6 Community Questions

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7.1 Town Planning Reports

7.1.1 Cardinia Planning Scheme Amendment C278card - New Environmentally Sustainable Development (ESD) Local Policy (Clause 22.11) and associated changes to the Municipal Strategic Statement (MSS)

Responsible GM: Debbie Tyson
Author: Lorna Lablache

Recommendation(s)

That Council:

1. Adopts Amendment C278card to the Cardinia Planning Scheme, with changes as outlined in this report, under Section 29 of the *Planning and Environment Act 1987*, generally in accordance with Attachment 3 and Attachment 4.
2. Submits the adopted Amendment C278card to the Minister for Planning for approval under Section 31 of the *Planning and Environment Act 1987*.
3. Notifies all submitters to Amendment C278card of the outcome.

Executive Summary

Amendment C278card proposes to introduce an Environmentally Sustainable Development (ESD) Local Planning Policy into the Cardinia Planning Scheme. The policy will ensure specified developments achieve best practice in environmental sustainability from the design stage through to construction and operation. It is also proposed to make changes to the Municipal Strategic Statement (MSS) to support the new local policy.

The proposed Local ESD Policy will apply to new residential and non-residential developments within predetermined thresholds and will strengthen Council's position to consider the principles of environmentally sustainable development through the statutory planning process. It is important to note that incorporating an ESD policy into the planning scheme does not trigger more planning permits and only applies to planning applications already required under other parts of the planning scheme. The policy does not apply to single dwellings, outbuildings or subdivision.

The Amendment brings Cardinia Shire Council into alignment with 27 other councils who have an equivalent ESD local policy.

Amendment C278card was formally exhibited from the 29 February to 8 April 2024 in accordance with the requirements of the *Planning and Environment Act 1987*. At the conclusion of the exhibition of the Amendment, five submissions were received. At the Council meeting held on 17 June 2024, Council resolved to refer all submissions to a Ministerial Planning Panel for consideration.

During the Directions Hearing held on 26 August 2024, the Panel decided to consider the matters relating to this proposed amendment on the written submissions received, a process referred to as 'considering the matter on the papers,' since no submitters wished to be heard.

The Panel Report, received on 6 September 2024, supports Amendment C278card and aligns with minor formatting and administrative changes detailed in the Council's submission to the Panel.

It is recommended that Council:

- Adopt the revised Amendment C278card documentation with changes
- Submit the adopted Amendment C278card to the Minister for Planning for approval.

Background

Council has a duty of care in exercising its functions to manage foreseeable risks and this is embedded in legislation such as the *Planning and Environment Act (1987)*, the *Climate Change Act (2017)* and Section 9(2) of the *Local Government Act (2020)*.

On 16 September 2019, Council supported a Declaration of a climate emergency. Council has committed to prioritising policy and actions that will provide for both mitigation and adaptation in response to accelerating global warming and climate change.

In addition to this, 'tackling climate change and its impact on our environment, economy and people' is identified as one of our most significant challenges and opportunities in the *Council Plan 2021-25 and Community Vision 2040 (June 2021)*. The Council Plan also identifies that the development of an Environmentally Sustainable Design (ESD) Policy is a Council priority (Year 1 - 2021-22) and it requires that the ESD Policy be incorporated in the Cardinia Planning Scheme (Year 2 - 2022–23).

A series of Council adopted documents, all of which have been informed by community consultation envision a sustainable built environment in Cardinia. This also includes specific local policy clauses, incorporated documents and reference documents within the Cardinia Planning Scheme, that also direct planning permit applications to consider and address ESD principles.

In 2021 Cardinia Shire Council became a member of the Council Alliance for a Sustainable Built Environment (CASBE). CASBE is an alliance of councils committed to enabling change to bring about healthy, resilient and liveable urban places. The South East Council's Climate Change Alliance (SECCCA) also supports CASBE's advocacy for environmentally sustainable design. As a member of CASBE, Council proposes to follow the lead of 27 other Councils by implementing an ESD local policy utilising the CASBE Sustainable Design Assessment in the Planning Process (SDAPP) Framework.

The SDAPP framework provides a streamlined and consistent methodology for requesting, receiving and assessing built environment sustainability outcomes through the planning process. The ESD philosophy is 'meeting the needs of the present without compromising the ability of future generations to meet their own needs.

Proposed Planning Scheme Amendment C278card

What the Amendment does

The amendment introduces a new Environmentally Sustainable Development (ESD) Local Planning Policy, for development to achieve best practice in environmental sustainability from its design stage through to construction and operation. This change is supported by refinements to the Municipal Strategic Statement (MSS).

The ESD policy provides statutory weight to what is currently a voluntary approach in the planning process, by requiring those developments which require a planning permit to achieve best practice environmental objectives. The amendment brings Cardinia Shire Council into alignment with 27 other councils who have an equivalent local policy.

The amendment proposes to:

1. Amend the following clauses in the Municipal Strategic Statement (MSS) of the Cardinia Planning Scheme to reflect the introduction of Clause 22.11 Environmentally Sustainable Development:
   - Clause 21.01 Cardinia Shire Key Issues and Strategic Vision (21.01-3 - Key issues - Environment, Settlement and housing and Particular use and development 21.01-4 Strategic vision)
   - Clause 21.02 Environment (21.02-1 Catchment and coastal management - Key issues & Objective 2 Strategies 21.02-2 Landscape – Strategies (Landscape values & Design and built form) 21.02-8 Resource conservation – Key issues, Strategies (Reduction of greenhouse gas emissions & Design and construction) and Implementation – Further strategic work)
   - Clause 21.03 Settlement and Housing (21.03-1 Housing – Key issues, Objective 1 Strategies)
   - Clause 21.04 Economic Development (21.04-2 Agriculture – Key issues 21.04-3 Activity centres – Key issues, Strategies (Design and location) 21.04-4 Industry – Key issues, Strategies (Design) 21.04-5 Tourism – Key issues, Strategies (Assets))
   - Clause 21.06 Particular Uses and Development (21.06-1 Urban Design – Key issues & Objective 1 Strategies)
2. Introduces a new Clause 22.11 Environmentally Sustainable Development (ESD) into the Local Planning Policy Framework of the Cardinia Planning Scheme.
   - The proposed local policy provides objectives and strategies relating to energy performance, integrated water management, indoor environment quality, transport, waste management and urban ecology.
   - The local policy also sets out application requirements.
   - Based on the project's development size, the applicant must illustrate how they will achieve the relevant policy goals by either completing a Sustainable Design Assessment (SDA) or a Sustainability Management Plan (SMP).

Amendment C278card applies to all land in the municipality of Cardinia Shire, where a planning permit is required for development. Incorporating an ESD policy into Cardinia's planning scheme does not trigger any additional planning permits and only applies to planning applications already required under other parts of the scheme.

The proposed ESD policy does not apply to single dwellings, outbuildings or subdivision applications.

What are the planning application requirements of Cardinia's proposed ESD policy?

Amendment C278card proposes the following planning permit application requirements for residential and non-residential developments:

1. Residential developments:
   a. Comprising 2 - 9 dwellings or a building used for accommodation other than dwellings with a gross floor area between 100 sqm and 999 sqm will require a Sustainable Design Assessment (SDA).

   b. Comprising of 10 or more dwellings or a building used for accommodation other than dwellings with a gross floor area equal to or more than 1000 sqm will require a Sustainability Management Plan (SMP) and a Green Travel Plan.

2. Non-residential development with:
   a. A gross floor area of 300 sqm to 999 sqm or an extension to an existing non-residential building creating between 300 sqm to 999 sqm of additional gross floor area (excluding outbuildings) will require a Sustainable Design Assessment (SDA).
   b. A gross floor area equal to or more than 1000 sqm or an extension to an existing non-residential building equal to or creating more than 1000 sqm of additional gross floor area (excluding outbuildings) will require a Sustainability Management Plan (SMP) and a Green Travel Plan

What is the difference between ESD Assessments?

The prescribed ESD assessment is proportional to the scale of development to ensure that the proposed thresholds are reasonable whilst maximising environmental benefits.

1. A Sustainable Design Assessment (SDA) provides a simple assessment of how the development addresses the ESD principles and identifies sustainability measures. A SDA can be prepared by the applicant and commonly does not need to be prepared by an expert in the ESD field.

2. A Sustainability Management Plan (SMP) is more detailed than an SDA. A SMP provides a detailed assessment of the proposal and must identify performance standards and sustainability targets. A SMP will require expert advice from a suitably qualified person such as an environmental engineer or specialist ESD consultant.

A Frequently Asked Questions (FAQ) Sheet for this Amendment is contained in Attachment 1.

At the Council meeting on 20 March 2023, Council resolved to seek authorisation to prepare Amendment C278card. Council received authorisation from the Minister for Planning to prepare Amendment C278card on 23 October 2023.

Amendment C278card was formally exhibited from the 29 February to 8 April 2024 in accordance with the requirements of the *Planning and Environment Act 1987*. At the conclusion of the exhibition of the Amendment, five submissions were received. Of the five submissions, two opposed or requested changes while one sought clarification through a revision of the Explanatory Report.

Concerns raised by the submissions are summarised as follows:

1. Seeking clarification about the Sustainable Design Assessment in the Planning Process (SDAPP) Framework regarding a range of elements such as (but not limited to):
   a. best practice and mandatory requirements
   b. the impact on the planning application assessment process
   c. opportunity for negotiations, options and flexibility
2. Increase cost burden of ESD requirements and impact on affordability.
3. Increase in delays in the approval process.
4. Seeking further clarification on how the principles of urban ecology apply, as well as how the heat island effect impacts bushfire risk.

At the Council meeting on 17 June 2024, Council resolved to refer all submissions to a Ministerial Planning Panel for consideration.

Discussion

The Panel Process

At the commencement of the Panel Hearing administrative process, the Panel received only one request to be heard. The Panel Hearing was initially scheduled for 26 August 2024. However, on 23 August 2024, the submitter withdrew their request to be heard and instead provided an additional written submission. Consequently, a Directions Hearing was held on 26 August 2024, during which the Panel decided to finalise its report based on the written submissions received, a process referred to as 'considering the matter on the papers'.

The Panel Report

The Panel Report for Amendment C278card was received by Council on the 6 September 2024 and was made available to the public on the 16 September 2024. A copy of the Panel Report is provided in Attachment 2.

In summary, the Panel concluded that:

- The mandatory nature of the proposed controls emanating from the policy is appropriate.
- There is likely to be extra costs to development resulting from the Amendment, but no conclusion can be drawn about the magnitude of them.
- There is the potential for overlap between national building codes and local ESD policy but each is focussed on different objectives. No overlap fatal to the Amendment has been identified.
- There is no evidence of significantly increased and excessive delays in the approval process resulting from the approval of the Amendment.
- Challenges faced by developers in the regulatory environment are acknowledged but this is not a reason to oppose the Amendment.

Key statements in the Panel Report worth noting include:

- Council has provided detailed submissions of policy support for the Amendment through a number of Council policies and related actions over a number of years. The Amendment is a logical extension of a consistent strategic pathway which Council established several years ago.
- The Amendment follows the path of and is consistent with ESD policy adopted by many Councils, including some neighbouring Councils.

The Panel supported Amendment C278card subject to minor formatting and administrative changes (consistent with Council's submission). The Panel provided commentary regarding the proposed changes to the Explanatory Report but didn't make a specific recommendation. The Panel suggested that the Council should decide on this matter.

A matter for Council's discretion (not a recommendation)

The proposed change to the Explanatory Report was requested by the Country Fire Authority (CFA). In CFA's submission to the amendment further clarification was sought on the ESD local policy concerning urban ecology principles and the management of the heat island effect in relation to bushfire risk.

After discussions with Council, which included reviewing approved local ESD policies in other Planning Schemes and the SDAPP Framework Fact Sheets, it was noted that several municipalities, like Greater Bendigo, Hepburn, Knox, Mornington Peninsula, Whittlesea, and Yarra Ranges, have implemented local ESD policies in areas with similar bushfire risks to Cardinia Shire.

As a result of these discussions, the CFA requested additional text in the Explanatory Report to address their concerns. The additional text was as follows:

- At the end of the second paragraph of the Explanatory Report, under the heading 'Does the Amendment address relevant bushfire risk' insert the following *(Urban Ecology) The objectives of Urban Ecology would typically apply in urban areas where there is excessive hard surfaces and limited opportunities for extensive landscaping*.

The proposed change to the Explanatory Report was supported by Council at the 17 June 2024 Council Meeting where Council resolved to refer all submissions to a Ministerial Planning Panel for consideration.

The Panel agreed that the proposed additional sentence in the Explanatory Report addresses the issue raised by the Country Fire Authority, however advised that '*it would be helpful to also add this sentence under the heading of Urban Ecology in Clause 22.11, given the limited life of the Explanatory Report*.' The Panel Report noted this as an observation but did not make a specific recommendation. Instead, it suggested that the matter be left to the discretion of the Council.

While the Council acknowledges the Panel's comment regarding the limited lifespan of the explanatory report, for context purposes it's important to note the following:

- The *Planning and Environment Act 1987* requires an Explanatory Report be prepared for every planning scheme amendment. The report must explain the purpose, effect and strategic basis for the amendment and address the matters set out in Minister's Direction No. 11 – Strategic Assessment of Amendments.
- A requirement of the Minister's Direction No. 11 is that in preparing an amendment a planning authority must evaluate and include (in the explanatory report) a discussion about how the amendment addresses a series of strategic considerations which includes 'How does the amendment address any relevant bushfire risk?'
- A planning scheme amendment is referred to the CFA to ensure a planning scheme amendment has adequately considered bushfire risk.

It is the Council's position that the additional text requested in the CFA's submission was intended to ensure the explanatory report adequately addressed the question, 'How does the amendment address any relevant bushfire risk?' Therefore, it does not necessitate additional text in the clause proposed by this amendment.

Furthermore, there is generally consistent wording in the local ESD planning policies across Victorian planning schemes. These policies are designed to align with state-level objectives and ensure a cohesive approach to sustainable development. While there may be minor differences in the size and scale of developments that trigger the policy, the core principles and requirements are typically the same across different councils.

The Panel's suggestion to leave the inclusion of additional text under the heading 'Urban Ecology' in Clause 22.11 to Council's discretion has been assessed. However, based on the reasons outlined above, Council does not propose to pursue this suggested change.

