

Inner Melbourne Action Plan
Progress Report
Action 9.2 – Environmentally Sustainable Design

Purpose

1. To update the Committee on the progress of Action 9.2 Environmentally Sustainable Design: A – Communications Strategy – ESD Fact Sheets – Stage 2
2. To provide the Committee with a report on the proposed Governance of the Fact Sheets as requested at the Committee meeting in May 2014.

Background

3. In May 2012 the IMAP Councils released the first round of fact sheets which covered the 10 key sustainable design categories for the Sustainable Design in the Planning Process (SDAPP) framework.
4. Through the first part of the project we identified that additional fact sheets could be created to provide more detail on relevant sustainable design issues within the planning scheme. This was approved by the Committee in December 2010.
5. The fact sheets have been implemented at the Cities of Port Phillip, Stonnington and Yarra. An IP Licence agreement was created for additional councils outside of IMAP to adopt the fact sheet. Currently there are eight councils who have signed this agreement.
6. Six councils (including Port Phillip, Stonnington and Yarra) have proposed local Environmentally Sustainable Development (ESD) policies and have utilised the IMAP Fact Sheets as key reference documents for the policies.
7. The Ministerial Advisory Committee (MAC) report for the proposed policies has recommended that a consistent set of Fact Sheets be provided.

Discussion

8. The team are still continuing work on the second set of fact sheets. It is expected that they will be completed by the end of the year. Time has been spent in this period focusing on the proposed governance arrangement for the ongoing maintenance of the Fact Sheets
9. The attached report provides a governance structure which considers the recommendations made as part of the MAC report.
10. The team has met with Mr Michael Smith (Corporate Counsel, City of Stonnington) who prepared the original Fact Sheet IP Licence Agreement. The attached report reflects these discussions however it will need approval by Mr Smith once he returns from leave in September.
11. The Council Alliance for a Sustainable Built Environment (CASBE) was formed in 2009 by several inner Melbourne local governments including Port Phillip, Stonnington and Yarra. CASBE has developed the SDAPP framework and the Fact Sheets have been designed to compliment this framework.
12. The report indicates that the existing agreements be withdrawn. A new agreement between IMAP and CASBE will allow CASBE to manage the 'Best Practice Standards' and for CASBE to request changes to IMAP for content which may become outdated over time.
13. New agreements between CASBE and the existing eight councils and any future councils should then be provided which will not allow any adjustment to content or the 'Best Practice Standards'.

Recommendations

14. That the IMAP Implementation Committee approves in principle the proposal outlined in the IMAP Fact Sheet Governance Report, subject to final approval from Corporate Counsel.
15. That the IMAP Implementation Committee resolves to **note** the progress comments provided.

29 August 2014

Attachment 8a

Inner Melbourne Action Plan
Making Melbourne More Liveable



IMAP ACTION 9.2
SUSTAINABLE DESIGN FACTSHEETS
GOVERNANCE REPORT
AUGUST 2014

INTRODUCTION

This report has been prepared to recommend a proposed governance approach for the Sustainable Design in the Planning Process (SDAPP) fact sheets which were produced through the Inner Melbourne Action Plan (IMAP) Action 9.2 Environmentally Sustainable Design.

The fact sheets were launched in May 2012 and have since been adopted by seven additional councils beyond the initial four IMAP councils of Melbourne, Port Phillip, Stonnington and Yarra. The fact sheets have played an important role in promoting the benefits of sustainable design through the planning process for a wide range of planning applications.

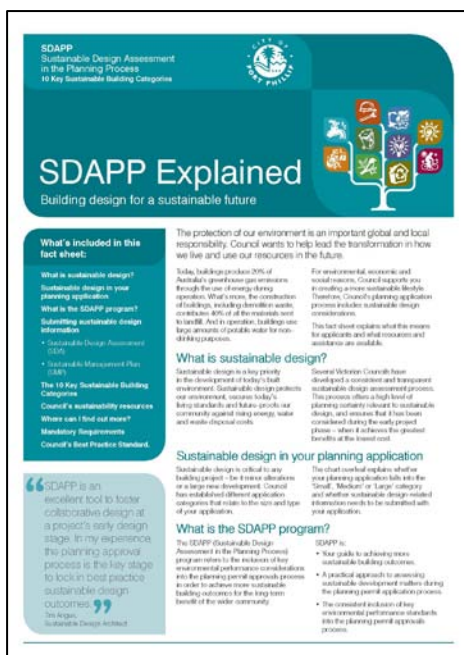
As the original intent was to share the fact sheets amongst other (non-IMAP) councils, an Intellectual Property Licence Agreement was put into place which outlined the conditions of use for non-IMAP Councils.

This agreement permitted each council to brand the fact sheet suite in their respective logo and colours and to edit the 'Mandatory Requirements and Council's Best Practice Standard' section.

The fact sheets have also been used to support the proposed Environmentally Sustainable Design (ESD) local planning policies for the Cities of Banyule, Moreland, Port Phillip, Stonnington, Whitehorse and Yarra ('the Joint Councils'). The fact sheets were introduced as policy reference documents as a means of articulating a 'best practice' ESD standard.

The local planning policies were exhibited by the Joint Councils in 2013 and a Ministerial Advisory Committee (MAC) and Planning Panel (combined) was appointed to consider submissions, the proposed policies and broader regulatory issues (with a Committee and Panel hearing occurring in November 2013). The MAC recommended that the development of a single consistent set of Fact Sheets be considered by the Joint Councils and the Municipal Association of Victoria, to ensure consistency across Councils and enable industry familiarity.

This report provides an outline of the steps needed to be taken to ensure that the Fact Sheets are consistent as recommended by the MAC. This report recommends a process to achieve consistency as well as ensure that IMAP are acknowledged as the original creator of the fact sheet suite.



BACKGROUND

The Inner Melbourne Action Plan (IMAP) Action 9.2 Environmentally Sustainable Design (ESD) gained approval from the IMAP Committee in December 2010 to produce a set of 10 fact sheets, 1 explanatory fact sheet and a branded folder for each of the four original IMAP councils (Melbourne, Port Phillip, Stonnington and Yarra).

The project looked to adopt the ten sustainable design categories outlined in the Municipal Association of Victoria's *Planning For Sustainable Buildings Guide* (2011) (developed under the Victorian Local Sustainability Accord Fund - now the Victorian Adaptation Sustainability Partnership or VASP). Known as the 'toolkit' the *Planning For Sustainable Buildings Guide* outlines the framework for Sustainable Design in the Planning Process (SDAPP) for the local councils who now form the Council Alliance for a Sustainable Built Environment (CASBE).

