

Report to the Future Melbourne Committee

Agenda item 6.3

Melbourne Planning Scheme Amendment C384 – Inundation Overlays and the Good Design Guide

3 August 2021

Presenters: Tanya Wolkenberg and Richard Smithers, Acting Directors City Strategy**Purpose and background**

1. The purpose of this report is to recommend that the Future Melbourne Committee request authorisation from the Minister for Planning to prepare and exhibit Amendment C384 (the Amendment) (Attachment 2). The Amendment proposes to apply the Land Subject to Inundation Overlay (LSIO) and Special Building Overlay (SBO) to land affected by riverine flooding and drainage flooding respectively, and includes corresponding planning provisions. The overlays will trigger the requirement for a planning permit assessment for additional areas in the municipality once gazetted in the planning scheme.
2. Management also seeks endorsement of the *Good Design Guide for Buildings in Flood Affected Areas in Fishermans Bend, Arden and Macaulay* (the Guide) (Attachment 3). The Guide is referenced in the amendment provisions as a background document in the planning scheme. If endorsed, the Guide will be publically exhibited as part of the Amendment.
3. Water has always had a vital presence in Melbourne. The pre-contact landscape included the Birrarung (Yarra River), Moonee Moonee Chain of Ponds, Maribyrnong River and low lying areas which would often flood as part of the natural ecosystem. The local environment supported an abundance of habitat for wildlife and provided food and an important meeting place for events of social, educational, sporting and cultural significance for the Eastern Kulin Nation. Urbanisation of land along waterways and in broader catchments has increased the potential for stormwater runoff and flood events. This is exacerbated by the effects of climate change, including sea level rise.
4. It is legislated that Council must give effect to *'the economic, social and environmental sustainability of the municipal district, including mitigation and planning for climate change risks'* (Attachment 1). The existing LSIO was last updated on 10 February 2011 (Amendment C153) and the SBO on 31 May 2001 (Amendment C012).

Key issues

5. Melbourne City Council and Melbourne Water have consulted with the Department of Environment, Land, Water and Planning (DELWP) in preparing the Amendment (Attachment 4). The methodology for the flood modelling accords with the *Australian Rainfall and Runoff*, the national guideline set by Engineers Australia.
6. Floodplain managers are responsible for identifying floodplains and for flood information under the *Water Act 1989*. They often work with councils to undertake flood modelling of local catchments. The Amendment ensures that landowners, prospective purchasers and the community are fully informed of potential flood risk, and can design development that responds to risk to protect life, assets, investments, public infrastructure and the environment. Flood mitigation can therefore be considered early in any development feasibility, engineering, planning and design processes, leading to more certainty for applicant and decision makers as well as streamlining approval.
7. Melbourne City Council, Melbourne Water and Port Phillip City Council collaborated in drafting the Guide to support development. It has a focus on the low lying urban renewal areas of Fishermans Bend, Arden and Macaulay which are proximate to waterways and drainage. The Guide seeks to assist developers and encourage universally-accessible, safe, high quality buildings which contribute positively to streets and neighbourhoods. It is referenced in the overlay schedules to ensure consideration as part of the planning permit process. This approach is supported by Council officers with in-principle support for the objectives and outcomes provided in the Guide from officers at DELWP and Melbourne Water. To progress, the Amendment would be subject to authorisation and public exhibition prior to the Planning Panel process.

Recommendation from management

8. That the Future Melbourne Committee:
 - 8.1. Requests authorisation from the Minister for Planning to prepare and exhibit Amendment C384 as shown at Attachment 2.
 - 8.2. Endorses the *Good Design Guide for Buildings in Flood Affected Areas in Fishermans Bend, Arden and Macaulay* as shown at Attachment 3, recognising the intent to include the Guide as a background document in the Melbourne Planning Scheme.
 - 8.3. Notes the letters received from Melbourne Water and the Department of Environment, Land, Water and Planning as shown at Attachment 4.
 - 8.4. Authorises the General Manager Strategy, Planning and Climate Change to make any further changes to the amendment documentation and attachments, if required, as well as the Victorian Government's Planning Policy Framework update prior to exhibiting Amendment C384.

Attachments:

1. Supporting Attachment (Page 3 of 1146)
2. Amendment Documents (Page 6 of 1146)
3. Good Design Guide for Buildings in Flood Affected Areas in Fishermans Bend, Arden and Macaulay (Page 1071 of 1146)
4. Letters from Melbourne Water and the Department of Environment, Land, Water and Planning (Page 1139 of 1146)

Supporting Attachment

Legal

1. Section 9(1) of the *Local Government Act 2020* states that a Council must - in the performance of its role - give effect to the overarching governance principles of the Act. This includes section 2 '(c) *the economic, social and environmental sustainability of the municipal district, including mitigation and planning for climate change risks, is to be promoted, (d) the municipality community is to be engaged in strategic planning and strategic decision making and (f) collaboration with other Councils and Governments and statutory bodies is to be sought*' (in this case Melbourne Water and Port Phillip City Council). The Amendment gives effect to the overarching governance principles by identifying land subject to inundation by using best practice climate change factors in the modelling.
2. The *Planning and Environment Act 1987* (the Act) sets out the framework for the use, development, and protection of land in Victoria in the present and long-term interests of all Victorians. The Amendment seeks to identify land subject to inundation and manage new development through the planning scheme to minimise potential flood damage. Divisions 1 and 2 of Part 3 of the Act set out the procedure for planning scheme amendments and set out the relevant provisions in relation to the notification of planning scheme amendments including the process for public submissions and the consideration of those submissions by the planning authority or an appointed panel. The recommendation set out in the report is consistent with the Act.