Panel Recommendations

The Panel has recommended that Cardinia Planning Scheme Amendment C278card be adopted as exhibited subject to:

- Replacement of the exhibited version of Clause 22.11 with the version attached to Council's Part C submission (Appendix C of the Panel Report).
  - This was prepared at the request of the Panel.
  - This is provided as Attachment 3.
- Insert the following text at the end of the second paragraph of the Explanatory Report under the heading 'Does the Amendment address relevant bushfire risk' *(Urban Ecology)*

The objectives of Urban Ecology would typically apply in urban areas where there is excessive hard surfaces and limited opportunities for extensive landscaping.
- This is provided as Attachment 4.

Policy Implications

Strategic Assessment

The full strategic assessment is provided in the Explanatory Report for the Amendment C278card which is contained in Attachment 4.

The strategic assessment demonstrates that the proposed Amendment aligns with the outcomes and policy directions outlined in *Plan Melbourne: Metropolitan Planning Strategy 2017 – 2050*, is consistent with and supports the Planning Policy Framework (PPF) and Municipal Strategic Statement (MSS) of the Cardinia Planning Scheme.

The proposed Amendment is also consistent with a series of Council adopted documents, all of which have been informed by community consultation and the vision to create a sustainable built environment in Cardinia.

Financial and Resource Implications

Incorporating an ESD policy into the planning scheme does not trigger any additional planning permits and only applies to planning applications already required under other parts of the scheme.

The proposed ESD policy will add to the workload for assessing planning permit applications within the Council. Resourcing for an ESD Officer was allocated in the 2023-2024 however this position has not been filled at this point and the following alternate initiatives are being implemented within existing budget:

- Modifications to the existing role of Council's Sustainable Facilities Officer to facilitate the assessment of planning applications with large development requiring Sustainability Management Plans (SMPs).
- The establishment of an in internal ESD Planning Working Group (lead by Council's Sustainable Facilities Officer) to review processes and procedures of planning applications. This group is made up of ESD Planning Champions who have crucial knowledge in the current internal processes. A key focus will also be upskilling the group by providing additional specialist training, hands-on learning, mentoring and networking opportunities.
- Training of all planning staff in ESD principles and the evaluation of planning applications.
- Leveraging on the collective knowledge and experience of other CASBE Councils, which is invaluable for refining processes and procedures for effective ESD policy implementation.

Costs associated with the remaining amendment process are to be provided in current and proposed operating budgets for the Planning Strategy and Urban Design Department.

Relevance to Council Plan

2.1 We support the creation of liveable spaces and places

2.1.3 Plan for housing diversity that meets community need, is affordable and delivers environmental sustainability, safety and healthy living outcomes.

3.1 We value our natural assets and support our biodiversity to thrive

3.1.1 Partner with community, business and industry to take action on, and adapt to, climate change.
3.1.2 Actively move towards zero waste through increasing waste recovery and reuse.
3.1.3 Work with community to improve and manage our natural assets, biodiversity and

cultural heritage.
3.1.4 Plan and advocate for better water cycle planning and management to reduce environmental impacts.

4.1 We support our productive land and employment land to grow local industries
4.1.2 Plan for sustainable employment precincts to entice new industries to the region and support new business.

5.1 We practise responsible leadership
5.1.1 Build trust through meaningful community engagement and transparent decision-making.

Climate Emergency Consideration

The development of a local ESD Policy and the incorporation of the ESD Policy into the Cardinia Planning Scheme will assist Council in responding to and addressing it's legislative, state policy and local policy responsibility regarding climate change.

The ESD policy is a planning tool that will help strengthen the resilience and safety of communities by adopting a best practice environmentally sustainable development to help prepare for and respond to the impacts of climate change.

Consultation/Communication

The amendment was exhibited from 29 February to 8 April 2024. The Panel considered all written submissions made in response to the exhibition of the Amendment, and further written submissions made as part of the panel process. The opposing submitter received notification of the release of the Panel Report and it was made available to the public on the 16 September 2024.

A letter was sent to all submitters to Amendment C78card advising of this Council Meeting.

Conclusion

Planning Scheme Amendment C278card is a direct outcome of Council's response to the Council Plan which identifies that the development of an Environmentally Sustainable Design (ESD) Policy is a Council priority (Year 1 - 2021-22) and it requires that the ESD Policy be incorporated in the Cardinia Planning Scheme (Year 2 - 2022–23).

Amendment C278card has been exhibited for public input and submissions received have been considered by an independent planning panel, appointed by the Minister for Planning. The Panel report supports the amendment subject to minor formatting and administrative changes to the amendment documentation. The intent and purpose of the exhibited amendment has not been altered. The recommended changes are consistent with Council's submission to the Panel.

It is recommended that Council:

- adopt the revised Amendment C278card documentation with changes
- submit the adopted Amendment C278card to the Minister for Planning for approval.

Attachments

1. Attachment 1 - C278 card Frequently Asked Questions Exhibition [**7.1.1.1** - 3 pages]
2. Attachment 2 - Cardinia Planning Scheme Amendment C278 card Environmentally Sustainable Development Policy - 6 September 2024 [**7.1.1.2** - 35 pages]
3. Attachment 3 - C278 card D2 Day 1 Version Clause 22.11 tracked changes [**7.1.1.3** - 3 pages]

4. Attachment 4 - C278 card Att D 1 Day 1 Version Explanatory Report tracked changes [**7.1.1.4** - 11 pages]

Cardinia Planning Scheme Amendment C278card
Environmentally Sustainable Development (ESD) Local Planning Policy

Frequently Asked Questions

How will the amendment affect me?

You have been given notice of the amendment as you may be affected by or have an interest in the proposed changes.

This FAQ is for your information and you do not have to do anything further if you do not wish to do so.

What is the Cardinia Planning Scheme?

Each local government in Victoria is covered by a planning scheme. The Cardinia Planning Scheme sets out how land is protected and how it can be used and developed in Cardinia Shire.

Planning schemes require changes from time to time to achieve certain planning outcomes, support new policies and to ensure that requirements continue to meet the needs of the local community.

What does the amendment propose?

The amendment proposes to introduce a new Environmentally Sustainable Development Local Planning Policy (ESD Policy), for development to achieve best practice in environmental sustainability from its design stage through to construction and operation.

The proposed ESD policy is based on the Sustainable Design Assessment in the Planning Process (SDAPP) Framework[i].

The SDAPP Framework was developed by Victorian councils to provide a streamlined and consistent methodology for requesting, receiving and assessing built environment sustainability outcomes through the planning process.

The ESD policy sets out application requirements and the scale of a project will ultimately influence the level of information required to be submitted with an application.

The amendment also includes refinements to the Municipal Strategic Statement (MSS) to support the new policy.

Amendment C278card applies to all land in the Shire of Cardinia, where a planning permit is required for development.

Why is the amendment required?

An ESD Policy in the Cardinia Planning Scheme will:

- Provide statutory weight to what is currently a voluntary approach in the planning process.
- Strengthen the ability for Council to consider ESD early in the design process right through to construction and beyond for both new residential and non-residential buildings.
- Implement sustainable design principles in the planning process, resulting in improved development outcomes and significant economic, social, and environmental benefits in the short, medium and long term.

It is important to note that incorporating an ESD policy into the planning scheme does not trigger any additional planning permits and only applies to planning applications already required under other parts of the scheme.

The amendment brings Cardinia Shire Council into alignment with 26 other councils who have an equivalent ESD local policy[ii].

What is an ESD Policy?

The primary objective of an ESD Policy is to achieve best practice in environmentally sustainable development from design stage right through to construction and beyond for both new residential and non-residential buildings.

Considering ESD at the planning stage helps to achieve best practice environmental objectives, maximise integrated design outcomes and minimise costs for retrofitting and poor design.

An ESD Policy sets out application requirements for specified types of developments and thresholds for the two types of ESD assessments (a Sustainable Design Assessment (SDA) or a Sustainability Management Plan (SMP)).

This document aims to provide an understanding of the planning scheme amendment process and the terms used in correspondence regarding amendments. For further information go to our Cardinia Planning Scheme Amendments page or contact Planning and Design on 1300 787 624.

ESD Assessments

The prescribed ESD assessment is proportional to the scale of development to ensure that the proposed thresholds are reasonable whilst maximising environmental benefits.

- A Sustainable Design Assessment (SDA) provides a simple assessment of how the development addresses the ESD principles and identifies sustainability measures. A SDA can be prepared by the applicant and commonly does not need to be prepared by an expert in the ESD field.
- A Sustainability Management Plan (SMP) is more detailed than an SDA. A SMP provides a detailed assessment of the proposal and must identify performance standards and sustainability targets. A SMP will require expert advice from a suitably qualified person such as an environmental engineer or specialist ESD consultant.

ESD Assessment Tools

The Built Environment Sustainable Scorecard (BESS)[iii] is the recommended tool under the SDAPP framework. BESS is a purpose-built tool to assess sustainable design at the planning permit stage.

BESS is the recommended tool for a SDA. A BESS report alone will not satisfy the requirements of a SMP.

Other ESD assessment tools include (but are not limited to) Melbourne Water tools STORM/MUSIC[iv] and Green Star[v].

What are the planning application requirements of Cardinia's proposed ESD policy?

The *Environmentally Sustainable Development (ESD) Local Policy – Background Document* (Cardinia Shire Council, 20 March 2023) provides the strategic assessment for this amendment which includes the justification for the proposed thresholds in the ESD Policy. This is a supporting document that forms part of this planning scheme amendment.

Amendment C278card proposes the following planning application requirements:

Residential developments:

- comprising 2 - 9 dwellings or a building used for accommodation other than dwellings with a gross floor area between 100 sqm and 999 sqm will require a Sustainable Design Assessment (SDA).
- of 10 or more dwellings or a building used for accommodation other than dwellings with a gross floor area equal to or more than 1000 sqm with require a Sustainability Management Plan (SMP) and a Green Travel Plan[vi].

Non-residential development with:

- a gross floor area of 300 sqm to 999 sqm or an extension to an existing non-residential building creating between 300 sqm to 999 sqm of additional gross floor area (excluding outbuildings) will require a Sustainable Design Assessment (SDA).
- a gross floor area equal to or more than 1000 sqm or an extension to an existing non-residential building equal to or creating more than 1000 sqm of additional gross floor area (excluding outbuildings) will require a Sustainability Management Plan (SMP) and a Green Travel Plan.

How do I make a submission to the Amendment?

Any person who may be affected by the amendment may make a submission clearly stating the grounds on which the amendment is supported or opposed and indicating what changes (if any) the submitter wishes to make.

All submissions must be made in writing and submitted to Council by 5pm on the final day of exhibition.

Submissions can be e-mailed to Council at mail@cardinia.vic.gov.au (please include Amendment C278card in the e-mail title).

Or mailed to:

Planning Strategy and Urban Design
Cardinia Shire Council
PO Box 7
PAKENHAM VIC 3810

What happens if I make a submission?

All submissions received are public documents and Council must consider all submissions as part of the amendment process.

If concerns cannot be resolved by making changes to the amendment, Council may refer submissions to an independent planning panel for review.

What is a Planning Panel?

The Planning Panel is appointed by the Minister for Planning and they will hold a public hearing where all submitters can present and be heard.

This document aims to provide an understanding of the planning scheme amendment process and the terms used in correspondence regarding amendments. For further information go to our Cardinia Planning Scheme Amendments page or contact Planning and Design on 1300 787 624.

What happens next?

The Planning Panel will review each submission individually and provide a report with recommendations to Council and the Minister for Planning.

When will the Planning Panel hearing occur?

A preliminary hearing date has been pre-set which is as follows:

- Directions hearing - Week commencing 22 July 2024
- Panel hearing - Week commencing 26 August 2024

Further details about any Planning Panel Hearing and specific dates will be provided at a later date to those who make a submission.

Where can I find more information?

Amendment documents and more information can be found on Council's website at https://creating.cardinia.vic.gov.au.

You can also contact Council's Strategic Planning Team on 1300 787 624 to discuss over the phone or to arrange a meeting to answer any questions.

1. Exhibition

- Notice of the amendment is given.
- The amendment is exhibited for one month.
- Anyone who may be affected by the amendment is invited to make a submission.

2. Consideration of submissions

- Submissions are considered by Council.
- The amendment may be abandoned, changed or the submissions referred to a Planning Panel.

3. Panel Hearing

- A public planning panel hearing is held.
- The Panel considers the submissions.
- The Panel writes a report with a recommendation about what Council should do about the amendment and provides this to Council (4-6 weeks).

4. Council's consideration

- Council must consider, but is not bound by, the Panel's report and recommendations when making its decision.
- Council must decide to:
  - adopt the amendment as is
  - adopt the amendment with changes,
  - or abandon the amendment.

5. The Minister's consideration

- Council submits the amendment documents to the Minister for Planning.
- If not approved, the amendment is abandoned.
- If approved, a notice is published in the Government Gazette.

[i] For more information go to Sustainability in planning - The Council Alliance for a Sustainable Built Environment (CASBE)
[ii] As part of the strategic assessment of the amendment, each local government determines thresholds relevant to their local development profile.
[iii] BESS is an online sustainability assessment tool purpose built by Victorian councils for the SDAPP framework and is owned by the Municipal Association of Victoria and was developed with support by the Victorian Government.
[iv] For more information go to STORM and MUSIC tools | Melbourne Water
[v] For more information go to Exploring Green Star | Green Building Council of Australia (gbca.org.au)
[vi] For more information to go CASBE-06-Transport-v7-June-2022.pdf

This document aims to provide an understanding of the planning scheme amendment process and the terms used in correspondence regarding amendments. For further information go to our Cardinia Planning Scheme Amendments page or contact Planning and Design on 1300 787 624.

Planning Panels Victoria

Cardinia Planning Scheme Amendment C278card Environmentally Sustainable Development Policy

Panel Report

Planning and Environment Act 1987

6 September 2024

VICTORIA State Government

How will this report be used?

This is a brief description of how this report will be used for the benefit of people unfamiliar with the planning system. If you have concerns about a specific issue you should seek independent advice.

The planning authority must consider this report before deciding whether to adopt the Amendment.
[section 27(1) of the *Planning and Environment Act 1987* (the PE Act)]

For the Amendment to proceed, it must be adopted by the planning authority and then sent to the Minister for Planning for approval.

