



INDEPENDENT PLANNING PANEL

**APPOINTED BY THE MINISTER FOR PLANNING
PLANNING PANELS VICTORIA**

IN THE MATTER OF *AMENDMENT C384* TO THE MELBOURNE PLANNING SCHEME

LAND SUBJECT TO INUNDATION & SPECIAL BUILDING OVERLAYS

PART A SUBMISSION OF THE PLANNING AUTHORITY

DATE: 3 OCTOBER 2022

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Introduction

1. The City of Melbourne (**Council**) is the Planning Authority for Amendment C384 (**Amendment**) to the Melbourne Planning Scheme (**Scheme**).
2. While Council is the Planning Authority for the Amendment, the Amendment has been prepared in partnership with Melbourne Water.
3. This Part A submission has been prepared by Council and Melbourne Water and is made in accordance with the Panel's Directions, dated 6 September 2022 (**Directions**). Consistent with Direction #11, this Part A submission will:
 - 3.1 address the background to the Amendment, including a chronology of key events;
 - 3.2 include discussion of relevant planning scheme amendments including Amendment C407 (relating to the Arden urban renewal precinct) and Amendment C417 (relating to the Macaulay urban renewal precinct).¹
 - 3.3 address the strategic context and assessment, including:
 - (i) how the proposal aligns with flood protection standards, including State Policy on planning for climate change;
 - (ii) how the modelling underpinning the Amendment and the Overlay maps was carried out – what standards were followed and what assumptions were made, for example, with respect to drainage;
 - (iii) why Council has only addressed flooding and inundation issues in certain areas of the municipality;
 - 3.4 include discussion on how Council has been and intends to deal with existing planning permits and endorsed plans;²
 - 3.5 identify the issues raised in submissions; and

¹ In accordance with direction 17a of the Panel's Directions.

² In accordance with direction 17c of the Panel's Directions.

3.6 outline the positions of Council and Melbourne Water on the preferred version of the Amendment.

4. In addition to these Part A submissions:

4.1 Council circulates the expert evidence of:

- (i) Luke Cunningham, Rain Consulting, in hydrology/hydraulic;
- (ii) David Barnes, Hansen Partnership, in planning; and
- (iii) Alastair Campbell, Hansen Partnership, in urban design; and

4.2 Melbourne Water circulates the expert evidence of:

- (i) Colleen Peterson, Ratio Consultants, in planning; and
- (ii) Warwick Bishop, Water Technology, in hydrology.

5. Council and Melbourne Water will both table their respective Part B submissions closer to the hearing, where both authorities will:

5.1 address any other matters raised in expert evidence or material circulated by the parties prior to the Panel Hearing,

5.2 present their respective response to submissions; and

5.3 present final positions on the Amendment.

6. Before the close of the hearing, Council and Melbourne Water will present a Part C closing submission.

7. The Part A submission will be taken as read by the Panel at the Hearing consistent with the Directions.

Overview of the Amendment

8. The Amendment proposes to either update or introduce the Land Subject to Inundation Overlay (**LSIO**) and Special Building Overlay (**SBO**) to land identified as being prone to

riverine flooding and drainage flooding, respectively, thereby triggering the requirement for a planning permit assessment for development in flood-prone areas.

Amendment Land

9. The land affected by the Amendment is described in the Amendment's Explanatory Report as follows:³

The Amendment applies to land identified as being subject to inundation from riverine flooding (Land Subject to Inundation Overlay) (LSIO) in the Moonee Ponds Creek and Lower Yarra River waterways, and drainage flooding (Special Building Overlay) (SBO) in the Arden, Macaulay and Moonee Ponds Creek, Elizabeth Street, Fishermans Bend, Hobsons Road and Southbank catchments (see Figure 1). Attachment 1 (mapping reference table) to this explanatory report specifies the catchments and associated planning scheme map numbers to be amended.

The mapping extent of the existing LSIO1 (generally along the Maribyrnong River, Childers Street and Dynon Road) and LSIO2 (Flemington Racecourse) are not proposed to be amended as the modelling for these catchments has not yet been updated. The format of the existing LSIO1 and LSIO2 schedules are proposed to be amended to comply with the Ministerial Direction Form and Content of Planning Schemes which is correctional in nature and not transformative.

The mapping extent of the existing SBO in the planning scheme (outside the catchments included in this Amendment) is not proposed to be amended as the modelling for these catchments has not been updated. The existing SBO maps require deletion and have been renamed SBO1 to comply with new naming convention of the Schedule which is a correctional change.

10. Figure 1 shows the area to which the Amendment is proposed to apply.

³ Amendment c384melb, *Explanatory Report*, at page 1.

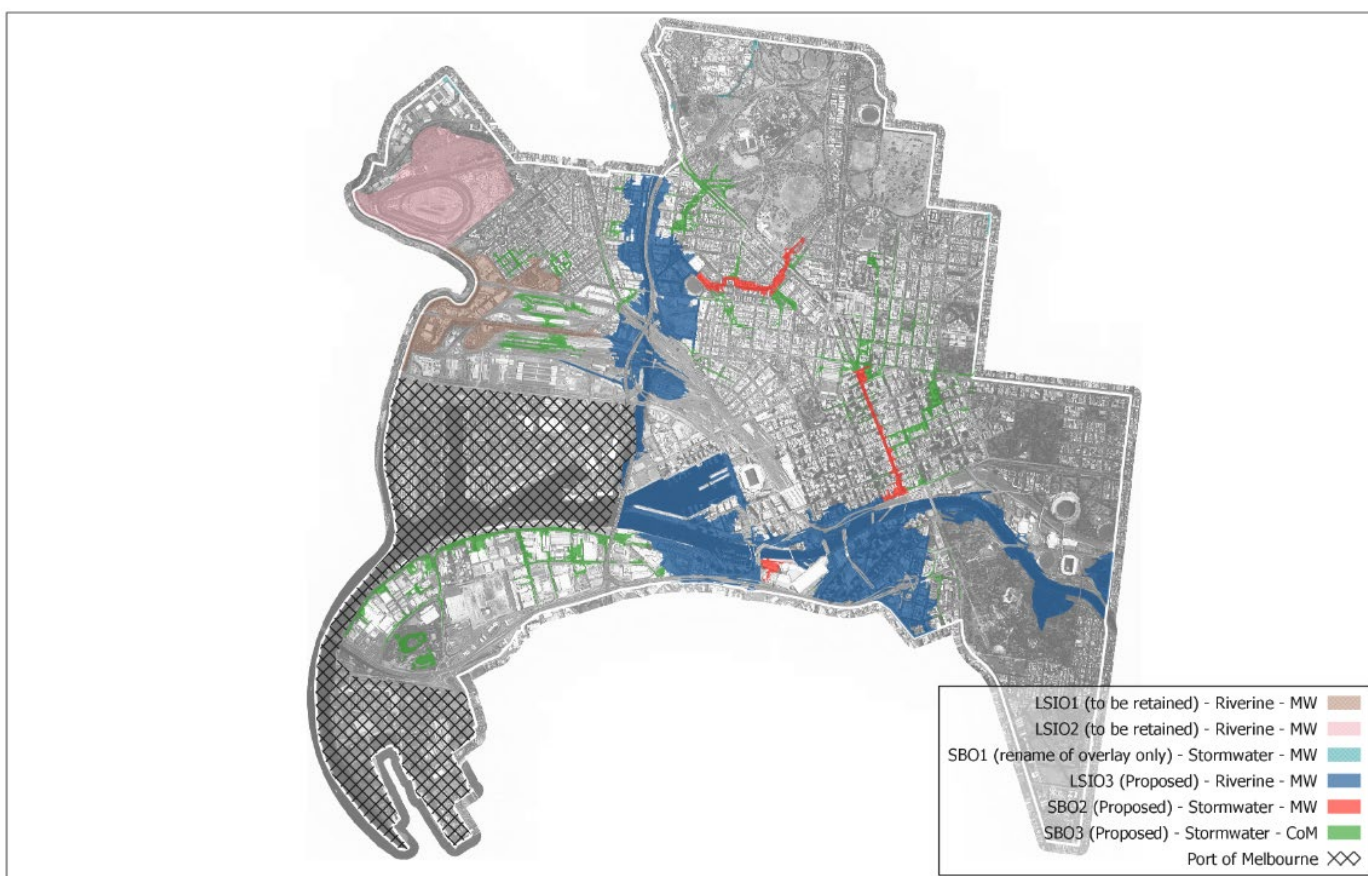


Figure 1 - Indicative map showing proposed overlays

What the Amendment does

11. At the ordinance level, the exhibited Amendment proposes to:⁴

- 11.1 amend Schedule 1 (Maribyrnong River Environs) and Schedule 2 (Flemington Racecourse) of Clause 44.04 to update the format to comply with the requirements set out in Ministerial Direction Form and Content of Planning Schemes which is an administrative change. The mapping of the existing LSIO1 in the planning scheme (generally along the Maribyrnong River, Childers Street and Dynon Road) and LSIO2 (Flemington Racecourse) is unchanged;
- 11.2 introduce a new Schedule 3 ‘Moonee Ponds Creek and Lower Yarra River Waterways’ to Clause 44.04 which includes land subject to inundation objectives to

⁴ Amendment C394melb, *Explanatory Report*, at page 2 onwards. The Amendment also proposes a number of mapping changes as outlined in Attachment 2 to the Part A submission.

be achieved, a statement of risk, permit requirements, application requirements and decision guidelines;

- 11.3 introduce a new Schedule 1 'Melbourne Water Main Drains' to Clause 44.05 to update the format to comply with the requirements set out in Ministerial Direction Form and Content of Planning Schemes which is an administrative change. The mapping extent of the existing SBO in the planning scheme (outside the catchments included in this Amendment) is unchanged. The existing SBO maps require deletion and identical maps have been prepared which are named SBO1 to comply with the new naming convention of the Schedule which is a form and content change;
- 11.4 introduce a new Schedule 2 'Melbourne Water Main Drains - Elizabeth Street, Arden, Macaulay and Moonee Ponds Creek, Fishermans Bend and Southbank catchments' to Clause 44.05 which includes flood management objectives to be achieved, statement of risk, permit requirements, application requirements and decision guidelines;
- 11.5 introduce a new Schedule 3 'Council Drains - Elizabeth Street, Arden, Macaulay and Moonee Ponds Creek, Hobsons Road, Fishermans Bend and Southbank catchments' to Clause 44.05 which includes flood management objectives to be achieved, statement of risk, permit requirements, application requirements and decision guidelines;
- 11.6 amend the Schedule to Clause 72.03 (What does this planning scheme consist of?) to update the list of maps that form part of the planning scheme; and
- 11.7 amend the Schedule to Clause 72.08 (Schedule to Background Documents) to introduce new background documents as listed below:
 - 11.7.1 Technical Report 01: Australian Rainfall Runoff Sensitivity Analysis (Engeny Water Management dated 22 July 2020);
 - 11.7.2 Technical Report 02: Southbank Flood Modelling Update and Climate Change Scenarios (Water Modelling Solutions dated 21 April 2020);
 - 11.7.3 Technical Report 03: Southbank Stormwater Infrastructure Assessment: Final Report (BMT WBM dated August 2015);

- 11.7.4 Technical Report 04: Elizabeth Street Melbourne Flood Modelling Report (Water Technology, dated August 2017) including the Memorandum's dated 9 April 2020 and 13 February 2020;
- 11.7.5 Technical Report 05: Arden Macaulay Precinct & Moonee Ponds Creek Flood Modelling (Engeny Water Management dated August 2020);
- 11.7.6 Technical Report 06: Lower Yarra River Flood Mapping (GHD dated 24 September 2020);
- 11.7.7 Technical Report 07: Hobsons Road Catchment Flood Mapping Update (Venant Solutions dated 17 June 2020) including the review response dated 22 April 2020;
- 11.7.8 Technical Report 08: Fishermans Bend Flood Mapping (GHD dated November 2020);
- 11.7.9 Technical Report 09: Overlay Delineation Report (Engeny Water Management dated 27 October 2020);
- 11.7.10 Guidelines for Development in Flood Affected Areas (Department of Environment, Land, Water and Planning, 2019);
- 11.7.11 Planning for Sea Level Rise Guidelines (Melbourne Water, 2017); and
- 11.7.12 Good Design Guide for Buildings in Flood Affected Areas in Fishermans Bend, Arden and Macaulay (Melbourne City Council, Melbourne Water and City of Port Phillip, 2021) (**Good Design Guide**).

