

*Planning and Environment Act 1987*

**Panel Report**

**Port Phillip Planning Scheme Amendment C171port  
St Kilda Marina Redevelopment**

**13 May 2020**

## How will this report be used?

The planning authority must consider this report before deciding whether to adopt the Amendment [section 27(1) of the *Planning and Environment Act 1987* (the Act)].

For the Amendment to proceed, it must be adopted by the planning authority and then sent to the Minister for Planning for approval.

The planning authority is not obliged to follow the recommendations of the Panel, but it must give reasons if it does not follow the recommendations [section 31 (1) of the Act, and section 9 of the *Planning and Environment Regulations 2015*].

If approved by the Minister for Planning, a formal change will be made to the Port Phillip Planning Scheme. Notice of approval of the Amendment will be published in the Government Gazette [section 37 of the Act].

*Planning and Environment Act 1987*

Panel Report pursuant to section 25 of the Act

Port Phillip Planning Scheme Amendment C171port

St Kilda Marina Redevelopment

13 May 2020



Kathy Mitchell, Chair



Chris Harty, Member



Elizabeth McIntosh, Member

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## Abbreviations

Act	<i>Planning and Environment Act 1987</i>
AMDC	Australia Marina Development Corporation
Amendment	Amendment C171port to the Port Phillip Planning Scheme
Areas 1, 2, 3	Building Envelope Areas 1, 2, 3
Council	Port Phillip City Council
COVID-19	Coronavirus Disease 2019
DELWP	Department of Environment, Land, Water and Planning
DoT	Department of Transport
DPO	Development Plan Overlay Schedule 2
EPA	Environment Protection Authority
HO187	Heritage Overlay Schedule 187
PPN	Planning Practice Note
Site Brief	St Kilda Marina Site Brief (2018)
SUZ	Special Use Zone Schedule 4
WSUD	Water Sensitive Urban Design

## Overview

Amendment summary	
<b>The Amendment</b>	Port Phillip Planning Scheme Amendment C171port
<b>Common name</b>	St Kilda Marina Redevelopment
<b>Brief description</b>	<p>Rezone the site from Public Park and Recreation Zone to Special Use Zone Schedule 4</p> <p>Introduce Development Plan Overlay Schedule 2</p> <p>Amend and increase the extent of Heritage Overlay Schedule 187 to the site boundaries, make associated changes to the relevant Incorporated Document, introduce a new site-specific Permit Exemptions Incorporated Document</p> <p>Include the Heritage Assessment as a Reference Document in Clause 22.04</p>
<b>Subject land</b>	Marine Parade, St Kilda (along the foreshore)
<b>The Proponent</b>	Port Phillip City Council
<b>Planning Authority</b>	Port Phillip City Council
<b>Authorisation</b>	25 September 2019
<b>Exhibition</b>	17 October to 18 November 2019
<b>Submissions</b>	<p>131 submissions (1 from an authority, 3 from an organisation and 127 from or on behalf of residents)</p> <p>See Appendix A</p>

Panel process	
<b>The Panel</b>	Kathy Mitchell (Chair), Chris Harty, Elizabeth McIntosh
<b>Directions Hearing</b>	28 February 2020 at Planning Panels Victoria
<b>Panel Hearing</b>	6, 7, and 16 April 2020 by video conferencing (Skype)
<b>Site inspections</b>	All inspections were unaccompanied and conducted individually
<b>Appearances</b>	See Appendix B
<b>Citation</b>	Port Phillip Planning Scheme C171port [2020] PPV
<b>Date of this Report</b>	13 May 2020

## Executive summary and recommendations

### Overview

St Kilda is an iconic place in Melbourne and Victoria, and it has long had a rich and diverse history. It is home to many landmarks, features and places to share and enjoy with its own diverse local communities and those visiting. The St Kilda Marina is one of those places, but in recent times it has shown significant signs of wear, tear and age. It suffers from a lack of cohesive architecture, places for all to visit and enjoy and truncation of the prominent foreshore trail. It is not particularly user friendly. The Marina needs modernisation for many reasons.

Recognising this, the City of Port Phillip engaged with its community over a period of years to examine options to redevelop the Marina. This involved establishing a Community Panel, preparing a Site Brief for redevelopment, engaging with some 9,000 residents and then realising this process through a Planning Scheme Amendment that seeks to provide new planning controls to guide its future redevelopment.

Port Phillip Planning Scheme Amendment C171port seeks to rezone all land covered by the Marina from Public Park and Recreation Zone to Schedule 4 to the Special Use Zone and apply Schedule 2 to the Development Plan Overlay. Additionally, the land is to be included in Heritage Overlay 187, which currently applies to the Beacon only.

The exhibition process realised 131 submissions, all of which were referred to a Panel appointed under delegation from the Minister for Planning. A Directions Hearing was held on 28 February 2020, and a three day 'virtual' Panel Hearing held on 6, 7 and 16 April 2020.

Due to the impact of the COVID-19 pandemic, the Panel had to reschedule the hearing dates to ensure this matter could be heard without prejudice to any submitters who wished to be heard. With the support of Council and the submitters, this was managed in a timely and inclusive manner. All evidence was able to be heard and tested and all submitters seeking to be heard were able to fully present to the Panel.

While not perfect and while it lacked some of the clear advantages of a face to face hearing, the Hearing was able to proceed without prejudice to any party. For this, the Panel acknowledges, and thanks the Council and all submitters involved.

Key issues raised in submissions included:

- compliance with planning policy
- the form of the planning controls proposed
- whether the Amendment is strategically justified
- built form, including views, height, interfaces and overshadowing
- heritage, including the form of the controls
- traffic, access, pedestrian movement, parking and use of Moran Reserve
- environmental issues
- various other matters.

After considering the submissions made to the Amendment, the evidence and submissions provided by Council and the further submissions by those who sought to be heard at the Hearing, the Panel considers the Amendment has significant merit and it should be approved, subject to its recommendations.

The application of Schedule 4 to the Special Use Zone and Schedule 2 to the Development Plan Overlay provides for transparent planning controls to assist in redevelopment of this important place, particularly as Council is the landowner, applicant and Responsible Authority. It sets in place very clear controls that will provide guidance to future tenderers to work towards, Council to implement and the local community to measure.

The key point of difference between the Council and the Panel is the strategic justification for an extended Heritage Overlay 187 to cover the whole of the Marina site, when ultimately, the Marina is to be completely redeveloped through wholesale demolition and re-build. The Panel supports the retention of Heritage Overlay 187 on the Beacon only.

The outcome of the Amendment will be a modern and user friendly Marina that provides for an improved place for recreational boaters, local communities and visitors to the area. The Marina will be an integrated development on the foreshore and will ensure this part of St Kilda will continue to attract a wide range of users to enjoy the interesting waterfront environment. Importantly, the Marina will open to the Bay and will allow users to access all areas, including the foreshore which will be available for pedestrians and cyclists.

The Panel supports the Amendment, subject to its recommendations.

### Recommendations

Based on the reasons set out in this Report, the Panel recommends that Port Phillip Planning Scheme Amendment C171port be adopted as exhibited, subject to the following modifications:

1. **Adopt the Panel recommended version of Development Plan Overlay Schedule 2 as included in Appendix D.**
2. **Add the following requirement under 'Content of Development Plan':**
  - a) ***"A Community engagement report which outlines the consultation which has occurred to inform the preparation of the Development Plan, including but not limited to the following stakeholders:***
    - *Office of the Victorian Government Architect*
    - *Transport for Victoria*
    - *Neighbouring owners and occupiers"*.
3. **Amend Table 1 as follows:**
  - a) **Under Built Form Envelopes 1 and 2 in the Development outcomes column:**
    - ***"Allows for sightlines between Marine Parade, key public spaces, and landmarks and Marina Activity Area"***.
  - b) **Under Civic Heart Public Space:**
    - ***In the Specific requirements column "...or an alternative location providing an equivalent level of amenity, views and aspect"***
    - ***In the Development outcomes column "Is accessible to the public with areas of solar access and shade with a minimum 50% of space accessing sunlight between the hours of 10am and 3pm at the winter solstice June 22"***.
    - ***In the Development outcomes column "Ensures wind speed standards for sitting and standing are achieved"***
  - c) **Under Peninsula promenade path:**



- In the Specified requirements column, add *“Provide for sitting areas at key locations along the path for comfort and amenity”*.
  - In the Development outcomes column *“Provides landscape improvements to the entire setback zone between Building Areas 2 and 3 and the water’s edge”*.
- d) Under Marina Promenade in the Specific requirements column:
- *“Incorporate areas of seasonally-appropriate shade along the Marina Promenade”*.
- e) Under Waste management in the Development outcomes columns:
- *“Minimise the visual, amenity and operational impact of waste management facilities and storage”*.
4. Delete the following at Table 1:
- a) Under *“Dry Boat Storage Buildings”* in the Development outcomes column:
- *“Maintains a clear hierarchy of built form, which ensures the dry boat storage (whether the existing, or a new building) remains the most prominent and visible feature within the Marina complex”*.
5. Add the following to Figure 1 Concept Plan:
- a) The Point Ormond to Palais theatre view line as a *“views to markers and/or outlook to landmarks”*
- b) The Thackeray Street to the Marina view line as a *“views to marina activity”*
- c) The Dickens Street to the Bay interface view line as a *“key pedestrian connection”*.
6. Delete the amended and extended Heritage Overlay 187, the Permit Exemptions Incorporated Document and the inclusion of the Heritage Statement to the list of Reference Documents at Clause 22.04.
7. Include the following requirement under *“Content of Development Plan”* for the Heritage Impact Assessment:
- a) *“Identifies how the fabric of the original dry boat storage facility will be retained, repurposed, integrated or interpreted”*.
8. Amend Clause 4.0 - Requirements for development plan under Content of Development Plan to read:
- a) An Integrated transport and access plan prepared by a qualified person, to the satisfaction of Department of Transport and the responsible authority, which includes ...
9. Add the following Specific Requirements to Table 1 under Bike parking to read:
- a) Provide adequate bicycle facilities for employees, marina users and visitors.
- b) Provide bike share facilities for marina visitors in key arrival points both for visiting vessels and visitors to the precinct.
- c) Provide short stay bicycle facilities adjacent to key hospitality destinations within the precinct.
- d) Provide secure bike storage areas for marina users and staff of all uses within the development at benchmarks that demonstrate leadership in green travel solutions.

- e) Provide bicycle repair station facilities for the use of visitors, employees and marina users.**

# 1 Introduction

## 1.1 The Amendment

Amendment C171port (the Amendment) to the Port Phillip Planning Scheme seeks to redevelop the St Kilda Marina by rezoning the whole site from Public Park and Recreation Zone to Schedule 4 to the Special Use Zone (SUZ), introducing land use and built form controls through Schedule 2 to the Development Plan Overlay (DPO) and increasing the extent of existing Schedule 187 to the Heritage Overlay (HO187) to the site boundaries.

The Amendment will provide for the master-planned redevelopment of the St Kilda Marina generally in the manner outlined in the St Kilda Marina Site Brief 2018 (Site Brief) prepared by the City of Port Phillip (the Council). While the Site Brief informed the preparation of the Amendment, it does not form part of the Amendment.

The Amendment proposes a new statutory framework to provide guidance on the preferred land use and built form outcomes. The controls allow for the continued use and upgrading of the marina, increased commercial uses and built form, more vehicle, trailer, pedestrian and bicycle movement as well as additional areas of public open space.