The ten sustainable design categories include :

Indoor Environment Quality
 Energy Efficiency
 Water Efficiency
 Stormwater
 Building Materials
 Urban Ecology
 Transport
 Waste
 Innovation
 Building and Site Management



The SDAPP framework has been adopted by CASBE councils and implemented to support sustainable design outcomes through the statutory planning process. The development of the Fact Sheets has strengthened the framework by providing detailed information on the ten sustainable design categories. This has been a valuable source of information for planning applicants to gain an understanding of what the issues are, how they can be of benefit to owners and occupiers of their buildings and what standards are expected to meet council's expectations for sustainable design.

There are some similarities between IMAP and CASBE in that they consist of local government organisations working to deliver more improved outcomes collaboratively than would be achieved by operating individually. CASBE however has a much narrower focus than IMAP, primarily focusing on applying environmentally sustainable development (ESD) principles to the built environment through the statutory planning system, with IMAP pursuing actions across all areas of council service and program delivery.

PROPOSED ENVIRONMENTALLY SUSTAINABLE DEVELOPMENT LOCAL PLANNING POLICY

The development of a local planning policy was initiated by Moreland City Council in 2009 and subsequently joined by the cities of Banyule, Port Phillip, Stonnington, Whitehorse and Yarra. The intent of the policy is for a planning applicant to demonstrate that their proposal demonstrates best practice outcomes across seven of the sustainable design categories. These include:

Energy Efficiency
 Water Resources
 Indoor Environment Quality
 Stormwater Management
 Transport
 Waste Management
 Urban Ecology



The additional three categories covered in the Sustainable Design in the Planning Process (SDAPP) Fact Sheets include Building Materials, Innovation and Building Management. These categories are still deemed important to the SDAPP framework but for specific planning and policy reasons were not included in the ESD Local Policy.

The MAC report was in general very supportive of the proposed ESD policies and recommended that they be adopted. They were subsequently adopted in July 2014 by each Council and then submitted to the Minister for Planning and are currently awaiting ministerial approval.

The MAC Report provides a list of recommendations, two of which are specific to the Fact Sheets:

'3. The Sustainable Design Assessment in the Planning Process Fact Sheets in existence at the time of Amendment exhibition be adopted in the local policies as reference documents.'

The fact sheets have been included as reference documents in each of the Joint Councils adopted policies; this recommendation has already been satisfied.

and

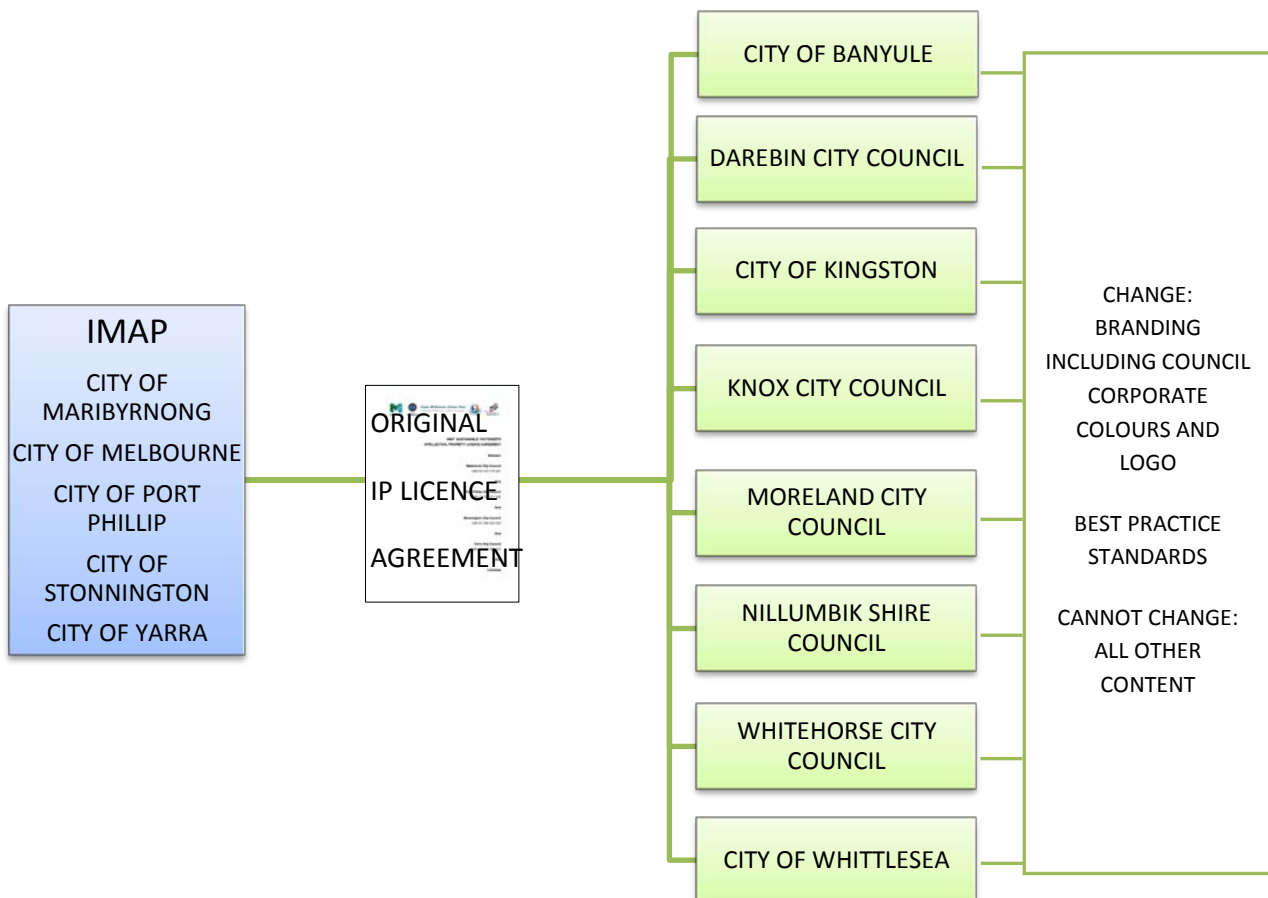
'4. The development of a single consistent set of Fact Sheets be considered by the Proponent Councils and the Municipal Association of Victoria.'

A single consistent set of Fact Sheets can be achieved however the agreements between IMAP and non-IMAP councils will need to be amended to ensure that the 'Mandatory Requirements and Council's Best Practice Standard' sections can no longer be modified by any individual councils.

