

3.3 Review of the Single Dwelling Covenant Policy

Review of the Single Dwelling Covenant Policy

Responsible director:	Simon Mitchell
(Acting)	City Planning
Authorised by:	Simon Mitchell, Manager Statutory Planning
Report officer:	Cassandra Rea, Co-ordinator Statutory Planning

Abstract

The Single Dwelling Covenant Policy (the Policy) was initially adopted on the 15 June 1999. The policy was reviewed in June 2011 and is due for a further review. This report sets out suggested changes to the policy.

The policy has been updated, but is generally consistent with the previously adopted policy which opposes the variation or removal of single dwelling restrictive covenants in most cases.

Given there have been several applications to the Supreme Court seeking to remove single dwelling covenants since the last review, a section is proposed to be added providing guidance for Council involvement in court proceedings. In these cases, Council must establish it is a legal beneficiary to become a party to Supreme Court proceedings. It must also establish the covenant discharge or modification will cause a real or substantial injury to Council in relation to that benefit.

The strategic objectives have been updated to refer to relevant Council planning policy and the Community Plan. New strategic objectives have been introduced to recognise the removal or variation of restrictive covenants has the ability to impact upon amenity and neighbourhood character.

Officers' recommendation

That the Urban Planning Special Committee resolve to adopt the revised version of the Single Dwelling Restrictive Covenant contained in **Attachment 1** dated December 2019.

Review of the Single Dwelling Covenant Policy

Responsible Acting Director: Simon Mitchell
City Planning

Date 16 December 2019

1. Purpose

The purpose of this report is to adopt the updated Single Dwelling Covenant Policy (the Policy). The updated report is Attachment 1.

This report also sets out the legal advice received in relation the relevant considerations for Council to become a party to an application at the Supreme Court to discharge or modify a single dwelling covenant and the proposed policy changes to accommodate this advice.

The revised policy sets out Council must establish that it is a legal beneficiary of the covenant to become a party to the court proceedings. Only legal beneficiaries have legal standing in proceedings of this nature.

2. Policy implications and relevance to Council Plan

The review of the Policy is consistent with the Boroondara Community Plan 2017-27, which sets out the 10-year vision for Boroondara's future based on the identified values, aspirations and priorities.

'Through the BCP, we are committed to striving to enhance wellbeing for people who live, work, study or recreate in the municipality as an outcome of everything we do. We will focus on providing a high quality of liveability through our planning, services, places and spaces to enable all members of the community to make healthy choices. We will prioritise action focusing on improving health in order to achieve the community's vision for Boroondara's future.'

Priority Theme 4: Neighbourhood Character and Heritage

Strategic Objective 4: Protect the heritage and respect the character of the City to maintain amenity and liveability whilst recognising the need for appropriate, well-designed development for future generations.

Relevant strategies for how Boroondara will achieve this:

Strategy 4.1 Encourage the planning of well-designed new development that is appropriately located, and does not negatively impact on established residential streets and valued neighbourhood character.

Strategy 4.4 Encourage development in and around our commercial centres, with an emphasis on increasing housing diversity by having the appropriate planning controls in the Boroondara Planning Scheme.

Strategy 4.6 Engage with owners and developers to achieve a balance between development and protection of neighbourhood character, heritage and amenity.

Priority Theme 7: Civic Leadership and Governance

Strategic Objective 7: Ensure that ethical, financial and socially responsible decision making reflect community needs and are based on principles of accountability, transparency, responsiveness and consultation.

Relevant strategies for how Boroondara will achieve this:

Strategy 7.2 Ensure transparent decision making through open governance processes.

Strategy 7.5 Ensure sound financial management while allocating resources to deliver strategic infrastructure and services that meet community need.

3. Background

A restrictive covenant (covenant) is a private legal agreement between a land owner and purchaser (with the intent that it binds subsequent purchasers) which is registered on the Certificate of Title.