Key Observations

Good Design Guide

- 12. In respect to the Good Design Guide, the version before the Panel is that endorsed by Council's Future Melbourne Committee on 3 August 2021. The Good Design Guide is proposed to be referenced as a decision guideline within the proposed LSIO2, SBO2 and SBO3 schedules, enabling its contents to inform the consideration of development through the planning permit process.

Determining referral authority status

13. Under Clause 66.03 of the Scheme, Melbourne Water is the determining referral authority for an application under the LSIO and SBO where the land is within the waterway management district of Melbourne Water.
14. All of the City of Melbourne is within the waterway management district of Melbourne Water.
15. In terms of the LSIOs, SBO1 and SBO2 it is proposed for Melbourne Water to be the determining referral authority for planning permit applications to develop land affected by flooding associated with rivers, creeks and larger stormwater drainage network owned and maintained by Melbourne Water, tidal and storm driven coastal inundation and sea-level rise.
16. The situation with the proposed SBO3 areas differs.
17. The proposed SBO3 'Council Drains - Elizabeth Street, Arden, Macaulay and Moonee Ponds Creek, Hobsons Road, Fishermans Bend and Southbank catchments' applies to land identified as subject to flooding from City of Melbourne drains within the relevant catchments. These drainage systems are owned and maintained by the City of Melbourne and have been modelled for the first time for the Amendment.
18. It is important to highlight from the outset the Amendment intends to provide the Council with the ability to consider planning permit applications in the proposed SBO3 areas. The SBO3 areas apply to land identified as subject to flooding from City of Melbourne drains within the relevant catchments being Elizabeth Street, Arden, Macaulay and Moonee Ponds Creek, Hobsons Road, Fishermans Bend and Southbank Catchments.
19. Clause 44.05-6 of the Scheme provides that a planning permit application within the SBO 'must be referred to the relevant floodplain management authority under Section 55 of the Planning and Environment Act 1987 (**P&E Act**) unless in the opinion of the responsible authority, the proposal satisfies requirements or conditions previously agreed to in writing between the responsible authority and the floodplain management authority' (in this case, Melbourne Water). Pursuant to clause 66.03 of the Scheme, Melbourne Water is the determining referral authority in respect of an application under the SBO within the waterway management district of Melbourne Water. Currently, there are no special referral authority

arrangements in place for SBO3. Accordingly, under the existing provisions of the Scheme applications within SBO3 would need to be referred to Melbourne Water.

20. It is proposed that the City of Melbourne and Melbourne Water will, at a later date, enter into written arrangements to document the development proposals within SBO3 that will be managed by the City of Melbourne and not referred to Melbourne Water (in line with clause 44.05-6 of the Scheme).
21. It will be necessary for a similar arrangement to be entered into with the Department of Environment, Land, Water and Planning (**DELWP**) in circumstances where the Minister for Planning is the responsible authority under the Scheme.

Background to the Amendment

Early amendments introducing inundation overlays

22. The SBO was last updated on 31 May 2001 (Amendment C012) and the LSIO on 10 February 2011 (Amendment C153).
23. Amendment C012, which was adopted by Council on 31 October 2000 and approved and gazetted on 31 May 2001, introduced the SBO into Scheme. Amendment C012 defined land affected by the SBO as identified by Melbourne Water as being subject to natural overland flows during a severe storm of 1 in 100 year intensity.
24. Amendment C153 was adopted by Council on 27 July 2010 and gazetted on 10 February 2011. Amendment C153 was a site-specific amendment (affecting the Flemington Racecourse at 500 Epsom Road Flemington) which, amongst other things, introduced a Schedule to the LSIO.

Flood Management Plan for City of Melbourne and Melbourne Water, February 2018 (Flood Management Plan)

25. The Flood Management Plan outlines roles and responsibilities and describes at a high level, Council and Melbourne Water's key flood management activities.

26. Melbourne Water, Council and the Victoria State Emergency Service worked in partnership with GHD to develop the Flood Management Plan.⁵
27. The Flood Management Plan seeks to contribute to reducing the risk and impacts of flooding on local communities.
28. In terms of flood risk assessment, the Flood Management Plan notes:⁶

There are 9 catchments identified in the 2015 Flood Strategy that fall wholly or partially within the City of Melbourne municipal boundary. Of these, seven have been identified as being of priority interest to understand and potentially take action to reduce flood effects. These catchments are:

- (i) Maribyrnong River (Lower)*
- (ii) Moonee Ponds Creek (Lower)*
- (iii) Yarra River (mouth to Merri)*
- (iv) Hannah Street Main Drain*
- (v) Elizabeth Street Drain*
- (vi) Arden Street Drain*
- (vii) Ascot Vale Main Drain.*

29. The Flood Management Plan goes on to specifically identify the urban renewal areas at Fishermans Bend, Arden and Macaulay as being key future flood risks in the context of their ambitions to accommodate significant redevelopment.⁷
30. The Flood Management Plan observes the increase flood risk arising from climate, with one of the key actions arising within the Flood Management Plan being to:⁸

Improve planning controls alignment and conduct annual review.

⁵ At p. 55 of the Flood Management Plan.

⁶ At p. 29 of the Flood Management Plan.

⁷ At p. 30 of the Flood Management Plan.

⁸ At p. 46 of the Flood Management Plan.

Recent relevant amendments

Amendment C308 – Urban design in the central city and Southbank

31. Amendment C308 to the Scheme was gazetted on 30 September 2021.
32. Amendment C308 implements the recommendations of the *Synthesis Report: Promoting High Quality Urban Design Outcomes in the Central City and Southbank, January 2018* by introducing:
- 32.1 new urban design built form controls through Design and Development Overlay Schedule 1 (**DDO1**); and
- 32.2 the Central Melbourne Design Guide, a complementary illustrative guide which helps the community, developers and planners to understand the policy requirements within the Scheme as a background document into the Scheme.
33. The DDO1 applies to Central Melbourne and Southbank and has the following design objectives:
- *To ensure that all development achieves high quality urban design, architecture and landscape architecture.*
 - *To ensure that development integrates with, and makes a positive contribution to, its context, including the hierarchy of main streets, streets and laneways.*
 - *To ensure that development promotes a legible, walkable and attractive pedestrian environment.*
 - *To ensure that the internal layout including the layout of uses within a building has a strong relationship to the public realm.*
 - *To ensure that development provides a visually interesting, human scaled and safe edge to the public realm.*
34. In endorsing Amendment C308, the Amendment C308 Panel noted:⁹
- The Panel is clearly persuaded that the Amendment has clear strategic justification and that state, metropolitan and local policy frameworks clearly contemplate controls that require a high level of urban design in Central Melbourne. It is clear that the*

⁹ Executive Summary, Amendment C308 Panel Report.

minimum acceptable threshold for design for Central Melbourne is best characterised as 'high quality design' – this being a higher threshold than good design.

35. While exhibited as a background document, the Amendment C308 Panel recommended the *Central Melbourne Design Guide* become an Incorporated Document.¹⁰
36. The Amendment proposes a similar approach to Amendment C308 with regard to the *Good Design Guide*, noting the:
- 36.1 content and extent of application of the Good Design Guide differs in that it focusses on flood-responsive urban design; and
- 36.2 it is proposed to apply to the urban renewal areas of Fishermans Bend, Arden and Macaulay, whilst the Central Melbourne Design Guide applies to the central city and Southbank.

Amendment C407 – Implementation of the Arden Structure Plan

37. Amendment C407 to the Scheme was gazetted on 28 July 2022.
38. Amendment C407 implemented the *Arden Structure Plan, July 2022 (Arden Structure Plan)* by introducing new planning controls into the Scheme. Amendment C407 amended the Schedule to Clause 72.08 to include new background the Arden Structure Plan and the *Arden Precinct Flood Management Policy*, June 2022 as background documents. These documents are policy documents at Clause 11.03-6L-01 Arden Precinct.
39. Managing flood risk posed by the urban renewal within the Arden Precinct was identified as a key issue in the preparation of the Arden Structure Plan. The Arden Structure Plan includes the key theme 'Celebrating Water'¹¹ and includes under this theme key objectives for managing flood risk in Arden. Plan 5 in the Arden Structure Plan¹² identifies the key elements in the Arden Flood Strategy including an integrated stormwater management open space to have the dual function of land to be used as a retarding basin to store flood waters during periods of heavy rainfall and to act as open space for passive and active recreation.

¹⁰ See pp. 76-77 of 96 of the Amendment C308 Panel Report

¹¹ See the Arden Structure Plan, July 2022, pages 60 to 67.

¹² Arden Structure plan at page 62



Figure 2: Plan 5, Structure Plan

40. The Arden Precinct Flood Management Policy (**Flood Management Policy**) addresses the risks related to flooding in Arden, explains Melbourne Water's role including its role under the *Water Act* 1989 (**Water Act**), and addresses the flood modelling which has informed the approach to precinct-wide infrastructure to address flood risk. The Flood Management Policy also identifies an Urban Renewal Cost Recovery Scheme (**URCRS**) – a cost-recovery mechanism by virtue of which developer charges will fund the proposed Infrastructure.
41. The Arden Macaulay Precinct Flood Management Strategy, August 2021 referenced the updated flood modelling which has been prepared by Melbourne Water and Council for the Amendment.

42. In relation to Amendment C407, the Standing Advisory Committee (SAC) identified that:
- 42.1 parts of the Arden and Macaulay precincts are subject to a level of flooding incompatible with their urban renewal, and without intervention, flooding poses an unacceptable risk to the safety of the community and will lead to extensive property damage;¹³ and
 - 42.2 in order to address flooding concerns, the Victorian Planning Authority (VPA) and Melbourne Water proposed to mitigate flood risk through the construction of new, and the upgrading of existing drainage infrastructure as well as the implementation of planning controls and other measures to manage development areas and floor levels.¹⁴
43. The Arden Structure Plan and accompanying Flood Management Strategy were based on the modelling prepared by Melbourne Water and Council that is being considered in the current Amendment C384, including the 18.5% increase in rainfall intensity due to climate change.
44. The drainage strategy for Amendment C407 was developed in collaboration with Melbourne Water, Council and the VPA and sought to achieve the drainage outcome for more intensive development based on the expected climate conditions in 2100. The SAC recommended that the Drainage Strategy be reviewed, recognising that while it could deliver an appropriate planning outcome, it may not be the optimal solution.¹⁵
45. Following receipt of the SAC's report, the Minister approved C407, which included the Arden Structure Plan. Amendment C407 also imposed the Public Acquisition Overlay on properties required for key drainage infrastructure under the Arden Structure Plan and Arden Flood Strategy, including the land required for the integrated stormwater management open space (PAO9).