Specifically, the Amendment proposes to:

- Rezone the site from Public Park and Recreation Zone to a new SUZ
- Apply a new DPO and consequentially amend the Schedule to Clause 72.03
- Amend and extend Schedule 187 to the Heritage Overlay to apply to the entire site (currently affecting the Beacon only) and include a reference to Permit Exemptions Incorporated Plan, St Kilda Marina, St Kilda (June 2019)
- Update the Port Phillip Heritage Review (Incorporated Document) Volumes 1-6 (Version 31, June 2019) to:
  - include a reference to the St Kilda Marina Heritage Assessment prepared by Built Heritage (12 April 2018)
  - update Citation 2057 to expand reference to the entire site
  - make consequential changes to the City of Port Phillip Heritage Policy Map (Version 31, June 2019)
  - include guidelines for demolition and redevelopment of the site
- Incorporate the Permit Exemptions Incorporated Plan, St Kilda Marina, St Kilda (June 2019) to apply exemptions to the HO187 for:
  - minor buildings and works
  - the demolition or removal of a building and to construct a building or carry out works which are generally in accordance with an approved development plan
- Amend Clause 21.07 (Incorporated Documents), Clause 22.04 (Heritage Policy) and Clause 72.04 (Documents Incorporated in this Planning Scheme) to reference the updated Port Phillip Heritage Review and Permit Exemptions documents.

The Amendment was prepared by the Council as Planning Authority.

## 1.2 Engagement, exhibition and submissions

To commence the work for redevelopment of the Marina, Council prepared a Site Brief in consultation with the community. The Site Brief provides high-level direction for future use

and development, with marina uses remaining the primary function. It will also guide the procurement process for a future site operator. Development outcomes are to be guided through a vision, series of objectives and design criteria outcomes across five themes, these being: place identity; social and cultural; economic; environment and financial.

Consultation to prepare the Site Brief comprised letters to 7,000 local properties, notice in local papers, establishment of a 23-member community panel through an Expressions of Interest process, and community surveys. This engagement was undertaken both before and during preparation of the Site Brief. Council endorsed the Site Brief on 15 May 2019.

Following finalisation of the Site Brief, public exhibition of the Amendment involved:

- 9,000 letters to owners and occupiers of surrounding land, stakeholders, authorities and to the “*St Kilda Marina interested persons list*”
- notice in local papers and the government gazette
- notice to the Minister administering the *Crown Land (Reserves) Act 1978* and the *Marine and Coastal Act 2018*, as directed in the letter of authorisation from the Department of Environment, Land Water and Planning (DELWP)
- notice to the Environment Protection Authority (EPA), as required by Ministerial Direction 19.

A total of 131 submissions were received from exhibition of the Amendment, including two late submissions. All were referred to the Panel and these comprised:

- one from Melbourne Water
- two from organisations (Port Melbourne Historic and Preservation Society and the Australian Marina Development Corporation Pty Ltd)
- 128 from residents including one submission from a consortium of landowners comprising 93 submissions (36 – 128) which contained the same content.

No submissions were received from the Minister administering the *Crown Land (Reserves) Act 1978* and the *Marine and Coastal Act 2018*, nor from the EPA.

Most submissions sought changes to the Amendment. Several written submissions asserted Council’s consultation was insufficient.

The Council meeting held on 29 January 2020 resolved to refer all submissions to a Panel as well as recommending some revisions to the built form provisions in the DPO.

Under delegation from the Minister for Planning, a Panel was appointed on 7 February 2020 and comprised Kathy Mitchell (Chair), Chris Harty and Elizabeth McIntosh.

A Directions Hearing was held on 28 February 2020, with initial Hearing dates confirmed for 30 and 31 March, 1 and 7 April 2020. Due to the sudden impact of Coronavirus Disease 2019 (COVID-19), the Hearing process was re-thought and rescheduled (see Chapter 1.4).

### **1.3 The subject land and surrounds**

The Amendment applies to land shown in Figure 1. The St Kilda Marina is located on Crown land and the Council, as the Committee of Management, seeks to allow a private operator to redevelop the site to update the complex and facilities while maintaining marina functions.

The Marina was built in the 1960s as a master-planned, purpose-built facility, designed with reference to the styles of American marinas common at this time. The site has continued to operate as a Marina, with various public and private uses and access across the site.

The existing lease between Council and the current operator is due to expire, triggering Council to commence a new procurement process. Preparation of the Site Brief is part of this process.

The site is approximately 8.7 hectares in area (inclusive of land, seawall and marina water) and is situated along the St Kilda foreshore. It is located on the west side of Marine Parade and edged by Marina Reserve to the north and Moran Reserve to the south. Port Phillip Bay forms the site's western edge.

The site encompasses three key areas. To the north is the Marina complex comprising both constructed land and water components. To the south is the service station and adjoining car park. The third area is the east-west accessway which sits in between. Sealed surfaces cover much of the site's land. Buildings are relatively limited and mostly associated with the Marina complex, whilst vegetation is sparse.

The land component of the Marina complex forms a "U" shape, the arms of which frame the water and open to the Bay with an entrance to the north. Built structures are located variously along the arms and permit a range of views through the site. Notable buildings are the Beacon which sits in the north of the western bayside arm of the Marina and the dry boat storage facility along the western or bayside arm. As the tallest structure, the Beacon is visible across most of the site. The dry boat storage facility, comprising two aligned buildings, stands to a three-storey dwelling equivalent height and extends along more than half of the western or bayside arm of the Marina. The facility has a visually distinctive regular 'zig-zag' roof formation and open sides that reveal boats stored in a pigeon-hole like formation.

The single-storey service station sits at the south-east corner of the site fronting Marine Parade. A generously sized, at-grade parking lot sits between the service station and the site's edge to the Bay.

Along the southern edge of the Marina is an expansive road accessway and parallel shared bike path which are variously framed by small pockets of vegetated open space. These accessways provide an east-west connection from the Bay Trail in the east to the path along the foreshore.

Public access is not permitted along the western or bayside arm of the Marina but is permitted elsewhere across the site.

Three key accessways permit vehicle access from Marine Parade: one directly to the Marina complex via the service road, one from the east-west road link and the other to the service station. There are three boat ramps along the western arm of the marina complex.

Marina Reserve is a formally landscaped open space area that includes a skate park. Moran Reserve is a comparably informally landscaped open space with a mostly grassed surface.

Marine Parade is an arterial road that is 30 metres wide with mature trees scattered irregularly to either side and along the median strip.

The residential area comprises buildings that are mostly two or three storeys. These structures are of mixed architectural expression, and many have hipped or gable roof forms.

Figure 1: Site location



Source: Amendment C171 Explanatory Report

## 1.4 Procedural issues

Several procedural matters marked this Amendment. Some resulted in recommended changes to the Amendment documentation at various stages of preparation and others pertained to submitter and expert witness and submitter declarations to the Panel. Significantly, there were necessary changes to the Panel Hearing process and schedule in response to the Coronavirus Disease 2019 (COVID-19) pandemic.

### (i) Authorisation of the Amendment

Authorisation of the Amendment was provided under delegation from the Minister for Planning on condition of Council responding to several matters relating to the notice and form and content of the exhibition documentation.

The form and content issues relevant to the Panel's consideration of the Amendment included:

- justification why the Public Park and Recreation Zone was no longer considered appropriate for the site
- consistency in expression of the site's purpose between the SUZ and the *St Kilda Land Act 1965*, noting the latter identified the primary land use function as Marina
- limit duplication between the SUZ and DPO
- appropriately allocate application requirements of DPO between the preparation of the Development Plan and the planning permit application stages
- use of clear, measurable and consistent requirements within the SUZ and DPO
- consistency in commercial floor space allowances between DPO and the Site Brief
- clarification on the heritage provisions which allow for full demolition of the site when in accordance with an approved Development Plan

- potential for revisions to the SUZ and DPO in response to updates to the ‘policy for decision making’ parts of the applicable *Victorian Coastal Strategy 2014* and the new *Marine and Coastal Policy*, which came into effect in March 2020.

The Panel understands that Council’s response to the above requests were acceptable to the extent that DELWP authorised exhibition of the Amendment.

In its letter dated 2 March 2020, the Panel directed Council to address several specific matters in its submission. Some of these reiterated the conditions of authorisation as follows:

- justification for why the Public Park and Recreation Zone is no longer appropriate
- demonstration of site analysis which underpinned the built form provisions
- explanation of the basis for the heritage provisions
- explanation of intent for traffic and access management
- information on any other technical assessments that informed the Amendment.

## **(ii) Panel Hearing reschedule in response to COVID-19**

This Hearing was one of the first to be impacted by the State of Emergency declared on 16 March 2020 for COVID-19. The subsequent fortnight from the Directions Hearing saw increasing restrictions on activities as more was understood on the virus’ pathology. Restrictions reached Stage 3 by the time of the originally scheduled Panel Hearing Day 1 on 30 March 2020. An immediate response was required of the Panel which ensured procedural fairness, while following the Government’s self-isolation restrictions that were underpinned by strong encouragement to continue to “*work from home*” where possible.

On 12 March 2020, the Panel Chair wrote to parties noting that COVID-19 had the potential to reschedule, postpone or cancel public hearings (Document 65). The letter provided links to information on COVID-19 and included a list of health-related procedures for attendance at public hearings.

On 19 March 2020, the Panel wrote to parties regarding its intention to progress the Amendment ‘on the papers’ to respond to the COVID-19-based restrictions (Document 11). The letter provided a list of suggested steps for exchange of written documents which mirrored the usual Hearing procedure. While Council was supportive of this approach, some submitters expressed reservations and did not support the process going forward, either by ‘on the papers’, video conferencing or a combination of both. Some preferred the Panel postpone the Hearing until it could be heard in person.

On 23 March 2020, the Panel wrote to parties and confirmed the matter would proceed ‘on the papers’ due to various responses of support (Document 23). An opportunity to respond to the proposed Hearing program set out in the letter was offered. The schedule included an exchange of questions and responses between the Panel, the Council, the expert witnesses and submitters.

On 25 March 2020, the Panel wrote to parties noting that since its last correspondence, it received two opposing submissions to proceed ‘on the papers’ and again invited parties to respond (Document 18). This prompted a third opposing submission. Opposing positions referenced perceived procedural unfairness and potential loss of integrity by removing face-to-face cross examination of witnesses, and that the Hearing was ‘non-essential’. Video conferencing was suggested by some as an alternative.

On 27 March 2020, the Panel confirmed an ‘on the papers’ process while encouraging Council and parties to discuss potential for video conferenced evidence and cross-examination (Document 36). In this letter, the Panel acknowledged the frustrations expressed by two parties on the terminology of “*evidence not contested*” in its letter dated 19 March 2020 and corrected this to “*there is no competing evidence*”. The Panel recognised that many parties invariably opposed the submitted evidence. Council wrote to the Panel and submitters on 30 March 2020 noting it considered video conferencing was “*an effective way for Council’s expert witnesses to be cross-examined by all parties, in a way that is both fair and transparent*” (Document 25). The Panel invited all parties to a video conferencing meeting to see how it was able to facilitate an effective hearing process.

Maddocks Lawyers hosted the video conferencing meeting at 2:00pm on Wednesday 1 April 2020 on a platform called “Zoom”, demonstrating its suitability. Attendees agreed to use the platform given the circumstances. Verbal directions were issued for the Monday 6 and Tuesday 7 April 2020 hearings for expert witness presentation via online video conferencing. Questions of the witnesses were still to be provided beforehand. Maddocks subsequently circulated correspondence on how it would host and the expected etiquette during the conferencing (Document 33). Notably this included separate web links provided for each day, guidance on how to be seen and heard and to see and hear others and a contact phone number in case of internet connection failures. Consistent with standard PPV practice, confirmation that the Hearing could not be recorded was noted.

On the weekend before the first on-line Hearing day, various media outlets exposed potential lack of privacy and security provided by the ‘Zoom’ platform. An exchange of emails between the Panel Chair (being a non-business day) and Council’s lawyers agreed to use ‘Skype for Business’ in place of ‘Zoom’. Maddocks Lawyers sent new meeting invitation links to parties on the evening of Sunday 5 April 2020. This email exchange was declared at opening business on the morning of Day 1 (6 April 2020).

As Days 1 and 2 worked well, the Panel invited all parties to consider a third day, where submitters could present their submissions and Council could provide its closing.

