Planning and Environment Act 1987

# MELBOURNE PLANNING SCHEME

# AMENDMENT C376

# EXPLANATORY REPORT

## Who is the planning authority?

This amendment has been prepared by the Melbourne City Council, the planning authority for this amendment.

## Land affected by the Amendment

The amendment affects all land in the municipality.

## What the Amendment does

This amendment implements sustainability and green infrastructure policy into the Melbourne Planning Scheme, and new mandatory and discretionary sustainable building design standards and requirements.

Specifically, the amendment proposes to:

* + - * Amend the Municipal Planning Strategy (MPS) to ensure alignment between the MPS and the purpose of the amendment, by making changes to Clauses: 02.03-2 Environment and landscape values; 02.03-4 Built environment and heritage; and 02.03-7 Transport.
* Amend the Planning Policy Framework (PPF) to ensure alignment between the PPF and the purpose of the amendment, by making changes to Clauses: 15.01-2L Sustainable development and 19.03-3L Stormwater management (Water Sensitive Urban Design).
* Insert Schedule 73 to Clause 43.02 (Design and Development Overlay – Sustainable Building Design) to include provisions for:
  + environmentally sustainable design;
  + energy efficiency and renewables;
  + waste and resource recovery;
  + urban heat island response;
  + urban ecology; and
  + integrated water management.
* Amend Schedules 1, 2, 3, 4, 5 and 7 to Clause 37.04 (Capital City Zone) and Schedules 1, 2, 3, 4, 5 and 6 to Clause 37.05 (Docklands Zone) to include provisions for:
  + bicycle, motorcycle and car share parking;
  + electric vehicle infrastructure;
  + the design of car parking facilities; and
  + the retention of car parking spaces as common property.
* Amend the Schedule to Clause 72.03 (What does this Planning Scheme consist of?) to include reference to the new map sheets for Schedule 73 to Clause 43.02 (Design and Development Overlay – Sustainable Building Design).
* Amend the Schedule to Clause 72.04 (Incorporated Documents) to include the Guidelines for Waste Management Plans, (City of Melbourne, June 2021).
* Amend the Schedule to Clause 72.08 Background Documents to include relevant background documents that support this amendment.

## Strategic assessment of the amendment

### Why is the amendment required?

Climate change is happening now.

Melbourne is already dealing with a hotter climate, and our climate in Victoria has already warmed by 1°C. Our city currently averages 11 days greater than 35 degrees. By 2050 we will experience an average 16 days greater than 35 degrees (Department of Environment, Land, Water and Planning, 2019).

Victoria has had longer fire seasons since the mid-1990s and fire days are projected to increase by 42 per cent per year in Melbourne by 2050. The deadly bushfires of 2019-2020 across Australia destroyed more than 10 million hectares (Rumpf, Legge, van Leeuwen, Wintle & Woinarski, 2023), damaging thousands of homes and properties and killing at least 34 people. Professor Dickman estimated one billion animals were killed (University of Sydney, 2020), and many more bats and insects are likely to die as a result of lost habitat and food sources.

By 2050, there will be 20 per cent less spring rainfall. We are also facing far more severe rainfall events, flooding and storm surges. The 2016 thunderstorm asthma events in Melbourne resulted in serious health impacts for thousands and some fatalities. The Victorian Government estimates that by 2050 sea levels will rise by 24 cm on 1990s levels (DELWP, 2019).

Temperature increases mean we could lose 35 per cent of the city’s trees in the next 20 years (Kendal & Baumann, 2016). Elms and some species of indigenous eucalypts won’t survive. Melbourne is home to many threatened species including the powerful owl, grey-headed flying fox and the swift parrot.

Climate change could cost our local economy $12.6 billion by 2050 (City of Melbourne, 2018), impacting agriculture, tourism, insurance and finance.

The Intergovernmental Panel on Climate Change (IPCC) 2022 report found that even more urgent action to adapt to climate change and to cut greenhouse gas emissions is required - including by amending planning regulations to stop dangerous development. The IPCC also found that if emissions remain high, deaths caused by climate change related heat are estimated at 600 people each year in Melbourne, Sydney and Brisbane between 2031 and 2080, totalling 30,000 people over 50 years.

