

*Planning and Environment Act 1987*

**Panel Report**

**Darebin and Manningham Planning Schemes  
Amendment GC42  
Environmentally Sustainable Development Policy**

**16 June 2016**

*Planning and Environment Act 1987*

Panel Report pursuant to Section 25 of the Act

Darebin and Manningham Planning Schemes  
Amendment GC42

Environmentally Sustainable Development Policy

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A handwritten signature in black ink, appearing to read 'Sue Porter', is displayed on a light grey rectangular background.

Sue Porter, Chair

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## List of Abbreviations

BESS	Built Environment Sustainable Scorecard
DELWP	Department of Environment, Land, Water and Planning
EEDAC	Environmental Efficiency Design Advisory Committee
ESD	Environmentally Sustainable Development
LPPF	Local Planning Policy Framework
MSS	Municipal Strategic Statement
NCC	National Construction Code
SDA	Sustainable Design Assessment
SDAPP	Sustainable Design Assessment in the Planning Process
SMP	Sustainability Management Plan
SPPF	State Planning Policy Framework

## Executive Summary

### (i) Summary

Darebin and Manningham Planning Schemes Amendment GC42 (the Amendment) was prepared by the Darebin and Manningham Councils as Planning Authorities. As exhibited, the Amendment proposes to:

#### **Darebin Planning scheme**

- Introduce a new Clause 22.12 *Environmentally Sustainable Development* into the Local Planning Policy Framework
- Update Clause 21.02 *Environment* and Clause 21.03 *Housing* to reflect the introduction of Clause 22.12.

#### **Manningham Planning Scheme**

- Introduce a new Clause 22.12 *Environmentally Sustainable Development* into the Local Planning Policy Framework
- Update Clause 21.10 – *Reference Documents* to reflect the introduction of Clause 22.12
- Amend Clause 21.16 – *Key References* to update recent review of documents.

The proposed Amendment builds on the overarching environmentally sustainable development (ESD) objectives of the State Planning Policy Framework (SPPF), the Municipal Strategic Statements (MSS) and local policies contained within both the Darebin and Manningham Planning Schemes.

The policy seeks to ensure that all development that requires a planning permit achieves best practice across a wide range of ESD principles including energy efficiency, water resources, indoor environment quality, stormwater management, transport, waste management and urban ecology.

The purpose of the Amendment is to provide statutory weight to the current voluntary approach adopted for applications under the Sustainable Design Assessment in the Planning Process (SDAPP) program, setting policy objectives and application requirements for residential, mixed use and non-residential development.

This Amendment seeks to build on the collaborative Amendment process undertaken by the Cities of Banyule (C73), Moreland (C71), Port Phillip (C97), Stonnington (C177), Whitehorse (C130) and Yarra (C133) which introduced an ESD policy into their respective Planning Schemes.

An Advisory Committee/Panel was appointed by the Minister for Planning in June 2013 to consider these Amendments and to provide advice on the applicability and suitability of including environmental sustainability requirements in planning schemes. Whilst the Committee found that a Statewide approach incorporating both planning and building approval systems would be the best way to facilitate an increased focus on sustainability, it supported the Amendments until such time as a Statewide approach was prepared. The Minister ultimately approved the Amendments, with modifications.

Of the eleven submissions received to this Amendment, eight were in support, one provided commentary, one recommended changes and one objected. The objecting submission was from the Housing Industry Association (HIA).

The submission from the HIA was an in-principle objection which sought to reiterate many of the concerns raised by the Association during the EEDAC process. These issues were extensively considered by the EEDAC. The HIA did not raise any new issues and it did not present any new evidence to the Panel.

This report deals with the issues under the following headings:

- Strategic planning context
- HIA concerns; and
- Suggested changes to the policy.

The Panel considered all written submissions, as well as submissions presented to it during the Hearing. In addressing the issues raised in those submissions, the Panel has been assisted by the information provided to it.

The Panel concludes that the Amendment is both sound and strategically justified. The issues raised by the HIA were comprehensively considered by the EEDAC. The HIA has not introduced any new arguments or evidence that has persuaded the Panel to divert from the findings of the EEDAC Report and the approach adopted in the similar Amendments which were ultimately approved by the Minister.

Based on the reasons set out in this Report, the Panel recommends:

**Darebin and Manningham Planning Schemes Amendment GC42 be adopted as exhibited subject to the following:**

- 1. Include a 12 month sunset clause in the Manningham policy.**
- 2. Amend both Clause 22.12 to replace reference to *Guide for Best Practice for Waste Management in Multi-Unit Developments* (Sustainability Victoria, 2010) with *Improving Resource Recovery in Multi-Unit Developments*.**
- 3. Amend Darebin proposed Clause 21.02 in accordance with the changes identified in Appendix B.**

# 1 Introduction

## 1.1 Panel process

Darebin and Manningham Planning Schemes Amendment GC42 (the Amendment) was prepared by the Darebin and Manningham Councils as Planning Authority. As exhibited, the Amendment proposes to:

### Darebin Planning scheme

- Introduce a new Clause 22.12 *Environmentally Sustainable Development* into the Local Planning Policy Framework; and
- Update Clause 21.02 *Environment* and Clause 21.03 *Housing* to reflect the introduction of Clause 22.12.

### Manningham Planning Scheme

- Introduce a new Clause 22.12 *Environmentally Sustainable Development* into the Local Planning Policy Framework
- Update Clause 21.10 – *Reference Documents* to reflect the introduction of Clause 22.12; and
- Amend Clause 21.16 – *Key References* to update recent reviews of documents.

The Amendment was authorised by the Department of Environment, Land, Water and Planning (DELWP) on 28 April 2016.

The Amendment was placed on public exhibition between 11 February – 15 March 2016, with one opposing submission received.

At their meetings of 18<sup>th</sup> April 2016 and 26 April 2016, the Darebin and Manningham Councils respectively resolved to refer the submissions to a Panel. As a result, a Panel to consider the Amendment was appointed under delegation from the Minister for Planning on 28 April 2016 and comprised Sue Porter (Chair).

A Directions Hearing was held in relation to the Amendment on 9 May 2016.

The Panel then met in the offices of PPV on 6 June 2016 to hear submissions about the Amendment. Those in attendance at the Panel Hearing are listed in Table 1.

Table 1 Parties to the Panel Hearing

Submitter	Represented by
Darebin and Manningham City Councils	Ms Christine Richardson, Planning Appeals Advocate assisted by Ms Melissa Thyer – Senior Strategic Planner - Darebin City Council and Ms Christine Rivero – Senior Strategic Planner – Manningham City Council
Housing Industry Association	Mr Michael Hermon, Assistant Director, Housing Industry Association (HIA)

## 1.2 The proposal

The Amendment proposes to:

### Darebin Planning scheme

- Introduce a new Clause 22.12 *Environmentally Sustainable Development* into the Local Planning Policy Framework; and
- Update Clause 21.02 *Environment* and Clause 21.03 *Housing* to reflect the introduction of Clause 22.12.

### Manningham Planning Scheme

- Introduce a new Clause 22.12 *Environmentally Sustainable Development* into the Local Planning Policy Framework
- Update Clause 21.10 – *Reference Documents* to reflect the introduction of Clause 22.12; and
- Amend Clause 21.16 – *Key References* to update recent review of documents.

#### (i) Purpose of the Amendment

The Amendment builds on the overarching environmentally sustainable development (ESD) objectives of the State Planning Policy Framework (SPPF), the Municipal Strategic Statements (MSS) and local policies contained within both the Darebin and Manningham Planning Schemes.

The policy seeks to ensure that all development that requires a planning permit achieves best practice across a wide range of ESD principles including energy efficiency, water resources, indoor environment quality, stormwater management, transport, waste management and urban ecology.

The purpose of the Amendment is to provide statutory weight to the current voluntary approach adopted for applications under the Sustainable Design Assessment in the Planning Process (SDAPP) program, setting policy objectives and application requirements for residential, mixed use and non-residential development.

## 1.3 Background to the proposal

Both Councils have a strong commitment towards achieving sustainable development, supported by their planning schemes and the implementation of the SDAPP program for many years.

SDAPP has however, been a voluntary program. Both Councils are seeking to provide statutory weight to this voluntary approach through the implementation of these policies.

This Amendment seeks to build on the collaborative Amendment process undertaken by the Cities of Banyule (C73), Moreland (C71), Port Phillip (C97), Stonnington (C177), Whitehorse (C130) and Yarra (C133) which introduced an ESD policy into their respective Planning Schemes.

An Advisory Committee/Panel was appointed by the Minister in June 2013 to consider these Amendments and to provide advice to the Minister for Planning on the applicability and suitability of including environmental sustainability requirements in planning schemes.

Whilst the Committee found that a Statewide approach incorporating both planning and building approval systems would be the best way to facilitate an increased focus on sustainability, it supported the Amendments until such time as a Statewide approach was prepared. The Minister ultimately approved the Amendments, with modifications.

