



11.1 **ELEVATING ENVIRONMENTALLY SUSTAINABLE DEVELOPMENT (ESD) TARGETS PROJECT: PLANNING SCHEME AMENDMENT**

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1. PURPOSE

1.1 To seek Council endorsement for the City of Port Phillip to participate in Stage 2 of the Elevating Environmentally Sustainable Development (ESD) Targets Project, including progressing an amendment to the Port Phillip Planning Scheme.

2. EXECUTIVE SUMMARY

2.1 Environmentally Sustainable Development (ESD) requirements influencing the design of private developments are set through the Port Phillip Planning Scheme. These changes to the Planning Scheme embed in the design of buildings outcomes that minimise energy use, water and waste, improve environmental outcomes and amenity and reduce ongoing running costs for our community.

2.2 While Port Phillip's current ESD Planning Policy, introduced in 2015, improved sustainability outcomes for new developments, it does not meet Council commitments or align to national or state policy and agreements.

2.3 Port Phillip has been collaborating with the Council Alliance for a Sustainable Built Environment (CASBE), a partnership of 31 councils across Victoria in the Elevating Environmentally Sustainable Development (ESD) Targets Project (ESD Project).

2.4 Stage 1 of the ESD Project is now complete and included:

- A review of ESD objectives and standards in planning policy;
- Testing objectives in different development types and scales;
- A high-level economic impact analysis of the proposed standards;
- Analysis of appropriate planning mechanisms; and
- Peer review and legal advice on key matters.

2.5 Expert planning advice recommended that partner councils, including the City of Port Phillip, seek a new Particular Provision in the Planning Scheme to implement the revised ESD development requirements. The proposed provision includes objectives and standards relating to the following eight categories:

- Operational Energy
- Embodied Carbon
- Sustainable Transport
- Integrated Water Management
- Green Infrastructure



- Climate Resilience
 - Indoor Environment Quality
 - Circular Economy.
- 2.6 The proposed updated ESD development requirements will benefit health and liveability by delivering healthier indoor environments, greener and cooler outdoor environments where natural elements are preserved and enhanced and lower operating costs for tenants and owners.
- 2.7 This report recommends that Council participate in Stage 2 of the project, which includes further financial analysis, a collaborative planning scheme amendment process and preparation of guidelines.
- 2.8 A collective amendment across Councils, rather than an individual Council amendment, is more likely to receive Victorian Government support, will result in lower costs for Council and provide greater consistency for the development community.

3. RECOMMENDATION

That Council:

- 3.1 Notes the outcomes of Stage 1 of the Elevating Environmentally Sustainable Development Targets Project (ESD Project) and recognises these as the strategic basis for Stage 2 of the project.
- 3.2 Endorses the City of Port Phillip participating in Stage 2 of the ESD Project.
- 3.3 Endorses the three consultant reports as shown in Attachments 1, 2 and 3 to this report, as supporting documents to an Amendment that introduces a new Particular Provision and associated changes to the Port Phillip Planning Scheme.
- 3.4 Authorises the Chief Executive Officer (or delegate) to:
- 3.4.1 Enter into the Memorandum of Understanding for Stage 2 of the ESD Project on behalf of the City of Port Phillip.
- 3.4.2 Seek authorisation from the Minister for Planning to prepare and exhibit an Amendment as shown in Attachment 4 to this report, pursuant to Sections 8A and 8B of the *Planning and Environment Act 1987*.
- 3.4.3 Requests that the Minister for Planning establish an advisory committee to advise on the ESD Project in accordance with Section 151 of the *Planning and Environment Act 1987*.
- 3.4.4 Finalise the documentation for the Amendment (including making minor changes to the proposed planning control that do not change its intent) and provide guidance to any Advisory Committee established by the Minister for Planning.
- 3.4.5 Place the Amendment to the Port Phillip Planning Scheme on exhibition, in accordance with Section 19 of the *Planning and Environment Act 1987*, subject to Ministerial Authorisation.
- 3.5 Writes, through the Mayor, to the Minister for Planning and Housing, Minister for Energy, Environment and Climate Change, and Minister for Local Government and Suburban Development outlining the benefits to the community of introducing an elevated Environmentally Sustainable Development planning policy into the Port Phillip Planning Scheme, and requesting that this policy be adopted as a part of the State Government's Environmentally Sustainable Development planning reforms.



