

## APPENDIX B

### 1. Purpose

The purpose of this Report is to provide the justification to support the introduction of a new Local Planning Policy for Environmentally Sustainable Development (ESD) through Darebin Amendment GC42. The report sets out the background to this Policy and supporting work. It also provides the rationale for the local policy triggers and additional resource requirements. It is intended that this report supports the preparation of Planning Scheme documents for Amendment GC42.

### 2. Background

The City of Darebin regards itself as a leader in pursuing improved environmental performance of new development. As a founding member of the Council for the Alliance for Sustainable Built Environment (CASBE), Darebin strives for a more sustainable built environment. As part of this ongoing commitment, Darebin currently encourages the preparation of Sustainable Design Assessments for residential, mixed use, industrial and commercial developments as part of the planning permit approval process in accordance with the voluntary Sustainable Design Assessment in the Planning Process (SDAPP) program. Darebin City Council was one of the earliest adopters in 2008 and is one of approximately 16 councils currently applying SDAPP as a voluntary process.

Through recent strategic planning work, Council has identified the need to strengthen its local policy settings to deliver on improved environmental performance of new development. In particular, it has been identified that there is a community expectation that greater statutory weight be added to the voluntary SDAPP framework, through the introduction of a Local Policy to the Darebin Planning Scheme to strengthen the consideration of ESD principles. This has been identified as a piece of further strategic work in the recently adopted Darebin Municipal Strategic Statement (MSS) as part of Amendment C138, and an implementation action in the adopted *Darebin Housing Strategy 2013*.

This also follows on from the recent Planning Scheme Amendments of the following Councils, which were exhibited concurrently in 2013. These amendments have been subject to an extensive combined Panel and Ministerial Advisory Committee in late 2013:

- Banyule Planning Scheme (Amendment C73);
- Moreland Planning Scheme (Amendment C71);
- Port Phillip Planning Scheme (Amendment C97);
- Stonnington Planning Scheme (Amendment C177);
- Whitehorse Planning Scheme (Amendment C130); and
- Yarra Planning Scheme (Amendment C133).

It is noted that the combined planning scheme amendment was recently gazetted on 19 November 2015. Approval of these Amendments provides additional strength to Darebin's proposed ESD Local Policy.

Following this, Monash City Council exhibited an ESD Policy in 2015 (Monash Amendment C113) and held a Planning Panel in March 2015.

## 2.1. Chronology of prior strategic work

Darebin exhibited a revised Municipal Strategic Statement as part of Planning Scheme Amendment C138 which incorporates a range of important measures that seek to *"promote and facilitate best practice environmentally sustainable design and promote sustainable living and business practices"* (Clause 21.02-3 as exhibited). To achieve this objective, Darebin has committed to developing an 'Environmentally Sustainable Development Strategy' that will:

- Establish a framework to coordinate the various environmental policies of Council and provide strategic directions for energy efficiency, waste management and integrated water management;
- Set design guidelines for achieving sustainable development that minimises energy and water consumption and encourages reuse of water and waste;
- Provide the basis of preparation of a local policy to set performance measures and guide decision making; and
- Provide the basis for other planning measures such as overlays for achieving sustainable development at both the site and precinct scale. (Clause 21.02-3 as exhibited).

Moreover, the adopted Clause 21.02-3 (Built Environment) further contains a strategy to *"Encourage the preparation of Sustainable Design Assessments and Sustainability Management Plans for residential, mixed use, industrial and commercial developments as part of the planning permit approval process."* The introduction of the ESD Local Policy through Amendment GC42 will deliver on this strategy by providing the specific local guidance and policy thresholds where the policy would apply.

Amendment C138 has been subject to a Panel process and was adopted by Council on 17 September 2015. The Amendment documents have been provided to the Minister for Planning for consideration and approval.

This Amendment builds on actions and strategies in the Darebin Housing Strategy 2013, also adopted in September 2014, which seeks *"to support and facilitate residential developments that respond to best practice environmental design guidelines and promote more intensive housing development in sites that exhibit good access to public transport infrastructure."* (Objective 5).

As such, it is considered that there is sufficient policy support in the Darebin Planning Scheme to introduce a local policy for ESD through Amendment GC42.

## 3. Amendment GC42

### 3.1. Why this policy is being introduced

Whilst the State Planning Policy Framework (SPPF) recognises the importance of ESD, it fails to provide specific guidance on its implementation which means that Councils utilise voluntary measures to negotiate with developers on each and every permit application. Importantly, the proposed Local Policy (Clause 22.12) for ESD provides policy objectives and application requirements for residential, mixed use and non-residential development to further implement ESD policy contained in the SPPF and adopted Darebin Municipal Strategic Statement (via C138).