#### **1.4 Issues dealt with in this report**

The Panel considered all written submissions, as well as submissions presented to it during the Hearing. In addressing the issues raised in submissions, the Panel has been assisted by the information provided to it.

The Panel notes that of the 11 submissions received, eight were in support, one provided commentary, one recommended changes; and one objected. The objecting submission was from the Housing Industry Association (HIA).

This report deals with the issues under the following headings:

- Strategic planning context
- HIA concerns; and
- Suggested changes to the policy.

## 2 Strategic planning context

Council provided a response to the Strategic Assessment Guidelines as part of the Explanatory Report.

The Panel has reviewed the policy context of the Amendment and made a brief appraisal of the relevant policy other relevant planning strategies.

### 2.1 Policy framework

#### (i) State Planning Policy Framework

Councils submitted that the Amendment is supported by the following clauses in the SPPF:

- **Clause 11.04-4 – Settlement – Liveable communities and neighbourhoods** – seeks to create healthy and active neighbourhoods and maintain Melbourne’s identity as one of the world’s most liveable cities. A strategy aims to achieve and promote design excellence.
- **Clause 11.04-5 – Settlement – Environment and Water** – seeks to protect natural assets and better plan our water, energy and waste management systems to create a sustainable city.
- **Clause 12 – Environment and Landscape values - Protection of biodiversity** – seeks to assist in the protection and conservation of Victoria’s biodiversity, including important habitat for Victoria’s flora and fauna and other strategically valuable biodiversity sites.
- **Clause 14.02 & 3 – Water – Water quality & Water conservation** – seek to protect water quality and ensure that water resources are managed in a sustainable way.
- **Clause 15.02-1 – Built Environment and Heritage - Sustainable development – Energy and Resource Efficiency** – seeks to encourage land use and development that is consistent with the efficient use of energy and the minimisation of greenhouse gas emissions.
- **Clause 16.01-1 – Residential development - Integrated housing** – seeks to promote a housing market that meets community needs, and in particular encourages housing that is both water and energy efficient.
- **Clause 16.01-4 – Residential development – Housing Diversity** – seeks to provide for a range of housing types to meet increasingly diverse needs; with a strategy being to encourage development of well-designed medium density housing which improves energy efficiency.
- **Clause 16.01-5 – Residential development – Housing Affordability** – seeks to promote the delivery of more affordable housing closer to jobs, transport and services; with a strategy being to promote good housing and urban design to minimise negative environmental impacts and keep costs down for residents and the wider community.

- **Clause 17 – Economic development** – seeks to facilitate development to consider risk averse measures for impacts such as climate change, recognising that minimising built form energy use also contributes to reducing peak load and strains on energy infrastructure and makes energy available to be used elsewhere in the supply system.
- **Clause 18.01-1 – Integrated transport – Land Use and Transport Planning** – seeks to create safe and sustainable transport system by integrating land use and transport.
- **Clause 18.02-1 – Integrated transport – Sustainable personal transport** – seeks to promote the use of sustainable personal transport; with one strategy being to ensure development provides opportunities to create more sustainable transport options such as walking, cycling and public transport.
- **Clause 18.02-2 – Integrated transport – Cycling** – seeks to integrate planning for cycling with land use and development planning and encourage it as an alternative mode of travel.
- **Clause 19.01-1 – Infrastructure – Provision of renewable energy** – seeks to promote the provision of renewable energy in a manner that ensures appropriate siting and design considerations are met.
- **Clause 19.03-2 – Infrastructure – Water supply, sewerage and drainage** – seeks to plan for the provision of water supply, sewerage and drainage services that efficiently and effectively meet State and community needs and protect the environment.
- **Clause 19.03-3 – Infrastructure – Stormwater** – seeks to reduce the impact of stormwater on bays and catchments.

(ii) **Local Planning Policy Framework**

**Darebin Local Planning Policy Framework**

Council submitted that the Amendment supports the following local planning objectives:

- **Clause 21.01** – identifies sustainability as being central to the Council’s missions that contains a goal of *“Sustainable and resilient neighbourhoods as part of achieving rapid transition to an environmentally sustainable city.”*
- **Clause 21.02-3 – Environment – Built Environment** – seeks to promote and facilitate best practice environmentally sustainable design and promote sustainable living and business practices. It also encourages the preparation of Sustainable Design Assessments and Sustainability Management Plans for residential, mixed use, industrial and commercial developments as part of the planning permit approval process; and by providing specific local guidance and policy thresholds where the policy would apply.
- **Clause 21.03 – Housing** – seeks to encourage the preparation of Sustainable Design Assessments and Sustainability Management Plans for residential, mixed use, industrial and commercial developments as part of the planning permit approval process.

- **Clause 21.05 – Transport** – seeks to facilitate an integrated approach to transport and land use planning, which amongst other things, seeks to encourage sustainable transport modes to reduce parking demand.
- **Clause 21.05-3 – Physical and Community Infrastructure** - seeks to establish suitable approaches to both short and long term infrastructure needs as the City experiences new and more intensive development, including stormwater management.
- **Clause 22.06-3.1 – Multi-Residential and Mixed Use Development - Sustainability Objectives** – seeks to facilitate development that demonstrates the application of environmentally sustainable design principles, and in particular, to achieve highly energy and water efficient development; and to achieve sustainable development with a high level of internal amenity.

### ***Manningham Local Planning Policy Framework***

Council submitted the Amendment supports the following local planning objectives:

- **Clause 21.10– Ecologically Sustainable Development** – identifies the need to investigate the appropriateness of a Local Planning Policy to guide sustainable development for the municipality as further strategic work. It identifies energy conservation, water conservation, protecting human health, protecting and enhancing the built, natural and cultural environments as key ESD principles.
- **Clause 21.12 – Infrastructure** – notes an over-reliance on car based transport is an environmental and social concern and seeks to increase the usage of public transport, integrate the capture and re-use of water within developments and encourage the use of recycled water.
- **Clause 22.17 – Eastern Golf Course Key Redevelopment Site Policy** – reinforces the need for future development to respond to sustainable development principles and provide guidance in achieving sustainability in the most efficient way.

### **(iii) Other planning strategies or policies used in formulating the Amendment**

#### ***Darebin Housing Strategy 2013***

Seeks to support and facilitate residential development that responds to best practice environmental design guidelines and promote housing development on sites that exhibit good access to public transport infrastructure.

## **2.2 Planning scheme provisions**

Whilst not referred to by the Councils, the Panel notes the following particular provisions are also relevant.

Many of these were also identified by Mr Hermon in his submission on behalf of the HIA.

### **(i) Particular provisions**

**Clause 52.34 Bicycle facilities** – This clause seeks to encourage cycling as a mode of transport and to provide secure, accessible and convenient bicycle parking spaces and associated shower and change facilities. The Clause specifies the bicycle facilities required to

be provided for a range of the uses, including a 'Dwelling' in developments of four or more storeys and commercial and industrial developments, as well as a range of community uses.

**Clause 54 – One Dwelling on a lot** – This clause seeks to implement the SPPF and the LPPF. In doing so, it also seeks to achieve residential development that provides reasonable standards of amenity for existing and new residents.

Specifically, Clause 54.01-1 *Neighbourhood and Site Description* requires a range of information be provided with an application, one of which is solar access to the site and surrounding properties. Clause 54.01-2 *Design response* specifies the design response must explain how the design responds to the site description and achieves the objectives of Clause 54. This Clause includes a number of specific objectives which relate to elements relevant to energy efficiency and these include the following:

- **Clause 54.03-4 – Permeability objective** – seeks to reduce the impact of increased stormwater run-off on the drainage system and to facilitate on-site stormwater infiltration. Standard A6 specifies a minimum area that should be covered by pervious surfaces, as well as a range of decision guidelines.
- **Clause 54.03-5 – Energy efficiency protection objective** – seeks to achieve and protect energy efficient dwellings and ensure the orientation and layout of development reduces fossil fuel energy use and makes appropriate use of daylight and solar energy. Standard A7 specifies dwellings should be oriented to make appropriate use of solar energy with specific reference to the location of windows and living spaces, emphasising developments should be designed so as not to unreasonably reduce the energy efficiency of existing dwellings on adjoining lots.
- **Clause 54.04-3 – Daylight to existing windows objective** – seeks to allow adequate daylight into existing habitable room windows and specifies a standard for how this is to be achieved.
- **Clause 54.04-4 – North-facing window objective** – seeks to allow adequate solar access to existing north facing habitable room windows and specifies a standard for how this is to be achieved.
- **Clause 54.05-1 – Daylight to new windows objective** – seeks to allow adequate daylight into new habitable room windows and specifies a standard for how this is to be achieved.
- **Clause 54.05-3 – Solar access to open space objective** – seeks to allow solar access into the secluded private open space of a new dwelling and specifies a standard for how this is to be achieved.

It needs to be recognised these only applies to single dwellings where a permit is triggered and does not apply to all single dwelling developments.