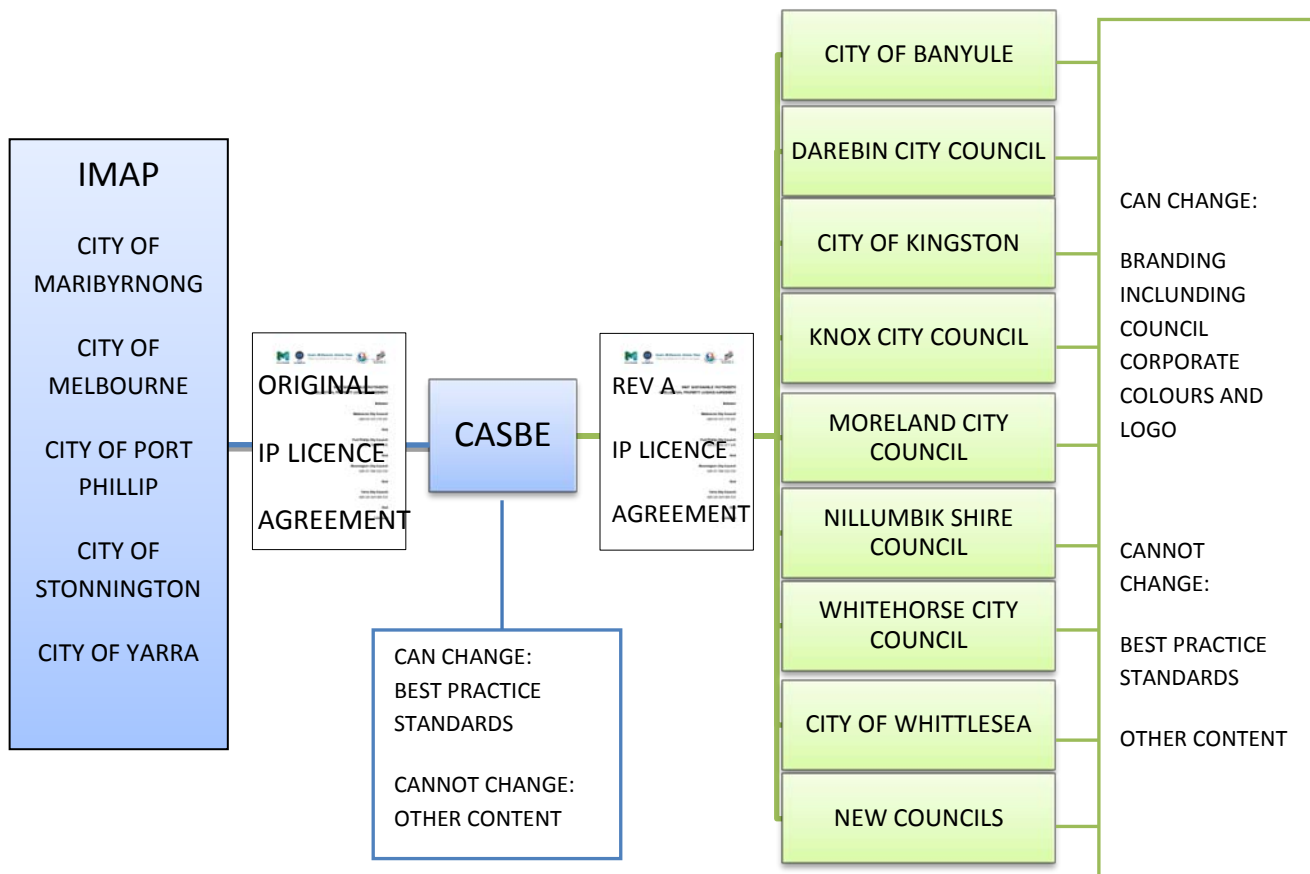
The original Intellectual Property Licence Agreement was developed by Michael Smith (Corporate Counsel, City of Stonnington) on behalf of the IMAP Action 9.2 team in August 2012 for the purpose of licensing the Fact Sheets to non-IMAP Councils. The agreement allowed each Council to brand the fact sheets and folder with their own corporate colours and logo . There were no costs associated with the agreement except for the cost of printing and generating digital copies in the council style and colours.

However, the MAC Report has recommended that a single consistent set of Fact Sheets be developed. The Licence Agreements would need to be altered to prevent individual councils from changing the best practice standards to ensure the standards remain consistent, and updated through a central source.

A comparison between the existing IMAP IP Licence Agreement and the proposed structure are as follows:



Existing Fact Sheet Single Tier Governance Arrangement



Proposed Fact Sheet Two Tiered Governance Arrangement

In order to adopt this approach the existing licence agreements will need to be cancelled and reissued through a new governance structure to ensure that the Fact Sheets remain a single consistent set. Section 2.2 (page 5) of the agreement allows the licensor (IMAP) to terminate the agreement in writing and the licensee would be given 6 months to remove the initial set of fact sheets.

ACTION: IMAP to write a letter to eight (non-IMAP) licensee councils notifying them of the proposed changes.

A new licence would then be drafted up as a Revision A and would be between CASBE and the adopting seven councils. This agreement would be modified from the original to ensure that condition d of ITEM 2 Customisation be removed to ensure that the licensee cannot edit the best practice standards section. If any additional councils wanted to utilise the fact sheets from this point on (outside of the IMAP councils) then they would sign this agreement. The cost structure is to remain where the only impact is the cost to the council of printing and generating digital copies in the council colours.

ACTION: Revision A IP Licence Agreement drafted and provided to seven (non-IMAP) licensee councils for sign off

The original IP licence agreement could then be reused and agreed between IMAP and CASBE. This will ensure that the content is still fixed and that the best practice standards section can still be changed. As indicated earlier, the intent is to allow CASBE to modify these changes when required and that a process will be in place to engage with industry stakeholders to do so.

ACTION: Original IP Licence Agreement signed between IMAP and CASBE

CONTENT – MAKING CHANGES TO THE FACT SHEETS

The main body content of the Fact Sheets are proposed to remain as initially published under the initial licensing agreement. There may be future need to change the content of the fact sheets due to the content becoming out dated.

It is anticipated that changes to the fact sheet content will occur over time. This may be due to changes within the industry through mandatory and best practice definitions. Licenced councils will be encouraged to indicate sections of content that they consider needs changing through the CASBE network.

It is also proposed that CASBE govern the 'Mandatory Requirements and Council's Best Practice Standard's to ensure they are relevant with changes to mandatory instruments including the National Construction Code (NCC), the proposed Office of the Victorian Government Architect's Apartment Code, the planning scheme and other changes within the construction industry. It is expected that this review will take place bi-annually.

This process will involve CASBE liaising with relevant stakeholders of the construction industry to ensure the changing of standards reflects what a best practice standard approach would be within the market place at the time of the proposed changes.

CASBE may develop a Fact Sheet sub-working group to manage this process, which would include CASBE member councils and Fact Sheet Licenced councils. Any changes to the 'Mandatory Requirements and Council's Best Practice Standards' would be governed through CASBE without needing to be authorised by the IMAP Implementation Committee.

ACTION: Confirm with CASBE that they approve this proposal and will set up a Fact Sheet sub-working group

The main body content changes would need to be approved by IMAP. CASBE would write to IMAP and inform them of the suggested changes and ask for approval to proceed with the changes. It is recommended that these changes could be approved by the IMAP Committee or IMAP Executive Officer under delegation.

