

PLANNING PANELS VICTORIA

IN THE MATTER OF AMENDMENT C376 TO THE MELBOURNE PLANNING SCHEME

PART A SUBMISSIONS ON BEHALF OF THE PLANNING AUTHORITY

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A. INTRODUCTION

1. Melbourne City Council (**Council**) is the Planning Authority for Amendment C376 (**Amendment**) to the Melbourne Planning Scheme (**Scheme**). These Part A submissions are made in accordance with Direction 7 of the Panel Directions dated 27 June 2024 (**Directions**).
2. In these submissions, the following terms will be used to describe the proposed amendment documents:
 - a) the **Exhibited Version** refers to the Amendment that was on public exhibition from 2 March to 17 April 2023;
 - b) the **FMC Version** is the version of the Amendment considered by the Council's Future Melbourne Committee (**FMC**) at a meeting on 21 May 2024; and
 - c) the **Day 1 Version** is the version of the amendment that Council officers intend to table on 14 August 2024 in accordance with the Panel's Direction.
3. In addition to its Part A, B and (if required) C submissions, Council will rely on expert evidence from:
 - a) Mr Gavin Ashley of Hip vs Hype in relation to the creation and operation of the Green Factor Tool (**GF tool**);
 - b) Mr Mark Jacques of Openwork in relation to the use of the GF tool;
 - c) Mr Julian Szafraniec and Andrew Spencer of SGS Economics and Planning in relation to economic implications of the Amendment;
 - d) Ms Charmaine Dunstan of Traffix Group in relation to transport matters;
 - e) Mr David Ritter of Grimshaw Architects in relation to environmentally sustainable design in development; and
 - f) Mr John Glossop of Glossop Town Planning in relation to strategic and statutory town planning issues.
4. Mr Gavin Ashley's expert evidence has been finalised and will be filed together with these Part A submissions. It contains useful background information in relation to the GF tool including a video with a live demonstration. Mr Ashley's evidence also attaches two background documents which underpin the rigour of the tool:

- a) Scenario Testing Report, Green Infrastructure Assessment Tool, May 2020 (**Scenario Testing Report**); and
 - b) An article published in *Urban Planning*, 2021, Volume 6, Issue 1, Pages 20–31 titled *Integrating Green Infrastructure into Urban Planning: Developing Melbourne’s Green Factor Tool* by Judy Bush (Faculty of Architecture, Building and Planning, The University of Melbourne), Gavin Ashley (HIP V. HYPE) and Ben Foster and Gail Hall (both City of Melbourne).
5. These Part A submissions address the following matters:
- a) an overview of the Amendment;
 - b) a chronology of events relevant to the Amendment, including a response to the Panel’s request for an explanation of the conditions imposed on the first authorisation given by the Minister for Planning (**Minister**);
 - c) a summary of the strategic context for the Amendment including:
 - i. relevant planning policies and controls;
 - ii. an overview of any other relevant amendments.
 - d) clarification on the following aspects of the Amendment:
 - i. Council’s approach to mandatory environmentally sustainable design (**ESD**) requirements having regard to the guidance provided in *Planning Practice Note 59 (PPN59)* and the *Practitioner’s guide to Victoria’s Planning Schemes (Practitioner’s Guide)*;
 - ii. a table setting out the differences between the standards and requirements sought to be introduced by the Amendment and the requirements of the National Construction Code (**NCC**);
 - e) a summary of the main issues raised in submissions; and
 - f) details of other strategic material of background relevance.
6. On 2 July 2024, responding to Direction 8, Council advised the Panel of its intention to file expert evidence reports from all experts listed in the Panel’s timetable, and that it would reserve its position on which the experts would be called to present their evidence until after the filing of expert evidence statements.

7. On 12 July 2024, responding to Direction 5, Council circulated a submitter map showing the location of submitters on a suburb-by-suburb basis based on the information made available to Council in the 73 submissions received on the Amendment.

B. OVERVIEW OF AMENDMENT C376

8. The Amendment applies to all land in the municipality that is subject to the Melbourne Planning Scheme (**Scheme**).
9. The Amendment proposes to implement ESD measures into the Scheme, including new mandatory and discretionary sustainable building design standards and requirements.
10. Specifically, the Amendment proposes to:
 - a) amend the Municipal Planning Strategy (**MPS**) by making changes to:
 - i. Clause 02.03-2 - Environment and landscape values;
 - ii. Clause 02.03-4 - Built environment and heritage; and
 - iii. Clause 02.03-7 - Transport;
 - b) amend the Planning Policy Framework (**PPF**) by making changes to:
 - i. Clause 15.01-2L - Sustainable development; and
 - ii. Clause 19.03-3L - Stormwater management (Water Sensitive Urban Design);
 - c) introduce a new Schedule 73 to Clause 43.02 (Design and Development Overlay – Sustainable Building Design) (**DDO73**) to apply to all land covered by the Scheme except for Commonwealth land and land subject to Clause 36.04 Transport Zone. The DDO73 includes provisions directed to:
 - i. ESD;
 - ii. energy efficiency and renewables;
 - iii. waste and resource recovery;
 - iv. the urban heat island response;
 - v. urban ecology; and
 - vi. integrated water management.
 - d) amend Schedules 1, 2, 3, 4, 5 and 7 to Clause 37.04 - Capital City Zone (**CCZ**) and Schedules 1, 2, 3, 4, 5 and 6 to Clause 37.05 - Docklands Zone (**DZ**) to include provisions directed to:

- i. bicycle, motorcycle and car share parking;
 - ii. electric vehicle infrastructure;
 - iii. the design of car parking facilities; and
 - iv. the retention of car parking spaces as common property, and future adaptation to other land uses;
- e) amend the Schedule to Clause 72.03 - What does this Planning Scheme consist of?, to reference new map sheets for DDO73;
 - f) amend the Schedule to Clause 72.04 - Incorporated Documents to include the *Guidelines for Waste Management Plans*, City of Melbourne, June 2021 as an incorporated document; and
 - g) amend the Schedule to Clause 72.08 - Background Documents to include a list of background documents that support the Amendment.
11. A list and overview of the background and supporting documents exhibited with the Amendment is provided as **Attachment 1** to these Part A submissions.
 12. A list of additional documents to be tabled with this Part A submission is provided as **Attachment 2** to these Part A submissions.

C. CHRONOLOGY

Conception

13. The last major change to the Melbourne Planning Scheme's policies and requirements concerning environmentally sustainable buildings was over a decade ago when its ESD policy (Energy Water and Waste Efficiency, then at Clause 22.19) was introduced. That policy was the first in the State, and progressive for its time. It was considered by a Panel in *Melbourne C187* (PSA) [2012] PPV 132. That policy largely remains in the scheme in clause 15.01-2L-01 Energy and resource efficiency. However, the policy is well out-of-date. The report will be tabled together with these submissions (as set out in Attachment 2: Additional Documents Tabled with Part A Submissions).
14. Shortly after clause 22.19 was introduced into the Melbourne Planning scheme, in June 2013 the (then) Minister for Planning appointed the Environmentally Efficient Design Advisory Committee under section 151, 153 and 155 of the *Planning and Environment Act 1987* (**PE Act**) to provide advice to the Minister for Planning on the applicability and suitability of including environmental sustainability requirements in planning schemes generally as

proposed in the local policies proposed to be introduced by 6 local councils. Those policies proposed to reference various ESD tools, such as NatHERS and Green Star. The policies were generally endorsed by the Advisory Committee in its report *Environmentally Efficient Design Local Policies* (AC) [2014] PPV 40. The report will be tabled together with these submissions (as set out in Attachment 2: Additional Documents Tabled with Part A Submissions).

15. Since that time there have been major shifts at a local, state, national and international level. One of those major international shifts was the Paris Agreement, described on the United Nations Climate Change website as follows:¹

The Paris Agreement is a legally binding international treaty on climate change. It was adopted by 196 Parties at the UN Climate Change Conference (COP21) in Paris, France, on 12 December 2015. It entered into force on 4 November 2016.

Its overarching goal is to hold “the increase in the global average temperature to well below 2°C above pre-industrial levels” and pursue efforts “to limit the temperature increase to 1.5°C above pre-industrial levels.”

However, in recent years, world leaders have stressed the need to limit global warming to 1.5°C by the end of this century.

That’s because the UN’s Intergovernmental Panel on Climate Change indicates that crossing the 1.5°C threshold risks unleashing far more severe climate change impacts, including more frequent and severe droughts, heatwaves and rainfall.

To limit global warming to 1.5°C, greenhouse gas emissions must peak before 2025 at the latest and decline 43% by 2030.

16. In response to the Paris Agreement, Council has taken numerous steps to respond to climate change, including in Council’s *Climate Change Adaptation Strategy Refresh 2017* and *Climate Change Mitigation Strategy to 2050 Melbourne Together for 1.5°C* (2018), the latter of which states in the executive summary:

The global role of cities in stepping up to act on climate change was recognised in the 2015 Paris Climate Agreement. Since that time, national and state governments, cities, investors, businesses and communities alike have begun to take action to reduce greenhouse gas emissions to help avoid a global average temperature rise of 1.5°C.

The Intergovernmental Panel on Climate Change has conveyed a clear message to leaders around the world that climate change is already impacting communities and that urgent action is needed. The Australian Government has ratified the Paris Climate Agreement and the Victorian Government has introduced the Climate Change Act 2017.

This provides a fresh opportunity for the City of Melbourne to pursue our long-standing commitment to act on the emissions that cause climate change.

¹ <https://unfccc.int/process-and-meetings/the-paris-agreement>

To align with the 2015 Paris Climate Agreement, we now need to reset ambitious emissions reduction targets for 2030, achieve net zero emissions before 2050 and align our strategy to the C40 Climate Action Plan Framework.

...

The City of Melbourne will partner with industry and the Victorian and Australian Governments to demonstrate zero emissions for the Fishermans Bend and Arden precincts and remove barriers to zero emissions buildings. We will advocate for effective building standards to reduce emissions.

[emphasis added]

17. Combined with the challenges presented by climate change, in parallel with developing the above strategies, an Agenda report was presented to an FMC meeting on 17 November 2017 which identified a further threat to the City:

Melbourne has long been a world renowned green city. Over recent years rapid population growth and increased densification is pushing our local environment away from our valued natural landscapes to the hard infrastructure environment of a highly urbanised city.

Climate change is compounding the effect of such urbanisation and reduced green space means the city is less prepared to manage an environment with higher temperatures, the urban heat island effect and greater risk of flooding and increased pressure on air quality.

18. At that meeting in November 2017, the FMC endorsed the *Green Our City Strategic Action Plan 2017-2021*, City of Melbourne's plan for vertical and rooftop greening in Melbourne (**GOCAP**). That report was the genesis of the Green Factor tool, and other standards in proposed Amendment C376 including those relating to the urban heat island effect. The Agenda report will be tabled together with these submissions (as set out in Attachment 2: Additional Documents Tabled with Part A Submissions).

19. The preface to the GOCAP states:²

A City that cares for the environment. Environmental sustainability is the basis for all Future Melbourne goals. It requires current generations to choose how they meet their needs without compromising the ability of future generations to be able to do the same.

20. Relevant for the Amendment, Action 4.1 of the GOCAP provides:³

Pursue changes to the planning scheme to require all types of development in the City to play a part in achieving environmentally sustainable design targets, including green roofs and vertical greening.

² GOCAP, PDF 2.

³ GOCAP, PDF 22.

21. The development of a green infrastructure assessment tool for Melbourne (which ultimately became the GF tool) was also first contemplated in the GOCAP.⁴ One of the listed considerations for implementation of Action 4.1 was:⁵

How best to adapt world leading initiatives such as Seattle's Green Factor in a Melbourne context.

22. On 21 November 2017, the FMC resolved as follows:⁶

That the Future Melbourne Committee:

- 1.1. *Endorses the Green Our City Strategic Action Plan to enhance the City of Melbourne's existing education and incentive-based approach whilst developing a business case for a future regulatory mechanism, for Council's consideration.*
- 1.2. *Authorises the Director City Strategy and Place to make any further minor editorial changes to the Green Our City Strategic Action plan prior to publication.*

23. A non-exhaustive list of Council commissioned ESD related initiatives in the period 2017 – 2019 is contained in **Attachment 1** to these Part A submissions, including:

- a) *Climate Change Adaptation Strategy Refresh*, City of Melbourne, 2017;
- b) *The Municipal Integrated Water Management Plan*, City of Melbourne, 2017;
- c) *Climate Change Mitigation Strategy to 2050*, City of Melbourne, 2018
- d) a refresh of the *Transport Strategy, Background paper, Increasing the Use of Bicycles for Transport*, Phillip Boyle & Associates, May 2018;
- e) the *Waste and Resource Recovery Strategy 2030*, City of Melbourne, 2019
- f) *Transport Strategy 2030*, City of Melbourne, 2019;
- g) *The Green Our City Strategic Action Plan: Strategic Justification for regulatory requirement for sustainability*, Arup Consultants & Others, 18 October 2019 (**GOCSAP**).

24. During the development of the policies listed above, in parallel, the Fishermans Bend Planning Review Panel considered the appropriateness of various ESD measures to be applied in the Fishermans Bend Urban Renewal Area. The Advisory Committee recommended, among other things that the CCZ Schedule should require buildings over 5,000 square metres to achieve a 5 Star Green Star rating (ie as a mandatory requirement):

⁴ Council notes also that the GF tool implements earlier innovative guidance for greening roofs, walls and facades, contained in Council's *Growing Green Guide*, 2014.

⁵ GOCAP, PDF 22.

⁶ Minutes of FMC meeting, 21 November 2017, item 6.4, PDF 6.

Section 11.2 of the *Fisbermans Bend Planning Review Panel* (AC) [2018] PPV 71. The report will be tabled together with these submissions (as set out in Attachment 2: Additional Documents Tabled with Part A Submissions).

25. The last of the assessments identified in paragraph 23, the GOCSAP, provides key strategic justification for pursuing the planning controls and policies proposed by the Amendment.
26. The GOCSAP identified a number of ESD related gaps in the Scheme (as it was at the time), and having considered Council's broader strategic initiatives and position in relation to ESD, and informed by development viability testing, made a series of recommendations about strengthening ESD measures in the Scheme. The following categories were identified in the GOCSAP, and have ultimately been developed (with iteration and amendment) into the provisions proposed by the Amendment:⁷
 - a) energy and greenhouse gas emissions by achieving certifications in Green Star, NABERS, NatHERS and BESS;
 - b) sustainable transport, including refining bicycle parking standards;
 - c) waste and resources recovery, including a requirement to meet Waste Management Guidelines;
 - d) urban heat reduction;
 - e) integrated water management, including requirements to support on-site green infrastructure; and
 - f) urban ecology, including a requirement to achieve the equivalent of at least 40 per cent total site area as green cover, as demonstrated by using the GF tool.
27. The GOCSAP was underpinned by a suite of technical appendices including:
 - a) a comprehensive 'wider benefits' literature review;
 - b) consideration of a purely policy-based approach to ESD (being work prepared for the CASBE councils);
 - c) a gap analysis of existing policies and planning provisions;
 - d) an explanation of the evolution of ESD standards; and
 - e) development viability case study work led by economics firm HillPDA.

⁷ GOCSAP, Table 5, PDF 48-55.

28. On 16 July 2019, in the context of the preparation of the above strategic assessments, Council management declared a climate and biodiversity emergency, acknowledging that an average global temperature rise above 1.5 degrees Celsius would lead to major and irreversible damage to ecosystems, including within the municipality of Melbourne.
29. On 18 February 2020, the FMC endorsed Council management's review and response to the climate and biodiversity emergency.⁸ This response contains ten priorities for accelerated action as follows:⁹

Transition Council operations from fossil fuels

Fast track delivery of 44km of protected bike lanes outlined in the Transport Strategy 2030

Stimulate end market circular economy solutions

Embed climate change and biodiversity action into council processes, programs and design and construction of assets

Mandate greening and zero emissions buildings through the Planning Scheme

Accelerate renewable energy purchasing by businesses and residents

Incentivise good building environmental performance (including renewable energy use) through rates

Build a business coalition to advance the clean and circular economy

Tell Melbourne's climate change and biodiversity story

Undertake bold advocacy on behalf of our community.

The Agenda report will be tabled together with these submissions (as set out in Attachment 2: Additional Documents Tabled with Part A Submissions).

30. In March 2020, Council engaged Hip V. Hype to do further work on the Green Factor tool, culminating in the *Scenario Testing Report, Green Infrastructure Assessment Tool*, May 2020 (**Scenario Testing Report**). The Scenario Testing Report considered and tested the GF tool against a number of development typologies and their capability to achieve a minimum Green Factor Score of 0.55. The Scenario Testing Report provides part of the strategic justification for the use of the GF Tool as part of the Amendment.
31. In September 2020, the *Sustainable Building Design Planning Scheme Amendment C376, Background Report*, Hansen Partnership planning consultants, September 2020, was finalised (**Hansen**

⁸ FMC meeting minutes, 18 February 2020, item 6.5, PDF 5.

⁹ See: <https://www.melbourne.vic.gov.au/taking-bold-action-climate-change#:~:text=you%20can%20do-A%20climate%20and%20biodiversity%20emergency,people%20of%20Melbourne%20and%20Australia>.

