

MORNINGTON PENINSULA PLANNING SCHEME

AMENDMENT C246MORN

EXPLANATORY REPORT

Who is the planning authority?

This amendment has been prepared by the Mornington Peninsula Shire Council, which is the planning authority for this amendment.

The amendment has been made at the request of Mornington Peninsula Shire Council.

Land affected by the amendment

The amendment applies to all land in the municipality of Mornington Peninsula Shire Council.

What the amendment does

The amendment introduces a new Particular Provision relating to Environmentally Sustainable Development (ESD) into the planning scheme. The Particular Provision contains ESD Objectives and Standards which implement measures that facilitate best practice ESD and support zero carbon development outcomes.

The ESD Objectives and Standards address:

- Operational Energy (energy efficiency, performance and greenhouse gas emission reduction)
- Embodied Carbon (greenhouse gas emission reduction and resource efficiency)
- Sustainable Transport (electric vehicles and bicycles)
- Integrated Water management (water efficiency and integration)
- Green infrastructure (lot scale vegetation and urban ecology)
- Climate resilience (climate change adaptation, urban heat mitigation)
- Waste & Resource Recovery (recycling and waste management)

The amendment includes the following changes to the planning scheme:

| | Brief description/overview of the proposal | List of the proposed changes to the planning scheme |
|--------|--|---|
| Insert | <ul style="list-style-type: none">• Insert a new Elevated Environmentally Sustainable Development particular provision into the planning scheme containing Objectives and Standards relevant to the delivery of ESD. | <ul style="list-style-type: none">• Amend Clause 53 to insert the new ESD Objectives and Standards. |

Strategic assessment of the amendment

Why is the amendment required?

Function and intent

The amendment introduces ESD planning measures into the planning scheme. The measures notably include a series of Objectives and Standards that are detailed within a stand-alone clause within the Particular Provisions of a council's planning scheme.

No new permit triggers are proposed as part of this amendment. Existing permit triggers provide the basis for a planning permit application that is then assessed against the proposed Objectives and Standards outlined within the Particular Provision.

This includes new development incorporating ESD measures that further enhance energy efficiency and performance, water efficiency and integrated water management, low carbon and sustainable transport, circular economy, materials

and sustainable waste management, urban greening, biodiversity and green infrastructure, and climate resilience and adaptation.

With a development incorporating the ESD measures in order to meet the detailed objectives and standards, a development should also be able to demonstrate and achieve a reduction in overall greenhouse gas emissions, a response to climate resilience and risk minimisation, and a pathway towards achieving zero carbon development exercised via the planning framework.

Existing environmental and sustainability requirements

This amendment improves existing environmental and sustainability requirements within the planning scheme.

The existing requirements are detailed primarily within the Victoria Planning Provisions, directed towards residential development (i.e. ResCode), and the Planning Policy Framework more broadly.

In order to facilitate clearer and more precise development outcomes, the ESD requirements have been articulated within the Victoria Planning Provisions of the planning scheme.

This is to also ensure that all ESD requirements are consolidated and detailed within a specific and tailored area of the planning scheme which supports user familiarity and efficient navigation to the respective requirements.

Net community benefit

The amendment delivers a net community benefit ensuring that planning achieves positive environmental, societal and economic outcomes through:

- Providing direct and indirect community benefits which address climate change mitigation and adaptation through building climate resilience and future proofing future development and housing;
- Reducing greenhouse gas emissions and the management of climate change risk within the built environment system;
- Cost savings by improving climate resilient housing now, rather than retrofitting later at a higher cost;
- Ensuring that 'best practice' policies and expectations continue to be addressed over time, with the 'elevation' of ESD policy requirements that may already exist throughout the scheme;
- Providing greater certainty, consistency and delivery of ESD outcomes and towards net zero carbon development;

This amendment in conjunction with proposed National Construction Code (NCC) 2022 changes supports energy efficiency and the Victorian State government's proposed 7-star energy efficiency rated homes by:

- Maximising the benefits of solar panels;
- Supporting all-electric homes; and
- Facilitating economic, health and climate benefits from ambitious energy efficiency standards.

This amendment delivers outcomes that support and align with Local and State government climate change pledges, the State Climate Change Strategy, and Adaptation Action Plans pursuant to Part 5 of the *Climate Change Act 2017* (Vic). Furthermore, this amendment supports council's obligation under the *Local Government Act 2020* (Vic) and the overarching governance principle to ensure economic, social and environmental sustainability of the municipal district, including mitigation and planning for climate change risks.

These legislative requirements are necessary for council to support and promote net community benefit.

