

20 December 2019

The Coordinator
Strategic Planning Unit
Moreland City Council
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MORELAND VIC 3058

RobertsDay
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Dear Sir / Madam,

**RE: PROPOSED AMENDMENT C189 TO THE MORELAND PLANNING SCHEME
PROPERTY CORPORATE PTY LTD SUBMISSION**

Roberts Day act on behalf of Property Corporate Pty Ltd, and have been instructed to lodge a submission to proposed Amendment C189 to the Moreland Planning Scheme (referred to as the Amendment within this submission).

Property Corporate Pty Ltd makes this submission as a landowner within the municipality, being the owner of the site at 7-23 Elizabeth Street, Coburg (it is noted that Numbers 17 and 23 Elizabeth Street have been purchased by Property Corporate Pty Ltd and will settle in April next year). Council will be aware of this site given a pre-application meeting held with Council officers on 8th August 2019. The pre-application meeting was held to discuss a potential infill development at the site.

Overview of Current Open Space/Landscape Requirements within the Moreland Planning Scheme

The Moreland Planning Scheme (MPS) currently contains a number of requirements relating to the treatment of open space and landscaping for proposals of an infill nature. These current requirements are comprehensive, and when applied together, ensure that new residential developments have sufficient regard to the provision and design of outdoor space and landscaping. An overview of the different requirements currently applicable to infill developments is provided below.

Minimum Garden Area

On 27 March 2017, Amendment VC110 introduced the requirement for Minimum Garden Area to be provided in infill developments proposed in both the Neighbourhood Residential Zone (NRZ) and the General Residential Zone (GRZ). The Minimum Garden Area requirement mandates the percentage of a lot which must be set aside to ensure the open garden character of suburbs is protected and is applied as follows:

- Lot size between 400 – 500sqm: 25% to be set aside as garden area
- Lot size between 500 – 650sqm: 30% to be set aside as garden area
- Lot size above 650sqm: 35% to be set aside as garden area

A proposed development within the NRZ or the GRZ must meet Minimum Garden Area requirements, as they are mandatory requirements which cannot be reduced.

Site Coverage Objective

A proposal for an infill development must currently meet the requirements for site coverage as set out at Clause 54.03-3 and Clause 55.03-3 (ResCode), depending on whether the proposal is single or multi dwelling. The purpose of the requirement is to ensure that site coverage respects the existing or preferred neighbourhood character and responds to the features of the site. The Standard outlined in both of these Clauses specifies that the site area covered by buildings should not exceed 60 per cent of the site (unless there is an amount specified in the schedule to the zone).

Permeability and Stormwater Management Objectives

A proposal for an infill development must have regard to the permeability requirements listed at Clause 54.03-4 and Clause 55.03-4. The purpose of this requirement is to reduce the impact of increased stormwater run-off on the drainage system and to facilitate on-site stormwater infiltration. Standards contained within both of these Clauses dictate that the site area covered by pervious surfaces should be at least 20 per cent of the site (unless there is an amount specified in the schedule to the zone).

Landscaping Objectives

The landscaping objectives of Clause 55.03-8 specify that landscape layout and design of a proposed development should:

- *Protect any predominant landscape features of the neighbourhood.*
- *Take into account the soil type and drainage patterns of the site.*
- *Allow for intended vegetation growth and structural protection of buildings.*
- *In locations of habitat importance, maintain existing habitat and provide for new habitat for plants and animals.*
- *Provide a safe, attractive and functional environment for residents.*

The purpose of the Clause is to encourage development that respects the landscape character of the neighbourhood and that maintains and enhances habitat for plants and animals in locations of habitat importance. It also encourages the retention of mature vegetation on the site.

The Clause identifies that development should meet any additional landscape requirements specified in a schedule to the zone. The schedules of each of the residential zones in the MPS (NRZ, GRZ, RGZ) currently contain a specific additional landscape requirement for developments. The schedules contain a requirement that '*a minimum of one tree should be located within both the front setback and the secluded private open space of each dwelling, in accordance with the Moreland Tree Planting Manual for Residential Zones 2014*'.

Given the four different requirements outlined above, it is evident that infill development proposals within Moreland are already subject to a comprehensive suite of controls pertaining to achieving meaningful and effective open space and landscaping within a new development. The Minimum Garden Area and Site Coverage requirements already act as mechanisms to ensure that a reasonable amount of open space is provided in a new development and it is considered that there is already some overlap in the intent behind these two requirements. The permeability and landscaping requirements already establish a clear and adequate level of control in respect to minimum levels of permeable ground and landscaping. The proposed changes within the Amendment, specifying sizes for permeable spaces and number of trees to be planted, are considered an overlap of current requirements.

The proposed changes to the schedules of residential zones within the MPS, are considered excessive, unduly onerous and cause a duplication effect in requirements relating to open space and landscaping.

Concerns with the Amendment

The impact of the Minimum Garden Area requirement

It is noted that the Amendment seeks to implement the vision and actions of the Moreland Urban Forest Strategy (2017), the Moreland Urban Heat Island Action Plan (2016/2017) and the Medium Density Housing Review (2018), with the intent of improving tree canopy cover within the municipality, which in turn will improve the quality of new dwellings and those who live within them, as well as the broader community.

