource within the region. Clause 21.02-12 'The natural environment and biodiversity' makes particular reference to the environmental and landscape significance of the Yarra River corridor and its desirability as a location for semi-rural living.

Clause 21.03 'Yarra River environs' documents the Council's commitment to protecting and managing the Yarra River and its environs. It recognises the need for future management of waterways within Manningham by strengthening biodiversity and ecological features.

Clause 21.05 'Residential' recognises the need to site and design development near to, or visible from, the river corridor in a sensitive manner. Clause 21.06 'Low density' recognises the importance of maintaining low density areas around the river corridor to protecting its landscape and environment.

Clause 21.07 'Green wedge and Yarra River corridor' provides key strategic directions to protect the river's landscape and environment. It identifies one of the key challenges for future management is in balancing the competing interests between the use of land for rural living, agricultural pursuits and biodiversity protection.

Clause 21.07 also lists a number of influences relating to the future use and development along the river corridor including housing, subdivision, built form and landscape character, environmental issues and economic development. Objectives and strategies for the Yarra River Corridor in relation to these issues include:

- Ensure housing development along the Yarra River corridor responds appropriately to the existing social, cultural and environmental conditions
- Ensure siting and design of housing and development responds to site constraints including slope, waterways and wildfire risk and minimises impacts on environmental features
- Discourage fragmentation of land along the River corridor
- Protect and enhance native vegetation, wetland, stream and waterway environments to conserve soils, retain wildlife habitat and create natural corridors for wildlife movement.

In addition to these strategies, Clause 21.07 also includes an extensive list of reference documents which are incorporated into the Scheme and provide further strategic directions for the management of the river environment:

- Development Guide for Areas of Environmental and Landscape Significance (2011)
- Green Wedge Action Plan 2020 (2011)
- Wildlife Movement and Habitat Needs in Manningham (2009)
- Manningham Green Wedge Strategy (2004)
- Manningham (Biosites) Sites of Biological Significance Review (2004)
- The Middle Yarra Concept Plan - Burke Road to Watsons Creek (1993).

Clause 21.12 'Infrastructure' includes objectives and strategies to maintain flood flow of the Yarra and its tributaries and manage the urban stormwater system.

Clause 21.13 'Open space and tourism' refers to the linked open spaces and shared trails along the river and their recreational and tourism value.

Local Planning Policy

The local planning policies set out a number of objectives for the protection and management of native vegetation and cultural heritage that relate to the Yarra River corridor.

The local planning policies reinforce the strategies and objectives of the MSS which aim to protect, conserve and enhance the biodiversity values of the municipality, including native and indigenous species of flora and fauna and the habitats in which they are located.

The Clause 22.03 Cultural Heritage Policy includes policy objectives to manage and protect places of aesthetic, historical, scientific, architectural and social significance. The policy assists in the administration of the Heritage Overlay, which applies to numerous sites along the river corridor.

Clause 22.07 Outdoor advertising signs policy includes direction for the design and siting of signage near to the river environment.

Clause 22.15 Dwellings in the General Residential Zone, Schedule 1, implements neighbourhood character objectives which include the protection and enhancement of the tree canopy.

Zones

Zones that apply to the Study area within Manningham City Council are described below. A zoning map is provided in *Appendix B: Planning Scheme Maps*.

Public Park and Recreation Zone (PPRZ)

The PPRZ applies to large areas of open space along the river corridor, including Bulleen Park, Banksia Park, Birrarung Park, Westerfolds Park and the golf courses. Together with land included in the PCRZ, the PPRZ provides an extensive buffer of highly vegetated parkland along the river (at varying widths). There are no specific siting or design requirements in this zone.

Public Conservation and Resource Zone (PCRZ)

The PCRZ applies to large areas of parkland along the river within Templestowe and Warrandyte, including Yarra Valley Parklands, Tikalara Park, and the Warrandyte State Park. The PCRZ is interspersed with land included in the RCZ which complements the rural and bushy character of these open spaces. There are no specific siting or design requirements in this zone.

Rural Conservation Zone (RCZ)

The RCZ applies to parts of Templestowe and large areas of Warrandyte. A number of schedules apply to land zoned RCZ throughout the municipality.

RCZ1 applies to parts of Templestowe and Warrandyte near to the river. It aims to conserve land to ensure that the use and development is compatible with adjoining land zoned PPRZ and PCRZ. In particular, land management polices are targeted at preserving native flora and fauna within open space that adjoins the Yarra River. Its sets a minimum subdivision area of 40ha.

RCZ3 applies to parts of Templestowe and Warrandyte further afield from the river, as well as areas in Warrandyte near the river. RCZ3 also aims at protecting existing landscape character and quality by enhancing sustainable management policies. It sets a minimum subdivision area of 8ha.

Broad decision guidelines require consideration of environmental and landscape values and the impact of new development upon vistas.

Special Use Zone (SUZ)

The SUZ is applied to the site of the Yarra Valley Country Club in Bulleen. Specifically the schedule to the zone sets aside this land for private education centres, golf courses and sports grounds, in keeping with the amenity and character of the surrounding neighbourhood.

Neighbourhood Residential Zone (NRZ)

The NRZ is applied to residential areas in Templestowe and Warrandyte adjoining the river (Schedule 1 Residential areas with predominant landscape features or lower housing densities).

A maximum of two dwellings per lot may be constructed and a mandatory height limit of 8m (9m on a sloping site) applies. The schedule to the NRZ implements a permit requirement for dwellings on a lot less than 500m².