RECOMMENDATION: To approve changes to Fact Sheet content by IMAP Implementation Committee or IMAP Executive Officer under delegation

The cost of the fact sheet suite will remain free for licencing councils, however the costs of printing and generating digital copies in the council style and colours will still apply.

CHANGES TO BRANDING OF EXISTING SET OF 10 FACT SHEETS

Prior to the re-issuing of IP licence agreements the Action 9.2 Team recommends modifications to branding content on the rear of the fact sheets (the section containing the IMAP logo and related disclaimers).

As the fact sheets are individually branded by each licensee Council (whether IMAP or non-IMAP council) the IMAP logo on the rear of the fact sheets may lead to some confusion with non IMAP councils and local development industry stakeholders. The IMAP logo contains the initial four IMAP councils on the rear of each fact sheet.

Disclaimer:

This fact sheet is not designed to replace project specific advice from building design and sustainability professionals. Council does not take responsibility for any issues that may occur due to the facts and guidance provided in this fact sheet.



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Above: Existing disclaimer and logo at the rear of each of the fact sheets

Below: Proposed changes to the footer to include description of new governance arrangement, statement regarding consistency across all fact sheets although still separately branded and the removal of the IMAP logo replaced with a statement to indicate that full intellectual property rights remain with IMAP.

These fact sheets were developed through IMAP on behalf of the cities of Maribyrnong, Melbourne, Port Phillip, Stonnington and Yarra through Action 9.2 - Environmentally Sustainable Design

www.imap.vic.gov.au

IMAP retains full Intellectual Property (IP) rights of the set of fact sheets and future fact sheets added to the series. Through a MoU licence agreement the updating and maintaining of the fact sheets will be conducted by the Council Alliance for a Sustainable Built Environment (CASBE) www.mav.asn.au

Although individually branded by each Council adopting the fact sheet series, the section 'Mandatory Requirements and Council's Best Practice Standard' at the rear of each fact sheet is consistent.

These standards will be reviewed on an bi-annual basis by CASBE to determine if any changes are required. Where needed consultation with the development industry will occur to inform these changes.

Disclaimer:

This fact sheet is not designed to replace project specific advice from building design and sustainability professionals. Council does not take responsibility for any issues that may occur due to the facts and guidance provided in this fact sheet.

ACTION: Agree to changes to the disclaimer and logo section to the rear of each fact sheet

ADDITIONAL FACT SHEETS

IMAP has commissioned the Action 9.2 Team to develop additional fact sheets to compliment the initial set. These fact sheets will not have best practice standards defined within them. This section of the sheet will be titled 'Mandatory Requirements and Council's Design Advice', with the intent to guide applicants to improved outcomes. These additional Fact Sheets will not be included as reference documents to the proposed planning policies. The topics for these fact sheets include:

Site Permeability
Melbourne Climate
Sunshading
Green Roofs and Walls
ESD Tools

Mandatory Requirements and Council's Best Practice Standard	
<p>Environmental Sustainable Design (ESD) Principles There are two levels of compliance when it comes to ESD principles – mandatory and best practice.</p> <p>Mandatory Requirements You must meet Australian Standards and the Building Code of Australia (BCA) requirements for thermal comfort, ventilation, daylight and energy efficiency.</p> <p>Council's Best Practice Standard Provide a healthy and comfortable indoor environment that reduces energy consumption and reliance on building services:</p>	<ul style="list-style-type: none"> • Size windows at 20% of a room's floor area to balance access to daylight, heat loss in winter and solar heat gains throughout the year. • Limit the number of single-aspect apartments with a southerly aspect (SW-SE) to a maximum of 10% of the total apartments proposed. • Limit the number of apartments with internal bedrooms to a maximum of 10% of the total apartments proposed. • At least 60% of a development's apartments should be naturally cross ventilated.

Above: Existing Mandatory Requirements and Council's Best Practice Standard currently contained for the initial ten sustainable design category fact sheets.

Below: Proposed section for the additional set of fact sheets, showing the change from Council's Best Practice Standard to Council's Design Advice.

Mandatory Requirements and Council's Design Advice	
<p>Environmental Sustainable Design (ESD) Principles There are two levels of compliance when it comes to ESD principles – mandatory and best practice.</p> <p>Mandatory Requirements The design, construction and installation of green roofs, walls and facades is subject to the relevant authorities granting the required permits, approvals and consents. Specific information should therefore be obtained from such authorities prior to the commencement of any such projects.</p>	<p>Council's Design Advice To meet best practice standards, you must:</p> <ul style="list-style-type: none"> • Design the system to provide the maximum number of benefits. • Use non-potable water to supply any irrigation systems • Enhance the ecological value of your site through inclusion of habitat features and plants • Cover as possible with vegetation to maximise thermal benefits; for green roofs, maximise the planting area for greatest stormwater benefits .

REFERENCES

MAV Planning for Sustainable Buildings Guide

www.sustainability.mav.asn.au/content/upload/files/publications/MAV_Planning_for_Sustainable_Buildings_Guide.pdf

Council Alliance for a Sustainable Built Environment (CASBE)

www.mav.asn.au/policy-services/planning-building/sustainable-buildings/council-alliance-sustainable-built-environment/Pages/default.aspx

Ministerial Advisory Committee– Environmentally Efficient Design Report

www.whitehorse.vic.gov.au/IgnitionSuite/uploads/docs/Environmentally%20Efficient%20Design%20AC%20Report.pdf



Inner Melbourne Action Plan
'Making Melbourne More Liveable'



IMAP SUSTAINABLE FACTSHEETS INTELLECTUAL PROPERTY LICENCE AGREEMENT

Between

Melbourne City Council

ABN 55 370 219 287

And

Port Phillip City Council

ABN 21 762 977 945

And

Stonnington City Council

ABN 67 688 032 530

And

Yarra City Council

ABN 98 394 086 520

And

Licensee

This Agreement is made on [insert date, day, month, year]

Parties involved

Name	Address	Referred to in this Agreement as
Melbourne City Council ABN 55 370 219 287	90 Swanston Street Melbourne VIC 3000	<i>Collectively referred to as Licensor/s</i>
Port Phillip City Council ABN 21 762 977 945	Private Bag No. 3 Post Office, St Kilda VIC 3182	
Stonnington City Council ABN 67 688 032 530	PO Box 21 Prahran VIC 3181	
Yarra City Council ABN 98 394 086 520	PO Box 168 Richmond VIC 3121	
[insert]	[insert]	<i>Licensee</i>

Signatures – Executed as an Agreement

EXECUTED on behalf of the LICENSORS – the Cities of Melbourne, Yarra, Port Phillip and Stonnington by their duly authorised representative in the presence of:

..... //2012 //2012
IMAP Executive Officer, Authorised Representative – Signature Witness – Signature

.....
IMAP Executive Officer, Authorised Representative – Name (please print) Witness – Name (please print)

EXECUTED on behalf of LICENSEE by its duly authorised representative in the presence of:

..... //2012 //2012
Authorised Representative – Signature Witness – Signature

.....
Authorised Representative Name (please print) Witness – Name (please print)

RECITALS

- A** Each of the Licensors has formed a Special Committee to provide a coordinated decision-making process to facilitate the implementation of the Inner Melbourne Action Plan (**the IMAP**).
- B** As part of the IMAP, the Licensors agreed to the commissioning of various Fact Sheet Works.
- C** The Licensee wishes to exploit the various Fact Sheet Works owned by the Licensors for the distribution of Fact Sheets under the Licensee's corporate branding.
- D** The Licensor willingly grants, and the Licensee willingly accepts, a licence for the use of various Fact Sheet works and related information on the following terms and conditions.