Purpose

This amendment has been prepared and pursued for the following reasons with particular respect to the built environment:

- To support council's endorsed and seriously entertained collection of Environmental, Sustainability and/or Climate Change Strategies, Policies and Action Plans:
 - *Council and Wellbeing Plan 2021-2025*
 - *Climate Emergency Plan – Ensuring Our Future: Our Climate Emergency Response, 2020*

- *Beyond Zero Waste Strategy 2030*
- *Sustainable Transport Strategy 2015-2020*
- To address council's climate emergency declaration including municipal emission reduction targets involving zero carbon commitments and frameworks that address climate risk to minimise private and public liability;
- To enable council, in the performance of its statutory role, to have appropriate and demonstrated regard to economic, social and environmental sustainability of the municipal district, including mitigation and planning for climate change risks pursuant to the overarching governance principles under the *Local Government Act 2020* (Vic);
- To ensure that ESD requirements within the planning system are continually reviewed to align with and articulate best practice industry measures for development to address;
- To assist Victorian government frameworks that require reducing greenhouse gas emissions and preparing for climate change impacts, that result from and affect, the built environment. This acknowledges that, within Australia, the built environment accounts for approximately 20% of the nation's emissions (Australia's Emissions Projections 2018 (Department of the Environment and Energy, 2018)). The Victorian government framework requires that the State address an overarching emissions reduction target of carbon neutrality by 2050;
- To aid the Victorian government's sustainable transport directives which includes the uptake of zero emission vehicles (ZEVs), active transport and supporting infrastructure. This also entails supporting further reforms to make new buildings ZEV-ready and setting a target of 50% of new light vehicle sales to be zero emissions by 2030 (Victoria's Zero Emissions Vehicle Roadmap (Department of Environment, Land, Water and Planning, 2021));
- To promote the Victorian government's circular economy directives that seek to divert waste from landfill and ensure resource recovery and efficiency (Recycling Victoria – A New Economy (Department of Environment, Land, Water and Planning, 2020));
- To complement the Victorian government's framework towards urban greening, cooling and enhancing biodiversity; and
- To further appropriate practices in waste avoidance, reduction, and recycling, the management and treatment of stormwater including integrated water management, and reduce emissions to air from development and associated activities. This includes having regard to the Environmental Reference Standard (ERS), environmental values, beneficial uses and community impacts in support of the General Environmental Duty (GED) and environment protection principles outlined under the *Environment Protection Act 2017* (Vic).

Strategic studies and reports

Several studies were commissioned to inform and support the development of the objectives and standards included within this amendment. A list of the relevant studies and reports and accompanying synopses include:

| Study/ Report | Synopsis |
|--|---|
| Sustainability Planning Scheme Amendment Background Research – Part A: Technical ESD and Development Feasibility (Hip v. Hype Partnership, 2021) | A technical analysis that tests each proposed standard on various development typologies to determine their practical suitability and functionality and indicative capital cost impact. |
| Sustainability Planning Scheme Amendment Background Research – Part B: Planning Advice (Hansen Partnership, 2021) | An urban planning review of the proposed objectives and standards which takes into consideration the technical feasibility and cost-benefit viability studies. Recommendations were also put forward to ensure the standards are fit for planning purposes within the Victorian planning framework. |
| Sustainability Planning Scheme Amendment – Cost-Benefit Analysis (Frontier Economics, 2021) | A cost-benefit analysis of the standards that have been incorporated as part of this amendment. This includes direct costs as well as a preliminary review of direct and indirect economic and societal benefits. |

| Study/ Report | Synopsis |
|--|---|
| Moreland City Council Renewable Energy Standard (Low Impact Development, 2021) | A study conducted into the development of metrics and standards for new development to incorporate minimum amounts of solar photovoltaic systems and relevant design considerations. The metrics and standards have been adopted as a part of this amendment. |
| Moreland City Council Low Emissions and Electric Vehicles Standard (Low Impact Development, 2021) | A study conducted into the development of metrics and standards for new development to incorporate electric vehicle infrastructure and relevant design considerations. The metrics and standards have been adopted as a part of this amendment. |
| The Advisory Committee and Panel Report for Environmentally Efficient Design Local Policies (Planning Panels Victoria, 2014) | <p>The Advisory Committee and Panel report for the original planning scheme amendment that introduced a local ESD Policy within the planning scheme of six councils in Victoria.</p> <p>Since this planning scheme amendment, several councils have used this report to serve as the evidentiary basis to support the introduction of their own local ESD Policy within their planning scheme. A total of 20 councils throughout Victoria have a local ESD Policy within their planning scheme.</p> |
| Greenhouse Alliance Planning and Environment Act Report (Hansen Partnership, 2021) | <p>An independent report commissioned by the Victorian Greenhouse Alliances and CASBE has identified a raft of reform opportunities for Victoria's planning system, to ensure it is aligned with the State's legislated emission reduction targets and supports climate resilient communities. It also identifies opportunities to ensure the delivery of zero-carbon infrastructure, building on Victoria's leadership role on taking action on climate change. The report –Climate Change and Planning in Victoria: Ensuring Victoria's planning system effectively tackles climate change-recommends a suite of reforms that:</p> <ul style="list-style-type: none"> - Recognise the fundamental role the Planning Scheme and Planning and Environment Act 1987 play in guiding decision-makers, and their weight as statutory law instruments - Ensure that the scheme and its application of controls is consistent with the scientific evidence base on climate change and best practice - Focus on changes that will assist in getting the fundamentals of future development areas right |

Appropriate jurisdiction

The appropriateness of addressing ESD considerations within the planning framework have been well established.