General Residential Zone (GRZ)

Other residential land in the study area, within Bulleen and Templestowe, is mostly zoned GRZ, with three schedules applied.

GRZ1 (Residential areas removed from activity centres and main roads) requires a permit for a single dwelling on a lot greater than 500m², implements minimum private open space requirements and sets a mandatory height limit of 9m (10m on a sloping site). As noted, Local Policy at Clause 22.15 implements landscaping requirements for medium density development.

GRZ2 (Residential areas surrounding activity centres and along main roads, subprecincts A & B) and GRZ3 (Post 1975 residential areas) both require a permit for a single dwelling on a lot greater than 500m² and apply the discretionary height limits of ResCode. Clause 21.05 of the MSS (Residential) states that GRZ2 areas are suited for a greater level of growth and change, while the GRZ3 areas will support an incremental level of change.

Residential Growth Zone (RGZ)

RGZ2 (Residential areas along main roads, precinct 2) is applied to land west of Bulleen Road and along Manningham Road. The discretionary height limit of 13.5m applies. Clause 21.05 of the MSS (Residential) envisages a substantial level of change in this zone with these areas being a focus for higher density developments.

Low Density Residential Zone (LDRZ)

The LDRZ is applied to land in Templestowe and Warrandyte, which interfaces with the riverside parkland and conservation areas. The schedule to the zone sets the minimum lot size at 0.4ha. Decision guidelines for subdivision make reference to landscape values, but there are no specific requirements for building heights, setbacks or site coverage.

Urban Floodway Zone (UFZ)

Three discreet areas of UFZ are situated along the western boundary of the municipality in Bulleen, within the parkland areas along the river. They include the Carey Grammar sports ground, Bulleen Golf Driving Range and the Veneto Club. There is also one small area of UFZ in Warrandyte within riverside parkland west of Longridge Farm.

Use and development of land is limited in this zone and comprehensive review of how it might be affected by flooding is required.

Industrial 1 Zone (IN1Z)

A small industrial precinct and a large individual site located near the river in Bulleen are included in the Industrial 1 Zone.

The IN1Z provides for a range of industrial and commercial uses, which have been recently expanded with the zone reform program to include unlimited office floorspace, small supermarkets and associated retail shops.

Commercial 1 Zone (C1Z)

The retail and commercial part of Warrandyte Township is included in the C1Z. The reformed C1Z allows a wide range of commercial and mixed use development, and many land uses do not require a planning permit.

Overlays

Overlays that apply to the Study area within Manningham City Council are described below. A set of overlay maps are provided in *Appendix B: Planning Scheme Maps*.

ESO1: Yarra River Environs

The Environmental Significance Overlay Schedule 1 relates to the Yarra River Environs and applies to all areas specifically along the Yarra River. It includes land within the PCRZ and RCZ, and an area of Residential 1 land adjoining the river in Templestowe.

Permits are required for specified buildings, works and vegetation removal. There are a number of important environmental objectives which include:

- Protect areas along the Yarra River from any development that may damage the environmental features of the River
- Conserve water quality and capacity
- Protect vistas, sense of remoteness, indigenous vegetation and wildlife habitats throughout the corridor
- Protect the sensitive ecosystem and enhance the ecological features of the River corridor.

Decision guidelines relate to the height and character of new development and using vegetation to screen views of development from the river. Additionally, reference is made to the Middle Yarra Concept Plan - Burke Road to Watsons Creek (1993) with the strategic aim of encouraging development that is consistent with the recommendations highlighted in this report.

ESO2: Sites of Biological Significance

The Environmental Significance Overlay Schedule 2 identifies sites that have been assessed as the most intact and significant areas of indigenous vegetation within Manningham, in line with the Manningham City Council Sites of (Biological) Significance Review (2004).

This ESO is focused primarily around protecting vegetation and preventing the removal of native vegetation, however broadly it also recognises the Yarra River as a key habitat corridor for native and indigenous flora with the need to protect natural resources, waterways, ecological processes and ecosystem services. Permits are required for specified buildings, works and vegetation removal.

Decision guidelines relate to the character of new development and protection of vegetation.

ESO3: Buffer Conservation Area Supporting Sites of Biological Significance

In accordance with the Manningham City Council Sites of (Biological) Significance Review (2004), the Environmental Significance Overlay Schedule 3 recognises the buffer habitat and buffer conservation areas which support sites of biological significance.

In particular, its purpose is to ensure development occurs outside appropriate buffer distances from key natural and ecological features including waterways. Permits are required for specified buildings and works, including buildings over 8m, and for removal of native vegetation.

ESO4: Sites of Biological Significance and Buffer Conservation Areas In Low Density Residential Areas

Similarly to ESO3, the Environmental Significance Overlay Schedule 4 relates to preserving the buffer areas of sites with ecological value and significance in low density residential areas. It emphasises the need for appropriate management of environmental and landscape values of areas in which the built form should seek to be subordinate to the landscape.

It further recognises the need to maintain the 'treed' characteristic of residential areas, whilst also softening the edge of developments by providing shrub cover and canopy tress along the boundaries. Permits are required for specified buildings, works and vegetation removal.