4. KEY POINTS/ISSUES

Introduction

- 4.1 There are approximately 61,000 dwellings within Port Phillip and population projections predict 31,000 new dwellings will be required by 2041. Commercial development and redevelopment of existing properties will also continue to grow.
- 4.2 The developments constructed now will impact the municipality's sustainability for many years to come and more sustainable design outcomes will benefit current and future generations.
- 4.3 Council can influence the design of private developments by setting Environmentally Sustainable Development (ESD) requirements through the Port Phillip Planning Scheme. These can help to minimise energy use, water and waste, improve environmental outcomes and amenity and reduce ongoing running costs for property owners.

Current ESD planning policy and commitments

- 4.4 In 2014, the City of Port Phillip partnered with other councils to introduce two new local planning policies into the Port Phillip Planning Scheme – Clause 22.12 Stormwater Management (WSUD) and Clause 22.13 Environmentally Sustainable Development.
- 4.5 In 2015, Council co-created the Built Environment Sustainability Scorecard (BESS) online tool to support planning applicants to demonstrate how their developments achieve the policy objectives.
- 4.6 Port Phillip's current planning policy relating to ESD has improved sustainability outcomes in new developments. These outcomes as measured by the BESS tool shows that, in the last five years, new developments in Port Phillip:
 - Achieved 59% lower carbon emissions compared to buildings with minimum compliance with the National Construction Code (NCC);
 - Installed 2.32 Megawatts solar PV, equivalent to powering over 520 homes; and
 - Installed 5 Megalitres of rainwater tanks, equivalent to 5 Olympic swimming pools.
- 4.7 The City of Port Phillip's *Act and Adapt: Sustainable Environment Strategy 2018-2028* outlines our commitment to achieving zero net emissions from the community by 2050 and ensuring 50% of energy used by the community is from renewable sources by 2027/28. Achievement of these targets is dependent on buildings and development moving away from fossil fuel-based energy sources. There is also significant energy used, and therefore emissions, associated with the construction of buildings.
- 4.8 Planning controls for Fishermans Bend, introduced in 2018, have quantifiable targets for sustainable development that align with the net zero carbon goal by 2050. These include minimum energy ratings for all new developments and requirements that reduce flooding and heat impacts, such as water tanks and vegetation.
- 4.9 Similar ESD targets do not apply to other areas of the Municipality. Port Phillip's current ESD planning policy will not be sufficient to ensure new developments meet current Council commitments, or align to national or state policy and agreements. In particular, the following matters are not specifically addressed:
 - Reducing carbon emissions from construction or operation of the development;



- Providing solar photovoltaic panels;
- Improving thermal performance of buildings;
- Improving access to daylight;
- Sizing of rainwater collection systems;
- Allocation of space for separation of waste streams;
- Minimising urban heat island impacts;
- Improving vegetation coverage, type, design and maintenance;
- Improving permeability of surfaces; and
- Adapting to climate change impacts, such as heat and flooding.

Elevating Environmentally Sustainable Development (ESD) Targets Project

- 4.10 The Elevating Environmentally Sustainable Development (ESD) Targets Project (ESD Project) is led by the Council Alliance for a Sustainable Built Environment (CASBE). The project aims to build on the existing local ESD Policies held by numerous councils and deliver revised and elevated ESD targets for new developments, including targets for zero carbon development.
- 4.11 In June 2021, the City of Port Phillip signed a Memorandum of Understanding (MoU) to collaborate with CASBE on the ESD Project, in partnership with 31 Victorian councils. Council officers participate in the ESD Project working group.
- 4.12 Stage 1 of the project, developing revised objectives and standards to update ESD requirements for new developments has been completed. Analysis and strategic justification were also prepared to support these updated requirements.
- 4.13 Consultants independently reviewed the draft ESD objectives and standards. Fifteen case studies were selected from the participating councils to inform the baseline and to test the technical and development feasibility and economic implications of the revised standards. The reports (**Attachments 1, 2 and 3** to this report) were:
- 4.14 Technical ESD and Development Feasibility (14 December 2021)
- Planning Advice (March 2022); and
 - Cost Benefit Analysis (14 December 2021).
- 4.15 CASBE is now seeking commitment from councils to Stage 2 of the ESD Project through a Memorandum of Understanding (MoU) between CASBE and councils. The MOU will outline governance arrangements, including financial contributions. At the time of writing this report, 13 councils have committed to Stage 2.
- 4.16 Stage 2 pursues a collective planning scheme amendment that introduces objectives and standards for zero carbon development and elevates ESD targets implemented within planning schemes. This stage will include:
- Commencement of a joint planning scheme amendment process to add the new Particular Provision into the planning schemes of partner councils;
 - Financial analysis to consider the potential financial impact to development, such as profit margin, development yield and internal rate of return;