Six councils originally pursued a planning scheme amendment to incorporate a local ESD Policy within each council's planning scheme. The Advisory Committee and Panel Report for Environmentally Efficient Design Local Policies (Planning Panels Victoria, 2014) resolved that the planning framework, as distinct from the building framework, is suitable and equipped to require that development incorporate ESD measures through the planning permit application process. The original six local ESD Policies were gazetted in 2015.

Since the gazettal of the original six local ESD Policies, a total of 20 councils throughout Victoria have a local ESD Policy within their respective planning scheme.

Additional planning scheme amendments have also been successfully pursued that require the integration and adoption of ESD outcomes within development proposals. For example, Amendment C190more Better Outcomes for Two Dwellings on a Lot whereby ESD requirements serve as a part of the City of Moreland's VicSmart application process, and Amendment GC81 whereby detailed, precinct wide, ESD measures are required for development within Fishermans Bend, located within the City of Port Phillip and the City of Melbourne.

In addition, the Victoria Planning Provisions have also introduced heightened ESD measures within the planning framework beyond that of the standard ResCode requirements. This is primarily demonstrated through the introduction of the Better Apartments Design Standards (BADS) in 2017. Performance measures detailed within BADS, in relation to energy efficiency and cooling load requirements for apartments, similarly cover thermal performance requirements detailed within the NCC that is administered under the building framework.

With the planning framework serving as a precursor to the building framework, the Objectives and Standards outlined within this amendment continue to affirm ESD's fundamental role ensuring resilient future development. ESD considerations should be embedded as a part of the initial design process within the planning framework, prior to undertaking detailed design as occurs within the building phase. This is to ensure ESD benefits can be maximised by embedding holistic design considerations early in the design process rather than retrofitting ESD at a later stage in the development process. The benefits of this approach include:

- This process aims to limit increased costs by having clear ESD expectations for the development at the commencement of the development process and as a part of planning process.
- ESD outcomes are optimised, as ESD measures are considered alongside development site constraints and limitations are carefully considered and integrated into the initial design, avoiding costly retrofits at a later stage.

Whilst the NCC is tailored towards establishing the minimum energy efficiency requirements for a development to address, the ESD requirements detailed within the planning framework and as a part of this amendment include much broader coverage of ESD. The amendment has been carefully drafted to continue to complement the NCC through higher order planning framework requirements rather than conflict with the building framework for complementary aspects. This enables the building framework to continue to administer detailed design elements, building services and construction techniques.

In addition to energy efficiency, the ESD measures within the planning framework and part of this amendment address thematic categories such as integrated water management, indoor environmental quality, sustainable transport, green infrastructure, waste and resource recovery, climate resilience, embodied carbon. These thematic categories are not covered in detail within the NCC or building instruments. The planning framework has been recognised as the more suitable and established jurisdiction that has successfully been endorsed by authorities as the appropriate arena to 'cover the field' with respect to holistically address ESD requirements.

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

The amendment implements the objectives of planning in Victoria given that ESD fundamentally addresses key foundational principles of sustainability which underpin the objectives of planning. ESD requires consideration of the triple-bottom-line – environmental, societal and economic impacts, as well as, balancing the needs of the present with that of future generations; particularly when determining environmental impact by applying the precautionary principle.

The delivery of more robust ESD outcomes through the planning scheme strongly align with the objectives of planning in Victoria which include:

- To provide for the development of land with fair, orderly, economic and sustainability considerations (see Section 4(1)(a) of the *Planning and Environment Act 1987* (Vic) ('*P&E Act*'). This includes considering the equity of planning decisions, economic and societal functions as well as matters regarding the inherent sustainability of development. It is noted that the facilitation of development in Victoria is only supported where in alignment with specified objectives.
- To provide for the protection of natural and man-made resources and the maintenance of ecological processes and genetic diversity, noting the current threats to these resources and processes posed by climate change and the contribution that improved ESD outcomes can make to the protection of resources and ecological processes (see Section 4(1)(b) *P&E Act*).
- To secure a pleasant, efficient and safe working, living and recreational environment for all Victorians and visitors to Victoria, noting specific consideration of climate change adaptation and indoor environmental quality through this amendment (see Section 4(1)(c) *P&E Act*).
- Seeking the delivery of affordable housing, noting the application of affordability in its broadest sense, encompassing more than just the purchase price of an individual property, and including not only homeowners but also renters (see Section 4(1)(fa) *P&E Act*).
- Balancing the present and future interests of all Victorians, particularly regarding environmental impact and minimising greenhouse gas emissions, as well as, addressing climate resilience and the adaptability of new development within the built environment (see Section 4(1)(g) *P&E Act*).