1. DEFINITIONS

- 1.1 In this Agreement, unless the context requires otherwise:

Approved Purposes means those purposes set out in 0 of 0.

Fact Sheets means any combination in whole or in part of the Works and Technical Information (and Intellectual Property Rights contained within those things) that is provided to the Licensee under the terms of this Agreement.

IMAP Implementation Committee means the name given to the Special Committee formed by each Licensor, in accordance with Section 86 of the *Local Government Act 1989* (Vic), meeting as one committee to provide a coordinated decision-making process to facilitate the implementation of the IMAP.

Intellectual Property Rights means all intellectual property rights of whatsoever kind, whether registered or unregistered, existing in the Fact Sheet Works by reason of their development by the Licensors and includes the copyright (including future copyright) in the Works and any and all designs or trademarks anywhere in the world.

Reproduction means each instance of the Fact Sheets being reproduced in part or whole by Licensee (or its agents).

SDAPP means the Sustainable Design Assessment in the Planning Process framework, which is only referred to in this document but does not form part of this agreement.

Technical Information means information of a technical, scientific or business nature which Licensors consider reasonably necessary for Licensee to reproduce the Fact Sheets.

Works means the works specified in Item 1 of 0 and such other works as the Licensors may produce from time to time and includes all Intellectual Property Rights in such Works.

2. LICENCE RIGHTS

Each Licensor grants to the Licensee a non-exclusive licence to reproduce the Fact Sheets strictly for the Approved Purposes on the terms and conditions of this Agreement.

- 2.1 No licence fee is required by the Licensors but any and all costs incurred by the Licensee in relation to this licence are payable by the Licensee.
- 2.2 This Licence may be terminated at any time by the Licensor providing six months written notice to the Licensee.
- 2.3 The licence granted to the Licensee under this Agreement:
 - (a) Cannot be transferred;
 - (b) Cannot be sub-licensed without the Licensors' written authority; and
 - (c) Only extends to the Licensors' right, title and interest in the Fact Sheets.

3. LICENSORS' OBLIGATIONS

- 3.1 In addition to the rights granted in clause 0 in relation to the Works , each Licensor agrees to:
 - (a) disclose to the Licensee any Technical Information as required from time to time;
 - (b) deliver to the Licensee the Fact Sheets in the format specified in Item 2 of Item 1;
 - (c) notify the Licensee of any updates to the Fact Sheets
 - (d) upon request, deliver to the Licensee updated versions of the Fact Sheets in exchange for any then superseded or defective versions of the Fact Sheets; and
 - (e) provide written approval to confirm to the Licensee that proofs are in accordance with Schedule 2.

4. LICENSEE'S OBLIGATIONS

- 4.1 For the duration of this Agreement, the Licensee must:
 - (a) strictly adhere to any guidelines of use specified in Schedule 2 and any updated versions of those guidelines provided by the Licensors from time to time;
 - (b) in respect of each Reproduction:
 - (i) accurately accredit the involvement of each Licensor;

- (ii) accurately accredit each Licensor's ownership in the Fact Sheets by appropriately showing the IMAP logo on each Fact Sheet's last page.
- (iii) provide to the Licensor a proof copy of any proposed Reproduction, within a reasonable time prior to publication; and
- (iv) only proceed with production after written approval by the Licensors.

4.2 Unless permitted to do so by law or the terms of this Agreement, or otherwise with the Licensor's written permission, the Licensee must not, and must not allow any third party, to:

- (a) Reproduce or publish any part, whole or combination of the Fact Sheets;
- (b) utilise the Fact Sheets for any purpose other than the Approved Purposes;
- (c) amend, alter, re-arrange or modify in any way, the Fact Sheets;
- (d) use a Fact Sheet in any way that could:
 - (i) damage the reputation of a Licensor;
 - (ii) jeopardise any rights (including Intellectual Property Rights) of a Licensor in the Fact Sheets ; or
 - (iii) cause the Fact Sheets or a Licensor to be brought into disrepute;
- (e) deface, hide, modify, alter or remove any notices concerning the rights (including Intellectual Property Rights) of a Licensor in or in relation to the Fact Sheets; or
- (f) de-compile, disassemble or otherwise circumvent any technological protection measures applied to the Fact Sheets.

5. LICENSEE'S ACKNOWLEDGEMENTS

5.1 The Licensee acknowledges and agrees that:

- (a) all right, title and interest in and to the Fact Sheets remains at all times the absolute property of the Licensors;
- (b) any adaptation, amendment of, or alteration or addition to, any part, whole or combination of the Fact Sheets by the Licensee, vests in the Licensors jointly on creation; and

- (c) it will not file for or in any way assist or be concerned with the registration of any Intellectual Property Rights relating to the Fact Sheets.

6. PROTECTION AND INFRINGEMENT

- 6.1 The Licensee will not contest, or assist any other person to contest, the validity of the Fact Sheets or the Licensors' ownership in the Fact Sheets.
- 6.2 The Licensee may provide recommendations in regard to future versions of the Fact Sheets. However, the Licensors remain responsible for the uptake of those recommendations.
- 6.3 The Licensee will immediately inform the Lensor of any actual or suspected unauthorised Reproduction.

7. LIABILITY AND INDEMNITY

- 7.1 The Licensee acknowledges that the Fact Sheets are intended as general advice and that each recipient of a Fact Sheet should obtain his or her own advice concerning his or her situation and requirements.
- 7.2 The Licensee must ensure that a disclaimer is included on each Fact Sheet.
- 7.3 Each Lensor does not warrant that the information provided in the Fact Sheets is suitable for any particular requirement or will include all information necessary or is up to date.
- 7.4 Each Lensor, their councillors, officers, employees, staff and agents will not be held responsible for any direct or indirect loss, damage, cost or expense caused as a result of the Licensee or any recipient of a Fact Sheet relying on its contents nor for any indirect, consequential or special (including commercial or economic) loss, liability or damage of any kind incurred by Licensee:
 - (a) through its use of the Fact Sheets or any Technical Information; or
 - out of or in connection with this Agreement or the supply of goods or services under it.