The planning authority is not obliged to follow the recommendations of the Panel, but it must give its reasons if it does not follow the recommendations. [section 31 (1) of the PE Act, and section 9 of the *Planning and Environment Regulations 2015*]

If approved by the Minister for Planning a formal change will be made to the planning scheme. Notice of approval of the Amendment will be published in the Government Gazette. [section 37 of the PE Act]

Planning Panels Victoria acknowledges the Wurundjeri Woi Wurrung People as the traditional custodians of the land on which our office is located. We pay our respects to their Elders past and present.

Planning and Environment Act 1987

Panel Report pursuant to section 25 of the PE Act

Cardinia Planning Scheme Amendment C278cardcard

Environmentally Sustainable Development Policy

6 September 2024

Rodger Eade

Rodger Eade, Chair

Planning Panels Victoria

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Planning Panels Victoria

Glossary and abbreviations

Amendment	Amendment C278card
BCA	Building Code of Australia
BESS	Built Environment Sustainability Scorecard
CASBE	Council Alliance for a Sustainable Built Environment
Council	Cardinia Council
DTP	Department of Transport and Planning
EEDAC	*Environmentally Efficient Design Local Policies*, Advisory Committee and Panel Report, 2014
ESD	Environmentally Sustainable Development
MSS	Municipal Strategic Statement
PBR	Puffing Billy Railway
PE Act	*Planning and Environment Act 1987*
PPF	Planning Policy Framework
SDA	Sustainable Design Assessment
SDAPP	Sustainable Design Assessment Planning Process Framework
SMP	Sustainability Management Plan

Planning Panels Victoria

Overview

Amendment summary	
The Amendment	Cardinia Planning Scheme Amendment C278cardcard
Common name	Environmentally Sustainable Development Policy
Brief description	The Amendment proposes to introduce an Environmentally Sustainable Development Policy into Clause 22 of the Cardinia Planning Scheme and make related changes to Clause 21
Subject land	All land in the municipality
The Proponent	Cardinia Shire Council
Planning Authority	Cardinia Shire Council
Authorisation	23 October 2023 with conditions
Exhibition	29 February to 8 April 2024
Submissions	Number of Submissions: 5 with two opposed or requesting changes. One sought clarification through a revision of the Explanatory Report. Submitters were: • Council Alliance for a Sustainable Built Environment • Sette Brothers Pty Ltd and M Sette Pty Ltd • Puffing Billy Railway • Country Fire Authority • South East Water

Panel process	
The Panel	Rodger Eade, Chair
Directions Hearing	PPV, 1 Spring Street Melbourne, 22 July and by video conference on 26 August 2024
Panel Hearing	Not held as matter was considered on the papers
Site inspections	Not required
Citation	Cardinia PSA C278card [2024] PPV
Date of this report	6 September 2024

Planning Panels Victoria

Executive summary

Cardinia Planning Scheme Amendment C278cardcard (the Amendment) seeks to introduce a new Environmentally Sustainable Development (ESD) Local Planning Policy, for development to achieve best practice in environmental sustainability from its design stage through to construction and operation. This change is supported by refinements to the Municipal Strategic Statement (MSS)

Key issues raised in submissions included:

- seeking clarification about the Sustainable Design Assessment in the Planning Process (SDAPP) Framework regarding a range of elements such as, but not limited to:
  - best practice and mandatory requirements
  - the impact on the planning application assessment process
  - opportunity for negotiations, options and flexibility
- increase cost burden of ESD requirements and impact on affordability
- increase in delays in the approval process
- seeking further clarification on how the principles of urban ecology apply, as well as how the heat island effect impacts bushfire risk.

Cardinia Shire Council (Council) provided a comprehensive and detailed policy and strategic context for the Amendment including State legislation and its consistent approach over a number of years to supporting the declaration of a climate emergency. In addition, Council provided detailed strategic support for the assessment framework that it intends to implement in support of the ESD policy and the assessment tools to be used in that framework. These are informed by and consistent with the approach in a many other municipalities.

Following from its assessment the Panel concludes:

- The mandatory nature of the proposed controls emanating from the policy is appropriate.
- There is likely to be extra costs to development resulting from the Amendment, but no conclusion can be drawn about the magnitude of them.
- There is the potential for overlap between national building codes and local ESD policy but each is focussed on different objectives. No overlap fatal to the Amendment has been identified.
- There is no evidence of significantly increased and excessive delays in the approval process resulting from the approval of the Amendment.
- Challenges faced by developers in the regulatory environment are acknowledged but this is not a reason to oppose the Amendment.
- Stormwater management challenges outlined by Mr Sette do not constitute sufficient reason to oppose the Amendment.
- There is no evidence of any overlapping charges or requirements with respect to stormwater or open space as submitted by Mr Sette.
- There is no conflict between the levies and contribution schemes which require developers to contribute to various types of off-site infrastructure and to the achievement of more environmentally sustainable development.
- That the issues raised by PBR have been resolved to the satisfaction of both parties.

Recommendations

Based on the reasons set out in this Report, the Panel recommends that Cardinia Planning Scheme Amendment C278cardcard be adopted as exhibited, subject to:

1. **Replacement of the exhibited version of Clause 22.11 with the version attached to Council's Part C submission (Document 7) and attached to this Report at Appendix C.**
2. **Insert the following at the end of the second paragraph of the Explanatory Report under the heading 'Does the Amendment address relevant bushfire risk':**

   (Urban Ecology). The objectives of Urban Ecology would typically apply in urban areas where there is excessive hard surfaces and limited opportunities for extensive landscaping.

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1 Introduction

1.1 The Amendment

(i) Amendment description

The purpose of the Amendment is to introduce a new ESD Local Planning Policy, for development to achieve best practice in environmental sustainability from its design stage through to construction and operation. This change is supported by refinements to the MSS.

Specifically, the Amendment proposes to:

- amend the following clauses in the MSS to reflect the introduction of Clause 22.11 Environmentally Sustainable Development:
  - Clause 21.01 Cardinia Shire Key Issues and Strategic Vision
    - 21.01-3 'Environment', 'Settlement and housing' and 'Particular use and development' Key issues
    - 21.01-4 Strategic vision
  - Clause 21.02 Environment
    - 21.02-1 Catchment and coastal management - Key issues and Objective 2 Strategies
    - 21.02-2 Landscape – Strategies for 'Landscape values' and 'Design and built form'
    - 21.02-8 Resource conservation – Key issues, Strategies for 'Reduction of greenhouse gas emissions' and 'Design and construction' and Implementation 'Further strategic work'
  - Clause 21.03 Settlement and Housing
    - 21.03-1 Housing – Key issues and Objective 1 Strategies
  - Clause 21.04 Economic Development
    - 21.04-2 Agriculture – Key issues
    - 21.04-3 Activity centres – Key issues, Strategies for 'Design and location'
    - 21.04-4 Industry – Key issues, Strategies for 'Design'
    - 21.04-5 Tourism – Key issues, Strategies for 'Assets'
  - Clause 21.06 Particular Uses and Development
    - 21.06-1 Urban Design – Key issues and Objective 1 Strategies
- introduce a new Clause 22.11 Environmentally Sustainable Development (ESD) policy into the Local Planning Policy Framework of the Cardinia Planning Scheme.

(ii) The subject land

The Amendment applies to all land in the Shire of Cardinia, where a planning permit is required for the development in accordance with the thresholds in the proposed local policy

1.2 Background

In 2019 Council resolved to support a declaration of a climate emergency. Consistent with this and over several years Council has progressively adopted policies and developed strategies and plans to address aspects on that declaration and within the limits of its jurisdiction has undertaken

relevant actions. It submitted that the Amendment is a logical next step in that series of policies and actions. A summary chronology of the events leading to the Amendment is in Table 1.

Table 1 Chronology of events

Date	Event / description
16 September 2019	Council supported a declaration of a climate emergency
21 June 2021	New Council Plan adopted with tackling climate change as a priority
October 2021	Council became a member of Council Alliance for A Sustainable Built Environment (CASBE)
20 March 2023	Council resolved to seek authorisation to prepare the Amendment
5 April 2023	Council lodged the authorisation documentation
13 April 2023	Council was advised by the Department of Transport and Planning (DTP) that the authorisation request application required further review
24 May 2023	Council received further correspondence from DTP requesting further information
6 June 2023	Council responded to DTP
23 October 2023	Council received authorisation from the Minister for Planning to prepare the Amendment, subject to conditions
29 February to 8 April 2024	Amendment formally exhibited
17 June 2024	A detailed summary of, and response to, the submissions received in response to exhibition forms part of Council's meeting agenda
20 June 2024	Council formally requested a Panel be appointed
16 July 2024	Reconstituted Panel appointed
22 July 2024	Directions Hearing held
26 August 2024	Further Directions Hearing determined to consider the matter on the papers

Source: Council Part A submission, Attachment C (amended)

1.3 Process issues

Only one request to be heard was received by the Panel and at its Directions Hearing on 22 July 2024 it directed that Council and that submitter would be heard at a public hearing scheduled for 26 August 2024. On Friday 23 August 2024 the submitter requested to be heard informed the Panel that it wished to rely on a further written submission and did not wish to be heard by the Panel.

At a further Directions Hearing held on 26 August 2024 the Panel indicated that it would complete its report on this matter on the basis of written submissions received and any further written response to the submitter party that Council wished to make. It issued a further Direction to this effect.

Council subsequently provided a further written Part C submission in response (Document 7)

A number of the exhibited track change documents provided to the Panel included text deletion indicators but did not include the deleted text. At the Direction of the Panel, Council's tabled Day1 documents provided a clear indication of the deleted text and it is the Panel's understanding that the text of these versions do not differ from the exhibited versions.

The exhibited version of Clause 22.11 had some formatting issues. Council's Day 1 version corrected most of these and a subsequent replacement version attached to its part C submission corrected a further minor formatting issue. It is the Panel's understanding that the text of each version is the same. Clause 22.11 as attached to Council's Part C submission should replace the exhibited version.

1.4 Planning Policy Framework compliant policy

Council is in the process of making its planning scheme Planning Policy Framework (PPF) compliant. It anticipates that this process will be completed in the first half of 2025. The Amendment includes a new local policy at Clause 22. DTP requested Council prepare a PPF compliant version of the policy in anticipation of the translation process underway. This version was not exhibited with the Amendment but was made available to the Panel and submitter party. Council submitted that the exhibited Clause 22.11 and the draft Clause 15.01-2L-01 have consistent wording. The Panel notes this and understands that this clause will replace the exhibited Clause 22.11 local policy when the PPF version of the Cardinia Planning Scheme is approved. At that stage Clause 22.11 as exhibited as part of this Amendment will be redundant.

1.5 The Panel's approach

Key issues raised in submissions were:

- seeking clarification about the SDAPP regarding a range of elements such as, but not limited to:
  - best practice and mandatory requirements
  - the impact on the planning application assessment process
  - opportunity for negotiations, options and flexibility
- increased cost burden of ESD requirements and impact on affordability
- increased delays in the approval process
- seeking further clarification on how the principles of urban ecology apply, as well as how the heat island effect impacts bushfire risk.

The Panel has assessed the Amendment against the principles of net community benefit and sustainable development, as set out in Clause 71.02-3 (Integrated decision making) of the Planning Scheme.

The Panel considered all written submissions made in response to the exhibition of the Amendment, and further written submissions made. It has reviewed the material, and has been selective in referring to the more relevant or determinative material in the Report. All submissions and materials have been considered by the Panel in reaching its conclusions, regardless of whether they are specifically mentioned in the Report.

This report deals with the issues under the following headings:

- Planning context

- Strategic issues
- Issues addressed by the Panel

1.6 Recommendation

The Panel recommends:

1. **Replace the exhibited version of Clause 22.11 with the version attached to Council's Part C submission (Document 7) and attached to this Report at Appendix C.**

2 Strategic issues

2.1 Planning context

This chapter identifies planning context relevant to the Amendment. Appendix B highlights key imperatives of relevant provisions and policies and provides a detailed list of plans policies and strategies which Council has indicated are relevant to and which are consistent with the Amendment. Only key clauses of the Planning Scheme and policy documents are listed in Table 2.

Table 2 Planning context

	Relevant references
Victorian planning objectives	- section 4 of the *Planning and Environment Act 1987* (PE Act)
Planning Policy Framework	- Clauses 11 (Settlement), 11.01-1S (Settlement), 11.03-1S (Activity centres), 11.03-2S (Growth areas) - Clause 12 (Environmental and Landscape Values), 12.01-1S (Protection of Biodiversity), 12.05-1S (Environmentally sensitive areas) - Clause 13 (Environmental Risk and Amenity), 13.01-1S (Natural hazards and climate change) - Clause 14 (Natural Resource Management), 14.02-1S (Catchment planning and management), 14.02-2S (Water quality) - Clause 15 (Built Environment and Heritage), 15.01-2S (Building design) - Clause 16(Housing), 16-01-1S (Housing supply), 16.01-2S (Housing Affordability) - Clause 18 (Transport), 18.01-1S (Land use and transport planning), 18.01-3S (Sustainable and safe transport), 18.02-1S (Walking), 18.02-2S (Cycling) - Clause 19(Infrastructure), 19.01-1S (Energy supply), 19.01-2S (Renewable energy), 19.03-3S (Integrated water management), 19.03-5S (Waste and resource recovery) - Clause 21.01 Key issues - Clause 21.02 Environment - Clause 21.03 Settlement and housing - Clause 21.04 Economic development - Clause 21.05 Infrastructure - Clause 21.04 Economic Development - Clause 21.06 Particular uses and development
Other planning strategies and policies	- *Plan Melbourne* Directions 5.2, 6.1, 6.2, 6.3, 6.4, 6.5, 6.6, 6.7 - *Plan Melbourne Five Year Implementation Plan 2017-2022*, Action 80 - The *Council Plan 2021–25* - *Community Vision 2040,* Cardinia Shire Council, June 2021

Ministerial directions	Ministerial Direction on the Form and Content of Planning Schemes (Sec 7 (5)) Ministerial Direction No.9 Metropolitan Strategy (Plan Melbourne 2017-2050) (Sec 12 (2) (a) Ministerial Direction No.11 Strategic Assessment of Amendments (Sec 12 (2) (a)
Planning practice note	- Planning Practice Note 46: Strategic Assessment Guidelines, September 2022

2.2 Strategic justification

(i) Evidence and submissions

Council submitted a very detailed strategic policy context for the Amendment in its Part A submission and its consistency with Ministerial Directions and Planning Practice Notes. This is summarised in Chapter 2.1 with more detail provided in Appendix B. No submitter challenged the strategic basis on the Amendment.