On 16 July 2019, the City of Melbourne declared a climate and biodiversity emergency, recognising that a temperature rise above 1.5°C would cause major and irreversible damage to the City and its ecosystem. On 18 February 2020, the City of Melbourne endorsed the acceleration of the ten priority actions to respond to the climate and biodiversity emergency including mandating greening and zero emission buildings through the Planning Scheme.

Currently the Melbourne Planning Scheme encourages sustainable development at clause 2.03-4 of the Scheme. While sustainability outcomes are being negotiated through the development application process, the current planning framework requires updating to achieve the baseline needed for Council to reach its target of zero net emissions by 2040, to improve biodiversity, to reduce the urban heat island effect, to manage water effectively, and to reduce the amount of waste going to landfill.

The amendment is required to introduce new sustainable building design standards into the Planning Scheme and will apply to new buildings as well as substantial alterations and additions that meet a specified size threshold. The standards address environmentally sustainable design, energy efficiency and renewables, waste and resource recovery, urban heat island response, urban ecology, integrated water management and for the Central City and Docklands, sustainable transport. The standards draw on established and industry accepted rating tools (Green Star, NatHERS, NABERs and BESS) as well as the Green Factor Tool which has been developed by the City of Melbourne.

The amendment will introduce minimum mandatory requirements for certain standards and preferred requirements. The preferred requirements provide a greater contribution towards Council’s sustainability, greening and emissions goals.

Sustainable building design requires current generations to choose how they meet their needs without compromising the ability of future generations to be able to do the same. The City of Melbourne owns and controls less than one third of the municipality’s land area, with the majority of the land in private ownership or other government ownership.

In terms of built form, City of Melbourne owns less than 2 per cent of the buildings in the municipality. Private development is therefore a critical contributor to any overarching municipal goals or targets. While the City, in partnership with other public entities, can drive change on public land, the planning system remains a key tool in facilitating changed practices on private land for public benefit.

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

The amendment implements the objectives in section 4 of the *Planning and Environment Act 1987* (the Act), in particular:

*(a) to provide for the fair, orderly, economic and sustainable use, and development of land;*

*(b) to provide for the protection of natural and man-made resources and the maintenance of ecological processes and genetic diversity;*

*(c) to secure a pleasant, efficient and safe working, living and recreational environment for all Victorians and visitors to Victoria;*

*(f) to facilitate development in accordance with the objectives set out in paragraphs (a), (b), (c), (d) and (e); and*

*(g) to balance the present and future interests of all Victorians.*

The amendment implements these objectives by introducing standards and requirements for sustainable building design into the Melbourne Planning Scheme.

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

*Environmental Effects*

The amendment is a direct and necessary response to the declared climate and biodiversity emergency and Council’s commitment to zero carbon emissions by 2040, which is broadly in line with global targets ratified through the Paris Agreement to limit global heating to 1.5 degrees.

The City of Melbourne’s *Climate Change Mitigation Strategy to 2050* (2018) details how Greater Melbourne’s emissions per capita in 2017 of 13.89 tonnes per person are very high by international comparison. In contrast, Melbourne’s fellow members of C40, a global network of cities collaborating to reduce emissions, averaged 5.1 tonnes per person in 2015. The emissions per capita of the City of Melbourne are even greater at 31 tonnes per person – one of the highest in the world. The City of Melbourne performs particularly poorly on a per capita basis because of the high number and large size of its buildings. As a result, buildings account for approximately two-thirds of municipal emissions. To reduce emissions in line with the goals of both the City of Melbourne and the Victorian Government, efforts in the City of Melbourne need to focus particularly on designing and constructing buildings to be more sustainable. As noted above, the vast majority of these buildings are in private ownership.

The amendment will have positive environmental effects in promoting energy efficiency and renewables, waste limitation and resource recovery, reducing the urban heat island effect, enhancement of urban ecology, water efficiency, stormwater management and use of sustainable transport.