Amendment C417 – Implementation of the Macaulay Structure Plan

46. On 14 July 2022, Council's FMC resolved to request authorisation to prepare and exhibit Amendment C417.

¹³ Draft Melbourne Planning Scheme Amendment C407melb – Advisory Committee Report, 2 May 2022, p. 44.

¹⁴ Draft Melbourne Planning Scheme Amendment C407melb – Advisory Committee Report, 2 May 2022, p. 45.

¹⁵ Draft Melbourne Planning Scheme Amendment C407melb – Advisory Committee Report, 2 May 2022, p. 50.

47. Amendment C417 seeks to implement the land use and built form objectives of the Macaulay Structure Plan, May 2022 through the following proposed changes to the Scheme:
- 47.1 insert a new schedule to the Special Use Zone (SUZ8) that encourages 20 per cent of development to be employment or other non-residential use, mandates a contribution to affordable housing across all land uses and manages land uses vulnerable to flooding;
 - 47.2 replace Schedule 63 to the Design and Development Overlay (DDO63) with four new schedules (DDO75, DDO76, DDO77 and DDO78) to reflect the distinct character of the four Macaulay precincts, with requirements for built form, including floor area ratios, building heights, street wall heights, design excellence review process, upper level setbacks, active frontages, setbacks and new connections and laneways;
 - 47.3 insert a new schedule to the Parking Overlay (PO16) to support modal shifts by requiring consideration of all forms of parking including car parking, bicycle parking and end-of-trip facilities, electric vehicle ready spaces, and car-share and accessible spaces.
 - 47.4 revise Schedule 2 to the Development Contributions Plan Overlay (DCPO2) to implement the Development Contributions Plan (DCP), which requires a monetary contribution from developers towards infrastructure, including drainage, community facilities, open space and street upgrades.
48. Of particular relevance to the Amendment is that Amendment C417 proposes to identify and manage land uses vulnerable to flooding through the proposed SUZ8.
49. In resolving to advance Amendment C417, and having regard to the significance of the issue for Council, the FMC resolved that the Lord Mayor write to the Minister for Planning requesting the urgent introduction of state-wide controls to manage vulnerable land uses in flood prone areas in order to protect life and property.

Amendment C409 – Planning Policy Framework (PPF) Translation

50. Amendment C409 was gazetted on 21 September 2022 and implemented the Planning Policy Framework (**PPF**) translation into the Scheme.

51. The PPF translation involves translating the Local Planning Policy Framework (**LPPF**) content in planning schemes into the new integrated PPF and Municipal Planning Strategy (**MPS**), consistent with the structure introduced by Amendment VC148 in July 2018.
52. Amendment C409 is generally consistent with the guidance in the Practitioner's Guide to Victorian Planning Schemes and DELWP guidance material. The PPF translation seeks to ensure increased alignment between state, regional and local planning policy, and provide more concise local policy direction.
53. Amendment C409 incorporates various policy changes that have occurred recently including new policies for Arden and West Melbourne. Where appropriate, existing strategies and objectives have been clarified and policy guidelines drafted using existing policy direction.
54. Council's response to the strategic assessment of the Amendment is based on the Scheme following the approval of Amendment C409.

Strategic Work underpinning the Amendment

Guidelines for Development in Flood Affected Areas, DELWP February 2019 (Development in Flood Affected Areas Guidelines)

55. The Development in Flood Affected Areas Guidelines provide guidance relevant to the issues of drainage and flooding. They provide that land affected by flooding should be identified by a flood overlay (unless it is zoned for flood purposes), in order to ensure that flood risk is clearly identified and to provide the necessary trigger for development proposals to be referred to a floodplain management authority.¹⁶
56. Relevantly, the Development in Flood Affected Areas Guidelines provide that floodplain management planning through the introduction of flood zones and overlays is about planning for an acceptable level of risk (rather than representing the full extent of flooding). It provides that the relevant flood related overlays, including the LSIO and SBO, will define what is considered an acceptable threshold for managing flood risk.¹⁷
57. The Development in Flood Affected Areas Guidelines provide detail to explain controls and policies within the planning scheme, and provide that:¹⁸

¹⁶ Guidelines for Development in Flood Affected Areas, DELWP 2019, p 21.

¹⁷ Guidelines for Development in Flood Affected Areas, DELWP 2019, p. 20.

¹⁸ Ibid at p. 21

Inappropriate development in flood affected areas can lead to fundamental changes in the nature and impact of flooding. It can also increase the potential for loss of life and flood damages to the community and the environment. This is contrary to the objectives of planning in Victoria, listed in the Planning and Environment Act 1987.

... In principle:

- *Land should not be rezoned for a higher density land use without adequate consideration of the flood risk, including the cumulative impacts, and loss of safe access during floods.*
- *Land that is affected by flooding should be identified by a flood overlay, unless it is zoned for flood purposes. This makes the flood risk clear to all and provides the necessary trigger for development proposals to be referred to a floodplain management authority. It also enables future purchasers of land to be informed of the flood risk through vendor disclosure statements.*

Victorian Floodplain Management Strategy, DELWP 2016 (VFMS)

- *The VFMS is a relevant document that highlights the importance of planning authorities considering and ensuring planning schemes identify land subject to flooding.*
- *Policy 13c of the strategy specifically provides that LGAs with areas at risk of 1% Annual Exceedance Probability flood must ensure that their planning schemes contain objectives and strategies for managing risk in the Municipal Strategic Statement, as well as including the appropriate zone and overlays on land affected by flooding.*

Good Design Guide

58. The Good Design Guide was developed in partnership between Melbourne Water, Council and Port Phillip City Council. Other government agencies contributing to the Good Design Guide include the DELWP, Department of Jobs, Precincts and Regions, the VPA and the Office of Victorian Government Architect.
59. The Good Design Guide was prepared using the latest information and advice from the following two guideline documents:
- 59.1 *Guidelines for Developments in Flood Affected Areas*, DELWP, February 2017; and
- 59.2 *Planning for Sea Level Rise Guidelines*, Melbourne Water, February 2019.

60. With a focus on the low-lying topography of Fishermans Bend, Macaulay and Arden, the Good Design Guide comprises three parts and a glossary.
61. Part 1 sets the scene for design in flood affected areas, explaining how the guide is to be used and where it applies. It also provides a contextual basis by outlining the types of flooding, how flooding can be managed in urban renewal areas and building design for managing flood risks.
62. Part 2 comprises the Design Guidelines which:¹⁹
- ... [illustrate] approaches to achieving accessible and vibrant buildings and public realm while also managing flood risk.*
63. Part 2 consists of the following sections:
- 63.1 Section 1 – Design Principles;
- 63.2 Section 2 – Urban Structure;
- 63.3 Section 3 – Site Planning;
- 63.4 Section 4 – Public interface; and
- 63.5 Section 5 – Design detail and management.
64. The overarching ambition to provide for careful design responses while also mitigating flood risk is unpacked in Part 2, such as at Section 1 - Design Principles, which states:²⁰
- Urban renewal present opportunities for new development to be designed to create resilient places. The Guide offers solutions to address flood risk while creating a vibrant place.*
- The design principles should inform the design of applications and provide a benchmark to assess whether the overarching aims of the Guide are being achieved.*
- Successful designs will meet the objectives of all of these principles to create an integrated design response.*
- 64.1 A further example of careful consideration at the design stage is explained at Section 3 – Site Planning and it relates to planning for access and egress.²¹

¹⁹ Good Design Guidelines, at p.15

²⁰ Good Design Guidelines, at p.16

²¹ Good Design Guidelines, at p.27

Maintaining access to and from a building during a flood event is crucial for managing the risk to life from floods. Good building design will work with the terrain and knowledge of the site to make it easier for emergency services to access a building and for users to come and go.

65. Part 3 - Appendix concludes the Good Design Guide.

Technical work underpinning the Amendment

66. Flooding provisions such as the LSIO and SBO are based on technical flood studies and modelling that analyse and predict flood risk and behaviour.
67. For this Amendment, the technical reports that are proposed to be included as background documents under clause the Schedule to Clause 72.08 of the Planning Scheme were carried out between 2015 and 2021 and include the following:
- 67.1 *Technical Report 01: Australian Rainfall Runoff Sensitivity Analysis (Engeny Water Modelling Solutions dated 21 April 2020)* – which documents the outcomes of a sensitivity analysis that examined the impact of ARR2019 in comparison to ARR1987 based on the results of the Arden Macauley Precinct/Monee Ponds Creek model, and identified that using the ARR1987 to delineate the LSIO and SBO for the precinct is acceptable;
 - 67.2 *Technical Report 02: Southbank Flood Modelling Update and Climate Change Scenarios (Water Modelling Solutions dated 21 April 2020)* – which reviews and updates the Southbank TUFLOW model with some minor changes to ensure consistency with the current best practice;
 - 67.3 *Technical Report 03: Southbank Stormwater Infrastructure Assessment: Final Report (BMT WBM dated August 2015)* – which investigates solutions to the flooding and drainage issues in and around the Southbank precinct and provides recommendations to manage flood risk including utilising planning controls;
 - 67.4 *Technical Report 04: Elizabeth Street Melbourne Flood Modelling Report (Water Technology dated August 2017)* – which is an extension of the City of Melbourne's Integrated Climate Adoption Model project, and focuses on delivering flood modelling and mapping to the catchment and considering mitigation options including the use of water sensitive urban design methods to deal with the risk of flooding;
 - 67.5 *Technical Report 05: Arden Macaulay Precinct & Monee Ponds Creek Flood Modelling (Engeny Water Management dated August 2020)* – which documents the flood modelling undertaken for the City of Melbourne and Melbourne Water which was the basis for the preparation of planning scheme overlays for Moonee Ponds Creek and the Arden-Macauley precinct. The modelling was undertaken to predict flooding in a 1% annual exceedance probability event, inclusive of an 18.5% increase in rainfall intensity during climate change;

- 67.6 *Technical Report 06: Lower Yarra River Flood Mapping (GHD dated 24 September 2020)* – which documents the methodology, underlying assumptions used and results of the modelling and flood mapping of the Lower Yarra River to enable Melbourne Water to update flood mapping information which informs planning approvals and flood risk assessment;
 - 67.7 *Technical Report 07: Hobsons Road Catchment Flood Mapping Update (Venant Solutions dated 17 June 2020)* – which provides a review and update of the City of Melbourne's Hobsons Road Catchment 1% annual exceedance probability and flood mapping for the purpose of the planning scheme amendment;
 - 67.8 *Technical Report 08: Fishermans Bend Flood Mapping (GHD dated November 2020)* – which documents the methodology, underlying assumptions and results of the updated modelling and flood mapping of the existing Melbourne Water and City of Melbourne drainage system within the Fishermans Bend area to assist with planning approvals and determining flood risk within the catchment; and
 - 67.9 *Technical Report 09: Overlay Delineation Report (Engeny Water Management dated 27 October 2020)* – which documents the process undertaken to develop flood related planning scheme overlays within the City of Melbourne, in relation to the Planning Scheme Amendment.
68. Flood studies are important to defining the nature of flood hazard across the floodplain by providing information on the extent, depth and velocity of floodwaters, and on the distribution of flood flows. They provide new flood mapping for planning scheme inclusion and a preliminary assessment into possible flood mitigation measures.²²
69. Flood studies are essential to predicting and measuring aspects of flood behaviour. They look at flood behaviour for a range of floods, and are updated periodically as they are dependent on the best available data at the time of their preparation. The availability of data can be influenced by a range of factors including:
- 69.1 changes in land use;
 - 69.2 changes in topography;
 - 69.3 a longer record of flood data; and
 - 69.4 climate change.²³
70. To meet its obligations as a floodplain manager, Melbourne Water is responsible for understanding flood impacts and taking appropriate action to minimise flood risks.