ESO5: Environmentally Significant Urban Areas

The Environmental Significance Overlay 5 is applied to residential areas in Warrandyte. It aims to protect and conserve core and buffer conservation areas that are located within residential zones. It also aims to ensure that development responds to the area's environmental and landscape characteristics, including topography and waterways. Specifically, it includes an objective to minimise the visual impacts of development on the Yarra River, its banks and nearby parkland. Permits are required for specified buildings, works and vegetation removal.

SLO1: Significant Low Density Residential Landscape Areas

The Significant Landscape Overlay Schedule 1 protects selected low density areas identified as having particular visual, landscape and environmental values. The SLO1 encourages development that is in keeping with the vegetated character of the area, in addition to being sympathetic with the existing built form.

Development must respond to the area's landscape and environmental characteristics, which include topography, vegetation and waterways, however, it does not make specific mention of the Yarra River. Permits are required for specified buildings, works and vegetation removal.

SLO3: The Domain Significant Landscape Area

The Significant Landscape Overlay Schedule 3 applies to a small residential area within a unique natural setting, which it seeks to protect and maintain. Permits are required for specified buildings, works and vegetation removal, including a building over 8m.

SLO5: Watercourse Areas

The Significant Landscape Overlay Schedule 5 applies to the river and creek areas of Manningham. It seeks to protect the visual, landscape, environmental and heritage values and in particular recognise the unique landscape qualities these areas bring to the municipality. It identifies watercourse areas as significant due to their topography, site layout, vegetation cover and botanical significance in addition to the natural character and panoramic views, which provide a break between the natural and built environments.

The objective of the SLO5 is to ensure that the visual impacts of development are minimised by only allowing that development is in keeping with the character of the surrounding area. Permits are required for specified buildings, works and vegetation removal.

SLO6: Low Density Residential Significant Pine and Cypress Tree Theme Areas

The Significant Landscape Overlay Schedule 6 applies to selected residential areas, small parts of which are located within the broader Study area in Templestowe. It seeks to protect historic stands of monterey pine and cypress trees which were planted as windbreaks around original farm properties. These trees have a strong cultural connection to the area, and form a distinctive part of its landscape character.

The objectives of SLO6 include ensuring development responds to the area's built form, landscape and environmental characteristics, including vegetation, topography, waterways and cultural heritage elements. Permits are required for specified buildings, works and vegetation removal.

VPO2: Templestowe Vegetation Protection Area and VPO5: Significant Exotic, Native and Indigenous Vegetation

These two Vegetation Protection Overlays include discreet areas within the wider river setting that contain significant vegetation. The purpose of the VPOs is to retain this vegetation and landscape quality. Permit requirements relate to exotic and native vegetation removal.

DDO3: Warrandyte Environmental Residential Area

The objective of DDO3 is to maintain and enhance the unique bushland and low-density character of the residential areas of Warrandyte, which lie near or immediately adjacent to the river.

Objectives focus on maintaining the vegetated dominated features, vistas and bushland character. Permit requirements apply to buildings, works, fences and subdivision. There are particular guidelines in relation to responding to topography.

DDO3 specifies a minimum lot size of 750m² and allows only one dwelling per site. A permit is not required to construct a building under 8m, with a site coverage of less than 25% and a site permeability of 50%, among other conditions. For proposals that do require a permit, there are no minimum standards in relation to building height, site coverage, permeability or setbacks. There are no design objectives or requirements specific to the Yarra River.

DDO3 adjoins the Heritage Overlay precinct of the Warrandyte Township's commercial areas.

DDO4: Templestowe Environmental Residential Area

DDO4 applies to a neighbourhood in Templestowe which adjoins the river. It aims to maintain the bushland qualities of the area by ensuring that development is subordinate to existing environmental features. Permit requirements apply to buildings, works, fences and subdivision. A minimum lot size of 650m² and an allowance of only one dwelling per lot apply.

A permit is not required to construct a building under 8m, with a site coverage of less than 35% and a site permeability of 50%, among other conditions. For proposals that do require a permit, there are no minimum standards in relation to building height, site coverage, permeability or setbacks. There are no design objectives or requirements specific to the Yarra River.

DDO8-1: Residential Areas Surrounding Activity Centres And Along Main Roads

DDO8 aims to increase residential densities and provide a range of housing types around activity centres and along main roads. It encourages a high standard of design outcomes which respond sensitively to their context, while providing an increase in development opportunity.

DDO8-1 applies to land zoned Residential Growth Zone Schedule 2 (RGZ2) on the west side of Bulleen Road immediately adjacent to land zoned Urban Floodway Zone.

DDO8-1 specifies a range of discretionary heights: for lot sizes greater than 1,800m² a maximum of 11m applies; for lots less than 1,800m² a maximum of 9m applies (10m on a sloping site).

Land Subject to Inundation Overlay

The LSIO is applied along the length of the Yarra River within Manningham. A permit is required for specified buildings and works and for subdivision. No building height, setbacks or site coverage requirements are stipulated.

Heritage Overlay

There are a number of significant sites within the City of Manningham along the Yarra River that have a Heritage Overlay. These vary according to feature, with some sites comprising of environmental features such as swamps or trees and others physical buildings. Other significant sites include Bolin Swamp (HO30), Petty & Austins Orchards (HO114) and a number of archaeological sites (covered by HO1 and HO2).

The commercial area of Warrandyte is included within a precinct overlay (HO191) and also includes many site specific overlays. The 'Warrandyte Township Heritage Guidelines' are an incorporated document applied to assess planning permit applications within the Warrandyte Township Heritage Precinct.