More specifically, the objectives of planning in Victoria are supported in the following areas having regard to the Objectives and Standards included in this amendment:

- Energy and water efficiency, as well as, and waste and resource recovery Standards support waste minimisation, reduction, reuse and recycling and therefore promote the protection of natural and man-made resources (see Section 4(1)(b) *P&E Act*).
- Integrated Water Management and Green Infrastructure Standards support both the protection of natural resources and ecological processes, as well as, contributing to the delivery of a pleasant and safe environment for Victorians and visitors to Victoria (see Section 4(1)(b), (c) *P&E Act*).
- Improved energy efficiency through passive design standards and measures such as natural ventilation and promoting energy efficiency through a hierarchy. This hierarchy prioritises the importance of energy efficient design first and foremost though thermal performance and comfort, followed by onsite then offsite renewable energy generation. This fosters a pleasant, efficient and safe working, living and recreational environment within development (see Section 4(1)(c) *P&E Act*).
- Energy and water efficiency and the adoption of broader integrated water management measures, as well as, the utilisation of on-site renewable energy systems minimises the strain placed on public utilities and other assets given reduced resource and utility demand and promotion of a development's self-sufficiency. This also enables the orderly provision and co-ordination of public utilities and other facilities for the benefit of the community (see Section 4(1)(e) *P&E Act*).
- Recognition and consideration of the capital cost expenditure involved in addressing the Standards as part of their development whilst also recognising the overall benefit with reduced operating costs of development experienced by future residents, owners or tenants having due regard to housing affordability matters (see Section 4(1)(fa) *P&E Act*).

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

The amendment enhances ESD requirements and importantly, ensures new development advances the ambitions of zero emissions outlined in Victoria's *Climate Change Act 2017 (Vic)*, ensuring the built environment contributes appropriately to the legislated target of zero emissions. It also assists council supporting its community by planning for the adaptation of these communities to climate changes, and the delivery of adopted and community endorsed council goals related to emissions reduction. Such measures deliver significant environmental benefits and effects, as well as direct and indirect social and economic outcomes.

The amendment included consideration of the economic effects in a number of ways. The Technical Assessment of the amendment tested the proposed Standards against a range of typologies and contexts to determine their practical suitability and functionality and indicative capital cost impact. The Cost Benefit Analysis focused on the direct costs associated with addressing the Standards against the same development typologies which was accompanied by a breakeven analysis to demonstrate value to the community.

The assessments considered the individual development costs and the potential impact on the purchase component of housing affordability. This was in conjunction with the broader economic development costs of delivering more sustainable development which addresses climate change adaptation and mitigation, as well as social effects; many of which require deeper analysis and investigation to quantify and measure at lot scale. The assessments underpinned a number of changes made to ensure that the Standards proposed did not impact on development viability.

The effects of this amendment were also tested through a series of internal and external consultation sessions. Internal consultation was scoped to include authorities comprising 31 councils throughout Victoria, the Municipal Association of Victoria (MAV) and the Council Alliance for a Sustainable Built Environment (CASBE) that collectively support this amendment. This included the authorities providing input and feedback to deliverables that serve this amendment. Officers that provided input and support from these authorities included individuals from multi-disciplinary teams and skillsets (e.g. strategic and statutory planning, urban context, sustainability, transport, waste, stormwater, and landscape).

External consultation was scoped to include key industry practitioners from architectural, ESD and urban planning backgrounds through targeted stakeholder engagement. This supported the consideration of effects from a wide variety of perspectives and resulted in further refinement of Standards as initially drafted.

Environment effects

Key environmental areas or thematic categories addressed via this amendment include a development directly responding to and incorporating:

- **Operation Energy** – which entails development prioritising energy efficiency initiatives in line with the following hierarchy:
 - Thermal performance and passive design measures;

- Energy efficient systems (e.g. heating, cooling and ventilation) and appliances;
- Onsite renewable energy generation;
- Offsite renewable energy purchasing and/or carbon offsets.

These measures address and aim to minimise a development's demand on the energy grid and peak energy, as well as, emissions to air through fossil fuel reduction which is attributed towards greenhouse gas emissions and climate change impacts.