(ii) Discussion

The Panel acknowledges and applauds the detailed strategic assessment undertaken by Council. The Amendment finds strong policy and strategic support at both State and Council level. Council has provided detailed submissions of policy support for the Amendment through a number of Council policies and related actions over a number of years. The Amendment is a logical extension of a consistent strategic pathway which Council established several years ago.

The Panel further notes that the Amendment follows the path of and is consistent with ESD policy in a adopted by many Councils, including some neighbouring Councils. Further, the Amendment is guided by the work of CASBE of which Council is a member.

In addition, Council provided a strong strategic case for the tools which it proposes to use under the SDAPP to underpin the proposed Sustainability Design Assessment (SDA) for smaller developments and the requirement to prepare a Sustainability Management Plan (SMP) for larger developments. The tools are in common usage across and number of municipalities.

The Amendment is consistent with and supports the Planning Policy Framework and relevant Ministerial Directions.

(iii) Conclusions

For the reasons set out in this Report, the Panel concludes that the Amendment:

- is supported by, and implements, the relevant sections of the Planning Policy Framework
- is consistent with the relevant Ministerial Directions
- is well founded and strategically justified
- should proceed subject to addressing minor changes as discussed in other chapters.

3 Issues addressed by the Panel

In this chapter the Panel considers issues raised by submitters on a submitter by submitter basis.

3.1 Issues raised by Sette Brothers Pty Ltd and M Sette Pty Ltd

(i) The issues

The issues are:

- whether the proposed ESD backed requirements should be voluntary rather than mandatory
- lack of flexibility
- the overlap between national construction code requirements and the ESD policy where the federal requirements take precedence
- the burden on developers
- rising costs impacting affordability
- the relatively complicated requirement disproportionately impacting smaller developers
- the different requirements of the national construction code and the ESD policy
- the extra burden on developers after open space provision and stormwater management levies.

(ii) Evidence and submissions

Mr Sette (on behalf of Sette Brothers Pty Ltd and M Sette Pty Ltd) made a submission in response to the exhibited Amendment and supplemented that with a further submission. Issues raised in both are addressed here, although some matters of clarification he sought are not discussed.

Mandatory requirements

Mr Sette submitted:

> …we urge policymakers to reconsider the mandatory imposition of ESD requirements and instead adopt a more balanced and collaborative approach to promoting sustainability in development. This approach should prioritize voluntary incentives, technical assistance, and public-private partnerships to foster innovation and achieve mutually beneficial outcomes for all stakeholders.[1]

Council responded:

> Cardinia Shire has been using a voluntary approach for ESD within the planning framework. I can confirm that this voluntary method has not resulted in significant improvements in ESD outcomes and has proven to be inadequate.[2]

Lack of flexibility

Mr Sette submitted that there was a lack of flexibility in the one size fits all requirements that will flow from the adoption of the Amendment. He submitted:

[1] Initial submission of Mr Sette p 3.
[2] Council Part B submission para 89

> This lack of flexibility restricts design creativity and limits the ability to tailor solutions that balance sustainability with economic viability. Can also cause siting issues for smaller home sites.[3]

In its Part B submission Council provided a detailed response to this Mr Sette's submission and stated in part that the ESD policy:

> …encourages design versatility by permitting a range of sustainable solutions to be explored and applied. For example, the Built Environment Sustainability Scorecard (BESS) is focused on improving designs and buildings to a level in line with the ESD policies.[4]

Policy overlaps

Mr Sette submitted:

> …there is an overlap of the proposed ESD requirements with current legislated energy/efficiency requirements for all new buildings. Specifically residential dwellings now requiring to be Seven star homes and the section j requirements for all conditioned (sic) non residential buildings.[5]

Mr Sette acknowledged that the ESD policy does not apply to single dwellings.

He further submitted that:

> Section J and seven-star energy reports are generally more detailed, providing specific construction guidelines, including the orientation for seven-star homes. This level of detail suggests that Building Code of Australia (BCA) requirements likely take precedence over SMP/ESD requirements[6].

He submitted that most ESD requirements using BESS are already addressed by the existing section J of the national code and seven-star requirements.

In its Part C submission, Council acknowledged that a potential overlap between the BCA and local SMP requirements where both address areas such as environmental sustainability, energy efficiency and resources management. In that instance the BCA will take precedence to the extent of any inconsistency. However, Council further submitted that the ESD local policy at Clause 22.11 goes further than the BCA in many instances. It noted that recent changes to the BESS, a tool used in implementing the local policy, had been recently amended to align with the national code, submitting:

> Overall BESS has been enhanced to provide a more user-friendly experience, making it easier for developers and builders to input data and generate reports that demonstrate compliance with the updated National Constriction Code requirements.[7]

Council submitted that the aim of the local policy was to ensure that relevant ESD factors were taken into account early in the design process and that the local policy was intended to complement the national code not conflict with it.

Burden for developers

This issue has two dimensions, extra costs for developers and further delays in the approval process

[3] Initial submission of Mr Sette p 3
[4] Council Part B submission para 125
[5] Submission of Mr Sette
[6] ibid
[7] Council Part C submission para 12.5

With respect to the additional costs likely to be incurred by residential, commercial and industrial development, Mr Sette submitted:

> Adding another step such as SMPs has the additional cost of getting the report done, waiting for the report, submitting the report, waiting on Council to respond to report, adjust the report, return to Council, await Council to respond.[8]

Mr Sette submitted that the extra requirements imposed by the adoption of an ESD policy would result in further delays in the planning approval processes. He stated that reliance on a single ESD officer to assess an application would add to delays particularly during periods of leave of that officer. He further stated that in his experience processes such as is proposed required multiple drafts further increasing delays, submitting:

> These delays will get worse as virtually all commercial/industrial properties and all townhouse/multi unit developments will require an SMP or SDA report that will be assessed by Council. Council will have to employ more staff, which is obviously an additional staffing cost that is not currently required.[9]

Mr Sette said there would be a significant increase in costs for Council and that these resources would be better deployed in providing other services.

Council responded that:

> …a thorough assessment has been conducted to ensure that staff resources are in place for a smooth transition to the newly proposed local ESD Policy.[10]

Council further submitted:

> Pre-application meetings will be encouraged from the beginning. These meetings act as a proactive measure to address any potential design or ESD-related issues early on. They provide a platform for discussion, allowing developers to clarify any doubts or questions about assessment tools and sustainability practices[11]

In its Part B submission Council provided a detailed explanation of the steps that it has taken to ensure a smooth transition to the new policy regime. This included the lessons learnt being part of the broader CASBE network.

Council further stated that any assessment required under an approved ESD policy would occur in parallel with other assessments and as such should not delay the approval process.

Impact on affordability

Mr Sette submitted that the extra costs imposed on development and likely passed on to end users would detrimentally affect housing affordability at a time when this was a significant issue particularly for first home buyers.

Mr Sette submitted:

> These costs and delays in getting these approvals will only worsen the housing shortage and put off developers and builders from building multiple units.
>
> There also will be additional building costs especially related to Heating and cooling as generally Built Environment Sustainability Scorecard requirements are 50% higher than that of the Australian standard. These costs will flow onto the end user.[12]

[8] Sette op cit
[9] Sette op cit
[10] Council Part B submission para 115.
[11] ibid para 117
[12] Sette op cit

Mr Sette made reference to the 2014 *Environmentally Efficient Design Local Policies* Advisory Committee and Panel Report (EEDAC) policy as stating that consideration of affordability of servicing should be taken into account by Councils

Council responded that 91 per cent of dwellings in Cardinia were separate houses and these would not be affected by ESD requirements. Council further quoted the EEDAC report which in discussing the issue of affordability stated that the longer-term costs and benefits needed to be taken into account and not just the initial construction cost.

Impact on smaller developers

In his initial submission Mr Sette submitted that the adoption of the ESD policy would lead to market distortion in that it would favour larger developers. He repeated this point in his supplementary submission without using the same term, identifying:.

> The more complicated requirements will push out smaller developers and builders, reducing competition.
>
> This will also affect commercial industrial builders and developers who will need to increase rents in order to cover the additional requirements.[13]

In response, Council submitted that the ESD requirements in fact established an even playing field and went on the explain in detail how developments of varying sizes would face requirements commensurate with the size of the development.

It submitted that Mr Sette:

> …has not presented any evidence to substantiate the claim that ESD requirements pose additional expenses that are often prohibitive for developers[14].

Stormwater treatment requirements

Mr Sette objected to a strategy dot point within Clause 15.01-2S which states:

- Minimise stormwater discharge through site layout and landscaping measures that support on-site filtration and stormwater reuse

Mr Sette gave a detailed explanation of why on-site filtration is impractical with respect to many industrial developments which often have a high site coverage thereby leaving limited land available to implement such techniques. He said the amount of stormwater runoff from such developments was miniscule compared with the significant run-off from road and other hard surfaces in the public realm.

In his initial submission Mr Sette gave a detailed assessment of the difficulties of stormwater management across both the private and public realms. He submitted that there were strict controls over what developers must adhere to on private land but contended that there was significant levels untreated runoff from public roads going into waterways.

Council responded with a detailed explanation of the steps that it had taken to manage stormwater runoff on public land.

[13] ibid

[14] Council Part B submission para 170

Developer contributions

Mr Sette submitted that developers had already made contributions to stormwater management and to the provision of parks through other levies and should not have further costs imposed on them. He submitted:

> …there are payments made to Council be it Precinct Structure Plan or open space contributions or both which should be contributing to upgrading stormwater systems and ultimately water quality. These payments are to help cover the increase of stormwater runoff as the subdivision is completed.[15]

In its Part C submission, Council responded that the Melbourne Water drainage charge is used to help protect and improve the health of waterways and is not a charge specifically related to managing the runoff and pollution associated with a site-specific development. Council further submitted that waterways and drainage schemes do not apply across the whole municipality and that the ESD policy is municipality wide. Developers could use their contributions to drainage schemes as part of the evidence to support any assessment that is required under the ESD policy.

With respect to the contribution charges required through various Development Contribution Plans and Infrastructure Contribution Plans in place in the municipality, Council explained these related to a range of different infrastructure projects required to support development in the areas in which they apply and were not related to the ESD outcomes being sought.

(iii) Discussion

Mandatory requirements

Although no specific evidence was produced by either Council or Mr Sette to support the submissions made relating to mandatory or discretionary requirements. The Panel accepts Council's position on this as it is better positioned at a municipal wide level and as a member of CASBE to conclude that voluntary codes for ESD are of limited utility. It seems unlikely to the Panel that Council would expend resources to bring forward this Amendment if a voluntary approach was working. The Panel understands that the policy based requirements in comparator municipalities cited by Council are mandatory.

Lack of flexibility

The Panel notes that Mr Sette did not provide any examples or evidence to support his contention that there will necessarily be a lack of flexibility in outcomes. The Panel accepts that regulation can result in the narrowing of choices. However, it does not see that in this instance the requirements that will be imposed by the adoption of the ESD policy will unreasonably restrict innovation or lead to a one size fits all approach. No evidence was produced that this would be the case.

Policy overlaps

The Panel acknowledges the national building code and the implementation of the tools to support the ESD policy are relatively technical areas. Council is fully cognisant of the potential for overlap between the national code and local policy. The Panel understands that the way in which the ESD policy is being focussed is to ensure that ESD issues are identified and addressed early in the design process and are not left to be addressed as building code issues at the construction stage.

[15] Sette op cit

Council and presumably other Councils using BESS are understood to be proactively refining the tool to address potential overlap. This is likely to be an ongoing process as national codes are revised to address issues relevant to that changing environment, and that consequently there will be a need for constant vigilance to address issues of overlap.

The Panel concludes that Council is acting to address any issues of overlap and is not convinced that there are currently areas of overlap that are fatal to the Amendment achieving good planning outcomes.

Burden for developers

There is no doubt that there will be extra costs for developers associated with the implementation of the ESD policy provisions. It is also likely that some or possibly all of these costs will be passed on to end users. No evidence was produced about the magnitude of these extra costs and therefore the Panel is unable to draw any firm conclusion about their likely impact. The Panel can only conclude that it appears unlikely that the extra costs will have a material impact to the extent that the Amendment should not be supported for these reasons. The Panel further notes that upfront costs may to some extent be ameliorated by lower energy consumption and household operating costs over time.

The Panel notes Council's comments on its preapplication processes and expects that developers will take that opportunity particularly in the early stages of implementation to better understand Council's expectations.

Council has provided the Panel with a detailed assessment of the number of developments likely to require either an SDA or SMP as a result of the adoption of this Amendment. Further, based on the experience of other Councils it has made an estimation of the time likely to be taken in making these assessments. The Panel is not in a position to comment on the accuracy of the time assessments but notes that it has not been specifically challenged.

The Panel sees no logical reason why the adoption of the Amendment should necessarily lead to a significant increase in time taken to process development applications. It is not the role of the Panel to comment on how Council allocates its human and financial resources.

The Panel notes Mr Sette's position that it is likely that a number of drafts will be required by Council to satisfy its ESD requirements. The Panel notes that this is likely to be the case in at least the early stages of implementation as both developers and Council become more familiar with the process and the challenges that each face.

Along with lessons learnt from other Council's with operating policies in place the assessment process is assisted by CASBE fact sheets and guides. The Panel notes that the onus is on Council to proactively work with developers particularly in the early stages of implementation to ensure that unnecessary hurdles are not faced by the development industry.

Impact on affordability

The Panel accepts that there may be some negative impact on housing affordability for multi-unit developments. It agrees with the Advisory Committee report quoted by Mr Sette that such impacts should be considered.

However, it is far from clear how significant the impact on housing affordability will be. There are two further factors to take into consideration here. Firstly, the short term or up-front costs

compared with longer terms cost saving or benefits from having more sustainable development. The second benefit is more enduring and of wider community benefit in addition to reducing household energy costs.

