

**Report to the Future Melbourne (Planning) Committee**

**Agenda item 6.3**

**Review of the Adequacy of the Sunlight to Public Spaces Local Policy**

**14 April 2015**

**Presenter:** David Mayes, Manager Strategic Planning

**Purpose and background**

1. The purpose of this report is to advise Council on the adequacy of the Sunlight to Public Spaces local policy ('the Policy'), at Clause 22.02 of the Melbourne Planning Scheme.
2. On 10 February 2015 the Future Melbourne Committee resolved *'That the Future Melbourne Committee requests management to review the adequacy of the 'Sunlight to Public Spaces' local policy and report its findings, and associated recommendations, to this Committee in April 2015.'*

**Key issues**

3. Council's reviews of the Melbourne Planning Scheme in 2008 and in 2014 recommended a review of the Policy. The issues with the Policy are detailed in Attachment 2, and in summary are:
  - 3.1 The strategic basis of the Policy needs updating to reflect current Council policy. The Policy is based on Places for People 1994. Since then the Council has adopted the Open Space Strategy 2012, Urban Forest Strategy 2012-2032 and Walking Plan 2014-2017 which are all directly relevant to the Policy. Also an update of Places for People is underway and will be completed in 2015.
  - 3.2 The Policy should be updated to ensure that it applies to all public open spaces including key public spaces currently omitted such as Birrarung Marr. Whilst the Policy has general requirements for all open spaces, it also has specific requirements for some nominated key public spaces. This has had the effect of diminishing the need for protection to the un-nominated open spaces.
  - 3.3 The current standards relating to the overshadowing of public spaces are inconsistent with the objectives and recommendations of the Open Space Strategy and Urban Forest Strategy.
  - 3.4 The effectiveness of the Policy to prevent the overshadowing of public open spaces is questioned. Other planning scheme controls should be examined such as height controls through a design and development overlay. A review will likely recommend implementing new planning scheme provisions.

**Recommendation from management**

4. That the Future Melbourne Committee notes:
  - 4.1 the preliminary review of the Sunlight to Public Spaces Policy
  - 4.2 that management proposes to include a review the Sunlight to Public Spaces Policy as a Year 3 Action on the Council Action Plan for 2015 - 2016.

**Attachments:**

1. Supporting Attachment
2. Preliminary Review of Sunlight to Open Spaces Policy

## Supporting Attachment

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### Legal

1. There are no direct legal issues arising from the recommendations from management.

### Finance

2. Funding for public consultation and consultant costs as set out in this report and attachments will be factored into the 2015-2016 budget.

### Conflict of interest

3. 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.

### Stakeholder consultation

4. Stakeholders would be consulted as part of the review and as part of the planning scheme amendment. The key external stakeholders include the Department of Environment, Land, Water and Planning, Parks Victoria, resident groups, parks groups, community groups, and developers.
5. Methods of consultation proposed include information sessions, focus groups, information sessions and surveys. The Participate Melbourne community engagement website is proposed to be utilised.
6. The planning scheme amendment stage of the project will include a statutory public exhibition period. Parties that may be affected by the amendment will be notified and the public will have the opportunity to make a submission to the amendment.

### Relation to Council policy

7. This proposed project is consistent with the Melbourne Planning Scheme reviews of 2008 and 2014. It is also consistent with objectives within the *Open Space Strategy 2012*, *Urban Forest Strategy 2012-2032* and the *Walking Plan 2014-2017*

### Environmental sustainability

8. The review will address appropriate levels of sunlight to maximise the health of trees and vegetation in open spaces. Improving the health of trees and vegetation will impact on a number of environmental benefits including increasing the longevity of tree life, lowering air pollution and mitigating the urban heat island.

## **SUNLIGHT TO PUBLIC SPACES PLANNING POLICY: PRELIMINARY REVIEW**

City of Melbourne, Strategic Planning Branch, 23 March 2015

## BACKGROUND

The Sunlight to Public Spaces Policy ('the Policy') is Clause 22.02 of the Melbourne Planning Scheme. It was introduced into the Planning Scheme in 1999 with the approval of the Melbourne new format planning scheme. The policy applies to public spaces such as parks and gardens, squares, streets and lanes, and includes privately owned spaces accessible to the public, such as building forecourts, atria and plazas within the municipality excluding the Docklands Zone.

### Recommendations from 2008 and 2014 Melbourne Planning Scheme Reviews

Council's 2008 and 2014 reviews of the Melbourne Planning Scheme identified the need to review the Policy. The 2008 review concluded that "more direction on the preferred built form in areas for development" is required and part of this includes updating the Policy. The 2014 review noted that the review of the Policy was an outstanding item from the 2008 review and also identified that the policy required updating and strengthening of the guidance relating to the shadowing of the Yarra River.

## ISSUES TO BE ADDRESSED

### Change and development of City of Melbourne Policy since 1999

The strategic basis and reference for the policy is Places for People (1994). The relevant information in Places for People 1994 is mainly about sunshine to the streets in the central city. The Places for People study 1994 is currently being updated and expanded in 2014/15.