- **Embodied carbon** – which entails the use and sourcing of materials and design techniques to reduce the amount of embodied carbon embedded in Victoria's buildings.
- **Sustainable transport** – which entails the adoption of sustainable transport and low emission vehicle measures such as electric vehicle infrastructure and car parking spaces, as well as, an increase in active transport and end of trip facilities such as bicycle parking and storage spaces;
- **Integrated water management** – which includes water efficiency and potable water demand reduction, as well as, the management to holistically address stormwater quantity and quality onsite prior to stormwater discharge from the development to local waterways;
- **Climate resilience** – which includes considering a development's risk to climate change impacts such as the urban heat island effect, flooding and the management of stormwater, as well as, peak energy and potable water demand
- **Green infrastructure** – which involves the implementation of green infrastructure design measures, including tree canopy retention, amelioration and planting of appropriate species, to positively contribute towards the ecological value, biodiversity, health, and public realm amenity of a development, as well as, societal and communal impacts;
- **Indoor environment quality** – which comprises thermal comfort and safety requirements, natural ventilation and access to clean, fresh, air, with minimal exposure to harmful indoor air pollutants, as well as, ensures that key areas of a development have access to daylight and sunlight to improve amenity, liveability and workability functions; and
- **Waste and resource recovery** – which entails the consideration and selection of appropriate materials which have limited environmental and transportation impact, as well as, support the waste hierarchy through waste avoidance, minimisation, reuse, recycling and recovery.

Social effects

In addition, the Objectives and Standards included within this amendment indirectly promote and number of outcomes which relate to social effects including:

- High quality and commensurate urban design and architecture outcomes;
- Greenhouse gas emission reduction, mitigation and adaptation approaches towards climate change impacts that respond to associated risks including societal, liveability, human health, financial and economic impediments;
- Self-sufficient and reliable development by reducing a development's demand on local utilities and associated infrastructure such as energy and water resources through the uptake of renewable energy systems, rainwater harvesting and stormwater treatment methods;
- A reduction in the operative and running costs for residents, owners, and tenants associated with the development. This also supports housing affordability and maintaining quality of living standards for low income or financially strained individuals. For example first home buyers, retirees and disadvantaged community members;
- Communal and societal benefits through the incorporation of green infrastructure design measures that enhances public realm amenity within development;
- The general health and wellbeing of occupants and users through increased consistency and levels in access to fresh air, natural ventilation, daylight and direct sunlight where appropriate;
- A cleaner energy mix in terms of Victoria's energy grid and transportation methods which is associated with a reduction in air quality emissions and supports broader community health benefits.

Economic effects

The requirement for development to address the Objectives and Standards detailed within this amendment supports economic development via:

- Value to the community when considered at a broader scale;
- Growth of specialised and skilled services;
- Knowledge and educational development in an already established yet rapidly growing market;
- Job creation and employment in new and emerging fields, including current workforce and youth employment prospects;
- Innovation and technology growth to support development with addressing the relevant objectives and standards where reasonable; and
- Holistically serving as a part of a local and whole of government COVID-19 / post COVID-19 response plan to support economic stimulus.

Does the amendment address relevant bushfire risk?

The amendment affects areas within the Bushfire Management Overlay and designated bushfire prone area and bushfire risk has been considered in preparation of the amendment.

It is noted that the proposed means of increasing green infrastructure on sites is through a tool (the Green Factor Tool) which includes inbuilt flexibility to allow an applicant to deliver green infrastructure in a manner which can respond to the constraints of a site, including bushfire risk, rather than through prescriptive measures. In addition, the current hierarchy of planning in Victoria is such that responses to bushfire risk, where relevant, would continue to have precedence over the proposed Standards.

The amendment however includes objectives and standards that supports and encourages development to address minimising greenhouse gas emissions and incorporate climate resilience and adaption design principles and/or measures. These measures are aimed at curtailing a development's direct and indirect societal risk to climate change sensitivities such as urban heat and climate change induced bushfire risk.

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

The amendment is consistent with the following Ministerial Directions:

- Ministerial Direction on the Form and Content of Planning Schemes under Section 7(5) *P&E Act*;
- Ministerial Direction No.11 – Strategic Assessment of Amendments under Section 12(2)(a) *P&E Act*;

Ministerial Direction No. 11 – Strategic Assessment of Amendments seeks to ensure a comprehensive strategic evaluation of a planning scheme amendment and the outcomes it produces. A strategic assessment of the proposed amendment has been undertaken in accordance with this Ministerial Direction in this Explanatory Report.