Covenants are most commonly applied when an owner subdivides land and wishes to apply some restrictions on the future use or development of the lots created. For example, a common covenant prevents the development of the lot for more than one dwelling.

This policy applies to proposals to remove or vary registered single dwelling covenants using any of the following methods:

- Application to the Supreme Court pursuant to Section 84 of the *Property Law Act 1958*;
- Application for a planning permit to vary or remove a covenant; and
- Planning Scheme Amendment to introduce a site specific provision which varies or removes the covenant.

The update of the Policy has considered legal advice received in July 2018 and the recent Supreme Court decision *Del Papa v Falting & ors* [2018] VSC 384. This decision related to proceedings in the Court seeking to modify a covenant by removing the single dwelling restriction on a property in Balwyn North.

In this case, the application was disallowed by the Court, the Judge concluded:

“In my view, this modification if allowed would set a new, and lower standard, for lot size. The plaintiff proposes that a single dwelling restriction remain on each of the subdivided lots, but even single dwellings, if on smaller lot sizes, have the potential to increase the density of the built environment of the subdivision over time. This would, in my view, reduce the benefits accruing from the Covenant so as to occasion substantial injury to its beneficiaries.”

Notwithstanding this, the Judge also found Council was not able to demonstrate it would suffer sufficient injury by the discharge or modification of covenant given the limited purpose of Council land that holds a benefit of the covenant. In this case, the land in question is a road.

The legal advice received after the decision in *Del Papa* outlines Council is unable to argue against the removal of a single dwelling restriction in Court based on general principles of amenity and neighbourhood character established by regular planning policy. Furthermore, Council is unable to

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advocate for its community or on behalf of other beneficiaries, even if that argument can be sustained by general planning policy.

A draft of the Policy was presented at Councillor Briefing and Discussion Confidential Agenda on the 29 April 2019. The matter was deferred in order to seek legal advice to confirm that a recent Supreme Court case *Re EAPE (Holdings) Pty Ltd* would not necessitate a change to Council's Policy.

Legal advice was also received in regards to the draft Policy. The legal advice expressed the view that the Policy seeks to apply tests or imparts matters that are contrary to or go beyond or area not reflective of the Act and the Planning Scheme. Modifications to the Policy have been made in accordance with the legal advice, as outlined below.

4. Outline of key issues/options

The proposed changes to the Policy can be described as:

Proposed Change	Impact of Change
<p><u>Administrative Changes:</u></p> <ul style="list-style-type: none"> • Consistent reference to restrictive covenants as 'covenants'; • Update date of policy; • Update Directorate and Director Name; • Update Corporate Branding; • Reference to the Boroondara Community Plan in lieu of Council Plan; • Inclusion of Our Values; • Update Municipal Strategic Statement policy; and • Update reference to the Neighbourhood Character Policy. 	<p>The administrative changes do not alter the intention or operation of the Policy.</p>
<p>Insert examples of common covenant restrictions within the City of Boroondara.</p>	<p>This has been included to demonstrate covenants can address wide ranging matters.</p>
<p>Reword the 'Scope' to recognise the three different methods for the removal or variation of a covenant.</p>	<p>This consolidates two separate sections of the existing policy for ease of use. It does not change the intention or the operation of the Policy.</p>
<p>Insert three new Objectives.</p>	<p>The existing policy recognises the removal or variation of restrictive covenants has the potential to negatively impact upon amenity and neighbourhood character. It is therefore considered appropriate to include strategic objectives which align with adopted planning policy in regard to these matters.</p>