There are recent relevant Council adopted City of Melbourne strategies that should inform any update of the Policy. These include the Open Space Strategy 2012, the Urban Forest Strategy 2012-32 and the Walking Plan 2014-17.

The Open Space Strategy 2012 for example finds that being outside in the fresh air and sunlight is important for physical health and wellbeing (p.3). It identified Batman Park as a particular open space that requires protection from further overshadowing to retain sunlight access to the north bank of the Yarra River (p.20).

The technical report for the Open Space Strategy sets out assessment criteria for the suitability of land as public open space and specifies that the adequate levels of sunlight are "a minimum of 3 hours of direct sunlight between 9am and 3pm during mid-winter and at least 5 hours of direct sunlight between 9am and 3pm on September 22" (section 6.3.1). The technical report also sets out guidelines for development adjoining or near open space and in relation to sunlight access, specifies that:

*The open space must receive a minimum of 3 hours of direct sunlight between 9am and 3pm during mid-winter and at least 5 hours of direct sunlight between 9am and 3pm on September 22. Where this minimum is not currently met, the development must not create additional shadowing of the open space. (Section 6.5.1)*

A survey of park users in the report found that 'sunshine/vitamin D' was the 3<sup>rd</sup> most common reason for people to visit open space near their workplace.

The Walking Plan 2014 specifies that, amongst other factors such as width and sightlines, level of sunlight is important for good quality through block links. (p. 26). It also states that one of the

characteristics of Streets as Places is increased amenity when spaces are provided for people to linger (p.38).

### Use of the Policy – issues to consider

Some open spaces may not be afforded adequate protection from overshadowing. The Policy has general requirements for all open space and specific requirements for few select spaces. The spaces that are specified in the policy include the Yarra River Corridor, Federation Square, City Square, Queensbridge Square and the State Library Forecourt. This appears to be having the unintended effect of diminishing the requirement for those open spaces that are not specifically listed. Also a number of key public open spaces including Birrarung Marr are not acknowledged by the policy.

The criteria for nominating which open spaces require protection from overshadowing needs to be reviewed to determine whether the Policy should maintain its emphasis on key public spaces and whether hard paved public spaces should be treated in the same way as green spaces.

The State Government's Planning Scheme Amendment C240 proposes to amend Clause 22.02 to insert a provision that no additional shadow should be cast on the Parliament House forecourt between 11.00am and 4.00pm on 22 September.

There may be circumstances in which shade is beneficial. The possibility that some open spaces benefit from being shadowed needs to be investigated.

The cumulative impact that multiple developments may have on public open spaces needs to be investigated and addressed. With increased density sunlight is becoming more scarce in the central city. This makes the protection of solar access in public spaces more important remains for health and wellbeing.

The Policy's overshadowing standards should be reviewed. The rationale for the acceptable extent of shadowing to public space over the course of the day and the year needs to be clarified and the rationale for the equinox and solstice provisions in the Policy made more explicit. Other more effective ways to define the amounts of sun and shade access need to be explored.

The current rationale assumes that spaces only need direct sunlight for the traditional workers' lunch period (11am – 2pm). This is no longer a robust assumption in a city now occupied by students, residents and visitors who are using these spaces at all hours of the day.

Locations with flora and fauna which require protection need to be identified. The long term sunlight requirements for the growth of flora in these locations, needs to be determined.

Local Policy provisions are not always effective in their own right. Other planning controls such as a Design and Development Overlay – DDO, may need to be added. The options for controls to consider are:

- Is the local policy or a DDO schedule or another provision most appropriate?
- Should the provisions be more specific and contain more detailed guidance?
- Should maps or diagrams showing the degrees of shading be provided in the policy?
- Is there a place for mandatory height provisions to be introduced to protect open spaces from overshadowing?

Data about sunlight to public open spaces in Melbourne and about how they are being used needs to be collected and analysed. 3D modelling can be used to investigate the broader implications of a revised policy and review the existing overshadowing of public open space and of existing spaces which aren't impacted by shadowing.

Cases of where the policy has and hasn't worked effectively need to be reviewed and analysed as does the effectiveness of the more recently implemented Southbank DDO60 controls and whether the current policy is being applied consistently to all public spaces.

## RECOMMENDATIONS

Based on the 2008 and 2014 reviews of the Melbourne Planning Scheme, and information gathered in this preliminary review of the Policy, it is clear that it needs to be reviewed and new planning scheme provisions considered. The recommended objectives of a full review are to:

1. assess the performance in practice of the Policy
2. identify the public open spaces requiring protection and those that should be subject to special controls
3. determine the varying sunlight needs for the different public open spaces
4. develop planning provisions that will ensure that public open spaces receive an appropriate amount of sunlight and are protected from overshadowing
5. prepare a planning scheme amendment which implements the findings and recommendations

This review of the Sunlight to Public Spaces Policy to ensure open spaces receive an appropriate amount of sunlight could be done as a Year 3 Action on the Council Action Plan for 2015/2016.