- Ministerial Direction No.19 – Preparation and content of Amendments that may significantly impact the Environment, Amenity and Human Health under Section 12(2)(a) *P&E Act*;

Ministerial Direction No. 19 – Preparation and content of Amendments that may significantly impact the Environment, Amenity and Human Health requires planning authorities to seek the views of the Environment Protection Authority (EPA) in the preparation of planning scheme that could result in use or development of land that may result in significant impacts on the environment, amenity and human health due to pollution and waste.

The Direction does not specifically apply to an amendment to the Victoria Planning Provision however significantly and positively impacts the Environment, Amenity and Human Health. The proposed amendment seeks to promote waste avoidance, reduction, and recycling, improve the management and treatment of stormwater on development sites, and reduce emissions to air. This requires having regard to the Environmental Reference Standard (ERS), beneficial uses and community impacts in support of the General Environmental Duty (GED) principle and principles of environment protection, exercised under the *Environment Protection Act 2017 (Vic)*.

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

The amendment supports and gives effect to the Objectives and Strategies of the Planning Policy Framework (PPF). The PPF at Clause 10 includes the following components of relevance:

- Clause 11 Settlement, whereby planning is to recognise the need for, and as far as practicable contribute towards a high standards of urban design and amenity, energy efficiency, prevention of pollution to land, water and air, and protection of natural resources with Strategies including to provide for the development of sustainable and liveable areas;
- Clause 12 Environmental and landscape values, whereby planning should help to protect the health o ecological systems and the biodiversity they support, including its protection;
- Clause 13.01-1S Natural hazards and climate change, whereby the Objective includes to minimise the impacts of natural hazards and adapt to the impacts of climate change which requires the consideration of climate change risks in planning;
- Clause 15.01-2S Building Design whereby environmentally sustainable development strategies include:
 - 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, stormwater and recycled water.
 - Minimise stormwater discharge through site layout and landscaping measures that support on-site infiltration and stormwater reuse.
- Clause 18.02-1S Walking, whereby the objective is to facilitate an efficient and safe walking network and increase the proportion of trips made by walking.
- Clause 18.02-2S Cycling, whereby the objective is to facilitate an efficient and safe bicycle network and increase the proportion of trips made by cycling.
- Clause 18.02-3S Public Transport, whereby the objective is to facilitate an efficient and public transport network and increase the proportion of trips made by public transport.
- Clause 19.01-2S Renewable energy, whereby the provision of renewable energy development is promoted and facilitated;
- Clause 19.03-3S Integrated water management, whereby the Objective involves managing water supply, water resources, drainage and stormwater through an integrated water management approach. This includes minimising stormwater quality and quantity related impacts; and
- Clause 19.03-5S Waste and resource recovery, whereby the Objective details to reduce waste and maximise resource recovery, diverting waste from landfills and in the process minimising environmental, community and public health impacts.

The amendment also supports the following policies released and adopted by the State government and associated authorities:

- The Environmentally sustainable development of buildings and subdivisions: A roadmap for Victoria's planning system (Department of Environment, Land, Water and Planning, 2021) ('ESD Roadmap') the details proposed ESD changes to the PPF;
- The State government's overall and interim greenhouse gas emission reduction targets, Climate Change Strategy, Sector Pledges, and Adaptation Action Plans that have been made pursuant to the *Climate Change Act 2017* (Vic);

- Victoria's Zero Emissions Vehicle Roadmap (Department of Environment, Land, Water and Planning, 2021) the supports further reforms to make new buildings ZEV-ready and setting a target of 50% of new light vehicle sales to be zero emissions by 2030);
- Victoria's Recycling Victoria – A New Economy policy (Department of Environment, Land, Water and Planning, 2020) that outlines the Victorian government's circular economy directives that seek to divert waste from landfill and ensure resource recovery and efficiency); and
- The fundamental General Environmental Duty principle detailed within the *Environment Protection Act 2017* (Vic) and further integrated within supporting instruments such as the Environment Reference Standard (ERS).

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

The Mornington Peninsula Shire Council has a longstanding commitment to environmental sustainability. This commitment is embodied in Council's 13 August 2019 Climate Emergency Declaration which compels Council to act immediately and with urgency to reverse global warming.

The Planning Policy Framework and Municipal Planning Strategy support sustainability through environmentally focused land use and development planning. Clause 02.02 (Vision) includes a range of strategic objectives. Most relevant to the Amendment are:

- *To protect and enhance the Mornington Peninsula's biodiversity and coastal experience.*
- *To demonstrate leadership in climate change mitigation and adaptation.*
- *To facilitate improved mobility and connectivity accessible to all within the Mornington Peninsula.*
- *To support an integrated transport and connectivity network*

The amendment is consistent with and supports the Municipal Planning Strategy. The proposed new ESD Particular Provision reinforces the need for future development to respond to sustainable development principles, providing guidance in achieving sustainability in the most efficient way. The Particular Provision provides a specific framework for the consideration of ESD during the planning permit process, specifying what types of development should implement ESD measures and to what degree.