The ultimate process for this Hearing was a combination of ‘on the papers’ and online video conferencing, mirroring usual Panel Hearing proceedings. Three full days of Hearings were held by video conferencing in lieu of the original planned four day hearing scheduled. Party correspondence demonstrated the situation for the Hearing, as experienced across the State, was far from ‘business as usual’. The Panel made its best efforts to concurrently ensure procedural fairness, progress the Amendment in a timely manner, continue working from home and most importantly, manage the health of all parties and itself.

The Panel sincerely thanks all parties for their cooperation and contribution to the process to progress the Amendment through this unprecedented situation.

### **(iii) Site inspections**

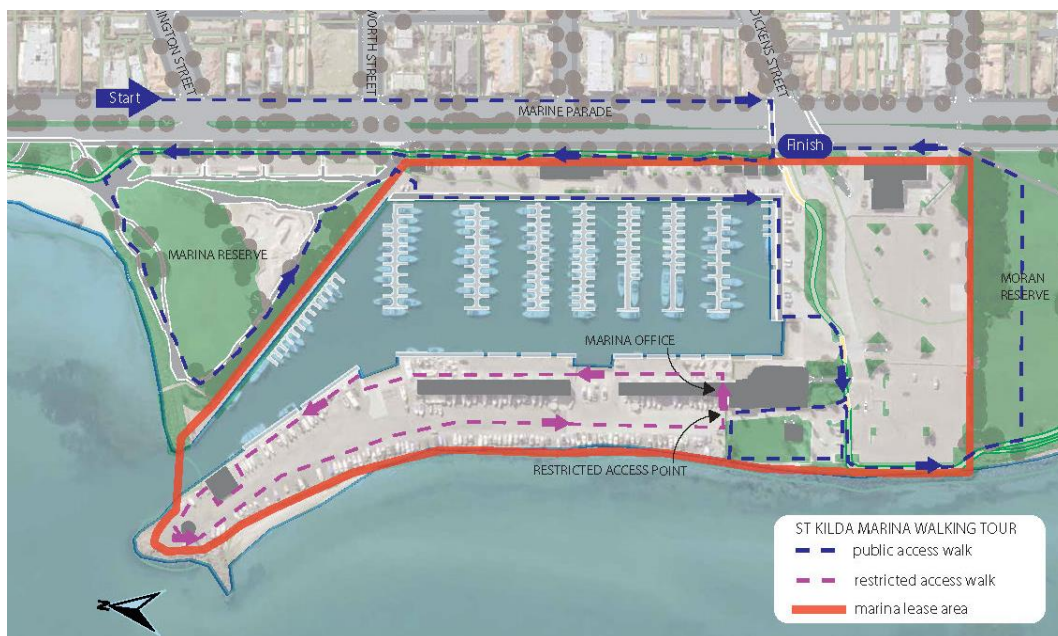
The accompanied site inspections originally scheduled on Hearing Day 2 were replaced by unaccompanied and individual site inspections due to COVID-19 restrictions. Inspections did not include views from the Bay as, when questioned during Directions, no party considered this necessary.



The Members generally followed the suggested walking tour outlined by Council in the site map shown in Figure 2 provided to the Panel on 23 March 2020 and circulated to all Parties on 2 April 2020 (Document 31) as follows:

- The Panel Chair conducted a site inspection on Sunday 23 February 2020 between 11:00am and 1:00pm. This inspection afforded opportunity to observe public and private use of the site on a weekend, which was prior to the Directions Hearing and the social distancing restrictions associated with COVID-19. That inspection included all areas noted by Council in Figure 2.
- Member Harty inspected additional areas of streets surrounding the site, Point Ormond lookout, Moran Reserve, Marina Reserve and the foreshore seawall area.
- Member McIntosh inspected additional areas of streets surrounding the site, Point Ormond lookout, the Elwood Canal bridge, Moran Reserve, Marina Reserve and the St Kilda triangle.

**Figure 2: Site map of suggested walking route undertaken by the Panel Members**



Source: City of Port Phillip

#### **(iv) Expert witness and submitter declaration**

The Chair questioned both Mr McGauran and Mr Helms on matters they declared or had not declared in their respective expert witness statements. Declarations are required as standard practice in accordance with the PPV Guide to Expert Evidence, however the need for the Chair to question them is not (<https://www.planning.vic.gov.au/panels-and-committees/planning-panel-guides>). Mr Helms afterwards submitted a revised statement.

Mr McGauran declared in his written statement that a relative owned and occupied a property on the corner of Dickens and Hood Streets and he is a resident of the City of Port Phillip. He declared verbally that he cycles past the site along Marine Parade on occasion.

The Chair further sought clarification on Mr McGauran's written declaration of the Victorian Design Review Panel membership in light of the following recommendations in his evidence:

145. There is a case for a design review process particularly given the availability of the Design Review Panel within the Government Architects Office and the

success of similar measures in the implementation of large scale urban renewal.

146. Typically these processes have a multidisciplinary input regime that is independent of local government and government. This may be a particularly valuable resource in the finalisation of the masterplan for the site and the agreed key elements of the project.

No declaration revisions were made following invitation from the Chair.

Mr Helms comparably declared that no matters of significance had been withheld from the Panel. Only upon questioning in opening from Mr Montebello did Mr Helms reveal his ongoing contract as a heritage advisor for Council and involvement in preparation of Amendment documentation. The Chair expressed concern that his ongoing involvement with the City of Port Phillip was not properly declared and he was directed to provide such.

Following his evidence, Mr Helms provided the following declaration:

I am engaged as a contractor on a part-time basis by the City of Port Phillip to provide independent advice in relation to heritage. In this role, I provided the following advice and technical support services:

- The St Kilda Marina Heritage Assessment (Built Heritage, 2018). I assisted with the development of the brief, and reviewed the draft report to ensure that it satisfied the outcomes sought, and the methodology was sound and consistent with the Burra Charter, and was 'rigorous' and provide suitable justification for the proposed application of controls in accordance PPN1. However, I did not provide any input into the content of this report or its recommendations.
- The Heritage Impact Statement. St Kilda Marina (Michael Taylor Architecture and Heritage, 11 July 2019). I assisted with the development of the brief, reviewed the draft report to ensure that it satisfied the outcomes sought, and was consistent with the Burra Charter, Heritage Victoria guidelines for preparation of HIA, and PPN1. However, I did not provide any input into the content of this report or its recommendations.
- Gave an on-site presentation about the history of the Marina to the Community Reference Group.
- Reviewed the St Kilda Marina Project Site Brief to ensure that the findings and recommendations of the Heritage Assessment and Heritage Impact Statement were appropriately reflected.
- Translated the relevant parts of the Heritage Assessment and Heritage Impact Statement into the revised Port Phillip Heritage Review Citation 2057 for the St Kilda Marina, and prepared the Guidelines section based on these documents.
- Prepared the incorporated document for permit exemptions under the HO.
- Reviewed and provided input into the 'Heritage impact assessment' provision in the proposed DPO2.

The Panel questions the lack of transparency offered by Mr Helms in his declaration. Expert witnesses have a paramount duty to the Panel and are not advocates for the party they represent. This was compounded by the fact that the Amendment seeks to protect buildings with a heritage overlay and concurrently exempt full demolition from the proposed HO187, the latter informed by one brief developed by, and two documents prepared by, the expert. This Panel considers not declaring such in the witness report is unacceptable from an experienced witness.

Further, the Panel's Directions of 2 March 2020 (Document 3) sought clarification on whether the submission from Submitter 30 represented the view of the Office of the Victorian Government Architect or the two signatories:

Process of design review is required– we suggest the state government process of design review through [Office of the Victorian Government Architect], including early design review of masterplan, then ongoing independent review at key points in process.

Submitter 30 did not present to the Panel and this matter was not taken any further.

## **1.5 Summary of issues raised in submissions**

### **(i) Melbourne Water and EPA**

Melbourne Water's submission did not seek to change the Amendment and it did not request to be heard at the Panel Hearing. The submission noted:

- the site is currently impacted by flooding from Melbourne Water's underground drainage system for a storm event with 1 percent chance of occurrence
- any application for buildings and works within the Land Subject to Inundation Overlay will be referred to Melbourne Water under Section 55 of the Act
- the site will also be impacted by any incremental sea level rise associated with climate change predictions.

Council did not seek any changes to the Amendment in response to this submission. It considered advice on flooding information was consistent with the requirements of the Amendment and Site Brief.

The Panel notes the submission appears to incorrectly reference the Land Subject to Inundation Overlay rather than the applicable Special Building Overlay which affects a small portion of land along the eastern site boundary.

Council sought the views of the EPA regarding the Amendment prior to authorisation. The EPA advised it did not have a role specifically in relation to the Amendment.

### **(ii) Organisations**

The key issues for organisations were:

- the Port Melbourne Historical and Preservation Society (submission 34) supported the Amendment including the proposed rezoning to SUZ, application of the DPO2 and extension of the HO187
- the Australia Marina Development Corporation (AMDC) (submission 11) opposed the inability to locate a Coast Guard facility just south of the Beacon based on the built form provisions in the DPO and noted it is currently engaged in the procurement process to development the St Kilda Marina.

Council considered its post-exhibition changes to DPO2, that included allowing provision of a small single storey kiosk and storage for stand-up paddleboards and canoes while protecting views to the Beacon, resolved Submission 11. The AMDC did not request to be part of the Panel proceedings.

### **(iii) Individual submitters or groups of submitters**

The key issues of individual submitters are listed below, with each having been raised by a varying number of submissions:

- the Amendment is not required to facilitate redevelopment of the St Kilda Marina
- lack of consultation with residents and interested parties

- procedural unfairness and Council's conflict of interest pertaining to the concurrent procurement process for the site's redevelopment
- uncertainty for future development outcomes in the Amendment documentation
- removal of the service station (either support for or against)
- increase in commercial space is too great
- built form provisions including lack of justification for heights, opposition to physical bulk, loss of existing "open-air" feel, extensive site coverage, height relative to existing buildings, concerns that the proposed heights would set precedent for areas beyond the site
- loss of views across the site
- change to the public boat ramp
- traffic and parking issues on site and effects outside the site
- improved public access across the site
- uncertainty in changes to Moran Reserve identified by the 'investigation area' in the Site Brief
- lack of environmental assessment that informed the Amendment, specifically acoustic, fauna, flora, pre-contact heritage, contamination matters
- impact on maintenance of the foreshore, Elwood Canal and Moran Reserve (being areas outside the site).

## 1.6 The Panel's approach

The Panel has assessed the Amendment against the principles of net community benefit and sustainable development, as set out in Clause 71.02-3 (Integrated decision making) of the Planning Scheme.

The Panel considered all written submissions made in response to the exhibition of the Amendment, observations from site visits, and submissions, evidence and other material presented to it during the Hearing. It has reviewed a large volume of material and has had to be selective in referring to the more relevant or determinative material in the Report. All submissions and materials have been considered by the Panel in reaching its conclusions, regardless of whether they are specifically mentioned in the Report.

This Report deals with the issues under the following headings:

- planning context
- strategic justification
- built form
- heritage
- traffic and access
- environmental issues
- other matters.

There were three versions of the Amendment documentation presented to the Panel:

- Exhibited version which formed the basis of formal exhibition
- Part A Panel Version which included three key changes to the DPO in response to submissions, as resolved by Council at its meeting on 29 January 2020:
  - Reduce the height of the built form Envelope 1 to 11 metres (from 12 metres)

- Limit the building height of a temporary building permitted prior to approval of a development plan to 'single storey' (no height was specified in exhibited version)
- Include permission for a single-storey kiosk of 50 square metres plus storage adjacent to Beacon (noting kiosk is not defined in Clause 73.03)
- Part B Panel Version which included changes in response to Council's expert evidence reports being the following additions:
  - The word "*architecture*" added after "*high quality*" in the objectives
  - More development outcomes listed in Table 1 for Building Envelope Areas 1 and 2, Dry Boat Storage Buildings, Civic Heart Public Space, Publicly Accessible Open Space
  - A new element in Table 1 for "*Waste Management*"
  - Additional matters listed under the "*Contents of the Development Plan*" to be demonstrated for each of the urban context report, landscape and public realm plan, integrated transport and access plan.