Council officers will be making a recommendation to Council for the City of Darebin to prepare and exhibit the amendment concurrently with the City of Manningham. The purpose of partnering with the City of Manningham is to reduce the cost of a Planning Panel and Advisory Committee (PAC) should it be appointed to consider the submissions to the two amendments. As such, Amendment GC42 seeks to build on the collaborative process undertaken by the six Councils.

### 3.2. Environmentally Efficient Design Advisory Committee and Panel Report

#### Recommendations

The Environmentally Efficient Design Advisory Committee (the Committee) was appointed by the Minister for Planning on 15 June 2013. The Committee had a dual role; firstly that of an Advisory Committee. This role was required to advise on the broader applicability and suitability of local planning policy that requires environmental sustainability to be considered at the planning stage rather than the building stage. The hearings took place in November and December 2013. The second role was a Planning Panel to consider the individual Local Planning Policies. The Committee released its report in April 2014.

In their report, the panel notes that (p.50):

*“The Committee acknowledges that the Amendment Councils have developed these policies in response to a lack of Statewide approach and are to be commended for their vision and commitment” and goes to note “even if a Statewide policy is introduced, local policies may still be appropriate where municipalities seek to ‘raise the bar higher’ either in specific locations, or where the community has higher sustainability expectations”.*

Key issues raised in submissions and at the hearing included:

- Costs and benefits associated with the proposed policies;
- Whether the policies should be implemented state-wide;
- The financial burden on applicants, Councils and to the building industry;
- The ‘triggers’ for the policies and if they should apply across all municipalities;

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- The appropriateness of the assessment tools and SDAPP Fact Sheets; and
- Whether sustainability is a role of planning or building or both.

The Panel Report was structured in two main parts. **Part A: General Issues** discusses the broader issues around sustainable development in the planning and building systems and **Part B: Amendments** provides comments on the Amendments as exhibited by the six Councils.

In summary the panel recommended that the respective amendments be adopted generally as exhibited, with some changes to the wording of the policy.

The report outlines 26 findings, which relate to the discussion in **Part A** and includes that:

- There is a strong legislative and policy framework that supports the need for sustainable development and which recognises that both planning and building have a significant role to play in achieving it;
- There is a role and statutory obligation for planning to advance sustainability;
- Whilst the existing State Planning Policy Framework and Victoria Planning Provisions provide a good starting point for the inclusion of sustainability, there are clear areas for improvement;
- There are clear positive economic, social and environmental benefits to be gained through improved sustainable development outcomes in planning;
- The approach to sustainability in planning schemes should be further reviewed to provide a more coherent, strengthened approach to implementation. This should be based on a Statewide approach and include stronger, higher guidance in the State Planning Policy Framework and Clause 65, as a minimum, with consideration of a range of options.

The report includes a further 10 recommendations which related to the discussion in **Part B** and include:

- The Sustainable Design Assessment in the Planning Process Fact Sheets in existence at the time of the Amendment exhibition be adopted in the local policies as reference documents.

### 3.3. City of Darebin – Proposed Policy Thresholds

The Local Policy sets objectives for energy, water resources, indoor environment quality, stormwater management, transport, waste management, innovation, and urban ecology. In establishing its policy thresholds, Council has considered:

- the experience of the Council over the past 7 years with the SDAPP process;
- relevant VCAT decisions;
- industry capability and whether the requirements are proportional to the scale of development;
- Consistency across municipal borders; and
- Potential environmental benefits.

In view of the above, Darebin Council is proposing the following changes as part of Amendment GC42:

**Table 1 – Current SDAPP Thresholds and Proposed GC42 Thresholds (Darebin)**

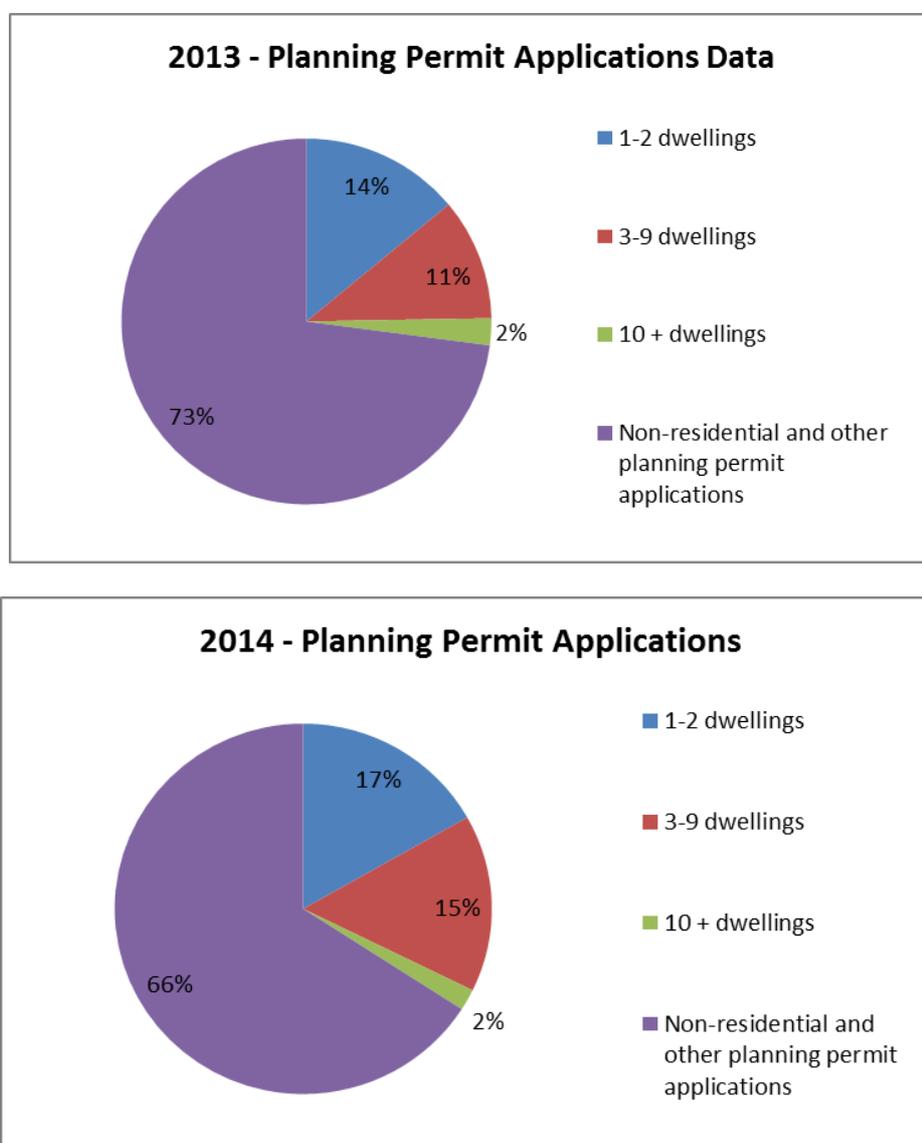
Type of Development	Current SDAPP Thresholds	Proposed GC42 Thresholds	Application Requirements	Example Tools
<b>Accommodation/ Mixed Use with residential component</b>	5-14 dwellings	3-9 dwellings Development of a building for 'accommodation' (other than dwelling) with a gross floor area between 100m <sup>2</sup> and 999m <sup>2</sup> .	Sustainable Design Assessment (SDA)	BESS STORM
	15+ dwellings	Development of 10 or more dwellings. Development of a building for 'accommodation' (other than dwelling) with a gross floor area of 1000m <sup>2</sup> or more.	Sustainability Management Plan (SMP)	BESS Green Star MUSIC STORM
<b>Non-residential</b>	Development of a non-residential building with a gross floor area between 100m <sup>2</sup> and 1000m <sup>2</sup> ; or Alterations and additions of between 100m <sup>2</sup> and 1000m <sup>2</sup> .	Development of a non-residential building with a gross floor area between 100m <sup>2</sup> and 999m <sup>2</sup> ; or Alterations and additions of between 100m <sup>2</sup> and 999m <sup>2</sup> .	Sustainable Design Assessment (SDA)	BESS MUSIC STORM
	Development of a building with a gross floor area of more than 1000m <sup>2</sup> . Alterations and additions greater than 1000m <sup>2</sup>	Development of a building with a gross floor area of 1000m <sup>2</sup> or more. Alterations and additions of 1000m <sup>2</sup> or more.	Sustainability Management Plan (SMP)	Green Star BESS MUSIC STORM

## 3.4. Permit Data Activity and Justification

An analysis of Planning Permit data from recent years (2013 and 2014) provides an indication of the volume of applications that are subject to the voluntary SDAPP process. If the proposed thresholds in Amendment GC42 were applied to this – based on 2014 data as shown in Figure 1:

- Sustainable Design Assessment for developments of 3-9 dwellings would equate to 15% of total planning permit applications;
- Sustainability Management Plan for developments of 10 or more dwellings equates to 2% of total planning permit applications.

**Figure 1 – 2013 – 2014 Planning Permit Application Data**



## 3.5. Resource Implications

The current volume of applications associated with 3 or more dwellings is currently trending upwards from the 2013 and 2014 figures, from 457 in 2013 to 514 in 2014 shown in Figure 1 as percentage. This has resulted in a steady increase in workload for Council's Environmentally Sustainable Developments (ESD) officer. The current resource requirement of the ESD Council officer role is 2 days per week (0.4 EFT) however with the current volume of applications and their increasing complexity (with many more apartment developments in recent months) Council's ESD officer regularly works overtime to manage ESD referrals under the existing voluntary SDAPP process.