Nillumbik Shire Council: Key Studies & Reports

Nillumbik Green Wedge Management Plan (2011)

Adopted by Council in 2010, the purpose of The Plan is to secure the sustainable future management of the Nillumbik Green Wedge. It identifies special values of the Green Wedge and sets objectives for the protection of key environmental features including a vision for the preferred future land use. The Plan also outlines a number of measures including changes to local planning policy, land use frameworks and education programs, advocating for the increased cooperation and integration with other agencies.

The Plan was prepared with the guidance of the Department of Sustainability and Environment's practice note 'Preparing a Green Wedge Management Plan' (August 2005).

Shire of Nillumbik Neighbourhood Character Study (2000) and Residential Design Guidelines (2001, amended 2003)

The Neighbourhood Character Study was completed in 2000 and introduced to the planning scheme through the Local Planning Policy for Neighbourhood Character at Clause 22.

The Neighbourhood Character Study documents the physical features of the Shire's residential areas and describes the preferred neighbourhood character for each precinct. Parts of the Bush Precinct are located alongside or near the Yarra River. Design guidelines for this area include how built form should respond to the riverside environment. Significant Landscape Overlays (Schedules 2 and 3) have been introduced to implement these design requirements.

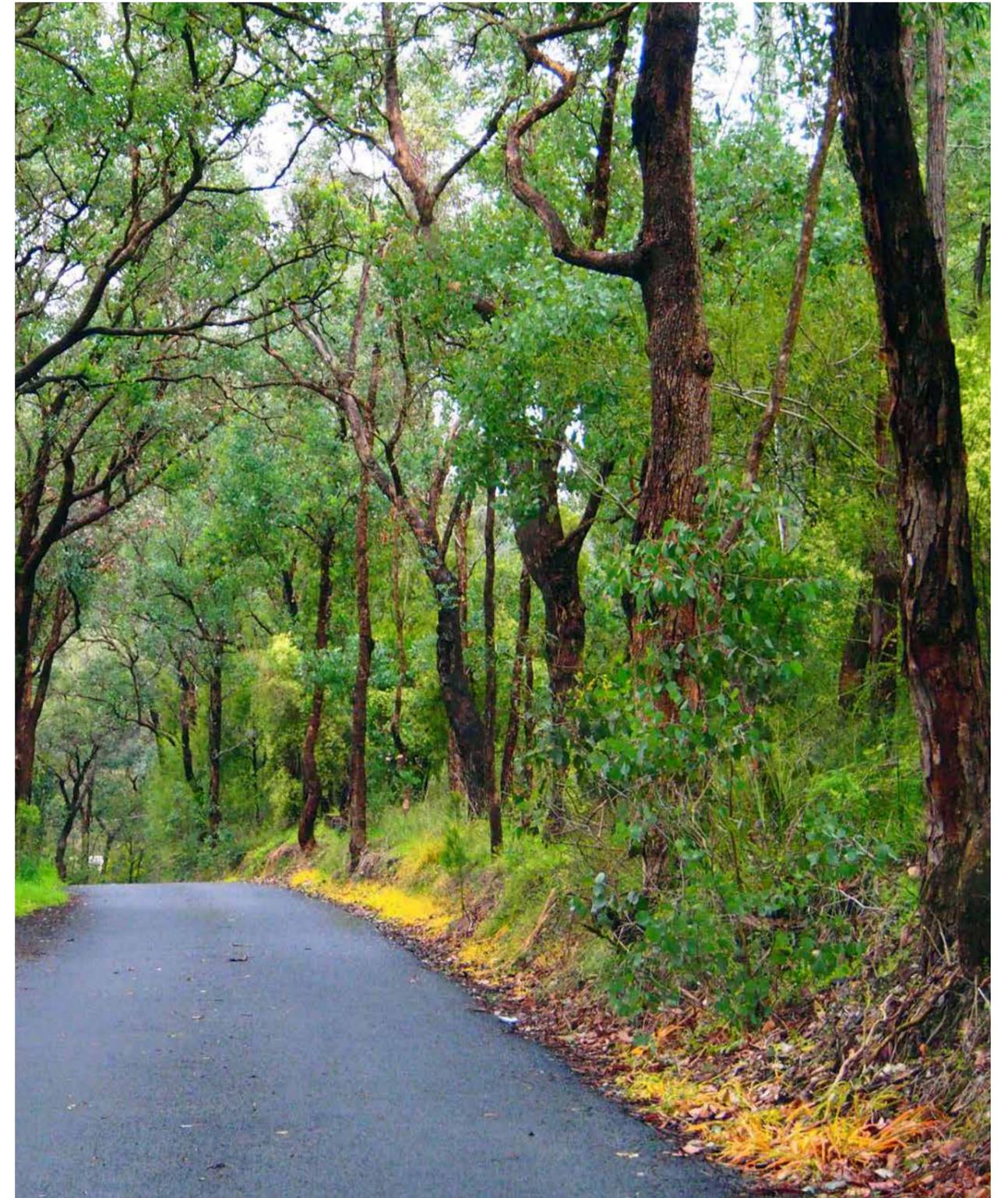
Shire of Nillumbik Landscape Character Assessment (2009)

The Landscape Character Assessment was undertaken to evaluate the role and character of the Green Wedge, or non-urban, areas of the Shire. It provides guidance in relation to the design, siting and style of new development so that the existing character and visual amenity of the Green Wedge is preserved and strengthened.