The parties referred to and used the Part B version of the DPO during discussions at the Hearing.

In response to expert evidence and submissions during the Hearing, Council finalised its position through its Part C submission (Document 54). It then provided a Part C version of the DPO after the Hearing concluded (Document 64b). As is usual in a strategic Amendment process such as this, the Panel notes that Council as Planning Authority recommended changes to the Amendment documents as the Hearing progressed in response to evidence and submissions. It is the final Part C version of the DPO that the Panel uses as its base for discussion and resolution.

## 2 Planning context

In considering the site's context, the Panel has examined both the physical and strategic context. The physical context is important for analysing the existing site conditions to understand whether new built form is appropriate and how it would fit into its surrounds.

The strategic context provides an understanding of the expectations for when and how change is expected to occur. The Panel has had regard to Planning Practice Notes (PPN) which provide guidance on the application of the Victoria Planning Provisions. When used in the Amendment process, the PPN ensure that controls are transparently prepared, appropriately applied and consistent in form and content.

### 2.1 Planning Policy Framework

Council provided a comprehensive analysis of the policy settings for this Amendment in its Part A submission (Document 6). Council submitted that the Amendment is supported by various clauses in the Planning Policy Framework, which the Panel has briefly summarised further.

#### (i) State policy

The Amendment will assist in implementing State policy objectives set out in section 4 of the *Planning and Environment Act 1987* (the Act). Collectively the suite of controls will:

- provide for the fair, orderly, economic and sustainable use and development
- provide for the protection for natural and man-made features of the Marina
- secure a pleasant recreational environment for residents and visitors
- conserve and enhance buildings of architectural and historical interest
- protect public utilities and enable the orderly coordination of other facilities for the benefit of the community.

#### Clause 11 (Settlement)

The Amendment supports Clause 11 by:

- planning for the provision of zoned and serviced land for open space, recreation, commercial and community facilities and infrastructure
- planning for sustainable coastal development.

#### Clause 12 (Environmental and Landscape Values)

The Amendment supports Clause 12 by:

- protecting and restoring sites and features of landscape value
- providing for a sustainable use of land in a coastal setting
- coordinating land use and planning with requirements of the *Coastal Management Act 1995*
- achieving a development outcome on Crown land that balances community needs
- improving public access and recreational facilities for the Port Phillip Bay catchment
- protecting and enhancing significant landscape and open spaces.

### **Clause 13 (Environmental Risks and Amenity)**

The Amendment supports Clause 13 by:

- planning for and responding to potential coastal impacts of climate change through risk-based planning
- ensuring that potentially contaminated land is suitable for its intended future use and development and is used safely.

### **Clause 14.02 (Water)**

The Amendment supports Clause 14.02 by:

- assisting the protection and restoration of the marina environment.

### **Clause 15 (Built Environment and Heritage)**

The Amendment supports Clause 15 by:

- ensuring the protection of a site that holds significant heritage value
- ensuring land use and development appropriately responds to its surrounding landscape and character, valued built form and cultural context
- supporting the creation of a well-designed place
- ensuring the design and location of publicly accessible private spaces creates a high quality and safe environment and enables easy and efficient use.

### **Clause 17 (Economic Development)**

The Amendment supports Clause 17 by:

- strengthening and diversifying the economy
- meeting the community's needs for entertainment and other commercial services
- encouraging suitably located and designed marine recreational opportunities
- maintaining Metropolitan Melbourne as a desirable tourist destination.

### **Clause 18 (Transport)**

The Amendment supports Clause 18 by:

- promoting the use of personal transport
- encouraging adequate bicycle parking to meet demand
- ensuring an adequate supply and appropriately designed and located car parking.

### **Clause 19 (Infrastructure)**

The Amendment supports Clause 19 by:

- developing physical infrastructure efficiently, equitably and accessibly
- improving a diverse and integrated network of public open space.

### **(ii) Victorian Coastal Strategy 2014 and Marine and Coastal Policy 2020**

The *Victorian Coastal Strategy* 2014 provides long-term vision for planning, management and sustainable use of the coast and sets policies and actions to achieve the vision. The 'policy for decision making' section was replaced by the *Marine and Coastal Policy* in March 2020.

Key to the new policy is a planning and decision pathway that is guided by seven principles and five objectives. The Amendment implements the objectives and principles of the pathway and most notably by:

- protecting and enhancing the marine and coastal environment

- respecting natural processes
- strengthening resilience to climate change
- using and developing sustainably.

**(iii) Clause 21 (the Municipal Strategic Statement)**

The Amendment supports the Municipal Strategic Statement by:

- planning for resource-efficient design and ecologically sustainable development (21.03)
- enhancing the physical environment of the foreshore, providing varying facilities and managing the foreshore as an important and appealing tourism asset (21.04-5)
- conserving and enhancing the built form heritage of Port Phillip (21.05-1)
- protecting the City's distinctive physical character including Marine Parade (21.05-2)
- retaining and enhancing key landmarks that provide points of interest and orientation, including panoramic views of Port Phillip Bay and the coastline and distant views of high-rise buildings in Melbourne's Central City (21.05-2)
- ensuring the new development is high quality and enhances the amenity, comfort, safety and visual amenity of the public realm (21.05-3)
- ensuring existing and new infrastructure is sustainable and meets the needs of current and future users (21.05-4).

**(iv) Clause 22 (local planning policies)**

The Amendment supports local planning policies by:

- ensuring development of significant and contributory places is respectfully and harmoniously integrated with surrounding character (22.04-2)
- achieving high quality urban design and architecture that respects heritage significance (22.06-2)
- encouraging development to preserve the visual prominence of key landmarks from adjoining streets, foreshore and other key public spaces (22.06-3)
- promoting the use of water sensitive urban design (22.12-2)
- planning for best practice in environmentally sustainable development in design, construction and operations (22.13-2).

## **2.2 Plan Melbourne**

*Plan Melbourne 2017-2050* sets out strategic directions to guide Melbourne's development to 2050, to ensure it becomes more sustainable, productive and liveable as its population approaches 8 million. It is accompanied by a separate implementation plan that is regularly updated and refreshed every five years.

The Amendment is generally supported by *Plan Melbourne* in that it will:

- seek to utilise, upgrade and ensure economic viability of existing recreational infrastructure
- contribute to and enhance a local character and identity
- provide for and encourage sustainable transport modes.



## 2.3 Planning scheme provisions

The site is currently zoned Public Park and Recreation Zone, affected by Schedule 10 to the Design and Development Overlay and is partly affected by HO187. These planning controls all seek to implement the Municipal Strategic Statement and Planning Policy Framework. The more specific purposes of each control are provided below.

### (i) Zones

The land is in the Public Park and Recreation Zone, the purposes of which are:

- To recognise areas for public recreation and open space.
- To protect and conserve areas of significance where appropriate.
- To provide for commercial uses where appropriate.

### (ii) Overlays

The land is subject to Schedule 10 to the Design and Development Overlay, relating to the Port Phillip Coastal Area. The design objectives of the Schedule are:

- To co-ordinate development in the Port Phillip Bay coastal area.
- To preserve the existing beaches and natural beauty of the Port Phillip Bay coastal area and to prevent deterioration of the foreshore.
- To improve facilities in the Port Phillip Bay coastal area to enable the full enjoyment of the area by the public.

The Amendment does not seek to change the extent or provisions of Design and Development Overlay 10.

The land is partly affected by HO187. The purposes of the Overlay are:

- To conserve and enhance heritage places of natural or cultural significance.
- To conserve and enhance those elements which contribute to the significance of heritage places.
- To ensure that development does not adversely affect the significance of heritage places.
- To conserve specified heritage places by allowing a use that would otherwise be prohibited if this will demonstrably assist with the conservation of the significance of the heritage place.

The Amendment seeks to amend and extend HO187.

A small portion of the site is affected by the Special Building Overlay, the purposes of which are:

- To identify land in urban areas liable to inundation by overland flows from the urban drainage system as determined by, or in consultation with, the floodplain management authority.
- To ensure that development maintains the free passage and temporary storage of floodwaters, minimises flood damage, is compatible with the flood hazard and local drainage conditions and will not cause any significant rise in flood level or flow velocity.
- To protect water quality in accordance with the provisions of relevant State Environment Protection Policies, particularly in accordance with Clauses 33 and 35 of the State Environment Protection Policy (Waters of Victoria).

**(iii) Other provisions**

Relevant particular provisions include:

- **Clause 52.05 (Signs)** aims to regulate the development of land with signs, ensure they are compatible with the amenity and visual appearance of an area and do not adversely impact on the natural or built environment.
- **Clause 52.06 (Car parking)** seeks to ensure the appropriate provision of car parking, promote the efficient use of parking infrastructure, ensure parking does not impact amenity and promote sustainable transport options.
- **Clause 52.29 (Land adjacent to a road zone, category 1, or a public acquisition overlay for a category 1 road)** seeks to ensure appropriate access to identified roads.
- **Clause 52.34 (Bicycle facilities)** seeks to encourage bicycles as a mode of transport and provide secure, accessible and convenient bicycle parking.
- **Clause 53.18 (Stormwater management in urban development)** seeks to ensure that stormwater in urban development is managed to mitigate the impacts on the environment, property and public safety.

**2.4 Other relevant planning strategies and policy**

The *Recreational Boating Facilities Framework 2014* translates the boating facilities hierarchy of the 2007 *Boating Coastal Action Plan* referenced as a policy document under Clause 17.04-2S (Coastal and Maritime Tourism and Recreation) and identifies the St Kilda Marina as a “*Multipurpose Regional Facility with a Boat Ramp*”.

**2.5 Ministerial Directions and Practice Notes****(i) Ministerial Directions**

The Explanatory Report discusses how the Amendment meets the relevant requirements of Ministerial Direction 11 (Strategic Assessment of Amendments) and *Planning Practice Note 46: Strategic Assessment Guidelines*, August 2018 (PPN46). That discussion is not repeated here.

**Ministerial Direction - The Form and Content of Planning Schemes**

The Amendment has been prepared in accordance with the Ministerial Direction which sets out formatting and content requirements for the preparation of planning provisions.

**Ministerial Direction 1 – Potentially Contaminated Land**

In preparing an amendment which would have the effect of allowing (whether or not subject to the grant of a permit) potentially contaminated land to be used for a sensitive use, agriculture or public open space, a planning authority must satisfy itself that the environmental conditions of the land are or will be suitable for that use.

The explanatory report notes that, as sensitive uses are not proposed for the site that is currently used as vehicle and boat service station, Council considers the clause of Direction 1 that requires environmental auditing for potentially contaminated land does not apply.

**Ministerial Direction 9 – Metropolitan Planning Strategy**

The Amendment is consistent with Ministerial Direction No. 9 and specifically the following:

- improves local travel options to support 20-minute neighbourhoods (Direction 3.3)

- creates more great public places across Melbourne (Direction 4.1)
- builds on Melbourne’s cultural leadership and sporting legacy (Direction 4.2)
- achieves and promotes design excellence (Direction 4.3)
- respects Melbourne’s heritage as we build for the future (Direction 4.4)
- supports safe communities and healthy lifestyles (Direction 5.2)
- delivers local parks in collaboration with communities (Direction 5.4)
- reduces the likelihood and consequences of natural hazard events and adapts to climate change (Direction 6.2)
- protects natural habitats (Direction 6.5).