**Clause 55 Two or more dwellings on a lot and Residential Buildings** – This clause seeks to implement the SPPF and the LPPF. In doing so, it also seeks to achieve residential development that provides reasonable standards of amenity for existing and new residents (amongst others). Clause 55.01-1 – *Neighbourhood and Site Description* - requires a range of information be provided with an application, one of which is solar access to the site and surrounding properties. Clause 55.01-2 – *Design response* – specifies the design response must explain how the proposed design responds to the site description and achieves the

objectives of the Clause 54. This Clause includes a number of specific objectives which relate to energy efficiency including:

- **Clause 55.03-4 – Permeability objectives** – seeks to reduce the impact of increased stormwater run-off on the drainage system and to facilitate on-site stormwater infiltration. Standard B9 specifies a minimum area that should be covered by pervious surfaces, which can be varied in the Schedule to the zone.
- **Clause 55.03-5 – Energy efficiency protection objectives** – seeks to achieve and protect energy efficient dwellings and to ensure the orientation and layout of development reduce fossil fuel energy use and makes appropriate use of daylight and solar energy. Standard B10 specifies dwellings should be oriented to make appropriate use of solar energy with specific reference to the location of windows and living spaces emphasising developments should be designed so as not to unreasonably reduce the energy efficiency of existing dwellings on adjoining lots.
- **Clause 55.04-3 – Daylight to existing windows objective** – seeks to allow adequate daylight into existing habitable room windows and specifies a standard for how this is to be achieved.
- **Clause 55.04-4 – North-facing window objectives** – seeks to allow adequate solar access to existing north facing habitable room windows and specifies a standard for how this is to be achieved.
- **Clause 55.04-5 – Overshadowing open space objective** – seeks to ensure buildings do not significantly overshadow secluded private open space and specifies a standard for how this is to be achieved.
- **Clause 55.05-3 – Daylight to new windows objective** – seeks to allow adequate daylight into new habitable room windows and specifies a standard for how this is to be achieved.
- **Clause 55.05-5 – Solar access to open space** – seeks to allow solar access into the secluded private open space of a new dwelling and specifies a standard for how this is to be achieved.

## 2.3 Ministerial Directions

Council submitted the Amendment meets the relevant requirements of the following Ministerial Directions:

### ***The Form and Content of Planning Schemes (s7(5))***

The Amendment is consistent with the Ministerial Direction on the Form and Content of Planning Schemes under Section 7(5) of the Act.

### ***Ministerial Direction No 9 – Metropolitan Strategy***

The Amendment is consistent with the Ministerial Direction 9 (Metropolitan Strategy)

### ***Ministerial Direction No 11 - Strategic Assessment of Amendments***

The Amendment is consistent with Ministerial Direction 11 (Strategic Assessment of Amendments).

## **2.4 Discussion**

The Panel concludes the Amendment is supported by, and implements, the relevant sections of the State and Local Planning Policy Framework.

The Panel concludes that the Amendment is well founded and strategically justified subject to addressing the more specific issues raised in submissions as discussed in the following chapters.

### 3 HIA concerns

#### 3.1 Are these policies necessary or appropriate?

##### (i) The issue

Whether these ESD local policies are required or appropriate given the range of other policy and regulation that already exists?

##### (ii) Evidence and submissions

Mr Hermon on behalf of the HIA submitted it is not against incorporating ESD measures into development, but has a principle objection to the use of policies in planning schemes (as they apply to residential properties) that will impose another layer of assessment and control that is not warranted in the development approval process. Mr Hermon submitted that builders and developers are already required to obtain numerous approvals when building a house including building approval, approval for connection to water and drainage/sewerage requirements; and through these approvals, development is already meeting appropriate environmental design standards.

Mr Hermon submitted that four of the seven objectives in the proposed policies are already adequately addressed by the National Construction Code (NCC), these being Energy Efficiency, Water Resources, Indoor Environment Quality and Stormwater Management; and repeating them will only serve to create regulatory duplication which is contrary to the creation of more efficient local government system.

Mr Hermon also submitted that because the remaining three objectives, including Transport, Waste Management and Urban Ecology are already adequately dealt with through the SPPF and other particular provisions, they should not also be included in local policies. He submitted the policies, which require an application be accompanied by a Sustainability Management Plan (SMP) or a Sustainable Design Assessment (SDA), are premature and unnecessary, as often not all of the technical detail has been resolved and it is unreasonable to impose such requirements at this early stage. He submitted builders need flexibility in choosing producers and incorporating design amendment later in the design process and therefore this is not practical.

In support of his submission, Mr Hermon provided a table which cross referenced the proposed Clause 22.12 objectives and the other existing regulatory mechanisms, policy and guidelines.

Mr Hermon also submitted that in preparing this Amendment, the Councils have not undertaken any original or sufficient analysis of other development regulations and have just relied on the work of other Council's and EEDAC.

The Boroondara City Council supports the proposed Amendment, however, identifies its preference for these requirements to be included within the SPPF and the Building Regulations to ensure the same standards apply to all development, not just those subject to a planning permit. It was submitted that *"Our Council believe the introduction of standardised ESD requirements through the SPPF and/or Building Regulations would help*

*formalise this process and ensure there is consistency and certainty across Councils as to what is expected from applicants. This will help to expedite the planning permit process as the expectations and requirements will be clear and the need for further information requests reduced.”*

### **(iii) Discussion**

The Panel notes that whilst Mr Hermon criticised Councils for not undertaking any original or sufficient analysis of other development regulations in support of these Amendments, relying on the work of other Council's, the Panel notes the HIA itself has not introduced any new information, evidence or arguments to suggest the policies should not be supported. The arguments presented to this Panel are almost identical to those presented to and considered extensively by both EEDAC Hearing process; and Monash Amendment C113.

Whilst the HIA made it clear its objection relates to the principle of the Amendment, the issues it raised at this Hearing were comprehensively considered by the EEDAC and introduce nothing that justifies diverting from the findings of the EEDAC report.

The submissions also raised by Boroondara City Council were considered by EEDAC.

This Panel does not intend to repeat the EEDAC findings in detail, rather referring the reader to that report, but it will address some of the key finding, which included:<sup>1</sup>

- *There is a strong legislative and policy framework that supports the need for sustainable development and which recognises that both planning and building have a significant role to play in achieving it.*
- *There is a role and a statutory obligation for planning to advance sustainability.*
- *Whilst the existing State Planning Policy Framework and Victoria Planning Provisions provide a good starting point for the inclusion of sustainability, there are clear areas for improvement.*
- *The role of planning in achieving sustainability is limited by the fact that it can only influence development that requires a planning permit.*
- *A Statewide approach to sustainability in planning would be the most effective way to achieve the greatest sustainability outcomes; however, there is still a potential role for local policies to play in achieving greater local sustainability outcomes.*
- *Any local approach should include a sunset clause that would enable the review of these policies upon the introduction of any Statewide approach.*
- *The fact that the building regulatory system is generally not involved at the initial design stage of a development, when the orientation and internal layout of buildings is determined, can result in a less desirable design outcome, even though the minimum thermal; energy rating is met.*
- *The involvement of planning at the initial site planning stage enables the orientation, internal layouts and sites development to be dealt with in a manner that may assist at the building approval stage in achieving the best*

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<sup>1</sup> Chapter 15.1

*design outcome in achieving the minimum or even a higher thermal energy rating of the building.*

- *The approach to sustainability in planning schemes be further reviewed to provide a more coherent, strengthened approach to implementation. This should be based on a Statewide approach and include stronger, higher guidance in the State Planning Policy Framework and Clause 65, as a minimum, with consideration of a range of options.*

The Panel supports the position adopted by EEDAC and re-emphasises that until such time as a consistent Statewide approach is adopted, it is appropriate for policies such as these to be included in local planning policies.

It is noted the Minister for Planning supported the findings of the EEDAC and subsequently approved the six Amendments; thus creating a clear precedence for the merit of including ESD policies into the planning schemes.

Nothing in the HIA submission has persuaded the Panel that it should adopt a different approach to this Amendment.

One area of difference relates to sunset clauses. The Panel notes the EEDAC recommended sunset clauses for the various policies, which were ultimately included in the policies approved by the Minister. Whilst the proposed Darebin policy has a sunset clause, the proposed Manningham Policy does not. At the Hearing, Ms Rivero on behalf of the Manningham Council, advised that the sunset clause was omitted based on the advice of DELWP as Council understood that an announcement about a Statewide approach to the ESD was imminent and therefore the sunset clause was not warranted.

Whilst a Statewide approach may be imminent, this Panel is not aware of anything being announced or any imminent release of a Statewide approach. Until such time as one is announced, for the sake of consistency, the Panel considers a sunset clause should be included within the Manningham policy.

#### **(iv) Conclusions and recommendation**

The Panel concludes there is strong policy support for the inclusion of the proposed ESD policies within the local planning policy framework and supports them.

The Panel recommends:

- 1. Include a 12 month sunset clause in the Manningham policy.**

### **3.2 Contravenes the role of the National Construction Code**

#### **(i) The issue**

Whether the proposed policies will contravene the National Construction Code (NCC)?

#### **(ii) Submissions**

The HIA submitted that the proposed policies will overlap and contravene the role of the NCC for buildings.