Report). The Hansen Report confirmed the rationale and appropriateness of introducing more sophisticated ESD controls (as detailed in the GOCSAP) into the Scheme. Among other things, the Hansen Report summarised a review of the current policy in the scheme undertaken by Arup Consultants as follows:

Impact review of local policy 22.19 (ARUP, 2019)

Local Policy 22.19 (Energy, Waste and Water efficiency) has been in place since April 2013. This document sought to understand the effectiveness of Clause 22.19 to inform the current amendment. In general, the review found that the targets of Clause 22.19 represents ‘business as usual’ (or lower) for the commercial sector, but that the residential sector showed low levels of sustainability as a result of the policy. It also found that only the commercial buildings followed through with full certification under the Green Star tool. The review found there is not a great deal of evidence that the current policy has resulted in more sustainable buildings on the ground, particularly in the residential sector, due to there being no requirement for any form of documentation after the planning permit is granted. Concerns identified in the efficiency of the policy related to the non-mandatory certification and to the absence of a requirement to submit ‘as-built’ evidence at practical completion were reflected in both stakeholder feedback and documentation reviews. There was very little ‘as-built’ evidence available, which made it difficult to determine whether the statements provided at planning were implemented. The review found that the policy has likely not been a driver for awareness, motivation or capability in the commercial sector which is ‘ahead’ of the current policy, but has had a small impact in the residential sector.

As a result, the impact review recommended consideration of:

- Evidence required to be provided once construction is complete;
- How third party frameworks, such as Green Star, can be used to verify the robustness of the sustainability strategy proposed;
- How to keep the policy’s targets relevant as the ‘business as usual’ benchmarks in the industry increase over time;
- How capability and drivers are different across different sectors;
- Clear mandatory and non-mandatory requirements; and
- How the policy relates to developments at very small scales (e.g. less than 2,000m²).

32. The Hansen Report considered the appropriate planning tools and mechanisms to implement ESD controls as part of a planning scheme amendment, including the use of the DDO to introduce mandatory and discretionary performance-based ESD controls across the municipality, and the use of the schedules to the CCZ and DZ to implement sustainable transport requirements.
33. Much of the Hansen Report remains relevant to the Panel’s consideration. Key findings include at p 11:

The review undertaken by Hansen determined that the fundamentals of the Standards proposed in the GOCSAP (2019) report were sound and there was a clear overarching rationale for the benefits in applying more sophisticated ESD controls.

In the refinement of the proposed Standards and the translation of these into policy and controls, the following considerations were acknowledged:

- It is widely accepted that it is of fundamental importance to ‘build in’ environmentally sustainable design, and particular energy efficiency, in the early stages of planning. Ensuring new buildings are energy efficient (and therefore reduce overall demand) is an important step in supporting broader transition to zero emissions, noting the challenges associated with retrofitting existing building stock.
- Many of the core principles and design outcomes which are necessary to deliver a built environment which responds to the climate emergency fundamentally need to be delivered at the planning stage. If they are not addressed at the planning stage, all too often optimal outcomes are ‘locked out’ or incur much greater costs. It is much more ‘cost effective’ to design in required responses than to add them later.
- There will necessarily be a difference in the scale, scope and practicality of delivering different standards having consideration to their application at a National, State or Local level. In other words, the particular characteristics of the City of Melbourne mean that the expectation and ability of developers to deliver outcomes is different from those which may exist in a regional centre (for example). This is supported by previous findings by the 2014 Ministerial Advisory Committee on Environmentally Efficient Design Local Policies which confirmed there was scope for local policies to “‘raise the bar’ where municipalities wish to exceed the Statewide requirement.”

34. The Hansen report considered various options for implementation and concluded that the DDO and zone schedules were appropriate and “the best fit” to deliver the outcomes sought (see p 30). The Hansen report also considered and endorsed the use of mandatory controls and external rating tools (see eg pp 34-36).
35. The Hansen report, together with the GOCSAP are significant pieces of work, and provide a sound strategic justification for the amendment, discussed further below.

Pre-authorisation

36. On 15 September 2020, the FMC considered a report from Council management proposing to seeking authorisation to prepare the Amendment (**September 2020 FMC report**). The September 2020 FMC report also proposed, as an alternative pathway, implementation of the standards through introduction of a particular provision (with an adaptable schedule) in the VPPs.
37. The September 2020 FMC report stated:¹⁰

¹⁰ Report to the Future Melbourne Committee, Planning Scheme Amendment C376: Sustainable Building Design, 15 September 2020, [3], PDF 1.

The purpose of this report is to present sustainable building design standards (the Standards) and recommend that the Future Melbourne Committee request authorisation from the Minister for Planning to prepare and exhibit Planning Scheme Amendment C376 (refer Attachment 2). In addition, an alternative implementation pathway is recommended for the Standards through introduction of a Victorian Planning Provision with a local schedule (refer Attachment 3), and endorsement by the Future Melbourne Committee is sought to formally advocate to the Victorian Government to adopt a state-wide approach.

...

Australia's emissions per capita are higher than any of its key trading partners. Domestically, Melbourne sits alongside Brisbane as the two highest emitting capital cities. Locally, buildings account for approximately two-thirds of municipal emissions. To reduce emissions in Melbourne, buildings need to be designed and built better, be more efficient and incorporate green infrastructure.

38. The September 2020 FMC report further noted:¹¹

The amendment is a direct and necessary response to the declared climate and biodiversity emergency and Council's commitment to zero carbon emissions by 2040.

Green Star has received overwhelmingly positive feedback on participation and certification through its program with members advising of their ability to create a better performing building, lower operating costs (energy costs and total lifecycle costs), improved occupant health and wellbeing and that 60 per cent of members estimate the payback period for Green Star is five years or less.

The urban ecology standard implements the Green Factor tool. The tool encourages a greater quantity and quality of green infrastructure be incorporated in building design by prompting applicants about green roofs and vertical greening. It effectively provides applicants with a range of options to meet the required level of green infrastructure. It's the first online tool of its kind in Australia and supports applicants as well as designers, architects, developers, buildings and the community to consider and optimise inclusion of green infrastructure by being intuitive and educative.

39. The FMC resolved as follows:¹²

That the Future Melbourne Committee:

- 1.3. Seeks authorisation from the Minister for Planning to prepare and exhibit Melbourne Planning Scheme Amendment C376 Sustainable Building Design (Attachment 2).
- 1.4. Requests that the Chief Executive Officer write to the Minister for Planning to request that he:
 - 1.4.1. introduce a state-wide planning provision to champion environmentally sustainable design, city greening and green infrastructure with a local schedule to enable mandatory

¹¹ Ibid, [10]-[12], PDF 4.

¹² FMC meeting minutes, 15 September 2020, item 6.5, PDF 9.

requirements and allow tailoring by councils, attaching draft provision to assist (Attachment 3)

1.4.2. work with the City of Melbourne and Council Alliance for Sustainable Built Environments councils to finalise and implement the state-wide provision, enabling local governments to localise their requirements in line with their Council's endorsed positions.

1.5. Commends the development of the Green Factor tool, as a method to achieve and assess an urban ecology standard, and endorses its use through the Melbourne Planning Scheme.

1.6. Authorises the General Manager Strategy, Planning and Climate Change to make any minor and editorial and referencing changes and as required to accord with the Victorian Government's planning policy framework translation to Melbourne Planning Scheme Amendment C376 (Attachment 2).

40. The attachments to the September FMC report contained both the proposed Amendment C376 (in Attachment 2) and the alternative, namely a particular provision coupled with a schedule (in Attachment 3).

41. At the same meeting, the FMC also considered a report from management seeking endorsement of the GF tool as a mechanism for demonstrating urban ecology outcomes on new developments (**GFT report**).

42. The GFT report stated:¹³

The GFT is the first online tool of its kind in Australia. The GFT has been designed to support developers to deliver green infrastructure that makes a meaningful and effective contribution to the municipality's climate and biodiversity emergency response by encouraging a greater quantity and quality of green infrastructure on new developments. It will provide a consistent assessment methodology for greening on buildings for applicants, planners and referral experts.

Green Factor is a simple online interface (www.GreenFactor.com.au), for designers to input information about a proposed development – such as plant numbers, soil depths and accessibility – and receive a Green Factor score. The score represents the proportion of a site covered by greenery, and weighted for provision of prioritised functions.

43. In relation to governance, the GFT report noted:¹⁴

The GFT is owned and operated by the Council. A governance structure is proposed to be established to guide and support the GFT's development to a regulatory phase,

¹³ Report to the Future Melbourne (Environment) Committee, Melbourne Green Factor Tool, 15 September 2020, [4]-[5], PDF 1.

¹⁴ Ibid, [10], PDF 1.

to oversee technical updates and to ensure the weightings of the priority functions remain reflective of the latest research and evidence.

44. The FMC resolved as follows:¹⁵

That the Future Melbourne Committee:

1.1 Endorses the Melbourne Green Factor Tool for use through the Melbourne Planning Scheme as the preferred approach for demonstrating urban ecology outcomes on new developments.

1.2 Authorises the establishment of a governance structure to oversee technical updates to the tool and to ensure the tool continues to meet its objectives.

Authorisation to prepare Amendment C376

Introductory

45. Direction 7b requests:

An explanation of the conditions of authorisation, including:

- (i) Why the conditions in the first authorisation letter were effectively removed.
- (ii) Whether any of those conditions have effectively been responded to in the exhibited Amendment.

First Authorisation

46. On 16 October 2020, Council wrote to the Minister seeking authorisation to prepare the Amendment.¹⁶

47. On 19 December 2021, 15 months after this request, the (then) Minister gave authorisation (**First Authorisation**), which was subject to the following conditions:

1. Translate the proposed DDO into local planning policy with objectives, strategies and policy guidelines, consistent with the existing approach to supporting ESD outcomes through the Victorian Planning System.
2. Exclude the Fishermans Bend Urban Renewal Area (Lorimer precinct), which has existing precinct-specific policy guidance that is consistent across the Melbourne and Port Phillip Planning Scheme, from the local policy application.
3. Remove proposed energy efficiency standards that require compliance with scores and targets that duplicate or exceed those specified in the NCC as shown in Table 1.

¹⁵ FMC meeting minutes, 15 September 2020, item 6.6, PDF 10.

¹⁶ Submitted through the (then) DELWP ATS portal.

4. Remove proposed renewable energy and integrated water management standards that are inconsistent or overlap with requirements in the VPP as shown in Table 2.
 5. Revise the proposed recycled water standard for use of alternative water sources for all non-potable uses from ‘where technically achievable’ to ‘where feasible’.
 6. Remove the proposed sustainable transport requirements in the Capital City Zone and Docklands Zone schedules and use local planning policy to encourage the provision of motorcycle, car-share, and electric-vehicle parking.
48. The First Authorisation provided some explanation for the basis of the conditions of authorisation, referring to:
- a) the development of new policies and standards being proposed by the state government for introduction into the Victorian Planning System under the following thematic areas: energy, water, waste and recycling, greening and cooling, transport and air and noise pollution exposure;
 - b) the review and strengthening of energy efficiency requirements for residential buildings in the NCC;
 - c) the development by the state government of the (at that time proposed) Gas Substitution Roadmap;
 - d) further work reviewing building and plumbing controls following the independent advice of the Improving Stormwater Advisory Committee;
 - e) concerns held by the then Minister about implementation of the proposed ESD standards, including:
 - i. alignment to the (then) VPPs and proposed NCC changes;
 - ii. preference for ESD measures to be set out in local planning policy;
 - iii. whether the proposed sustainable transport measures had considered the head zone provisions;
 - iv. that the GF tool would sit outside the Scheme.

Second Authorisation

49. Subsequently, on 17 October 2022, the Lord Mayor wrote to the (acting) Minister, requesting that the conditions of authorisation set out in the First Authorisation, be

removed. The letter will be tabled together with these submissions (as set out in Attachment 2: Additional Documents Tabled with Part A Submissions). Among other things, the letter states:

It is requested that the conditional authorisation of Amendment C376 be reconsidered also in light of the new State policy approved under Amendment VC216 (gazetted and approved by the Minister for Planning on Friday 10 June 2022). Amendment VC216 aligns with Amendment C376 in that it has strengthened and expanded the State policy on environmentally sustainable design and climate change response, meaning that proposed Amendment C376 is now more strongly supported by State planning policy.

This Amendment process, again, would allow for the testing of a set of controls aimed at delivering on the policy positions of both the State and Council.

The proposed planning provisions in Amendment C376 are evidence-based and developed in consultation with an external advisory group of experts and key stakeholders. The proposed provisions are commensurate with the City of Melbourne's unique development typology and climate change emissions scenario, which sees buildings contribute to 66% of emissions in City of Melbourne as compared to buildings contributing 25% of emissions for rest of the State.

Enabling the proposed standards to be fully tested through public consultation and an independent panel is important so that the standards are understood in the local context and that the best information is made available. Thank you for your reconsideration of this important work.

50. On 25 October 2022, 10 months after the First Authorisation was given, the Deputy Secretary Planning, as the Minister's delegate, gave a second authorisation (**Second Authorisation**). The Second Authorisation replaced the First Authorisation and included a single condition of authorisation. The Second Authorisation states:

I refer to your council's application for authorisation to prepare an amendment to the Melbourne Planning Scheme in accordance with section 8A of the Planning and Environment Act 1987 (PE Act), the former Minister for Planning's authorisation decision on C376melb of 19 December 2021 and the letter from the Lord Mayor of Melbourne of 17 October 2022, requesting that the conditions imposed on that authorisation be removed.

Amendment C376 proposes to implement sustainability and green infrastructure policy into the Melbourne Planning Scheme by introducing environmentally sustainable design (ESD) standards that include a range of new mandatory and discretionary requirements.

Having regard to the strategic justification provided by your council, and under delegated authority, I agree to remove the conditions imposed on the C376melb authorisation in the letter of 19 December 2021, and grant your council authorisation to prepare Amendment C376melb in accordance with the following condition:

1. Prior to exhibition make any technical or clerical changes to the amendment document that are required to reflect changes to the Melbourne Planning Scheme that have occurred since the original request was submitted in 2020.

The authorisation of Amendment C376 provides an opportunity for the ESD provisions within the City of Melbourne to be tested with the community and industry through a public exhibition process in accordance with the provisions of the PE Act. Following the exhibition of C376melb consideration will be given to how any submissions that are made will be heard and considered, with potential options including a joint panel and advisory committee process.

51. While the same amendment number was adopted, the effect of the Second Authorisation was to grant a fresh authorisation for the Amendment, on conditions (as contemplated by s8A(6) of the PE Act).
52. The following developments are identified to provide further context to the timing of the grant of the first and second authorisation.
53. After the request for authorisation, but prior to the First Authorisation, the state government called for submissions on the *Environmentally sustainable development of buildings and subdivisions, A roadmap for Victoria's planning system, DELWP, 2020*. In March 2021, Council provided detailed submissions responding to the State government's proposed ESD planning reforms. The submission can be provided to the Panel upon request. Key issues raised by the submission included:
 - a) That the Roadmap needs to be more ambitious, clear, and include timelines which respond to the urgent need for action. The Roadmap does not recognise the climate and biodiversity emergency and lacks urgency in its approach. The Roadmap does not provide clear guidance on the implications of potential reforms to the building code with a risk that ESD policy may be deferred to building regulations, missing the opportunity for nuanced guidance within the Planning Scheme. Planning provisions have a significant role to play in setting contextually responsive standards and providing clarity and certainty to investors and the community regarding development expectations.
 - b) The Roadmap must enable Local Governments to adopt contextually relevant ESD policies and standards to respond to their particular development context and environmental challenges. The Roadmap suggests that ESD policy across municipalities is to be standardised, which would prevent a tailored response and more targeted requirements based on context and community aspirations. For example, the form of development and the environmental issues in the City of Melbourne, differ greatly from interface Councils and rural and regional Councils. This should be reflected in the Roadmap.

- c) The draft provisions in the Roadmap are to apply across the State and would have minimal effect in addressing the issues of an inner city context such as the City of Melbourne. For instance, the Roadmap notes that buildings are responsible for about a quarter (24%) of national emissions whereas in the City of Melbourne, buildings are responsible for two thirds (66%) of emissions. The policy response, therefore, would be different in content and timing.
 - d) The Roadmap principles and underpinning research must reflect contemporary practice and be up to date. The Roadmap relies on research and recommendations from 2014. Research, knowledge and community expectations about climate change have progressed significantly since that time.
54. Shortly before the second authorisation, there had been further developments.
55. On 2 May 2022, the Advisory Committee considering the Draft Melbourne Planning Scheme Amendment C407melb Arden Structure Plan finalised its report: *Victorian Planning Authority Projects Standing Advisory Committee - Referral 6 (AC)* [2022] PPV 24. Among other things, the Advisory Committee recommended:
- a) that the ESD requirements would be better located in a DDO, rather than local policy, as submitted by Council (section 6.2.4); and
 - b) endorsed the inclusion of various requirements relating to greening, and sustainable transport initiatives (including controlling motor cycle and bicycle parking through the zone provisions).