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<p>Insert new policy to guide decisions regarding Council involvement in Supreme Court applications to remove or vary single dwelling covenants.</p>	<p>It is proposed to include guidance to assist decision making regarding Council involvement in Supreme Court applications to remove or vary single dwelling covenants.</p> <p>The policy sets out Council must establish it is a legal beneficiary of the covenant to become a party to the proceedings. Only legal beneficiaries have legal standing in proceedings of this nature.</p> <p>The policy also sets out that Council is required to demonstrate it will suffer a real or substantial injury in relation to the benefit, if the covenant is discharged or modified.</p> <p>The following example provided in the legal advice sets out this is not always straightforward.</p> <p><i>'A single dwelling covenant was created to secure a pleasant landscape character to the area on large lots. Council is a beneficiary of the covenant only because a road created by the subdivision of the parent title was vested in Council. Council's interest in the land is therefore limited to its road management functions. It would be difficult to argue that the discharge or modification of the covenant (made for neighbourhood character purposes) will injure Council's private law beneficial interest in the covenant.'</i></p> <p>In a number of Supreme Court matters Council has not been able to demonstrate it would be sufficiently injured by the discharge or modification of covenant to have warranted the Court rejecting the application, although in these instances the Court ruled other beneficiaries would suffer injury and disallowed the removal of the covenant.</p> <p>In a recent case <i>Del Papa v Falting & ors</i> [2018] VSC 384 the judgment states <i>'In other words, modification or discharge or a restrictive covenant is a</i></p>
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	<p><i>matter of private law, having its origin in the original contract of sale but running with the land. It is not a matter of public planning law.'</i></p> <p>The consequence of this judgement is that in many instances, Council cannot demonstrate injury given the limited purpose of Council land that holds a benefit of the covenant. Council is not able to argue general principles of amenity and neighbourhood character established by regular planning policy.</p> <p>This policy requires Council to consider whether it is a beneficiary of the covenant, the nature and purpose of the covenant, an assessment of impact to Council based upon Council's private interest and likely costs.</p>
Insert new section regarding Council's involvement in property law applications.	As above.
Reword decision guidelines associated with an application or Planning Scheme Amendment	Legal advice points out a policy adopted which refers to in principle opposition to the grant of a planning permit is unlikely to be supported by the Tribunal or a Planning Panel.
Relocate Strategic Objective 2 recommendation to concurrently submit multi-dwelling applications at the same time as removal/ variation of covenant into the section discussing planning permit applications.	Legal advice received suggests this is not a strategic objective, but rather a sensible recommendation to advise applicants to apply to remove the single dwelling covenant in conjunction with a multi-dwelling proposal.
Update Strategic Objective 1(e) to refer to Planning Policy Framework, Neighbourhood Character Policy and Clause 65.	This is partly an administrative change which updates the policy to reflect the new Planning Policy Framework. The Objective has been amended to also have regard to Council's Neighbourhood Character Policy and Decision Guidelines at Clause 65 of the planning scheme.

5. Consultation/communication

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The Strategic Planning Department have been consulted regarding the review of the policy. Given the update of the Policy remains consistent with the previously adopted policy, it is considered broader consultation was not necessary.

Legal advice was sought with respect to existing policy and the relevant considerations for Council to determine whether to become a party to an application at the Supreme Court to discharge or modify a single dwelling covenant.

Both Statutory Planning and Strategic Planning Departments have responsibilities under the *Planning and Environment Act 1987* with respect to covenants and therefore, both Departments have given input into the review of the Policy.

6. Financial and resource implications

The cost to review the Policy has been met by the operating budget of the Statutory Planning Department.

7. Governance issues

The implications of this report have been assessed in accordance with the requirements of the Victorian Charter of Human Rights and Responsibilities and are not considered to infringe upon any prescribed human rights, freedoms or responsibilities.

The officers responsible for this report have no direct or indirect interests requiring disclosure.

8. Social and environmental issues

The update of the Policy is considered to have a range of social and environmental benefits. These include protecting amenity and neighbourhood character.