*Social Effects*

Ensuring that the planning system delivers climate responsive policy is critical to the City of Melbourne’s social future. The Green Building Council Australia (GBCA) has received overwhelmingly positive feedback on the occupant health and wellbeing benefits of Green Star certified buildings (*Green Star* *Annual Report 2019, Green Building Council Australia*).

*Economic Effects*

Ensuring that the planning system delivers climate responsive policy is critical to the City of Melbourne’s economic future. Green Star has received overwhelmingly positive feedback on participation and certification through its program. Members have advised the GBCA of their ability to create a better performing building with lower operating costs (energy costs and total lifecycle costs). In 2019, 60% of members estimated the payback period for Green Star is 5 years or less (GBCA, 2019).

Potential economic benefits of mitigating and adapting to climate change include:

* Reduced cost of responding to climate change.
* Reduced monetary costs associated with flooding.
* Reduced cost to the community due to hot weather.

Delaying action leaves the risk of locking in emissions intensive buildings rather than transitioning the City to energy efficient designs and operating models through the course of ordinary development.

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

The amendment affects land within inner metropolitan Melbourne which is not in a designated bushfire prone area.

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

The amendment is consistent with the *Ministerial Direction on the Form and Content of Planning Schemes* as identified at Section 7 (5) of the *Planning and Environment Act 1987*.

The amendment supports *Ministerial Direction No.9 – Metropolitan Strategy* which requires a Planning Authority to have regard to the Metropolitan Strategy (*Plan Melbourne 2017-2050*). The amendment is consistent with the following directions of *Plan Melbourne*:

* Direction 5.2 Create neighbourhoods that support safe communities and healthy lifestyles
* Direction 5.4 Deliver local parks and green neighbourhoods in collaboration with communities
* Direction 6.1 Transition to a low-carbon city to enable Victoria to achieve its target of zero greenhouse gas emissions by 2050
* Direction 6.2 Reduce the likelihood and consequences of natural hazard events and adapt to climate change
* Direction 6.3 Integrate urban development and water cycle management to support a resilient and liveable city
* Direction 6.4 Make Melbourne cooler and greener
* Direction 6.5 Protect and restore natural habitats
* Direction 6.6 Improve air quality and reduce the impact of excessive noise
* Direction 6.7 Reduce waste and improve waste management and resource recovery

The amendment is also consistent with Minister’s Direction No. 11 – Strategic Assessment of amendments.

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

The amendment supports and implements the purpose of the planning scheme and the following clauses of the Planning Policy Framework (PPF):

