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The Hon. Richard Wynne
Minister for Planning
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Dear Minister

**Re: ENVIRONMENTALLY SUSTAINABLE DEVELOPMENT IN PLANNING – ESD
ROADMAP PAPER AND PLANNING POLICY FRAMEWORK CHANGES – Nillumbik
Shire Council Submission**

Thank you for your letter of 11 January 2021, outlining the State government's '*Environmentally sustainable development of buildings and subdivisions: A roadmap for Victoria's planning system*' (The roadmap). Council welcome these important proposed changes to the VPP and planning in Victoria.

The Roadmap identifies, the *Planning and Environment Act 1987* (the Act) at Section 4 incorporates sustainable land use and development, the protection of natural resources and the maintenance of ecological processes as key legislated objectives of planning in Victoria. The Act also specifies that the planning framework includes objectives to:

1. Enable land use and development planning and policy to be easily integrated with environmental, social, economic, conservation and resource management policies at State, regional and municipal levels, and
2. Ensure that the effects on the environment are considered and provide for explicit consideration of social and economic effects when decisions are made about the use and development of land.

Council understand this work is integral in delivering key actions of *Plan Melbourne (2017-2050)*, particularly with regard to the directions and policy of '*Outcome 6 – Melbourne is a sustainable and resilient city*'. It is also noted this State-wide approach to ESD will need to work alongside the building system and a combination of planning and building system reforms are required to support improvements in the energy and water efficiency of new buildings. Council acknowledge this is aligned to Action 80 of *Plan Melbourne* "*Review of planning and building systems to support environmentally sustainable development outcomes*".

Council acknowledge that the Victoria Planning Provisions (VPP) and Local Planning Schemes provide the key instruments for implementing Plan Melbourne policies and *the Act*. Council also acknowledge the significant gaps in the response to ESD currently within the VPP and the fact that State ESD policies and standards do not apply to all land uses, and are insufficient to address existing and future planning for what will be significant environmental and climate change challenges.

As you have identified in your correspondence, supporting environmentally sustainable development (ESD) through Victoria's planning system is vitally important, particularly to local governments who are predominantly responsible for administering the planning scheme, and require effective policy and robust primary implementation tools to ensure effective outcomes.

Nillumbik Shire Council supports the principals of ESD and is currently developing its new [Climate Action Plan](#) and facilitating local renewable energy generation for stationary and transport energy needs will be a key component. Council also intends to build a [solar farm at the former Plenty landfill](#) to deliver Council's stationary energy needs with the opportunity to supply renewable energy to the local community. It is imperative that State Planning Policy facilitates local renewable energy initiatives.

We note 'the Roadmap' identifies two stages of work to implement ESD into the Victorian Planning Provisions:

- **Stage 1** will embed ESD more comprehensively in the Planning Policy Framework (PPF) by adding consideration of ESD at the development scale under each relevant planning policy theme, and inserting consideration of ESD into the purpose of all planning schemes (rather than just one state policy).
- It is noted any existing ESD policies will need to be amended to align with the introduction of the new state ESD policy (stage 1).
- **Stage 2** will introduce new and expanded particular provisions and will include development of specific planning objectives and standards that help achieve ESD policy goals implemented through Stage 1.
- It is noted Stage 2 implementation will include:
 1. Expanded (existing) and (new) particular provisions incorporated into planning schemes to help ensure ESD design and development responses, with clear performance standards are consistently applied across the state.
 2. ESD objectives and standards will continue to be applied throughout residential particular provisions under clauses 54, 55, 55.07, 56 and 58, which already include many existing ESD considerations.
 3. For commercial and industrial developments, a new particular provision will be developed that provides ESD objectives and standards appropriate for these development types, building on existing clause *53.18 Stormwater management in urban development*.
 4. Existing particular provisions that address a specific ESD theme, such as *52.34 Bicycle Facilities*, will also be reviewed as part of this process
 5. Further guidance materials and assessment tools to support implementation including ESD checklists, practice notes and online ESD rating systems - for example, the Green Building Council of Australia (GBCA) 'Green Star' and Council Alliance for a Sustainable Built Environment (CASBE's) 'BESS' tool (Built Environment Sustainability Scorecard).
 6. It is noted Stage 2 work is programmed for consultation between April-May 2021 with initiatives complete for Stage 2 in September 2021.

Council have prepared a response to each proposed change (as identified in the VPP) to implement ESD objectives, noting that Stage 2 will be integral to further support the policy directives proposed in the VPP.

An integrated approach to ESD, supported through proposed changes to the particular provisions of all planning schemes (including consolidated application requirements) and through supporting guidance materials and tools, will need to recognise that measures are complimentary and varied to address ESD - for example, siting and design responses that respond to urban heat amelioration may also contribute to the stormwater management of a development.