Secondly, the Panel acknowledges that housing affordability is a very significant societal issue. There are a range of factors contributing to this and to discuss them is beyond the scope of the Panel. It is likely that any extra impact on affordability imposed through the approval of this Amendment will not be significant in the context of the overall contributors to the housing affordability challenge.

The potential impact of the Amendment on housing affordability is sufficient reason to not support the Amendment.

Impact on smaller developers

The Panel understands the point that Mr Sette is making and has some sympathy for the position of smaller developers. Council makes the point that developers large and small have the same requirements imposed upon them and therefore there is a level playing field. The Panel accepts this point. However, the fact remains that over time the regulatory environment has become more complex and the range of expertise required to navigate it can be a challenge for smaller operators. However, this is not a new issue or unique to the development sector. All developers, large and small, need to adapt to changing environments including regulatory environments and increasing complexity is not sufficient reason to not support this Amendment.

The Panel notes that Council has recognised the challenges faced by developers and as stated above produced fact sheets to assist in implementation. The Panel urges Council to be proactive in the early stages of implementation to actively assist developers, particularly smaller developers lacking relevant expertise. It is in the interests of Council, the developers and more particularly the community, for this to occur.

Stormwater treatments

The Panel is not in a position to comment on the technical aspects of on-site stormwater treatment. The Panel accepts that Council has undertaken significant actions with respect to stormwater runoff from public assets. That said, what is or is not happening in the public realm is in the Panel's view not a sufficient reason to reject the Amendment. Both Council and developers have responsibilities with respect to the land and other assets under their control irrespective of the Amendment.

Developer contributions

The Panel notes that there appears to be some confusion in Mr Sette's understanding of the various other schemes and levies referred to by him. While he doesn't mention all of these by name the Panel assumes he is referring to Development Contribution Plans, Infrastructure Contributions Plans and possibly the Growth Areas Infrastructure Charge in addition to drainage schemes.

It is not the role of the Panel to go into the details of each of these. It is sufficient to say that these are each charges related to the provision of offsite infrastructure, often some distance from a particular development but which the development gives rise to the need for.

The Panel does not believe that there is any overlap with the ESD requirements which are essentially site or development specific. In saying this the Panel acknowledges the array of charges and requirements that now face developers. The Panel sees no fundamental conflict between the roles that these schemes play and the underlying thrust of the Amendment to achieve environmentally sustainable development. In other words, providing for various types of infrastructure is not at odds with wishing to achieve sustainable development.

(iv) Conclusions

The Panel concludes:

- The mandatory nature of the proposed controls emanating from the policy is appropriate.
- There is likely to be extra costs to development resulting from the Amendment, but no conclusion can be drawn about the magnitude of them.
- There is the potential for overlap between national building codes and local ESD policy but each is focussed on different objectives. No overlap fatal to the Amendment has been identified.
- There is no evidence of significantly increased and excessive delays in the approval process resulting from the approval of the Amendment.
- Challenges faced by developers in the regulatory environment are acknowledged but this is not a reason to oppose the Amendment.
- Stormwater management challenges outlined by Mr Sette do not constitute sufficient reason to oppose the Amendment.
- There is no evidence of any overlapping charges or requirements with respect to stormwater or open space as submitted by Mr Sette.
- There is no conflict between the levies and contribution schemes which require developers to contribute to various types of off-site infrastructure and to the achievement of more environmentally sustainable development.

3.2 Issues raised by Puffing Billy Railway

(i) The issues

In its initial submission and in follow up correspondence with Council, Puffing Billy Railway (PBR) raised a number of issues which can be summarised as:

- how will the policy apply to original buildings when extensions are proposed
- the impact of the policy on heritage listed buildings
- how will the policy apply where buildings are being recreated on previously closed sections of the railway
- how will 'best practice' response be defined and managed?

In addition, PBR raised several management and process issues, which while relevant to its main concerns, are not directly relevant to the Amendment.

(ii) Background

Prior to the Directions Hearing, Council had a number of email exchanges with senior employees of PBR, which included detailed responses to issues raised by PBR both in its initial submission and

subsequent correspondence. As a result, PBR emailed Council on 9 May 2024 identifying that it still had the following outstanding concerns:

- whilst it would appear that most of the developments which are proposed by PBR in the future will be below the 300m2 threshold. Some may still exceed that and due to new development or extension, trigger the ESD requirements. Can you confirm that for extensions which trigger the limit, will there be a requirement to upgrade the entire facility / building to the higher standard? Does this also apply to significant maintenance works such as restorations?
- how would this also affect any heritage listed or registered properties which have no such ESD provisions?
- the provision in the planning scheme for Council to allow for heritage in the requirement or not to install solar panels are noted.
- PBR is in the process of recreating sections of the railway previously lost. Our era of significance is 1020 (sic) to 1930 where the station buildings did not even have ceilings let alone insulation. Will there be any allowance for such buildings, perhaps based on type of use?
- It is noted that PBR has the option of withdrawing our submission if we choose not to go to a Panel. Does that mean that our submission is not noted or recorded in any way? Whether or not PBR chooses to submit to a panel the Railway would like our concerns to have been recorded and noted for future reference.

PBR did not submit a request to be heard by the Panel and as a result the Panel issued a Direction that Council engage further with PBR before the Hearing in an attempt to resolve outstanding issues.

(iii) Submissions

Council undertook further discussions as Directed by the Panel and on 31 July 2024 provided copies of all correspondence between it and PBR. This included an email from PBR dated 31 July 2024 indicating that it considered that all issues raised by it had been resolved to its satisfaction.

(iv) Discussion

Resolution of the issues raised by PBR was complicated by changes in senior personnel at PBR. The Panel notes the correspondence between PBR and Council regarding the resolution of issues and offers no further comment on these.

(v) Conclusion

The Panel concludes:

- That the issues raised by PBR have been resolved to the satisfaction of both parties.

3.3 Country Fire Authority

In its written submission the Country Fire Authority suggested that:

> …further consideration is had on where the principles of urban ecology apply and how the heat island effect will be managed.[16]

Council replied, clarifying where the requirements of the ESD policy would be focussed. It was agreed between the submitter and Council that this issue was best addressed by adding a

[16] Submission by the Country Fire Authority p1

clarifying sentence to the exhibited Explanatory Report under the heading 'Does the Amendment address relevant bushfire risk', as follows:

> The objectives of Urban Ecology would typically apply in urban areas where there is excessive hard surfaces and limited opportunities for extensive landscaping.

The Panel considers that it would be helpful to also add this sentence under the heading of Urban Ecology in Clause 22.11, given the limited life of the Explanatory Report. It offers this as an observation but does not make a specific recommendation to this effect. This is left in the hands of Council. The Panel concludes:

- The proposed additional sentence in the Explanatory Report addresses the issue raised by the Country Fire Authority.

3.4 Recommendation

The Panel recommends:

2. **Insert the following at the end of the second paragraph of the Explanatory Report under the heading 'Does the Amendment address relevant bushfire risk':**

   (Urban Ecology). The objectives of Urban Ecology would typically apply in urban areas where there is excessive hard surfaces and limited opportunities for extensive landscaping.

Appendix A Document list

No.	Date	Description	Provided by
1	25 Jul 2024	Panel Directions and Timetable (version 1)	Planning Panels Victoria (PPV)
1a	31 Jul 2024	Correspondence between Council and Puffing Billy Railway	Cardinia Council (Council)
2	20 Aug 2024	Council Part A submission and 22 attachments	Council
3	23 Aug 2024	Correspondence from Mr Sette (for Sette Brothers Pty Ltd and M Sette Pty Ltd) advising he no longer wished to be heard	Mr Sette
4	23 Aug 2024	Council Part B submission and 23 attachments and accompanying documents	Council
5	23 Aug 2024	Written submission and 4 attachments from Mr Sette	Mr Sette
6	26 Aug 2024	Further Directions from the Panel	PPV
7	29 Aug 2024	Council Part C submission and two attachments	Council
8	1 Sep. 2024	Further Direction from the Panel	PPV

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Appendix B Planning context

B:1 Planning policy framework

Council submitted that the Amendment is supported by various clauses in the Planning Policy Framework and State legislation, which the Panel has summarised below.

Planning and Environment Act 1987. The Amendment will assist in implementing State policy objectives set out in section 4 of the PE Act with strategies:

- to ensure sound, strategic planning and co-ordinated action at State, regional and municipal levels (Sec 4 (2) (a))
- to enable land use and development planning and policy to be easily integrated with environmental, social, economic, conservation and resource management policies at State, regional and municipal levels (Sec 4 (2) (c))
- to ensure that the effects on the environment are considered and provide for explicit consideration of social and economic effects when decisions are made about the use and development of land (Sec 4 (2) (d))
- to facilitate development which achieves the objectives of planning in Victoria and planning objectives set up in planning schemes (Sec 4 (2) (e))
- to encourage the achievement of planning objectives through positive actions by responsible authorities and planning authorities (Sec 4 (2) (g)).

Climate Change Act2017 sets the legislative foundation to manage climate change risks, maximise the opportunities that arise from decisive action and drive the transition to a climate resilient community and economy with net zero emissions by 2050.

Local Government Act 2020 came into effect in Victoria on 24 March 2020. The Act strengthened the mandate for considerations of climate change risk in Council's decision-making processes.

Cardinia Planning Scheme

Clause 11 Settlement

- Planning is to recognise the need for, and as far as practicable contribute towards the following issues:
  - adaptation in response to changing technology
  - economic viability
  - a high standard of environmental sustainability, urban design and amenity
  - climate change adaptation and mitigation
  - land use and transport integration
  - waste minimisation and resource recovery.
- 11.01-1S (Settlement). It is a strategy to deliver networks of high-quality integrated settlements that will:
  - support resilient communities and their ability to adapt and change
  - integrate the management of water resources into the urban environment in a way that supports water security, public health, environment and amenity outcomes
  - contribute to net zero greenhouse gas emissions through renewable energy infrastructure and energy efficient urban layout and urban design

- support metropolitan and regional climate change adaptation and mitigation measures.

- 11.03-1S (Activity centres). It is a strategy to improve access by walking, cycling and public transport to services and facilities and to improve the social, economic and environmental performance and amenity of activity centres
- 11.03-2S (Growth areas). It is strategy to develop precinct structure plans that provide better transport choices, respond to climate change and increase environmental sustainability.

Clause 12 Environmental and Landscape Values

- planning should help to protect the health of ecological systems and the biodiversity they support (including ecosystems, habitats, species and genetic diversity) and conserve areas with identified environmental and landscape values
- 12.01-1S (Protection of Biodiversity) seeks to assist the protection and conservation of Victoria's biodiversity, including by ensuring that decision making considers the impacts of land use and development on Victoria's biodiversity
- 12.05-1S (Environmentally sensitive areas) which seeks to protect and conserve environmentally sensitive areas.

Clause 13 Environmental Risks and Amenity

- planning should strengthen the resilience and safety of communities by adopting a best-practice environmental management and risk management approach as well as prepare for and respond to the impacts of climate change
- 13.01-1S (Natural hazards and climate change) objective is to minimise the impacts of natural hazards and adapt to the impacts of climate change through risk-based planning. Strategies include:
  - responding to the risks associated with climate change in planning and management decision making processes
  - identifying at-risk areas using the best available data and climate change science
  - ensuring planning controls allow for risk mitigation and climate change adaptation strategies to be implemented.

Clause 14 Natural Resource Management

- planning is to assist in the conservation and wise use of natural resources including energy, water, land, stone and minerals to support both environmental quality and sustainable development
- 14.02-1S (Catchment planning and management) objective is to assist the protection and restoration of catchments, waterways, estuaries, bays, water bodies, groundwater, and the marine environment. Strategies include:
  - ensuring that development at or near waterways provide for the protection and enhancement of the environmental qualities of waterways and their instream uses
  - requiring appropriate measures to restrict sediment discharges from construction sites.
- 14.02-2S (Water quality) objective is to protect water quality.

Clause 15 Built Environment and Heritage

- planning is to recognise the role of urban design, building design, heritage and energy and resource efficiency in delivering liveable and sustainable cities, towns and neighbourhoods
- planning must support the establishment and maintenance of communities by delivering functional, accessible, safe and diverse physical and social environments, through the appropriate location of use and development and through high quality buildings and urban design
- planning should promote development that is environmentally sustainable and should minimise detrimental impacts on the built and natural environment
- planning should facilitate development that:
  - is adapted and resilient to climate related hazards
  - supports the transition to net zero greenhouse gas emissions
  - minimises waste generation and supports resource recovery
  - conserves potable water
  - supports the use of, and access to, low emission forms of transport
  - protects and enhances natural values
  - minimises off-site detrimental impacts on people and the environment.

15.01-2S (Building design) objective is to achieve building design and siting outcomes that contribute positively to the local context, enhance the public realm and support environmentally sustainable development. Strategies for this clause address several ESD elements, such as:

- ensuring a comprehensive site analysis forms the starting point of the design process and provides the basis for the consideration of height, scale, massing and energy performance of new development
- improving the energy performance of buildings through siting and design measures that encourage:
  - passive design responses that minimise the need for heating, cooling and lighting.
  - on-site renewable energy generation and storage technology
  - use of low embodied energy materials
  - ensure the layout and design of development supports resource recovery, including separation, storage and collection of waste, mixed recycling, glass, organics and e-waste.
- encourage use of recycled and reusable materials in building construction and undertake adaptive reuse of buildings, where practical
- encourage water efficiency and the use of rainwater, stormwater and recycled water
- minimise stormwater discharge through site layout and landscaping measures that support on-site infiltration and stormwater reuse
- ensure development provides landscaping that responds to its site context, enhances the built form, creates safe and attractive spaces and supports cooling and greening of urban areas.

Clause 16 Housing

- planning should ensure the long-term sustainability of new housing, including access to services, walkability to activity centres, public transport, schools and open space
- 16-01-1S (Housing supply) strategies include encouraging the development of well-designed housing that provides a high level of internal and external amenity

- 16.01-2S (Housing Affordability) strategies include promoting good housing and urban design to minimise negative environmental impacts and keep costs down for residents and the wider community.