Ms Richardson submitted the policy does not overlap or contravene the role of the NCC. She submitted the NCC only seeks to achieve minimum compliance, whereas considering and incorporating ESD at the planning stage allows an opportunity to exceed minimum compliance through using basic passive design principles which is best done at the project conception stage. She submitted the NCC does not cover passive design, water use reduction (except for class 1 buildings), stormwater pollution, materials, waste, bike parking and urban ecology which all need to be considered early to create a sustainable building. She submitted they do not necessarily add to the cost of a development, but rather require careful planning and design as if left to the building permit stage, many cannot be incorporated without costly changes and amendments to the planning permit.

Ms Richardson also made reference to the EEDAC report which addressed this issue and stated<sup>2</sup>:

*The Committee considers that there is little disagreement on this point; that is the minimum standards approach in the NCC is the 'bottom line' on this issue. The Committee does not consider this precludes, or should preclude, those Councils wishing to achieve a better outcome, provided it is not done via a mandatory control which imposes standards inconsistent with the NCC.*

and

*Whilst concern was raised the policies seek to achieve 'best practice' and this will lead to conflict with the objective of the NCC which seeks to prevent 'worst practice', in the Committee's opinion this need not be the case. Where planning consent is required for buildings and works, based on the objectives of the Planning and Environment Act 1987 and SPPF, it is reasonable to require an application to include an assessment that identifies the environmental targets and performance of a building.*

*As presently drafted, the SDAPP Fact Sheets recommend that design exceed the DTS provisions of the BCA. This is clearly the expressed outcome sought by Councils using the SDAPP process. The BCA sets the minimum standard, and the planning system through the SDAPP process encourages applicants to go further.*

*While this encouragement to achieve higher standards is of a non-compulsory nature, the Committee does not have significant concern that the planning system is usurping, rather than complementing, the building system. The fact that the SDAPP Fact Sheets are proposed to be reference documents in the local policies, should ensure that the 'encouragement' focus is retained, rather than a compulsory set of alternative standards ...*

*The Committee considers the development of a Statewide approach should specifically consider the role of building and how the planning system can complement it.*

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<sup>2</sup> Page 30

**(iii) Discussion**

The issues raised by the HIA were comprehensively considered by the EEDAC and the HIA has not introduced any new information or evidence that has persuaded this Panel to divert from the findings of the EEDAC report.

This Panel does not intend to repeat the EEDAC findings in detail, but rather refer the reader to Chapters 5, 6 and 7 of that report, but it will address some of the key finding, which included:<sup>3</sup>

- *All built form can incorporate elements of sustainability but there are divergent opinions as to when and how this is to be achieved and to what extent.*
- *The fact that the building regulatory system is generally not involved at the initial design stage of a development, when the orientation and internal layout of buildings is determined, can result in a less desirable design outcome, even though the minimum thermal energy rating is met.*
- *The involvement of planning at the initial site planning stage enables the orientation, internal layouts and site development to be dealt with in a manner that may assist at the building approval stage in achieving the best design outcome in achieving the minimum or even higher thermal energy rating of the building.*
- *There is a clear need for an integrated planning and building approach to achieve sustainable outcomes.*

The Panel supports the findings of the EEDAC report.

**(iv) Conclusions**

The Panel concludes the proposed policies will not contravene the NCC, but rather build upon them.

**3.3 Consistency with VCAT decisions and previous Panels**

**(i) The issue**

Are the proposed policies are consistent with the approach adopted by VCAT?

**(ii) Submissions**

The HIA submitted that the proposed policies go against decisions made at VCAT regarding what is reasonable for local governments to require as part of planning permits.

Mr Hermon submitted the HIA is aware of the various VCAT cases since 2003 which have considered whether it is appropriate that environmental sustainability should be dealt with through the planning or some other regulatory/development approval system. He submitted that what has come to light through these VCAT hearings and Panel reports is *“that planning approval is not a stand-alone approval that can or should attempt to provide all the solutions to all possibilities. Obtaining planning approval is the first statutory*

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<sup>3</sup> Chapter 15.1

*approvals process when embarking on a development approvals process, the planning approval is vitally important as it establishes an in principle approval for a proposal to proceed along the development approvals process which include a range of private and public matters to be considered; securing further finance, building approval, agreements and contributions with servicing authorities, marketing strategies etc”.*

Ms Richardson referred to the substantial body of VCAT decisions identified in the EEDAC report which supported the need to incorporate ESD design into developments, and at an early stage. She also specifically referred to a recent VCAT - Red Dot decision in the matter of *G3 Projects Pty Ltd v Yarra CC & Anor* [2016] VCAT 373, dated 9 March 2016, which reviewed a decision by the Yarra Council to refuse a proposal for a 10 storey building on the grounds that it did not meet the ESD objectives in relation to adequate daylight contained within the recently introduced ESD policy. Ms Richardson submitted this decision emphasises that the policy calls for ‘best practice’, not acceptable or minimum ESD outcomes and that the use of BESS is one of the ways this is measured. She submitted this decision demonstrates continued support for the incorporation of ESD design features above and beyond minimum standards through the planning process.

### **(iii) Discussion and conclusion**

The Panel notes that whilst Mr Hermon submitted the proposed policies go against decisions made at VCAT, he did not refer to any specific decisions in support of his submission.

The approach adopted by VCAT towards the issue of sustainability was comprehensively considered by the EEDAC, which stated:

*VCAT decisions have consistently supported the principle of sustainability and incorporating energy efficiency in development. There has been variation in the decisions about how this is achieved, how far it should go and whether it should be a planning or building approval matter.*

Chapter 5.3 of that report outlines the most relevant decisions. Rather than repeat them, the Panel refers the reader to that report.

Mr Hermon did not introduce any new information or evidence that persuaded this Panel to divert from the findings of the EEDAC report.

The Panel supports the findings of the EEDAC report and concludes that there should be no change to the Amendment.

## **3.4 Cost benefit analysis and housing affordability**

### **(i) The issue**

Whether the policies have been tested through a rigorous and comprehensive cost benefit analysis and will impact on housing affordability?

### **(ii) Submissions**

The HIA submitted that the proposed policies have not been tested through a rigorous and comprehensive cost benefit analysis and that there should have been a “*more analytical and*

*detailed response provided*” rather than relying on the work undertaken by EEDAC and the associated six Council’s that have policies in place.

Mr Hermon submitted the economic effects associated with this Amendment are negative and far reaching as the duplicated regulation will introduce added cost to the front end of development approvals process, which must then be passed on to the end purchaser, thereby impacting on housing affordability.

He also questioned whether Councils have the resources to properly implement the policies or whether assessments would need to be outsourced adding to processing delays and increased costs to the builder/developer.

Ms Richardson submitted the issue of cost benefit analysis was considered by EEDAC which found there are clear positive economic, social and environmental benefits to be gained through improved sustainable development outcomes in planning and quoted the EEDAC report stating:

*The proposed Local Policies are unlikely to impose an unreasonable impost on the resources and administrative costs of participating Councils.*

*The proposed Local Policies are unlikely to impose an unreasonable regulatory cost burden on applicants.*

She submitted that whilst EEDAC considered evidence in relation to cost benefit analysis, which was subject to cross-examination, the Committee identified that no other parties called evidence to refute the expert witnesses fundamental findings that *“For all the development types, including single dwellings, there is a significant positive cost benefit ratio.”*

Ms Richardson submitted the key benefit of including the proposed ESD policies in the planning scheme is that sustainable design can be cost effectively incorporated at the initial planning stage with little additional upfront cost and can minimise ongoing servicing and operating costs.

In response to Mr Hermon’s submission that the policies would have a negative impact on housing affordability, Ms Richardson referred to the EEDAC report<sup>4</sup> which stated:

*The Committee notes submissions that raise housing affordability as a reason for not implementing more effective sustainability outcomes. However, the Committee was not presented with evidence of this and numerous submitters suggested that improved life cycle costs over the life of the dwelling would more than negate higher capital costs, if indeed there are higher capital costs. In addition, the Committee agrees there is credence to the argument presented by Darebin City Council that affordability considerations need to go further than just construction cost, and should also consider ongoing servicing costs.*

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<sup>4</sup> Page 67

### **(iii) Discussion**

The Panel notes that whilst Mr Hermon criticised Councils for not undertaking a rigorous and comprehensive cost benefit analysis, rather relying on the work of other Council's; the HIA has not introduced any new information, evidence or arguments to suggest the policies will have a negative cost benefit impact or that they will have a negative impact on housing affordability.

The Panel is aware these issues were comprehensively considered by the EEDAC. The Panel does not intend to repeat the EEDAC findings in detail, but rather refer the reader to Chapter 8 of that report, but it will refer to some of the key findings, which included:<sup>5</sup>

- *There are clear positive economic, social and environmental benefits to be gained through improved sustainable development outcomes in planning.*
- *The proposed Local Policies are unlikely to impose an unreasonable impost on the resources and administration costs of participating Councils.*
- *The consideration of 'affordability' should extend beyond construction and consider ongoing servicing costs.*

The Panel supports the findings of the EEDAC report.

