

# WHITEHORSE PLANNING SCHEME

## AMENDMENT C130

### EXPLANATORY REPORT

#### Who is the planning authority?

This amendment has been prepared by the Whitehorse City Council, which is the planning authority for this amendment.

The amendment has been made at the request of Whitehorse City Council.

#### Land affected by the amendment

The amendment applies to all land within the City of Whitehorse.

#### What the amendment does

The amendment introduces a new Clause 22.10 Environmentally Sustainable Development (ESD) policy to the Local Planning Policy Framework (LPPF) and updates Clause 21.05 Environment to reference environmentally sustainable development.

#### Strategic assessment of the amendment

##### • Why is the amendment required?

The amendment is required to strengthen the ability for the planning authority to consider ESD in the LPPF. The proposed Clause 22.10 Environmentally Sustainable Development provides policy objectives and application requirements for residential, mixed use and non-residential development to further implement environmentally sustainable design policy contained within the State Planning Policy Framework (SPPF) and the Municipal Strategic Statement (MSS). However, fundamentally, the ESD policy provides guidance in regards to achieving best practice environmentally sustainable development.

Amendment C130 is part of a broader process to achieve environmentally sustainable design which includes:

- Amending the Whitehorse Planning Scheme.
- Supporting developers to achieve greater levels of sustainable design outcomes in new and existing development through specialist ESD advisors and planning processes.
- Supporting developers and the community through information and education, including case studies and factsheets.
- Implementing the *City of Whitehorse Council Plan 2012-2016* and *Whitehorse Sustainability Strategy 2008-2013*.

The *City of Whitehorse Council Plan 2012-2016* includes four Strategic Objectives with associated strategies. The most relevant objective is to *promote, protect, enhance and respect the quality of our natural and built environments*. Relevant strategies are to:

- Embed sustainability practice and principles in planning and development.
- Pursue consistent design principles of excellence in the City's current and future built environment.

- Continue our leadership role in the education and awareness of environmental and sustainability practices in our community.

The *Whitehorse Sustainability Strategy 2008-2013* follows with a series of key objectives that are in line with the Council Plan:

- Provide leadership in environmental sustainability, in our community and in our workplace.
- Facilitate sustainable behaviour change across the Whitehorse community.
- Engage, educate and empower the Whitehorse community to ensure its sustainability into the future.
- Advocate for sustainable initiatives and improvements on behalf of the community to government and non-government organisations.

The Sustainability Strategy also sets out key priority areas, one of which is '*Buildings, infrastructure and planning*', which aims to integrate environmental sustainability principles into land-use planning, new developments and redevelopments of existing infrastructure. A key action to implement this objective is to develop a Whitehorse ESD planning policy.

The City of Whitehorse recognises that the development process has the potential to impact on the environment in many ways, from the use of resources, to impact on waterways and the creation of greenhouse gas emissions. The challenge of reducing the impact of development on the environment is growing. There is also a need to ensure that development is able to adapt and respond to climate changes.

Council has adopted a draft ESD policy to give effect to the Council Plan and its Sustainability Strategy. An amendment to the Whitehorse Planning Scheme is therefore required to implement the ESD policy into the LPPF.

#### *Relationship between Building and Planning Regulations*

It is considered that ESD measures contained in the Building Code should be complemented by higher order planning policy that establishes the framework for consideration of all principles of ESD early in the development process, to achieve comprehensive and integrated sustainability outcomes. The proposed policy builds on Building Code requirements rather than conflicting with them and in combination will ensure holistic consideration of site context, building services and construction techniques.

Consideration of environmentally sustainable principles in the design phase of a planning permit application provides the opportunity to maximise sustainable design outcomes and minimize costs associated with retrofit and poor design. Design responses at the planning stage, such as building orientation and footprint, are paramount to sustainable design outcomes and can determine the level of efficiency achieved for the life of the building.