The broader Yarra River corridor is noted as a highly valued landscape in the Shire, due to its high ecological, scenic and tourism value. It is included within the 'River Interface' character area, for which a preferred character statement and design guidelines have been prepared.

Streamside Environment Policy (1997)

This policy was formerly included in the Nillumbik Planning Scheme. It broadly aimed at protecting areas along watercourses from development that may impact on the visual, conservation, ecological and recreational capacities of the natural environment. It included requirements in relation to subdivision, building siting and design and vegetation removal. It has since been replaced by the provisions of ESO2 and ESO4.



Nillumbik Planning Scheme: Policy & Controls

Municipal Strategic Statement

Nillumbik Shire Council recognises through its MSS the important role the Council plays in the region's biodiversity. It recognises that there are a number of key environmental assets throughout the municipality including the Yarra River system, which provide for social, recreational and cultural pursuits. It also identifies an ongoing commitment to regional objectives for integrated catchment management, including direction by the Yarra Catchment Action Plan published by Yarra Care (1996).

Clause 21.02 'Municipal overview & regional context' and Clause 21.03 'Municipal profile & key influences' refer to the importance of the river to the geographic, the environmental, historic conservation and landscape context of the Shire of Nillumbik.

Clause 21.03-3 'Environment, conservation and landscape' notes the Yarra River corridor and its tributaries as sites of particular environmental, heritage, recreational and tourism value. It recognises that the water quality of waterways within the Shire is generally poor and in decline, due to development influences which have impacted on their habitat and general health. This includes unsustainable land management practices, excessive vegetation clearance and poor management of storm water in urban areas. It also identifies issues of flooding as an important strategic consideration, particularly along the Yarra River from Kangaroo Ground to Eltham.

Clause 21.03-5 'Infrastructure' notes the significance of the river corridor as a major open space network.

The key strategic goals and the vision for the Shire are outlined in Clause 21.04 'Vision – strategic framework', and can be summarised as follows:

- Retaining and enhancing networks of habitat links along the waterways
- Retain natural and cultural heritage
- Preserve the natural environment and the rural characteristic which contributes to the identity of the Shire
- Enhance the aesthetic qualities of the urban and rural environment, responding appropriately to existing land form, landscapes and vegetation.

In addition, the MSS makes reference to the following relevant documents:

- Middle Yarra Concept Plan, Burke Road to Watsons Creek (1991)
- Yarra Catchment Action Plan (1999).

Local Planning Policy

The local planning policies that are relevant to the Yarra River corridor recognise the unique characteristic of the landscape, and the picturesque views that can be experienced from the elevated ridgelines toward the river.

The MSS identified a number of issues associated with water management within the Shire which are addressed throughout the local planning policies, including:

- Clause 22.03 Residential Use and Development on Small Lots in Green Wedge Areas.
- Clause 22.05 Aboriginal Cultural Heritage Policy.
- Clause 22.12 Neighbourhood Character Policy.

General objectives evident in Local Policies include:

- Encouraging appropriate and respectful siting and design of dwellings in areas that may be impacted by erosion, flooding and environmental degradation.
- Maintaining a strong tree canopy and native planting across the municipality.
- Managing drainage and effluent with reference to the Nillumbik Siting and Design Guidelines for Environmentally Sensitive Areas.
- Ensuring new uses and developments do not detract from sites and features of Aboriginal cultural heritage including areas along the Yarra River.

Zones

Zones that apply to the Study area within Nillumbik Shire Council are described below. A zoning map is provided in *Appendix B: Planning Scheme Maps*.

Low Density Residential Zone (LDRZ)

Areas of LDRZ land are located along the Yarra River corridor itself or adjoining Conservation Areas at Eltham and North Warrandyte.

The Low Density Residential Zone (LDRZ) provides for residential use within a low density environment. The standard LDRZ provisions restrict land use to two dwellings per lot and provide a minimum subdivision area of 0.2 hectares (with connected reticulated sewerage) and 0.4 hectares (without). However, the Schedule to the LDRZ in Nillumbik applies a minimum lot size of 0.4ha. Decision guidelines include consideration of the protection of the natural environment and character of the area.

Rural Conservation Zone (RCZ)

A large segment of continuous RCZ is distributed throughout the Shire, intersecting at certain points along the rivers edge.

The RCZ includes broad decision guidelines requiring consideration of environmental and landscape values and the impact of new development upon vistas.

Most of the RCZ land within the study area is included in Schedule 3, which applies to land not directly abutting the river corridor. It specifies a minimum lot size of 8ha.

All land adjoining the river is included in Schedule 4 to the RCZ. This has a specific aim of conserving the rural character and the environmental and landscape values of the Yarra River. It applies a minimum lot size of 40ha.

General Residential Zone (GRZ) & Neighbourhood Residential Zone (NRZ)

Areas of GRZ (Schedule 1 General residential areas) and NRZ (Schedule 7 Nillumbik neighbourhood residential areas) stretch beyond the river environs through the suburbs of Eltham.

GRZ1 requires a permit for a single dwelling on a lot greater than 500m² and applies the discretionary height limit of ResCode (9m or 10m on a sloping site).

NRZ7 applies a maximum of two dwellings per lot and a mandatory height limit of 8m (9m on a sloping site) applies.