The HIA has not introduced any new information or evidence that has persuaded the Panel to divert from the findings of the EEDAC report.

### **(iv) Conclusions**

No change to the Amendment.

## **3.5 Alternatives to a local policy have not been considered**

### **(i) The issue**

Are alternatives to the planning approach to achieve sustainability?

### **(ii) Submissions**

Mr Hermon submitted that the proposed ESD policies are not the most effective means to encourage the adoption of improved environmental buildings standards and innovation and that Councils could consider investing in capacity building educational and recognition programs, such as the HIA GreenSmart program.

Ms Richardson submitted that both the Darebin and Manningham Councils have been implementing SDAPP on a voluntary basis for many years now and provide support for builders and developers to assist with incorporating ESD features into developments. The introduction of these policies is intended to formalise an approach which is considered almost mainstream for residents and developers within the municipalities.

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<sup>5</sup> Chapter 15.1

**(iii) Discussion**

The Panel notes the effectiveness of the alternative approach identified by Mr Hermon was considered by EEDAC, which found *“Other initiatives are an important component of achieving sustainable development outcomes, however they need to be part of a package of measures supported by a strong and clear planning and building regulatory framework.”*

This Panel supports this finding and refers the reader to the EEDAC report (Chapter 10) to read an analysis of a range of other initiatives which can be adopted to support sustainability. The Panel does not, however, see this as a reason to not support the Amendment.

**(iv) Conclusions**

No change to the Amendment.

### **3.6 Enforcement issues and difficulties for a Building Surveyor**

**(i) The issue**

Whether the proposed policies create enforcement issues and difficulties for Building Surveyors?

**(ii) Submissions**

Whilst the HIA submitted the policies would create enforcement issues and difficulties for Building Surveyors in his initial submission to this Amendment, Mr Hermon did not discuss these issues at the Hearing.

**(iii) Discussion**

Despite being identified as issues by HIA, the Panel notes that Mr Hermon did not seek to make submissions relating to these issues at the Hearing. Through questioning, Mr Hermon withdrew any references to concerns in relation to enforcement.

In relation to difficulties experienced by the Building Surveyors, when questioned by the Panel, Mr Hermon advised the HIA had not received any complaints from Building Surveyors in relation to the implementation of the six existing policies approved by the Minister. He submitted the concern was raised by the Association Board in anticipation of the likely problems, rather than Building Surveyors themselves relating direct experience with the implementation of the policies.

The Panel asked similar questions of the Council and was advised the Council have not experienced any greater difficulties with/for Building Surveyors than usual. Darebin Council did acknowledge, however, that a potential issue relates to ensuring compliance with planning permits through to the building permit stage, ensuring ESD features are incorporated into the final built product. It was acknowledge this is an area where greater assurance of compliance and potentially enforcement will be required, and an area for process improvement. The Panel agrees with Council’s submission that going forward there will be a need to develop a mechanism to ensure that ESD features committed to in a

planning permit are in fact implemented and incorporated in the building. The Panel does not, however, see this as a reason why the policies should not be supported.

The Panel notes this issue was acknowledged by the EEDAC<sup>6</sup> when it said:

*One of the benefits of the planning system is that where sustainability measures are proposed or required as conditions of a planning permit, there is the scope to enforce these approved developments to ensure the sustainability measures are implemented. What is required is a mechanism to facilitate this. This would normally involve an inspection of the completed development, which would require resourcing. An alternative may be for an applicant, or its consultant, to certify the required work has been undertaken.*

**(iv) Conclusions**

No change to the Amendment.

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<sup>6</sup> Page 48

## 4 Suggested changes to the policy

### 4.1 HIA suggested changes to Clause 22.12

#### (i) The issue

Whether changes are required to Clause 22.12-4 – *Application Requirements*?

#### (ii) Submissions

Whilst the original submission by the HIA submitted the proposed Table 1 – ESD Application Requirements and the Example Tool proposed (BESS, STORM) should be amended, at the Hearing, Mr Hermon clarified the Association’s concern relates to the emphasis of the *Application Requirements* which state “A Sustainable Design Assessment ***will usually not need to be prepared by a suitably qualified professional***” (Panel emphasis). He submitted this statement is misleading as there is a component of an SDA that will always need to be completed by a suitably qualified professional, and the need to engage this person will come at an unwarranted cost or benefit to the overall cost of the planning application. He submitted it should read “*may be needed*” to more accurately reflect the likely potential need to engage professional assistance in the preparation of the SDA.

Ms Richardson submitted that most people proposing to undertake developments engage the services of an architect or a draftsman who are capable of preparing the SDAs. Similarly, she submitted the tools provided are interactive and user friendly and that Council provides assistance to people who may be having difficulty in preparing the assessments. She also submitted that Council has been implementing SDAPP on a voluntary basis for many years now, and for the Darebin community, preparation of these assessments as part of development proposals is “*just business as usual.*”

For this reason, the Councils were not supportive of the recommended change to the wording.

#### (iii) Discussions

Whilst the Panel recognises Mr Hermon’s submission related to emphasis and transparency, the Panel does not consider the policy as written suggests there will never be the need for professional assistance in the preparation of an assessment. It just emphasises that in most instances Council does not consider that will be the case.

The Panel is satisfied, based on the submissions of Council, that if such assistance is required, and particularly for smaller projects which may not have professional design assistance, that the Councils can assist builders/developers through in-house ESD support without having to engage an independent ESD expert. For larger projects, which involve a variety of design professionals, the need to address ESD principles should not be an onerous task for these professionals.

#### (iv) Conclusion

No change to the Amendment.

## 4.2 Waste management

### (i) The issue

Whether reference to a specific reference document should be amended?

### (ii) Submissions

Sustainability Victoria submitted the policies refer to the *Guide for Best Practice for Waste Management in Multi-Unit Developments* (Sustainability Victoria, 2010) as a Reference Document; however, this guide is no longer supported by Sustainability Victoria and has been withdrawn from circulation. It recommended this reference be removed.

Sustainability Victoria also advised that the Metropolitan Waste and Resource Recovery Group is currently running the *Improving Resource Recovery in Multi-Unit Developments* program, with a key objective to provide practical tools to help responsible authorities and applicants improve planning for waste management in multi-unit developments. It acknowledged that whilst it is not a like-for-like replacement for the guide, it may be a more useful reference.

Both Darebin and Manningham Councils confirmed they agree with the comments of Sustainability Victoria and propose to amend the policies accordingly.

### (iii) Discussions

The Panel agrees that the policy should reference the most relevant and up to date reference documents; and for that reason supports this proposed amendment to the policy.

### (iv) Conclusion

## 4.3 Recommendation

The Panel recommends:

2. Amend Clause 22.12 to replace reference to *Guide for Best Practice for Waste Management in Multi-Unit Developments* (Sustainability Victoria, 2010) with *Improving Resource Recovery in Multi-Unit Developments*.

## 4.4 Eastern Golf Club site

### (i) The issue

The need to clarify what sustainability criteria needs to be met in order to reach an acceptable level of sustainability.

### (ii) Submissions

Urbis submitted that whilst generally supportive of the Amendment, it seeks clarification around the extent of sustainability efforts required and that the policy should clearly state that developments are not required to embrace every listed element. Furthermore, that the sustainability benefits should be considered against the cost and that Council should not impose cost-prohibitive sustainability features on any development.

Urbis also submitted that implementation of this policy should be matched by a commitment by Council to provide the resources required in order to process applications; as the likely future workload will be significant and should not cause unnecessary delays.

Ms Rivero submitted that Manningham Council advised Urbis in writing that the Policy Basis in Clause 22.12-1 states that it does not prescribe performance outcomes, but rather requires developments to demonstrate how the relevant objectives are met, and whilst there are seven categories, BESS only requires compliance with four to ensure intended minimum compliance, and as such, not every criteria will be required for every development.

In response to Urbis concerns in relation to cost prohibitive measures, Ms Rivero also advised that Council informed Urbis that the policy decision guidelines also refer to the need to consider *“Whether the proposed environmentally sustainable development initiatives are reasonable having regard to the type and scale of the development and any site constraints”*, thereby demonstrating some flexibility. Ms Rivero also outlined the range of initiatives proposed by Council to assist in the implementation of the policy to ensure it does not create unnecessary delays in the approval process.

Based on these responses, Ms Rivero submitted Urbis was satisfied and had no objection to the proposal.

### **(iii) Discussions**

Whilst Ms Rivero submitted Urbis had responded positively to advice provided by Council in writing and no longer objected, the Panel was not provided with a letter than expressly states that.

Despite this, the Panel agrees with the responses provided by the Council to Urbis.

For these reasons, the Panel is satisfied that the concerns raised by Urbis have been adequately addressed.

### **(iv) Conclusion**

No change to the Amendment.

## **4.5 Post exhibition changes identified by Darebin Council**

### **(i) The issue**

Whether post exhibition changes should be made to the proposed Darebin ESD policy?