The strategies listed above have been formulated in the last 3 years. During this period, the Minimum Garden Area requirements were adopted (March 2017). Whilst Council have independently prepared strategies to deal with the effect of urban heat island and diminishing canopy cover, the provision of Minimum Garden Area in infill developments, is already assisting in resolving these issues within the municipality to an extent. It is unclear in the Amendment documentation if Council have observed the way in which Minimum Garden Area requirements have had an impact on responding to urban heat island effect. It is likely that the introduction of this requirement, given its mandatory and prescriptive nature, may already be contributing to reducing the urban heat island effect and increasing canopy cover.

Uncertainty in treatment of proposals where Secluded Private Open Space (SPOS) is not at ground level

It is not clear how Council will treat proposals where Secluded Private Open Space (SPOS) is not provided at the ground floor, in light of the wording of the proposed Amendment. The proposed changes to the schedules of the GRZ and NRZ outline requirements for the provision of at least one canopy tree in the front setback, one canopy tree in the secluded private open space, and the need for these trees to be provided within permeable areas of a specific size. The Amendment does not acknowledge the potential for SPOS to be located at the first floor of a dwelling (ie. a balcony), and the inability to provide a canopy tree within such an arrangement.

It is also noted that the proposed changes conflict with the provisions of ResCode in regard to the location of SPOS. If the Amendment requires a tree within the permeable space of SPOS, then this conflicts with the ability to provide SPOS at a balcony level, as it assumes that SPOS is to be provided at the ground floor. It is therefore unclear how Council will treat these conflicting matters and there must be wording introduced within the Amendment to give instruction as to what is expected when SPOS is intended to be provided in the form of a balcony, and not at ground floor.

It is noted that City of Stonnington have incorporated a requirement to some schedules to the NRZ, that at least one canopy tree should be planted on the site. It is considered that this requirement gives more flexibility in the placement of canopy trees within the site, allowing for trees to be located in spaces which are optimal for their development, which can vary greatly from site to site. This wording also allows for dwellings providing SPOS in the form of a balcony, to plant a canopy tree elsewhere on the site where it can be accommodated – ie. front or side setback.

It is therefore suggested that the Amendment adopt similar wording to that contained within the Stonnington Planning Scheme, in order to allow for flexibility in planting location in cases where SPOS is not provided at ground level.

Prescriptiveness of the Changes Proposed

No other inner metropolitan Council has sought to implement such prescriptive requirements for the provision of minimum permeable areas and canopy tree sizes. Review of the planning schemes of other inner city councils faced with similar urban heat island effect challenges (such as City of Yarra, City of Melbourne and City of Port Phillip), indicate that the schedules to the GRZ and NRZ in each of the schemes of these Councils do not specify any additional landscaping requirements to complement Minimum Garden Area requirements, Site Coverage, Permeability or Landscaping Clauses of ResCode. Amendment C189 therefore adds a level of prescription beyond other municipal approaches to this matter, which must be weighed and balanced against providing the opportunity for viable urban development to occur.

Long term impact of tree planting to dwellings and driveways

There is no consideration of the long term impacts associated with tree planting in proximity to dwellings and driveways. It is noted that the changes to the schedules of the NRZ, GRZ and RGZ, seek to encourage the planting of canopy trees close to vehicle accessways to provide shading to vehicles that may be parked within the front setback. The Amendment also requires additional planting to be provided along a vehicle accessway. The planting of a canopy tree in close proximity to a sealed vehicle accessway has the potential to cause damage over time as root systems develop and expand. Similarly, a canopy tree can cause significant damage to the structure of a home over time as it grows. Whilst it is understood that the intention behind this change is to improve shading to vehicles parked in accessways, the result of this inclusion has the potential to have significant financial ramifications for owners where accessways need to be fixed or replaced as a result of tree root damage. It is therefore suggested that references requiring planting of canopy trees in proximity to accessways be removed.

Residential design and planning against fire

It is unclear whether Council, has liaised with the MFB or CFA in regards to the Amendment. Consideration should be given to the requirement of canopy trees in the front and rear setback, noting residential design and planning against the threat of fire.

Recommendations

It is considered that the current requirements within the Moreland Planning Scheme regarding the provision of open space and landscaping are sufficient, and can be effectively enforced in order to minimise the impact of urban heat island and increase canopy cover within the municipality. However, in light of the Amendment at hand, the following recommendations are made:

1. Adjust wording in the Schedules to the GRZ, NRZ and RGZ, to require the planting of a minimum of one canopy tree on a site, in a location most suitable for the site.
2. If the wording above cannot be incorporated, there must be guidance on the planting of canopy trees where SPOS is not provided at ground level.
3. Delete proposed wording requiring the planting of canopy trees in proximity to accessways.

Should you have any queries or require any additional information regarding this submission, please do not hesitate to contact the undersigned on 9620 5421.

Yours sincerely,