11 Settlement

Council response

1. Generally supported.
2. Recognises protecting 'environmentally sensitive areas' – could be stronger and more positive in terms of developing settlements within the landscape retaining the connectivity of natural systems. This is referred to in the section on environmental and landscape values in terms of existing biodiversity:
Assist in the establishment, protection and re-establishment of links between important areas of biodiversity, including through a network of green spaces and large-scale native vegetation corridor projects.
3. There's potentially a larger landscape to consider settlements within, for example, the city in the landscape rather than the landscape of the city (such is the case for Nillumbik shire).

11.02-2S Structure planning

Council response

1. Generally supportive of inclusion of 'sustainable' to 'facilitate the orderly and sustainable development of urban areas', and new strategies to:
 - a) 'protect areas of natural or cultural significance; and
 - b) 'respond to the impacts of climate change'.

12 Environmental and Landscape Values

Council response

1. Generally supportive of inclusion of policy document 'Australia's Strategy for Nature 2019-2030'.

12.01-1S Protection of Biodiversity

Council response

1. Generally supported, however Stage 2 primary implementation tools will need careful consideration with existing provision (e.g. *Clause 52.12 Bushfire Protection Exemptions*) having significant impacts on urban biodiversity.
2. Support the inclusion of a strategy recognising urban biodiversity values.
3. How this strategy will be applied through implementation tools will be imperative.
4. Understanding biodiversity values across a more urban landscape requires consideration of cumulative impacts on biodiversity, for example, the impact native vegetation removal on an urban parcel (less than 0.4ha) would not represent a significant impact but the cumulative impact of many cleared parcels, coupled with increased impermeable surfaces and planting of non-indigenous species can have a very significant impact on broader biodiversity.
5. Will Stage 2 work consider *Clause 52.17 Native Vegetation* and a review of the *Guidelines for the removal, destruction or lopping of native vegetation (Department of Environment, Land, Water and Planning, 2017)* (the Guidelines)? Specifically:
 - a) *Avoid the removal, destruction or lopping of native vegetation.*
 - b) *Minimise impacts from the removal, destruction or lopping of native vegetation that cannot be avoided.*
 - c) *Provide an offset to compensate for the biodiversity impact if a permit is granted to remove, destroy or lop native vegetation. To manage the removal, destruction or lopping of native vegetation to minimise land and water degradation.*
6. Impacts on vegetation in urban environments is incredibly important particularly for areas on the fringe of Metropolitan Melbourne like Nillumbik Shire where there are significant tracts of native vegetation located within the urban growth boundary that provide extensive linkages in to the broader biodiversity network. However clearing of native vegetation under the current Guidelines, coupled with the *Clause 52.12 Bushfire Protection Exemptions* to clear native vegetation are having dramatic impacts on biodiversity.

13.01-1S Natural hazards and climate change

Council response

1. Generally support the inclusion of *'health'* in considering natural hazards. There is a tension between protecting environmental and landscape values and managing natural hazards. This is a critical concern for the Nillumbik community particularly with regard to bushfire. Planning controls must allow for risk mitigation however there may be unintended consequences (e.g. Clause 52.12) or trade-offs (removal of native vegetation and associated biodiversity impacts) to achieve risk mitigation.

13.01-3S Urban heat mitigation

Council response

1. Generally supportive, however limited in response to retention of existing vegetation. This is particularly important in the northern region of Melbourne, where tree canopy is already limited.
2. The strategy *'support tree health and cool the urban environment through water sensitive urban design'* is positive but could include more acknowledgement of the contribution of the existing landscape/vegetation to urban heat mitigation in established areas. Suggest to amend the objective to *'reduce urban heat exposure through land use, built form, design responses'* to include *'and maximising retention of existing vegetation'*.
3. Although a strategy is included at Clause 15.01-2S Building Design to *'encourage retention of existing vegetation and planting or new vegetation and planting of new vegetation as part of new development'* this is only targeting new development and not broader land use and development. Council suggest additional strategies include:
 - a) *'retention of existing urban tree canopy'*, or
 - b) *'maximise retention of existing urban tree canopy'*; or
 - c) *'encourage retention of existing tree canopy in established urban areas.'*
4. Suggest to amend to *"Ensure that urban heat mitigation measures also address bushfire risk in Bushfire Prone Areas."*

13.05-1S Noise abatement

Council response

1. Generally support the inclusion in the strategy of *'health'* in *'ensuring that human health and community amenity is protected, and that development is not adversely impacted by noise emissions, using a range of building design, urban design and land use separation techniques'*.