A move to lower the thresholds through Amendment GC42 would provide greater environmental gains and also deliver policy consistency with the neighbouring municipalities of Moreland, Yarra and Banyule. The thresholds proposed under Amendment GC42, outlined in Table 1, will require an SDA for developments of 3 – 9 dwellings (compared with 5 – 14 dwellings under the current SDAPP program) and an SMP for developments of 10+ dwellings (compared with 15+ under the current program).

An additional 0.2 EFT is therefore recommended to meet Darebin's resource requirement under the proposed lowered thresholds in Amendment GC42. As a result it will lead to an overall resource requirement for Council's Environmentally Sustainable Developments (ESD) officer from 2 days per week (0.4 EFT) to 3 days per week (0.6 EFT). If the additional resourcing requirement is enabled, it may also avail Council's ESD officer to review ESD assessment tools, such as the *Built Environment Sustainability Scorecard* (BESS) created by local governments in Victoria.

### ***Why officers have recommended an additional 0.2 EFT (GC42 Thresholds - Darebin)***

The proposed 3 – 9 dwelling threshold has been changed and is considered appropriate for the following reasons:

- Despite a growing trend towards larger developments and apartment typologies, smaller developments (yielding 1-9 dwellings) were the predominant form of residential development applications in 2013-14 and so capturing these through GC42 provides an opportunity to provide greater environment benefit than at present;
- The development industry have greater capacity to deliver improved ESD outcomes through the application of ESD principles at Darebin for around 8 years through the SDAPP framework, and an increase in general industry knowledge of available ESD design outcomes and technology means this is a commonly accepted process;
- The requirement of an SDA is a simple sustainability assessment which is considered to be commensurate to the scale of development. Generally, an SDA can be prepared by applicants

themselves – it should not be necessary to engage a sustainability consultant;

- The decision handed down by *Polizzi v Darebin CC* (VCAT 1573) [2009] illustrated the difficulty in justifying ESD assessments for dual occupancy developments, hence the threshold has been set at 3 dwellings;
- The neighbouring municipalities of Moreland, Yarra and Banyule have set their threshold at a similar level and given the similar development context and the desirability for a consistent approach as much as possible, it was deemed appropriate that Darebin adopt a similar measure.

The proposed 10 + dwelling threshold is commensurate with the ESD policy currently awaiting gazettal. It is considered appropriate for the following reasons:

- the environmental design standard and the level of information and expertise required to meet application requirements increases as the scale of the development increases. This approach recognises that the opportunities to include ESD initiatives in the development's design increases as the scale of the development increases - the costs associated with preparing SMPs and GTPs are not considered to be onerous in the context of larger developments where there is greater opportunity to distribute the cost across the development.
- This also aligns with the DELWP guidelines on Planning Permit Activity Reporting Systems, whereby the residential dwelling categories is set at 10+ new dwellings;
- The neighbouring municipalities of Moreland, Yarra and Banyule have set their threshold at a similar level and given the similar development context and the desirability for a consistent approach as much as possible, it was deemed appropriate that Darebin adopt a similar measure.

## 4. Amendment Mechanics

### 4.1. Local Planning Policy Framework – C138

Amendment GC42 to the Darebin Planning Scheme proposes to introduce a new Clause 22.12 ESD policy into the LPPF and update Clause 21.02 Environment; Clause 21.03 Housing and Clause 21.05 Transport and Infrastructure to reference ESD. The new ESD policy is based on the recent approval by the Minister for Planning of the combined amendment which involved six Councils and the City of Monash.

The proposed ESD policy provides policy objectives and application requirements for residential, mixed use and non-residential development to further implement ESD policy contained in the SPPF and MSS. The policy recognises the importance of considering ESD at the time of planning approval for new developments so as to maximise sustainable design outcomes and minimise costs associated with retrofit and poor design. Fundamentally the ESD policy provides guidance in regards to achieving best practice environmentally sustainable development.

Amendment GC42 therefore builds on the overarching principles set out in the State and Local Planning Policy Framework and seeks to:

- Introduce a new Clause 22.12 Environmentally Sustainable Development (ESD) into the Local Planning Policy Framework (LPPF); and
- Update Clause 21.02 Environment and Clause 21.03 Housing to reference ESD.

## 5. Conclusion

Amendment GC42 will ensure best practice ESD initiatives are considered from the design stage of a building and throughout its construction and ongoing management. This has the benefit for occupants in terms of cost savings on utilities, a healthier indoor environment and reduced impact on the environment.

Overall the proposed ESD Local Planning Policy will assist in achieving Council's commitment to realise *Sustainable and Resilient Neighbourhoods* (Council Plan 2013 – 2017).