Public Conservation and Resource Zone (PCRZ)

The PCRZ covers a large portion of land along the Yarra River corridor, beginning in the most south-western point of the boundary, following the course of the River. The PCRZ provides an almost continual buffer of highly vegetated, undeveloped land long the river (at varying widths). It includes public reserves such as Sweeny Flats and the Warrandyte State Park. There are no specific siting or design requirements in this zone.

Public Park and Recreation Zone (PPRZ)

There is only one small section of PPRZ which directly interfaces with the Yarra River, at Leinster Farm, located in the south-western corner of the municipal boundary. There are no specific siting or design requirements in this zone.

Overlays

Overlays that apply to the Study area within Nillumbik Shire City Council are described below. A set of overlay maps are provided in *Appendix B: Planning Scheme Maps*.

ESO1: Sites of Faunal and Habitat Significance

Environmental Significance Overlay Schedule 1 identifies strategies and objectives for protecting sites of faunal and habitat significance. It is applied to numerous areas in the Shire, including river corridors. Within the Study area, it is applied along the broader river environment within Eltham and Warrandyte. Reference is made to Sites of Faunal and Habitat Significance in North East Melbourne (1997) as the guiding document for informing the strategic policy objectives.

Permit requirements relate to buildings, works, fences and vegetation removal and decision guidelines focus on the protection of vegetation in relation to faunal habitat. Decision guidelines relate to general consideration of native vegetation and habitat value. There are no detailed siting and design provisions.

ESO2: Yarra River Environs

The Environmental Significance Overlay Schedule 2 is applied to land immediately adjoining the Yarra River. In most locations it is applied to public land within the PCRZ, however several sites within the RCZ are also included in ESO2.

This ESO recognises the Yarra River and its environs as one of the most important natural assets of Melbourne and of significant landscape character within the Shire. It further identifies the role of the Yarra River in providing key views throughout the Shire, attracting residents and visitors.

The aims of ESO2 include protection of habitat corridors, enhancement of views to and from the river to minimise visual intrusion and retention of the sense of remoteness along the river corridor. Permit requirements relate to buildings, works, fences and vegetation removal. Decision guidelines include consideration of the environmental aspects of the river, waterway health and conservation, the landform of the riverbanks and the visual impact of new development. There are specific requirements relating to site coverage and excavation.

ESO4: Waterways

The Environmental Significance Overlay Schedule 4 relates to waterways throughout the Shire. Within the Study area it applies to land immediately adjoining Diamond Creek and Watsons Creek, which meet the Yarra in Eltham and Kangaroo Ground respectively. The objectives to be achieved are similar to those of ESO2 and include protection of habitat, water quality and views. Permit requirements relate to vegetation removal, buildings over 6 metres and specified types of fences.

SLO2: Bush and Semi-Bush Residential Areas

The Significant Landscape Overlay Schedule 2 is applied to parts of Eltham and North Warrandyte located within the Yarra River environs.

The SLO implements the Neighbourhood Character Study which aims to retain the distinctive 'bushland setting' or 'bush garden character' of these areas, as well as their environmental values. New housing must be sensitively sited and designed, and respond to the landscape and topographic character. Permits are required for specified buildings, works, vegetation removal and fencing.

SLO2 includes brief decision guidelines relating to the role of vegetation in contributing to the character of the area. There are no specified building heights, setbacks or site coverage requirements.

Land Subject to Inundation Overlay

The LSIO is applied along the length of the Yarra River within Manningham. A permit is required for specified buildings and works and for subdivision. No building height, setbacks or site coverage requirements are stipulated.

Heritage Overlay

There are a number of individual sites within the Heritage Overlay along the Yarra River.

VCAT & Planning Panel Decision Findings

Public Land Management

The extensive areas of public land and Crown land within the Study area are subject to individual public land management plans. These are administered by the relevant authority, which may include Melbourne Water, Parks Victoria or DSE.

In most instances, for development on public land which is consistent with the relevant management plan and the zone provisions, a permit is not required. Generally overlay controls are not applied to public land.

Given the sensitive nature of the public land of the river corridor, the issue of whether additional planning scheme controls apply to public land is an important consideration.

Key VCAT Cases & Planning Scheme Amendments

A number of decisions by the Victorian Civil and Administrative Tribunal (VCAT) and Panels regarding planning scheme amendments have been considered in relation to the study. These cases will assist in understanding existing practices regarding the issues associated with development along rivers and aim to achieve best practice through learnings. The following VCAT cases and amendments have been identified as relevant:

- Stonnington Planning Scheme Amendment C155 which updates DDO3 which provides built form controls along the Yarra River
- Fisher Parade, Ascot Vale proposal fronting the Maribyrnong River
- Buckingham Drive, Heidelberg proposal adjacent to the Banyule Creek, near its confluence with the Yarra River
- Coppin Grove, Hawthorn proposal of residential dwellings fronting the Yarra River
- State & Boroondara Planning Scheme Amendment VC96 which provided State policy for river corridors and implemented interim ESO & DDO controls (with a mandatory height limit) along Boroondara's section of the Yarra River
- Manningham Planning Scheme Amendment C54 which, among other changes, updated policy and controls protecting the environmental significance of the Yarra River
- Honeywell large scale, mixed use proposal on Victoria Street at a key site along the City of Yarra's section of the Yarra River
- Yarra Street, Warrandyte proposal for advertising signage at a site fronting the Yarra River

While some of these decisions are concerned with the Maribyrnong River and other sections of the Yarra River and its tributaries, they are of relevance to the future management and

planning of the Middle Yarra River section.