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Single Dwelling Covenant Policy

December 2019

Responsible Directorate: City Planning
Authorised by: Shiran Wickramasinghe, Director City Planning
Date of adoption: 15 June 1999 (original), revised June 2011
Review by: December 2024

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1. Introduction

1.1. Our Values

We have six values - with 'think customer' and 'act with integrity', being at the centre of everything we do and our new leadership framework describes and sets expectations for our leaders. Our values and behaviours guide the way we work and lead.

How we work	How we lead
<ul style="list-style-type: none"> • Think Customer experience • Act with integrity • Work together as one • Explore better ways • Treat people with respect • Own it, follow through 	<ul style="list-style-type: none"> • Lead by personal example • Build trust • Create shared direction • Inspire possibility • Empower others

1.2 Introduction

A restrictive covenant (covenant) is a private legal agreement between a land owner and purchaser (with the intent that it binds subsequent purchasers) which is registered on the Certificate of Title.

Covenants are most commonly applied when an owner subdivides land and wishes to apply some restrictions on the future use or development of the lots created. For example, a common covenant prevents the development of a lot for more than one dwelling. Other common covenant restrictions within the City of Boroondara may include (but are not limited to):

- Specifying particular building materials;
- No quarrying;
- No industrial uses;
- No treatment of infectious diseases;
- Minimum cost of construction;
- Minimum front setback;
- Type of front fence; and
- Form of a proposed building.

Covenants bind any future purchasers of the land to comply with the covenant restrictions unless the covenant is varied or removed. Any subsequent purchasers of lots in the original subdivision held by the original owner at the time the covenant was

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entered into have the benefit of the covenant.¹ These beneficiaries are able to enforce the restrictions of the covenant through the Supreme Court.

Council is not generally a party to covenants and is unable to enforce a covenant on behalf of a legal beneficiary unless Council owns land or has land vested in it which has the benefit of the covenant.

There are three methods of removing or varying a covenant, as follows:

- Application to the Supreme Court pursuant to Section 84 of the *Property Law Act 1958*;
- Application for a planning permit to vary or remove a covenant; and
- Planning Scheme Amendment to introduce a site specific provision which varies or removes the covenant.

Further information on covenants is provided on Council's website:

<https://www.boroondara.vic.gov.au/planning-building/planning-permit-applications/restrictive-covenants>

1.3 Purpose

The purpose of this policy is to recognise and reinforce the relevance and importance single dwelling covenants have in relation to the ongoing management of development of land in parts of the municipality.

Council acknowledges its broader role to plan for the housing needs of its current and future populations. However, it recognises the need to balance the demand for more diverse housing with the protection of existing features of the municipality which benefit residents and visitors. These features include, but are not limited to, heritage, neighbourhood character, amenity and the environment. Covenants can have an influence on all of the above. Covenants which limit the number of dwellings on a lot to one (single dwelling covenants) can be particularly effective in maintaining attractive neighbourhoods and on preserving the amenity of adjoining and nearby properties.

1.4. Scope

This policy applies to proposals to remove or vary registered single dwelling covenants using any of the following methods:

¹ Not all covenants operate in this manner and appropriate advice should be sought in respect to identification of beneficiaries.

- Application to the Supreme Court pursuant to Section 84 of the *Property Law Act 1958*;
- Application for a planning permit to vary or remove a covenant; and
- Planning Scheme Amendment to introduce a site specific provision which varies or removes the covenant.

1.5. Objectives

- To ensure the removal or variation of single dwelling covenants will not result in development which negatively impacts on the existing neighbourhood character, heritage and environmental value of an area;
- To ensure the removal or variation of single dwelling covenants will not negatively impact on the amenity of beneficiaries and adjoining and nearby properties; and
- To establish criteria for the extent of Council's involvement in Property Law Act applications to discharge or modify single dwelling covenants in the Supreme Court.