The report will be tabled together with these submissions (as set out in Attachment 2: Additional Documents Tabled with Part A Submissions).

56. On 10 June 2022, Ministerial amendment VC216 was gazetted. VC216 amended the VPPs and PPF to support and enhance ESD outcomes, as part of the state government's implementation of Plan Melbourne actions relating to ESD, water management, cooling and greening, air and noise pollution, and recycling and resource recovery.¹⁷

Response to Direction 7(b)

57. In relation to Direction 7b(i):

¹⁷ VC216 made amendments to clause 01, 11, 11.01-1S, 11.02-2S, 12, 12.01-1S, 13.01-1S, 13.05-1S, 13.06-1S, 15, 15.01-2S, 15.01-3S, 15.02, 15.02-1S, 19, 19.01-1S, 19.01-2S, 19.03-3S, 19.03-5S.

- a) Council notes that it was the Second Authorisation, and not the First Authorisation, that provided the foundation for Council to prepare and exhibit the Amendment. As such, the First Authorisation represents no more than an expression of opinion by the (then) Minister for Planning. The conditions in the First Authorisation have no strict legal relevance to the Amendment, or the Panel's consideration of the Amendment;
 - b) as indicated in the text of the Second Authorisation, the decision to remove the conditions of the First Authorisation was made by the Deputy Secretary Planning, under delegation of a subsequent Minister for Planning, having regard to strategic justifications given by Council (set out in a letter from the Lord Mayor); and
 - c) the Second Authorisation does not provide reasons for different conditions being included in the Second Authorisation and Council is not in possession of any documents that provides formal reasons for the authorisation decision, other than the Letter of Authorisation.
58. In relation to direction 7b(ii), the exhibited Amendment did not meet any of the conditions in the First Authorisation. Even though the conditions of the First Authorisation are no longer relevant (in a strict legal sense), the topics raised by those conditions are all matters that have been given significant consideration by the Council in the preparation of the Amendment, response to submissions and in the preparation for this Panel hearing. Thus, each topic will be addressed substantively through evidence and submissions. Council's position in relation to each topic is, however, addressed briefly below.

Conditions 1 and 6: choice of planning tools

59. Conditions 1 and 6 concern the use of the DDO and CCZ tools in combination with policy, as opposed to only using policy. This is a matter that is addressed in the Hansen Report, will be addressed in Mr Glossop's planning evidence and will be the subject of the Council's Part B submissions.
60. Council's position is that the chosen tools are appropriate and fit for purpose.

Condition 2: Fisherman's Bend Urban Renewal Area

61. The relationship between the amendment and the planning policies and controls in the Fisherman's Bend Urban Renewal Area will be addressed in Council's Part B submissions, in particular in response to the submission by the Fishermans Bend Taskforce (submission 64).

62. The FMC Version of the Amendment includes a new clause that provides that the requirements of Table 7 (Integrated water management) do not apply to land subject to Schedule 4 to Clause 37.04 Capital City Zone (ie the Lorimer precinct). This change was made in response to a submission by South East Water (submission 40).
63. Council officers are considering whether further changes ought to be made in the Day 1 Version, in response to Fishermans Bend Taskforce submission. Council's position is that direct inconsistency and unnecessary duplication should be avoided, but that there should be a consistent approach to ESD across the capital city in so far as possible.

Condition 3: Relationship between the Amendment and the NCC

64. Condition 3 concerns the energy efficiency standards identified in Table 1 of the First Authorisation (namely scores using NABERS, NatHERS and BESS) which go further than the minimum standards required by the NCC.
65. **Attachment 3** to these submissions provides a tabular assessment of the relevant components of the Amendment compared to the NCC, as required by the Panel's directions.
66. The rationale for standards is addressed briefly in these submissions and will be addressed more comprehensively through expert evidence, including the evidence of Mr Ritter.
67. Council's position is that it is appropriate for the capital city to adopt higher standards than the minimum NCC standards for a range of reasons, which will be further explained in the Part B submissions by reference to policy, past panel reports and evidence.

Condition 4: Relationship between the Amendment and the VPPs

68. The issue raised by the condition is confined to the standards proposed in the Amendment which are identified in Table 2 of the letter namely:
 - a) renewable energy standard relating to gas and other non-renewable energy; and
 - b) integrated water management standards.
69. As to the renewable energy standard:
 - a) The Exhibited and FMC Version of the Amendment include a (discretionary) standard that all development should not incorporate connections to gas services or other non-renewable energy. Council is considering an amendment to this standard for the Day 1 Version to make it clear that the standard is not directed at preventing connections to the grid (i.e. electric energy).

- b) The discretionary standard in relation to gas is consistent with the State government policy as expressed in the Gas Substitution Roadmap¹⁸, which supports the electrification of Victoria's homes and businesses. While Amendment VC250 introduced a new particular provision at clause 53.03 to prohibit new gas connections to new dwellings, apartments and residential subdivisions, the standard in proposed Amendment C376 applies more broadly. Even though there is now no need to include such a standard in relation to new dwellings covered by cl 53.03, Council maintains that there is a pressing need to include the standard in relation to other types of development.
 - c) The standard is discretionary in recognition that there may be certain types of development (such as laboratories) where a prohibition may not be appropriate.
70. As to the integrated water management standards, with the amendment made in the FMC Version to exclude Lorimer from the application of Table 7, Council's position is that the integrated water management standards are not inconsistent with the VPPs. While there may be some overlap or duplication, the standards are appropriate to drive greater water efficiency and uptake of alternative water sources in line with policy. For example:
- a) standard D13 of clause 58.03-8 contains the same standard as Table 7, namely that development should achieve the best practice water quality performance objectives set out in the *Urban Stormwater Best Practice Environmental Management Guidelines, CSIRO, 1999* (or as amended);
 - b) there is no inconsistency in including the same standard in the proposed Amendment; and
 - c) while there is overlap or duplication, such overlap or duplication is justified because the standard in the proposed Amendment applies to "all development" and hence it has broader work to do.
71. Further, the proposed integrated water management standards work harmoniously with the other standards included in DDO73.

Condition 5: "technically feasible"

72. The phrase "where technically feasible" has been removed in the FMC Version.

¹⁸ <https://www.energy.vic.gov.au/renewable-energy/victorias-gas-substitution-roadmap>

Exhibition of Amendment C376

73. The Amendment was on public exhibition from 2 March to 17 April 2023.
74. The Amendment was exhibited by:
- a) sending a letter and notice of the Amendment via post to all owners and occupiers in the City of Melbourne and via email to key stakeholders, government organisations and Traditional owners;
 - b) sending a letter and notice via email to prescribed Ministers;
 - c) publishing a notice of the Amendment in The Age on 1 March 2023 and in the Victorian Government Gazette on 2 March 2023;
 - d) publishing notices through several different media channels including social media and online magazines and newsletters; and
 - e) publishing notice of and information about the Amendment, including the Amendment documentation, on Council's Participate Melbourne Amendment C376 webpage and the Department of Transport and Planning's (**DTP**) Planning Scheme Amendments webpage.
75. Three virtual public information sessions on the Amendment were held on 16 March and 22 March 2023.
76. The following documents formed part of the exhibited Amendment:
- a) explanatory report;
 - b) Clause 2.03 Strategic Directions;
 - c) Clause 15.01-2L-01 Sustainable development;
 - d) Clause 19.03-3L Stormwater management (Water Sensitive Urban Design);
 - e) Schedule 73 to the Design and Development Overlay (DD073);
 - f) Schedule 1 to the Capital City Zone (CCZ1);
 - g) Schedule 2 to the Capital City Zone (CCZ2);
 - h) Schedule 3 to the Capital City Zone (CCZ3);
 - i) Schedule 4 to the Capital City Zone (CCZ4);
 - j) Schedule 5 to the Capital City Zone (CCZ5);

- k) Schedule 7 to the Capital City Zone (CCZ7);
- l) Schedule 1 to the Docklands Zone (DZ1);
- m) Schedule 2 to the Docklands Zone (DZ2);
- n) Schedule 3 to the Docklands Zone (DZ3);
- o) Schedule 4 to the Docklands Zone (DZ4)
- p) Schedule 5 to the Docklands Zone (DZ5);
- q) Schedule 6 to the Docklands Zone (DZ6);
- r) Schedule to Clause 72.03 What Does this Planning Scheme consist of;
- s) Schedule to Clause 72.04 Incorporated Documents;
- t) Schedule to Clause 72.04 Background Documents;
- u) Guidelines for Waste Management Plans, 2021, City of Melbourne (proposed as an incorporated document pursuant to clause 72.04 of the Scheme); and
- v) the following documents proposed as background documents pursuant to Clause 72.08 of the Scheme:
 - i. GOCAP;
 - ii. GOCSAP;
 - iii. Hansen Report;
 - iv. *Climate Change Adaptation Strategy Refresh*, City of Melbourne, 2017;
 - v. *Climate Change Mitigation Strategy to 2050*, City of Melbourne, 2018;
 - vi. *Climate Emergency Response*, City of Melbourne, 2020;
 - vii. *Fishermans Bend Water Sensitive City Strategy*, DJPR, 2022;
 - viii. *Growing Green Guide*, City of Melbourne 2014;
 - ix. *Municipal Integrated Water Management Plan*, City of Melbourne, 2017;
 - x. *Transport Strategy 2030*, City of Melbourne, 2019;
 - xi. *Waste and Resource Recovery Strategy 2030*, City of Melbourne, 2019;
- w) the following documents were included as supporting documents:

- i. *Green Our City Action Plan – Draft Planning Requirements, Economic Feasibility Testing*, HillPDA, November 2020;
- ii. *Green Our City Action Plan – Draft Planning Requirements, Economic Feasibility Testing, Addendum (5 Additional Sites)*, HillPDA, February 2022
- iii. *Off-street Bicycle & Motorcycle Parking Review*, Final Report, Phillip Boyle & Associates, 16 March 2016; and
- iv. *Transport Strategy refresh, Background paper, Increasing the Use of Bicycles for Transport*, Phillip Boyle & Associates, May 2018.

77. Exhibition of the Amendment attracted 73 submissions.

Post-exhibition

78. On 21 May 2024, the FMC considered a report on submissions received in relation to the Amendment and resolved as follows:¹⁹

That the Future Melbourne Committee:

1.1 Considers the submissions received following the exhibition of Amendment C376: Sustainable Building Design (the Amendment).

1.2 Notes management's response to all submissions set out in Attachment 2 of report from management.

1.3 Requests the Minister for Planning appoints an independent planning panel to consider all submissions referred to in relation to the Amendment in accordance with section 23 of the Planning and Environment Act 1987.

1.4 Notes the form of the Amendment to be presented to the planning panel summarized in Attachment 3 of report from management and detailed in Attachment 4 of report from management, and notes further changes may be made through the panel process in response to submissions and expert evidence.

[emphasis added]

- 79. The Panel has previous been provided with a stand-alone copy of Attachment 4 (ie the FMC Version of the Amendment).
- 80. Attachment 2 to the FMC report (the Response to Submissions) is re-attached to this Part A submission for convenience (Attachment 4).
- 81. Attachment 3 to the FMC report (a summary of the changes to the Amendment) is re-attached to this Part A submission for convenience (Attachment 5).

¹⁹ FMC meeting minutes, 21 May 2024, item 6.3, PDF 5-6.

82. On 30 May 2024, Council formally requested that a Panel be appointed to consider all submissions received in response to the Amendment.
83. On 25 June 2024, a Directions Hearing was held in relation to the Amendment.
84. On 27 June 2024, the Panel issued its Directions and a timetable for the public hearing.

D. RATIONALE AND SUMMARY OF THE STRATEGIC CONTEXT FOR AMENDMENT C376

Rationale for Amendment C376

85. As noted above, Council has declared a climate and biodiversity emergency. It is now generally accepted that human induced climate change is occurring rapidly and leading to warming of the climate. The expectation is that this will lead to more frequent, and severe, weather events, an increase in global average temperatures, and severe consequential impacts on biodiversity.
86. Strategic planning has a clear, and obvious, role in adaptation to and mitigation of climate change impacts, by setting in place appropriate built form standards to regulate the nature and performance of buildings that will be in use for many decades into the future, and that consequentially will play an essential role in mitigating the effects of climate change.
87. It is in that context that Council has proposed the Amendment, which is directed to the introduction of intentionally higher and more demanding ESD standards for the development of new buildings (and larger extensions and additions to existing buildings) across the municipality.
88. The fundamental purpose to which the Amendment is directed is lifting the ESD performance of the applicable building types and typologies across the capital city, which have a significant environmental impact across their life cycle – and conversely, by the introduction of more stringent ESD requirements, can have a significant impact as part of the response to the climate emergency.
89. This context, and the importance of the built form response that is proposed by the Amendment, is supported by the extensive research and findings of the various background and supporting documents that have informed the Amendment.
90. Council respectfully suggests that this strategic work provides a very clear rationale and sound strategic basis for the Amendment to proceed.

91. The Hansen Report describes the rationale for the Amendment in this way:²⁰

While the GOCSAP (2019) report and other background documents provide more extensive discussions focussed on the rationale for the amendment, the following key observations are made as part of this review:

- The scientific basis for a response to climate change is clear, and the scientific evidence as to the step-change required to respond to this science continues to strengthen. Planning as a discipline must respond to this evidence base.
- Climate change requires an evolution from a ‘business as usual’ approach. The fundamental importance of addressing climate change and its impacts in meeting the objectives of planning under the Planning and Environment Act (1987) are acknowledged. The State commitment to zero emissions by 2050 means inevitable change in current practice at state, city, precinct and lot scale. To date the change required has not been reflected in planning policy.
- How we plan our cities, and build our buildings is a core part of any response to both mitigation and adaptation imperatives as a result of climate change. Buildings currently account for over 50% of Australia’s electricity use and almost a quarter of our carbon emissions. In the City of Melbourne buildings contribute 66 per cent of current annual greenhouse gas emissions. Buildings can make therefore make a significant contribution to mitigation. They also have a clear role to play in adaptation to support community resilience.
- The City of Melbourne owns and controls less than one third of the city’s land area, with the majority of the municipality in private ownership. In terms of built form, City of Melbourne owns 1.3 per cent of the buildings in the municipality (279 out of a total of 22,152). The private realm is therefore a critical contributor to any overarching municipal goals or targets. While the City, in partnership with other public entities, can drive change on public land, the planning system remains a key tool in facilitating changed practices on private land.
- The current content of the Melbourne Planning Scheme relating to ESD has begun the process of ‘transition’ in the introduction of planning controls which require higher levels of environmental sustainability (i.e. comparable, discretionary, controls already apply in the City). The declaration of an ‘emergency’ by Council constitutes recognition that further opportunities for gradual transition to address climate change have been lost and that urgent action is needed.
- Reviews undertaken prior to the formation of this amendment have identified that current policy in relation to relevant themes has both clear gaps (such as in relation to urban ecology) and shortcomings (such as in relation to energy efficiency and sustainable transport). There are also existing shortcomings in how policy is implemented and the ‘follow through’ of building elements which contribute to ESD outcomes.
- While the City of Melbourne’s ESD policy (Energy Water and Waste Efficiency at Clause 22.19) was the first in the State, it is now outdated in

²⁰ Hansen Report, PDF 9.

relation to other comparable policies and misaligned with adopted Council positions.

On the basis of the above there is a clear rationale to update policy content relating to sustainable building design in the City of Melbourne to reflect evolution in the understanding of best practice, technological changes and the need for greater certainty in the delivery of buildings which mitigate and respond to climate change.

92. The Council is conscious of the need for the Amendment to be consistent with the state planning policy framework and controls. The Amendment has been prepared to be consistent with state policy and the VPPs, and to be easily adaptable to a particular provision schedule, should the State introduce a particular provision in the future as part of its “environmentally sustainable development of buildings and subdivisions roadmap” (discussed further below).
93. However, the Amendment intentionally goes further in terms of ESD standards than the existing state level provisions do for two reasons:
 - a) Council has led the way in many strategic planning areas over the years, including in relation to ESD standards, and now seeks to continue that role. The severity of the climate challenge and the consequences of insufficiently robust responses compels that approach.
 - b) There is a legitimate expectation that development in the Municipality lead the way in achieving higher standards, both as a result of the type of development anticipated in the central city, and the role that the Municipality plays in the planning hierarchy.

Purpose and objectives of the Planning and Environment Act 1987

94. The Amendment is consistent with the purpose of the PE Act, at section 1, which is:

to establish a framework for planning the use, development and protection of land in Victoria in the present and long-term interests of all Victorians.
95. The Amendment is supported by, and consistent with, the objectives in section 4(1) of the PE Act, and in particular the following objectives:
 - (a) to provide for the fair, orderly, economic and sustainable use, and development of land;
 - (b) to provide for the protection of natural and man-made resources and the maintenance of ecological processes and genetic diversity;
 - (c) to secure a pleasant, efficient and safe working, living and recreational environment for all Victorians and visitors to Victoria;
 - ...
 - (g) to balance the present and future interests of all Victorians.