²² Victorian Floodplain Management Strategy (DELWP 2016) at [11.1].

²³ Guidelines for Development in Flood Affected Areas, DELWP 2019, p 8.

71. Melbourne Water works in partnership with other agencies including municipal councils to develop flood models for catchments, which factor in differences in topography, urban development, drainage systems and climate change conditions. Melbourne Water's preferred flood modelling approach is to use a hydrologic model (**RORB**) to develop design flood hydrographs and use these as inputs to a hydraulic model (**TUFLOW**) to determine flood depths, velocities and extents, as set out in its flood mapping technical specification.²⁴
72. Melbourne Water has been working with Council since 2017 to develop new flood studies and models for parts of the municipality. The flood modelling and mapping has been completed and this flood information is being used to update the Scheme through the Amendment. The new flood information has considered both the regional drainage network (managed by Melbourne Water) and the local drainage network (managed by the Council).
73. In terms of the flood information for the Amendment:
- 73.1 Southbank and the Hobsons Road catchments were managed by the City of Melbourne;
 - 73.2 Elizabeth Street, Fishermans Bend, Arden, Macaulay and Moonee Ponds Creek were co-project managed by both City of Melbourne and Melbourne Water; and
 - 73.3 the Lower Yarra River flood modelling project was managed by Melbourne Water.
74. For each of the flood studies, the delineation of the Scheme overlays is based on the 1% annual exceedance probability storm event and year 2100 climate change scenario. The year 2100 climate change scenario includes an 18.5% increase in the rainfall intensity compared to current climate conditions.²⁵
75. All of the models have been prepared consistently with the methods defined in Australian Rainfall Runoff (**ARR**) 1987 (being the national guidelines set by Engineers Australia) and factor in climate change considerations, particularly in relation to the likely impacts on rainfall intensity. They utilise accepted contemporary modelling techniques and practices that have been independently reviewed. These models were re-run with the latest climate change information from ARR 2019, which is a relatively new standard.

²⁴ AM STA 6200 Flood Mapping Projects Specification (Melbourne Water 2021) at [1.3].

²⁵ Technical Report 09: Overlay Delineation Report (Engeny Water Management, 27 October 2020).

76. The updated modelling has confirmed that there is a significant risk that flooding will affect the City of Melbourne within the areas the subject of the flood studies with the potential for flood waters to impact on important facilities including rail stations and corridors, roads and schools.
77. Flood extents as represented by the Amendment have resulted in flood levels, flood velocities and flood depths changing as new assumptions have been included in the modelling which now has regard to the increased rainfall intensity of 18.5% by 2100.
78. Having regard to the policy considerations outlined in this submission, the updated flood modelling which underpins the Amendment is appropriate and fit for purpose. That is, the flood modelling, as reflected in updated LSIO and SBO extents within certain catchments in the City of Melbourne, will provide the necessary trigger for development proposals to be referred to the floodplain management authority. In this way, risk appropriate controls and measures can be applied to manage development in a way that minimises potential flood damage through the planning permit application process.

How the proposal aligns with flood protection standards, including State Policy on planning for climate change

Flood risk standards

79. There are a number of documents that provide guidance on managing flood risks and applying flood provisions within a planning scheme, which Council and Melbourne Water have considered and applied in the preparation of the Amendment. These are summarised below:
- 79.1 *Guidelines for Development in Flood Affected Areas* (DELWP 2019) – which is to be included as a background document in the schedule to clause 72.08 of the Planning Scheme, and refers to the need to accurately map land affected by flooding to then apply the most appropriate flood provision. It provides that floodplain management planning is about planning for an acceptable level of risk and summarises the application of the LSIO and SBO;
- 79.2 *Planning Practice Note 12: Applying the Flood Provisions in Planning Schemes* (DELWP 2015) – the Amendment is consistent with the Practice Note's guidance on application of flood overlays for the relevant precincts; and

- 79.3 *Victorian Floodplain Management Strategy* (DELWP 2016) – which endorses the use of planning controls to manage potential flood risk - the Amendment reflects the requirements of the strategy by applying risk appropriate controls and measures to manage development in a way that will minimise potential flood damage.

Climate change

80. The Amendment is specifically concerned with increased flooding from climate change-based rainfall intensity and frequency. This is because the Scheme and various State policies require planning authorities to implement planning controls that accurately identify environmental hazards, including flood risk, and to respond to climate change.
81. When assessing development applications, Melbourne Water must also consider the relevant objectives and strategies set out in the Planning Policy Framework of the Planning Scheme.
82. The following State planning policies identify the importance of climate change adaption:
- 82.1 Clause 13.01-1S: Natural hazards and climate change – includes an objective to minimise the impacts of natural hazards and adapt to the impacts of climate change through risk-based planning;
- 82.2 Clause 13.01-2S: Coastal inundation and erosion – contains strategies including to plan for sea level rise of not less than 0.8 metres by 2100. This requirement is also provided for in the Victorian Coastal Strategy 2008;
- 82.3 Clause 13.03-1S Floodplain management – includes the objective of protecting life, property and community infrastructure from flood hazard and identifies land inundated by the 1 in 100 year flood event or as determined by the flood plain management authority.
83. The Amendment aligns with and will advance key strategies in the following policies regarding climate change considerations:
- 83.1 *Guidelines for Development in Flood Affected Areas* (DELWP 2019) – which identifies that recognition and management of risk associated with climate change will help reduce future impacts in relation to flood risk. The guidelines identify the need for flood studies to assess the impacts of climate change;

83.2 *Victorian Floodplain Management Strategy* (DELWP 2016) – which acknowledges the impacts of climate change and provides requirements for flood studies to:

- (a) consider a location's sensitivity to climate change;
- (b) meet the needs of arrange of users (including land use planning);
- (c) be of sufficient quality for inclusion in planning schemes; and
- (d) consider, as relevant, the state policies embedded in planning schemes;

83.3 *Victoria's Climate Change Adaption Plan 2017-2020* (DELWP 2021) – which was prepared pursuant to the *Climate Change Act 2010*, and which requires that land use planning decisions consider the impact of climate change. This includes when assessing planning permit applications and in relation to the preparation of planning scheme amendments; and

83.4 *Marine and Coastal Policy* (DELWP 2020) – which considers how climate and adaption policy can be strengthened through the planning and building systems.

84. More specifically, in relation to the preparation of the Amendment, Council and Melbourne Water have considered the current leading approaches to climate change with regard to increased rainfall intensity, the appropriate flood event on which to base modelling, and the appropriate time horizon over which land use decisions need to be relevant.

85. As identified in the *Victorian Floodplain Management Strategy* (DELWP 2016) and *Marine and Coastal Policy* (DELWP 2020), the following parameters have been relied upon in the flood modelling and mapping:

85.1 1% Annual Exceedance Probability for flood events;

85.2 a rainfall intensity consistent with a high emissions climate change scenario (referred to as a Representative Concentration Pathway of 8.5);

85.3 a nominal planning horizon to the year 2100; and

85.4 tail water levels consistent with a high emission climate change scenario.

86. With respect to the projected rainfall intensity, Melbourne Water has relied on the methodology defined by ARR. According to this method, an 18.5% increase in design

rainfall Intensity-Frequency-Duration as a result of climate change in 2100 has been determined.²⁶

87. The 18.5% reflects the climate change scenario where the Representative Concentration Pathway of 8.5 (a greenhouse gas concentration trajectory adopted by the Intergovernmental Panel on Climate Change) is adopted (**RCP 8.5**). This is a high emissions scenario and its adoption is consistent with the *Marine and Coastal Policy* (DELWP 2020) and the *Planning for Sea Level Rise Guidelines* (Melbourne Water 2017).
88. The City of Melbourne and Melbourne Water have agreed on the 18.5% increase for the year 2100 in accordance with the RCP 8.5.

Why Council has only addressed flooding and inundation issues in certain areas of the municipality

89. As part of a targeted and staged approach, Arden, Macaulay, Fishermans Bend, Southbank, the Yarra River, the Elizabeth Street catchment, Moonee Ponds Creek corridor and parts of Kensington were modelled first as they are known high flood risk areas.
90. There is also sense in prioritising these areas having regard to the future projected development growth anticipated particularly in Fishermans Bend, Arden and Macaulay.
91. Further work on the remainder of the catchments within the municipality will be undertaken in the future.

Current approach to permit applications and sites, including sites which already have permission

Melbourne Water (determining referral authority) approach to current planning permit applications

92. Melbourne Water has floodplain management functions which are established under the Water Act, with related functions under the P&E Act and the *Building Regulations 2018*.²⁷
93. Melbourne Water is a determining referral authority under s 55 of the PE Act and clause 66.03 of the VPPs for applications within the waterway management district of Melbourne Water in (or subject to) the:

²⁶ Technical Report 08, Background Document [2.5]

²⁷ *Planning for Sea Level Rise Guidelines* (Melbourne Water, 2017), p. 4.

93.1 LSIO; and

93.2 SBO,

under the Scheme.

94. As a determining referral authority, if Melbourne Water objects to the grant of a permit, the responsible authority must decide to refuse to grant the permit.²⁸

95. In relation to any matters referred to it, Melbourne Water is required under the P&E Act to:²⁹

95.1 have regard to the objectives of planning in Victoria in considering the matter;

95.2 have regard to the Minister's directions;

95.3 comply with the P&E Act;

95.4 have regard to the planning scheme (including any State or Local planning policies, incorporated documents relating to flooding, management strategies and local floodplain development plans adopted by a council); and

95.5 provide information and reports as required by the Minister.

96. The objectives of planning in Victoria that Melbourne Water must have regard to when considering applications referred to it include (among other things):³⁰

96.1 to provide for the fair, orderly, economic and sustainable use, and development of land;

96.2 to secure a safe working, living and recreational environment; and

96.3 to facilitate development accordingly and in accordance with the objectives.

97. In responding to a referral, Melbourne Water:

97.1 considers all referred applications;

97.2 provides comments;

²⁸ P&E Act, s 61(2).

²⁹ Section 14A of the P&E Act.

³⁰ PE Act, s 4(1).