* 0.1 Purpose of this Planning Scheme:
  + To support responses to climate change
* 11 Settlement:
  + Planning is to recognise the need for, and as far as practicable contribute towards:
    - A high standard of environmental sustainability, urban design and amenity
    - Climate change adaptation and mitigation
    - Protecting, conserving and improving biodiversity, waterways and other natural resources
    - Waste minimisation and resource recovery
* 11.01-1S Victoria – Settlement:
  + To facilitate the sustainable growth and development of Victoria and deliver choice and opportunity for all Victorians through a network of settlements
  + Deliver networks of high-quality integrated settlements that have a strong identity and sense of place, are prosperous and are sustainable by:
    - Integrating the management of water resources into the urban environment in a way that supports water security, public health, environment and amenity outcomes.
    - Minimising exposure to natural hazards, including increased risks due to climate change.
    - Contributing to net zero greenhouse gas emissions through renewable energy infrastructure and energy efficient urban layout and urban design.
* Encourage a form and density of settlements that supports healthy, active and sustainable transport.
* Support metropolitan and regional climate changes adaptation and mitigation measures
* 12.01-1S Protection of biodiversity:
  + To protect and enhance Victoria’s biodiversity.
* 13.01-1S Natural hazards and climate change:
  + To minimise the impacts of natural hazards and adapt to the impacts of climate change through risk-based planning.
  + Respond to the risks associated with climate change in planning and management decisions
  + Ensure planning controls allow for risk mitigation and climate change adaptation strategies to be implemented
* 13.03-1S Floodplain management:
  + To assist in the protection of Life, property and community infrastructure from flood hazard, including coastal inundation, riverine and overland flows.
* 13.06-1S Air quality management:
  + To assist in the protection and improvement of air quality.
  + Ensure that land use planning and transport infrastructure provision contribute to improved air quality by: Providing infrastructure for walking, cycling and public transport.
* 15 Built Environment and Heritage:
  + Planning should promote development that is environmentally sustainable and minimise detrimental impacts on the built and natural environment.
  + Planning should facilitate development that:
    - Is adapted and resilient to climate related hazards.
    - Supports the transition to net zero greenhouse gas emissions.
    - Minimises waste generation and supports resource recovery.
    - Conserves potable water.
    - Supports the use of, and access to, low emission forms of transport.
    - Protects and enhances natural values.
    - Minimises off-site detrimental impacts on people and the environment
* 15.01-1S Urban design:
  + To create urban environments that are safe, functional and provide good quality environments with a sense of place and cultural identity.
* 15.01-1R Urban design – Metropolitan Melbourne:
  + To create a distinctive and liveable city with quality design and amenity.
* 15.01-2S Building design:
  + To achieve building design and siting outcomes that contribute positively to the local context enhance the public realm and support environmentally sustainable development.
  + Improve the energy performance of buildings through siting and design measures that encourage:
    - Passive design responses that minimise the need for heating, cooling and lighting.
    - On-site renewable energy generation and storage technology.
    - Use of low embodied energy materials.
  + Ensure the layout and design of development supports resource recovery, including separation, storage and collection of waste, mixed recycling, glass, organics and e-waste.
  + Encourage use of recycled and reusable materials in building construction and undertake adaptive reuse of buildings, where practical.
  + Encourage water efficiency and the use of rainwater, storm water and recycled water.
  + Minimise stormwater discharge through site layout and landscaping measures that support on-site infiltration and stormwater reuse.
  + Ensure development considers and responds to transport movement networks and provides safe access and egress for pedestrians, cyclists and vehicles.
  + Encourage development to retain existing vegetation.
  + Ensure development provides landscaping that responds to its site context, enhances the built form, creates safe and attractive spaces and supports cooling and greening of urban areas.
* 15.01-4S Healthy neighbourhoods:
  + To achieve neighbourhoods that foster healthy and active living and community wellbeing.
* 18 Transport:
  + Planning should ensure a safe, integrated and sustainable transport system that:
    - Actively contributes to environmental sustainability.
    - Supports health and wellbeing
* 18.01-1L Land use and transport planning:
  + Support development that encourages other transport modes and discourages the use of private motor vehicles.
  + Support off street parking for small and micro cars, motor scooters and motorbikes.
  + Encourage re-charging facilities powered by renewable sources of energy for electric powered vehicles.
  + Encourage the co-location and sharing of car parking facilities.
* 18.01-3S Sustainable and safe transport:
  + To facilitate and environmentally sustainable transport system that is safe and supports health and wellbeing.
  + Plan and develop the transport system to:
    - Prepare for and adapt to climate change impacts
    - Protect, conserve and improve the natural environment by supporting forms of transport, energy use and transport technologies that have the least environmental impact.
    - Avoid, minimise and offset harm to the environment by:
      * Protecting biodiversity.
      * Reducing transport-related greenhouse gas emissions.
* Support forms of transport and energy use that have the greatest benefit for, and least negative impact on, health and wellbeing.
* Design development to promote walking, cycling and the use of public transport, in that order, and minimise car dependency.
* 18.02-2S Cycling:
  + To facilitate an efficient and safe bicycle network and increase the proportion of trips made by cycling
  + Support increased cycling by providing:
    - Cycling routes and cycling infrastructure early in new developments and in all major transport projects.
    - Cycle parking and related end of trip facilities to meet demand at education, recreation, transport, shopping, commercial, public transport interchanges and community facilities, significant trip generating developments and other major attractions.
* 19.01-2S Renewable energy:
  + To support the provision and use of renewable energy in a manner that ensures appropriate siting and design considerations are met.
* 19.03-3S Integrated water management:
  + To sustainably manage water supply and demand, water resources, wastewater, drainage and stormwater through an integrated water management approach.
* 19.03-5S Waste and resource recovery:
  + To reduce waste and maximise resource recovery, to reduce reliance on landfills and minimise environmental, amenity and public health impacts.