96. The Amendment is also consistent with objectives of the planning framework in section 4(2) of the PE Act, and in particular the following:
- (d) 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;
 - (e) to facilitate development which achieves the objectives of planning in Victoria and planning objectives set up in planning schemes;
 - (g) to encourage the achievement of planning objectives through positive actions by responsible authorities and planning authorities;
97. Additionally, and significantly, the Amendment is consistent with the increased emphasis to be placed on climate change and emissions reductions as part of the planning framework, by the introduction of a new objective for the planning framework pursuant to section 16 of the *Climate Change and Energy Legislation Amendment (Renewable Energy and Storage Targets) Act 2024*.²¹ The new objective is as follows:
- (da) to provide for explicit consideration of the policies and obligations of the State relating to climate change, including but not limited to greenhouse gas emissions reduction targets and the need to increase resilience to climate change, when decisions are made about the use and development of land;

Plan Melbourne 2017-2050

98. The Amendment is supported by the principles and outcomes of *Plan Melbourne 2017-2050: Metropolitan Planning Strategy* (**Plan Melbourne**).
99. Plan Melbourne:
- a) set out principles that underpin the long-term vision for Melbourne;
 - b) includes outcomes to drive Melbourne as a competitive, liveable and sustainable city;
 - c) gives direction on how these outcomes can be achieved; and
 - d) includes policies which outline how each outcome is to be approached, delivered and achieved.
100. Plan Melbourne comprises nine principles, seven outcomes, 32 directions and 90 policies that seek to deliver on the vision for Melbourne as ‘*a global city of opportunity and choice*’.
101. The Amendment is supported by the following relevant outcomes and directions:
- Outcome 5: Melbourne is a city of inclusive, vibrant and healthy neighbourhoods.

²¹ Section 16 has not yet commenced. Timing of commencement is presently uncertain.

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

Direction 5.4: Deliver local parks and green neighbourhoods in collaboration with communities.

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 zero greenhouse gas emissions by 2050.

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.

102. Plan Melbourne 2017-2050 was accompanied by an implementation plan detailing 112 proposed actions, contained in the Five Year Plan Melbourne Implementation Plan (2017). The following actions, among others, were included in that plan to support Outcome 6 “Melbourne is a sustainable and resilient city”:

Action 80 Review of planning and building systems to support environmentally sustainable development outcomes

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.

Plan Melbourne direction 6.1

Timeframe Short

Lead agency DELWP

Implementation partner

Action 81 Lead by example on environmentally sustainable development

Lead by example by establishing minimum energy, water and waste performance standards for the construction and upgrade of government buildings, including public housing.

Plan Melbourne direction 6.1

Timeframe Medium

Lead agency DELWP

Implementation partners DTF, DHHS

Action 82 Energy efficiency of existing buildings

Improve the energy efficiency of existing housing (including rental properties) and non-residential buildings to meet Victoria’s net zero emissions target by 2050. This

includes the Greener Government Buildings Program and roll-out of the Residential Efficiency Scorecard, to enable homeowners to understand and improve the energy performance of their homes, and a strengthened and expanded Victorian Energy Efficiency Target Scheme.

Plan Melbourne direction 6.1

Timeframe Medium

Lead agencies DELWP and DTF

Implementation partners Councils

Action 83 Higher building energy efficiency standards

Advocate for higher building energy efficiency standards through national forums that are consistent with broader energy efficiency policy.

Plan Melbourne direction 6.1

Timeframe Short

Lead agency DELWP

Implementation partner

Action 84 Renewable energy technologies to achieve Victorian renewable energy targets of 25 per cent by 2020 and 40 per cent by 2025

Facilitate the uptake of renewable energy technologies by:

- establishing a whole-of-government policy framework for the deployment and operation of renewable energy technologies and facilitate opportunities for local electricity generation in growth areas and strategic sites
- promoting the use of battery storage technology, such as through a regulatory framework
- investigating opportunities and constraints for precinct-scale use of renewable resources
- investigating opportunities for renewable energy initiatives in Melbourne's green wedges and peri-urban areas
- partnering with others to deliver renewable energy demonstration projects
- leading by example by implementing renewable energy and energy efficiency initiatives in government projects, including large-scale public buildings, roads and public transport projects
- establishing a renewable energy auction scheme.

Plan Melbourne direction 6.1

Timeframe Medium

Lead agency DELWP

Implementation partners Councils

...

Action 91 Whole-of-government approach to cooling and greening Melbourne

Create urban forests throughout the metropolitan area by:

- assembling and disseminating spatial data on the green space network, existing tree cover and surfaces. This data will be the baseline for modelling future greening strategies and their impacts on amenity of our urban areas including cooling effects
- working with local government to establish greening targets for each of the metropolitan regions
- liaising with water corporations to identify opportunities for use of alternative water supply to support greening strategies
- supporting development of municipal urban forest strategies using a coordinated approach with VicRoads, private road operators and other public land owners and managers
- preparing greening strategies for state-owned public land, including schools, parkland, road, rail and utility corridors, achieving an appropriate balance between asset protection and urban greening
- investigating a targeted grants program to support innovation and actions for greening neighbourhoods
- investigating demonstration projects including green roofs, green walls and landscapes
- preparing new guidelines and regulations that support greening new subdivisions and developments via landscaping, green walls, green roofs and increase the percentage of permeable site areas in developments.

Plan Melbourne direction 6.4

Timeframe Short – medium

Lead agency DELWP

Implementation partners VicRoads, water corporations, councils, Port Phillip and Westernport Catchment Management Authority, VPA

[emphasis added]

103. The plan identified the timeframes as follows:

The indicative timeframes for completing actions are:

- Short term: by the end of 2018 (0-2 years)
- Medium term: by the end of 2021 (2-5 years)
- Long term: beyond 2021 (more than 5 years)

104. The Implementation Plan identifies the role of government in the implementation of the plan:

Local government partnerships

Local government shares responsibilities with the Victorian Government in planning for Melbourne's future, especially for housing, delivering community infrastructure critical to 20-minute neighbourhoods, and ensuring community involvement in planning.

Local government, in partnership with DELWP and other government agencies, will focus on:

- participating in Metropolitan Partnerships and other metropolitan regional governance arrangements to support Plan Melbourne implementation
 - undertaking local planning actions to implement Plan Melbourne.
105. The actions taken by the City of Melbourne from 2017, culminating in this Amendment, are consistent with the policy aims of Outcome 6, and are complementary to the actions proposed by the State, many of which have not been delivered in the timeframe identified in the plan, or at all.
106. In 2020, the State government released the *Environmentally sustainable development of buildings and subdivisions A roadmap for Victoria's planning system*. The roadmap outlines a program to introduce new environmentally sustainable development (ESD) planning policies and standards in the VPPs. The roadmap states:
- The Victorian Government is committed to improving the environmental performance and resilience of buildings in response to urban growth and a changing climate.
- Plan Melbourne (2017) recognises that well designed and resource efficient buildings provide essential building blocks for creating more sustainable, liveable cities and towns.
- Improving the energy and water efficiency of new buildings supports affordable living, contributes to reduced greenhouse gas emissions and reduces stormwater pollution of our rivers and bays. Our quality of life is enhanced by building design features that make it easier to recycle, support more sustainable transport options and minimise the intrusion of air pollution and noise.
107. The roadmap identified a two stage process:
- Development of an integrated planning system approach to ESD will follow a two-stage process.
- Reforms as part of stage one will ensure that ESD is more comprehensively addressed throughout the Planning Policy Framework and provide a clearer policy basis for development of new standards.
- Stage two will introduce new and expanded particular provisions across a range of key ESD elements to help achievement of wider urban sustainability goals. These actions will be supported by further guidance materials and tools.
- These planning reforms will occur concurrently with a longer-term program to improve the environmental performance of developments through the building system. A staged process of changes and improvements to the energy efficiency standards of the National Construction Code (NCC) commenced in 2019, with further improvements underway.
- Consultation with stakeholders on the planning reforms will take place over the coming months and will be finalised over 2021.
108. The roadmap recognises the role played by local government (including City of Melbourne) in the development of local sustainable buildings policies in planning schemes, and the

development of various rating tools used to support the implementation of those policies (see eg pp 9 and 12). It further recognises the need for significant reform.

109. As set out above, the Council supports the development of a particular provision to lift the standards for ESD across the State, and strongly supports the ability for local councils to introduce local content and bespoke standards, as applicable to the circumstances.

Purposes of the Scheme and the Municipal Planning Strategy

110. The Amendment directly responds to and supports Clause 1 - Purpose of this Planning Scheme, which includes the following purpose:

To support responses to climate change.

111. The Amendment is also consistent with the Municipal Planning Strategy (**MPS**).

112. The vision for Melbourne set out in Clause 2.02 - Vision is:

The vision for the City is to be a bold, inspirational and sustainable city.

113. The Amendment is directly consistent with and supported by this vision, by seeking to lead the way in ESD standards and thereby improving the overall sustainability of the city into the future.

114. The Amendment supports Clause 2.03 - Strategic Direction and proposes to update the clause to address the purposes of the Amendment C376. The Amendment is otherwise consistent with the following clauses and strategies of Clause 2.03, as relevant to the subject matter of the Amendment:

Clause 2.03-2 Environmental and landscape values

Biodiversity and waterways

In managing biodiversity and waterways, the Council will:

- Support design treatments that enhance or restore natural systems.
- Encourage the retention of native vegetation in the development of sites and enhance indigenous and remnant vegetation.
- Encourage the use of indigenous vegetation in open spaces and roof top greening.
- Create and enhance bio-links for native flora and fauna.

Clause 2.03-3 Environmental risks and amenity

Climate change

In planning for climate change, the Council will:

- Encourage development that is resilient to heatwaves, water shortages, extreme storm events and sea level rise.

Clause 2.03-4 Built environment and heritage

Built environment

In managing the built environment, the Council will:

- Design public and private open spaces to support wellbeing including physical movement, communal exercising, social interaction, quiet enjoyment and connections to the natural environment.

Sustainable Development

The City will plan and design to become an environmentally sustainable city that is energy, water and waste efficient and adapted to predicted climate change.

In promoting sustainable development, the Council will:

- Ensure an environmentally sustainable urban environment and building design that facilitates reduced greenhouse emissions, integrated water management, and efficient resource use and waste reduction.
- Ensure the built environment resilient to heatwaves, water shortages, extreme storm events and sea level rise.
- Encourage environmentally sustainable building design innovation.
- Encourage the connection of buildings to district energy, water and waste systems through a precinct-wide approach.

Clause 2.03- 5 Housing

Housing diversity

High standards of on-site amenity should be provided in all residential development, including good access to sunlight, daylight and privacy as well as protection from effects such as noise and light spill.

In providing housing, the Council will:

- Ensure that new residential development achieves high standards of amenity including access to sunlight and daylight and protection from overlooking.

Clause 2.03 - 7 Transport

Integrated Transport

Effective and efficient mobility is essential for the liveability, creativity, prosperity, innovation and environmental sustainability of the City.

Sustainable Transport

A priority for the City is maximising the use of sustainable modes of transport.

Clause 2.03-8 Infrastructure

Integrated Water Management

In practicing integrated water management, the Council will:

- Encourage stormwater management, including water sensitive urban design, to minimise the impact of development on waterways.

Planning Policy Framework

115. The Amendment is consistent with and supported by the PPF. Relevant clauses (and objectives and strategies) are summarised in **Attachment 6**.

Ministerial Directions

116. The Amendment is consistent with relevant Ministerial Directions as follows.

- a) The Amendment is consistent with the *Ministerial direction on the form and content of planning schemes*, noting that the proposed ordinance and map changes have been prepared in accordance with the relevant requirements of the Ministerial direction.
- b) The Amendment is consistent with *Ministerial direction 9 – Metropolitan Planning Strategy*, by implementing key relevant principles and accompanying directions and policies of Plan Melbourne, as set out above.
- c) Compliance with *Ministerial direction 11 – Strategic assessment of amendments*, which seeks to ensure a comprehensive strategic evaluation of a planning scheme amendment and the outcomes it produces, is addressed in the Explanatory Report that was prepared for the Amendment. That assessment is adopted for purposes of these Part A submissions.
- d) At all times, Council has complied with *Ministerial direction 15 – The planning scheme amendment process*, including by giving notice of the Amendment in accordance with the PE Act, and seeking relevant extensions of time where necessary (relevantly, to extend the timeframe to commence exhibition of the Amendment).

E. RELEVANT PLANNING SCHEME AMENDMENTS

Amendment C409melb – Planning Policy Framework (PPF) translation

117. Amendment C409 was gazetted on 21 September 2022.

118. The Minister made Amendment C409 under 20(4) of the PE Act. Amendment C409 translated the Local Planning Policy Framework content in the Scheme into the new integrated PPF and MPS, consistent with the structure introduced by Amendment VC148 in July 2018.

119. While the preparation of Amendment C376 pre-dated the gazettal of the PPF, Amendment C376 was exhibited in accordance with the policy framework introduced by Amendment C409.

Amendment C417melb – Macaulay Major Urban Renewal Precinct

120. Amendment C417 is currently on public exhibition, until 23 August 2024.
121. Amendment C417 applies to the Macaulay major urban renewal precinct (as designated in Plan Melbourne) being an area of approximately 90 hectares to the north-west of the Central City and incorporating parts of Kensington and North Melbourne.
122. Council is the planning authority for Amendment C417.
123. Amendment C417 seeks to implement the Macaulay Structure Plan 2021 and Macaulay Development Contributions Plan, May 2022 (**DCP**) through the application of a new local policy, rezoning land to the Special Use Zone, introducing new overlay schedules, incorporating the DCP and other consequential changes.
124. In respect to overlay controls, it proposes to:
 - a) introduce four new schedules to the DDO and delete the existing Schedule 63 to the DDO;
 - b) introduce a new Schedule 16 to the Parking Overlay; and
 - c) amend and extend Schedule 2 to the Development Contributions Plan.
125. The FMC is not anticipated to consider submissions received on Amendment C417 until 2025.

Amendment C432melb – Municipal Planning Strategy Update

126. Council received authorization to prepare and exhibit Amendment C432 on 18 July 2024, following a request made by Council officers on 26 April 2023.
127. Council is the planning authority for Amendment C432.
128. Amendment C432 proposes to update the MPS at Clause 2, Clause 11.03 - Planning for Places, Clause 72.08 - Background documents, and Clause 74.02 - Further strategic work, to place greater emphasis on promoting sustainable development, promoting housing diversity and affordable housing, mitigating climate change, promoting employment, innovation and creative industries, elevating high quality design outcomes and design excellence, and recognising Aboriginal cultural values and heritage.

Draft Amendment GC224 – Fishermans Bend Infrastructure Funding

129. Draft Amendment GC224 is currently the subject of a Standing Advisory Committee hearing process which is scheduled for hearing in November-December 2024.

130. Council is a submitter to GC224, as it applies to the Lorimer precinct of Fishermans Bend. Council is a party to the Advisory Committee proceeding.
131. GC224 also affects the three other precincts in Fishermans Bend, which are located in the City of Port Phillip.
132. GC224 seeks to update infrastructure funding mechanisms into the Scheme including by introducing the Fishermans Bend Development Urban Renewal Area Contributions Plan and the Fishermans Bend Open Space Uplift mechanism through various amendments to provisions of the Scheme, including Schedule 4 to the Capital City Zone which applies to Lorimer.
133. GC224 also proposes a minor change to the application requirements in the CCZ4 relating to the requirement for permits to include conditions to seek and achieve Green Star ratings.
134. Council's submission to GC224 includes a recommendation that the CCZ4 should be updated to refer to the most current version of Green Star buildings (noting that it currently refers to a "Green Star Design and As-Built rating (or equivalent)").

Amendment C384melb – Inundation Overlays

135. Amendment C384 is anticipated to be considered for adoption by the FMC and Council later in 2024.
136. Council is the planning authority for Amendment C384, which was prepared in partnership with Melbourne Water Corporation.
137. Amendment C384 is concerned with the application and alteration of inundation overlay controls over parts of the municipality. This includes parts of the CBD and Southbank, renewal precincts including Arden, Macaulay and Fishermans Bend, and established suburbs, including Parkville, Carlton and North Melbourne.
138. Amendment C384 was considered by a planning panel in October 2022. In December 2022, the panel issued its report, which recommended Amendment C384 be adopted subject to changes.
139. In February 2023, two landowners in the Arden precinct of North Melbourne commenced a proceeding in the Victorian Civil and Administrative Tribunal alleging a defect in procedure pursuant to s 39 of the PE Act. In August 2023, the Tribunal proceeding was struck out, on the basis that the application was lodged outside of the statutory time period.

140. In September 2023, an appeal of the Tribunal’s decision was lodged with the Supreme Court of Victoria. On 21 June 2024, the Court dismissed the appeal, finding that there was no error of law in respect of the Tribunal’s determination.

Relevant Heritage Amendments

141. For completeness, Council is awaiting the adoption of the following amendments which implement the heritage reviews undertaken across the following geographic areas: Carlton (Amendment C405), North Melbourne (Amendment C403) and South Yarra (Amendment C426).
142. Interim heritage protection provisions currently apply in respect of the above in the Scheme for Carlton (Amendment C472), North Melbourne (Amendment C470) and South Yarra (Amendment C425).