### **Ministerial Direction 13 – Managing coastal hazards and the coastal impacts of climate change**

The Amendment is consistent with Ministerial Direction 13 as it:

- is consistent with Clause 13.01 (Climate Change Impacts)
- addresses current and future risks and impacts of projected sea level rise and storms surges
- is based on an evaluation of potential risks and presents and seeks to avoid exposing future development to projected coastal hazards
- ensures new development will be sited and designed to address potential coastal hazards
- considers the views of Melbourne Water, being the relevant floodplain manager, and the Department of Sustainability and Environment (now DELWP).

### **Ministerial Direction 15 – The planning scheme amendment process**

The Panel understands that the planning scheme amendment process outlined in Ministerial Direction 15 has been followed.

### **Ministerial Direction 19 – Preparation and content of amendments that may significantly impact the environment, amenity and human health**

The explanatory report explains that Council sought the views of the EPA, consistent with Ministerial Direction 19. The EPA’s response was that it did not consider there to be a role for the Authority for this Amendment.

#### **(ii) Planning Practice Notes**

The PPN which are applicable to the Amendment are noted below with an overview of the purpose of each highlighted.

#### **PPN01 Applying the Heritage Overlay**

PPN01 provides guidance about the use of the Heritage Overlay and relevantly notes that places identified in a local heritage study of having significance justify application of the overlay. Guidance on drafting the overlay, including the ability to incorporate plans which provide detailed heritage design guidelines or planning permit exemptions, is also provided.

#### **A Practitioner’s Guide to the Victorian Planning Schemes (replaced PPN02 Public Land Zones)**

The Practitioner’s Guide to the Victorian Planning Scheme provides guidance on the use of Public Use Zones, of which the Public Park and Recreation Zone is the main zone for public

open space and public recreation areas. The Practitioner's Guide provides criteria for application of these zones.

**PPN03 Applying the Special Use Zone**

PPN03 provides guidance on the use of the Special Use Zone to guide land use and development of certain areas.

**PPN23 Applying the Incorporated Plan and Development Plan Overlays**

PPN23 provides guidance on when to use an Incorporated Plan Overlay or Development Plan Overlay, noting the common elements of these controls and criteria for how to choose the most appropriate overlay.

**PPN53 Managing Coastal Hazards and the Coastal Impacts of Climate Change**

PPN53 provides guidance for coastal areas on managing hazards, decision-making process for assessing hazard risk and planning for development.

**PPN59: The Role of Mandatory Provisions in Planning Schemes**

PPN59 explains the role of mandatory planning provisions, which are considered an exception to the intent of the performance based Victoria Planning Provisions. The Practice Note sets out criteria for determining when a mandatory provision is justified.

## 3 Strategic Justification

### 3.1 Context and key issues

The Amendment seeks to rezone land known as the St Kilda Marina from the Public Park and Recreation Zone to the SUZ and apply a new DPO. Some submitters variously questioned the tools' ability to provide outcome certainty while Council and its experts sought flexibility for a future lessee. Justification on the broader need and purpose for the Amendment was raised by some submitters.

Mr Woodland of Echelon Planning gave planning evidence for Council.

The key issues to be resolved are:

- justification for the proposed rezoning from Public Park and Recreation Zone to SUZ
- whether the DPO is the correct overlay to apply
- whether the Amendment is strategically justified.

### 3.2 Application of the Special Use Zone

Submitters sought justification for rezoning to the site-specific SUZ and some advocated to retain the Public Park and Recreation Zone. DELWP sought justification as part of its authorisation, as did the Panel as part of its Directions.

#### (i) Evidence and submissions

Mr Woodland gave planning evidence for Council, who found strong support for the rezoning. His overall view was that the controls need to provide a right balance between community certainty and developer flexibility. There were three key reasons he gave to support the redevelopment sought by the Site Brief, which he said was better suited to the SUZ, when used in combination with the DPO:

Firstly, Mr Woodland observed the available pathways to facilitate redevelopment under the existing zone were undesirable. Council could undertake works as the public land manager however, as intended by public zones, that meant there would be no planning permit triggers and no public oversight. An incorporated plan was possible however, that required a level of detail comparable to a planning permit from a future tenderer at this stage in planning. That could have undesirably liberalised tenderer input at the expense of community input while prematurely locking a tenderer to one redevelopment outcome for a specialist site with numerous stages (and associated investment steps) and years to be realised.

Secondly, Mr Woodland gave evidence there is no other appropriate zone available, a test guided by PPN3 (Applying the Special Use Zone). The Public Use Zone does not allow commercial uses and the Public Park and Recreation Zone has purposes inconsistent with the redevelopment vision. A Comprehensive Development Zone with a detailed master plan is not suitable for the same highly-detailed and tenderer-led input an incorporated plan requires. Retaining the existing zone with a Development Plan Overlay was discounted as many proposed uses would remain exempt from permits.

Thirdly, Mr Woodland noted various other tourism and recreation facilities along the Victorian coastline that use the Special Use Zone. Other marinas of mixed public and private infrastructure using this zone include Martha Cove Marina, Wyndham Harbour, Queenscliffe

Harbour and Apollo Bay Marina. Local and regional examples are the St Kilda Triangle site, Luna Park, St Kilda Sea Baths, Werribee Shipyards and the Docklands marina area.

Neither Council nor Mr Woodland recommended changes to the SUZ as exhibited, despite Mr McGauran's recommendation to change "*take away food premises*" from a Section 1 to 2 use. This change sought to prohibit particular fast food businesses, which Mr Woodland deemed unachievable by planning.

Written submissions both supported and opposed the zone. Opposing submissions saw inconsistency with PPN3, no need to change the current zone of 50 years and speculation on commercial over public interests. A range of yacht clubs were offered as examples where the Public Park and Recreation Zone applied.

Submitter 20 voiced concern the zone made it easier for Council to support the commercial interests of future tenderers. Submitter 6 expressed frustration the zone was not discussed during community consultations.

In closing, Mr Montebello highlighted that while the Marina can be redeveloped under the Public Park and Recreation Zone, no permits would be required. He reiterated the SUZ, when used in combination with the DPO is the most appropriate zone based on the technical information and the way in which the controls operate.

## **(ii) Discussion**

The Panel agrees with Mr Woodland's overarching view that the planning controls need to balance community certainty with developer flexibility for viable ongoing and upgraded marina functions with net community benefit outcomes. The Panel agrees the proposed zone is appropriate.

The existing zone, or other public zone, would arguably exempt works from needing a planning permit, offering limited community assurance. This would undermine community participation to date and contradict Council's intent for increased certainty and transparency. Locking a future tenderer to a particular outcome now rather than providing staged flexibility is not in the best interest of redevelopment of the site going forward.

The public zones are broad in purpose and generically seek to support use and management of land by a public land manager, appropriate for the adjoining areas of unconstructed foreshore under public management. Being a water based built environment with ongoing uses reliant on redevelopment and commercial viability, the site is not consistent with contiguous open spaces. As the Practitioner's Guide notes, public zones are not always suitable for public land.

The Panel views the benefits of the SUZ as it:

- facilitates the site's strategic intent more suitably than other available zones
- contains tailored provisions guiding redevelopment as sought by the Site Brief
- better reflects the site's operations by a private entity than a public land zone can
- provides greater permit trigger certainty than public zones
- facilitates the preferred development plan, rather than incorporated plan, approach
- is not surpassed by other suitable alternative zone and overlay combinations.

**(iii) Findings**

The Panel finds that:

- Rezoning the land to Schedule 4 to the Special Use Zone is appropriate and is supported as exhibited.

**3.3 Application of the Development Plan Overlay 2**

The DPO is the principle control to guide the built form outcomes sought by the Site Brief. It comprises Objectives, Requirements for permits and a Development Plan. Table 1 sets out Specific Requirements and Development outcomes for various Elements. It provides the detailed provisions for the Development Plan through the production of numerous reports. The Concept Plan is provided at Figure 1 that shows the indicative built form for Envelopes 1, 2 and 3 (Areas 1, 2 and 3), the area for the Civic Heart, the proposed promenades and an indicative location for a potential bridge.

Clause 4.0 notes *“The development plan must be generally in accordance with the Concept Plan shown at Figure 1 and include or make provision for: ...”*. The Panel acknowledges the role of the DPO and Development Plan and that if future permits are generally in accordance with these provisions, there are no further formal third party rights.

Many submissions opposed the application of, and/or the content within the DPO. Most prominent was removal of third-party appeal rights, along with uncertainty of what could and would be constructed, comparing its use to that of an incorporated plan.

**(i) Evidence and submissions****Removal of third party notice and review rights**

Council submitted the DPO is the appropriate tool to provide a master planned redevelopment. The control seeks ‘front ended’ community input and this was achieved through the two-year consultation period in preparing the Site Brief. Council submitted Schedule 2 translated the vision, design criteria and development parameters articulated in the Site Brief. Council highlighted it intended to undertake informal consultation as part of preparing the Development Plan but could not specify how this would occur.

Submitters 8 and 20 questioned Mr Woodland on the use of the DPO adjoining a residential area, where PPN23 notes this as unfavourable. He responded that although uncommon in practice, in this case the provisions provide a high degree of certainty on the scale of expected development.

Many submissions opposed the removal of notice provisions and appeal rights, citing inadequate community input, desire to maximise participation rights, lack of transparency and loss of ability for community campaigning.

Submitter 8 noted issues related to the St Kilda Triangle site, that in opposing notice removal, it challenged Council when planning for its own sites. Submitter 20 feared poor urban design outcomes from lack of scrutiny and limited ongoing influence on future development stages. The Amcor and Former Gasworks sites were cited as examples where a DPO compels developers to conduct community consultation in a meaningful way.

The Panel circulated two examples of community consultation provisions which were included in DPOs for the Debney’s Precinct, Flemington (Moonee Valley Amendment C177) and Gronn

Place, Brunswick West (Moreland Amendment C170) (Document 50). In reviewing these, Submitter 17 observed:

[T]he Panel is taking a courageous decision in considering such provisions and urge[d] the Panel to be even braver and consider requiring the community consultation before the Councillors make their important decision on the selection of the successful tenderer.

Council's closing submission relayed the extensive documented community consultation undertaken thus far and the further intended consultation in upholding the removal of third party provisions. It highlighted that DELWP previously rejected Council's attempts to include a consultation provision in the DPO and offered that such a provision should not be included in a public document.

### **Use of the development plan over an incorporated plan**

Council provided strong support for the views of Mr Woodland on the appropriateness of a development plan. He considered the DPO has faithfully translated the Site Brief and would enable Council to facilitate redevelopment in a master-planned approach. This would prevent undesirable piecemeal redevelopment and, when used in conjunction with the SUZ, would ensure it occurs in an orderly manner.

Mr Woodland gave evidence the two-stepped, development plan/planning permit process as appropriate. He discounted using the Incorporated Plan Overlay for the same reasons an incorporated plan under the Public Park and Recreation Zone or via the Comprehensive Development Zone was inappropriate.

Mr McGauran saw the DPO as being responsive to recognising the role of the redevelopment within an expanding Melbourne and gave examples of it being used to facilitate a staged approach on other large sites including the Fitzroy Gasworks Site and Alphington Mills. He recommended a substantial "*master plan document*" form the basis of the Development Plan, based on his interpretation that the DPO required a more detailed version of the Concept Plan contained within it.

Some submissions expressed concern with document ambiguity, the large volume of information and how both these limit abilities to comment on potential impacts. The lack of specific details was viewed as contrary to clear and transparent approaches. Submission 30 opined the DPO was a blunt tool that needs interrogation to limit the risk of unintended consequences. Submitter 31 perceived the potential for developers to adopt "*scope creep*" principles in progressively seeking more development over time. Requests for greater detail and clarity, including a comprehensive concept plan and 3D modelling were sought in other submissions.

Council concluded the DPO was the most appropriate tool to achieve the desired master planned approach for the site. It considered the Development Plan would comprise a suitably substantial volume of information, informed by the Concept Plan and technical requirements spelt out in the DPO.