Encourage development that facilitate sustainable waste and resource recovery, including facilities for Victoria’s container deposit scheme

**How does the amendment support or implement the Municipal Planning Strategy?**

The amendment proposes to update the existing Clauses: 02.03-2 *Environmental and landscape values – Biodiversity and waterways*; 02.03-4 *Built environment and heritage – Sustainable Development*; and 02.03-7 *Transport,* in order to ensure that all development in the municipality has consideration for sustainable development, water sensitive urban design and sustainable transport.

The amendment supports and implements the following existing clauses of the Municipal Planning Strategy (MPS):

* 02.03-3 Environmental risks and amenity – Climate change:
  + Encourage development that is resilient to heatwaves, water shortages, extreme storm events and sea level rise.
* 02.03-8 Infrastructure – Integrated water management:
  + Encourage stormwater management, including water sensitive urban design, to minimise the impact of development on waterways.

### Does the Amendment make proper use of the Victoria Planning Provisions?

The amendment makes proper use of the Victoria Planning Provisions (VPP) by amending the Capital City Zone and Docklands Zone schedules to introduce sustainable transport requirements, and updating the relevant local policy provisions to ensure alignment between the Municipal Planning Strategy, Planning Policy Framework and the purpose of the Amendment.

The amendment applies a new schedule to the Design and Development Overlay to require high quality environmentally sustainable buildings across the City of Melbourne primarily because such a schedule is the best mechanism of the VPP to enable the application of municipal-wide mandatory provisions.

### How does the Amendment address the views of any relevant agency?

The views of relevant agencies will be sought during the public exhibition of the amendment.

### Does the Amendment address relevant requirements of the Transport Integration Act 2010?

The City of Melbourne is an interface body under the Transport Integration Act 2010. It is required to have regard to transport system objectives and decision-making principles when making decisions that have a significant impact on the transport system.

The amendment introduces sustainable transport provisions into several Capital City Zone and Docklands Zone schedules to require: bicycle, motorcycle and car share parking; electric vehicle infrastructure; and provisions relating to the design of car parking facilities and the retention of car parking spaces as common property

The design and provision of transport related infrastructure within individual buildings will create significant opportunities for sustainable transport choices.

## Resource and administrative costs

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

## The amendment may contribute to a minor increase in the number of planning permit applications on an annual basis. This increase can be accommodated within the existing resources.

## Where you may inspect this Amendment

The amendment can be inspected free of charge at the City of Melbourne website at <http://www.participate.melbourne.vic.gov.au/amendment-c376>.

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

City of Melbourne

Customer Service Counter, Ground Floor

Melbourne Town Hall Administration Building

120 Swanston Street

MELBOURNE VIC 3000

The amendment can also be inspected free of charge at the Department of Transport and Planning website at [www.planning.vic.gov.au/public-inspection](http://www.planning.vic.gov.au/public-inspection) or by contacting 1800 789 386 to arrange a time to view the amendment documentation.

## Submissions

Any person who may be affected by the amendment may make a submission to the planning authority. Submissions about the amendment must be received by **Monday 17 April 2023**.

A submission must be written and lodged via one of the following:

* online at http://www.participate.melbourne.vic.gov.au/amendment-c376
* by email to: [planningpolicy@melbourne.vic.gov.au](mailto:planningpolicy@melbourne.vic.gov.au)
* by mail to

Manager Planning Policy

City of Melbourne

GPO Box 1603

Melbourne VIC 3001

## Panel hearing dates

In accordance with clause 4(2) of Ministerial Direction No.15 the following planning panel or (if applicable) Ministerial Standing Advisory Committee hearing dates have been set for this amendment:

* Directions hearing:the week starting the 2 October 2023
* Hearing: the week starting the 13 November 2023