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May 2022

The Hon Richard Wynne
Minister for Planning and Housing
Level 16
8 Nicholson Street East
Melbourne VIC 3002

The Hon Lily D'Ambrosio
Minister for Energy, Environment and Climate Change and Solar Homes
Level 16
8 Nicholson Street East
Melbourne VIC 3002

The Hon Shaun Leane
Minister for Local Government and Suburban Development
Level 16, 121 Exhibition Street
Melbourne, VIC 3000

Dear Ministers Wynne, D'Ambrosio, and Leane,

**RE: Councils to Pursue Improving Environmentally Sustainable Design (ESD) and
Zero Carbon Built Environment Outcomes via a Planning Scheme Amendment**

We write on behalf of several Councils that are a part of a joint project to improve ESD outcomes and facilitate zero carbon development within a Council's Planning Scheme and support Victoria's Planning System.

We are seeking the Minister for Planning to introduce a Particular Provision in the Victoria Planning Provisions that will enable 31 ambitious Councils to elevate ESD built form requirements into their respective Planning Scheme.

1. Background

Since 2018, Councils throughout the State have sought to improve the current ESD outcomes and requirements detailed in their relevant Planning Scheme. This particularly includes incorporating measures which transition our built environment to address zero carbon development outcomes at the planning stage of development.

The initiative is strongly supported by the Council Alliance for a Sustainable Built Environment (CABSE); that serve under the auspice of the Municipal Association of Victoria (MAV).

The initiative has grown considerably in magnitude over the past four years.

2. Local Governments across the State Working as a Collective

31 Councils throughout the State signed a Memorandum of Understanding to undertake work to elevate ESD targets in their respective Planning Scheme, with an ultimate intention to pursue a joint Planning Scheme Amendment in 2022.

The Planning Scheme Amendment will seek to pursue embedding the necessary changes to improve ESD outcomes and progress zero carbon development within the built environment.

The initiative is framed under the project banner '[Elevating ESD Targets Planning Policy Amendment](#)'.

3. The Planning Scheme Amendment Delivers upon Councils' Obligations and Requirements

The outcomes from this project are closely aligned with a multitude of Council and CASBE deliverables and community expectations that have been endorsed by Councils, most notably:

- Climate Emergency Declarations;
- Municipal Zero Emission Targets that must be met, at or prior to, 2050;
- Statutory Climate Change Pledges, with the particular initiative having been committed to, under the *Climate Change Act 2017* (Vic); and
- Council Climate Change Strategies, Frameworks, Action Plans and the CASBE Strategic Plan.

4. Key Works and Advocacy Undertaken

Significant work, investigation and resources have been invested by Councils and CASBE, including relevant officers, to pursue and support this project. This includes:

- Commissioning evidentiary and justification works with the aid of leading consultancies to support the measures being pursued via a Planning Scheme Amendment (in excess of \$250,000 expended as a collective, to date, including officer time and resources);
- Liaising and working with relevant officers within the Department of Environment, Land, Water and Planning (DELWP's) Energy and Planning divisions on concurrent projects and initiatives;
- Advocating and providing input to the State Government's ESD Roadmap, as well as, serving key Working Groups a part of the ESD Roadmap agenda; and
- Providing numerous submissions to advocate for necessary changes that are required to the built environment through forums such as the Australian Building Codes Board (ABCB) National Construction Code (NCC) 2022, State Gas Substitution Roadmap, Zero Emission Vehicles Advisory Group, and Parliamentary Inquiries.

5. What is being sought by the Planning Scheme Amendment?

The measures and changes being pursued by the collective 31 Councils via a Planning Scheme Amendment contain a level of detail in order to address an absence of, and for

those that have an ESD Policy, improved ESD outcomes which will enable transitioning development to achieve zero carbon.

Since reforms to the Victoria Planning Provisions in 2018 (via Amendment VC148), a Council is unable to provide a level of clear detail and direction for development to address certain requirements and expectations, within the Local Planning Policy component of a Council's Planning Scheme.

The point of concern is where such prescriptive requirements and details may reside within a Council's Planning Scheme. This is to ensure robust and necessary outcomes to achieve Councils' obligations and requirements.

The work commissioned by the project group has identified the Particular Provisions, within the Victoria Planning Provisions, as the most appropriate planning tool to set the relevant measures, metrics and changes for improved ESD outcomes.

As such, the project's success rests upon the Minister for Planning, given that the Minister can only authorise a municipal Council to prepare an amendment to the Victoria Planning Provisions.

The application of a Particular Provision would facilitate efficiency and expediency with respect to development approvals undertaken by Councils given that a consistent set of requirements are detailed within several Councils' Planning Schemes.

6. Our Request

The collective group, consisting of 31 Councils, have collaborated to prepare a State-based ESD framework for integration within a Council's Planning Scheme.

Prior to the State election, the collective group of Councils request that the Minister for Planning use their power to authorise the formal introduction of the attached provision into the Victoria Planning Provisions of a Council's Planning Scheme.

7. Opportunity to Deliver State Government Requirements and Resolve Regulatory Gaps

The collective work and approach, demonstrated with the support of 31 Councils, provides an exceptional, well-tailored and documented solution for the State to address its ESD Roadmap commitments and deliver upon Action 80 of Plan Melbourne 2050 which entails the delivery of a State ESD Policy in a timely manner. As per the Plan Melbourne 2050 Five-Year Implementation Plan, the State ESD Policy was anticipated for delivery by the end of 2018 (a 3 year delay).

Our project offers a solution to deliver upon such requirement given that 31 Councils are supporting this project which constitutes 39% of all Councils throughout the State – mostly metropolitan, where a significant amount of the Victorian populous resides.

Furthermore the outcomes from this project will also deliver upon the State Government's Climate Change Strategy and sectoral Pledges, as well as, the Built Environment Adaptation Action Plans committed to, as a statutory requirement, under the *Climate Change Act 2017* (Vic).

Moreover, in Victoria, it is well established at planning panels and at the Victorian Civil and Administrative Tribunal (VCAT) that the broad notion of ESD, including energy efficiency, is supported within the Planning framework. This is in contrast to the Building framework with relevant details, pertaining mostly to energy efficiency, included in the National Construction Code (NCC).

The benefit of the measures and changes pursued via this project will address relevant gaps where the current NCC 2022 proposed set of technical changes remain silent. The exclusions of relevant components of the proposed changes outlined within the NCC 2022 undermine both State and Local Government emissions reduction commitments and programs with respect to the built environment. This is particularly evidenced by the NCC 2022 continuing to remain solely focussed on holistic energy efficiency outcomes as opposed to applying and integrating the broader remit of ESD, as well as, downplaying the role of renewable energy and zero emission vehicle infrastructure on standard housing development.

The deliverables and overall outcome offered via the collective group of 31 Councils involved in this project will assist Victoria's Planning System to deliver upon Plan Melbourne 2050 requirements, aligns with the State Government's legislated emission reduction targets which also supports climate resilient communities, as well as, addresses relevant shortfalls identified within the national building framework that undermines broader emission reductions from key industry sectors.

We would appreciate the opportunity to discuss the project and relevant outcomes with you directly and to continue to support the State Government with its ESD Roadmap commitments and the delivery of a State ESD Policy, prior to the election.

Sincerely, and with the imprimatur of each Mayor, serving their Council, a part of this project,