13.06-1S Air quality management

Council response

1. Generally support additional strategies, particularly inclusion of *Recommended Separation Distances for Industrial Residual Air Emissions – Guideline* (Environment Protection Authority, 2013)

15 Built Environment and Heritage

Council response

1. Generally support additional policy objectives that *include 'Environmentally sustainable development'* and that *planning must support development that is environmentally sustainable and:*
 - a) *Respond to climate change impacts.*
 - b) *Minimises greenhouse gas emissions.*
 - c) *Conserves energy and water.*
 - d) *Minimises waste generation and increases resource recovery.*
 - e) *Supports human health and community wellbeing.*
2. Nillumbik Shire has a significant history and association with 'earth building' and particularly 'mudbrick' as an alternative and sustainable building product to traditional building materials.

3. The use of mudbrick in Nillumbik is evidenced as far back as the gold rush era and was later used and 'revived' by architects and builders such as Alistair Knox.
4. The use of mudbrick in Nillumbik Shire is aligned to the availability of excellent building clay in Nillumbik so local sourcing is also a part of the sustainability of the product given the minimisation of impacts on the environment through production and transport costs.
5. Mudbricks have many advantages, including low cost and low embodied energy (especially if they are made on site and not transported long distances) and ease of use. They also have high thermal mass (the ability to store and release heat).
6. Construction made from 'earth materials' including mudbrick also has excellent fire ratings which makes them suitable for building in bushfire prone areas such as Nillumbik and for the construction of fire rated walls within buildings.
7. Appropriate building materiality including consideration of materials that are 'dense' in thermal mass needs consideration to ensure reductions in the need for mechanical heating and cooling can be achieved. Mud bricks for example are also fire resistant, cheap, sustainable and biodegradable.

15.01-2S Building design

Council response

1. Generally support additional strategies including:
 - a) *'encourage retention of existing vegetation and planting of new vegetation as part of new developments'.*
 - b) *'ensure the layout and design of the development supports waste and resource recovery and the efficient use of water'.*
 - c) *'Improve the energy performance of buildings through siting and design measures that support:*
 - *Cost effective compliance with energy performance standards in the National Construction Code.*
 - *Passive design responses that minimise the need for heating and cooling.*
 - *Adoption of renewable energy and storage technologies'.*
2. See Council's commentary in regard to building material choice (including consideration of building insulation, minimisation of waste and associated production/transportation costs) identified at clause 15 Built Environment and Heritage and 19.01-2S Renewable energy, that also require consideration at Clause 15.01-2S Building design.

15.01-3S Subdivision design

Council response

1. Generally support additional strategies including:
 - a) *'Creating an urban structure and providing utilities and services that:*
 - *Responds to climate change hazards and contributes to reduction of greenhouse gas emissions.*
 - *Support resource conservation.*
 - *Support energy efficiency through urban layout and lot orientation.*
 - *Support the uptake of renewable energy technology, including micro grids and batteries.*
 - *Incorporate integrated water management.*
 - *Support waste minimisation and increased resource recovery.*
 - *Minimise exposure of sensitive uses to air and noise pollution'.*
2. With regards to private waste collection Council supports consistent controls which minimise the number of collections per week, minimise impacts and wear on road infrastructure, minimise noise amenity impacts and establish a consistent standard for bin types and collection method for future waste collection with the possible intent of moving from private waste collection to public waste collection in the future. Suggest amending to *'ensure the layout and design of the development supports waste and resource recovery which minimises number of collections and private waste collection, and ensures the efficient use of water'.*

16.01-2S Location of residential development

Council response

1. Generally supportive of additional language adding *'ensure' residential development is 'located to support' cost effective infrastructure provision and use, energy efficiency, water efficiency and public transport use'*.

18.01-1S Land use and transport planning

Council response

1. Generally support the inclusion of policy document *Victorian Cycling Strategy 2018-28* (Department of Economic Development, Jobs, Transport and Resources, 2017)

18.02-1S Sustainable personal transport

Council response

1. Generally support the addition of language to improve the objective *'to promote and support the use of low-emission forms of personal transport'*.
2. Council support additional requirements within strategies to *'require the provision of adequate bicycle parking and related end-of-trip facilities to meet demand at commercial buildings, multi-residential developments, education, recreation, transport, shopping and community facilities and other major attractions when issuing planning approvals'*.
3. Council support the addition of the strategy to *'encourage building and subdivision layout and design responses that:*
 - a) *Facilitate low emission forms of transport including walking and cycling.*
 - b) *Include infrastructure for low emission vehicles (including electric vehicles)'*.

18.02-2S Public Transport

Council response

1. Generally support the addition of language to improve the objective *'to facilitate greater use of public transport, promote increased development close to high quality public transport routes and minimise car dependency'*.