The local ESD policy is required to strengthen the LPPF in relation to ESD within the municipality. Currently assessment of ESD principles within planning permit applications rely on the objectives contained within the SPPF and MSS. However, the general provisions are broadly worded, and lack statutory weight to achieve effective outcomes. Further, current ResCode requirements contained in Clause 54, 55 and 56 of the Planning Scheme do not cover all ESD principles and relate only to residential development. As a result, Council finds itself in a compromised position to enforce decisions and in particular conditions requiring ESD related requirements, and more importantly, less able to motivate developers to put ESD at the forefront of any development proposal submitted as a planning permit application. The policy clarifies Council's expectations in relation to a development, meeting the broader ESD objectives contained in the SPPF and MSS which are highlighted later in this report.

Clause 22.10 Environmentally Sustainable Development will provide a range of additional benefits. The policy:

- Ensures developers engage in a holistic and 'best practice' approach to sustainable design suited to the scale of the development proposed.
- Encourages development to exceed the environmental sustainable design principles assessed under Building Code requirements which are generally considered minimum standards.
- Responds to the deficiencies of the Building Code such as considering energy intensity for greenhouse gas reduction and peak energy demand reduction, stormwater reuse, alternative water sources (e.g. greywater), stormwater impacts, the life cycle of building materials, indoor environment quality, sustainable transport, construction and operational waste management, and urban ecology.
- Extends ESD principles contained in Clause 54, 55 and 56 of the Planning Scheme beyond residential development.
- Provides Council's planners, landowners and developers with clear environmental objectives for development and the information required to demonstrate objectives are achieved.
- Avoids lengthy discussions about technical terms and interpretation through the incorporation of clear objectives and requirements.
- Reduces the need for further information requests and facilitates a more efficient processing of applications.
- Encourages more informed and complete submissions of planning permit applications.

The objectives contained within the policy seek to ensure that development achieves best practice across a comprehensive range of ESD principles including: energy efficiency, water resources, indoor environmental quality, stormwater management, transport, waste management, innovation and urban ecology.

The ESD policy will not include additional permit triggers but will establish minimum application requirements to ensure consistent, transparent and more efficient assessment of planning permit applications. The policy effectively requires two different levels of ESD assessment to suit smaller and larger scale developments respectively. Put simply, the environmental design standard and the level of information and expertise required to meet application requirements increases as the scale of the development increases. This approach recognises that the opportunities to include ESD initiatives in the development's design increases as the scale of the development increases.

#### *Smaller Scale Development*

A Sustainable Design Assessment (SDA) is required for smaller developments as part of a planning permit application, such as 3-9 dwellings or buildings and works for the creation of 500m<sup>2</sup> or more of additional residential floor space. This type of development represents a large portion of the planning permit applications received by Council's Statutory Planning Unit. The requirement to submit a SDA will also be triggered for non-residential development with a gross floor area between 500m<sup>2</sup> and 1000m<sup>2</sup> and non-residential alterations and additions between and including 500m<sup>2</sup> and 1000m<sup>2</sup>.

Smaller developments than those specified above are encouraged to submit a voluntary SDA. These developments include planning permit applications for 1-2 dwellings or a dependant persons unit. This voluntary requirement also applies to non-residential development with a gross floor area of less than 500 m<sup>2</sup> or alterations and additions less than 500m<sup>2</sup>.

The SDA is a document which provides a sustainability assessment which can be completed in most cases without the need for a qualified expert. A SDA requires the

applicant to provide information to Council demonstrating how they have considered ESD principles in the design of the proposed development.

A SDA is required to detail the development's sustainable design initiatives, across all stages of development (from design stage to construction and operation), to the satisfaction of the Responsible Authority. The SDA is to demonstrate how the development seeks to address each of the objectives of this policy which relate to key environmental impact categories which are relevant to sustainable buildings, namely:

- Energy Efficiency;
- Water Resources;
- Indoor Environmental Quality;
- Storm Water Management;
- Transport;
- Waste Management;
- Innovation; and
- Urban Ecology.

The Sustainable Tools for Environmental Performance Strategy (STEPS) and Sustainable Design Scorecard (SDS) assessment tools have been developed to guide applicants through this process and demonstrate Council's expectations. An applicant may choose to use one of these tools or submit the relevant information in alternative format (Council provides guidance on this as noted below). A SDA is not intended to be a detailed technical assessment, which is more appropriate for large scale developments, as discussed in the following section of the report.