F. POINTS OF CLARIFICATION

Introductory

143. Direction 7(c) requires Council to address the following:

Clarification of the following aspects of the Amendment:

- (i) Council’s approach to the mandatory ESD requirements, having regard to the guidance on mandatory controls in Planning Practice No 59 and the Practitioner’s Guide*
- (ii) A table setting out the differences between the standards and requirements sought to be introduced by the Amendment, and the requirements of the National Construction Code.*

Use of mandatory requirements

144. PPN59 was most recently updated in August 2023. The Practitioner’s Guide has also recently been updated, in June 2024, including for consistency with the revised content of PPN59.
145. PPN59 provides the following overarching guidance about the use of mandatory provisions:

Victorian planning schemes largely consist of performance-based provisions that require an assessment to decide whether a proposal:

- meets relevant planning objectives
- achieves an appropriate balance between competing planning policies.

Performance-based provisions can facilitate variation and innovation in how a use or development is planned. They can also accommodate unforeseen circumstances peculiar to a particular application.

While mandatory provisions only provide fixed planning outcomes, there are circumstances where they are warranted. Mandatory provisions provide greater certainty and ensure a preferred outcome and more efficient process. Although mandatory provisions are the exception, they may be used to manage:

- areas of high heritage value
- areas of consistent character
- sensitive environmental locations such as along the coast
- building heights in some activity centres.

A balance must be struck between the benefits of a mandatory provision in the achievement of an objective against any resulting loss of opportunity for flexibility in achieving the objective.

146. The use of mandatory controls at part of the Amendment has been the subject of detailed consideration. Relevantly, the Hansen Report provides a comprehensive explanation of the reasons for the use of mandatory controls as part of the Amendment, and the moderation of the number of mandatory elements relative to that proposed by the GOSCAP.²² The Hansen Report states as follows in relation to PPN59 and the use of mandatory controls:²³

APPLICATION OF MANDATORY CONTROLS

The inclusion in this amendment of mandatory elements is both a critical part of the amendment and a part of the proposed Standards which was subject to rigorous review. As noted previously the number of mandatory elements proposed to be implemented through Amendment C376 has been significantly reduced from that originally proposed by the GOSCAP (2019) report. This is a natural and expected outcome of the review process.

This section of the report notes the Standards proposed for mandatory application and includes an assessment against the relevant ‘tests’ established through Planning Practice Note 59: The Role of Mandatory Provisions in Planning Schemes. Three key points are made upfront however:

- The first being that for most of the mandatory aspects of this amendment, a corresponding or comparable discretionary control is already in place in the Melbourne Planning Scheme, ensuring that the mandatory application of controls in this context in many cases represent an evolution of existing controls rather than a new control.
- Secondly, while Practice Note 59 is an important and relevant consideration, it’s drafting in 2015 did not contemplate the kinds of development controls that may be needed to ensure that both the City of Melbourne, and Victoria more broadly may rely upon to deliver critical objectives in relation to climate change.
- Lastly, in most cases the mandatory part of the controls is the benchmark or rating which development must meet, with an inherent flexibility provided as

²² Hansen Report, see PDF 32-34.

²³ Hansen Report, PDF 34.

to how each development meets this mandatory aspect, rather than an explicit development outcome as contemplated in the wording of the Practice Note.

147. In relation to what mandatory provisions are, PPN59 states:

A mandatory provision is a requirement or control that must be met and provides for no opportunity to vary the requirement.

A performance-based provision (also called a discretionary provision) provides for flexibility in the method or measure used to achieve a required outcome.

148. In this regard, it is important to note in relation to the use of mandatory provisions as part of the Amendment, that there are different categories of mandatory (or quasi-mandatory) provisions proposed, with differing levels of built in flexibility. PPN59 does not apply to these quasi-mandatory provisions. For example:

a) the amendments to the CCZ and DZ schedules propose:

- i. a mandatory requirement for car parking areas to be retained in single ownership, except where the responsible authority agrees otherwise; and
- ii. mandatory minimum rates for bicycle, motorcycle and car share parking, unless the responsible authority is satisfied that a lesser number is sufficient.

b) the DDO73 proposes:

- i. mandatory minimum ESD related standards to be met by relevant types of development, except that:
 - where the mandatory standard includes reference to a ratings tool external to the Scheme, an alternative tool can be used if the same outcome would be achieved; and
 - in relation to the GF tool, if the 0.55 score is not achievable in context of the constraints of the relevant site, an alternative approach of demonstrating at least 40% green cover with specified characteristics can be demonstrated as an alternative approach (which is performance-based).

149. As such, Council has built inherent flexibility into the Amendment; while there is no ability to vary the key ESD outcomes sought – which Council submits is appropriate given the purpose of the Amendment – there are different, and flexible, ways of achieving those outcomes.

150. In relation to the external ratings tools (Green Star, NABERS, NatHers, BESS, and the GF Tool), Council also notes that there is inherent, performance-based, flexibility in all of those tools. While each of them generates an overall rating or score at the end (which is the mandatory outcome required by the DDO73), there is flexibility in the inputs. For example:
- a) with Green Star, the applicant is able to choose different credit pathways to suit the development proposed; and
 - b) with the GF Tool, the applicant is able to input different areas, combinations and types of green cover, again, to suit development proposed.
151. PPN59 sets out guidance criteria for applying a mandatory provision in a planning scheme. Council's response to those criteria is contained in **Attachment 7**. Additionally, Council relies on the assessment in the Hansen Report at PDF 35-36.
152. PPN59 also states:
- The planning authority should also consider whether the proposed mandatory provision reduces costs for councils, applicants and the community.
153. The proposed mandatory provisions will substantially simplify the preparation of planning applications for applicants and their assessment by Council because they establish clear expectations for a development's ESD performance and the information that is to be provided with a permit application.
154. The proposed mandatory provisions are expected to simplify Council ESD referrals in particular because of the need to register buildings with Green Star and enter into a Commitment Agreement with NABERS prior to submitting a planning application (as applicable). This ensures that the proposal will already be fully committed to achieving the relevant ESD requirements at the design stage, and reduce the cost for applicants of 'retrofitting' ESD measures to designs in response to Council feedback during the application assessment process.
155. In relation to how or where mandatory provisions are used in a planning scheme, PPN59 states:
- Mandatory provisions can be specified in a zone or an overlay if required by the Victoria Planning Provisions.
- The Design and Development Overlay is the most appropriate tool to implement mandatory built form requirements. Opportunities may also exist in some other zones and overlays to mandate controls.

156. It is for this reason that Council is proposing the DDO73 (and otherwise amending the relevant CCZ and DZ schedules).
157. While the DDO73 may be unusual in that it will apply to the whole municipality (with the exception Commonwealth land and land subject to Clause 36.04 Transport Zone), the proposed ESD standards have universal application to all of the relevant building typologies, and therefore the use of a municipal wide schedule is logical. There is nuance in the typology delineation in the DDO73 itself – the DDO73 will only be triggered where the relevant development typology is proposed.
158. The justification for the use of mandatory provisions will be further addressed through expert evidence.

National Construction Code

159. **Attachment 2** to these Part A submissions provides a tabular assessment of the relevant components of the Amendment compared to the NCC.
160. In summary, the ESD requirements in the DDO73 and the sustainable transport requirements in the schedules to the CCZ and DZ generally impose greater obligations on a development than the equivalent requirements of the NCC.
161. However, Council notes the following matters:
- a) first, it has to be borne in mind that the purpose of the NCC is to set minimum construction standards at a national level, and the NCC is not specifically addressed to the achievement of ESD and sustainable transport objectives that respond to the climate and biodiversity emergency; and
 - b) second, the fact that the standards and requirements in the Amendment go further than the equivalent requirements in the NCC, in the specific context of the municipality of Melbourne, is not conceptually different from other built form requirements in the Scheme, such as the need to achieve particular setbacks or use certain materials, which depart from and are greater than the minimum expectations set by the NCC. It is appropriate that, at a local level, a planning scheme is able to require built form outcomes that improve on the minimum standards set by the NCC, to reflect other planning policy objectives beyond minimum built form expectations. That is to say, while the NCC is directed to built form matters, the planning schemes, by reason of the purpose and objectives of the PE Act, are directed to built form

matters but also many other equally important matters – including sustainability and the response to climate change;

- c) third, there is no question arising about inconsistency with the NCC. In all cases, the standards and requirements proposed by the Amendment, improve on the relevant requirements of the NCC, but do not prevent a development from achieving compliance with the NCC.

G. SUMMARY OF MAIN ISSUES RAISED IN SUBMISSIONS ON AMENDMENT C376

162. Direction 7(d) requires Council to provide:

A summary of the main issues raised in submissions (this can be by way of attaching relevant material from the report to the Future Melbourne Committee dated 21 May 2024).

163. In summary:

- a) Twenty submissions refer to the **GF tool**, which Council developed as the first tool of its kind in Australia to encourage urban greening for developments. Fourteen submissions supported its introduction into the Scheme, and three were uncertain about how the tool works.
- b) Eleven submissions were made about the **sustainable transport requirements**, including five requesting that the proposed (exhibited) minimum **bicycle parking rates** be reduced.
- c) Ten submissions supported introducing **mandatory sustainability requirements**, and three objected to the inclusion of mandatory controls in the Amendment.
- d) Nine submissions raised concerns about the **impact on economic feasibility of development** as a consequence of the Amendment.
- e) Seven submissions requested changes to the **technical drafting of the Amendment**, with one submission stating that the requirement to provide a technical and economic justification to vary a preferred ESD tool or energy efficiency standard was onerous; and two others noting that this justification could be difficult to assess.
- f) Five submissions identified that a blanket **NABERS Energy rating requirement** was not appropriate for all non-residential buildings.
- g) Four submissions objected to the proposed requirement for **car parking spaces to be retained as common property in single ownership**.

- h) Four submissions criticised requirements which **exceed NCC standards**.
- i) Four submissions requested that **transitional provisions** be included with the Amendment.
- j) Other issues raised in submissions included:
 - i. the Amendment being a disincentive to refurbishing buildings;
 - ii. stakeholder specific concerns;
 - iii. the need for a precinct-based approach to controls on University campuses (rather than building per building);
 - iv. Fishermans Bend Urban Renewal Area specific concerns, including integrated water management and inconsistency with planning controls in the Port Phillip Planning Scheme; and
 - v. that certain background and supporting documents were outdated or did not provide adequate strategic justification for the proposed controls.

164. A detailed summary and response to all 73 submissions received to the Amendment was provided in Attachment 2 to the FMC report 21 May 2024 (re-attached to these submissions as Attachment 4).

165. The key issues raised in submissions will be addressed further through expert evidence, and in Council's Part B submissions, as appropriate.

H. OTHER STRATEGIC MATERIAL IN SUPPORT OF AMENDMENT C376

Green Factor Tool Scenario Testing

166. In relation to the GF tool, and as referred to above, the Council commissioned Hip vs Hype to develop the GF tool and undertake scenario testing in relation to the application and operation of the GF tool.

167. The evidence statement of Mr Gavin Ashley provides a comprehensive overview of the background research and scenario testing used to develop the GF tool. Council relies on Mr Ashley's evidence in that regard.

I. CONCLUSION

168. In accordance with Direction 12, Council will circulate 'Day 1' versions of the Amendment documentation, with changes marked as requested, on 14 August 2024.

169. In accordance with Direction 15, a Part B submission will provide Council's:

- a) response to issues raised in submissions;
- b) response to evidence, including details of any recommendations of experts that are not supported by Council (at officer level) and reasons why; and
- c) final position (at officer level) on the Amendment.

5 August 2024

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Instructed by Melbourne City Council

ATTACHMENT 1: SUMMARY OF RELEVANT COUNCIL INCORPORATED, BACKGROUND AND SUPPORTING DOCUMENTS

	Title	Description	Status
Proposed Incorporated Document			
1.	Guidelines for Waste Management Plans, City of Melbourne, June 2021	The Guidelines for Waste Management Plans (WMP Guidelines) are proposed for incorporation into the Scheme aimed at planning permit applicants in the City of Melbourne who prepare Waste Management Plans in support of a planning permit application and/or as part of satisfying their conditions of planning permission. The WMP Guidelines set out advice for residential waste and commercial waste generators outlining a number of measures to which a permit applicant/holder is to make response having regard to the specific facts and circumstances of their individual planning permit application.	Approved by the Director of Waste and Recycling, City of Melbourne in June 2021.
Proposed Background Documents			
2.	Growing Green Guide, City of Melbourne 2014	The Growing Green Guide was prepared to improve knowledge on green roofs, walls and facades and reduce the technical barriers to green roof and green wall construction. The Growing Green Guide can support designers and developers with practical advice about the preparation of greening and landscape proposals on buildings. The guide can also help to support professionals working in the design, construction and maintenance of	Developed by the Inner Melbourne Action Plan Implementation Committee, the University of Melbourne and the Department of Environment, Land, Water and Planning in February 2014.

	Title	Description	Status
		green roofs, walls and/or façades in the use of Melbourne's Green Factor tool. The guide is divided into four sections: 1. An introduction to green roofs, walls and facades. 2. Evidence-based benefits of green roofs, walls and facades. 3. Technical Guide. 4. Victorian Case Studies. The guide includes definitions, answers to frequently asked questions and several visual illustrations.	
3.	Green Our City Strategic Action Plan 2017-2021, City of Melbourne, 2017	The Green Our City Strategic Action Plan 2017-2021 (GOCAP) was prepared to outline the way Council and the community can substantially increase the quantity and quality of green infrastructure in both the public and private realms using a variety of methods. The GOCAP sets out a series of actions divided into four focus areas: leading by example, developing and maintaining partnerships, targeted advocacy and effective regulation. Eleven actions were identified to be undertaken over the lifetime of the action plan, including, as relevant to Amendment C376, Action 4.1 of the GOCAP, which provides: <i>Pursue changes to the planning scheme to require all types of development in the City to play a part in achieving environmentally sustainable design targets, including green roofs and vertical greening.</i> Considerations to progressing Action 4.1 of the GOCAP were recorded as follows: • How best to work with other Councils, including the work of CASBE, and the State and build on existing reforms	Endorsed by the FMC on 21 November 2017.

	Title	Description	Status
		• How to ensure that real change is delivered, while engaging productively with the development community and ensuring the commercial context is understood • How best to adapt world leading initiatives such as Seattle's Green Factor in a City of Melbourne context.	
4.	Climate Change Adaptation Strategy Refresh, City of Melbourne, 2017	The Climate Change Adaptation Strategy Refresh (CCASR) builds on the earlier work undertaken in 2009 – a strategy which was the first of its kind in Australia. The CCASR reports on significant developments in Melbourne climate context since 2009 but expresses the need for more to be done. It sets out the vision: • Melbourne is adapting well to climate change so it can continue to prosper and thrive. It has the following 5 goals: • Goal 1 – Enhance the natural environment and green spaces of our municipality • Goal 2 – Shape our built form and urban renewal areas to withstand future climate change impacts • Goal 3 – Strengthen the resilience of our inclusive, family friendly and culturally diverse community • Goal 4 – Protect and enhance our diverse economy • Goal 5 – Continue to build City of Melbourne's adaptation capabilities and expertise. A series of actions are proposed under each of the five goals.	Endorsed by the FMC on 18 April 2017.
5.	Climate Change Mitigation Strategy to	The Climate Change Mitigation Strategy to 2050 (CCMS) is identified as a major commitment to climate change action setting out a series of strategic priority actions to inform City of Melbourne's planning and	Endorsed by the FMC on 4 December 2018.

	Title	Description	Status
	2050, City of Melbourne, 2018	resourcing considerations, subject to Annual Plan and budgetary processes. Complementing the CCASR, the CCMS focuses on reducing greenhouse gas emissions responding to the new science-based targets and frameworks introduced since the Paris Climate Agreement ratified in 2016. The CCMS explains: <i>The Intergovernmental Panel on Climate Change has conveyed a clear message to leaders around the world that climate change is already impacting communities and that urgent action is needed. The Australian Government has ratified the Paris Climate Agreement and the Victorian Government has introduced the Climate Change Act 2017.</i> <i>This provides a fresh opportunity for the City of Melbourne to pursue our long-standing commitment to act on the emissions that cause climate change.</i> <i>To align with the 2015 Paris Climate Agreement, we now need to reset ambitious emissions reduction targets for 2030, achieve net zero emissions before 2050 and align our strategy to the C40 Climate Action Plan Framework.</i> The strategic priority actions are: 1. 100 per cent renewable energy. 2. Zero emissions buildings and precincts. 3. Zero emissions transport. 4. Reducing the impact of Waste. In respect to zero emissions buildings and precincts, Action 2.6 states: <i>Renew and implement planning policies to support the development of zero emissions buildings and precincts.</i>	
6.	Municipal Integrated Water Management	The Municipal Integrated Water Management Plan (MIWMP) sets the strategic direction for water management across the municipality, using	Endorsed by the FMC on 6 June 2017.