## **(ii) Discussion**

### **Removal of third party notice and review rights**

The Panel considers the removal of third party rights for planning permit applications is appropriate, however it recommends further informal community consultation be a



requirement to inform the Development Plan. This could draw upon the provisions in Schedule 1 to the Development Plan Overlay applicable to the St Kilda Triangle site.

In forming its view, the Panel has referred to two key relevant notes in PPN23 on the use of the Development Plan and Incorporated Plan Overlays:

- Both overlays have the same two purposes. The first is to use plans to guide future land use and development of certain areas. The second is to exempt third-party rights for works which are generally in accordance with an approved plan. These purposes intend to provide certainty to future land use and development in certain areas and give statutory effect to an approved plan.
- The overlays differ from one another by their method of plan approval. The Incorporated Plan Overlay requires a planning scheme amendment to include an Incorporated Plan into the planning scheme, while no formal public input is required for the approval of a Development Plan under an approved DPO, to the satisfaction of the Responsible Authority. PPN23 notes the former is appropriate when sites are likely to affect third party interests and the latter is used where such interests are not likely to be significant.

While Council did not specifically refer to PPN23 in the explanatory report or its submissions, Mr Woodland's evidence and the submitter's questions of him did.

The Panel accepts a suitable level of informal and formal consultation has occurred to get to this point of the Amendment stage. Council relayed an extensive amount of community consultation which informed the Site Brief, including formation of a community member panel to prepare the document. The Site Brief was then translated into the DPO in a manner described as "*faithful*" by Mr Woodland. Formal exhibition of the Amendment reached some 9,000 community members, called for public submissions to the exhibited Amendment and provided opportunities to present concerns through this Panel process.

The Panel accepts that the DPO, when used in conjunction with the SUZ, will manage amenity impacts appropriately, as stated by Mr Woodland. The site sits along the foreshore where local policy seeks to create a series of activity destinations to maximise public access and enjoyment. The one residential site interface is separated by a 30 metre wide arterial road which Mr Davies noted carries 47,000 vehicles per day. Further, the Panel does not see the subject land immediately abutting the residential areas across Marine Parade as an issue. The 30-metre road reservation width along the eastern boundary of the Marina removes potential for the common amenity impacts of overshadowing and overlooking. The Panel considers the controls as recommended will sufficiently address amenity impacts to the extent that third party interests beyond these do not warrant notice and review rights.

The Panel considers the DPO should be amended to provide for some limited community consultation to inform preparation of the Development Plan. Council is, as both it and submissions from Plan A articulated, in the unusual position of being the owner, applicant and responsible authority. These many hats have the potential to overlap and conflict with one another, whether subversively or not. The Panel considers this additional consultation step will add a beneficial layer of governance and community certainty. As this will form part the early site planning, the Panel does not foresee this will unnecessarily burden needed development flexibility.

Council noted its formal public commitment of a non-statutory community consultation step prior to approval of the development plan. The Panel is mindful however that that commitment may not be realised, as referenced by Mr Woodland and Submitter 12 respectively. The Panel considers a similar provision to the St Kilda Triangle site or the provisions in the Moonee Valley and Darebin examples previously cited could be appropriate. These provide for consultation and opportunity for the community to make non statutory submissions for Council consideration. The Panel views this approach as an acceptable way forward to allowing for some community input into the Development Plan.

### **Use of a development plan over incorporated plan**

The Panel considers a Development Plan is preferred over an incorporated plan to enable realisation of the vision, provide for viability and staged improvements across the site.

Council's reasoning for a Development Plan over an Incorporated Plan (either via an overlay or zone) is accepted by the Panel. A Development Plan, or master plan, will provide needed flexibility to respond to the various integrated and technical land use considerations over time while offering sufficient development outcome certainty for all stakeholders.

The Panel sees the benefit afforded by the two step process, whereby the needed detail is gathered progressively. The site is large, comprises and is planned for complex structures needing specialist expertise and it will take years before the site's vision is brought to fruition. Ensuring an appropriate and continued commercial revenue stream is necessary to facilitate infrastructure improvements and facilitate flow on investment into public infrastructure. These circumstances require the flexibility afforded by a master planned approach through the preparation of a Development Plan.

The Panel agrees incorporated plans require extensive detail, meaning preparation would undesirably need to follow tenderer selection. Locking an outcome in the short term could well lead to feasibility shortcomings in the long term. Further, setting an Incorporated Plan now will likely require later amending, for what could be relatively minor changes, via a timely and costly amendment process to the detriment of investment in the site.

### **(iii) Findings**

The Panel finds that:

- The site-specific Schedule 2 to the Development Plan Overlay is appropriate.
- It will suitably balance community certainty with developer flexibility to deliver the specialist use site in need of improved major public and private infrastructure.
- Schedule 2 to the Development Plan Overlay has been well informed by the Site Brief.
- Schedule 2 to the Development Plan Overlay should be amended to include a requirement for a community consultation strategy to inform preparation of the Development Plan.

## **3.4 Strategic justification**

Some submitters perceived the Amendment was unjustified on grounds of insufficient certainty in the procurement process and that the current controls sufficed.

**(i) Evidence and submissions**

Council's Part B submission included a lengthy strategic justification of the Amendment.

In his evidence, Mr Woodland succinctly assessed the strategic justification under three points, summarised as:

- maintaining and expanding boating and recreational infrastructure on the site is supported by state planning, coastal and marine policies (Clause 17.04-2S, *Boating Coastal Action Plan 2007* and *Recreational Boating Facilities Framework*)
- site-specific zone and overlay provisions to effect state and regional coastal strategies are encouraged by the *Marine and Coastal Policy 2020*
- zone and overlay tools are identified in state coastal policy (*Marine and Coastal Act 2018* and its predecessor *Victorian Coastal Strategy 2014*) as an essential part of an integrated coastal planning statutory framework to facilitate strategic orderly land use and development operating alongside leases and coastal-related consents.

Council set out the relevant references of the *St Kilda Land Act 1965* and the *Marine and Coastal Act 2018* (1 August 2018). In summary, these Acts set out the use, management and lease of the site, define distinct and separate Council responsibilities and provide general, rather than site-specific, built form guidance. The *Marine and Coastal Act 2018* seeks to manage the State's coasts particularly in relation to climate change. It requires consent from the Minister for Energy, Environment and Climate Change for all use, development and works undertaken by any party (including Council) prior to and even in the absence of triggers for a planning permit. Consents are considered within the decision-making components of the *Marine and Coastal Policy 2020*, which provides general but not site-specific built form guidance. The *St Kilda Land Act 1965* enables Council to lease the site for marina purposes but similarly does not provide built form guidance.

As well, Council highlighted the Amendment provides for a site-specific, master-planned statutory framework for land use and development that gives effect to the Site Brief that provides certainty of triggers for planning permits, neither of which the *Marine and Coastal Act 2018* nor *St Kilda Land Act 1965* do.

The written submissions that questioned strategic justification considered enough scope for redevelopment and ongoing operations were afforded by the *St Kilda Land Act 1965* and *Marine and Coastal Act 2018*, as well as current planning provisions.

In closing, Council noted the Amendment was required to provide an appropriate suite of controls to guide redevelopment and create permit triggers, elements deficient in existing controls. Council considered that, subject to some revisions, the Amendment is strategically justified.

**(ii) Discussion**

The Panel considers the statutory, strategic and physical contexts of the site provide a high level of justification for the Amendment. A complex land use and development regulatory framework and complicated land ownership, management and operations apply. The Amendment seeks to integrate these matters in a comprehensive and transparent way.

Strategic support for the sites' ongoing use as a Marina is established under Clause 17.04-2S (Coastal and Maritime Tourism and Recreation) to maintain and expand boating and recreational infrastructure around the bays in maritime precincts, including St Kilda. The use

of the site as a Marina is set in the *St Kilda Land Act 1965*, however the form or feasibility to achieve this is not specified.

The site is a unique water based built environment. It is a distinctive piece of existing recreational infrastructure that State policy identifies as a regionally significant facility. Ongoing operations require significant private investment, specialist technical input and consent under numerous other applicable regulatory frameworks, through which Council's responsibilities will shift between an applicant, landlord and Responsible Authority.

The inspections by the Panel revealed a somewhat tired and generally uninviting and partly inaccessible site, despite its visually prominent, culturally valued and highly trafficked location. State policy includes general objectives to manage coastal development, but excludes specific built form guidance for the site, evidenced in the existing Schedule 10 to the Design and Development Overlay. New buildings guided by appropriate site-specific parameters to achieve well-resolved form, display design excellence and context integration will provide a welcome improvement along the foreshore.

The Amendment provides a statutory framework to ensure the site's redevelopment improves public accessibility, is of appropriate scale, use and intensity while facilitating economic viability, as sought by State policy. The Panel agrees with the sentiments expressed by Submitters 12 and 17 on the prospect to upgrade an existing valued facility to create a world-class marina which frames a lasting and cherished image for locals and visitors alike.

The Panel considers that a master-planned new development through application of the SUZ, the DPO and the requirement for a Development Plan, integrated with enhanced and integrated public spaces, will benefit the community. The Panel considers the proposed controls, subject to its recommendations, will strike the right balance in providing certainty to the community and future developers and lessee on the redevelopment of this local, regional and State significant site.

For the reasons set out in the following chapters, the Panel concludes that the Amendment is supported by, and implements, the relevant sections of the Planning Policy Framework, and is consistent with the relevant Ministerial Directions and Practice Notes. The Amendment is well founded and strategically justified. The Panel concludes that the Amendment should proceed subject to addressing the more specific issues raised in submissions as discussed in the following chapters.

### **(iii) Findings**

The Panel finds:

- The Amendment is strategically justified and should be adopted, subject to the further recommendations of the Panel.

## **3.5 Recommendations**

The Panel recommends:

- 1. Adopt the Panel recommended version of Development Plan Overlay Schedule 2 as included in Appendix D.**

2. Add the following requirement under 'Content of Development Plan':
- a) *"A Community engagement report which outlines the consultation which has occurred to inform the preparation of the Development Plan, including but not limited to the following stakeholders:*
- *Office of the Victorian Government Architect*
  - *Transport for Victoria*
  - *Neighbouring owners and occupiers"*.

## 4 Built form

### 4.1 Context and key issues

The Concept Plan in the DPO identifies three built form envelopes with mandatory heights of 12 and 15 metres. The envelopes cover a much larger area than the built form permitted by the floor space cap and protected view lines. Being two-dimensional, the Concept Plan does not illustrate overshadowing impacts and interface treatments. Many submissions focussed on heights and view line protection, and with some submitters continuing these discussions at the Hearing. Council's submissions and evidence provided discussion on overshadowing. Management of interfaces was raised for certain site edges.

Mr McGauran of MGS Architects gave built form evidence for Council.

The key issues to be resolved are:

- protection of view lines
- justification for heights
- management of interfaces and overshadowing.

### 4.2 Views

Various views across, into and out of the site were raised as a key consideration in relation to the Concept Plan. Many written submissions raised concerns on loss of long range regional and open views across the site. A few submissions objected to loss of views from private dwellings. The Panel's Directions sought a site analysis explaining the view line analysis.

#### (i) Evidence and submissions

View line management changed variously between the Part A, Part B, Mr McGauran's recommended Post-Panel version (Document 56) and Council's Part C version of the DPO (Document 64).

Mr McGauran's evidence provided a comprehensive analysis of identified views and recommended three key changes from the exhibited Concept Plan:

- realign the Point Ormond to Palais Theatre view line
- realign the cranked Dickens Street to Bay interface view line to continue it straight along its street axis to the Bay interface, and consequently reconfigure Area 2
- add the Thackeray Street to Marina view line (and concurrently manage overshadowing on Moran Reserve and accommodate potential vehicular access).