Applicants can agree with Council at the outset of a project about what level of sustainability they are seeking to achieve in a development and the targets or tools they propose to use to meet the objectives. Where the tools proposed to be used do not cover all of the objectives, additional information will be required to demonstrate how a development complies.

Information sheets and example SDA's will be available to provide guidance to applicants of Council's expectations. Consistent with current practice, applicants will also be able to discuss ESD initiatives and their development with Council staff, including ESD advisors and urban planners. A SDA will be referred to Council's ESD advisor for review and comment. Once the SDA is deemed satisfactory, it is endorsed and forms part of the planning permit.

#### *Larger Scale Development*

Larger developments such as residential developments with 10 or more dwellings, or other accommodation, or non-residential development greater than 1000m<sup>2</sup> gross floor area will be required to submit a Sustainability Management Plan (SMP) and a Green Travel Plan (GTP).

Like the SDA, the SMP is to demonstrate how the development seeks to address each of the objectives of this policy which relate to key environmental impact categories which are relevant to sustainable buildings, namely:

- Energy Efficiency;
- Water Resources;
- Indoor Environmental Quality;
- Storm Water Management;
- Transport;

- Waste Management;
- Innovation; and
- Urban Ecology.

An SMP is expected to go further than an SDA by presenting a more detailed sustainability assessment of a proposed design. As noted in the policy, the SMP must:

- Identify relevant sustainability targets or performance standards.
- Document the means by which the appropriate target or performance will be achieved on a whole-of-site scale.
- Identify responsibilities and a schedule for implementation, and ongoing management, maintenance and monitoring.
- Demonstrate that the design elements, technologies and operational practices that comprise the SMP can be maintained over time.

It is expected that the SMP will be prepared by a qualified expert to the satisfaction of the Responsible Authority and seek to ensure a holistic design review is undertaken at the planning stage to identify best practice ESD initiatives to be implemented in the development.

As noted earlier, the policy also requires planning permit applications for large scale development to submit a GTP. The GTP is required to detail site specific actions included within the design of the development and in its ongoing operation which encourage the use of more sustainable transport options. The GTP is required to specify targets, actions and methods of ongoing monitoring and reporting to ensure the sustainable transport options included are maintained.

While this technical expertise will add some cost to the preparation of an application, larger scale development has greater potential to impact on the environment and greater opportunity to incorporate ESD initiatives. The triggers for requiring a higher standard and quantum of information for larger scale development reflects the resource intensive activity associated with construction and occupation of that type of development.

Applications for larger scale developments would normally involve specialist technical input from qualified experts (i.e. consultants/designers who are likely to have the expertise to address ESD principles). The costs associated with preparing SMPs and GTPs are not considered to be onerous in the context of larger developments where there is greater opportunity to distribute the cost across the development. Further, it has been seen that buildings that have been constructed to a high (ESD) standard have multiple benefits for occupants in terms of cost savings on utilities, a healthier indoor environment and reduced impact on the environment.

Examples of SMPs and GTPs will be available to assist applicants/consultants in preparing the documents and understanding Council's expectations in conjunction with the usual discussions with Council staff. The SMP and GTP will be referred to Council's ESD advisor for review and comment. Once the documents are deemed satisfactory, they are endorsed and form part of the planning permit.

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

The amendment implements the following objectives of planning in Victoria contained in Section 4 of the *Planning and Environment Act 1987*:

- 1(a) to provide for the fair, orderly, economic and sustainable use, and development of land;*
- 1(b) to provide for the protection of natural and man-made resources and the maintenance of ecological processes and genetic diversity.*
- 1(g) to balance the present and future interests of all Victorians.*

In addition, the amendment implements the objective 2 (d) of Section 4 of the *Planning and Environment Act 1987*, which seeks:

*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.*

Furthermore, Section 12(1) of the *Planning and Environment Act 1987* states that:

*A planning authority must –*

*(a) implement the objectives of planning in Victoria;*

*(b) provide sound, strategic and co-ordinated planning of the use and development of land in its area; ....*

Section 12(2)(b) of the *Planning and Environment Act 1987* is also relevant, stating that:

*In preparing a planning scheme or amendment, a planning authority –*

*(b) must take into account any significant effects which it considers the scheme or amendment might have on the environment or which it considers the environment might have on any use or development envisaged in the scheme or amendment.*

- **How does the amendment address the environmental effects and any relevant social and economic effects?**

#### *Environmental Effects*

The following statistics provide a reminder of the environmental effects of development:

- *Buildings...consume 32 percent of the world's resources, including 12 percent of the world's fresh water and up to 40 percent of the world's energy. Buildings also produce 40 percent of waste going to landfill and 40 percent of air emissions.* (source: Environmentally Sustainable Buildings: Challenges and Policies – a report by the OECD, 2003.)
- *Energy used by buildings accounts for approximately 20 per cent of Australia's greenhouse gas emissions, split fairly evenly between homes and commercial buildings.* (source:<http://www.environment.gov.au/sustainability/energyefficiency/buildings>)
- *21% of Victoria's final energy was used in the residential energy sector, 9% in the commercial and services sector and 42% in the transport sector – all areas affected by building design and land use planning.* (source: SV, <http://www.sustainability.vic.gov.au/www/html/1820-energy-use-by-sector-.asp>)
- *The construction and demolition industries generate over one third of all waste going to landfill.* (source: Sustainability Victoria <http://www.sustainability.vic.gov.au/www/html/1940-how-to-minimise-construction--demolition-waste.asp>).
- *Of the 43.8 million tonnes of waste generated in Australia in 2006–07, 29% came from municipal sources, 33% from the commercial and industrial sector, and 38% from the construction and demolition sector.* (source: ABS, <http://www.abs.gov.au/AUSSTATS/abs@.nsf/Lookup/4613.0Chapter40Jan+2010>).

According to the Victorian Environmental Protection Agency the environmental footprint of the average Victorian is 6.8 hectares (EPA 2008). This is 2.5 times the average global footprint (2.7 gha), and well beyond the level of what the planet can regenerate on an annual basis - an equivalent of about 2.1 global hectares per person per year.

There are significant opportunities to improve the sustainability of the built environment in order to reduce impacts on local and global environments and systems.

The Amendment will ensure that environmentally sustainable design is considered from the design stage of a building, and throughout its construction and ongoing management. Requiring new buildings and additions to achieve greater levels of energy efficiency, water efficiency, stormwater management and quality, indoor environment quality, and sustainable transport, waste management and landscapes will have far reaching environmental benefits. These benefits include reduced greenhouse gas emissions,

improved water quality and habitats, and an increased resilience to climate change and the impacts of peak oil.

Given that the lifespan of a residential, commercial or mixed use development could conservatively be in the order of 50 years, sustainable design at the planning stage is a significant opportunity to set the blue print for the environmental efficiency over the life of development, with long term environmental, economic and social impacts/consequences of inaction.

#### *Economic effects*

The amendment maximises sustainable design at the planning stage and minimises the costs associated with retrofit and poor design.

The ESD policy requires greater levels of sustainable design information and rigour as the scale and complexity of the development increases. The requirement for a higher level of information for larger scale development reflects the resource intensive activity and greater opportunity for environmental gains associated with construction and occupation of that type of development.

The amendment provides for a number of key efficiencies such as:

- The information forms part of the existing planning permit triggers.
- Greater clarity around environmentally sustainable planning objectives and requirements for Council, developers and VCAT, leading to a clearer decision making framework.
- Clearer decision making framework is expected to result in fewer delays for permit assessment and fewer appeals to VCAT.
- Incorporating sustainable design initiatives at the planning permit stage, particularly for larger developments reduces costs in redesign and retrofit at a later stage.
- The Sustainable Design Assessment (SDA) does not need to be prepared by a qualified expert and should result in minimal costs for preparation, commensurate to the size of the development.
- Information sheets and support will be provided to developers from Council to reduce costs and improve education.