1.6 Policy

Application to the Supreme Court pursuant to Section 84 of the *Property Law Act 1958*

1. Before Council makes a decision whether to join a Property Law Act application made to the Supreme Court to discharge or modify a covenant, Council will obtain professional advice as to:
 - Whether Council is a beneficiary of the covenant; and
 - The nature and purpose of the covenant.
2. If Council is a beneficiary of the covenant and in deciding whether to join a Property Law Act application as a party, Council will determine the extent to which the discharge or modification of the covenant will injure Council's private law beneficial interest in the covenant.

This will be done in part by comparing the benefits initially intended to be conferred, and actually conferred, by the covenant and the benefits, if any, which would remain after the proposed modification or discharge. In so doing, Council will take into account the potential developments or uses that would be permitted by the covenant and the realistic probability of those developments occurring.

3. Council will identify and determine whether other beneficiaries of the covenant have joined the application as a party and the extent to which those beneficiaries:
 - Have a stronger beneficial interest in the covenant than Council;
 - Are resolved and able to defend the covenant by their involvement in the application; or
 - May have their entitlement to an order for costs in their favour prejudiced by Council's involvement in the application as a party.
4. The likely legal costs incurred and Council resources required to join the application as a party and whether the costs and resources justify the beneficial interest sought to be defended.

Given that Council is unable to enforce a covenant on behalf of a legal beneficiary, it is not appropriate for Council to fund other beneficiaries' cases.

Similarly, Council's role can not be the advocate on behalf of other beneficiaries.

Application for a Planning Permit to Vary or Remove a Covenant or request for a Planning Scheme Amendment

In determining whether to grant a permit or support a planning scheme amendment Council will consider whether:

- (a) The single dwelling covenant is obsolete;
- (b) There have been changes in the character of the neighbourhood to the extent the covenant is no longer relevant;
- (c) Varying or removing the covenant benefits the beneficiaries and the wider community;
- (d) The variation or removal of the single dwelling covenant will not unreasonably affect the amenity of beneficiaries and adjoining and nearby properties including through any of the following:
 - Loss of privacy
 - Overshadowing
 - Loss of daylight
 - Loss of significant views
 - Building bulk
 - Noise
 - Increased traffic

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- Loss of on-street car parking;
- (e) The variation or removal of the single dwelling covenant will result in a development of the lot which will respect and positively contribute to the existing or preferred neighbourhood character including the following considerations:
- Retention of mature trees
 - Landscaping
 - Building height and form
 - Setbacks
 - Open space
 - Site Coverage
 - Vehicle accommodation
 - Roof pitch
 - Materials;
- (f) The variation or removal of the covenant will not create an undesirable precedent;
- (g) The variation or removal of the single dwelling covenant would be consistent with broader strategic planning objectives of Council as set out in Boroondara Planning Scheme as follows:
- Planning Policy Framework;
 - Neighbourhood Character Policy; and
 - Clause 65 (Decision Guidelines);
- (h) The interests of affected persons.

In the event that an application is made for a multi-dwelling proposal on land affected by a single dwelling covenant, Council strongly advises applicants to simultaneously, either as part of the same application, or via a separate application, apply to vary or remove the covenant so all matters relevant to the proposal and the covenant are considered together.

1.7 Application Requirements

Application for a Planning Scheme Amendment

Any request for a planning scheme amendment to remove or vary a covenant must be accompanied by the following material, as appropriate:

Documents

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1. A letter requesting Council prepare a planning scheme amendment and seek Ministerial authorization.
2. The fee for stage 1 of the amendment consideration, and a completed Agreement to Pay Panel Costs form.
3. The history of the sequence of the subdivision which gave rise to the covenant. This will assist in determining the dominant or servient tenements who may be affected by the application. Specific documents to be supplied include:
 - A copy of the original parent title from which all land in the subdivision (including the applicant property) was created.
 - A copy of the original plan of subdivision.
 - Copies of all the Titles of lots in the original plan of subdivision.
 - Copies of all original transfers of land issued for all lots in the relevant plan of subdivision.