19 Infrastructure

Council response

1. Generally support the addition of policy directive that *'planning of infrastructure should avoid or minimise environmental impacts and incorporate resilience to natural hazards, including future climate change risks'*.
2. Suggest amending to *"planning of infrastructure should avoid or minimise environmental impacts and incorporate resilience to natural hazards, including future climate change risks and bushfire risk"*.

19.01-1S Energy supply

Council response

1. Council support the addition of the new policy objective to *'support achievement of greenhouse gas emission reduction targets under the Climate Change Act 2017 and the transition to a low-carbon economy by adopting renewable energy and low emission technologies'*.

19.01-2S Renewable energy

Council response

1. Council support the addition of the new policy objective to *'support the provision and use of renewable energy, and achievement of greenhouse gas emission reduction targets under the Climate Change Act 2017 in a manner that ensures appropriate siting and design considerations are met'*.

2. As noted above, Council is developing its Climate Action Plan and facilitating local renewable energy generation for stationary and transport energy needs will be a key component. Council also intends to build a solar farm at the former Plenty landfill to deliver Council's stationary energy needs with the opportunity to supply renewable energy to the local community. It is important that State planning policy facilitates local renewable energy initiatives and policy is outcome focussed, as methods for achieving sustainable outcomes will evolve in the future and a focus on current methods will not adequately provide for future innovation.

19.03-3S Integrated water management

Council response

1. Council support the addition of the strategy to *'support development that is water efficient and encourages use of alternative water sources'*.
2. Consideration of application in implementation tools to single dwellings should be considered. There could be a stronger intention (where a planning permit is required) to require on site retrofitting in established areas to replace potable water, slow stormwater flows and improve the quality of water flow into urban waterways.

19.03-5S Waste and resource recovery

Council response

1. Council support the addition of language within strategies to *'encourage technologies that increase recovery and treatment of resources to produce high value, marketable end products, to enable waste and resource recovery facilities to be located in proximity to other related facilities and to materials' end-market destinations to reduce the impacts of waste transportation and improve the economic viability of resource recovery, to ensure developments provide for segregation, storage and collection of waste and recyclable materials, and to encourage development that provides for:*
 - o Systems that support waste minimisation and increase resource recovery.
 - o Use of recycled and reusable materials where appropriate.
2. Council support the addition of the strategy to *'support development that is water efficient and encourages use of alternative water sources'*.
3. The inclusion in relation to use of recycled and reusable materials is welcomed and adds a further driver to create the economic conditions for development of markets for recovered materials.
4. Council encourage the further integration of a circular economy approach to waste management and materials recovery and reuse. *Recycling Victoria* sets a strong direction for waste management in Victoria and the planning policy changes help to provide operational effect.
5. *Recycling Victoria* now requires introduction of a four bin system for municipal waste collection. Businesses and residences must have adequate storage space for waste containers and access for collection. In addition storage must allow for waste separation at source to maximise resource recovery. These strategies now provide councils with the ability to assess the adequacy of development proposals to achieve waste separation at source.
6. Suggest amending to include *'ensure developments provide for segregation, storage and collection of waste and recyclable materials with public waste collection preferred and number of collections minimised'*.
7. In addition to Council's acknowledgement above (clause 15 Built Environment and Heritage and 15.01-2S Building Design) in relation to building materiality, consideration also needs to be given to use of the most effective and sustainable types of building materials to minimise or avoid waste – including mudbricks for example of building and construction.

General policy 'gaps'

1. As identified at clause in Clauses 12.01-1S and 13.01-1S, loss of and impacts on existing vegetation in urban environments is incredibly important particularly for areas of Metropolitan Melbourne like Nillumbik Shire where there are significant tracts of native vegetation located within the urban growth boundary which provide extensive linkages into the broader biodiversity network. Retention of native vegetation is considered fundamental and needs to be addressed in policy – with particular re-address of policy 'tension' e.g. clauses 52.17 and 52.12.
2. It is acknowledged that promoting ESD outcomes for single dwellings (including those located in the Green Wedge) is an area of complexity requiring a 'layered' approach. Council contend that State government provisions within planning schemes have a role to play in ensuring all new buildings meet appropriate environmental performance standards - including single dwellings. It is acknowledged that non-statutory measures such as incentives that assist owners of existing single dwellings to adopt more sustainable building design outcomes are an important part of securing effective ESD outcomes.

Thank you again for the opportunity to provide a response to the ESD 'Roadmap'. Council looks forward to reviewing the proposed changes in Stage 2 of this work to introduce new and expanded particular provisions and specific planning objectives and standards that will help achieve ESD policy goals identified in Stage 1. Council believe Stage 2 work will be imperative in delivering the objectives and strategies detailed in Stage 1 in supporting effective ESD outcomes.

Yours sincerely



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