While the amendment implements a requirement for information and consideration of environmentally sustainable design objectives, any increased cost for development to implement sustainable design initiatives may be mitigated through early integration of ESD technologies and industry efficiencies of scale, and recovered through the sale price of new buildings that can be marketed as a sustainable building.

Sustainable built form can contribute to reducing peak energy demands and energy supply pressures, thus reducing black outs and allowing energy to be utilised in other parts of the network. It also results in reduced costs for commercial and residential occupiers.

#### *Social effects*

The Amendment will facilitate sustainable built form which is more affordable over the life of the building for commercial and residential occupiers, particularly when considering heating and cooling costs. This contributes to reducing 'price shocks' as energy costs continue to rise.

Sustainable buildings and urban forms have an increased ability to remain comfortable, withstand storm events and reduce peak load pressures as the climate changes.

The ESD policy will reiterate Council's strategy plans on sustainability to the community and demonstrate a commitment to sustainable development outcomes that will benefit the wider community and enhance liveability in the City.

- **Does the amendment address relevant bushfire risk?**

There are no bushfire risk considerations relevant to this amendment.

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

The amendment is consistent with the Ministerial Direction on the Form and Content of Planning Schemes under Section 7(5) of the Planning and Environment Act 1987, as well as the following:

*Ministerial Direction No. 9 – Metropolitan Strategy*

In accordance with this direction, all planning scheme amendments are required to have regard to the Metropolitan Strategy (Plan Melbourne). The amendment is consistent with the following directions and policies of the strategy:

- Direction 1 – Delivering More Jobs and Investment and Direction 2 – Housing Choice and Affordability, seek to take advantage of our existing settlement patterns and infrastructure, encouraging efficiency in the use of land and other resources.
- Direction 3 – A More Connected Melbourne and Direction 4.1 – Create a City of 20-Minute Neighbourhoods, encourage real transport choice for residents, and aims to increase the number of people who use public transport, cycle or walk.
- Direction 5 – Environment and Water seeks to ensure that development minimises impact on the environment, encouraging a wider awareness in the community. It also makes reference to strategies aimed at achieving a range of ESD principles, including reducing greenhouse emissions, improving air quality, management of water use, stormwater management, protection of biodiversity and waste reduction.

*Ministerial Direction No. 11 – Strategic Assessment of Amendments*

In accordance with this direction, the evaluation below assesses the amendment against relevant planning policies and controls and provides a response to potential outcomes of the amendment.

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

The Amendment supports the following Clauses of Plan Melbourne:

- Direction 2.4 Facilitate the supply of more affordable housing
- Direction 3.4 Improve local travel options to increase social and economic participation
- Direction 4.5 Make our city greener
- Direction 4.8 Achieve and promote design excellence
- Direction 5.2 Protect and restore natural habitats in urban and non-urban areas
- Direction 5.4 Improve noise and air quality to improve human and environmental health
- Direction 5.5 Integrate whole of water cycle management and resilient urban development
- Direction 5.7 Reduce Energy consumption and transition to clean energy
- Direction 5.8 Plan for better waste management and resource recovery

The Amendment directly supports the following Clauses of the SPPF:

- Clause 11 Settlement sets out general principles that must be considered by a planning authority when preparing a planning scheme. The general principle relating to the environment makes particular reference to the protection of air, land and water quality and the conservation of natural ecosystems, resources and energy. The Amendment directly implements the policy that planning should adopt a best practice environmental management and risk management approach which aims to avoid or minimise environmental degradation and hazards. The outcomes of the proposed policy will also help to protect the health of ecological systems and the biodiversity they support (including ecosystems, habitats, species and genetic diversity).
  - Clause 14 Natural Resource Management by facilitating the catchment of stormwater for use on existing and new development sites which reduces runoff and assists the protection of waterways. Consideration of water use and reuse at the Planning stage also contributes to the use of alternative water sources and managing water resources sustainably.
  - Clause 15 Built Environment and Heritage directly encourages land use and development that is efficient in the use of energy and minimises greenhouse gas emissions which is supported by the Policy through encouraging urban consolidation and energy efficient development orientation, building envelopes and appliances. The policy contributes to the potential to reduce the impacts of increasing temperatures on vulnerable people through a developments ability to maintain liveability through solar passive design.
  - Clause 16 Housing which encourages development to be energy and water efficient. The Policy ensure these outcomes are maximised at the planning stage ensuring development provides for long term sustainability.
  - Clause 17 Economic Development by facilitating development to consider risk adverse measures for impacts such as climate change. Minimising built form energy use also contributes to reducing peak load and strains on energy infrastructure, and makes energy available to be used elsewhere in the supply system.
  - Clause 18 Transport by encouraging the use of sustainable personal transport and integrating planning with sustainable modes of travel.
  - Clause 19 Infrastructure which promotes renewable energy and sustainable use of resources and infrastructure. The Amendment promotes development to reduce energy, utilise renewable energy which supports objectives for infrastructure to meet community demand for energy. The Amendment also encourages development to reduce impacts of stormwater on bays and catchments through water sensitive urban design and water reuse.
- **How does the amendment support or implement the Local Planning Policy Framework, and specifically the Municipal Strategic Statement?**

The Amendment directly supports the following Clauses of the City of Whitehorse's Local Planning Policy Framework (LPPF):

*Clause 21 – Municipal Strategic Statement*

The amendment is consistent with the objectives of Clause 21.05 Environment:

- To protect and enhance areas with special natural, environmental, cultural or historic significance for the future enjoyment of the community.
- To facilitate environmental protection and improvements to known assets including water, flora, fauna and biodiversity assets.
- To protect and enhance air and water quality.

- To reduce automobile dependency and encourage sustainable transport use.
- To reduce energy and water consumption.

The key Objectives of Clause 22.10 highlight and build on the main Environment objectives in the MSS. These include; energy efficiency, water resources, transport and urban ecology. Clause 22.10 contains greater detail on these elements to provide sustainability in the built environment of the municipality.

Clause 21.05 will also be updated and amended to provide consistency in language and references to environmentally sustainable development.

#### *Clause 22 – Local Planning Policies*

The amendment is consistent with the relevant policy basis of Clause 22.03 Residential Development:

- Builds on the MSS objectives in Clause 21.05 Environment relating to ensuring that development is of high quality and compatible with the character and appearance of the area and providing adequate open space and landscaping for new development.

The proposed ESD policy will ensure that environmentally sustainable development is considered early in the planning process. The policy will provide clear guidelines and processes, making it easier for the community and developers to integrate ESD principles into all future projects.

#### • **Does the amendment make proper use of the Victoria Planning Provisions?**

The amendment has been prepared to conform to the requirements of the VPP format for planning schemes.

The proposed ESD policy is consistent with the VPP Practice Note *Writing a Local Planning Policy*.

#### • **How does the amendment address the views of any relevant agency?**

Exhibition and the Advisory Committee and Panel hearing regarding the amendment provided the opportunity for relevant agencies to comment on the amendment.

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

The amendment addresses the relevant requirements of the *Transport Integration Act 2010*.

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

The amendment is consistent with the transport system objectives of the Act, in particular those contained in *Section 10 – Environmental Sustainability*.

### **Resource and administrative costs**

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

The ESD policy will not result in an increased number of planning permit applications; it requires another level of information and assessment to an existing permit application.

As the policy seeks additional information from applicants, it will also require additional assessment resources for Council. However, it is considered that the long term benefits of the ESD policy far outweigh any additional costs for Council or applicants.

## **Where you may inspect this Amendment**

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

- Whitehorse City Council, Planning Counter, Civic Offices, 379 Whitehorse Road, Nunawading.
- On the Internet at: [www.whitehorse.vic.gov.au/ESD.html](http://www.whitehorse.vic.gov.au/ESD.html)

The amendment can also be inspected free of charge at the Department of Environment, Land, Water and Planning website at [www.delwp.vic.gov.au/public-inspection](http://www.delwp.vic.gov.au/public-inspection)