Submission

4. Details of how the covenant is obsolete.
5. Details of any changes in the character of the neighbourhood to the extent the covenant is no longer relevant;
6. Details of the benefits arising from the removal or variation of the covenant to beneficiaries and the wider community.
7. Details of how the removal or variation of the covenant will not adversely affect the amenity of the beneficiaries and the adjoining and nearby property owners and occupiers.
8. Details of how the variation or removal of the single dwelling covenant will result in a development of the lot which will respect and positively contribute to the existing or preferred neighbourhood character.
9. Whether the removal or variation of the covenant creates an undesirable precedent.
10. Whether the amendment can be supported by local or state government policy in the Boroondara Planning Scheme and if so, in what way.
11. Whether the application is consistent with an overall strategic framework plan for the area or the municipality.
12. Whether the variation or removal of the covenant will deliver net community benefit.
13. Any other relevant information.

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Council is not required to commence a planning scheme amendment, and may resolve, even if all of the above information is submitted, that an amendment is not suitable, and should not be commenced.

Application for a Planning Permit to Vary or Remove a Covenant.

Information required to be provided with an application for a planning permit to remove or vary a covenant is as follows:

Documents

- A planning permit application form and fee.
- A copy of the Certificate of Title of the subject site (searched within the last 28 days and the instrument of transfer of title including the covenant).
- A copy of the original parent title from which all land in the original subdivision (including the applicant property) was created.
- A copy of the original plan of subdivision.
- Copies of all of the current titles of lots from the original plan of subdivision which benefit from the covenant (all searches must be less than 28 days old).
- Copies of all original transfers of land issued for the lots created in the original subdivision.
- A letter from a suitably qualified legal practitioner in the field of property law, identifying which properties within the plan of subdivision benefit from the covenant.

Submission

- Details of how the covenant is obsolete.
- Details of any changes in the character of the neighbourhood to the extent the covenant is no longer relevant;
- Details of the benefits arising from the removal or variation of the covenant to beneficiaries and the wider community.
- Details of how the removal or variation of the covenant will not adversely affect the amenity of the beneficiaries and the adjoining and nearby property owners and occupiers.
- Details of how the variation or removal of the single dwelling covenant will result in a development of the lot which will respect and positively contribute to the existing or preferred neighbourhood character.
- Whether the removal or variation of the covenant creates an undesirable precedent.
- Whether the amendment can be supported by local or state government policy in the Boroondara Planning Scheme and if so, in what way.
- Whether the application is consistent with an overall strategic framework plan for the area or the municipality.

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- If the covenant was created after 25 June 1991, whether the removal or variation of the covenant will be likely to cause financial loss, loss of amenity, loss arising from change to the character of the neighbourhood or any other material detriment.
- Any other relevant information.

This information is not exhaustive and applicants should include any other information considered necessary. Applications should also have regard to this policy and Neighbourhood Character Policy (including the Boroondara Neighbourhood Character Precinct Statements 2013) of Clause 22.05 of the Boroondara Planning Scheme.

1.8 Corporate Framework

The consideration to discharge or modify a covenant in the Supreme Court is limited to narrow legal criteria which are a matter of private property law and not a matter of public planning law. However, any request to amend the Boroondara Planning Scheme or application for a Planning Permit to vary or remove a covenant should be considered in the context of the corporate framework.

The relevant provisions are set out below:

Boroondara Community Plan

The Boroondara Community Plan (BCP) 2017-27 sets out the 10-year vision for Boroondara's future based on the identified values, aspirations and priorities, including:

'Through the BCP, we are committed to striving to enhance wellbeing for people who live, work, study or recreate in the municipality as an outcome of everything we do. We will focus on providing a high quality of liveability through our planning, services, places and spaces to enable all members of the community to make healthy choices. We will prioritise action focusing on improving health in order to achieve the community's vision for Boroondara's future.'

- Priority Theme 4: Neighbourhood Character and Heritage

Strategic Objective 4: Protect the heritage and respect the character of the City to maintain amenity and liveability whilst recognising the need for appropriate, well-designed development for future generations.