Stonnington Amendment C155 (Underway)

Amendment C155 to the Stonnington Planning Scheme updates Stonnington DDO3 which applies along the Yarra River. While supporting the intent and scope of the revised DDO, the Panel did not support the full extent of the proposed mandatory height controls.

The Panel found that it is impossible to identify a maximum height for universal application where there are major variations in topography and viewpoints from site to site. This outcome demonstrates the challenges of setting specific development controls across a complex environment, such as the river corridor.

The Panel also concluded that the Melbourne High School site should be included in the DDO area. The Panel recognised that while the site is exempt from Planning Scheme control, it is appropriate for Council to provide guidance for development and seek to influence a site's development. This outcome is of relevance to the many sites within public control across the Middle Yarra Study area.

Fisher Parade Proposal (2013)

This controversial VCAT case¹ related to Council's failure to make a decision regarding a four storey building along the Maribyrnong River.

In this case, Melbourne Water raised concerns about the interface of the development to the river, acknowledging that the proposed 12m set back was not sufficient. They suggested that a 20m set back (at a minimum) from the river should be imposed to allow for riparian planting and allow access for the appropriate management of the waterway system.

Although the provisions of Clause 14.02 'Water' specify a 30m vegetated buffer zone from waterways, Melbourne Water was willing to compromise with the provision of a 20m buffer.

VCAT believed that the 20m buffer was arbitrarily appointed and called for a redesign of the whole development to interface more appropriately with the river. It also highlighted that Clause 14.02 is not a planning scheme control, rather it sits within a State policy context.

VCAT suggested an alignment of the Planning Scheme with the Water Act (1989) to allow for more consistent decision outcomes. Additionally it called for a systematic process to notify referral authorities when there are cases involving developments

¹ BMG Architects v Moonee Valley CC [25 September 2013], VCAT reference number P3563/2012

within proximity to a river bank. VCAT deemed the development inappropriate given its context and relationship to the river.

Buckingham Drive Proposal (2013)

Situated in close proximity to the heritage protected Banyule Flats with views to the Yarra River Corridor, this proposal involved the development and subdivision of three dwellings and removal of native vegetation. It was initially refused by Council and subsequently appealed at VCAT².

The site fronts Banyule Creek and is subject to a number of overlays including Banyule ESO4, SLO1 and HO13. Alongside the numerous statutory controls, the site is also constrained by its geographic and environmental context.

VCAT acknowledged that while the subject site was appropriate for more intensive development, it also presented a number of difficulties in regard to its physical and strategic context. Primarily it did not respond to its immediate surroundings especially in addressing the interface with the river corridor. Furthermore it had the potential for the development to be observed from long-range views, given its prominent location on the top of an escarpment.

Strategic considerations were balanced between development opportunities and environmental values. It was ruled that the proposed development was not located within an area that supported urban consolidation. Instead a restrained approach was required to ensure that core environmental values are maximised. VCAT contended that a better outcome would involve a reduced set back from the escarpment boundary and suitable landscaping to reduce visual bulk. On this basis, the decision of the Council was upheld and no permit was granted.

Coppin Grove Proposal & Amendment VC96 (2013)

In 2013, a VCAT case³ was held regarding a proposal for three dwellings fronting the Yarra River in the backyard of 12 Coppin Grove, Hawthorn.

During the VCAT hearing, Amendment VC96 was gazetted to introduce State policy on River Corridors, at Clause 11.04-8. This clause aims to 'protect and enhance the significant river corridors of Metropolitan Melbourne'. It also introduced mandatory controls into the Boroondara Planning Scheme. These changes were based on the 'Review of Policy and Controls for the Yarra River Corridor' report by DSE (2005), and

² Banyule Management Pty Ltd v Banyule CC [23 September 2013], VCAT reference number P3243/2012

³ Watkins v Boroondara CC (includes Summary)(Red Dot) [2013] VCAT 824 (10 May 2013), VCAT reference number P1904/2012

reflected the additional work undertaken by DPCD in 2010.

The 2005 DSE report is now a State level reference document.

VC96 introduced a DDO and an amended ESO as interim provisions to the Boroondara Planning Scheme. The DDO refers to the objectives and guidelines of ESO1. It includes a 9 metre height permit trigger and a mandatory height control of 9 metres in most instances, or up to 12 metres where Melbourne Water requires additional elevation for floodway management purposes. The ESO provides detailed policy for the corridor.

In response to Amendment VC96, revised plans were prepared, reducing the number of proposed dwellings to two and reducing the height to comply with the new DDO height control of 9 metres.

However, the Tribunal refused the revised proposal, concluding that the scale, mass and appearance of the revised proposal was visually intrusive rather than subordinate to landscaping and the extent of earthworks excessive, and that it was not consistent with the new State policy.

The Tribunal found that the interim DDO and ESO controls were not clearly worded and did not adequately reflect the intention of their objectives, nor the State policy.

Manningham Amendment C54 (2013)

Amendment C54 to the Manningham Planning Scheme implemented the findings and recommendations from a number of studies and strategies endorsed by Council included them in the Planning Scheme as reference documents. These included the Manningham Biosites: Sites of (Biological) Significance Review 2004, Wildlife Movement and Habitat Needs 2009, Locally Threatened Plants in Manningham 2010 and the Manningham Monterey Pine and Cypress Tree Assessment 2003.