- Preparation of Guidelines for Sustainable Building Design, to be included as a background document in support of the new Particular Provision;
- A request to the State Government that the policy be adopted as a part of the State Government's Environmentally Sustainable Development planning reforms (CASBE will lead this process); and
- Engagement with the community (also to be led by CASBE).

Proposed Planning Scheme Amendment

- 4.17 Expert planning advice recommended that the appropriate planning mechanism to implement updated ESD development requirements is inserting a new Particular Provision into the planning schemes of partner councils (including Port Phillip).
- 4.18 Officers briefed Councillors about this proposal on 13 April 2022.
- 4.19 The proposed Particular Provision (**Attachment 4** to this report) includes objectives and standards under eight categories:
- Operational energy – involves development prioritising energy efficiency initiatives in line with the following hierarchy:
 - Thermal performance and passive design measures
 - Energy efficient systems (for example heating, cooling and ventilation) and appliances
 - Onsite renewable energy generation
 - Offsite renewable energy purchasing and/or carbon offsets.

These measures aim to minimise a development's demand on the energy grid, particularly at times of peak usage and aim to minimise the burning of fossil fuels.

Avoiding onsite use of fossil fuels, such as gas, future proofs buildings as evolving policy drives greater uptake of renewable energy. Buildings with built-in onsite fossil fuel use will be locked into using these fuels, or face expensive retrofitting costs, as state and federal policies increasingly phase them out.

- Embodied carbon – involves the use and sourcing of materials and design techniques to reduce the amount of embodied carbon in buildings. In particular, the proposed standard seeks to encourage consideration of the lifecycle impacts of resource use and support lower carbon emissions.
- Sustainable transport – includes the adoption of sustainable transport and low emission vehicle measures such as electric vehicle infrastructure, an increase in active transport and end of trip facilities such as bicycle parking and storage spaces.
- Integrated water management – includes water efficiency and potable water demand reduction, as well as, techniques to address stormwater quantity and quality onsite prior to discharging from developments into local waterways.
- Climate resilience – consideration of a development's risk to climate change impacts such as the urban heat island effect, flooding and the management of stormwater, as well as, peak energy and potable water demand.