The Licensee indemnifies each Lensor against any and all direct or indirect loss, damage, cost or expense including any consequential loss or damage arising from the use of a Fact Sheet by any party to the intent and with the effect that the Lensor will be held harmless by the Licensee from any and all such claims.

8. DISPUTE RESOLUTION

- 8.1 The parties acknowledge that compliance with this clause 0 is a condition precedent to any entitlement to a claim for other relief or remedy allowed by this Agreement. However, nothing in this clause 0 prevents a party from seeking injunctive relief (or any other provisional remedy) from the courts as necessary to protect a party's rights under this Agreement.
- 8.2 At all times while this Agreement is in force the parties agree to co-operate in good faith with each other and to use their respective best commercial endeavours to resolve by mutual agreement any dispute, difference or difficulties (**Dispute**) between them which may arise from time to time in respect of their obligations under this Agreement.
- 8.3 Where a Dispute between the parties cannot be resolved within 14 days of the Dispute being raised by either party, the parties agree to refer such Dispute for mediation as soon as possible in accordance with the following terms:
- (a) the mediator shall be appointed by agreement between both parties and where the parties cannot agree within 14 days, the mediator shall be appointed by the President of the Law Institute of Victoria or its authorised representative;
 - (b) the parties shall procure the mediator to conduct the mediation in accordance with the guidelines agreed between the parties and the mediator; and
 - (c) the costs and expenses of the mediator shall be shared equally between the parties.

9. NOTICES

- 9.1 Notices under this Agreement may be delivered to either party:
- (a) by hand on a business day during normal business hours;
 - (b) by registered mail or by e-mail or by facsimile or other similar means of communication to the addresses referred to Item 4 of 0.
- 9.2 Notices are deemed given, where, if not returned to the sender as undeliverable:
- (a) in the case of hand delivery, registered mail or e-mail upon written acknowledgment or receipt of an officer or other duly authorised employee, agent or representative of the receiving party; and
 - (b) in the case of facsimile, on receipt by the sender of a transmission control report from the despatching machine showing the relevant number of pages, the correct destination facsimile number and an indication that the transmission has been successfully made.

10. GENERAL

Intellectual Property Licence Agreement

- 10.1 Nothing in this Agreement implies or creates a partnership between the Licensors and the Licensee. The Licensee has no right to bind the Licensors or any of them or execute or enter into any agreement on their behalf.
- 10.2 No amendment or variation of this Agreement is valid or binding unless made in writing and executed by the parties.
- 10.3 No party may assign or transfer any of its rights or obligations under this Agreement unless with the prior written consent of each of the Licensors. No failure or delay by a party in exercising any right, power or privilege under or with respect to this Agreement operates as a waiver of such right, power or privilege. No single or partial exercise of any such right, power or privilege precludes any other or further exercise of such right, power or privilege or the exercise of any other right, power or privilege.
- 10.4 If any part or whole of a provision of this Agreement is held to be void or unenforceable for any reason, that part or whole of that provision which is void or unenforceable is deemed severed from this Agreement without otherwise affecting the validity or enforceability of the other provisions contained in this Agreement.

This Agreement:

- (a) contains the entire agreement and understanding between the parties with respect to its subject matter and supersedes all prior agreements and understandings between the parties in connection with it;
- (b) may be executed in any number of counterparts and will come into effect when it is executed by each party and each party, or party's legal representative, has received by way of delivery, an original or facsimile copy of an executed counterpart of the Agreement by the other party;
- (c) is governed by the laws of Victoria, Australia and the parties irrevocably submit to the non-exclusive jurisdiction of the Victorian courts and any courts of appeal from them; and
- (d) binds each party and their respective successors in title and permitted assigns.

END

SCHEDULE 1 - LICENCE DETAILS

ITEM 1 THE WORKS

The Sustainable Design Fact Sheet Suite (referred to as the Fact Sheets) was produced by an IMAP working group and contains the following items:

- (a) 10 Fact Sheets, covering the 10 Key Sustainable Building Categories as outlined by the SDAPP framework. The following fact sheets are included:
 - 1. Indoor Environment Quality
 - 2. Energy Efficiency
 - 3. Water Efficiency
 - 4. Stormwater Management
 - 5. Building Materials
 - 6. Transport
 - 7. Waste Management
 - 8. Urban Ecology
 - 9. Innovation
 - 10. Construction and Building Management
- (b) 1 Fact Sheet, outlining the SDAPP framework, namely 'SDAPP Explained'
- (c) 1 Fact Sheet Folder,

ITEM 2 THE FORMAT FOR DELIVERY

An Adobe Indesign file (CS5), including the linked graphics will be supplied by the Licensor, to the Licensee. It is the responsibility of each Licensee that accurate fonts (as outlined below) and colours (as shown in the files) will be used. The font will be supplied with the files; however it is not the Licensors' responsibility to confirm that fonts are accurately used. The font used in the Fact Sheets is Swiss BT 721 BT

- Light (body text)
- Roman (headings and sub headings)
- Thin (quotes)
- Bold (captions).

ITEM 3 THE APPROVED PURPOSES

The purpose of the Fact Sheets is to provide information on sustainable building design requirements that should be addressed during the early design process and when lodging a planning permit application. They have been developed to suit all project types and sizes so they are useful for home owners doing a small renovation and professional design teams working on large developments. Individual fact sheets have been developed for each of the 10 Key Sustainable Building Categories in Councils' Sustainable Design Assessment in the Planning Process (SDAPP) program.

Subject to the terms of this Agreement, the Licensee may reproduce, publish and communicate to the public the Fact Sheets as follows:

- online downloadable fact sheets in PDF format; to be uploaded on council webpage in A4 format (4 x A4).
- hard copies of fact sheets and folders, always to be distributed in double sided A3 format.

This Agreement does not allow the Licensee to use the Fact Sheet layout or any of the provided graphics, logos or symbols other than for the purposes associated with the Fact Sheet suite with the following exceptions;

- The '10 Key Sustainable Building Categories logo' may be used in association with website communications that specifically reference the Fact Sheets.
- The 'Determining your SDAPP category' graphic may be used in association with website communications that specifically relate to SDAPP.

ITEM 4 NOTICES

The address for notices for the parties will be as follows:

Licensors:

IMAP, on behalf of Melbourne City Council Port Phillip City Council Stonnington City Council Yarra City Council	IMAP PO Box 21 Prahran Vic 3181 Tel: 8290 1110 Email: emcelroy@stonnington.vic.gov.au Website: imap.vic.gov.au
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and be marked to the attention of the " IMAP Executive Officer".