The key purpose of this amendment was to rationalise the number of overlays applying to individual properties to ensure that planning provisions provide a greater certainty and more consistent decision making outcomes. This included deleting VPOs and SLOs for replacement with new and introduced ESOs, SLOs and DDOs along and in close proximity to the Yarra River. Other relevant changes included:

- Clause 22.02 Indigenous Flora & Fauna Policy replaced by Native Vegetation Policy and adapted State policy of achieving native vegetation net gain to local circumstances.
- Amended ESO1 Yarra River Environs to include a list of weed species exempt from permit requirements.
- New ESO2 Sites of Biological Significance to apply to core conservation areas which applies along a large section of the Yarra River.

VCAT & Planning Panel Decision Findings cont...

- New ESO3 to apply to buffer conservation areas which are located within the Yarra River corridor.
- Amended DDO3 Warrandyte Environmental Residential Area, which is in close proximity to the Yarra River, to include buildings and works requirements previously included in the now deleted SLO3.
- Amended Schedule to Clause 52.17 to exempt particular vegetation species from permit requirements.

The panel was complimentary in acknowledging Council's approach to the protection and conservation of biodiversity within the municipality and greatly supported the amendment.

Honeywell Proposal (2010)

In 2010, a VCAT case⁴ was held in response to opposition regarding Council's decision to approve a large scale, mixed use development consisting of three towers ranging from nine to eleven storeys adjacent to the Yarra River. The site was subject to interim DDO4 of the Yarra Planning Scheme which introduced discretionary height limits.

The Tribunal found this DDO, which expired in 2011, to be unclear and ineffective. The Tribunal approved the proposal, which breached the preferred maximum height limits, as it was considered to be consistent with State and local policy.

The Tribunal commented that the DDO was not clearly worded and that the built form parameters specified by its controls did not reflect its objectives.

Yarra Street Proposal (2005)

This VCAT case⁵ relates to Council's refusal to grant a permit for retrospective approval of five advertising signs for a café/ art gallery. The site backs onto the Yarra River with a 10m slope from Yarra Street down to the river. The site is affected by an HO and an ESO and land to the north of the site falls within the PCRZ.

Council ruled that the proposed number of signs was excessive and not in keeping with the high amenity value of the surrounding area. It also noted the signs did not respect the heritage or natural environment and adversely affected the character and appearance of the surrounding area.

VCAT also deemed the five signs to be excessive, however granted permission for two signs on the Yarra Street frontage. The other existing signs facing the Yarra River were required to be removed.

Research-Warrandyte Road Proposal (2004)

This VCAT case involved the review of three separate applications for:

- The construction of a new access way off Research-Warrandyte Road to service properties at 246-252 Research-Warrandyte Road
- Removal of two native trees and minor alterations and extensions to an existing dwelling at 248 Research-Warrandyte Road
- Subdivision / realignment of two existing lots where an existing dwelling slightly straddles an adjoining lot boundary (248-250 Research-Warrandyte Road)

The key issue that relates to the river corridor considered by the Tribunal was whether the additions and alterations to the existing dwelling adversely impact on the vegetation around the dwelling and the visual outlook of the Yarra River Valley escarpment. It was found that the proposed additions would not be clearly visible from the Research-Warrandyte road near the site and when viewed from the other side of the Yarra River Valley would be acceptable in the context of other dwellings nestled within the existing vegetation. The Tribunal noted that future development of adjoining lots will need to consider the visual impact along the escarpment quite carefully.

Osborne Road Proposal (2003 & 2004)

38 Osborne Road, Warrandyte, a large site fronting the Yarra River, has been subject to two separate VCAT cases^{6,7} which both sought to subdivide the site in two. The site which is 8,136sqm is zoned Low Density Residential (for the majority of the site) with a minimum 0.4ha subdivision control.

In the first case, the appeal was called to review Council's decision to refuse the proposal of a two lot subdivision. The Tribunal recognised that this subdivision control leads to an expectation that the site can be subdivided into two 0.4ha lots and that the construction of a dwelling in the street with ancillary clearance of vegetation inevitably involves a fair loss of vegetation as has occurred throughout the street. The proposal was found to have an unacceptable loss of native vegetation. The Tribunal concluded that the proposed subdivision alignment and location of the house / domestic / effluent zones were not sympathetic enough to the objectives of significant landscape and environmental qualities, particularly in relation to the protection of native vegetation.

In the second case, a permit for a two lot subdivision with two double storey dwellings and vegetation removal was approved

by the Tribunal with a lengthy set of conditions, overturning Council's refusal. The Tribunal noted the precarious nature of balancing policy in coming to this decision: taking into consideration significant flora and fauna habitat link of the land, its zoning for residential purposes, the conflict of vegetation retention needed against the need to secure fire safety by fuel reduction. The proposal was considered a vast improvement from the first case and to have taken heed to that decision. It has reduced and minimise the loss of vegetation with the dwellings, both modest in footprint, located on the most disturbed area of the site. It also demonstrated the viability of the Net Gain principle and included a land management plan and a section 173 agreement.

4 Colquhoun & Ors v Yarra CC [2010] VCAT 1710, VCAT reference numbers P1204/2010, P1340/2010, P1345/2010

5 Turnbull v City of Manningham [21 April 2005], VCAT reference P3614/2004

6 Waldman v Nillumbik SC [2004] VCAT 2422, VCAT reference P1302/2004

7 Murphy & Assoc v Nillumbik SC [2003] VCAT 814, VCAT reference P2392/2002