- Green infrastructure – implementation of green infrastructure design measures, including tree canopy retention, improvement and planting of appropriate species, to contribute to the biodiversity, health and public realm amenity of a development.
 - Indoor environment quality – involves thermal comfort and safety requirements, natural ventilation and access to clean, fresh, air, with minimal exposure to harmful indoor air pollutants, as well as, ensuring that key areas of a development have access to daylight and sunlight.
 - Waste and resource recovery – includes consideration and selection of appropriate materials which have limited environmental and transportation impact, as well as, support the waste hierarchy through waste avoidance, minimisation, reuse, recycling and recovery.
- 4.20 The key differences between the current and proposed development requirements are outlined in Attachment 5.
- 4.21 A planning scheme amendment is required to introduce the new Particular Provision into the partner Councils' planning schemes, including the Port Phillip Planning Scheme. The first step of this process is a submission to the Department of Environment, Land, Water and Planning (DELWP) seeking authorisation from the Minister for Planning to prepare and exhibit the amendment.
- 4.22 Pursuing an amendment as a group of partner Councils is more likely to result in support from the Victorian Government. DELWP has advised that it is not likely that approval would be granted to a single council to pursue new planning scheme provisions that differ from other councils as this would not provide consistency and clarity for the development industry.
- 4.23 The current approach is that each council submits a separate planning scheme amendment request for authorisation by the end of June 2022 and DELWP or the Minister groups the amendments or adopts the proposed Particular Provision as part of the State Government's Environmentally Sustainable Development planning reforms.
- 4.24 It is proposed that the Minister be requested to appoint an advisory committee to review the proposal, hear submissions from the community and stakeholders and provide independent advice on the amendment.
- 4.25 There is no timeframe for completion of the planning scheme amendment. The proposed Particular Provision is different to what is usually prepared and may take a longer period to consider than more standard amendments. There are also multiple decision points for the Minister for Planning.
- 4.26 It is envisaged that, at the Advisory Committee, individual councils will have the opportunity to seek a variation to the development triggers at which the provision comes into effect. Any variation would need to be justified based on the type of development and any specific local issues.
- 4.27 The Particular Provision will be supported by Guidelines for Sustainable Building Design that will provide further information on how developers could meet the objectives and standards. These Guidelines will be developed as part of Stage 2.
- 4.28 The Built Environment Sustainability Scorecard (BESS) online tool, which most developers use to demonstrate compliance with the current ESD Policy, would be upgraded to reflect the updated development requirements.



5. CONSULTATION AND STAKEHOLDERS

- 5.1 A webinar was held for Councillors and senior officers from participating councils on 16 March 2022 to outline the outcomes of Stage 1 and provide an opportunity for Councillors to ask questions of the project consultants and working group members.
- 5.2 CASBE officers and Working Group members have engaged with DELWP.
- 5.3 A community and stakeholder engagement plan is being developed for exhibition of the planning scheme amendment. Formal community consultation is proposed to occur as part of an extended exhibition period in the planning scheme amendment process. This would be formally requested of DELWP as part of the authorisation request.

6. LEGAL AND RISK IMPLICATIONS

- 6.1 This project addresses Council's obligations under the *Local Government Act 2002* to:
 - Promote sustainability of the municipal district, including mitigation and planning for climate change risks;
 - Give priority to achieving the best outcomes for the municipal community, including future generations; and
 - Take into account regional and national plans and policies during strategic planning.
- 6.2 The proposed planning scheme amendment has been prepared in accordance with the *Planning and Environment Act 1987*.
- 6.3 Planning and legal advice confirmed that the introduction of a new Particular Provision in the planning scheme is the most appropriate planning mechanism to implement the revised ESD Objectives and Standards.
- 6.4 DELWP has advised that the Minister is unlikely to approve a planning provision that differs from other councils, should Council decide to update ESD planning requirements on its own.

7. FINANCIAL IMPACT

- 7.1 The total cost for Stage 2 of the project is estimated to be approximately \$400,000 with costs allocated out across all participating Councils. At the time of writing this report, 13 councils have committed to Stage 2. In addition to the tasks outlined above the costs include statutory fees, community and stakeholder engagement and running an advisory committee process (including legal representation and expert evidence). Costs per council will depend on the number of councils committing to Stage 2. Currently Council's budget allocation for the project is \$40,000.
- 7.2 If Council does not participate in this collaboration and then proposes to update ESD planning requirements later, it would be required to cover the full costs for the planning scheme amendment process. This would result in considerably higher costs and more demand on Council staff resources.

8. ENVIRONMENTAL IMPACT

- 8.1 Environmentally sustainable development that uses renewable energy and water efficiently will reduce the negative impact of energy and water demands on the natural environment.
- 8.2 Implementation of enhanced ESD controls and a zero-carbon planning policy in the Planning Scheme will reduce the use of fossil fuel-based energy by households,



businesses and for transport. This will result in a reduction in greenhouse gas emissions.

- 8.3 The proposed changes could increase canopy cover from vegetation and landscaping, which has positive ecosystem benefits such as improved biodiversity and mitigation of urban heat impacts.
- 8.4 Improved onsite management of stormwater quantity and quality prior to discharge from development sites will reduce the impact on the bay and waterways.