- 97.3 tells the responsible authority whether it supports the granting of the permit (with or without conditions specified) or if it objects to the granting of the permit on any specified ground.³¹
98. Melbourne Water then conducts a full assessment which includes consideration of internal referral comments (as applicable), against relevant sections of the *Guidelines for Development in Flood Affected Areas*, and any relevant provisions of the Scheme, including planning policy and relevant decision guidelines.
99. Melbourne Water uses the best available data available to make decisions as a referral authority. This data comes from flood models adopted for use by the organisation. In areas where catchment scale modelling has not been undertaken, Melbourne Water may utilise site specific hydrology and hydraulic modelling to determine flood information and any associated flood impacts in relation to development.
100. As outlined in this submission, the Melbourne Water and Council flood modelling teams have worked collaboratively since 2017 to update the Flood Information for the City of Melbourne, with the joint project determining an updated 2100 1% Annual Exceedance Probability Flood Extents.
101. Since 29 July 2021, Melbourne Water has been using the updated flood information that has informed the flood extent maps for the Amendment as the 'best available information' as required in relation to its duties as a floodplain management authority under the Water Act and referral authority under the P&E Act. Similarly, as of July 2021, the new flood levels from the updated flood information have been applied to Property Information Statements (pursuant to s 32 of the *Sale of Land Act 1962*) and flood level certificates issued in relation to properties in the City of Melbourne.
102. The Council municipal building surveyor has also used the updated flood information since July 2021, and the Victorian Building Authority has been formally notified of the updated flood information in this time.

³¹ Section 56 of P&E Act.

Council approach to current planning permit and building permit applications

103. The consequence of the decision by Council's municipal building surveyor is that for building permit applications not yet approved by 19 July 2021 the report and consent of Council is required for land liable to flooding pursuant to r153(2) of the *Building Regulations 2018*. That regulation provides as follows:

The report and consent of the relevant council must be obtained to an application for a building permit if the site is on an allotment that is in an area liable to flooding.

104. Regulation 153(3) provides:

The report and consent of the relevant council under subregulation (2) need not be obtained to an application for a building permit if:

- (a) a planning permit is required for the construction of the building; and*
- (b) the relevant planning scheme regulates the level of the lowest floor of the building in relation to any flood level declared under the Water Act 1989 or otherwise determined by the floodplain management authority or the relevant council.*

105. Council's Building department has provided the following information to prospective or existing building permit applicants:

On 19 July 2021, Council adopted new inundation overlays, resulting in new flood levels. The relevant Floodplain Management Authorities are the City of Melbourne and Melbourne Water.

According to Councils' records, you obtained Property Information pursuant to Regulation 51 of the Building Regulations 2018, in the past 12 months. The attached certificate is being re-issued taking into account the new inundation overlays. If your property has been designated as liable to flooding pursuant to Regulation 153, or designated land / designated works pursuant to Regulation 154, then the Report and Consent of Council will need to be obtained before a building permit can be issued.

If a building permit was issued prior to 19 July 2021, no further action is required.

106. This has resulted in a number of planning permit holders and applicants revising their designs to satisfy r153(4) of the *Building Regulations 2018*, which states:

The relevant council must not give its consent under subregulation (2) if it is of the opinion that there is likely to be a danger to the life, health or safety of the occupants of the building due to flooding of the site.

107. In practice this has required the following in accordance with Regulations 153 (6):

Before specifying a floor level under subregulation (5) the relevant council must—

- (a) consult with the floodplain management authority for that site; and*
- (b) specify a level at least 300 mm above any flood levels declared under the Water Act 1989 or otherwise determined by the floodplain management authority, unless the floodplain management authority consents to a lower floor level.*

108. For completeness, r153(5) provides:

In its report under subregulation (2) the relevant council may specify a level for the surface of the lowest floor of a building on the site.

109. As a consequence of the updated flood information and Amendment C384, Council's Statutory Planning department has advised planning permit applicants of the proposed inundation overlay controls forming a part of the Amendment from 24 August 2021.

110. Examples of Council's Statutory Planning department communicating the implications of Amendment C384 (where the subject land is proposed to be affected by Amendment C384) include:

110.1 At the time of a pre-application request or permit application being lodged, applicants are advised:

The City of Melbourne in partnership with Melbourne Water has completed new flood modelling for some areas in the municipality. To implement the modelling, Melbourne Planning Scheme Amendment C384 has been prepared and Authorised. The Amendment applies the Land Subject to Inundation Overlay (LSIO) and Special Building Overlay (SBO) to land affected by riverine flooding and drainage flooding respectively, and includes corresponding planning provisions. The overlays will trigger the requirement for a planning permit assessment for additional areas in the municipality once gazetted in the planning scheme.

The proposed application is located within proposed [SBO2 / SBO3 / LSIO3] It is highly recommended you consult with Melbourne Water / Councils drainage team to ensure Building Permit requirements / potential future planning permit requirements (i.e. finished floor levels) are considered early in the application process.

For more information on Amendment C384 please visit
<https://participate.melbourne.vic.gov.au/amendment-c384/amendment-overview>

110.2 At the time of drafting a further information request under s 54 of the P&E Act, permit applicants are advised:

The City of Melbourne in partnership with Melbourne Water has completed new flood modelling for some areas in the municipality. To implement the modelling, Melbourne Planning Scheme Amendment C384 has been prepared and authorised which proposes to apply the Land Subject to Inundation Overlay (LSIO) and Special Building Overlay (SBO) to land affected by riverine flooding and drainage flooding respectively, and includes corresponding planning provisions. The overlays will trigger the requirement for a planning permit assessment for additional areas in the municipality once gazetted in the planning scheme. Your application will be provided to Melbourne Water / Councils drainage team and any comments received will be forwarded for your consideration.

- 110.3 Informal referral requests to Melbourne Water or Council's Drainage department (for applications in the proposed SBO3) explaining:

Following the Authorisation of Planning Scheme Amendment C384, we have received an application which is located within the proposed SBO2 / SBO3 / LSIO3. We provide a copy of the attached application for your review, however this is not a Section 55 referral. Any comments provided will be sent to the permit applicant for their consideration.

Please note that the application is exempt from notice, therefore any objection received from Melbourne Water will not have any third party appeal rights.

Any comments received will be forwarded to the permit applicant and a suggestion to liaise directly with Melbourne Water or our Drainage team for any clarification or proposed amendments to the plans.

Council's FMC meeting of 3 August 2021

111. The Amendment was presented to the FMC meeting on 3 August 2021 to seek endorsement of

111.1 the preparation and exhibition of the Amendment; and

111.2 the Good Design Guide

112. At its meeting on 3 August 2021, the FMC resolved as follows:

Requests authorisation from the Minister for Planning to prepare and exhibit Amendment C384 as shown at Attachment 2 of the report from management

Endorses the Good Design Guide for Buildings in Flood Affected Areas in Fishermans Bend, Arden and Macaulay as shown at Attachment 3 of the report from management, recognising the intent to include the Guide as a background document in the Melbourne Planning Scheme.

Notes the letters received from Melbourne Water and the Department of Environment, Land, Water and Planning as shown at Attachment 4 of the report from management

Authorises the General Manager Strategy, Planning and Climate Change to make any further changes to the amendment document and attachments, if required, as well as the Victorian Government's Planning Policy Framework update prior to exhibiting Amendment C384.

Authorisation of the Amendment

113. On 5 August 2021, Council sought Ministerial authorisation to prepare and exhibit the Amendment.
114. On 18 August 2021, the Amendment was issued with Ministerial authorisation subject to the following conditions:

Update schedule 2 to the Special Building Overlay and schedules 2 and 3 to the Land Subject to Inundation Overlay, generally consistent with the versions provided by council officers to the Department of Environment, Land, Water and Planning (DELWP) dated August 2021.

Update Planning Scheme Map 7LSIO to delete any proposed changes to land within the Port of Melbourne area consistent with section 8A(9) of the Act.

The amendment affects land which may be 'agreement land' within the meaning of the Traditional Owner Settlement Act 2010. Your council must ensure appropriate notice is provided to the relevant Traditional Owner Group during exhibition of the amendment.

115. Council complied with the conditions of authorisation.

Exhibition of the Amendment

116. The Amendment was formally exhibited under s 19 of the P&E Act for the period 14 October 2021 to 29 November 2021.
117. Notice of the Amendment was:
- 117.1 made available, including all exhibited documents, on Council's 'Participate Melbourne' website and the Department of Environment, Land, Water and Planning's (DELWP) website;
 - 117.2 sent to all affected property owners and occupiers consisting of 81,646 notices, on 13 October 2021;
 - 117.3 sent to prescribed Ministers on 14 October 2021;
 - 117.4 published in The Age on 14 October 2021; and

- 117.5 published in the Victorian Government Gazette on 14 October 2021.
118. The exhibited Amendment documentation comprised the following:
- 118.1 the Explanatory Report;
 - 118.2 the Notice of Preparation of an Amendment;
 - 118.3 the Instruction Sheet;
 - 118.4 amended Schedules 1 and 2 to Clause 44.04 – Land Subject to Inundation;
 - 118.5 proposed Schedule 3 to Clause 44.04 – Land Subject to Inundation;
 - 118.6 proposed Schedules 1, 2 and 3 to Clause 44.05 - Special Building
 - 118.7 proposed schedule to Clause 72.03 - What does this planning scheme consist of?
 - 118.8 proposed schedule to Clause 72.08 Background Documents;
 - 118.9 mapping changes (see Attachment 1 for the full extent):
 - 118.10 introduction of a number of Background Documents comprising:
 - 118.10.1 Technical Report 01: Australian Rainfall Runoff Sensitivity Analysis (Engeny Water Management dated 22 July 2020);
 - 118.10.2 Technical Report 02: Southbank Flood Modelling Update and Climate Change Scenarios (Water Modelling Solutions dated 21 April 2020);
 - 118.10.3 Technical Report 03: Southbank Stormwater Infrastructure Assessment: Final Report (BMT WBM dated August 2015);
 - 118.10.4 Technical Report 04: Elizabeth Street Melbourne Flood Modelling Report (Water Technology, dated August 2017) including the Memorandum's dated 9 April 2020 and 13 February 2020;
 - 118.10.5 Technical Report 05: Arden Macaulay Precinct & Moonee Ponds Creek Flood Modelling (Engeny Water Management dated August 2020);

- 118.10.6 Technical Report 06: Lower Yarra River Flood Mapping (GHD dated 24 September 2020);
- 118.10.7 Technical Report 07: Hobsons Road Catchment Flood Mapping Update (Venant Solutions dated 17 June 2020) including the review response dated 22 April 2020;
- 118.10.8 Technical Report 08: Fishermans Bend Flood Mapping (GHD dated November 2020);
- 118.10.9 Technical Report 09: Overlay Delineation Report (Engeny Water Management dated 27 October 2020);
- 118.10.10 Guidelines for Development in Flood Affected Areas (Department of Environment, Land, Water and Planning, 2019);
- 118.10.11 Planning for Sea Level Rise Guidelines (Melbourne Water, 2017); and
- 118.10.12 Good Design Guide for Buildings in Flood Affected Areas in Fishermans Bend, Arden and Macaulay (Melbourne City Council, Melbourne Water and City of Port Phillip, 2021).

Submissions

119. Exhibition attracted 43 submissions during the exhibition period. In August 2022, a late submission #44 was received and accepted and submission #10 was withdrawn.
120. A detailed summary of the issues raised in submissions and the Council officer and Melbourne Water response was included in attachments 2 and 3 to the 2 August 2022 FMC Report.
121. The FMC resolved as follows:
- 1.1. Notes management's assessment of the submissions and key themes in respect to Melbourne Planning Scheme Amendment C384: Inundation Overlays and the Good Design Guide (the Amendment) as set out in Attachments 2 and 3 of the reports from management.*
 - 1.2. Requests the Minister for Planning appoint a Panel to consider all submissions and refers all submissions to the appointed Panel in accordance with section 23 of the Planning and Environment Act 1987.*

1.3. *Notes that the form of the Amendment to be referred to the Panel will be generally in accordance with the Amendment as exhibited, subject to references to 'Nominated Flood Protection Level (NFPL)' being replaced with 'Nominal Flood Protection Level (NFPL)'.*

122. In accordance with the resolution of the 2 August 2022, all submissions have been referred to the panel appointed to consider the Amendment. A Panel to consider the Amendment was appointed under delegation from the Minister for Planning on 12 August 2022.
123. A summary of the key issues and matters raised in the submissions, and Council's response is set out below and will be expanded upon, as relevant, in Council's Part B submission.