Relevant strategies for how Boroondara will achieve this:

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Strategy 4.1 Encourage the planning of well-designed new development that is appropriately located, and does not negatively impact on established residential streets and valued neighbourhood character.

Strategy 4.4 Encourage development in and around our commercial centres, with an emphasis on increasing housing diversity by having the appropriate planning controls in the Boroondara Planning Scheme.

Strategy 4.6 Engage with owners and developers to achieve a balance between development and protection of neighbourhood character, heritage and amenity.

- Priority Theme 7: Civic Leadership and Governance

Strategic Objective 7: Ensure that ethical, financial and socially responsible decision making reflect community needs and are based on principles of accountability, transparency, responsiveness and consultation.

Relevant strategies for how Boroondara will achieve this:

Strategy 7.2 Ensure transparent decision making through open governance processes.

Strategy 7.5 Ensure sound financial management while allocating resources to deliver strategic infrastructure and services that meet community need.

Municipal Strategic Statement

- Clause 21.04-1 Urban Design

Key issues

- *Achieving high quality urban design outcomes through development.*
- *Ensuring built form outcomes enhance streetscapes and maintain local amenity.*
- *Ensuring that the built environment caters to the needs of diverse user needs.*

Objective 1

To achieve high quality urban design and built form outcomes.

Relevant Strategies

1.1 Facilitate development that respects and positively responds to the physical characteristics of the site and sensitively manages its various interfaces.

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1.2 Support building design and internal layout of new buildings to achieve high quality passive surveillance, engagement and safety within the public realm.

1.3 Require development to be responsive to existing streetscape patterns and themes.

1.4 Require development to treat landscape as an integral part of the overall design.

1.5 Maintain the City's streets and laneways as high quality public spaces.

- Clause 21.04-2 Neighbourhood Character

Key issues

- Loss of mature trees and gardens, and new development that does not provide adequate space for new vegetation, particularly canopy trees.
- Development which does not respect or positively contribute to the existing or preferred neighbourhood character.

Objective 2

To ensure that the City retains its distinct neighbourhood character identity.

Strategies

2.1 Maintain the City's valued residential amenity including landscaped settings and leafy streets.

2.2 Minimise proposals for subdivisions without approved buildings in all residential zones that create lots smaller than those in the surrounding area.

- Clause 21.04-5 Heritage Conservation

Key issues

- *Ensuring new works to heritage places are respectful to the heritage significance of the place.*
- *Loss of heritage built fabric and cultural sites from development.*

Objective 7

To identify and protect all individual places, objects and precincts of cultural, aboriginal, urban and landscape significance.

Strategies

7.1 Conserve and enhance individual heritage places and precincts, and aboriginal and cultural features.

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7.2 Require development to respect and enhance heritage buildings and precincts.

2. Accountabilities

For all queries or feedback regarding this policy document, please contact the responsible officer below.

Contact	Contact number	Contact e-mail
Manager Statutory Planning	9278 4888	boroondara@boroondara.vic.gov.au
Manager Strategic Planning	9278 4815	boroondara@boroondara.vic.gov.au

3. References

3.1. Related documents

- the *Planning and Environment Act 1987*; and
- the *Property Law Act 1958*.

3.2. Definitions

Restrictive Covenant (covenant)	A private legal agreement between a land owner and purchaser that is registered on the Certificate of Title.
Beneficiary	Anyone who has benefit of a restrictive covenant and is able to enforce the restrictions of a covenant through the Supreme Court.
Planning Scheme	A legal document that sets out the framework against which planning permits are assessed. It is made up of policies and controls for the way land may be used and what development is appropriate. All municipalities in Victoria have a planning scheme.
Planning Permit (permit)	A legal document that gives permission for a use or development on a particular site, issued under the <i>Planning and Environment Act 1987</i>

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