### **(ii) Submission**

Ms Richardson advised that since the Council resolution of 18 April 2016, Darebin City Council officers became aware of several other changes that should be made to the exhibited Amendment, prior to approval. These include:

- Clause 21.02 - remove references to redundant policies; correct an error in the title of a reference document.

These changes are shown in Appendix B.

Ms Richardson submitted the changes are minor in nature and consistent with the Amendment.

Ms Richardson also submitted that post exhibition, Darebin Council has identified that Clause 21.05 – *Transport and Infrastructure* should also have been amended to reflect the proposed introduction of the ESD policy; however this did not occur. She submitted the changes are minor in nature and consistent with the Amendment; and suggested they should be dealt with as part of this Amendment.

Ms Richardson identified the additional changes required to Clause 21.05 include introduction of:

- Policy Guidelines – Apply Clause 22.12 *Environmentally Sustainable Development* in considering applications for residential and non-residential development.
- Introduction of headings.
- Deletion of the Stormwater Management Plan Review, 2007 as a Reference Document.
- Introduction of *Watershed: Towards a Water Sensitive Darebin City Council Whole of Water Cycle Management Strategy 2015-2025* and *Watershed: Towards a Water Sensitive Darebin, Implementation Plan 2015-2025* as Reference Documents.

### **(iii) Discussion**

In relation to the changes to Clause 21.02, the Panel agrees the proposed post exhibition changes are minor in nature, consistent with the Amendment and are not transformative. For that reason, the Panel supports the proposed post exhibition changes.

In relation to the proposed changes to Clause 21.05, whilst the Panel accepts they are minor, consistent with the intent of the Amendment and appropriate to make, the Panel is aware that the exhibited Amendment did not propose any changes to Clause 21.05. For this reason, the Panel will not make specific recommendations to change to this Clause, but is supportive of the proposed changes.

### **(iv) Conclusion**

The Panel recommends:

- 3. Amend Darebin proposed Clause 21.02 in accordance with the changes identified in Appendix B.**

## Appendix A Submitters to the Amendment

No.	Submitter
1	Bass Coast Shire Council
2	City of Moreland
3	Municipal Association of Victoria
4	Council Alliance for a Sustainable Built Environment (CASBE)
5	City of Yarra
6	City of Stonnington
7	City of Boroondara
8	Sustainability Victoria
9	Yarra Ranges Shire Council
10	Mirvac Pty Ltd
11	Housing Industry Association

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## **Appendix B Proposed Post exhibition changes – Darebin**

## 21.02 ENVIRONMENT

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This Clause provides local content to support Clause 11.03 (Open Space), Clause 12 (Environmental and Landscape Values), Clause 13 (Environmental Risks), Clause 14 (Natural Resource Management) and Clause 15 (Built Environment and Heritage) of the State Planning Policy Framework.

### 21.02-1 Strategic Environment Framework

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‘The environment’ encompasses all the circumstances, objects or conditions that surround us as we live, work and recreate – from the climate, soil, water and other living things to open spaces, buildings, and urban streetscapes. In land use planning, ‘natural’ and ‘built’ environments are generally distinguished separately as they are in the objectives. However, they are interconnected in how they interface and collectively contribute to the experience of life in Darebin. Council supports an approach to natural and built environments that:

- Protects and enhances natural environmental assets, in particular creek and habitat corridors, and manages visual and physical impacts from land use and development in a way that does not preclude accessibility and, where appropriate, the physical and visual integration between urban and natural environments.
- Promotes urban environments and open spaces designed for liveability and environmental sustainability, and making a positive contribution to the health and wellbeing of Darebin residents, workers and visitors.
- Recognises and protects areas and sites of natural, cultural and built heritage value.

Objectives and strategies for these are set out in the clauses below.

### 21.02-2 Natural Environment

#### Overview

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Areas of natural environmental significance in Darebin include native grasslands at Central Creek Reservoir and Cherry Street Macleod; two major creek systems (Merri and Darebin); significant remnant vegetation (River Red Gums at Mount Cooper and Bundoora Park); and native habitat forest (Gresswell Forest and Hill, and La Trobe Wildlife Sanctuary) which also support significant native animal species.

The Merri and Darebin Creeks, Gresswell Habitat Link and Hurstbridge Rail Reserve provide a cohesive network of natural spaces and corridors. Appropriate landscape and water management on land adjoining this network can contribute to the protection of these habitats. Additionally, areas around Darebin and Merri Creeks that are popular for recreation, cycling and walking require planning to ensure they are safe spaces to access.

Refer to the Strategic Framework Plan at Clause 21.01-6 showing areas of natural environment significance.

#### Key Issues

- Protection of remnant natural areas in Darebin from the impacts of development.
- Pressure for redevelopment of residential creek-side lots.
- Impact of industrial development on creek-side environs with regard to location of storage areas, car parking and design of the built form.
- Maintaining long term protection of remnant native vegetation in estates such as Springthorpe in Macleod and Mt. Cooper and Lancaster Gate in Bundoora.
- Impacts of land use activities on local and regional waterways through substances released into the stormwater system, run-off from roads, and litter.

- Maintaining a cohesive network of linked natural spaces and corridors to provide havens and corridors for wildlife and enhance water quality in the creeks.
- Balancing the need for preserving a natural landscape feel with the need for passive surveillance at interfaces between natural and built environments.

### **Objective 1 – Protect and Enhance**

To protect, maintain and enhance Darebin’s natural environment including the major creek systems.

#### **Strategies**

- Ensure that remnant vegetation is identified and conserved.
- Ensure that places and areas of natural heritage significance are conserved and enhanced.
- Encourage the use of indigenous vegetation and planting on private and public land to increase biodiversity.
- Manage landscapes in ways that contribute to the creation of a more ecologically sustainable natural environment.
- Ensure development of urban areas maintains or improves river and wetland health, waterway protection and flood plain health through appropriate stormwater and overland flow management and integrated water management planning of precincts.
- Provide for a consistent and coordinated planning approach to protect, maintain and enhance the natural, landscape, cultural and built character of the Darebin and Merri Creek environs.

### **Objective 2 – Interfaces**

To achieve a balance between the protection of the natural environment and the safety and surveillance objectives of recreational users of public open space.

#### **Strategies**

- Ensure that land use and development is compatible and appropriately integrated with areas of natural heritage and environmental significance.
- Ensure that development adjacent to the Darebin and Merri Creeks retains and enhances each creek’s unique contribution to the community and wider ecology.
- Balance the need to ensure the aesthetic impact of development adjacent to creeks is sensitive to existing creek environs, view lines and landscape works with the need to provide passive surveillance over creek-side environs, particularly around access points to public land and along pedestrian and cycling pathways.
- Consider fencing strategies for development adjacent to parks and reserves, which ensures fencing not only defines the transition from public to private realm but promotes good surveillance.
- Ensure development of private land adjoining the perimeter of Bundoora Park is designed and orientated to provide frontage to the park and avoid high fencing and expanses of wall at the park interface. Development should provide visual and physical connections to the park (via active frontages with appropriate land uses at ground level, pedestrian paths and links, and windows, terraces/balconies orientated to overlook the park) wherever possible.

### **Implementation**

The strategies in relation to natural environment will be implemented through the planning scheme as follows:

### *Policy Guidelines*

Apply Clause 22.03 Darebin Creek – Adjacent Land Design and Development in considering applications for development or subdivision of land adjacent to Darebin Creek.

### *Application of Zones and Overlays*

- Apply the Public Conservation and Resource Zone over the Gresswell Habitat Link, Gresswell Forest Nature Conservation Reserve and Central Creek Grasslands.
- Apply Vegetation Protection Overlays to provide for the long term preservation of significant vegetation on the Mount Cooper, Springthorpe and Lancaster Gate Estates and the former Kingsbury Centre.
- Apply Environmental Significance Overlays to protect remnant vegetation sites and other areas of identified environmental significance.
- Apply Design and Development Overlays over private and public land adjacent to the Darebin and Merri Creeks to manage the impact of development on and provide appropriate interfaces with creek-side areas.
- Apply the Urban Floodway Zone and Land Subject to Inundation Overlay provisions as appropriate around waterways to minimise flood-related soil erosion, sedimentation and silting and to protect water quality.

### *Further Strategic Work*

- Review the application of the Urban Floodway Zone along parts of the Merri, Darebin and Edgars Creeks.
- Review the Environmental Significance Overlays along Darebin Creek and Merri Creek to ensure that the boundary of each overlay covers areas where development is likely to have an impact on the creek environs.
- Review the *Darebin Creek Design and Development Guidelines (2000)* to inform preparation of a Design and Development Overlay for land adjacent to Darebin Creek.
- Review the *Development Guidelines for Merri Creek (Merri Creek Management Committee, 2004)* to inform preparation of a Design and Development Overlay for land adjacent to Merri Creek.
- Include an integrated water management plan and ecological improvement initiatives for Darebin Creek in the formulation of the Northland Structure Plan.