	Title	Description	Status
	Plan, City of Melbourne, July 2017	a place-based and catchment approach taking stock of changes and achievements since the earlier work undertaken in Total Watermark 2014. The MIWMP sets out the context of integrated water management, the strategic directions to deliver the plan's initiatives, outlines the place-based implementation and action plan (which includes the Fishermans Bend, Arden, Macaulay and Moonee Ponds Creek corridor, Southbank and the Yarra River corridor) and monitoring and evaluation. Section 4.6 of the MIWMP sets out a series of municipal wide actions which include: • Advocate for a consistent planning scheme approach across Victoria for climate change and extreme weather event mitigation including provision for onsite/on-lot flood retention in flood prone catchments (Action 6.11). • Advocate for an increase in the quantity and quality of green roofs, including for the capture and retention of rainwater (Action 6.18).	
7.	Transport Strategy 2030, City of Melbourne, 2019	The Transport Strategy 2030 (TS) states that 70% of all trips will be by public transport, walking or cycling by 2030. The TS outlines 13 outcomes towards realising a safe and liveable city, fostering an efficient and productive city and encouraging a dynamic and adaptive city. The TS supports the implementation of the CCMS, including by seeking to enable a transition to zero-emissions transport by advocating for lower carbon intensity of motor vehicles and electric vehicles powered by renewable energy (Action 24). The TS includes the Transport Strategy Implementation Plan (TSIP) which includes bicycle infrastructure and public realm improvements projects, together with a range of actions to be delivered over a 10 year period.	Endorsed by the FMC on 15 October 2019.

	Title	Description	Status
8.	Waste and Resource Recovery Strategy 2030, City of Melbourne, 2019	The Waste and Resource Recovery Strategy 2030 (WRRS) sets out Council's vision towards a zero waste city setting key 2023 targets as follows: • 90% of waste diverted from landfill. • 1.2Mt CO2-e in greenhouse gas emissions avoided. • 20% reduction in household waste produced. The WRRS supports the implementation of the CCMS. It sets out the following key priorities: 1. Engage and educate community and businesses. 2. Incentivize and promote innovative solutions. 3. Support growth of a circular economy through government procurement. 4. Lead by example through City of Melbourne operations and events. 5. Advocate for better producer stewardship and product design. 6. Improve waste governance and planning. 7. Establish new systems to source separate and collect organic waste. 8. Transform the collection and transfer of recycling and residual waste. 9. Improve the efficiency, effectiveness and viability of recycling. 10. Explore advanced waste processing of residual waste that cannot be otherwise recovered.	Endorsed by the FMC on 16 July 2019.
9.	Green Our City Strategic Action Plan: Strategic Justification for regulatory requirement for sustainability, Arup, 18 October 2019	The Green Our City Strategic Action Plan (GOCSAP), prepared by Arup and including the input of Oculus landscape architects, HillPDA and Junglery, summarises work undertaken in developing the sustainable design and green infrastructure standards and translating the sustainability-related goals and targets from Council's strategies and plans into potential planning provisions.	Provides the strategic basis for Amendment C376.

	Title	Description	Status
		The GOCSAP provides the strategic justification for Amendment C376. The report covers: • The benefits of sustainable design and green infrastructure (section 2). • Council's strategies and goals for sustainability and green infrastructure, existing planning policies and the scope of regulation in terms of applicable development types (section 3). • The proposed standards, appropriate regulatory assessment tools and their respective risks (section 4). • Impacts of development viability and technical feasibility based on four representative scenarios (section 5). • Feedback from consultation (section 6). • Recommendations for regulatory requirements for sustainability's reflection in a planning scheme amendment (section 7). By way of a summary of findings, the GOCSAP concludes: <i>While many sustainability themes were well represented in the planning scheme, green infrastructure, climate change adaptation and biodiversity were less defined in terms of clarity and objectivity. The GOCAP planning scheme amendment can fill this gap and drive the uptake of green infrastructure to deliver a wide range of council's goals.</i> <i>The planning scheme amendment can also take advantage of industry-driven changes such as the requirement for As-Built certification under Green Star and the Green Star roadmap towards zero net emissions from buildings and precincts.</i> The GOCSAP makes 7 recommendations as follows: 1. Refine urban ecology standards and the green infrastructure assessment tool.	

	Title	Description	Status
		2. Refine bicycle parking standards. 3. Consider expanding sustainability standards for less developed themes: • Parking and electric vehicle readiness. • Adaptive reuse. • Pedestrian connection in support of walking. • Occupant amenity. 4. Continue to pursue the GOCAP planning scheme amendment. 5. Develop comprehensive support processes. 6. Collaborate with the Green Building Council of Australia. 7. Monitor policy impact.	
10.	Responding to the Climate and Biodiversity Emergency, 18 February 2020	Council's response to the Climate and Biodiversity Emergency refers to Council's declaration of the Climate and Biodiversity emergency on 16 Jul 2019 and Council's ambitious target of zero net emissions by 2040 set in 2003. The Response reports on Melbourne's current emissions profile, and explains action on the ground to reduce emissions and adapt the city to climate change. It identifies ten priorities for accelerated action, and a response to those actions. The 10 actions as follows: 1. Transition Council operations from fossil fuels. 2. Fast track delivery of 44km of protected bike lanes outlined in the Transport Strategy 2030. 3. Stimulate end market circular economy solutions.	Endorsed by the FMC on 18 February 2020.

	Title	Description	Status
		4. Embed climate change and biodiversity action into council processes, programs and design and construction of assets. 5. Mandate greening and zero emissions buildings through the Planning Scheme. 6. Accelerate renewable energy purchasing by businesses and residents. 7. Incentivise good building environmental performance (including renewable energy use) through rates. 8. Build a business coalition to advance the clean and circular economy. 9. Tell Melbourne's climate change and biodiversity story. 10. Undertake bold advocacy on behalf of our community.	
11.	Sustainable Building Design, Planning Scheme Amendment C376, Background Report, Hansen, September 2020	The Sustainable Building Design, Planning Scheme Amendment C376, Background Report (Hansen Report) provides an explanation of the rationale and process that informed the drafting of Amendment C376. The Hansen Report contains a 'findings' section and a 'translation' section and includes appendices which capture the 'evolution of the standards' and 'existing and proposed objectives'. Referring to a number of the strategy documents which provide the basis for Amendment C376, including GOCAP, GOCSAP and CCASR, and additional supporting work, such as Green Our City Action Plan – Draft Planning Requirements Economic Feasibility Testing, the Hansen Report confirms the rationale to introduce more sophisticated ESD controls as detailed in the GOCSAP. Applying a town planning lens to the earlier work, the Hansen Report considers the planning tools and	Provides the strategic basis for Amendment C376

	Title	Description	Status
		mechanisms that should be adopted in order to progress Amendment C376, and the appropriateness of using the DDO to implement a part mandatory, part-discretionary performance-based suite of controls, and the use of schedules to the CCZ and DZ to implement sustainable transport requirements.	
12.	Fishermans Bend Water Sensitive City Strategy, DJPR, May 2022	The Fishermans Bend Water Sensitive City Strategy (FBWSCS) was commissioned by the Department of Jobs, Precincts and Regions to ensure Fishermans Bend addresses the current and projected impacts of climate change. The FBWSCS outlines how water will be managed and integrated into the urban landscape to meet the Fishermans Bend Vision (2016) and objectives of the Fishermans Bend Framework (2018). The FBWSCS is founded on the following strategic pillars and priorities: • Flood management • Climate resilient water system • Urban ecology The delivery of the FBWSCS is said to rely on a range of infrastructure interventions at various spatial scales across the public and private realm, including green roofs, green walls and rainwater tanks in the private realm together with distributed storages, raingardens and tree pits at the street scale to provide a multi-faceted approach to stormwater run-off management, urban cooling, biodiversity and amenity outcomes.	Authorised and published by the Victorian Government in May 2022.
Supporting Documents			
13.	Off-street Bicycle & Motorcycle Parking Review, Final Report, Phillip Boyle &	The <i>Off-street Bicycle & Motorcycle Parking Review</i> (Parking Review) sets out a number of recommendations arising from the review of bicycle and motorcycle parking in 2016.	Endorsed by the FMC on 5 April 2016.

	Title	Description	Status
	Associates, 16 March 2016	More specifically, the Parking Review recommends changes to the rates specified in a local schedule to the overlay to Clause 45.09 and to the Clause 52.06 - Car Parking of the Scheme to: • Establish the definition of a 'motorcycle parking space' inside a building as 'one equivalent car park' that parks 2 motorcycles. • Require that these spaces be set aside for motorcycle parking (which allowing other temporary uses until needed by a motorcycle user). • Increase the rate from 1 (undefined space) in 100 car parking spaces to 1 equivalent car parking space [sic] (2 motorcycles) for every 40 car spaces. • Define the use and emphasis employment (commuters) rather than dwellings (residents). • Extend the requirement across the municipality. The Parking Review recommends changes to the rates specified under Clause 52.34 of the Scheme to: • Modify the decision guidelines to provide clear guidance for responsible authorities so that the importance of bicycle parking is emphasized. • Modify the uses (2 minor changes). • Increase the rate for users. • Requires a bicycle parking space for each 100 square metres of net floor area for most uses. • Change requirements for related facilities such as showers, personal lockers in employment uses. • Change the decision guidelines to provide clearer guidance for developers and designers.	

	Title	Description	Status
14.	Transport Strategy refresh, Background paper, Increasing the Use of Bicycles for Transport, Phillip Boyle & Associates, May 2018	The Transport Strategy refresh, Background paper, Increasing the Use of Bicycles for Transport (Bicycles Report) considers bicycle parking rates by examining the two main types of bicycle transport trips: short term trips in and around the municipality and longer trips to and from the municipality. The Bicycles Report makes a number of findings regarding increasing the number and proportion of bicycle trips, including by: • Neutralising the measures in the Scheme that support car ownership and use. • Reducing access and priority for motor vehicles. • Increasing the number of high-mobility streets where walking, transit and bicycle trips are strengthened. • Extending high-mobility streets into high mobility corridors that reach to the boundary of the municipality. • Improving bicycle facilities in a range of ways, including by changing the planning scheme so that there is always space for people to park their bicycle and that the space is in a convenient location where the bicycle is ready for use.	Background research completed to support the Transport Strategy 2030 (October 2019).
15.	Green Our City Action Plan – Draft Planning Requirements, Economic Feasibility Testing, HillPDA, November 2020	The Green Our City Action Plan – Draft Planning Requirements, Economic Feasibility Testing (Feasibility Report) examined the technical and economic feasibility implications of GOCAP standards based on a range of redevelopment scenarios and in eight different development typologies (for e.g. single dwelling, high rise commercial, medium rise, mixed use, etc). Led by economics firm, HillPDA, the project team comprised Hansen, Rider Levett Bucknall (RLB) and Breathe Architecture. The assumptions used in the feasibility assessment include land costs, construction costs, project timing and staging, professional fees,	Supports Amendment C376.

	Title	Description	Status
		development contributions and end sale values. RLB provided cost data for each test site baseline development with and without GOCAP standards. The Feasibility Report concluded that the incorporation of the minimum and preferred standards (in which only a small differential was noted) would achieve development viability, other than in the industrial case study.	
16.	Green Our City Action Plan – Draft Planning Requirements, Economic Feasibility Testing, Addendum (5 Additional Sites), HillPDA, February 2022	The Green Our City Action Plan – Draft Planning Requirements, Economic Feasibility Testing, Addendum – 5 Additional Sites (Feasibility Addendum) provides an analysis of an additional 5 sites building on the earlier work undertaken in the Feasibility Report and by providing a more up-to-date viability assessment (as it relates to these additional sites). HillPDA again led the work with inputs from RLB and Breathe Architecture. The Feasibility Addendum concludes the impact on construction costs of applying the proposed ESD standards is estimated to be between +2.7% to +9.6% above the baseline cost concluding development viability was assessed as being acceptable in all tested scenarios and typologies (which comprised small and large scale residential, small and large commercial and high-rise office).	Supports Amendment C376.

ATTACHMENT 2: ADDITIONAL DOCUMENTS TABLED WITH PART A SUBMISSIONS

Document Number	Title
1.	Expert Witness Statement of Mr Gavin Ashley attaching: a) Scenario Testing Report, Green Infrastructure Assessment Tool, May 2020 (Scenario Testing Report); and b) An article published in Urban Planning, 2021, Volume 6, Issue 1, Pages 20–31 titled Integrating Green Infrastructure into Urban Planning: Developing Melbourne’s Green Factor Tool by Judy Bush (Faculty of Architecture, Building and Planning, The University of Melbourne), Gavin Ashley (HIP V. HYPE) and Ben Foster and Gail Hall (both City of Melbourne). c) Green Factor Tool Presentation (video demonstration)
2.	FMC Agenda 17 November 2017 Item 6.4 (minus attachments)
3.	FMC Agenda 18 February 2020 Item 6.5 (minus attachments)
4.	Melbourne C187 (PSA) [2012] PPV 132
5.	Environmentally Efficient Design Local Policies (AC) [2014] PPV 40
6.	Fishermans Bend Planning Review Panel (AC) [2018] PPV 71
7.	Victorian Planning Authority Projects Standing Advisory Committee - Referral 6 (AC) [2022] PPV 24
8.	17 October 2022 Letter from Lord Mayor to (acting) Minister

ATTACHMENT 3: ASSESSMENT AGAINST THE NATIONAL CONSTRUCTION CODE

Schedule 73 to Clause 43.02 Design and Development Overlay

Permit requirement:

- The construction of a new building for the purposes of **Accommodation, Retail premises, Office, Education centre, Research and development centre or Place of assembly.**
- Buildings and works which result in more than 1000 sqm additional gross floor area for the purposes listed above.

Requirement	Existing NCC 2022	Proposed NCC 2025	Notes
Table 1: ESD			
Buildings of more than 5000sqm GFA & buildings and work which result in more than 5000sqm additional GFA: • Minimum: 5 Star Green Star Buildings • Preferred: 6 Star Green Star Buildings	No requirement for a Green Star rating in NCC 2022.	No requirement for a Green Star rating in NCC 2025.	No mandatory requirement under NCC 2025 to achieve a Green Star Rating. Achieving a Green Star Rating is one compliance option as part of Verification Method J1V2.
New buildings of equal to or less than 5000 sqm GFA & buildings and works which result in between 1000 and 5000 sqm additional GFA: • Minimum: 50% BESS score • Preferred: 70% BESS score	No requirement for a BESS score in NCC 2022.	No requirement for a BESS score in NCC 2025.	
Table 2: Energy efficiency and renewables			
Buildings of more than 5000sqm GFA &	<u>Class 1 (houses and horizontally attached</u>	<u>Class 1 (houses and horizontally attached</u>	The NCC is a

Requirement	Existing NCC 2022	Proposed NCC 2025	Notes
buildings and work which result in more than 5000sqm additional GFA: For dwellings: - Minimum: An average of at least 7.5 star NatHERS rating across multiple dwellings, and a minimum of a 7 star NatHERS rating for each dwelling. - Preferred: none specified.	<u>houses)</u> Part H6 Energy efficiency - Section H6P1 Thermal performance - Section H6P2 Energy usage Section S42C2 sets out that H6P1 & H6P2 are satisfied by achieving a 7 star NatHERS rating. <u>Class 2 (apartment buildings)</u> Section J Energy efficiency J3D3(1)(a): (i) collectively achieve an average energy rating of not less than 7 stars, including the separate heating and cooling load limits; and (ii) individually achieve an energy rating of not less than 6 stars, including the separate heating and cooling load limits J3D3(2) specifies the ratings must be achieved using NatHERS.	<u>houses)</u> Part H6 Energy efficiency - Section H6P1 Thermal performance - Section H6P2 Energy usage Section S42C2 sets out that H6P1 & H6P2 are satisfied by achieving a 7 star NatHERS rating. <u>Class 2 (apartment buildings)</u> 2025 Public comment draft has not been published in full. Cannot compare previous Clause J3D3 to proposed 2025 J3D3. Assuming no changes from J3D3 requirement in 2022, otherwise the changes would have been shown in the 2025 NCC public comment draft.	performance based code. The relevant Performance Requirements in NCC 2022 and 2025 do not mandate NatHERS ratings. NatHERS ratings are therefore one option for compliance with the NCC.
Buildings of more than 5000sqm GFA & buildings and work which result in more than 5000sqm additional GFA: For all uses other than a dwelling: Minimum: a NABERS Energy Commitment Agreement must be entered into unless it is demonstrated to the Responsible	<u>Class 3 (long term or transient living)</u> Section J Energy efficiency J1P1 Energy use This can be verified by: Obtaining a minimum 4 star NABERS Energy for Hotels commitment agreement, plus	<u>Class 3 (long term or transient living)</u> Section J Energy efficiency J1P1 Energy use This can be verified by: Obtaining a minimum 4.5 star NABERS Energy for Hotels commitment agreement, plus	

Requirement	Existing NCC 2022	Proposed NCC 2025	Notes
Authority to be unavailable for the relevant use. - Preferred: a Green Star Buildings rating with Exceptional Performance for the NABERS Commitment Agreement Pathway of Credit 22: Energy Use. The minimum requirement translates through the Green Star Buildings requirement at Table 1 into: - Office: 5.5 Star NABERS Energy rating - Retail premises: 4.5 Star NABERS Energy rating - Hotels: 4.5 Star NABERS Energy rating - All other buildings: The building's energy use is at least 20% less than a reference building.	additional requirements; or - Obtaining a Green Star Buildings rating with additional particular requirements; or - A reference building modelled to particular requirements. <u>Class 5 (office buildings)</u> Section J Energy efficiency J1P1 Energy use This can be verified by: - Obtaining a minimum 5.5 star NABERS Energy commitment agreement, plus additional requirements; or - Obtaining a Green Star Buildings rating with additional particular requirements; or - A reference building modelled to particular requirements. <u>Class 6 (shopping centres)</u> Section J Energy efficiency J1P1 Energy use This can be verified by: - Obtaining a minimum 4.5 star NABERS Energy commitment agreement, plus additional requirements; or - Obtaining a Green Star Buildings rating with additional particular	additional requirements; or - Obtaining a Green Star Buildings rating with additional particular requirements; or - A reference building modelled to particular requirements. <u>Class 5 (office buildings)</u> Section J Energy efficiency J1P1 Energy use This can be verified by: - Obtaining a minimum 6 star NABERS Energy commitment agreement, plus additional requirements; or - Obtaining a Green Star Buildings rating with additional particular requirements; or - A reference building modelled to particular requirements. <u>Class 6 (shopping centres)</u> Section J Energy efficiency J1P1 Energy use This can be verified by: - Obtaining a minimum 6 star NABERS Energy commitment agreement, plus additional requirements; or - Obtaining a Green Star Buildings rating with additional particular	

Requirement	Existing NCC 2022	Proposed NCC 2025	Notes
	requirements; or • A reference building modelled to particular requirements. <u>Class 9 (buildings of a public nature, including assembly buildings and residential care buildings)</u> Section J Energy efficiency J1P1 Energy use. This can be verified by: • Obtaining a Green Star Buildings rating with additional particular requirements; or • A reference building modelled to particular requirements.	requirements; or • A reference building modelled to particular requirements. <u>Class 9 (buildings of a public nature, including assembly buildings and residential care buildings)</u> Section J Energy efficiency J1P1 Energy use This can be verified by: • Obtaining a Green Star Buildings rating with additional particular requirements; or • A reference building modelled to particular requirements.	
New buildings of equal to or less than 5000 sqm gross floor area. Buildings and works which result in between 1000 and 5000 sqm additional gross floor area. For all, including residential: • A minimum 60% score in the BESS Energy category. For residential (in addition): • An average of at least 7.5 star NatHERS rating across multiple dwellings, and a minimum of 6.5 star NatHERS rating for each dwelling.	No requirement for a BESS score in NCC 2022.	No requirement for a BESS score in NCC 2025.	