Chronology of events

124. A chronology of key events is set out at Attachment 1.

Strategic context and assessment

125. A strategic assessment of the Amendment was detailed in the Explanatory Report exhibited with the Amendment.
126. This section provides an overview of the strategic basis of the Amendment, including relevant Ministerial directions, and relevant State policies expressed through the Planning Policy Framework (PPF) and MPS. It also considers the relevant Planning Practice Note - Practice Note 12 – Applying the Flood Provisions in Planning Schemes, June 2015 (**PPN12**).

Minister's Directions

Ministerial Direction on the Form and Content of Planning Schemes - s 7(5) of the P&E Act

127. Council submits that:
- 127.1 the Amendment is consistent with the *Ministerial Direction on the Form and Content of Planning Schemes* under s 7(5) of the P&E Act; and
- 127.2 the proposed ordinance and map changes have been prepared in accordance with the relevant requirements of the Ministerial Direction.

Ministerial Direction No. 9 – Metropolitan Planning Strategy

128. The Amendment is consistent with *Minister's Direction 9 – Metropolitan Planning Strategy* under s12(2) of the P&E Act, by implementing the relevant aspects of *Plan Melbourne 2017-2050* objectives and outcomes at the municipal level.
129. In particular, the Amendment is consistent with the key principles and the accompanying directions and policies, in particular:

Direction 4.3: Achieve and promote design excellence

Policy 4.3.1: Promote urban design excellence in every aspect of the built environment

Direction 6.2: Reduce the likelihood and consequences of natural hazard events and adapt to climate change

Policy 6.2.1: Mitigate exposure to natural hazards and adapt to the impacts of climate change

Policy 6.2.2: Require climate change risks to be considered in infrastructure planning

Direction 6.3: Integrate urban development and water cycle management to support a resilient and liveable city

Policy 6.3.2: Improve alignment between urban water management and planning by adopting an integrated water management approach

Policy 6.3.3: Protect water, drainage and sewerage assets

130. The Amendment enables Council and Melbourne Water to better manage flood and climate change impacts by identifying the risk in the Scheme, which ensures orderly planning can be achieved. In turn, this will help protect Melbourne's water quality and ensure flood impacts are minimised to protect life, property, assets and the environment.

Ministerial Direction 11 – Strategic Assessment of Amendments

131. *Ministerial Direction 11 – Strategic Assessment of Amendments* (**Ministerial Direction 11**) seeks to ensure a comprehensive strategic evaluation of a planning scheme amendment and the outcomes it produces.

132. Compliance with Ministerial Direction 11 forms part of the Explanatory Report that was prepared for the Amendment. This assessment is adopted for the purpose of Council's submissions.

133. We submit that the Amendment is consistent with Ministerial Direction 11.

PPF

134. Council submits that the strategic justification for the Amendment is firmly grounded in the PPF.

135. Clause 11.03-6L-01 Arden Precinct includes the following relevant objectives and strategies:

- *To ensure the individual and combined impacts of sea level rise and flooding from storm events is managed through a combination of precinct wide and property specific management measures and physical infrastructure.*
- *To safely manage the risk of flooding to future development of Arden through innovative and creative flood management solutions in the natural landscape and built environment.*
- *Ensure the redevelopment potential of the precinct through the delivery of, and development contributions towards, precinct-wide drainage and flood mitigation infrastructure to address flooding.*
- *Integrate water sensitive urban design into streets and green links including along the Fogarty Street and Queensberry Street urban boulevards and Arden Street.*
- *Ensure development responds to flooding ahead of the delivery of the precinct-wide flood management strategy and associated infrastructure being delivered.*
- *Ensure development manages the risk of flooding through innovative and creative flood management solutions in the natural landscape and built environment.*
- *Locating new public streets, laneways or footpaths in flood affected areas outside of the flood area or be raised above the flood level.*
- *Providing a visual connection between the public realm and vertical, internal and external transitions of development in flood affected areas.*
- *Providing safe access and egress including for emergency services in flood affected areas.*

136. The Amendment identifies land in Arden which is at risk of flooding and it triggers the need for proposed buildings and works to consider and respond to that risk. The Amendment also

seeks to introduce design guidelines to ensure good urban design outcomes in tandem with addressing increased water inundation requirements in Arden.

137. Clause 11.03-6L-05 Fishermans Bend Employment Precinct includes the following relevant objectives and strategies:

- *Discourage sensitive uses at ground floor in flood affected areas*
- *Ensure that proposals for building and works within the precinct have regard to flood mitigation.*
- *Facilitate an open space network that supports a diversity of recreational uses, enhances connectivity, supports biodiversity and reduces flood risk.*

138. The Amendment identifies land in the Fishermans Bend Employment Precinct which is at risk of flooding and triggers the need for proposed buildings and works to consider and respond to that risk.

139. Clause 11.03-6L-06 Fishermans Bend Urban Renewal Area includes the following relevant objective and strategies:

- *To build resilience against the impacts of sea level rise and flooding from storm events without compromising the urban form at ground level.*
- *Applying design elements and materials that are resilient to flooding, including water proof doors and windows, elevated power outlets and the like.*
- *Locating essential services, such as power connections, switchboards and other critical services to avoid disruption in potential flooding events.*
- *Incorporate innovative approaches to flood mitigation and stormwater run-off, and best practice Water Sensitive Urban Design.*

140. The Amendment identifies land in the Fishermans Bend Urban Renewal Area which is at risk of flooding and triggers the need for proposed buildings and works to consider and respond to that risk. The Amendment also seeks to introduce design guidelines to ensure good urban design outcomes in tandem with addressing increased water inundation requirements in Fishermans Bend.

141. Clause 12.03-1S River corridors, waterways, lakes and wetlands is also relevant. It has the following objective:

- *To protect and enhance river corridors, waterways, lakes and wetlands.*

142. A series of strategies (under this clause) is outlined below:

- *Protect the environmental, cultural and landscape values of all water bodies and wetlands.*
- *Ensure development responds to and respects the significant environmental, conservation, cultural, aesthetic, open space, recreation and tourism assets of water bodies and wetlands.*
- *Ensure development is sensitively designed and sited to maintain and enhance environmental assets, significant views and landscapes along river corridors and waterways and adjacent to lakes and wetlands.*
- *Ensure development does not compromise bank stability, increase erosion or impact on a water body or wetland's natural capacity to manage flood flow.*
- *Protect the Yarra, Maribyrnong and Murray River corridors as significant economic, environmental and cultural assets.*
- *Facilitate growth in established settlements where water and wastewater can be managed.*

143. Clause 13 Environmental Risks And Amenity provides:

Planning should strengthen the resilience and safety of communities by adopting a best practice environmental management and risk management approach.

Planning should identify, prevent and minimise the risk of harm to the environment, human health, and amenity through:

- *Land use and development compatibility.*
- *Effective controls to prevent or mitigate significant impacts.*

Planning should identify and manage the potential for the environment and environmental changes to impact on the economic, environmental or social wellbeing of society.

Planning should ensure development and risk mitigation does not detrimentally interfere with important natural processes.

Planning should prepare for and respond to the impacts of climate change.

144. The Amendment enables the identification, prevention and minimisation of harm to the environment, human health, and amenity and prepares for and responds to the impacts of climate change.

145. Clause 13.01 Climate Change Impacts has the following objective:

- *To minimise the impacts of natural hazards and adapt to the impacts of climate change through risk-based planning*

146. A series of strategies are outlined as follows:

- *Respond to the risks associated with climate change in planning and management decision making processes.*
- *Identify at risk areas using the best available data and climate change science.*
- *Integrate strategic land use planning with emergency management decision making.*
- *Direct population growth and development to low risk locations.*
- *Develop adaptation response strategies for existing settlements in risk areas to accommodate change over time.*
- *Ensure planning controls allow for risk mitigation and climate change adaptation strategies to be implemented.*
- *Site and design development to minimise risk to life, health, property, the natural environment and community infrastructure from natural hazards.*

147. The Amendment identifies at risk areas using the best available data and climate change science.

148. Clause 13.03 Floodplain Management provides the following objective:

To assist the protection of:

- *Life, property and community infrastructure from flood hazard, including coastal inundation, riverine and overland flows.*
- *The natural flood carrying capacity of rivers, streams and floodways.*
- *The flood storage function of floodplains and waterways.*
- *Floodplain areas of environmental significance or of importance to river, wetland or coastal health.*

149. The following strategies to achieve the objective comprise:

- *Identify land affected by flooding, including land inundated by the 1 in 100 year flood event (1 per cent Annual Exceedance Probability) or as determined by the floodplain management authority in planning schemes.*
- *Avoid intensifying the impact of flooding through inappropriately located use and development.*

- *Plan for the cumulative impacts of use and development on flood behaviour.*
- *Locate emergency and community facilities (including hospitals, ambulance stations, police stations, fire stations, residential aged care facilities, communication facilities, transport facilities, community shelters, child care centres and schools) outside the 1 in 100 year (1 per cent Annual Exceedance Probability) floodplain and, where possible, at levels above the height of the probable maximum flood.*
- *Locate use and development that involve the storage or disposal of environmentally hazardous industrial and agricultural chemicals or wastes and other dangerous goods (including intensive animal industries and sewage treatment plants) outside floodplains unless site design and management is such that potential contact between such substances and floodwaters is prevented, without affecting the flood carrying and flood storage functions of the floodplain.*
- *Ensure land use on floodplains minimises the risk of waterway contamination occurring during floods and floodplains are able to function as temporary storage to moderate peak flows and minimise downstream impacts.*

150. Policy guidelines call on a consideration of:

- *Regional catchment strategies and special area plans approved by the Minister for Energy, Environment and Climate Change or Minister for Water.*
- *Any floodplain management manual or guideline of policy and practice, or catchment management, river health, wetland or floodplain management strategy adopted by the relevant responsible floodplain management authority.*

151. The Amendment identifies land affected by flooding, including land inundated by the 1 per cent Annual Exceedance Probability.