9. COMMUNITY IMPACT

- 9.1 Increased efficiency of buildings will decrease operating costs of new buildings and help realise a lower cost of living for tenants and owners.
- 9.2 Collectively improving ESD outcomes at a building scale will benefit health and liveability by providing healthy indoor environments, greener and cooler outdoor environments where natural elements are preserved and enhanced.
- 9.3 The addition of a community resilience objective will mean that developments will be designed to support a future community to adapt to the impact of climate change, including heat, flooding and sea level rise.

10. ECONOMIC IMPACT

- 10.1 The Cost Benefit Analysis completed as part of Stage 1 estimated the capital cost impacts for each of the proposed development requirements. The analysis found that benefits relating to Waste, Sustainable Transport and Energy categories were more easily quantifiable than those in Green Infrastructure and Indoor Environment Quality. Costs varied considerably across different development typologies.
- 10.2 Further financial analysis will be undertaken as part of Stage 2 of the project to consider the potential financial impact to development, such as profit margin, development yield and internal rate of return.
- 10.3 Financial and economic impacts to the development industry, future building owners and occupants and the wider community are likely to be a key consideration through the planning scheme amendment process. This will include balancing any additional upfront costs to development against reductions in operating costs, such as heating and cooling costs, over the life of a dwelling for property owners and tenants.

11. ALIGNMENT TO COUNCIL PLAN AND COUNCIL POLICY

- 11.1 The proposal will help achieve the Sustainable Port Phillip Strategic Direction in the Council Plan 2021-2031:

A City that has a sustainable future, where our environmentally aware and active community benefits from living in a bayside city that is greener, cooler, cleaner and climate resilient.

The proposal will help achieve this direction by ensuring that future development is:

- Greener – with increased green infrastructure design measures, including tree canopy retention;
- Cooler - through increased green infrastructure, and reduced greenhouse gas emissions associated with the development and operation of new buildings;



- Cleaner – through the reduction in greenhouse gas emissions and stormwater run-off, increased consideration of waste management and increased indoor air quality; and
- Climate resilient – through building design that considers future climatic conditions.

11.2 The City of Port Phillip *Act and Adapt Strategy* (2018-2028) outlines Council's commitment to zero net emissions from the community by 2050 and ensuring 50% of energy used by the community is from renewable sources by 2027/28. The proposed planning scheme amendment will contribute to achievement of these targets. It will also deliver on the following *Act and Adapt* actions:

- Action 20 – Support the community to increase the sustainability of their homes during the planning and design phase.
- Action 22 – Advocate to developers for buildings designed to achieve low energy properties and precinct above Victorian planning policy regulations.

11.3 This policy position was confirmed in September 2019 when the City of Port Phillip declared a climate emergency. The proposed planning scheme amendment will support Council's commitment to this declaration by reducing emissions and enhancing community resilience. It will guide development of zero-carbon buildings that are designed for future climatic conditions.

11.4 The proposed planning scheme amendment seeks to address limitations in existing ESD development requirements in the Port Phillip Planning Scheme.

12. IMPLEMENTATION STRATEGY

12.1 TIMELINE

12.1.1 An authorisation request to the Minister for Planning will be submitted to DELWP mid-2022.

12.1.2 Engagement with the State Government and community is proposed following lodgement of an authorisation request.

12.1.3 The timeframe for the planning scheme amendment process including granting authorisation is determined by the Minister for Planning.

12.2 COMMUNICATION

12.2.1 Informal engagement with the community is proposed following lodgement of an authorisation request to the Minister for Planning to raise awareness of the project. CASBE will lead this process on behalf of the partner councils.

12.2.2 A community and stakeholder engagement plan is being developed for exhibition of the planning scheme amendment. Formal community consultation is proposed to occur as part of an extended exhibition period in the planning scheme amendment process. This would be formally requested of DELWP as part of the authorisation request.

13. OFFICER DIRECT OR INDIRECT INTEREST

13.1 No officers involved in the preparation of this report have any material or general interest in the matter.



ATTACHMENTS

1. **Technical ESD and Development Feasibility Report - (Final)**
2. **Elevating ESD Targets Planning report (Final)**
3. **Economics Elevating ESD Targets CBA Report (Final)**
4. **Draft Amendment Documentation**
5. **Elevating ESD Targets- June 2022**