Licensee:

# insert council name	Attention: # insert
	# insert address
	Facsimile Number # insert
	Email [insert address]

SCHEDULE 2 - GUIDELINES OF USE

ITEM 1 FACT SHEET REPRODUCTION

There are three parts that form the Sustainable Design Fact Sheet Suite:

- 10 Fact Sheets, outlining the 10 Key Sustainable Building Categories;
- 1 Fact Sheet outlining the SDAPP framework, namely 'SDAPP Explained'; and
- 1 Fact Sheet folder (hard copy).

The 10 Fact Sheets outlining the 10 Key Sustainable Building Categories, as established through the SDAPP framework, have been designed to provide planning permit applicants with early sustainable design information. The Fact Sheets raise awareness of the importance to address certain building design issues (e.g. Energy Efficiency), provide specific design advice and outline Council's Best Practice Standard in regard to sustainable design. Furthermore, all Fact Sheets reference external resources and further information.

The 'SDAPP Explained' Fact Sheet is relevant to councils that have adopted the SDAPP framework as part of their planning permit approvals process. The Fact Sheet outlines why it is important to incorporate sustainability considerations throughout a building's early design stages and outlines the sustainable design information that is either requested or required when lodging a planning permit application.

The Fact Sheet folder enables councils to distribute hard copy Fact Sheets as an entire suite. The back of the folder contains a list of the Fact Sheets included.

ITEM 2 CUSTOMISATION

Customisation of the Fact Sheets is permitted only to the extent detailed below and always provided the integrity and legibility of the Fact Sheets is retained.

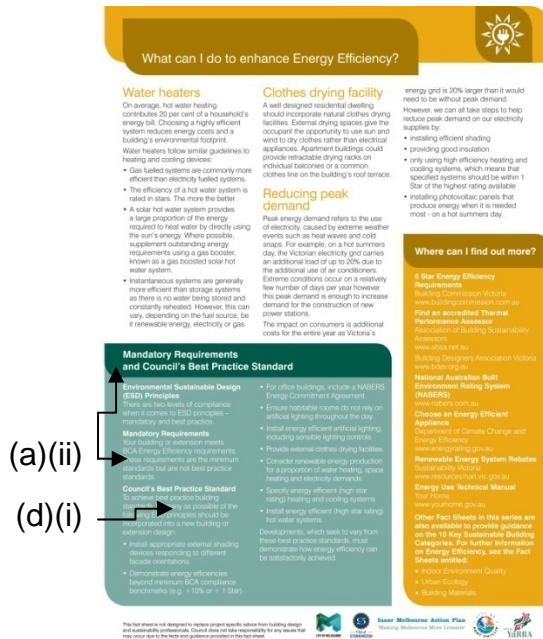
Customisation changes include:

- (a) Use of corporate council colours to:
 - (i) Front page heading (each Fact Sheet)
 - (ii) Last page 'Mandatory Requirements and Council's Best practice Standard' field (each Fact Sheet). Note, the heading should use 100% of the corporate colour; the background to the text below uses a lighter tone of this colour – 40% is recommended and should only be adjusted to improve the readability of the white text; and
 - (iii) Folder, using 100% of the corporate council colour for the background colour to the council logo and the tree; and using a 20% deeper blend (add 20% extra black) for the main folder colour.
 - (iv) 'SDAPP Explained' fact sheet (all pages); Note, 3 different tones are used. 100%, 40%, and 120% of the corporate council colour should be used as in the example file provided.
- (b) Use of reversed white council logo on main corporate council colour to:
 - (i) Front page heading (each Fact Sheet) and 'SDAPP Explained' Fact Sheet (all pages); and
 - (ii) Folder, front page and inlet.
- (c) Council details:
 - (i) Council email address to page 2 and 3 of each Fact Sheet; and
 - (ii) Full contact details to folder inlet.
- (d) Councils Best Practice Standard:
 - (i) Text edits can be made to the 'Councils Best Practice Standard' text on the last page of each Fact Sheet.
- (e) SDAPP categories (Fact Sheet 'SDAPP Explained'):
 - (i) Adjust triggers in graphic 'Determining your SDAPP category'; and
 - (ii) Adjust triggers in text 'Sustainable Design Assessment (SDA)' and 'Sustainable Management Plan (SMP)'.

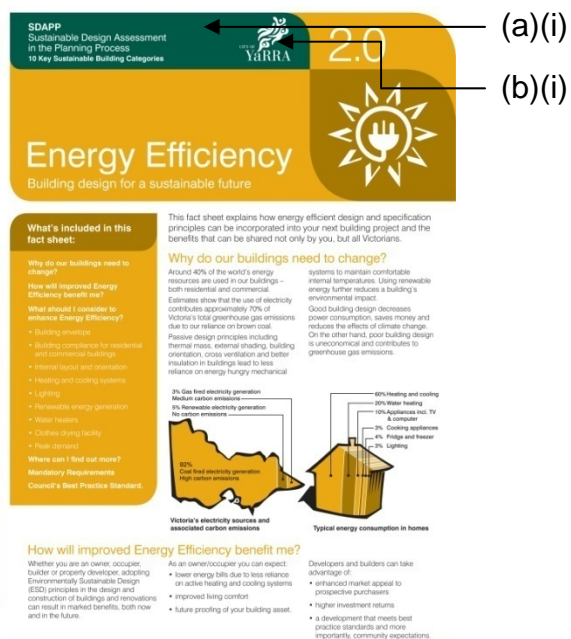
Intellectual Property Licence Agreement

Any changes or additions, other than those outlined above, require the written consent of the Licensors.

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Front Page – Page 1



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Middle Page – Page 3

Sample Artwork for Fact Sheet
(Note sample only – not to scale)

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(b)(i)

Council's sustainability resources

On Council's website, you will also find reference documents that demonstrate how an SDAPP submission can be prepared. You may wish to adapt these documents for use in your planning application. To make sure that your project reflects its full sustainable design potential, we encourage you to discuss your design approach and environmental targets with our Statutory Planning staff or Council's sustainable design experts.

Where can I find out more?

10 Key Sustainable Building Categories Fact Sheets

Make sure you download your fact sheets on the 10 Key Sustainable Building Categories from Council's website: www.yarravc.vic.gov.au

STEPS - Sustainable Tools for Environmental Performance

Strategy

Building a new home or undertaking a major renovation? Rate your home's environmental performance for free and see where your design can be improved. Providing a STEP assessment may also be required when applying for residential planning permits. Please contact before lodging your application with Council: www.sustainablevics.com.au

SDS - Sustainable Design Scorecard

A free, comprehensive tool that assesses and quantifies the environmental performance of non-residential developments. Providing an SDS assessment may also be required when applying for a non-residential planning permit. Please contact before lodging your application with Council: www.sustainablevics.com.au

FirstRate

Green Star has developed under the National House Energy Rating Scheme (NHERS). FirstRate estimates your home's future energy demands for heating and cooling. The calculations consider your building's orientation, thermal mass and other major design attributes. The higher the rating the less demand the building will have on mechanical heating and cooling. Therefore reducing operational energy demand. An energy rating may be required to apply for a residential building permit but we recommend confirming your rating in advance to ensure compliance with planning and building standards.