Does the amendment make proper use of the Victoria Planning Provisions?

A municipal council and/or planning authority is entitled to prepare an amendment, for authorisation by the Minister, to the Victoria Planning Provisions (VPP) that involves the inclusion of a provision in the State standard provisions (see Sections 4B(2), 10(1) *P&E Act*).

The amendment makes proper use of the VPP as the appropriate tool to achieve the ESD and zero carbon development outcomes.

The supporting studies and reports recommended that Council seek a single ESD Particular Provision in a new clause under Clause 53 of the planning scheme. A provision of this nature does not currently exist within the suite of the VPP, however, this is considered to be the most appropriate planning mechanism to implement the Elevated ESD Objectives and Standards.

In determining suitability and propose use of the VPP, a range of planning mechanisms were considered to implement the elevated ESD Standards including a Local Planning Policy and Design and Development Overlay (DDO).

A Local Planning Policy was not considered an appropriate tool as it cannot include detailed and mandatory requirements, does not move beyond the current policy approach and give greater statutory weight to elevated sustainability requirements.

A DDO was not considered an appropriate tool as they are generally designed to apply to specific locations within a municipality and are not the preferred tool for a requirement that applies across a whole municipality.

The Particular Provision, as the appropriate tool outlined in the amendment, provides for greater direction, certainty and clarity for the development community to address the expectations held for development. This is provided through a format that allows for mandatory Objectives and discretionary Standards, operational instructions and definition of key terms, as well as, a consistent and standardised format aligned with other Particular Provisions such as Clause 53.18 Stormwater Management in Urban Development.

The amendment is supported by Guidelines for Sustainable Building Design, a Background Document that will assist development to address the Objectives and Standards as a part of the amendment.

In preparation of the amendment, there has been adherence to Ministerial Direction on the Form and Content of Planning Schemes under Section 7(5) *P&E Act*.

How does the amendment address the views of any relevant agency?

Pre-amendment consultation was not undertaken. The views of relevant agencies will be formally considered as part of any exhibition process.

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

The amendment is not expected to have any significant impact on the transport system.

The amendment however supports the objectives of the *Transport Integration Act 2010 (Vic)* ('*TIA*'). This is in relation to the objectives and standards that are introduced by this amendment requiring development to incorporate electric vehicle infrastructure and low emission forms of transport, as well as, increase the amount of facilities for bicycles and other sustainable transport modes.

The *TIA* objectives of relevance to this amendment, by way of association with the 'physical components' of the transport system which include motor vehicles and bicycles, include:

- Environmental sustainability (see Section 10 *TIA*) through:
 - Protecting, conserving and improving the natural environment;
 - Avoiding, minimising and offsetting harm to the local and global environment, including through transport-related emissions and pollutants and the loss of biodiversity;
 - Promoting forms of transport and the use of forms of energy and transport technologies which have the least impact on the natural environment and reduce the overall contribution of transport-related greenhouse gas emissions;
 - Improving the environmental performance of all forms of transport and the forms of energy used in transport; and
 - Preparing for and adapting to the challenges presented by climate change.
- Integration of transport and land use (see Section 11 *TIA*) through:
 - Maximising access to residences, employments, markets, services and recreation;
 - Planning and developing the transport system more effectively;
 - Reducing the need for private motor vehicle transport and the extent of travel;
 - Facilitating better access to, and greater mobility within, local communities;
 - Having regard to the current and future impact on land use, development and operation of the transport system; and
 - Supporting the changing land use and associated transport demand.
- Economic prosperity through increasing efficiency, reducing costs, improving timeliness, and fostering competition by providing access and growth of new and innovative markets, particularly the electric vehicles sector, and, as a result, facilitating investment in Victoria that supports the financial sustainability and viability of such emerging markets (see Section 9 *TIA*); and
- Safety and health and wellbeing through promoting forms of transport and the use of forms of energy which have the greatest benefit for, and least negative impact on, health and wellbeing (see Section 13(2)(c) *TIA*).

In addition, the *TIA* decision making principles have been applied when preparing the objectives and standards related to this amendment. This includes:

- Integrated decision making with relevant internal and external government stakeholders including interdisciplinary transport, sustainability and planning departments, as well as, private industry through stakeholder engagement (see Sections 15 and 20 *TIA*);
- A triple bottom line assessment having considered environmental and cost-benefit outcomes through relevant studies (see Section 16 *TIA*);

- Consideration of equity and user perspectives across varying demographic profiles (see Section 17 and 18 *TIA*);
- The precautionary principle in relation to reducing vehicle and greenhouse gas emissions for the betterment of Victorians (see Section 19 *TIA*);

Additionally, this amendment aligns and assists with the commitments detailed within the Victorian Transport Sector emissions reduction pledge, which serves a part of Victoria's Climate Change Strategy, pursuant to Part 5 of the *Climate Change Act 2017 (Vic)*. Details within the pledge include the promotion of zero emission vehicles (ZEVs) and active transport throughout Victoria.