Finance

3. The cost for preparing and progressing the Amendment is included in the current operational budget. The exhibition costs such as Panel fees and giving notice will be shared proportionately with Melbourne Water.

Conflict of interest

4. No member of Council staff, or other person engaged under a contract, involved in advising on or preparing this report has declared a direct or indirect interest in relation to the matter of the report.

Health and Safety

5. The health and safety of the community is central to the rationale of the amendment which seeks to protect life, property, public health, assets and the environment by managing new development in the planning scheme to minimise potential flood damage.

Stakeholder consultation

6. Management is working with Melbourne Water on communications and engagement. This includes a Participate Melbourne webpage being publically available when this agenda item went live on Council's website.
7. In 2018, work commenced on *API 8.23 (Work in partnership with Melbourne Water to update flood knowledge and mapping to inform amendments to the Melbourne Planning Scheme)*. A *Planning Scheme Amendment Implementation Plan* was developed in 2018-19 which outlined the roles and responsibilities of each organisation, the project deliverables and timeline. Management consulted with DELWP on the implementation plan, amendment and associated timing.
8. Management in partnership with Melbourne Water and City of Port Phillip led a two week design workshop with the Office of the Victorian Government Architect (OVGA), Municipal Association of Victoria, Victorian Planning Authority (VPA), DELWP, and the Department of Jobs, Precincts and Regions (DJPR) in February and March 2020 (pre COVID-19) to develop the *Good Design Guide for Buildings in Flood Affected Areas in Fishermans Bend, Arden and Macaulay (May 2021)*. Port Phillip City Council endorsed the Guide on 21 July 2021.
9. Management presented the Guide to the Disability Advisory Committee (DAC) on 17 September 2020. The DAC was supportive of the guide and Management have committed to future engagement with the DAC during exhibition.

10. Management and Melbourne Water officers presented the Guide to the OVGA Design Review Panel on 7 October 2020. The OVGA acknowledged the important role the Guide will have in addressing emerging issues in the renewal areas and provided feedback which led to an update of the Guide.
11. Management and Melbourne Water have provided the updated flood modelling to the State Emergency Service (SES) and presented to the SES on 16 December 2020 and 22 July 2021. The SES is in the process of updating the Local Flood Guides, which will provide suburb-specific information to assist property and business owners and inform Melbourne City Council's Municipal Emergency Management Plan.
12. Management presented the Amendment and Guide to the VPA and Development Victoria on 27 October 2020 and had more detailed discussions with the VPA on 11 June 2021, 16 June 2021 and 25 June 2021 to inform the Arden Structure Plan and assist in the planning and design of Arden Central.
13. Management presented the Amendment to City of Port Phillip officers on 5 July 2021.
14. Management presented the Amendment to the Insurance Council of Australia on 13 July 2021.
15. Management informed representatives of the Property Council of Victoria on the progress of the Amendment and Guide on 22 July 2021.
16. Management presented the Amendment and Guide to DJPR (Fishermans Bend Taskforce) on 27 July 2021.
17. Management presented the Guide and informed the Urban Development Institute of Australia (UDIA) of the progress of the Amendment on 29 June 2021.
18. The Amendment will be prepared and exhibited under section 19 of the *Planning and Environment Act 1987* which includes the requirement to give notice to affected landowners, occupiers and prescribed ministers. It is anticipated the exhibition of Amendment C384 will be undertaken in late 2021 subject to Ministerial authorisation.
19. Management will engage with Traditional Custodian and resident groups during exhibition of the Amendment.

Relation to Council policy

20. The amendment is consistent with the following Council policies:
 1. *Municipal Integrated Water Management Plan (2017)*
 2. *The Climate Change Adaptation Strategy Refresh (2017)*
 3. *Melbourne Flood Management Plan (2018)*
 4. *Climate Change Mitigation Strategy (2018)*
 5. *Docklands Waterways Strategic Plan (2009-2018)*
 6. *Elizabeth Street Catchment Integrated Water Cycle Management Plan*
 7. *Declaration of the Climate and Biodiversity Emergency (2019)*
 8. *City of Melbourne Service Asset Management Plan (2019/2020)*
 9. *Moonee Ponds Creek Strategic Opportunities Plan (2019)*
 10. *Yarra River – Birrarung Strategy (2019)*
 11. *Maribyrnong Waterfront (2020)*

Environmental sustainability

21. The amendment is a direct and necessary response to the declared climate and biodiversity emergency.
22. The amendment recognises that climate change may intensify flood events.

23. The environmental sustainability of the City will benefit as Council can use the updated information to ensure future public realm works are planned and designed to improve water management through ecological and water-sensitive urban design initiatives and infrastructure and drainage upgrades.
24. The amendment will assist council with sustainable water management as follows:
 - 24.1 Flood mitigation and urban design approaches that integrate water within the landscape and build social resilience to flooding can be explored and adopted to mitigate the estimated increased flood impacts in Melbourne.
 - 24.2 Build community awareness of flooding and preparedness to deal with it.
 - 24.3 Increase community awareness of whole-of-water cycle management – including through the City of Melbourne’s Urban Water website.
 - 24.4 Collaborate with other councils and water industry stakeholders on regional issues and to share learnings.
 - 24.5 Advocate for climate change rainfall intensity to be included in future inundation overlay amendments.
 - 24.6 Build the city’s resilience to flooding.
 - 24.7 Inform planning and design of streetscapes and public open spaces.
 - 24.8 Inform a future review of the Melbourne Flood Management Plan (2018).