152. Clause 15.01-1S Urban Design has the following objective:

- *To create urban environments that are safe, healthy, functional and enjoyable and that contribute to a sense of place and cultural identity.*

153. A series of related strategies are outlined as follows:

- *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 the interface between the private and public realm protects and enhances personal safety.*

- *Ensure development supports public realm amenity and safe access to walking and cycling environments and public transport.*
- *Ensure that the design and location of publicly accessible private spaces, including car parking areas, forecourts and walkways, is of a high standard, creates a safe environment for users and enables easy and efficient use.*
- *Ensure that development provides landscaping that supports the amenity, attractiveness and safety of the public realm.*
- *Ensure that development, including signs, minimises detrimental impacts on amenity, on the natural and built environment and on the safety and efficiency of roads.*
- *Promote good urban design along and abutting transport corridors.*

154. Clause 19.03-3S Integrated Water Management has the following objective:

- *To sustainably manage water supply and demand, water resources, wastewater, drainage and stormwater through an integrated water management approach.*

155. A series of strategies are outlined as follows:

- *Plan and coordinate integrated water management, bringing together stormwater, wastewater, drainage, water supply, water treatment and re-use, to:*
 - *Take into account the catchment context.*
 - *Protect downstream environments, waterways and bays.*
 - *Manage and use potable water efficiently.*
 - *Reduce pressure on Victoria's drinking water supplies.*
 - *Minimise drainage, water or wastewater infrastructure and operational costs.*
 - *Minimise flood risks.*
 - *Provide urban environments that are more resilient to the effects of climate change.*
- *Integrate water into the landscape to facilitate cooling, local habitat improvements and provision of attractive and enjoyable spaces for community use.*
- *Facilitate use of alternative water sources such as rainwater, stormwater, recycled water and run-off from irrigated farmland.*
- *Ensure that development protects and improves the health of water bodies including creeks, rivers, wetlands, estuaries and bays by:*

- *Minimising stormwater quality and quantity related impacts.*
- *Filtering sediment and waste from stormwater prior to discharge from a site.*
- *Managing industrial and commercial toxicants in an appropriate way.*
- *Requiring appropriate measures to mitigate litter, sediment and other discharges from construction sites.*
- *Manage stormwater quality and quantity through a mix of on-site measures and developer contributions at a scale that will provide greatest net community benefit.*
- *Provide for sewerage at the time of subdivision or ensure lots created by the subdivision are capable of adequately treating and retaining all domestic wastewater within the boundaries of each lot.*
- *Ensure land is set aside for water management infrastructure at the subdivision design stage.*
- *Minimise the potential impacts of water, sewerage and drainage assets on the environment.*
- *Protect significant water, sewerage and drainage assets from encroaching sensitive and incompatible uses.*
- *Protect areas with potential to recycle water for forestry, agriculture or other uses that can use treated effluent of an appropriate quality.*
- *Ensure that the use and development of land identifies and appropriately responds to potential environmental risks, and contributes to maintaining or improving the environmental quality of water and groundwater.*

156. The Amendment enables the identification, prevention and minimisation of harm to the environment, human health, and amenity and prepares for and responds to the impacts of climate change.

Plan Melbourne 2017-2050

157. The Amendment is supported by the principles and outcomes of *Plan Melbourne 2017-2050: Metropolitan Planning Strategy* (**Plan Melbourne**).

158. Plan Melbourne outlines principles that underpin a long term vision for Melbourne, outcomes to drive Melbourne as a competitive, liveable and sustainable city, directions which set out how these outcomes can be achieved and policies which outline how each outcome will be approached, delivered and achieved.

159. Plan Melbourne comprises nine principles, seven outcomes, 32 directions and 90 policies to deliver on the vision for Melbourne as 'a global city of opportunity and choice'. The Amendment is supported by the following relevant principles and outcomes:

Direction 4.3: Achieve and promote design excellence

Policy 4.3.1: Promote urban design excellence in every aspect of the built environment

Direction 6.2: Reduce the likelihood and consequences of natural hazard events and adapt to climate change

Policy 6.2.1: Mitigate exposure to natural hazards and adapt to the impacts of climate change

Policy 6.2.2: Require climate change risks to be considered in infrastructure planning

Direction 6.3: Integrate urban development and water cycle management to support a resilient and liveable city

Policy 6.3.2: Improve alignment between urban water management and planning by adopting an integrated water management approach

Policy 6.3.3: Protect water, drainage and sewerage assets

160. The Amendment enables Council and Melbourne Water to better manage flood and climate change impacts by identifying the risk in the Scheme which ensures orderly planning can be achieved. In turn, this will help protect Melbourne's water quality and ensure flood impacts are minimised to protect life, property, assets and the environment.

LSIO

161. The LSIO is a control that applies to land affected by flooding associated with waterways and open drainage systems, known as floodplains.
162. Schedule 1 (Maribyrnong River Environs) and Schedule 2 (Flemington Racecourse) of Clause 44.04 are proposed to be amended to update the format to comply with the requirements set out in *Ministerial Direction Form and Content of Planning Schemes* which is an administrative change.
163. The newly introduced Schedule 3 '*Moonee Ponds Creek and Lower Yarra River Waterways*' to Clause 44.04 includes land subject to inundation objectives to be achieved, a statement of risk, permit requirements, application requirements and decision guidelines.

164. Clause 44.04 is the appropriate tool within the VPPs to identify and minimise risk from riverine flooding. The overlay triggers the need for a planning permit for buildings and works and for subdivision and referral of applications to the floodplain management authority.
165. Council submits the Amendment as proposed is consistent with the operation of clause 44.04.

SBO

166. The SBO is a control that identifies areas prone to overland flooding.
167. One of the key purposes of this overlay is to set appropriate conditions to address any flood risk to developments.
168. Clause 44.05 is the appropriate tool within the VPPs to identify and minimise risk from overland flows from the urban drainage system. It triggers the need for a planning permit for buildings and works and for subdivision and referral of applications to the floodplain management authority.
169. The new proposed schedules to Clause 44.05 (Schedule 1 ‘*Melbourne Water Main Drains*’, Schedule 2 ‘*Melbourne Water Main Drains - Elizabeth Street, Arden, Macaulay and Moonee Ponds Creek, Fishermans Bend and Southbank catchments*’ and Schedule 3 ‘*Council Drains - Elizabeth Street, Arden, Macaulay and Moonee Ponds Creek, Hobsons Road, Fishermans Bend and Southbank catchments*’) include flood management objectives to be achieved, statement of risk, permit requirements, application requirements and decision guidelines.
170. Council submits the Amendment as proposed is consistent with the operation of clause 44.05.

Clause 71.02

171. Clause 71.02-1 sets out the purpose of the PPF as follows:

The Planning Policy Framework provides a context for spatial planning and decision making by planning and responsible authorities. The Planning Policy Framework is dynamic and will be built upon as planning policy is developed and refined, and changed as the needs of the community change. The Planning Policy Framework seeks to ensure that the objectives of planning in Victoria (as set out in section 4 of the Act) are fostered through appropriate land use and development planning policies and practices that integrate relevant environmental, social and economic factors in the interests of net community benefit and sustainable development.

172. The operation of the PPF is outlined at clause 71.02-2.

173. Clause 71.02-3 requires Council as the planning authority to take into account the PPF when it prepares an amendment to the Scheme. Council has carefully considered the PPF throughout the preparation of the Amendment and submits the Amendment appropriately responds to planning policy, as detailed within this Part A submission.
174. Council has carefully considered the PPF in the preparation of the Amendment and it is Council's submission that the conservation of the land subject to the Amendment recognising its cultural heritage significance will benefit present and future generations.

Planning Practice Note 12: Applying the Flood Provisions in Planning Schemes (PPN12)

175. PPN12 provides guidance about applying the flood provisions in planning schemes including the preparation of policy, identifying land affected by flooding, preparing a local floodplain development plan and the application and operation of the flood provisions, including the preparation of schedules.
176. Preparation of the Amendment was guided by PPN12 in the identification and mapping of flooding extents and in the selection and preparation of suitable flood provisions.
177. In accordance with PPN12, the 100-year ARI (Average Recurrence Interval) Design Flood Event was used as the flood standard in the Amendment. This is the basis for declaring flood levels and flood areas under the Water Act and for setting minimum building floor levels under the *Building Act* 1993.
178. As set out in PPN 12, there are four different types of flood provisions available. The selection by Council and Melbourne Water of the LSIO and SBO as the appropriate tools for the Amendment is based on the type of flooding and the potential level of risk to life and property.
179. PPN12 says:³²

The LSIO applies to mainstream flooding in both rural and urban areas. In general, areas covered by the LSIO have a lower flood risk than UFZ or FO areas.

180. With respect to the SBO, PPN12 states:³³

The SBO applies to stormwater flooding in urban areas only.

³² PPN12, p. 6.

³³ Ibid.

Before 1975, drainage systems were designed to a lower standard than those used today. Often they were designed for a five-year ARI storm capacity, and sometimes for a lesser standard. Usually no provision was made for overland flows, so land is often flooded when the capacity of the underground drainage system is exceeded.

With the redevelopment of existing urban areas and the proposed development of new areas, there will be pressure to develop within overland flow path areas. The purpose of the SBO is to manage development in these areas.

181. Council submits the Amendment is consistent with PPN12.

Identification of the issues raised in submissions

182. The key matters raised in the 43 submissions to the Amendment presently before the Panel are summarised as follows:
- 182.1 the proposed inundation overlays are not strategically justified/modelling underpinning the Amendment is deficient;
 - 182.2 the proposed overlays ought not apply to specific properties/no history of flooding;
 - 182.3 drainage maintenance and improvement issues affect the extent of the proposed overlays;
 - 182.4 impacts on insurance costs and property values;
 - 182.5 notice of the Amendment was deficient;
 - 182.6 the status and proper role of the Good Design Guide;
 - 182.7 the need for transitional provisions;
 - 182.8 specific drafting concerns with the inundation overlays;
 - 182.9 site specific planning and/or building design issues;
 - 182.10 site specific development cost considerations; and
 - 182.11 the Amendment in practice/role between the floodplain manager and the responsible authority.

183. A detailed officer response to all submissions³⁴ was provided in the 2 August 2022 FMC report and Council's response will be expanded upon, as relevant, in Council's Part B submission.

Suggested changes to the Amendment in response to submissions

184. In circumstances where Melbourne Water has played a significant role in the background to and progressing of the Amendment, it is important for the Panel and other parties to be aware of Melbourne Water's position on the exhibited Amendment. We therefore set out Melbourne Water's suggested changes to the exhibited Amendment followed by Council's position on the same.

Melbourne Water

185. Having considered the submissions raised during and after the exhibition period for the Amendment, Melbourne Water has reviewed the current proposed controls and seeks the Panel's view on revisions to the drafting as provided in Attachment 3.
186. Melbourne Water's version of the controls respond to matters raised in relation to form and content. The revisions to the proposed controls are consistent with the DELWP Guidelines for Development in Flood Affected Areas, and in particular seek to revise the Objectives, Application Requirements and Decision Guidelines of the LSIO3, SBO2 and SBO3.
187. With respect to the objectives, Melbourne Water has also sought to amend the objectives of the LSIO3, SBO2 and SBO3 to be more consistent with the head provisions under the VPPS and the purpose of both overlays. The overlays are directed to identifying land which is at risk of flooding. The objectives of the overlay have been refined as follows:
- *To identify land in areas that may be inundated by the combined effects of the 1% Annual Exceedance Probability (AEP) flood event incorporating an 18.5% increase in rainfall intensity due to climate change by the year 2100.*
 - *To ensure that the development prioritises the protection of human life, including emergency services personnel.*
 - *To ensure development can be permitted where the risk to life and property from flooding can be reduced to an acceptable level.*

³⁴ Except for submission #44 which was received after the 2 August 2022 FMC meeting.

- *To ensure development does not increase flood levels and/or velocities to the detriment of surrounding properties.*
- *To ensure that any new development is suitably designed to be compatible with the identified flood hazard and local drainage characteristic*

188. Melbourne Water’s proposed revisions also provide for the removal of the decision guidelines from the overlays which are directed to the assessment of urban design considerations, on the basis that the purpose of the overlays (both of which are located within the suite of planning provisions which relate to the environment and not built form) are directed to addressing flood risk and not urban design matters. The proposed removal of the Good Design Guide from the decision guidelines is consistent with Melbourne Water’s previous recommendations to Council and DELWP.