Clause 18 Transport

- planning should ensure a safe, integrated and sustainable transport system that actively contributes to environmental sustainability and supports health and wellbeing
- 18.01-1S (Land use and transport planning) seeks to support urban development that makes jobs and services more accessible by taking advantage of all available modes of transport and design neighbourhoods to better support active living and increase the share of trips made using sustainable transport modes
- 18.01-3S (Sustainable and safe transport) objective is to facilitate an environmentally sustainable transport system that is safe and supports health and wellbeing. Strategies that relate to ESD elements include:
  - prepare for and adapt to climate change impacts
  - prioritise the use of sustainable personal transport
  - avoid, minimise and offset harm to the environment by protecting biodiversity and reducing transport-related greenhouse gas emissions
- 18.02-1S (Walking) objective is to facilitate an efficient and safe walking network and increase the proportion of trips made by walking
- 18.02-2S (Cycling) objective is to facilitate an efficient and safe bicycle network and increase the proportion of trips made by cycling
- both 18.02-1S (Walking) and 18.02-2S (Cycling) strategies include to plan and develop walking and cycling networks that provide routes that are safe, direct and comfortable to use and accommodating emerging forms of low-emission, low and moderate speed personal transport.

Clause 19 Infrastructure

- infrastructure planning should avoid, minimise and offset environmental impacts, and incorporate resilience to natural hazards, including future climate change risks
- 19.01-1S (Energy supply) objective is to facilitate appropriate development of energy supply infrastructure. Strategies that support ESD elements include:
  - support the development of energy generation, storage, transmission, and distribution infrastructure to transition to a low-carbon economy
  - ensure energy generation, storage, transmission and distribution infrastructure and projects are resilient to the impacts of climate change
  - facilitate renewable energy generation and storage to meet on-site energy needs.
- 19.01-2S (Renewable energy) objective is to support the provision and use of renewable energy in a manner that ensures appropriate siting and design considerations are met. Strategies that support ESD elements include:
  - facilitate renewable energy development in appropriate locations
  - protect renewable energy infrastructure against competing and incompatible uses
  - set aside suitable land for future renewable energy infrastructure
  - consider the economic, social and environmental benefits to the broader community of renewable energy generation while also considering the need to minimise the effects of a proposal on the local community and environment

- 19.03-3S (Integrated water management) objective is to sustainably manage water supply and demand, water resources, wastewater, drainage and stormwater through an integrated water management approach. Strategies include to:
  - plan and coordinate integrated water management, bringing together stormwater, wastewater, drainage, water supply, water treatment and re-use, to:
    - protect downstream environments, waterways and bays
    - manage and use potable water efficiently
    - reduce pressure on Victoria's drinking water supplies
    - minimise drainage, water or wastewater infrastructure and operational costs
    - minimise flood risks
    - provide urban environments that are more resilient to the effects of climate change
  - integrate water into the landscape to facilitate cooling, local habitat improvements and provision of attractive and enjoyable spaces for community use
  - facilitate use of alternative water sources such as rainwater, stormwater, recycled water and run-off from irrigated farmland
- 19.03-5S (Waste and resource recovery) objective is to reduce waste and maximise resource recovery to reduce reliance on landfills and minimise environmental, community amenity and public health impacts. Strategies include:
  - ensuring future waste and resource recovery infrastructure needs are identified and planned for to safely and sustainably manage all waste streams and maximise opportunities for resource recovery
  - encouraging technologies that increase recovery and treatment of resources to produce high value, marketable end products.

Clause 21.01 Key issues and strategic Vision identifies that the key issues facing Cardinia are focussed around five strategic themes including environment.

Clause 21.02 Environment sets out a range of objectives and strategies to protect the environment of Cardinia.

Clause 21.03 Settlement and housing sets out objectives and strategies to create a functional, attractive, safe and sustainable urban environment.

Clause 21.04 Economic development including resilience in the local economy.

Clause 21.05 Infrastructure supports socially and economically sustainable communities.

Clause 21.06 Particular uses and development acknowledges that the long-term benefits of good design are a more attractive, functional and sustainable built environment.

B:2 Other relevant planning strategies and policies

i) Plan Melbourne

Plan Melbourne 2017-2050 sets out strategic directions to guide Melbourne's development to 2050, to ensure it becomes more sustainable, productive and liveable as its population approaches 8 million. It is accompanied by a separate implementation plan that is regularly updated and refreshed every five years.

Plan Melbourne is structured around seven outcomes, which set out the aims of the plan. The outcomes are supported by Directions and Policies, which outline how the outcomes will be achieved.

Table 3 Relevant sections of Plan Melbourne

Outcome	Directions	Policies
Inclusive city	5.2 Safe supportive communities	
Sustainable city	6.1 Energy water and waste performance	6.1.1 and 6.1.2
	6.2 Impacts of natural hazard events	6.2.1 and 6.2.2
	6.3 Integrate development and water management	6.3.1, 6.3.2 and 6.3.3
	6.4 Cooler and greener Melbourne	6.4.1
	6.5 Protect and restore natural habitats	6.5.1, 6.5.2 and 6.5.3
	6.6 Air quality and noise	6.6.1
	6.7 Waste and waste management	6.7.1, 6.7.2, and 6.7.3

ii) Other State plans and strategies

The *Environmentally sustainable development of buildings and subdivisions - a roadmap for Victoria's planning system* (Department of Environment, Land, Water and Planning, July 2020) (ESD Roadmap) outlines a program to introduce new ESD planning policies and standards.

iii) Structure Plans

Council has listed the following structure plans as relevant as they contain elements that support sustainable development:

- Cardinia Road Precinct Structure Plan
- Cardinia Road Employment Precinct Structure plan
- Officer Precinct Structure Plan
- Pakenham east Precinct Structure Plan
- Pakenham South Employment Precinct Structure Plan
- Officer South Employment Precinct Structure
- Bunyip Township Strategy
- Cockatoo Township Strategy
- Emerald District Strategy
- Garfield Township Strategy
- Gembrook Township Strategy
- Koo Wee Rup Township Strategy
- Lang Lang Township Strategy
- Upper Beaconsfield Township Strategy.

iv) Reference documents

Council lists the following reference documents as relevant:

- Beaconsfield Structure Plan
- Cardinia Westernport Green Wedge management Plan
- Pakenham Major Activity Centre Structure Plan

v) Other Council strategies, plans and policies

Council lists the following as relevant:

- Sustainable Development Goals at Cardinia Shire Council
- Council Plan 2021-2025
- Council's Vision 2021-2025
- Cardinia Shire Council Liveability Plan 2017-29 (Reviewed 2021)
- Sustainable Environment Policy 2018-2028
- Aspirational Energy Transition Plan 2014-24
- Climate Change Adaptation Strategy 2022-2032
- Integrated Water Management Plan 2015-25
- Waste and Recovery Strategy 2017-26
- Biodiversity Conservation Strategy 2019-29
- Council Enhanced Standard – Sustainable Buildings 2020-26
- Crime Prevention Through Environmental Design Policy.

B:3 VC Amendments

Council has listed the following VC (Statewide) Amendments to the Planning Scheme as relevant to the Amendment:

- VC220 – Supports the efficient delivery of neighbourhood
- VC221 – Facilitates all-electric developments
- VC244 – Stormwater requirements to non-residential developments in urban growth areas.
- VC226 – Updates requirements for solar panels in the heritage areas.
- VC227 – Supports the facilitation of the container deposit scheme
- VC246 – Land use controls to support the container deposit scheme
- VC250 – Prohibits new gas connections for new dwellings, apartments and residential subdivisions where a planning permit is required

B:4 Planning scheme provisions

Council lists the following zones as having objectives requirements or other provision relevant to Environmentally Sustainable Development:

- Urban Growth Zone
- Comprehensive Development Zone
- Activity Centre Zone.

B:5 Ministerial Directions

The Explanatory Report states that the Amendment is consistent with the following Ministerial Directions but provides no discussion on this:

- Ministerial Direction on the Form and Content of Planning Schemes *(Sec 7 (5))*
- Ministerial Direction No.9 Metropolitan Strategy (Plan Melbourne 2017-2050*) (Sec 12 (2) (a))*
- Ministerial Direction No.11 Strategic Assessment of Amendments *(Sec 12 (2) (a).*

No issue was raised with respect to compliance and the Panel accepts that the Amendment is consistent as claimed by Council.

Council submitted that the Amendment has been prepared in accordance with Planning Practice Note 46 Strategic Assessment Guidelines.

Appendix C Clause 22.11 Environmentally Sustainable Development

ATTACHMENT A - Copy of ATTACHMENT D.2 (Part B) DAY 1 VERSION DOCUMENT - AM C278CARD CLAUSE 22.11 Tracked changes Pg 3 of 3 format change

CARDINIA PLANNING SCHEME

LOCAL PLANNING POLICIES

22
Proposed C278card

22.11 ENVIRONMENTALLY SUSTAINABLE DEVELOPMENT

22.11-1 Policy Application

This policy applies to residential and non-residential development, excluding subdivision, in accordance with the thresholds detailed in this policy.

22.11-2 Objective

To achieve best practice in environmentally sustainable development from the design stage through to construction and operation.

Strategies

Facilitate development that minimises environmental impacts.

Encourage environmentally sustainable design that:

- Is consistent with the type and scale of the development.
- Responds to site opportunities and constraints.
- Adopts best practice through a combination of methods, processes and locally available technology that demonstrably minimises environmental impacts.

Energy performance

Reduce both energy use and energy peak demand through design measures such as:

- Building orientation.
- Shading to glazed surfaces.
- Optimising glazing to exposed surfaces.
- Inclusion of or space allocation for renewable technologies.

Integrated water management

Reduce total operating potable water use through appropriate design measures such as water efficient fixtures, appliances, equipment, irrigation and landscaping.

Encourage the appropriate use of alternative water sources (including greywater, rainwater and stormwater).

Incorporate best practice water sensitive urban design to improve the quality of stormwater runoff and reduce impacts on water systems and water bodies.

Indoor environment quality

Achieve a healthy indoor environment quality, including thermal comfort and access to fresh air and daylight, prioritising passive design over mechanical heating, ventilation, cooling and lighting.

Reduce indoor air pollutants by encouraging use of low-toxicity materials.

Minimise noise levels and noise transfer within and between buildings and associated external areas.

Transport

Design development to promote the use of walking, cycling and public transport, in that order; and minimise car dependency.

Promote the use of low emissions vehicle technologies and supporting infrastructure.

Page 1 of 3

CARDINIA PLANNING SCHEME

Waste management

Promote waste avoidance, reuse and recycling during the design, construction and operation stages of development.

Encourage use of durable and reuseable building materials.

Ensure sufficient space is allocated for future change in waste management needs, including (where possible) composting and green waste facilities.

Urban ecology

Protect and enhance biodiversity by incorporating natural habitats and planting indigenous vegetation.

Reduce urban heat island effects through building design, landscape design, water sensitive urban design and the retention and provision of canopy and significant trees.

Encourage the provision of space for productive gardens, particularly in larger residential developments.

22.11-3 Policy guidelines

Residential

A Sustainable Design Assessment (including an assessment using BESS, STORM or other methods) for:

- 2 - 9 dwellings, or
- A building used for accommodation other than dwellings with a gross floor area between 100 sqm and 999 sqm.

A Sustainability Management Plan (including an assessment using BESS/Green star, STORM/MUSIC or other methods) and a Green Travel Plan for:

- 10 or more dwellings, or
- A building used for accommodation other than dwellings with a gross floor area equal to or more than 1000 sqm.

Non-residential

A Sustainable Design Assessment (including an assessment using BESS and STORM/MUSIC or other methods) for:

- A non-residential building with a gross floor area of 300 sqm to 999 sqm (excluding outbuildings), or
- An extension to an existing non-residential building creating between 300 sqm to 999 sqm of additional gross floor area (excluding outbuildings).

A Sustainability Management Plan (including an assessment using BESS/Green star, STORM/MUSIC or other methods) and a Green Travel Plan for:

- A non-residential building with a gross floor area equal to or more than 1000 sqm (excluding outbuildings).
- An extension to an existing non-residential building equal to or creating more than 1000 sqm of additional gross floor area (excluding outbuildings).

Mixed use

Applicable assessments for the residential and non-residential components of the development. Consider as relevant the following tools to support a Sustainable Design Assessment or Sustainability Management Plan:

- *Sustainable Design Assessment in the Planning Process (IMAP, 2015)*

CARDINIA PLANNING SCHEME

- *Built Environment Sustainability Scorecard 'BESS' (Council Alliance for a Sustainable Built Environment 'CASBE')*
- *Green Star (Green Building Council of Australia)*
- *Model for Urban Stormwater Improvement Conceptualisation 'MUSIC' (Melbourne Water)*
- *Nationwide House Energy Rating Scheme 'NatHERS' (Department of Climate Change and Energy Efficiency)*
- *Stormwater Treatment Objective - Relative Measure 'STORM' (Melbourne Water)*
- *Urban Stormwater Best Practice Environmental Management Guidelines (Victorian Stormwater Committee, 1999)*
- *Waste Management and Recycling in Multi-Unit Developments - Better Practice Guide*
- *(Sustainability Victoria, 2018).*

In determining an application, the responsible authority will consider as appropriate:

- Whether an ESD plan or framework has previously been approved by the responsible authority.

22.11-4 COMMENCEMENT

This policy does not apply to applications received by the responsible authority before the approved gazettal date of Amendment C278card.

22.11-5 EXPIRY

This policy will expire when it is superseded by a equivalent provision of the Victoria Planning Provisions.

LOCAL PLANNING POLICIES

22
--/--/----
Proposed C278card

22.11 ENVIRONMENTALLY SUSTAINABLE DEVELOPMENT

22.11-1 Policy Application

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Encourage environmentally sustainable design that:

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- Responds to site opportunities and constraints.
- Adopts best practice through a combination of methods, processes and locally available technology that demonstrably minimises environmental impacts.

Energy performance

Reduce both energy use and energy peak demand through design measures such as:

- Building orientation.
- Shading to glazed surfaces.
- Optimising glazing to exposed surfaces.
- Inclusion of or space allocation for renewable technologies.

Integrated water management

Reduce total operating potable water use through appropriate design measures such as water efficient fixtures, appliances, equipment, irrigation and landscaping.

Encourage the appropriate use of alternative water sources (including greywater, rainwater and stormwater).

Incorporate best practice water sensitive urban design to improve the quality of stormwater runoff and reduce impacts on water systems and water bodies.