Resource and administrative costs

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

The amendment is not expected to increase the number of planning permit applications as it does not propose to introduce any new planning permit triggers. However, the amendment requires development applications to be assessed against the Objectives and Standards detailed within the Particular Provision.

The Particular Provision will apply to applications under a provision of a zone to construct a building, or construct or carry out works, with a few specified exemptions (including VicSmart applications, works associated with one dwellings on a lot and works associated with a relatively small floor area). Applications lodged prior to the approval date of any amendment that introduces the provision are exempt from assessment, including amendments to an existing planning permit. As such transitional provisions do apply.

Additionally, the amendment is not expected to unreasonably increase resource requirements or administrative costs for permit applicants to undertake ESD assessments. Supporting material is prepared to support this amendment that may reduce costs for some applicants. This is by providing easy to use guidelines and templates which allow for smaller development to more easily generate information required by council to respond to the Objectives and Standards detailed within the Particular Provision.

For example, the Guidelines for Sustainable Building Design will support applicants by providing consistency across councils applying the elevated ESD Standards. The Guidelines for Sustainable Building Design will be included as a Background Document within the planning scheme. This will provide more explicit technical information, appropriate alternatives for responding to performance criteria, real-life case studies/examples, standardised templates and application requirements.

The Guidelines for Sustainable Building Design are an important resource which will support better regulations and a consistent approach between councils. The guidance and supporting materials will clearly articulate expectations and ultimately reduce delays and costs for both applicants and councils; ensuring that the required information can be provided efficiently.

The Guidelines for Sustainable Building Design and accompanying templates will support council staff to convey and request upfront that the correct information is provided, reducing the need for Requests for Further Information. It will also assist applicants; particularly those who may not be frequent users of the planning system, to understand what information and support material needs to be provided to support council decision making. This will ultimately allow council to assess applications more efficiently.

Examples of these templates to support applicants include:

- Sustainable Design Assessments (SDAs) and Sustainability Management Plans (SMPs) templates that outline content and expectations of a SDA and SMP, including the level of detail required for different development typologies;
- Waste Management Plan (WMP) templates for smaller developments conveying 'best practice' to applicants and building capacity with effective ways for development to manage their waste. For larger scale developments more typical WMPs will still be required, with relevant updates and endorsement to follow as per planning permit requirements which is reflective of current practice; and
- Construction waste management templates that are similar to the approach for WMPs however will assist smaller developments, including tips for best practice.

The amendment also proposes the introduction of a requirement to deliver zero carbon emissions at operation stage. This will be achieved through Permit Conditions requiring Sustainability Certificates at Construction and Operational stages. The Sustainability Certificate – Operation is required once, 12 months after the occupation of the development. These certificates confirm that the requirements of the endorsed sustainability management plan are met. This approach provides consistency across all councils applying the Elevated ESD Standards.

It is anticipated that planning permit applications, that are required to address the Objectives and Standards included in this amendment, are assessed by council's planning officer/s and/or Environmental, Sustainability or ESD officer/s.

Opportunities exist for the funding and use of shared resources to support the provision of referral comments. Funding of such a role/s could also support increased capacity of planning staff to undertake relevant assessments independently.

Where you may inspect this amendment

The amendment can be inspected free of charge at the Mornington Peninsula Shire Council website at <https://www.mornpen.vic.gov.au/Building-Planning/Strategic-Planning/Planning-Scheme-Amendments>.

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

- Hastings office – 21 Marine Parade, Hastings
- Mornington office – 2 Queen Street, Mornington
- Rosebud office – 90 Besgrove Street, Rosebud

The amendment can also be inspected free of charge at the Department of Environment, Land, Water and Planning website at www.planning.vic.gov.au/public-inspection.

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 **TBC subject to authorisation**

A submission must be sent to the Mornington Peninsula Shire by:

- Online form (preferred): <https://www.mornpen.vic.gov.au/Building-Planning/Strategic-Planning/Planning-SchemeAmendments>
- Email: strategic.admin@mornpen.vic.gov.au
Please use 'Amendment C246morn – submission' in the email subject line
- Mail: Team Leader Strategic Planning – Mornington Peninsula Shire
Private Bag 1000, Rosebud VIC 3939

Panel hearing dates

In accordance with clause 4(2) of Ministerial Direction No.15 the following panel hearing dates have been set for this amendment:

- Directions hearing: **TBC subject to authorisation**
- Panel hearing: **TBC subject to authorisation**