### **Reference Documents**

Bundoora Park Master Plan 2012

Central Creek Grassland 5 Year Management Plan 2011-2016

Darebin Creek, Design and Development Guidelines, City of Darebin, 2000

Darebin Litter Plan 2011-2013

Darebin Open Space Strategy, 2007-2017 (2008)

~~Darebin Stormwater Management Plan Review, 2007~~

Development Contributions Plan

Development Guidelines for Merri Creek, Merri Creek Management Committee, 2004

Lower Darebin Creek Concept Plan, Parks Victoria/Melbourne Water, 1996

Merri Creek and Environs Strategy 2009-2014, Merri Creek Management Committee, 2009

Springthorpe Conservation Plan, February 2001

Springthorpe Tree Conservation Plans

[Watershed: Towards a Water Sensitive Darebin, Darebin City Council Whole of Water Cycle Management Strategy 2015-2025](#)

[Watershed: Towards a Water Sensitive Darebin, Implementation Plan 2015-2025](#)

## **21.02-3 Built Environment**

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### **Overview**

The design and quality of the built environment, including buildings, public spaces, infrastructure and streetscapes plays an important role in enhancing civic pride, liveability and social connectedness, and provides opportunities for creating a more sustainable city.

Good urban design acknowledges the collective impact of development both within and beyond the boundaries of individual sites and enables positive outcomes for the public realm that enhance people's wellbeing and experience of the built environment.

Darebin City Council is committed to environmental sustainability and actively encourages sustainably-designed buildings that reduce energy consumption and water use, encourage recycling and sustainable transport and that use recycled and sustainable materials.

### **Key Issues**

- Achieving high-quality design in development across a variety of urban environments, including activity centres and industrial/employment precincts.
- Impacts of large-scale development on streetscape amenity and pedestrian experience, and increased reliance on the public realm in providing visual appeal and amenity.
- How design might improve the interface and interaction of new developments with the public realm (including parks and open spaces).
- Incorporating Environmentally Sustainable Design (ESD) principles in the design and development of built environments and strengthening requirements at planning permit stage.

Striking a balance between the understandable need for businesses to advertise and community expectations for an environment devoid of unattractive visual clutter.

### **Objective 1 – Urban Design Excellence**

To ensure development in Darebin exhibits good urban design and provides distinctive, attractive and engaging places in which to reside, visit or work.

### **Strategies**

- Encourage high quality design and buildings that respond to characteristics of the locality.
- Develop and implement detailed design guidelines for areas where substantial housing change and growth is encouraged.
- Ensure that important public views and vistas, where identified in a strategy or guideline adopted by Council, are recognised, protected and enhanced.
- Apply urban design principles when developing structure plans, land use strategies, and urban design guidelines.
- Promote land use and development in activity centres, strategic corridors and strategic development precincts in accordance with adopted Structure Plans, precinct plans or strategies.
- Ensure development in activity centres, strategic corridors and strategic development precincts:
  - is responsive to its environment with a high quality appearance

- promotes an urban scale and character that is appropriate to the role and function of the activity centre or strategic corridor precinct
- encourages consolidation of commercial areas along strategic corridors to create strong, vibrant hubs to serve the local community
- manages negative off-site impacts and interface issues with surrounding sensitive land uses
- promotes visual and physical improvements to the public realm
- encourages a safe and accessible environment for pedestrians, cyclists, public transport users and motorists.
- Ensure that development in industrial and commercial areas:
  - achieves a high standard of building design and provides for suitable landscaping and treatments to improve the visual character, function and layout of such areas
  - minimises the impact of traffic, noise and emissions from industrial land uses on the amenity of surrounding residential areas
  - reduces and minimises conflict between industrial and non-industrial land uses.
- Encourage streetscape upgrades and street tree planting, particularly in areas where Substantial Housing Change is envisaged.
- Collect development contributions from private development for streetscape upgrades.
- Undertake streetscape upgrades to Edwardes Street, Broadway and other streets in Reservoir Activity Centre

### **Objective 2 – Safe Urban Environments**

To promote safety through well-designed and well-maintained urban environments.

#### **Strategies**

- Encourage designs that incorporate elements that promote safety, such as clear sightlines, safe movement, passive surveillance, good connections, good access, mixed use and activities that promote public use.
- Ensure that public spaces, access routes and areas in the vicinity are attractive, safe, uncluttered and work effectively for all.
- Ensure new retail and/or mixed use development incorporates verandahs over footpaths where appropriate.
- Ensure that buildings at ground level provide active frontages and a high level of pedestrian amenity.
- Encourage day and evening activity in activity centres, other precincts and key development.
- Consider the above strategies in assessments and when developing strategies and urban design guidelines.

### **Objective 3 – Environmentally Sustainable Design**

To promote and facilitate development that incorporates best practice environmentally sustainable design and promotes sustainable living and business practices.

#### **Strategies**

- Encourage the adaptive reuse of buildings to reduce the amount of waste going to landfill.

- Encourage the design of new and retrofitted buildings and public spaces to incorporate high standards of energy efficient design, water sensitive urban design, sustainable transportation, waste reduction and protection of biodiversity.
- Promote the integration of land use and sustainable transport (walking, cycling and public transport) in accordance with the strategies in Clause 21.05-1.
- Encourage best practice industrial and commercial development to minimise amenity impacts and achieve long term environmental sustainability.
- ~~Encourage~~ Require the preparation of Sustainable Design Assessments and Sustainability Management Plans for residential, ~~mixed-use, industrial~~ and ~~commercial non-residential~~ developments as part of the planning permit approval process.

#### **Objective 4 - Signage**

To ensure signage is integrated into development and streetscapes.

##### **Strategies**

- Minimise visual clutter and prevent the proliferation of signs, particularly along major gateways, road reservations, commercial/retail areas and industrial estates.
- Ensure that outdoor signage presents a coordinated and high quality image.
- Ensure outdoor signage is located on the land to which it relates.
- Encourage simple, clear, consistent and non-repetitive advertising that is displayed in appropriate locations and planned as an overall signage package for a site.
- Ensure outdoor advertising is appropriate with regard to the architectural design of buildings on which signs are displayed.

Incorporate outdoor advertising into the design of new buildings and major renovations and ensure signage is planned for at the beginning rather than at the end of development.

##### **Implementation**

The strategies in relation to built environment will be implemented through the planning scheme as follows:

##### *Policy Guidelines*

- Apply Clause 22.01 Junction Local Area Plan in considering applications for use and development in the Junction Strategic Development Precinct.
- Apply Clause 22.04 Industrial and Commercial Activity in considering applications for use and development in the Industrial 1, Industrial 3 and Commercial 2 Zones.
- Apply Clause 22.05 High Street Corridor Land Use and Urban Design in considering applications for use and development in the High Street corridor.
- Apply Clause 22.06 in considering applications for Residential or Mixed Use Development in a Residential Growth Zone, Mixed Use Zone, Commercial Zone, Priority Development Zone and, where considered relevant, General Residential Zone.
- Apply Clause 22.08 Northcote Activity Centre in considering applications for use and development in the Northcote Activity Centre.
- Apply Clause 22.09 Preston Central (Incremental Change) in considering applications development in residential precincts of the Preston Activity Centre.
- Apply Clause 22.12 Environmentally Sustainable Development in considering applications for residential and non-residential development.

#### *Application of Zones and Overlays*

- Apply the Activity Centre Zone to activity centres, incorporating urban design frameworks and guidelines.
- Apply the Design and Development Overlay to ensure that key public views and vistas are protected and enhanced.
- Apply the Design and Development Overlay to sites and precincts to achieve specific desired built form outcomes, design principles and treatment of interfaces (as required by structure plans, strategies, or site studies).
- Apply Design and Development Overlays along strategic corridors to achieve high quality development in accordance with relevant urban design frameworks.
- Apply the Development Plan Overlay to strategic redevelopment sites and precincts.

#### *Further Strategic Work*

- Develop an Environmentally Sustainable Development Strategy that will:
  - establish a framework to coordinate the various environmental policies of Council and provide strategic directions for energy efficiency, waste management and integrated water management;
  - set design guidelines for achieving sustainable development that minimises energy and water consumption and encourages reuse of water and waste; [and](#)
  - ~~— provide the basis for preparation of a local policy to set performance measures and guide decision making~~
  - provide the basis for other planning measures such as overlays for achieving sustainable development at both site and precinct scale.
- Prepare and implement Urban Design Frameworks and guidelines for development in:
  - Northland Activity Centre
  - Reservoir Activity Centre
  - Fairfield Village and Miller-on-Gilbert Neighbourhood Centres
  - Heidelberg Road Corridor
  - The Junction and Oakover Village Strategic Redevelopment Precincts.
- Review the *Preston Structure Plan 2006 (as amended)* and *Northcote Structure Plan (2007)* to ensure the strategic directions in these plans address contemporary issues and reflect the broader strategic vision for municipal growth and change.
- Review the *High Street Urban Design Framework (2005)* and implement Design and Development Overlay controls for intermodal areas of High Street.
- Review the *Bell Street Corridor Strategy (2006)* and implement Design and Development Overlay controls to encourage high quality development along the Bell Street Corridor.
- Identify important public views and vistas in the municipality.
- Explore opportunities to incorporate public art elements in high profile developments.
- Identify and support the delivery of streetscape upgrades in Substantial Housing Change areas.