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Achieve a healthy indoor environment quality, including thermal comfort and access to fresh air and daylight, prioritising passive design over mechanical heating, ventilation, cooling and lighting.

Reduce indoor air pollutants by encouraging use of low-toxicity materials.

Minimise noise levels and noise transfer within and between buildings and associated external areas.

Transport

Design development to promote the use of walking, cycling and public transport, in that order; and minimise car dependency.

Promote the use of low emissions vehicle technologies and supporting infrastructure.

Waste management

Promote waste avoidance, reuse and recycling during the design, construction and operation stages of development.

Encourage use of durable and reuseable building materials.

Ensure sufficient space is allocated for future change in waste management needs, including (where possible) composting and green waste facilities.

Urban ecology

Protect and enhance biodiversity by incorporating natural habitats and planting indigenous vegetation.

Reduce urban heat island effects through building design, landscape design, water sensitive urban design and the retention and provision of canopy and significant trees.

Encourage the provision of space for productive gardens, particularly in larger residential developments.

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- 2 - 9 dwellings, or
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- An extension to an existing non-residential building equal to or creating more than 1000 sqm of additional gross floor area (excluding outbuildings).

Mixed use

Applicable assessments for the residential and non-residential components of the development.

Consider as relevant the following tools to support a Sustainable Design Assessment or Sustainability Management Plan:

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- *Built Environment Sustainability Scorecard 'BESS' (Council Alliance for a Sustainable Built Environment 'CASBE')*
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- *Model for Urban Stormwater Improvement Conceptualisation 'MUSIC' (Melbourne Water)*
- *Nationwide House Energy Rating Scheme 'NatHERS' (Department of Climate Change and Energy Efficiency)*
- *Stormwater Treatment Objective - Relative Measure 'STORM' (Melbourne Water)*
- *Urban Stormwater Best Practice Environmental Management Guidelines (Victorian Stormwater Committee, 1999)*
- *Waste Management and Recycling in Multi-Unit Developments - Better Practice Guide*
- *(Sustainability Victoria, 2018).*

In determining an application, the responsible authority will consider as appropriate:

- Whether an ESD plan or framework has previously been approved by the responsible authority.

22.11-4 COMMENCEMENT

This policy does not apply to applications received by the responsible authority before the approved gazettal date of Amendment C278card.

22.11-5 EXPIRY

This policy will expire when it is superseded by a equivalent provision of the Victoria Planning Provisions.

ATTACHMENT D.1
DAY 1 VERSION DOCUMENT - AM C278CARD AMENDED EXPLANATORY REPORT

Planning and Environment Act 1987

CARDINIA PLANNING SCHEME

AMENDMENT C278card

EXPLANATORY REPORT

Who is the planning authority?

This amendment has been prepared by Cardinia Shire Council which is the planning authority for this amendment.

The amendment has been made at the request of Cardinia Shire Council.

Land affected by the amendment

The amendment applies to all land in the Shire of Cardinia, where a planning permit is required for the development in accordance with the thresholds in the proposed local policy.

What the amendment does

The amendment introduces a new Environmentally Sustainable Development (ESD) Local Planning Policy, for development to achieve best practice in environmental sustainability from its design stage through to construction and operation. This change is supported by refinements to the Municipal Strategic Statement (MSS).

The ESD policy provides statutory weight to what is currently a voluntary approach in the planning process, by requiring those developments which require a planning permit to achieve best practice environmental objectives.

The amendment brings Cardinia Shire Council into alignment with 26 other councils who have an equivalent local policy.

The amendment:

- Amends the following clauses in the Municipal Strategic Statement (MSS) to reflect the introduction of Clause 22.11 Environmentally Sustainable Development:
    - Clause 21.01 Cardinia Shire Key Issues and Strategic Vision

      21.01-3 - Key issues - Environment, Settlement and housing and Particular use and development

      21.01-4 Strategic vision
    - Clause 21.02 Environment

      21.02-1 Catchment and coastal management - Key issues & Objective 2 Strategies

      21.02-2 Landscape – Strategies (Landscape values & Design and built form)

      21.02-8 Resource conservation – Key issues, Strategies (Reduction of greenhouse gas emissions & Design and construction) and Implementation – Further strategic work
    - Clause 21.03 Settlement and Housing

      21.03-1 Housing – Key issues, Objective 1 Strategies
    - Clause 21.04 Economic Development

      21.04-2 Agriculture – Key issues

      21.04-3 Activity centres – Key issues, Strategies (Design and location)

      21.04-4 Industry – Key issues, Strategies (Design)

      21.04-5 Tourism – Key issues, Strategies (Assets)

- Clause 21.06 Particular Uses and Development

  21.06-1 Urban Design – Key issues & Objective 1 Strategies

- Introduces a new Clause 22.11 Environmentally Sustainable Development (ESD) into the Local Planning Policy Framework of the Cardinia Planning Scheme.

The proposed local policy provides objectives and strategies relating to the following ESD principles:

- Energy performance
- Integrated water management
- Indoor environment quality
- Transport
- Waste management
- Urban ecology

The local policy also sets out application requirements. Depending on the scale of development, an applicant needs to demonstrate how the relevant policy objectives will be achieved, by completing either a Sustainable Design Assessment (SDA) or a Sustainability Management Plan (SMP).

Strategic assessment of the amendment

Why is the amendment required?

The amendment is required to strengthen Council's ability to consider environmentally sustainable design measures in the Local Planning Policy Framework and to ensure that development achieves best practice in environmental sustainability, from the design stage through to construction and operation.

There is currently limited ability under the Cardinia Planning Scheme to require a planning permit application to consider and implement ESD principles. This is considered a significant gap in the decision-making ability of Council and is having negative effects on the liveability of the Shire of Cardinia.

The proposed local policy:

- Provides clear objectives and application requirements for planning permit applications.
- Ensures best practice ESD initiatives are considered at the time of planning approval for new developments, to maximise integrated design outcomes and minimise costs for retrofitting and poor design.

The *Council Plan 2021–25 and Community Vision 2040 (Cardinia Shire Council, June 2021)* is Council's key strategic document and incorporates the long-term Community Vision 2040. Council's Vision 2021 – 25 is identified as:

> *The unique identity of our urban, hills and rural areas is strengthened. We meet the challenges we face together as a community. How we respond balances the needs of our people, businesses, our productive land and natural environments.*

The Council Plan is structured around 5 strategic objectives that underpin the overarching strategic direction: (1) Strong communities, (2) Liveable places, (3) Thriving environments, (4) Prosperous economies and (5) Responsible leadership. Strategic Direction 3 – Thriving environments, includes the development of an ESD policy in Year 1 (2021-22) and the incorporation of the ESD policy into the planning scheme in Year 2 (2022-23).

How does the amendment implement the objectives of planning in Victoria?

The amendment implements the following objectives of planning set out the *Planning and Environment Act 1987 (the Act)*:

- to provide for the fair, orderly, economic and suitable use, and development of the land (Sec 4 (1) (a))

- to provide for the protection of natural and manmade resources and the maintenance of ecological processes and genetic diversity (Sec 4 (1) (b)
- to secure a pleasant, efficient and safe working, living and recreational environment for all Victorians and visitors to Victoria (Sec 4 (1) (c)) and
- to balance the present and future interests of all Victorians (Sec 4 (1) (g)).

The amendment is also consistent with the objectives of the planning framework established by the Act, in particular:

- to ensure sound, strategic planning and co-ordinated action at State, regional and municipal levels (Sec 4 (2) (a))
- to enable land use and development planning and policy to be easily integrated with environmental, social, economic, conservation and resource management policies at State, regional and municipal levels (Sec 4 (2) (c))
- to ensure that the effects on the environment are considered and provide for explicit consideration of social and economic effects when decisions are made about the use and development of land (Sec 4 (2) (d))
- to facilitate development which achieves the objectives of planning in Victoria and planning objectives set up in planning schemes (Sec 4 (2) (e)) and
- to encourage the achievement of planning objectives through positive actions by responsible authorities and planning authorities (Sec 4 (2) (g)).

The amendment achieves the section 4 objectives by supporting and strengthening the application of ESD design and construction principles and methods; an approach that is in the equitable interests of all Victorians.

How does the amendment address any environmental, social and economic effects?

The Amendment is expected to deliver a net community benefit by introducing a local planning policy to facilitate sustainable development through the planning process.

Likely benefits include:

<u>Environmental effects</u>

- creating more energy and water efficient development to reduce wastage and reliance on non-renewable resources
- improving indoor environmental quality for the health and productivity of building occupants
- improving stormwater management to mitigate the impacts of stormwater on the environment, and provide cooling, local habitat and amenity benefits
- avoiding more waste generation by promoting greater reuse and recycling (in that order) during the design, construction and operation stages of development
- increasing resource recovery and minimising materials sent to landfill
- encouraging better protection and enhancement of biodiversity
- reducing heat island effects through building design, landscape design, water sensitive urban design and the retention of canopy and significant trees
- minimising car dependency by ensuring that the built environment is designed to promote the use of walking, cycling and public transport (in that order) and
- promoting the use of low emissions vehicle technologies and supporting infrastructure.

<u>Economic effects</u>

- whilst the upfront cost of development may increase in some instances, the Amendment will facilitate better consumer outcomes by:
    - aligning ESD outcomes to development scale
    - maximising cost-neutral ESD outcomes and avoiding retrofitting costs through more considered design and planning of development

- reducing operating costs over the life of a building and
- lowering peak demands for energy and water consumption.

Social effects

- increasing affordability over the life of a building for commercial and residential occupiers through reduced servicing costs
- improving resilience to a warming climate and
- providing comfort, liveability and overall productivity for building occupiers.

Does the amendment address relevant bushfire risk?

The Amendment will not result in any increase to the risk to life as a priority, property, community infrastructure and the natural environment from bushfire.

Whilst the Amendment proposes to introduce a local policy that contains strategies to retain and provide indigenous vegetation (including canopy and significant trees) within development to reduce the urban heat island effect and protect and enhance biodiversity (Urban Ecology). The objectives of Urban Ecology would typically apply in urban areas where there is excessive hard surfaces and limited opportunities for extensive landscaping.

T, the following provisions of the Cardinia Planning Scheme take precedence (as relevant) where bushfire risk may be evident:

- Clause 13.02-1S Bushfire Planning
- Clause 21.02-4 Bushfire management
- Clause 44.06 Bushfire Management Overlay (BMO)
- Clause 52.12 Bushfire Protection Exemptions
- Clause 53.02 Bushfire Planning

Does the amendment comply with the requirements of any Minister's Direction applicable to the amendment?

The amendment is consistent with the following Ministerial Directions as outlined in the Act:

- *Ministerial Direction on the Form and Content of Planning Schemes* (Sec 7 (5))
- *Ministerial Direction No.9 Metropolitan Strategy (Plan Melbourne 2017-2050*) (Sec 12 (2) (a)) and
- *Ministerial Direction No.11 Strategic Assessment of Amendments* (Sec 12 (2) (a)).

The amendment aligns with the following key outcomes and policy directions outlined in *Plan Melbourne: Metropolitan Planning Strategy 2017 – 2050*:

Outcome 5: Melbourne is a city of inclusive, vibrant and healthy neighbourhoods

- Direction 5.2: Create neighbourhoods that support safe communities and healthy lifestyles.

Outcome 6: Melbourne is a sustainable and resilient city

- Direction 6.1 - Transition to a low-carbon city to enable Victoria to achieve its target of net zero greenhouse gas emissions by 2050. Policy 6.1.1 specially seeks to 'improve energy, water and waste performance of buildings through environmentally sustainable development and energy efficiency upgrades'.
- Direction 6.2 - Reduce the likelihood and consequences of natural hazard events and adapt to climate change.
- Direction 6.3 - Integrate urban development and water cycle management to support a resilient and liveable city.
- Direction 6.4 - Make Melbourne cooler and greener.
- Direction 6.5 - Protect and restore natural habitats.
- Direction 6.6 - Improve air quality and reduce the impact of excessive noise.

- Direction 6.7 - Reduce waste and improve waste management and resource recovery.
- *Plan Melbourne (Department of Environment, Land, Water and Planning, 2017)* is supported by the *Plan Melbourne Five Year Implementation Plan 2017-2022 (Department of Environment, Land, Water and Planning, 2019)* which focuses on the delivery of actions of Plan Melbourne.
- Action 80, Review the Victorian planning and building systems to support environmentally sustainable development outcomes for new buildings to consider their energy, water and waste management performance is identified as a short-term action (by the end of 2018 (0–2 years).

The *Plan Melbourne 2017 – 2050, 2020 Report on Progress (Department of Environment, Land, Water and Planning, 2021)* identifies that:

> *The 'Environmentally sustainable development of buildings and subdivisions: A roadmap for Victoria's planning system document' was released in early 2021 and outlines the government's agenda for supporting Environmentally Sustainable Development through Victoria's planning system. Work is currently underway to review planning standards on energy efficiency, air and noise pollution exposure, waste and resource recovery, and measures to ameliorate the impacts of urban heat extremes.*

The amendment will help to achieve the above-mentioned outcomes of Plan Melbourne.

How does the amendment support or implement the Planning Policy Framework and any adopted State policy?

The amendment is consistent with and supports the following elements of the Planning Policy Framework:

Clause 11 Settlement

- Planning is to recognise the need for, and as far as practicable contribute towards the following issues:
    - Health, wellbeing and safety
    - Diversity of choice
    - Adaptation in response to changing technology
    - Economic viability
    - A high standard of environmental sustainability, urban design and amenity
    - Climate change adaptation and mitigation
    - Prevention of land, water, air and noise pollution
    - Protecting, conserving and improving biodiversity, waterways and other natural resources
    - Accessibility
    - Land use and transport integration
    - Waste minimisation and resource recovery
- 11.01-1S (Settlement). It is a strategy to deliver networks of high-quality integrated settlements that will:
    - support resilient communities and their ability to adapt and change
    - integrate the management of water resources into the urban environment in a way that supports water security, public health, environment and amenity outcomes
    - contribute to net zero greenhouse gas emissions through renewable energy infrastructure and energy efficient urban layout and urban design and
    - support metropolitan and regional climate change adaption and mitigation measures.
- 11.03-1S (Activity centres). It is a strategy to improve access by walking, cycling and public transport to services and facilities and to improve the social, economic and environmental performance and amenity of activity centres.