Requirement	Existing NCC 2022	Proposed NCC 2025	Notes
Table 3: Energy efficiency and renewables			
All development - Should incorporate on-site renewable energy generation. - Should not incorporate connections to gas services or other non-renewable energy.	<u>Class 1 dwellings</u> No restriction on connection to gas services or other non-renewable energy. No requirement for on-site renewable energy generation. <u>Class 2-9 Buildings</u> No restriction on connection to gas services or other non-renewable energy. <u>NCC Volume 1 Performance Requirement J1P4</u> “A building must have features that facilitate the future installation of on-site renewable energy generation and storage and electric vehicle charging equipment.” <u>NCC Volume 1 DTS²⁴ Clause J2D2(4)</u>: For a Class 2 to 9 building, Performance Requirement J1P4 is satisfied by complying with J9D4 and J9D5. DTS Clause J9D4 and J9D5 include specific technical provisions that can be used to satisfy Performance Requirement J1P4. DTS Clause J9D4 generally requires a carpark associated with a Class 2-9 building to be provided with electrical	<u>Class 1 dwellings</u> No restriction on connection to gas services or other non-renewable energy. No requirement for on-site renewable energy generation. <u>Class 2-9 Buildings</u> No restriction on connection to gas services or other non-renewable energy. <u>NCC Volume 1 Performance Requirement J1P4</u>: Similar to 2022 performance requirement wording, with updates to include some exceptions and clarifications. <u>NCC Volume 1 DTS Clause DTS Provision J9D4</u>: Updated to allow bus ducts²⁵ to be used with EV charging equipment. Includes a requirement to specify the maximum permitted length of the cable run from EV charging distribution board or bus duct to car parking spaces. Includes requirements for EV chargers for a specified number of spaces in carparking areas associated with a Class 3, 5, 6, 7b, 8 and 9 buildings. Updates to the infrastructure requirements for future EV	

²⁴ Deemed to satisfy.

²⁵ A type of electrical conduit.

Requirement	Existing NCC 2022	Proposed NCC 2025	Notes
	distribution boards dedicated to electric vehicle charging. Minimum numbers of EDB's are based on total number of EV ready carparking spaces. <u>NCC Volume 1 DTS Clause J9D5:</u> requires the main electrical switchboard to contain empty slots for future solar PV and battery system installations. In addition, up to 20% of roof area is generally required to be left clear (subject to some concessions to support a future Solar PV system installation)	charging in recognition that these provisions are additional to the requirement to install EV charging equipment. <u>NCC Volume 1 DTS Provision J9D5:</u> Updated to require on-site PV panels to be installed. Capacity depends on the available roof space, climate zone and building classification. Additional PV is specified where gas is used to balance the emissions from gas appliances.	

Table 4: Waste and resource recovery

All development • Must provide waste and resource recovery facilities that meet the requirements of the City of Melbourne's <i>Guidelines for Waste Management Plans</i>. • Must meet the requirements of a precinct waste management plan, if there is one in place. • Should manage construction waste to minimise landfill and maximise resource recovery.	No requirement for waste and resource recovery facilities.	No requirement for waste and resource recovery facilities.	
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Table 5: Urban heat island response

All development Must provide the equivalent of at least 75% of the development's total site area	Performance Requirements JP1 to JP4 of the BCA do not contain minimum requirements for green infrastructure,	Performance Requirements J1P1 to J1P4 of the BCA do not contain minimum requirements for green infrastructure,	
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Requirement	Existing NCC 2022	Proposed NCC 2025	Notes
as solar panels and building and landscape elements that reduce the impact of the urban heat island effect. These elements include: • Green infrastructure. • Roof materials, including shading structures, with a minimum Solar Reflectance Index (SRI) of 0.64 for a roof pitched below 15 degrees, or a minimum SRI of 34 for a roof pitched above 15 degrees. • Façade materials with a minimum SRI of 34. • Shading structures. • Permeable paving. • Hardscaping materials with a minimum SRI of 34. This requirement does not apply if the development achieves a Green Star Buildings rating with at least the Credit Achievement for Credit 19: Heat Resilience of Green Star Buildings. • Should use passive cooling and heating techniques to reduce reliance on artificial heating and cooling.	solar panel coverage etc. However, deemed to satisfy Provision J9D5 requires 20% of a roof area to be left clear for the installation of solar PV panels. Shading devices under Part J3 are mandatory if using the deemed to satisfy pathway to meet the performance requirements. <u>Class 1 & 2 - 9 Buildings</u> No specifications in the DTS provisions or performance requirements for permeability of paving or hardscaping.	solar panel coverage etc. However, deemed to satisfy provision J9D5 requires 100% of a roof area to be provided with a solar PV system, subject to some exemptions such as shaded areas, plant and equipment areas, high pitch roofs etc. Shading devices under Part J3 are mandatory if using the deemed to satisfy pathway to meet the performance requirements. <u>Deemed to Satisfy Provision J4D4:</u> 2) In climate zones 1, 2, 3, 4, 5, 6²⁶ and 7 the upper surface of a roof must have— (a) a total solar reflectance greater than 0.55 and a thermal emittance greater than 0.85; or (b) a Solar Reflectance Index greater than 61. (3) In climate zones 1, 2, 3, 5 and 6 the upper surface of a metal roof, which has outside air intakes, unitary air conditioning units or air-cooled chillers mounted on it or less than 2 m above it, must have— (a) a total solar reflectance greater than 0.75 and a thermal emittance greater than 0.87; or (b) a Solar Reflectance Index greater than	

²⁶ Melbourne is in climate zone 6.

Requirement	Existing NCC 2022	Proposed NCC 2025	Notes
		92. <u>Class 1 & 2 - 9 Buildings</u> No specifications in the DTS provisions or performance requirements for permeability of paving or hardscaping.	
Table 6: Urban ecology			
New buildings - Green Factor Tool score of 0.55. Buildings and works which result in more than 1000 sqm additional gross floor area - Should be designed and constructed to achieve a minimum Green Factor score of 0.55 using City of Melbourne's Green Factor Tool.	N/A	N/A	
Table 7: Integrated water management			
All development - Should achieve the best practice water quality performance objectives set out in the Urban Stormwater Best Practice Environmental Management Guidelines, CSIRO, 1999 (or as amended). - Should use alternative water for all non-potable uses on-site.	Urban stormwater best practice environment management guidelines are not referenced in the NCC. Non-drinking water is regulated in NCC Volume 3, however alternative water sources are not required for non-potable uses.	Urban stormwater best practice environment management guidelines are not referenced in the NCC. Non-drinking water is regulated in NCC Volume 3, however alternative water sources are not required for non-potable uses.	
New buildings	No equivalent requirement in the NCC	No equivalent requirement in the NCC	

Requirement	Existing NCC 2022	Proposed NCC 2025	Notes
Must connect to a precinct scale recycled water source if available.			
New buildings of more than 5000 sqm gross floor area Buildings and works which result in more than 5000 sqm additional gross floor area - Unless connected to a recycled water source, must install a rainwater tank to support on-site green cover. - Must achieve a Green Star Buildings rating with at least the Minimum Expectation for the Reducing Water Use criteria of Credit 25: Water Use of Green Star Buildings.	No mandatory requirement under NCC 2025 to achieve a Green Star Rating. Achieving a Green Star Rating is one compliance option as part of Verification Method J1V2. Use of the Green Star compliance pathway does not appear to specifically require a minimum expectation for Reducing Water Use of Credit 25.	No mandatory requirement under NCC 2025 to achieve a Green Star Rating. Achieving a Green Star Rating is one compliance option as part of Verification Method J1V2. Use of the Green Star compliance pathway does not appear to specifically require a minimum expectation for Reducing Water Use of Credit 25.	
Buildings and works which result in between 1000 sqm and 5000 sqm additional gross floor area - Should connect to a precinct scale recycled water source if available. - Unless connected to a recycled water source, should install a rainwater tank to support on-site green cover	No equivalent requirement in the NCC.	No equivalent requirement in the NCC.	Note - Victorian State Based deemed to satisfy variation provision B7D4 requires a rainwater tank to be installed in all new Class 1 dwellings.

Schedule 1 to Clause 37.04 Capital City Zone

Permit requirement: To construct a building or construct or carry out works.

Requirement	Existing NCC 2022	Proposed NCC 2025	Notes
Bicycle parking			
New dwelling: - A minimum of one bicycle space per dwelling. - A minimum of one visitor bicycle space per 5 dwellings.	No equivalent requirement in NCC 2022.	No equivalent requirement in NCC 2025.	
New building for the purpose of Retail, Place of assembly, Minor sports and recreation facility or Education centre. Buildings and works which result in more than 1000sqm additional gross floor area for the purpose of Retail, Place of assembly, Minor sports and recreation facility, or Education centre. Requirement: - A minimum of one employee bicycle space per 200sqm of net floor area. - A minimum of one bicycle visitor space per 200sqm of net floor area. - If 5 or more employee bicycle spaces are required, 1 shower	No equivalent requirement in NCC 2022.	No equivalent requirement in NCC 2025.	Showers are only required by BCA Volume 1 F4D4 on the basis of 1 shower per 10 'participants' in a Class 9b sporting venue.

Requirement	Existing NCC 2022	Proposed NCC 2025	Notes
for the first 5 employee bicycle spaces, plus 1 to each 10 employee bicycle spaces thereafter. • 1 change room or direct access to a communal change room to each shower. The change room may be a combined shower and change room. • If 20 or more employee bicycle spaces are required, personal lockers are to be provided with each bicycle space required. • If more than 30 bicycle spaces are required then a change room must be provided with direct access to each shower. The change room may be a combined shower and change room.			
New building for the purpose of Office. Buildings and works which result in more than 1000sqm additional gross floor area for the purpose of Office. Requirement: • A minimum of one employee bicycle space per 100sqm of net floor area.	No equivalent requirement in NCC 2022.	No equivalent requirement in NCC 2025.	

Requirement	Existing NCC 2022	Proposed NCC 2025	Notes
• A minimum of one bicycle visitor space per 500sqm of net floor area. • If 5 or more employee bicycle spaces are required, 1 shower for the first 5 employee bicycle spaces, plus 1 to each 10 employee bicycle spaces thereafter. • 1 change room or direct access to a communal change room to each shower. The change room may be a combined shower and change room. • If 20 or more employee bicycle spaces are required, personal lockers are to be provided with each bicycle space required. • If more than 30 bicycle spaces are required then a change room must be provided with direct access to each shower. The change room may be a combined shower and change room.			
Motorcycle parking			
New building for the purpose of Dwelling, Retail, Office, Place of assembly, Minor sports and recreation	No equivalent requirement in NCC 2022.	No equivalent requirement in NCC 2025.	

Requirement	Existing NCC 2022	Proposed NCC 2025	Notes
facility or Education centre Where car parking is proposed a minimum of one motorcycle space per 40 car parking spaces.			
Car share parking			
Developments of more than 50 dwellings. New buildings for the purpose of Retail, Office, Place of assembly or Education centre. Buildings and works which result in more than 1000sqm additional gross floor area for the purpose of Retail, Office, Place of assembly or Education centre. Requirement: A minimum of 5% of all car parking spaces is to be provided as car share spaces for use by car share vehicles.	No equivalent requirement in NCC 2022.	No equivalent requirement in NCC 2025.	
Design of car parking facilities			