Council's Part B version added two view related requirements, namely that a site line analysis inform the future Development Plan and to ensure waste services were concealed in views. Council did not include the other recommendations of Mr McGauran's evidence for the following reasons:

- the Point Ormond to the Palais Theatre view line was intended as two disjointed view lines, firstly from Point Ormond to the Marina and then from the new civic heart to the Palais Theatre
- the Dickens Street axis view line does not reach the Bay but is rather masked by vegetation on the site

- the Thackeray Street to Marina view line was not considered important (and neither were the overshadowing and vehicular access outcomes (further discussed in Chapter 4.4).

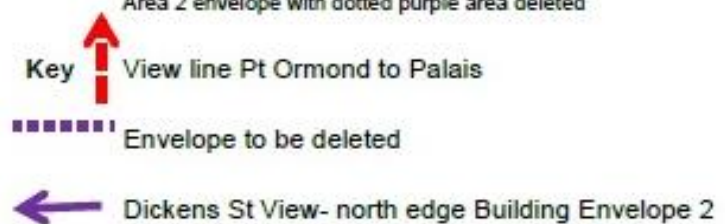
Figure 3 highlights the key recommendations from the evidence of Mr McGauran.

Figure 3: Excerpt from Mr McGauran’s evidence for proposed changes to the DPO Concept Plan



Existing Ariel relationship of Pt Ormond and the Palais

Proposed changes to view position and north & west extent of Area 2 envelope with dotted purple area deleted



Written submissions generally sought to retain view opportunities into and across the Marina to the Bay and other regional landmarks currently afforded by the site. Submitters sought to:

- include the Thackeray Street to Marina view line (Submitter 20)
- ensure openness qualities typical of marinas (Plan A)
- highlight that clever design can allow views through buildings, exemplified by the rebuilt Stokehouse Restaurant complex (Submitter 17).

Mr McGauran’s post-Panel version notably added the following underlined text at:

- civic heart public space element “...*equivalent level of amenity, views and aspect*”
- Areas 1 and 2 “*Allows for sightlines between Marine Parade, key public spaces and landmarks and Marina Activity Area*”

- urban context report requirements “*View analysis including views from locations identified in the Figure 1 Concept Plan demonstrating realisation of key view ambitions” (Panel underlining).*

In closing, Council confirmed its position on the Part B version in relation to view lines and did not support the further changes recommended by Mr McGauran in his post-Panel version. Council considered these duplicated provisions found elsewhere in the control.

## **(ii) Discussion**

The Panel considers views into, across and out of the site are critical to planning the site and establishing its context. Many policies guide the importance of views in coastal locations broadly and along the prominent St Kilda foreshore specifically. The Marina, like most harbours, offers a visually rich set of structures and infrastructure nestled in natural settings.

The relative higher heights of the Point Ormond lookout and Palais Theatre offer views across the site, establishing its regional relationship. The adjoining Marine Parade boulevard, footpath and Bay Trail are well utilised and provide scenic opportunities for pedestrians, cyclists and motorists to appreciate the site. The improved quality, quantity and access of open space and architecture anticipated through redevelopment will place greater emphasis on the community’s enjoyment of view lines of this prominent site.

Council’s Part B version assists to acknowledge the importance of view lines in maintaining and enhancing the site’s context. While the Panel agrees the built form envelopes require flexibility, it sees need to further qualify the view line protection to better frame future form.

The Point Ormond to Palais Theatre view line is an important regional outlook and should be specifically identified in the Concept Plan. Potential heights of 15 metres plus 3 metres of architectural features in Area 3 will be seen in this view and management of form is necessary.

The Dickens Street to Marina view line should be realigned along the street axis and Area 2 consequentially reconfigured. As well as establishing local context, sightlines along this residential street and key pedestrian connection into the site will progressively and engagingly open to the Bay interface and open horizon beyond the site when travelling along its axis.

The Thackeray Street to Marina view line should be added to the Concept Plan. This view establishes the site’s context along this residential street, as occurs for the parallel residential streets further north. This view line should extend to the Bay interface to provide a desired line of view through the site and Area 2 consequentially reconfigured. For reasons described in Chapter 4.4, the Panel considers this view line will beneficially manage the site’s Moran Reserve interface and potential vehicular access.

The Panel concurs with Mr McGauran’s text changes in the post-Panel version. The need for a relocated civic heart to provide equivalent views and aspects is recommended as precluding existing long range views, including to the Palais Theatre and city beyond, would be a lost opportunity for the site’s centre piece of public space. The Panel further supports the qualification on the outcomes sought about site analysis to guide Council’s assessment of the view analysis of the urban context report, particularly in relation to views across the site which are not described in Table 1 of the DPO. For similar reasons, the Panel considers it appropriate to include the encompassing term “*landmarks*” for the built form outcomes sought for Areas 1 and 2 given these could well change through the course of the site’s development.



Conversely, the Panel does not consider it appropriate to manage views from individual dwellings but rather the focus should be from the public spaces.

### **(iii) Findings**

The Panel finds that:

- The importance of view lines is suitably described in the Amendment.
- The realignment and additional view lines are supported, specifically:
  - realigned Point Ormond lookout to the Palais Theatre view line
  - realigned Dickens Street to Marina view line (and beyond to the Bay interface) along the street axis
  - added Thackeray Street view line extending to the Bay interface
  - reconfigured Area 2 to accommodate the realigned Dickens Street view line
  - added need for the future site analysis to demonstrate realisation of identified views
  - added requirement for a relocated Civic Heart to enjoy equivalent views and aspects
  - added outcome of 'landmarks' to guide built form outcomes for Areas 1 and 2.

## **4.3 Height**

Mandated built form heights were 11 metres along the Marine Parade interface (Area 1), 12 metres along southern site boundary (Area 2) and 15 metres for the dry boat storage facility (Area 3). Most submissions objected to the various heights for reasons including lack of rationale, site coverage and visual bulk, with focus on height along Marine Parade and Area 2. The Directions of the Panel sought that Council explain the rationale of building heights.

### **(i) Evidence and submissions**

Council resolved to recommend reducing the exhibited heights of 12 metres to 11 metres for Area 1, resolving some submitted concerns. Verbal submissions at the Hearing tended to then focus on Areas 2 and 3. The Panel observes submitters references to Area 3 seemed to assume one replacement building rather than retention of the two existing dry boat storage facilities of approximately 9 metres.

Council, supported by the evidence of Mr McGauran, deemed building heights appropriate as the limits had been informed by the Site Brief. The DPO is supported by setback, scale and site coverage considerations. Council emphasised that:

- the floor space cap will restrict additional commercial space to 1,400 square metres from the existing 3,600 square metres
- site coverage restrictions of 50 per cent for Area 1 and a footprint cap of 6,500 square metres for Area 3 will confine form and limit complete build out
- levels above ground, as contemplated by the Amendment, had the effect of restricting site coverage
- anticipated demand for parking was relatively low, being 50 additional spaces from the existing 166, reducing the likelihood of large multi-decked parking structures.

Council included massing diagrams, prepared as part of the Site Brief, in its Part B submission demonstrating how the above variables influence overall form on the site.

Mr McGauran's evidence supported the heights as follows:

- Area 1 had a height equivalent to development on the opposite side of Marine Parade
- the height of Area 2 at 12 metres, inclusive of all structures, was accepted subject to changes to its configuration to accommodate view line changes
- the height at Area 3 and its dimensions were soundly based in changing technology, lifting and storage methodologies given the strategic role of the Marina.

Mr Helms' opined that heights in Areas 1 and 2 should be reduced to ensure Area 3 remains the most prominent and featured form, whether the existing dry boat storage facility remains or is replaced. He nominated either prescriptive or performance-based provisions and accepted those included in the Part B version with addition to the reconfiguration of Area 2 to accommodate the realigned Dickens Street view line.

Submitter 20 considered the existing dry boat storage facility should not set a precedent for future height and used the existing service station structure to demonstrate 12 metres was too high. This latter view was supported by Submitter 8, who additionally highlighted Area 2 had no site percentage limit. Conversely, Submitter 17 considered the exhibited 12 metres for Area 1 remained suitable and opposed restrictive controls for the potential to stymie creative outcomes. Submitter 31 opposed the 3 metre architectural features allowed in Area 3, seeing those as adding to excessive heights.

Council's closing submission upheld its views that the heights and related provisions set out in its Part B submission had been revised in response to evidence, and that it remained appropriate.

## **(ii) Discussion**

The Panel views the numerical heights expressed in the Part B version acceptable, subject to various recommended changes on design requirements outlined elsewhere in Chapter 4.

The Panel does not consider it relevant to oppose heights for their expressed absolute limit but rather contemplate how other influencing design requirements will shape ultimate form. Neither does the Panel consider the residential area adjoining should set the scale for a working marina already characterised by inconsistent scale of buildings, as described by Mr McGauran in questioning.

The site-wide commercial floor space cap, the area-specific coverage restrictions and view line management will sufficiently guide overall built form massing. Collectively these will allow the site to sit comfortably within its context. The additional design requirements pertaining to wind comfort, overshadowing, materiality and landscaping provide appropriate guidance on the presentation of buildings, as discussed further in Chapter 4.4. These latter parameters would provide for positive visitor experience of the site when approaching and moving around future buildings.

With reference to PPN59, the Panel accepts the mandated heights expressed in Council's Part B submission for three reasons.

Firstly, the 11 metre cap in Area 1 will match the controlled height on the opposite side of Marine Parade. The combination of view line management and site coverage restrictions will reduce potential for visual bulk. The exhibited design requirement to respond to scale and rhythm of opposite dwellings will contribute to the boulevard effect sought for the arterial road.

Secondly, the 12 metre cap for Area 2 will provide the needed flexibility to accommodate the most diverse functions probable of all three areas given its location furthest from the Marina Activity Area, adjacent to the future vehicular access (whether relocated or not) and likely interface with the Civic Heart. Its locational attributes, the required view line management and need to respond to the scale and rhythm of dwellings will manage visual and amenity impacts.

Thirdly, the 15 metres plus 3 metres of architectural features permitted by Area 3 suits its need to provide specialist dry boat storage facilities along the western arm of the Marina, farthest from the site's Marine Parade edge. A dry boat storage facility footprint and volume is prescribed. Its presentation when viewed along adjoining residential streets, Marina Promenade and Bay Trail and within the site will be guided by design requirement provisions. The Panel sees opportunity for built form in Area 3 to continue to improve the wind break functions the existing facility is reported to provide to the Marina Activity Area.

The Panel agrees with Mr McGauran that the building envelopes, expressed heights and view line management (and particularly the realigned Dickens Street to Marina view line) will give built form in Area 3 appropriate prominence. For this reason, the Panel does not consider Mr Helms' recommended specific provisions pertaining to built form hierarchy is necessary.

### **(iii) Findings**

The Panel finds that:

- The nominated mandatory height limits are appropriate, subject to refinement in design requirements to manage siting and presentation of these buildings.
- The site's intended built form hierarchy is sufficiently guided by the built form envelopes, heights and view line management, subject to the recommendations of this report.

## **4.4 Interfaces and overshadowing**

Interfaces are discussed in terms of setbacks, building and landscape presentations and movement corridors. Key impacts are visual aesthetics and user comforts pertaining to wind, shadow and legibility. Mr McGauran raised these matters variously in written and oral evidence. Written and verbal submissions generally sought a high-quality design for the Marina and specifically one that manages visual bulk impacts when viewed from Marine Parade. Council detailed overshadowing considerations in its closing submission.

### **(i) Evidence and submissions**

Council's Part A submission did not include specific interface related changes.

Mr McGauran recommended numerous additional interface design requirements, generally seeking outcomes against which the site's future technical analyses be assessed. These included shadow, design language of buildings, waste management and interface responses. He suggested various additional specifications for public spaces such as cross sections, landscaping, street furniture and numerical summaries of open space. Mr McGauran's oral evidence and cross examination particularly opined overshadowing as a key performance indicator for the site.

Neither of the numerical built form setbacks from the Bay Trail or the crest of the seawall were disputed, other than Mr McGauran recommending defining the crest coordinates to avoid likely varying interpretations.