#### **Reference Documents**

Bell Street Corridor Strategy, Hansen Partnership, 2006

Climate Change and Peak Oil Adaptation Plan, 2009

Community Climate Change Action Plan 2009-2020  
Community Health and Wellbeing Plan 2009-2013  
Darebin Community Safety Strategy 2012-2016  
Darebin Housing Strategy 2013  
[Darebin Waste and Litter Strategy 2015-2025](#)  
~~Darebin Stormwater Management Plan Review, 2007~~ Green Streets Strategy 2013  
High Street Urban Design Framework and High Street Study Precinct Guidelines, 2005  
Northcote Activity Centre Structure Plan, 2007, and Medium and Low Change Residential Areas Precinct Guidelines, 2008  
Northland Residential Neighbourhood Precinct Structure Plan, 2014  
Plenty Road Integrated Land Use and Transport Study, 2013  
Plenty Road Urban Design Framework, 2013  
Preston Central Structure Plan 2006 (as amended) and Urban Design Framework and Guidelines, 2006  
Reservoir Structure Plan, 2012  
Residential Built Form Guidelines, 2014  
Safer Design Guidelines for Victoria, 2005  
St Georges Road Urban Design Framework, 2013  
~~Sustainable Water Strategy 2007~~  
~~Sustainable Water Use Plan, 2005~~  
Urban Design Charter for Victoria, 2010  
~~Waste Management Strategy 2007—2014~~  
[Watershed: Towards a Water Sensitive Darebin, Darebin City Council Whole of Water Cycle Management Strategy 2015-2025](#)  
[Watershed: Towards a Water Sensitive Darebin, Implementation Plan 2015-2025](#)

#### 21.02-4

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### Heritage

#### Overview

Darebin municipality's rich and diverse natural heritage and history of human settlement, from pre-contact inhabitation, through European colonisation to the modern era, has created a heritage fabric characterised by many layers and types of significance.

The extensive stock of older buildings can provide opportunities for redevelopment that demonstrate principles of cultural and ecological sustainability, possibly through adaptive reuse, urban design and architectural excellence. Some heritage places have the potential to increase and enhance local and regional tourism opportunities.

#### Key Issues

- Providing a balance between conservation needs and capacity for new infill development within heritage precincts to deliver a good design outcome.
- Balancing diversity of experience and conservation of biodiversity values around natural heritage assets.

### **Objective 1 – Heritage Places and Areas**

To ensure that places and areas of cultural and natural heritage significance are conserved and enhanced.

#### **Strategies**

- Encourage the retention of any significant original fabric in development proposals.
- Discourage demolition or relocation of locally significant heritage buildings.
- Encourage appropriate use of heritage places in keeping with heritage significance.
- Identify and protect sites of identified Aboriginal cultural heritage significance.
- Identify and protect sites of natural heritage significance.

### **Objective 2 – Development and Heritage**

To promote sympathetic infill and redevelopment of heritage places and areas.

#### **Strategies**

- Ensure development within heritage areas is sympathetic with the heritage character of the area.
- Ensure that redevelopment of heritage buildings and areas is visually compatible with existing forms.
- Promote innovative responses that makes a positive contribution to the heritage places and areas.
- Facilitate designs that are sensitive to heritage and urban character.
- Require conservation management plans for key sites prior to approval and commencement of works.

#### **Implementation**

The strategies in relation to heritage will be implemented through the planning scheme as follows:

##### *Application of Zones and Overlays*

- Apply the Heritage Overlay to places of local, regional, State or national heritage significance.
- Apply the Environmental Significance Overlay to places of natural heritage significance and culturally significant landscapes, trees and/or vegetation.

##### *Further Strategic Work*

- Review the Darebin Heritage Strategy, which should include the development of design guidelines on demolition and redevelopment of heritage places, and provide the strategic basis for development of a local policy to guide decision making.
- Prepare a Natural Heritage Study to identify sites of natural heritage significance and form strategies for ongoing conservation and management.

#### **Reference Documents:**

City of Darebin Heritage Study: Volume 3, Key Findings & Recommendations, 2008

City of Darebin Heritage Study: Volume 4a, Preston Central Heritage Assessment, Key Findings and Recommendations, 2008

City of Darebin Heritage Study, Volume 4b, Preston Central Heritage Place Citations, 2008

Darebin Heritage Review Volumes 1, 2, & 3, 2002

Darebin Housing Strategy 2013

City of Darebin Citations for Individually Significant Buildings, 1996

**21.02-5**

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**Open Space**

**Overview**

*Access to and enjoyment of open space is a key contributor to quality of life and local amenity. Council aims to improve the quality of open space and encourage the use and development of waterways and linkages. Priorities for managing open space are guided by the Darebin Open Space Strategy 2007-2017, which identifies and categorises open spaces by state down to local role, and the range of functions each space should fulfil.*

**Key Issues**

- Darebin is a developed municipality with limited opportunities for creating additional open space. Existing open space is highly valued by the community.
- Provision of sufficient open space, particularly in higher density living precincts where there is higher reliance on for communal facilities for outdoor activities and recreation.

**Objective**

To provide a safe, accessible and high quality open space network that is equitably distributed across the municipality.

**Strategies**

- Encourage opportunities for public and communal open spaces adjacent to the creek environs.
- Protect and enhance existing open spaces where possible.
- Encourage linear open space linkages along waterways including pedestrian and bicycle access.
- Include provision for acquisition and improvement of open space in Development Contributions Plans.
- Consider opportunities for ‘greening’ in areas of higher density development, including alternative to traditional ground level landscaping e.g. green roofs and walls.

**Implementation**

The strategies will be implemented through the planning scheme as follows:

*Application of Zones and Overlays*

- Apply the Public Park and Recreation Zone to all municipal reserves.
- Apply the Public Conservation and Resource Zone to undeveloped municipal reserves which contain significant levels of indigenous vegetation or high biodiversity values.
- Apply the Heritage Overlay to open space of recognised cultural and social heritage value.

*Further Strategic Work*

- Review and rezone public open space in accordance with relevant strategies.
- Review the Environmental Significance Overlays along Darebin Creek and Merri Creek to ensure that the boundary of each overlay covers areas where development is likely to have an impact on the creek environs.
- Undertake an assessment of the heritage significance of the City’s older reserves as a basis for conservation planning and management, including Oldis Gardens, Johnson Park, LW Williams Reserve, JS Grey Reserve, Adam Reserve, Batman Park, Penders Park and AG Davis Reserve.

### Reference Documents

Bundoora Park Precinct Master Plan, 2012  
Darebin Open Space Strategy, 2007-2017 (2008)  
Development Contributions Plan  
Leisure Strategy 2010-2020  
Playspace Strategy 2010-2020

## 21.02-6 Environmental Risk

15/10/2015  
Proposed  
GC42 C438

### Overview

Environmental risk in land use planning encompasses a broad range of issues, including the efficient management and protection of natural resources, dealing with contaminated land and developing resilience to impacts of climate change and peak oil.

### Key Issues

- Consideration in planning strategies and permit assessments about potential environmental risks, such as land contamination, noise and air pollution, as well as the impacts of climate change including flooding, soil erosion, wildfire and heatwaves.
- Efficient management and protection of natural resources and ensuring risks of contamination, soil erosion, oil spill and industrial runoff into water bodies are considered in assessments.

### Objective

To ensure appropriate development in areas prone to environmental risk.

### Strategies

- Require assessment of environmental risk, and as appropriate require environmental audits be undertaken, where a sensitive use is proposed on potentially contaminated land.
- Assess risk prior to development in flood prone areas, in accordance with relevant flood management plans.

### Implementation

The strategies in relation to environmental risk will be implemented through the planning scheme as follows:

#### *Application of Zones and Overlays*

- Apply the Environmental Audit Overlay to potentially contaminated land that may be used for sensitive uses in accordance with the requirements of *Ministerial Direction No.1 – Potentially Contaminated Land*.
- Apply the Special Building Overlay to land in urban areas liable to inundation by overland flows from the urban drainage system as determined by, or in consultation with, the floodplain management authority.

#### *Further Strategic Work*

- Compile a register of non-conforming industrial sites for which a change to a sensitive land use is likely, with a view to applying the Environmental Audit Overlay.
- Develop a local planning policy for consideration of use or development of land which has potential for contamination to ensure proposed uses and developments are suitable, and require remediation of contaminated land to a level that is compatible with the desired future uses of the site.

### Reference Documents

Climate Change and Peak Oil Adaptation Plan, 2009  
Ministerial Direction No.1 – Potentially Contaminated Land  
~~Stormwater Management Plan Review, 2007~~ [Watershed: Towards a Water Sensitive Darebin, Darebin City Council Whole of Water Cycle Management Strategy 2015-2025](#)  
[Watershed: Towards a Water Sensitive Darebin, Implementation Plan 2015-2025](#)