Green Star

Green Star has developed under the Green Building Council Australia (GBCA). These tools for large scale building projects represent a comprehensive national energy rating scheme. The tools evaluate the design and construction of a building in all sustainable design categories. www.gbca.org.au

Energy Efficiency

- Energy Efficiency
- Indoor Environment Quality
- Waste

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Mandatory Requirements and Council's Best Practice Standard

Mandatory Requirements

Meeting minimum sustainability standards as outlined by the Building Code of Australia and the relevant Planning Scheme documents.

Best Practice Standard

In order to claim that your development has met Council's best practice sustainable design standard, the development must:

- Meet or exceed best practice standards as described in each of the 10 Key Sustainable Building Categories.

The chart above is an integrated sustainability guide to help building design and sustainability professionals. Council does not take responsibility for claims that may arise from the fact you obtained the chart above.

Submit your sustainable design information

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(a)(iv)

(b)(i)

SDAPP Sustainable Design Assessment in the Planning Process

10 Key Sustainable Building Categories

SDAPP Explained

Building design for a sustainable future

The protection of our environment is an important global and local responsibility. Council wants to help lead the transformation in how we live and use our resources in the future.

What's included in this fact sheet:

- What is sustainable design?
- Sustainable design in your planning application
- What is the SDAPP program?
- Submitting sustainable design information
- The 10 Key Sustainable Building Categories
- Council's sustainability resources
- Where can I find out more?
- Mandatory Requirements
- Council's Best Practice Standard

What is sustainable design?

Sustainable design is a key priority in the development of today's built environment. Sustainable design protects our environment, secures today's living standards and future-proofs our community against rising energy, water and waste disposal costs.

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Sustainable design in your planning application

The chart overleaf explains whether your planning application is the 'Small', 'Medium' or 'Large' category and whether sustainable design information needs to be submitted with your application.

What is the SDAPP program?

The SDAPP (Sustainable Design Assessment in the Planning Process) program refers to the inclusion of key environmental performance considerations into the planning permit approval process in order to achieve more sustainable building outcomes for the long term benefit of the wider community.

SDAPP is an excellent tool to foster collaborative design at a project's early design stage. In my experience, the planning approval process is the key stage to lock in best practice sustainable design outcomes.

Tim Angus, Sustainable Design Architect

(e)(i)

Submitting sustainable design information

Determining your SDAPP category

LARGE	MEDIUM	SMALL
Residential	Residential	All other
Non-residential	Non-residential	Any building other than described in the categories Medium and Large
1. Development of a building with a gross floor area of more than 1000m ²	1. Development of a building with a gross floor area between 100m ² and 1000m ²	
2. Alterations and additions greater than 1000m ²	2. Alterations and additions between 100m ² and 1000m ²	

When is an SDA requested?

An SDA is requested for medium developments, comprising of one to nine residential dwellings or 1000m² to 1000m² of non-residential Gross Floor Area (GFA).

What is an SDA?

An SDA is a proposed sustainability assessment of a proposed design at the planning stage. The assessment will support your planning application by showing how you intend to address the 10 Key Sustainable Building Categories.

When is an SMP required?

An SMP is required for all larger developments, comprising of more than nine residential dwellings or more than 1000m² of non-residential Gross Floor Area (GFA).

What is an SMP?

An SMP is a detailed sustainability assessment of a proposed design at the planning stage. An SMP identifies beneficial, easy to implement and best practice sustainability initiatives that address the 10 Key Sustainable Building Categories and demonstrates that a holistic sustainable design review has been undertaken during a project's early design stage.

What is an SMP?

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(e)(ii)

Sustainable Management Plan (SMP)

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(c)(i)

The 10 Key Sustainable Building Categories

1.0 Indoor Environment Quality

Objective: to achieve a healthy indoor environment quality for the well-being of building occupants.

Examples of design decisions:

- daylight
- thermal comfort
- natural ventilation

2.0 Energy Efficiency

Objective: to ensure the efficient use of energy, to reduce total operating greenhouse emissions and to reduce energy peak demand.

Examples of design decisions:

- effective shading
- building fabric enhanced above the minimum Building Code of Australia (BCA) requirements
- efficient heating and cooling systems

3.0 Water Efficiency

Objective: to ensure the efficient use of water, to reduce total operating potable water use and to encourage the appropriate use of alternative water resources.

Examples of design decisions:

- use efficient fixtures and fittings
- avoid the use of mains water for landscape irrigation
- re-use water (e.g. greywater)

4.0 Stormwater Management

Objective: to reduce the impact of stormwater runoff, to improve the water quality of stormwater run-off, to achieve best practice stormwater quality outcomes and to incorporate the use of water sensitive urban design, including permeable re-use.

Examples of design decisions:

- minimise impermeable surfaces
- maximise onsite rainwater re-use (e.g. for flushing/toilets and irrigation)

5.0 Building Materials

Objective: to minimise the environmental impacts of materials used by encouraging the use of materials with a favourable lifecycle assessment.

Examples of design decisions:

- embodied energy of materials
- use of materials with recycled content
- future recyclability of materials

6.0 Transport

Objective: to encourage a holistic and integrated design and construction process and ongoing high performance.

Examples of design decisions:

- Building Users Guide that explains a building's sustainable design principles
- preparation of operation Environmental Management Plan
- contractor has valid ISO 14001 (environmental management) accreditation

7.0 Waste Management

Objective: to ensure waste avoidance, reuse and recycling during the construction and operation stages of development.

Examples of design decisions:

- preparation of a construction Waste Management Plan
- adoption of a demolition and construction material recycling target
- preparation of a operation Waste Management Plan

8.0 Urban Ecology

Objective: to protect and enhance biodiversity and to encourage the planting of indigenous vegetation.

Examples of design decisions:

- maintaining/enhancing the site's ecological value
- creating resident amenity
- encourage biodiversity areas

9.0 Innovation

Objective: to encourage innovative technology, design and processes in all development, so as to positively influence the sustainability of buildings.

Examples of design decisions:

- significant enhancements of best practice sustainable design standards
- incorporation of new technology
- good passive design approach

10.0 Construction and Building Management

Objective: to encourage a holistic and integrated design and construction process and ongoing high performance.

Examples of design decisions:

- Building Users Guide that explains a building's sustainable design principles
- preparation of operation Environmental Management Plan
- contractor has valid ISO 14001 (environmental management) accreditation

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Sample 'SDAPP Explained' Artwork
(Note sample only – not to scale)