- 11.03-2S (Growth areas). It is strategy to develop precinct structure plans that provide better transport choices, respond to climate change and increase environmental sustainability.

Clause 12 Environmental and Landscape Values

- Planning should help to protect the health of ecological systems and the biodiversity they support (including ecosystems, habitats, species and genetic diversity) and conserve areas with identified environmental and landscape values.
- 12.01-1S (Protection of Biodiversity) seeks to assist the protection and conservation of Victoria's biodiversity, including by ensuring that decision making considers the impacts of land use and development on Victoria's biodiversity.
- 12.05-1S (Environmentally sensitive areas) which seeks to protect and conserve environmentally sensitive areas.

Clause 13 Environmental Risks and Amenity

- Planning should strengthen the resilience and safety of communities by adopting a best practice environmental management and risk management approach as well as prepare for and respond to the impacts of climate change.
- 13.01-1S (Natural hazards and climate change) objective is to minimise the impacts of natural hazards and adapt to the impacts of climate change through risk-based planning. Strategies include:
    - Respond to the risks associated with climate change in planning and management decision making processes.
    - Identify at risk areas using the best available data and climate change science.
    - Ensure planning controls allow for risk mitigation and climate change adaptation strategies to be implemented.

Clause 14 Natural Resource Management

- Planning is to assist in the conservation and wise use of natural resources including energy, water, land, stone and minerals to support both environmental quality and sustainable development.
- 14.02-1S (Catchment planning and management) objective is to assist the protection and restoration of catchments, waterways, estuaries, bays, water bodies, groundwater, and the marine environment. Strategies include:
    - Ensure that development at or near waterways provide for the protection and enhancement of the environmental qualities of waterways and their instream uses.
    - Require appropriate measures to restrict sediment discharges from construction sites.
- 14.02-2S (Water quality) objective is to protect water quality.

Clause 15 Built Environment and Heritage

- Planning is to recognise the role of urban design, building design, heritage and energy and resource efficiency in delivering liveable and sustainable cities, towns and neighbourhoods.
- Planning must support the establishment and maintenance of communities by delivering functional, accessible, safe and diverse physical and social environments, through the appropriate location of use and development and through high quality buildings and urban design.
- Planning should promote development that is environmentally sustainable and should minimise detrimental impacts on the built and natural environment.
- Planning should facilitate development that:
    - Is adapted and resilient to climate related hazards.
    - Supports the transition to net zero greenhouse gas emissions.
    - Minimises waste generation and supports resource recovery.
    - Conserves potable water.

- Supports the use of, and access to, low emission forms of transport.
- Protects and enhances natural values.
- Minimises off-site detrimental impacts on people and the environment.

- 15.01-2S (Building design) objective is to achieve building design and siting outcomes that contribute positively to the local context, enhance the public realm and support environmentally sustainable development. Strategies for this clause address several ESD elements, such as:
  - Ensure a comprehensive site analysis forms the starting point of the design process and provides the basis for the consideration of height, scale, massing and energy performance of new development.
  - Improve the energy performance of buildings through siting and design measures that encourage:
    - Passive design responses that minimise the need for heating, cooling and lighting.
    - On-site renewable energy generation and storage technology.
    - Use of low embodied energy materials.
    - Ensure the layout and design of development supports resource recovery, including separation, storage and collection of waste, mixed recycling, glass, organics and e-waste.
  - Encourage use of recycled and reusable materials in building construction and undertake adaptive reuse of buildings, where practical.
  - Encourage water efficiency and the use of rainwater, stormwater and recycled water.
  - Minimise stormwater discharge through site layout and landscaping measures that support on-site infiltration and stormwater reuse.
  - Ensure development provides landscaping that responds to its site context, enhances the built form, creates safe and attractive spaces and supports cooling and greening of urban areas.

<u>Clause 16 Housing</u>

- Planning should ensure the long-term sustainability of new housing, including access to services, walkability to activity centres, public transport, schools and open space.
- 16-01-1S (Housing supply) strategies include encouraging the development of well-designed housing that provides a high level of internal and external amenity.
- 16.01-2S (Housing Affordability) strategies include promoting good housing and urban design to minimise negative environmental impacts and keep costs down for residents and the wider community.

<u>Clause 18 Transport</u>

- Planning should ensure a safe, integrated and sustainable transport system that actively contributes to environmental sustainability and supports health and wellbeing.
- 18.01-1S (Land use and transport planning) seeks to support urban development that makes jobs and services more accessible by taking advantage of all available modes of transport and design neighbourhoods to better support active living and increase the share of trips made using sustainable transport modes.
- 18.01-3S (Sustainable and safe transport) objective is to facilitate an environmentally sustainable transport system that is safe and supports health and wellbeing. Strategies that relate to ESD elements include:
  - Prepare for and adapt to climate change impacts.
  - Prioritise the use of sustainable personal transport.
  - Avoid, minimise and offset harm to the environment by protecting biodiversity and reducing transport-related greenhouse gas emissions.
  - Design development to promote walking, cycling and the use of public transport, in that order, and minimise car dependency.

- 18.02-1S (Walking) objective is to facilitate an efficient and safe walking network and increase the proportion of trips made by walking.
- 18.02-2S (Cycling) objective is to facilitate an efficient and safe bicycle network and increase the proportion of trips made by cycling.
- Both 18.02-1S (Walking) and 18.02-2S (Cycling) strategies includes to plan and develop walking and cycling networks that provide routes that are safe, direct and comfortable to use and accommodating emerging forms of low-emission, low and moderate speed personal transport.

Clause 19 Infrastructure

- Infrastructure planning should avoid, minimise and offset environmental impacts, and incorporate resilience to natural hazards, including future climate change risks.
- 19.01-1S (Energy supply) objective is to facilitate appropriate development of energy supply infrastructure. Strategies that support ESD elements include:
    - Support the development of energy generation, storage, transmission, and distribution infrastructure to transition to a low-carbon economy.
    - Ensure energy generation, storage, transmission and distribution infrastructure and projects are resilient to the impacts of climate change.
    - Facilitate renewable energy generation and storage to meet on-site energy needs.
- 19.01-2S (Renewable energy) objective is to support the provision and use of renewable energy in a manner that ensures appropriate siting and design considerations are met. Strategies that support ESD elements include:
    - Facilitate renewable energy development in appropriate locations.
    - Protect renewable energy infrastructure against competing and incompatible uses.
    - Set aside suitable land for future renewable energy infrastructure.
    - Consider the economic, social and environmental benefits to the broader community of renewable energy generation while also considering the need to minimise the effects of a proposal on the local community and environment.
- 19.03-3S (Integrated water management) objective is to sustainably manage water supply and demand, water resources, wastewater, drainage and stormwater through an integrated water management approach. Strategies include to:
    - Plan and coordinate integrated water management, bringing together stormwater, wastewater, drainage, water supply, water treatment and re-use, to:
        - Protect downstream environments, waterways and bays.
        - Manage and use potable water efficiently.
        - Reduce pressure on Victoria's drinking water supplies.
        - Minimise drainage, water or wastewater infrastructure and operational costs.
        - Minimise flood risks.
        - Provide urban environments that are more resilient to the effects of climate change.
    - Integrate water into the landscape to facilitate cooling, local habitat improvements and provision of attractive and enjoyable spaces for community use.
    - Facilitate use of alternative water sources such as rainwater, stormwater, recycled water and run-off from irrigated farmland.
- 19.03-5S (Waste and resource recovery) objective is to reduce waste and maximise resource recovery to reduce reliance on landfills and minimise environmental, community amenity and public health impacts. Strategies include:
    - Ensure future waste and resource recovery infrastructure needs are identified and planned for to safely and sustainably manage all waste streams and maximise opportunities for resource recovery.

- Encourage technologies that increase recovery and treatment of resources to produce high value, marketable end products.

How does the amendment support or implement the Local Planning Policy Framework, and specifically the Municipal Strategic Statement?

Cardinia Shire Council has a longstanding commitment to environmental sustainability. This commitment is embodied in Council's 16 September 2019 Climate Emergency Declaration which compels Council to act immediately and with urgency to reverse global warming.

Council Plan 2021-2025 identifies the development of an Environmentally Sustainable Design (ESD) Policy as a Council priority (Year 1 2021 -22) and it requires that the ESD Policy be incorporated in the Cardinia Planning Scheme (Year 2 2022 – 23).

Council's *Climate Change Adaptation Strategy 2022–33* acknowledges the *Council Plan 2021-25* commitment to the development (and timing) of the ESD Policy and Planning Scheme amendment. This Council Plan initiative would support long term adaptation benefits by raising the resilience of the built environment system to the accelerating impacts of climate change.

The Local Planning Policy Framework (LPPF) and Municipal Strategic Statement (MSS) supports sustainability through environmentally focused land use and development planning.

The strategic vision for the municipality (as outlined in Clause 21.01-4 Strategic vision) is:

> *Cardinia Shire will be developed in a planned manner to enable present and future generations to live healthy and productive lives and to enjoy the richness of the diverse and distinctive characteristics of the Shire.*

The proposed amendment responds to the vision, objectives and strategies in the LPPF as follows:

- An objective of Clause 21.02-1 Catchment and coastal management includes 'To protect and improve the environmental health and social and economic values of water resources and ensure their efficient management'. Other objectives refer to the management and treatment of stormwater as well as utilising recycled waste water.
- Clause 21.02-8 Resource conservation identifies that the community needs to respond to climate change through strategies to reduce greenhouse gas emissions and the implementation of adaptation strategies to reduce vulnerability to projected future impacts of climate change. Three key areas for reducing the impact on the environment within the municipality are air, water and general waste.

  The objective of this clause is to develop and promote more environmentally sustainable ways of living and working, including greenhouse gas emission reductions.

  Strategies identified to achieve this include the reduction of greenhouse gas emissions, reduction in water consumption and encouraging development to incorporate sustainable building design including design that promotes the health and wellbeing of occupants.

  This clause also identifies the 'development of local sustainable buildings guidelines' as further strategic work.
- Clause 21.03-2 Urban Established Area - Beaconsfield and Pakenham and 21.03-3 Urban Growth Area objective is to create a functional, attractive, safe and sustainable urban environment for the existing and future community. Several key principles for development are listed in both sections, including to increase environmental sustainability.
- Clause 21.03-4 Rural townships includes an objective to provide for the sustainable development of townships in the municipality having regard to environmental and servicing constraints. Strategies include providing sewage treatment and stormwater management systems to minimise the impact of existing township development on the environment.
- Clause 21.04 Economic Development identifies that the 'Officer-Pakenham State-significant Industrial Precinct' that will be a major provider of employment and business opportunities for residents of Cardinia Shire and Melbourne's south-east region.

  A key issue of this clause is 'recognising the need for innovation, diversification and resilience within the local economy to improve and develop employment opportunities and a strong employment base within the municipality to meet the demands of the growing population'.

- Clause 21.05-4 Public transport acknowledges the sparse nature of settlement in the municipality affects the viability of providing public transport to all residents, and there is a need to look at innovative and cost-effective means to maximise public transport services in the Cardinia Shire.
- Clause 21.05-5 Pedestrian and bicycle network identifies that alternative transport options such as walking and cycling are important in developing environmentally, socially and economically sustainable communities.
- Clause 21.06-1 Urban Design recognises that the long-term benefits of good design are a more attractive, functional and sustainable built environment. Enhancing the design and built form of existing industrial areas is identified as a key issue.

The Amendment is consistent with and supports the LPPF and MSS. The new ESD policy reinforces the need for future development to respond to sustainable development principles, providing guidance in achieving sustainability in the most efficient way. The policy provides a specific framework for the consideration of ESD during the planning permit process, specifying what types of development should implement ESD measures and to what degree.

Does the amendment make proper use of the Victoria Planning Provisions?

The amendment has been prepared in accordance with *Planning Practice Note 8 - Writing a Local Planning Policy* and *Planning Practice Note 46 - Strategic Assessment Guidelines*.

In particular, the Amendment makes proper use of the Victoria Planning Provisions as:

- the Municipal Strategic Statement includes broad strategic support for the local planning policy position; and
- local planning policies are appropriate tools to guide decision making in relation to a specific discretion.

How does the amendment address the views of any relevant agency?

The amendment leverages off support agencies have previously given to similar ESD local policies. Relevant agencies will also have an opportunity to provide their views on this amendment as part of the Amendment's statutory exhibition.

Does the amendment address relevant requirements of the Transport Integration Act 2010?

The amendment will not have a significant impact on the transport system, as defined in the Transport Integration Act 2010, as it would not in itself result in any increase in demand on the transport system.

Resource and administrative costs

- **What impact will the new planning provisions have on the resource and administrative costs of the responsible authority?**

It is anticipated that the amendment will not have a significant impact on the resources and administrative costs of the responsible authority, given that:

- the amendment will not result in an increased number of planning permit applications;
- the policy will provide a transparent and consistent framework for decision making, reducing resources currently required to negotiate planning outcomes.

The Amendment will require the Responsible Authority to engage a dedicated ESD assessment resource and obtain relevant licensing to specified assessment tools. These resources will form part of Council's budget process.

Where you may inspect this amendment

The amendment is available for public inspection, free of charge, during office hours at the following places:

Cardinia Shire Council

20 Siding Avenue

Officer 3809

The amendment can be inspected free of charge at:

- Cardinia Shire Council website at https://www.cardinia.vic.gov.au/ and/or
- Department of Transport and Planning website at www.planning.vic.gov.au/public-inspection or by contacting 1800 789 386 to arrange a time to view the amendment documentation.

Submissions

Any person who may be affected by the amendment may make a submission to the planning authority. Submissions about the amendment must be received by 5pm **8 April 2024**.

Electronic submissions are preferable and should be sent to mail@cardinia.vic.gov.au (please include Amendment C278card in the e-mail title).

Or mailed to:

Cardinia Shire Council

Planning Strategy and Urban Design

Amendment C278card

PO Box 7

PAKENHAM VIC 3810

Panel hearing dates

In accordance with clause 4(2) of Ministerial Direction No.15 the following panel hearing dates have been set for this amendment:

- Directions hearing: To commence in the week of Monday 22 July 2024.
- Panel hearing: To commence in the week of Monday 26 August 2024.