Council

189. Council proposes no substantive changes to the exhibited version of the Amendment in response to submissions and opposes the suggested changes to the proposed planning controls sought to be advanced at Panel by Melbourne Water.
190. As documented in the 2 August 2022 FMC, Council agrees that reference in the proposed overlay controls to ‘Nominated Flood Protection Level (NFPL)’ ought to be replaced with ‘Nominal Flood Protection Level (NFPL)’. Given the very minor nature of this suggested change, updated provisions have not been marked up to reflect the proposed change.
191. In Council’s submission, the Amendment is underpinned by a body of detailed and rigorous technical and strategic work, and should be accepted by the Panel.
192. The Amendment is also supported by the Good Design Guide, a well-crafted, visually effective guideline document that ought to play a critical role (together with the proposed overlays themselves) in ensuring integrated planning outcomes are achieved as is supported by the evidence of Mr Campbell and Mr Barnes.

Conclusion

193. This completes the Part A submission for the Council and Melbourne Water.

Marita Foley

Nicola Collingwood

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Instructed by Allens

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Attachment 1 – Chronology

2018	WORK COMMENCED ON API 8.23 WORK IN PARTNERSHIP WITH MELBOURNE WATER TO UPDATE FLOOD KNOWLEDGE AND MAPPING TO INFORM AMENDMENTS TO THE MELBOURNE PLANNING SCHEME
FEBRUARY 2018	Council finalises Flood Management Plan for City of Melbourne and Melbourne Water
DECEMBER 2018	Council endorses Climate Change Mitigation Strategy to 2050, Melbourne Together for 1.5 Degrees C
2018-2019	Planning Scheme Amendment Implementation Plan prepared by Melbourne Water and City of Melbourne
16 AUGUST 2019	Council's Future Melbourne Committee declares a climate and biodiversity emergency.
APRIL 2020	Southbank catchment – Model completed
APRIL 2020	Elizabeth Street catchment – Model completed
JUNE 2020	Hobson Road catchment – Model completed
AUGUST 2020	Arden and Macaulay and Moonee Ponds Creek catchment – Model completed
SEPTEMBER 2020	Lower Yarra River catchment – Model completed
NOVEMBER 2020	Fishermans Bend catchment – Model completed
21 FEBRUARY - 6 MARCH 2020	Two week design workshop to inform the completion of the Good Design Guide hosted by City of Melbourne. Participants including representatives from Melbourne Water, City of Port Phillip, DJPR, VPA, DELWP, Office of Victorian Government Architect (OVGA).
17 SEPTEMBER 2020	Good Design Guide presented to the Disability Advisory Committee
7 OCTOBER 2020	Good Design Guide presented to the Office of Victorian Government Architect (OVGA) resulting in an update to the Good Design Guide.
27 OCTOBER 2020	Good Design Guide presented to the VPA and Development Victoria.
29 JUNE 2021	The Amendment and Good Design Guide are presented to the Urban Development Institute of Australia (UDIA).
5 JULY 2021	The Amendment is presented to the City of Port Phillip.
13 JULY 2021	The Amendment is presented to the Insurance Council of Australia.
19 JULY 2021	Council's Building Surveyor declares use of updated flood information
21 JULY 2021	City of Port Phillip adopts the Good Design Guide for Buildings in Flood Affected Areas of Fishermans Bend, Arden and Macaulay, developed by the City of Port Phillip, Melbourne Water and the City of Melbourne.
22 JULY 2021	The Amendment and Good Design Guide are presented to the Property Council of Victoria.
27 JULY 2021	The Amendment and Good Design Guide are presented to the DJPR.
3 AUGUST 2021	Future Melbourne Committee resolves (among other things) to: <ul style="list-style-type: none"> • endorse the Good Design Guide. • seek authorisation from the Minister for Planning to prepare and exhibit Amendment C384.
4 AUGUST 2021	Council seeks authorisation to prepare and exhibit Amendment C384.
18 AUGUST 2021	Council is granted authorisation to prepare and exhibit Amendment C394 from the Minister for Planning.

24 AUGUST 2021	Council's Statutory Planning department commences advising permit applicants of Amendment C384 and new flood modelling affecting some areas in the municipality.
14 OCTOBER – 29 NOVEMBER 2021	Amendment C384 is formally exhibited. Forty three (43) submissions are received to the Amendment.
2 AUGUST 2022	<p>Future Melbourne Committee resolves (among other things) to:</p> <ul style="list-style-type: none"> • Note all submissions received to the Amendment; • Refer all submissions to an Independent Panel in accordance with Section 23 of the Planning & Environment Act 1987.
9 AUGUST 2022	Council formally requested a Panel to be appointed.
16 AUGUST 2022	Minister for Planning appoints a three person Panel to hear and consider submissions.
29 AUGUST 2022	Council advises Panel that a late submission (#44) is accepted and referred to the Panel and submission #10 is withdrawn.
31 AUGUST 2022	Directions hearing for the Amendment is held.

Attachment 2 – Full extent of Proposed Mapping Changes

1. In terms of mapping, the Amendment proposes the following changes:³⁵

1.1 Map no. 1SBO

- 1.1.1 Amends map no. 1SBO to delete the SBO from the corner of Langs Road and Epsom Road, Flemington.
- 1.1.2 Amends map no. 1SBO to introduce the SBO1 to corner of Langs Road and Epsom Road, Flemington. The existing SBO maps require deletion and identical maps have been prepared which are named SBO1 to comply with the new naming convention of the Schedule which is a form and content change.

1.2 Map no. 2SBO and 4SBO

- 1.2.1 Amends map no. 2SBO and 4SBO to delete the SBO from the Arden, Macaulay and Moonee Ponds Creek catchment and Royal Park Main Drain.
- 1.2.2 Amends map no. 2SBO and 4SBO to introduce the SBO1 to the Arden, Macaulay and Moonee Ponds Creek catchment and Royal Park Main Drain. The existing SBO maps require deletion and identical maps have been prepared which are named SBO1 to comply with the new naming convention of the Schedule which is a form and content change.
- 1.2.3 Amends map no. 4SBO to introduce a new SBO2 (Melbourne Water Main Drains - Elizabeth Street, Arden, Macaulay and Moonee Ponds Creek, Fishermans Bend and Southbank catchments) to the Arden, Macaulay and Moonee Ponds Creek catchment and a new SBO3 (Council Drains - Elizabeth Street, Arden, Macaulay and Moonee Ponds Creek, Hobsons Road, Fishermans Bend and Southbank catchments) to the Arden, Macaulay and Moonee Ponds Creek and Hobsons Road catchments.

1.3 Map no. 5SBO

- 1.3.1 Amends map no. 5SBO to delete the SBO from the Arden, Macaulay and Moonee Ponds Creek catchment.
- 1.3.2 Amends map no. 5SBO to introduce the SBO1 to the Alexandra Parade Main Drain catchment to the area generally bound by Princes Street, Station Street, Kay Street and Nicholson Street, Carlton. The existing SBO maps require deletion and identical maps have been prepared which are named SBO1 to comply with the new naming convention of the Schedule which is a form and content change.
- 1.3.3 Amends map no. 5SBO introduce a new SBO2 (Melbourne Water Main Drains - Elizabeth Street, Arden, Macaulay and Moonee Ponds Creek,

³⁵ Amendment C394melb, *Explanatory Report*, at page 3 onwards.

Fishermans Bend and Southbank catchments) to the Arden, Macaulay and Moonee Ponds Creek catchment and a new SBO3 (Council Drains - Elizabeth Street, Arden, Macaulay and Moonee Ponds Creek, Hobsons Road, Fishermans Bend and Southbank catchments) to the Arden, Macaulay and Moonee Ponds Creek and Elizabeth Street catchments.

1.4 New map no. 6SBO

- 1.4.1 Inserts a new map no. 6SBO to introduce a new SBO3 (Council Drains - Elizabeth Street, Arden Macaulay and Moonee Ponds Creek, Hobsons Road, Fishermans Bend and Southbank catchments) to the Fishermans Bend catchment.

1.5 Map no. 7SBO

- 1.5.1 Amends map no. 7SBO to delete the SBO from the Fishermans Bend catchment.
- 1.5.2 Amends map no. 7SBO to introduce a new SBO3 (Council Drains - Elizabeth Street, Arden, Macaulay and Moonee Ponds Creek, Hobsons Road, Fishermans Bend and Southbank catchments) to the Arden, Macaulay and Moonee Ponds Creek and Fishermans Bend catchments.

1.6 Map no. 8SBO

- 1.6.1 Amends map no. 8SBO to delete the SBO from the Elizabeth Street catchment.
- 1.6.2 Amends map no. 8SBO to introduce a new SBO2 (Melbourne Water Main Drains - Elizabeth Street, Arden, Macaulay and Moonee Ponds Creek, Fishermans Bend and Southbank catchments) to the Elizabeth Street, Fishermans Bend and Southbank catchments and a new SBO3 (Council Drains - Elizabeth Street, Arden, Macaulay and Moonee Ponds Creek, Hobsons Road, Fishermans Bend and Southbank catchments) to the Elizabeth Street, Arden, Macaulay and Moonee Ponds Creek and Southbank catchments.

1.7 Map no. 9SBO

- 1.7.1 Amends map no. 9SBO to delete the SBO from the Yarra Park Main Drain as it has been replaced by the LSIO3 and therefore is a redundant control.

1.8 New map no. 10SBO

- 1.8.1 Inserts a new map no. 10SBO to introduce a new SBO3 (Council Drains - Elizabeth Street, Arden Macaulay and Moonee Ponds Creek, Hobsons Road, Fishermans Bend and Southbank catchments) to the Fishermans Bend catchment.

1.9 New map no. 11SBO

- 1.9.1 Inserts a new map no. 11SBO to introduce a new SBO3 (Council Drains - Elizabeth Street, Arden Macaulay and Moonee Ponds Creek, Hobsons Road, Fishermans Bend and Southbank catchments) to the Southbank catchment.
- 1.10 Map no. 4LSIO
 - 1.10.1 Amends map no. 4LSIO to delete the LSIO1 from the Arden, Macaulay and Moonee Ponds Creek catchment within the City of Melbourne municipal boundary. The LSIO1 which is generally along the Maribyrnong River, Childers Street and Dynon Road and the LSIO2 (Flemington Racecourse) in map nos. 3LSIO, 4LSIO and 6LSIO are not proposed to be amended as the modelling for these catchments has not been updated.
- 1.11 Map no. 7LSIO
 - 1.11.1 Amends map no. 7LSIO to delete the LSIO1 from the Arden, Macaulay and Moonee Ponds Creek catchment.
- 1.12 Map nos. 8LSIO, 9LSIO and 11LSIO
 - 1.12.1 Amends map nos. 8LSIO, 9LSIO & 11LSIO to delete the LSIO1.
- 1.13 Map nos. 4LSIO, 7LSIO, 8LSIO, 9LSIO & 11LSIO
 - 1.13.1 Amends map nos. 4LSIO, 7LSIO, 8LSIO, 9LSIO & 11LSIO to introduce a new LSIO3 (Moonee Ponds Creek and Lower Yarra River Waterways).