All development Where car parking facilities are provided as part of an application they should: • Be designed to facilitate the future adaptation to support alternate uses in the short and long term. • Include design features, including electric vehicle charging points, which support more sustainable forms of private car usage.	No equivalent requirement in NCC 2022 requiring designs to facilitate future adaptation. No equivalent requirement in NCC 2022 for Class 1 dwellings in relation to electric vehicle charging points. <u>NCC Volume 1 Performance Requirement J1P4</u> “<i>A building must have features that facilitate the future installation of on-site renewable energy generation and storage and electric vehicle charging equipment.</i>” <u>NCC Volume 1 DTS Clause J2D2(4)</u>: For a Class 2 to 9 building Performance Requirement J1P4 is satisfied by complying with J9D4 and J9D5. DTS Clause J9D4 and J9D5 include specific technical provisions that can be used to satisfy Performance Requirement J1P4. DTS Clause J9D4 generally requires a carpark associated with a Class 2-9 building to be provided with electrical distribution boards dedicated to electric vehicle charging. Minimum numbers of EDB’s are based on total number of EV ready carparking spaces.	No equivalent requirement in NCC 2025 requiring designs to facilitate future adaptation. <u>Clause 13.7.11 of NCC 2025 Housing Provisions</u>: This is a new provision proposed in the 2025 public comment draft for Class 1 dwellings, which requires a building with one or more car parking spaces to have the main switchboard provided with at least one single phase circuit sized to support a load of 32A, with active conductors of at least 6mm² cross sectional area that terminates at one of the car parking spaces with electric vehicle charging equipment OR a general purpose outlet of at least 15A labelled to indicate that its purpose is for electrical vehicle charting. <u>NCC Volume 1 Performance Requirement J1P4</u>: Wording similar to 2022 requirements, with updates to specify the % of daily driving needs to be catered for by EV charging points, which varies depending on building classification. <u>NCC Volume 1 DTS Clause J9D4</u>: The technical specifications in relation to electrical vehicle charging infrastructure within this clause have been expanded upon in comparison to the 2022 version of the BCA.	
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All development The location and design of car share parking spaces should be: • Publicly accessible. • In the most accessible level of a multi-storey car park. • Well-lit and a short distance from an entry point, lift or staircase. • In a location with a minimum height clearance to allow access by a cleaning van.	<u>Class 1a dwellings</u> <u>NCC Volume 2 Performance Requirement:</u> <i>A Class 1a building must be provided with—</i> <i>(a) a continuous and step-free path to a dwelling entrance door from either—</i> <i>(i) the pedestrian entry at the allotment boundary; or</i> <i>(ii) an appurtenant Class 10a garage or carport; or</i> <i>(iii) a car parking space provided for the exclusive use of the occupants of the dwelling; and</i> <u>NCC Volume 1 – Clause D4D6:</u> This clause specifies that if a Class 7a carpark building is required to accessible, or if a carparking area is on the same allotment as a building required to be accessible, that accessible carparking spaces complying with AS/NZS2890.6 must be provided (subject to some concessions). The calculation for how many accessible spaces are required is generally dependent on the building classification and total number of spaces provided. There is no requirement for the carparking spaces to be on the most accessible level of a multi storey carpark. There is no prescriptive distance	<u>Class 1a dwellings</u> <u>NCC Volume 2 Performance Requirement:</u> <i>A Class 1a building must be provided with—</i> <i>(a) a continuous and step-free path to a dwelling entrance door from either—</i> <i>(i) the pedestrian entry at the allotment boundary; or</i> <i>(ii) an appurtenant Class 10a garage or carport; or</i> <i>(iii) a car parking space provided for the exclusive use of the occupants of the dwelling; and</i> <u>NCC Volume 1 – Clause D4D6:</u> This clause specifies that if a Class 7a carpark building is required to accessible, or if a carparking area is on the same allotment as a building required to be accessible, that accessible carparking spaces complying with AS/NZS2890.6 must be provided (subject to some concessions). The calculation for how many accessible spaces are required is generally dependent on the building classification and total number of spaces provided. There is no requirement for the carparking spaces to be on the most accessible level of a multi storey carpark. There is no prescriptive distance requirement from the accessible	
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	requirement from the accessible spaces to a lift or building entry point. However, a continuous accessible path of travel complying with AS1428.1-2009 is required per D4D3(1)(c) of the BCA; this usually results in designs with accessible spaces close to lifts or entry points, so as to avoid challenges associated with implementing an accessible pathway through a carpark. To achieve compliance with AS/NZS2890.6 (accessible carparking requirements), a minimum 2.2m height clearance is required from the carpark entry point to the accessible carparking space, and minimum 2.5m is required above the carparking space itself (to allow unloading of a wheelchair on top of a vehicle). The BCA requires artificial lighting in accordance with Clause F6D5 for Class 2-9 buildings in required stairways, passageways and ramps. Other circulation area and spaces within a building generally also require artificial lighting if sufficient natural lighting is not provided.	spaces to a lift or building entry point. However, a continuous accessible path of travel complying with AS1428.1-2009 is required per D4D3(1)(c) of the BCA; this usually results in designs with accessible spaces close to lifts or entry points, so as to avoid challenges associated with implementing an accessible pathway through a carpark. To achieve compliance with AS/NZS2890.6 (accessible carparking requirements), a minimum 2.2m height clearance is required from the carpark entry point to the accessible carparking space, and minimum 2.5m is required above the carparking space itself (to allow unloading of a wheelchair on top of a vehicle). The BCA requires artificial lighting in accordance with Clause F6D5 for Class 2-9 buildings in required stairways, passageways and ramps. Other circulation area and spaces within a building generally also require artificial lighting if sufficient natural lighting is not provided.	
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Requirement	Existing NCC 2022	Proposed NCC 2025	Notes
All development Car parking facilities should be designed in accordance with the following Design Standards: - Development of car parking areas should include the delivery of infrastructure (including electricity supply and signage), space and metering arrangements to support the installation of electric vehicle (EV) charging points. - Where a facility is proposed with 50 car parking spaces or more, all of the following should be provided: - EV ready parking bays for a minimum of 5% non-shared parking spaces. - Sufficient infrastructure capacity to accommodate EV charging for 20% of parking space. - EV charging points at all allocated shared car spaces.	No equivalent requirement in NCC 2022 for Class 1 dwellings in relation to electric vehicle charging points. <u>NCC Volume 1 Performance Requirement J1P4</u> “<i>A building must have features that facilitate the future installation of on-site renewable energy generation and storage and electric vehicle charging equipment.</i>” <u>NCC Volume 1 DTS Clause J2D2(4)</u>: For a Class 2 to 9 building Performance Requirement J1P4 is satisfied by complying with J9D4 and J9D5. DTS Clause J9D4 and J9D5 include specific technical provisions that can be used to satisfy Performance Requirement J1P4. DTS Clause J9D4 generally requires a carpark associated with a Class 2-9 building to be provided with electrical distribution boards dedicated to electric vehicle charging. Minimum numbers of EDB’s are based on total number of EV ready carparking spaces. Metering requirements are contained in Clause J9D4(f). Future EV Charging 100% of car parking spaces associated with Class 2 buildings are required to be provided with infrastructure	<u>Clause 13.7.11 of NCC 2025 Housing Provisions</u>: This is a new provision proposed in the 2025 public comment draft for Class 1 dwellings, which requires a building with one or more car parking spaces to have the main switchboard provided with at least one single phase circuit sized to support a load of 32A, with active conductors of at least 6mm² cross sectional area that terminates at one of the car parking spaces with electric vehicle charging equipment OR a general purpose outlet of at least 15A labelled to indicate that its purpose is for electrical vehicle charting. <u>NCC Volume 1 Performance Requirement J1P4</u>: Wording similar to 2022 requirements, with updates to specify the % of daily driving needs to be catered for by EV charging points, which varies depending on building classification. <u>NCC Volume 1 DTS Clause J9D4</u>: The technical specifications in relation to electrical vehicle charging infrastructure within this clause have been expanded upon in comparison to the 2022 version of the BCA. The charging equipment itself is now required in NCC 2025 where there are more than 40 carparks associated with a Class 3 building or Class 5 to 9	The charging equipment itself was not required under NCC 2022 Volume 1, but is now required in NCC 2025 Volume 1 where there are more than 40 carparks associated with a Class 3 building or Class 5 to 9 building.

Requirement	Existing NCC 2022	Proposed NCC 2025	Notes
	to support future EV charging. 10% of car parking spaces associated with Class 5 (office) or Class 6 (retail/restaurant) buildings are required to be provided with infrastructure to support future EV charging. 20% of car parking spaces associated with Class 3 (e.g. hotel) or Class 7b (warehouse) or Class 8 (factory) or Class 9 (public building) are required to be provided with infrastructure to support future EV charging. The charging equipment itself is not required under NCC Volume 1 2022.	building on the basis of the following ratios: 10% of carparking spaces associated with a Class 5 or 6 building; and 15% of carparking spaces associated with a Class 3, 7b, 8 or 9 building; and 10% of carparking spaces required to be accessible associated with a Class 3, 5, 6, 7b, or 9 building. Provision of EDB's or busducts for future EV charging remains the same as NCC Volume 1 2022.	

ATTACHMENT 4: SUMMARY OF SUBMISSIONS: ATTACHMENT 2 TO FMC REPORT DATED MAY 2024

**ATTACHMENT 5: SUMMARY OF CHANGES BETWEEN EXHIBITED VERSION AND FMC VERSION: ATTACHMENT 3 TO
FMC REPORT DATED MAY 2024**

ATTACHMENT 6: SUMMARY OF RELEVANT POLICY – MELBOURNE PLANNING SCHEME

Clause	Policy
Clause 11 – Settlement	Planning is to recognise the need for, and as far as practicable contribute towards: ▪ A high standard of environmental sustainability, urban design and amenity. ▪ Climate change adaptation and mitigation. ▪ Protecting, conserving and improving biodiversity, waterways and other natural resources. ▪ Waste minimisation and resource recovery.
Clause 11.01-1S – Settlement	▪ To facilitate the sustainable growth and development of Victoria and deliver choice and opportunity for all Victorians through a network of settlements. ▪ Deliver networks of high-quality integrated settlements that have a strong identity and sense of place, are prosperous and are sustainable by: ○ Integrating the management of water resources into the urban environment in a way that supports water security, public health, environment and amenity outcomes. ○ Minimising exposure to natural hazards, including increased risks due to climate change. ○ Contributing to net zero greenhouse gas emissions through renewable energy infrastructure and energy efficient urban layout and urban design. ▪ Encourage a form and density of settlements that supports healthy, active and sustainable transport. ▪ Support metropolitan and regional climate changes adaptation and mitigation measures.
Clause 12.01-1S - Protection of biodiversity	▪ To protect and enhance Victoria’s biodiversity. ▪ Support land use and development that contributes to protecting and enhancing habitat for indigenous plants and animals in urban areas.

Clause	Policy
Clause 13.01-1S - Natural hazards and climate change	▪ To minimise the impacts of natural hazards and adapt to the impacts of climate change through risk-based planning. ▪ Respond to the risks associated with climate change in planning and management decision making. ▪ Ensure planning controls allow for risk mitigation and climate change adaptation strategies to be implemented.
Clause 13.03-1S - Floodplain management	▪ To assist in the protection of: ○ Life, property and community infrastructure from flood hazard, including coastal inundation, riverine and overland flows.
Clause 13.06-1S - Air quality management	▪ To assist in the protection and improvement of air quality. ▪ Ensure that land use planning and transport infrastructure provision contribute to improved air quality by: ○ Providing infrastructure for walking, cycling and public transport.
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 excellence in the built environment and create places that: ○ Are enjoyable, engaging, and comfortable to be in. ○ Support human health and community wellbeing. ▪ Planning should promote development that is environmentally sustainable and minimise detrimental impacts on the built and natural environment.

Clause	Policy
	▪ 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.
Clause 15.01-1S - Urban design	▪ To create urban environments that are safe, functional and provide good quality environments with a sense of place and cultural identity. ▪ Require development to respond to its context in terms of character, cultural identity, natural features, surrounding landscape and climate. ▪ Ensure development contributes to community and cultural life by improving the quality of living and working environments, facilitating accessibility and providing for inclusiveness. ▪ Ensure development supports public realm amenity and safe access to walking and cycling environments and public transport. ▪ Ensure that development provides landscaping that supports the amenity, attractiveness and safety of the public realm.
Clause 15.01-1R - Urban design – Metropolitan Melbourne	▪ To create a distinctive and liveable city with quality design and amenity.

Clause	Policy
Clause 15.01-2S - Building design	▪ To achieve building design and siting outcomes that contribute positively to the local context enhance the public realm and support environmentally sustainable 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. ○ Restrict the provision of reticulated natural gas in new dwelling development. ▪ 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, storm water and recycled water. ▪ Minimise stormwater discharge through site layout and landscaping measures that support on-site infiltration and stormwater reuse. ▪ Ensure development considers and responds to transport movement networks and provides safe access and egress for pedestrians, cyclists and vehicles. ▪ Encourage development to retain existing vegetation. ▪ 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 15.01-4S - Healthy neighbourhoods	▪ To achieve neighbourhoods that foster healthy and active living and community wellbeing.
Clause 18 - Transport	▪ Planning should ensure a safe, integrated and sustainable transport system that: ○ Actively contributes to environmental sustainability.

Clause	Policy
	○ Supports health and wellbeing.
Clause 18.01-1L - Land use and transport planning	▪ Support development that encourages other transport modes and discourages the use of private motor vehicles. ▪ Support off street parking for small and micro cars, motor scooters and motorbikes. ▪ Encourage re-charging facilities powered by renewable sources of energy for electric powered vehicles. ▪ Support a reduction or waiving of car parking requirements for new use and development that has good access to public transport. ▪ Encourage the co-location and sharing of car parking facilities.
Clause 18.01-3S - Sustainable and safe transport	▪ To facilitate and environmentally sustainable transport system that is safe and supports health and wellbeing. ▪ Plan and develop the transport system to: ○ Prepare for and adapt to climate change impacts. ○ Prioritise the use of sustainable personal transport. ○ Protect, conserve and improve the natural environment by supporting forms of transport, energy use and transport technologies that have the least environmental impact. ○ Avoid, minimise and offset harm to the environment by: ▪ Protecting biodiversity. ▪ Reducing transport-related greenhouse gas emissions. ▪ Support forms of transport and energy use that have the greatest benefit for, and least negative impact on, health and wellbeing. ▪ Design development to promote walking, cycling and the use of public transport, in that order, and minimise car dependency.

Clause	Policy
Clause 18.02-2S - Cycling	▪ To facilitate an efficient and safe bicycle network and increase the proportion of trips made by cycling. ▪ Support increased cycling by providing: ○ Cycling routes and cycling infrastructure early in new developments and in all major transport projects. ○ Cycle parking and related end of trip facilities to meet demand at education, recreation, transport, shopping, commercial, public transport interchanges and community facilities, significant trip generating developments and other major attractions.
Clause 19.01-2S - Renewable energy	▪ To support the provision and use of renewable energy in a manner that ensures appropriate siting and design considerations are met.
Clause 19.03-3S - Integrated water management	▪ To sustainably manage water supply and demand, water resources, wastewater, drainage and stormwater through an integrated water management approach.
Clause 19.03-3L - Stormwater management (Water sensitive urban design)	▪ To achieve the best practice performance objectives for suspended solids, total phosphorus and total nitrogen, as set out in the Urban Stormwater Best Practice Environmental Management Guidelines, CSIRO 1999 (or as amended). ▪ To promote the use of water sensitive urban design.
Clause 19.03-5S - Waste and resource recovery	▪ To reduce waste and maximise resource recovery, to reduce reliance on landfills and minimise environmental, amenity and public health impacts. ▪ 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. ▪ Integrate waste and resource recovery infrastructure planning with land use and transport planning. ▪ Encourage development that facilitates sustainable waste and resource recovery, including facilities for Victoria's container deposit scheme.

ATTACHMENT 7: RESPONSE TO PPN59

Criteria	Response
STRATEGICALLY SUPPORTED	
Is the mandatory provision strategically supported?	Yes.
Does the proposed mandatory provision have a solid strategic objective while having regard to the planning objective?	The proposed mandatory provisions achieve the Amendment's strategic objective of addressing climate change impacts, and each have a solid strategic objective detailed in the GOCSAP and Hansen Report. These strategic objectives are reflected in design objectives of DDO73, in particular.
Does the proposed mandatory provision implement planning policy (state, regional or local)?	The proposed mandatory provisions implement and respond to state and local planning policy as described at paragraphs 110 - 115 and Attachment 6 above.
APPROPRIATENESS OF DEPARTING FROM PERFORMANCE-BASED APPROACH	
Is the mandatory provision an appropriate substitute for a performance-based provision?	Yes , in circumstances of the purpose of the Amendment.
Will most proposals that contravene the proposed mandatory provision lead to unacceptable planning outcomes?	Proposals which contravene the proposed mandatory provisions would result in unacceptable planning outcomes and contradict the planning objectives of DDO73 and the strategic objectives of the Amendment because they would not: - be designed and certified (where relevant) to achieve net zero emissions and address climate change impacts by way of industry recognised ESD & energy rating tools; - provide green cover to improve urban cooling and biodiversity in the municipality; - reduce the urban heat island effect in the most intensively developed municipality of the state; or

Criteria	Response
	improve water efficiency to mitigate future water shortages and storm events.
Has the proposed mandatory provision been drafted to limit any unnecessary loss of the flexibility and opportunity available through a performance-based approach?	As noted above, the proposed mandatory provisions have mandatory and performance-based elements; and Council has drafted into the DDO73 the ability for an application to use an alternative tool to the specified ratings tools, where it can be demonstrated that the alternative tool can achieve the same outcome. In the case of the urban heat island response requirement in DDO73, options are provided to the applicant about elements which could contribute to reaching the target. In addition, an option is provided for applicants to bypass the calculation entirely by achieving a particular credit in Green Star Buildings. As such, Council has sought to maximise the flexibility available to applicants, without undermining the purposive intent of the Amendment. Council considers that the significance of ESD measures to a successful response to the climate and biodiversity emergency, warrants this approach.
Have all other relevant performance-based provision options been explored?	The GOCSAP and Hansen Report detail the issues encountered with the existing policy-based provisions when prescribing ESD targets for the matters to which the proposed mandatory provisions pertain.²⁷ The majority of the provisions proposed by the Amendment are discretionary and are considered adequate to achieve their respective strategic and planning objectives. As above, mandatory provisions have been applied where Council considers that a mandatory outcome is required to implement the purpose of the Amendment.
Would policy or performance-based measures lead to the outcome prescribed by the proposed measure in most cases?	As above, Council's position is that the outcomes necessary to achieve the purposes of the Amendment, in context of the climate and biodiversity emergency, warrant the use of mandatory controls to the extent proposed by the Amendment, as policy or performance-based measures alone would not lead to outcomes being sought.

²⁷ Hansen Report, PDF 9; GOCSAP, in particular: Appendix C (from PDF 137) and Appendix D (from PDF 166).

Criteria	Response
Is there evidence of adverse existing or proposed use or development that justifies the proposed control?	The GOCSAP and Hansen Report detail how the Scheme's existing policy regarding Green Star ratings, energy efficiency and water efficiency are not leading to corresponding built outcomes because of their non-mandatory nature. The Amendment has been prepared with the benefit of Council's experience of the existing policy and performance-based measures in the Scheme, and proposes mandatory standards for the key ESD requirements.
FACILITATES REQUIRED OUTCOME	
Does the mandatory provision provide for the preferred outcome?	Yes. The mandatory provisions had been closely considered, and provide for the minimum ESD and sustainable transport outcomes that Council seeks, consistent with the overarching purpose of the Amendment.
Is the proposed mandatory provision limiting? Does it only lead to one outcome from a number of suitable ones that would deliver on related planning policy?	As noted above, the proposed mandatory provisions generally prescribe performance based targets either as ratings in specified tools or metrics. These provisions enable an applicant flexibility about how to achieve that performance target; as well as the ability to use an alternative tool, provided that the same <u>outcome</u> would be achieved. It is the outcome that is mandatory, rather than the way in which the outcome is achieved.
Does the proposed mandatory provision avoid the risk of adverse outcomes in a way that a performance-based approach cannot?	The proposed mandatory provisions avoid the risk of applicable development: - being approved without ESD measures which deliver on Council's goal of net-zero emissions by 2040 and responding to the climate and biodiversity emergency; and - not in fact <u>delivering</u> the ESD measures proposed in a permit application because of insufficient post-approval certification or registration processes. This issue with the existing discretionary ESD local policy is addressed by the requirement to gain certification for achieving the applicable Green Star Buildings & NABERS Energy star rating.