Mr McGauran described his recommendations in written evidence and Council provided its response to these in its Part B submission, many of which were included in the Council's Part B version of the DPO (Document 29). After giving evidence and in response to the request of the Panel, Mr McGauran further defined his recommendations in a post-Panel Part B version (Document 56). Council opposed many of these further changes for reasons of duplication. Most notably Council disagreed that overshadowing impacts required the mandated outcomes sought by its expert.

Mr McGauran sought mandatory management of shadow impacts on Moran Reserve, the civic heart and the Marina and Peninsula Promenades. Determinants for shadow impacts were the winter solstice between 9.00am to 3.00pm for Moran Reserve; 10.00am and 3.00pm for the Civic Heart; and the spring equinox between 10.00am and 2.00pm for the promenades.

Council preferred discretionary shadow management and its closing submission reiterated its position that:

- shadow impacts on Moran Reserve should be minimised rather than eliminated as the likely impacted areas were patches of vegetation rather than open grassed space
- the civic heart shadow provision could be included, notwithstanding this space has been positioned for its solar access
- neither promenade would be in shadow after 12:30pm on the spring equinox where adjoining built form envelopes have full build out, as demonstrated through shadow diagrams
- Marina Promenade would additionally benefit from the site coverage restrictions in Area 1.

Council preferred discretionary rather than mandated management of wind impacts on the civic heart as recommended by Mr McGauran to allow flexibility. Also opposed was the need to manage the public realm presentation west of Area 3, as alternatively, Marina Promenade and the Bay Trail were focus areas as key commuter paths.

## **(ii) Discussion**

The Panel regards further guidance and measurable outcomes on the performance of future built form in its surrounds is required. The combination of the flexibility provided by the built form envelopes, the high-quality architecture sought and arbitration by a qualified design panel will enable achievement of these, while maintaining viability.

A principal benefit of the Marina redevelopment is improved integrated open spaces. As some submitters forwarded, there is ambition for a world-class facility of destination and comfortable public spaces will significantly enhance visitor experience. To this extent, greater emphasis should be placed on spaces where people repose rather than thoroughfares. Planning for year-round use of all users, as opposed to solely considering peak season boater use, is important to realise the site's wide ranging benefits for the greater community.

The Panel observes shadow management principles on nearby public places are already embedded in Port Phillip Planning Scheme. Relevantly, no shadow can be cast on the

foreshore after 10.00am and the Marine Parade footpath between 10.00am and 4.00pm at the winter solstice.

The Panel's focus is the Civic Heart, given it will be, as its name suggests, the foremost place for rest and leisure. The wording within the DPO suggests there is potential for the civic heart and parking to have alternative locations as guided by the Concept Plan. While flexibility in location is accepted as necessary to respond to specialist technical input, the Panel considers the expectations for reasonable enjoyment of the Civic Heart should be set. More so given the potential limitations for further community input (despite the recommendations of this report). It considers mandated minimum shadow impacts on the civic heart, measured on the winter solstice and wind comfort standards are required.

Shadow should also be managed in Moran Reserve, although the Panel agrees with Council that this reserve is overall of lower priority than the Civic Heart and that the potentially impacted edge in particular, largely comprises inaccessible vegetation. Likely impacts are further mitigated by the non-continuous massing and setback planned for Area 3 at this interface. These considerations make discretionary shadow provisions measured on the winter solstice sufficient in the Panel's view.

For similar reasons of open space hierarchy, the Panel accepts Council's discretionary shadow and wind management measures of publicly accessible open areas other than the Civic Heart.

Presentation and anticipated future public access along Peninsula Promenade are important given the clear desire lines along the Bay Trail's southern approach into this currently restricted access area. This area should be landscaped and include areas in which to sit. In terms of shadow impacts on this and the Marina Promenade, the Panel agrees with Council's suggestion that mandated outcomes would unnecessarily burden development potential given these will primarily be movement corridors. The site coverage and massing restrictions of Areas 1 and 3 will inherently reduce some shadow impacts. The Panel accepts Council's expressed discretionary provisions – requiring shadow analysis on the spring equinox but not specifying outcomes – is suitable. The Panel considers the provision which seeks shade along Marina Promenade should be qualified to be seasonally appropriate.

Mr McGauran sought to manage amenity impacts of waste management by specifying performance measures under 'Content of the Development Plan'. The Panel considers adding the word 'amenity' to the development outcomes for waste in Table 1 of Schedule 2 would sufficiently capture the important intent of this.

### **(iii) Findings**

The Panel finds that:

- Revised provisions to better manage interfaces should be included.
- Additional provisions to specify outcomes sought by wind, shadow and landscaping assessments are supported and specifically:
  - mandated shadow and wind management on the Civic Heart and Moran Reserve
  - discretionary shadow and wind management (as applicable) for Moran Reserve, other publicly accessible open spaces and the Peninsula and Marina Promenades
  - requirement for landscaping and places to sit along the Peninsula Promenade edge of Areas 2 and 3.

## 4.5 Recommendations

The Panel recommends:

3. Amend Table 1 as follows:
  - a) Under Built Form Envelopes 1 and 2 in the Development outcomes column:
    - *“Allows for sightlines between Marine Parade, key public spaces, and landmarks and Marina Activity Area”.*
  - b) Under Civic Heart Public Space:
    - *In the Specific requirements column “...or an alternative location providing an equivalent level of amenity, views and aspect”*
    - *In the Development outcomes column “Is accessible to the public with areas of solar access and shade with a minimum 50% of space accessing sunlight between the hours of 10am and 3pm at the winter solstice June 22”.*
    - *In the Development outcomes column “Ensures wind speed standards for sitting and standing are achieved”*
  - c) Under Peninsula promenade path:
    - *In the Specified requirements column, add “Provide for sitting areas at key locations along the path for comfort and amenity”.*
    - *In the Development outcomes column “Provides landscape improvements to the entire setback zone between Building Areas 2 and 3 and the water’s edge”.*
  - d) Under Marina Promenade in the Specific requirements column:
    - *“Incorporate areas of seasonally-appropriate shade along the Marina Promenade”.*
  - e) Under Waste management in the Development outcomes columns:
    - *“Minimise the visual, amenity and operational impact of waste management facilities and storage”.*
4. Delete the following at Table 1:
  - a) Under “Dry Boat Storage Buildings” in the Development outcomes column:
    - *“Maintains a clear hierarchy of built form, which ensures the dry boat storage (whether the existing, or a new building) remains the most prominent and visible feature within the Marina complex”.*
5. Add the following to Figure 1 Concept Plan:
  - a) The Point Ormond to Palais theatre view line as a *“views to markers and/or outlook to landmarks”*
  - b) The Thackeray Street to the Marina view line as a *“views to marina activity”*
  - c) The Dickens Street to the Bay interface view line as a *“key pedestrian connection”.*

## 5 Heritage

### 5.1 Context and key issues

Council presented two seemingly conflicting heritage documents. The first sought full site protection, informing the proposed heritage overlay extension. The second justified full site demolition, informing a Permit Exemptions Incorporated Document. The submissions on heritage were mixed and focussed on values with few in support whilst others favoured replacement of certain structures. One submission commented on the control itself.

Mr Helms of David Helms Heritage Planning gave heritage evidence for Council.

The key heritage issues to be resolved are:

- significance of the site
- redevelopment of the site
- heritage controls.

### 5.2 Significance of site

The Council, supported by its heritage expert, considered the site held heritage significance. Some submissions supported this and those against questioned the aesthetics and level of intactness.

#### (i) Evidence and submissions

A Heritage Statement was commissioned by Council and prepared by Built Heritage. It assessed the site met the threshold for local level cultural heritage significance and warranted full site protection. Historical, aesthetic, architectural, technical and social reasons were cited. An extended HO187, which currently only affects the Beacon (or pilot beacon), was proposed.

The significance pertained to the 20 acres Marina, initiated by Council in 1961, completed by private enterprise in 1969 and designed by project architect and local figure, Don Fulton. Significant fabric were the original six buildings designed by Fulton. Of these, the pilot beacon, dry boat storage buildings and the harbour and its infrastructure held primary significance whilst the former amenities block, substation and toilet block, were contributory significance due to extent of change. The remaining site structures held immaterial significance.

Characteristics listed under 'Why is it significant' were:

- local level associations with the post-war boom of recreational boating, Council-initiated improvements to the public recreational facilities along the foreshore (Criterion A)
- unique example of purpose-built Marina that was developed from scratch as a cohesive and self-contained facility, with certain components (excavated Marina harbour, dry boat storage building and pilot beacon) that were highly innovative at the time of construction and remain uncommon today (Criterion B)
- representative example of modern marina complex, demonstrating principle characteristics of American prototypes (Criterion D)
- distinctive expression of its components, notably the two dry boat storage buildings, iconic zigzag roofs and pilot beacon, noting all three structures have landmark

qualities as distinctive and prominent elements on the foreshore landscape, visible from the sea (Criterion E)

- creative achievement in designing a modern marina complex along the latest American lines, recognised technical achievement in adaption of dry boat storage technology (specifically-designed forklift), complex zigzag roofs (custom-made components) and use of resilient construction materials (Criterion F)
- major project by prominent and award-winning Melbourne architect Don Fulton (Criterion H).

Council's Heritage Advisor (not the statement's author) was the expert witness at the Hearing. Mr Helms viewed the Heritage Statement as a comprehensive analysis of the heritage values and affirmed recommendations for full site protection for local level significance. In questioning, Mr Helms largely rejected the statement's claims of state or national significance.

A limited number of written submissions viewed the site as significant. Opposing written and verbal submissions rejected claims of the dry boat storage buildings, finger piers and beacon being substantially intact nor holding heritage value. Some suggested they required replacing and updating.

Council's Part C submission confirmed it considered the site held local level significance.

## **(ii) Discussion**

The Panel agrees that the site holds local level heritage significance and demonstrates a unique visual aesthetic. The Heritage Assessment provided a comprehensive review of the site's local level significance. The site inspections revealed the distinctiveness of structures, which were mostly intact, and sit within the open foreshore landscape. The technical significance of the form and function of the dry boat storage buildings, which portray achievement in the zigzagged roofline and boat storing capabilities, is visible across the site. The diagonal timber work of the regularly lined finger piers is noticeable when viewed in close quarters. Also apparent is the gradual layering of structures and almost haphazard public infrastructure.

## **(iii) Finding**

The Panel finds that:

- The site holds some local heritage significance, particularly the Beacon, dry boat storage buildings and the harbour and its infrastructure.

## **5.3 Redevelopment of site**

Concurrent to extended heritage protection, the Amendment seeks approval for redevelopment akin to a high-level permit application. There were strong submissions in support of wholesale site redevelopment, nominating certain structures for replacement, while other submissions sought to protect heritage generally.

### **(i) Evidence and submissions**

Council commissioned the Heritage Impact Statement based on a concept level redevelopment proposal to test the site's feasibility against values identified in the Heritage Statement. The Concept Plan sought to recognise that continued marina operations required



infrastructure upgrades. The plan replaced the two dry boat storage buildings with a new 400-boat capacity facility, provided new jetties and berths for 100 boats whilst retaining the Beacon. The Heritage Impact Statement considered that:

The removal of the Dry Boat Store would lose the thoughtfully detailed building. Mitigating considerations are that the building can be recorded using photographs and drawings.

Floating berths are understood to be original. The removal is also mitigated by capacity to thoroughly record the structure's form and detail prior to demolition.

...

The proposed concept redevelopment with new Dry Boat Store Building and removal of extraneous buildings and functions will facilitate the site's continued use as a recreational marina with wet and dry boat storage.

The DPO specifies a maximum 300 boat capacity, with 400 permissible upon evidence of sustainable market demand. Council informed the Panel the 400 boat capacity derived from extensive supply and demand research, referring specifically to work by Essential Economics. The current 1960s structure holds 6 metre boats in the open air, sizes typically stored in driveways nowadays. Forecast onsite demand is for larger boats up to 12 metres in length and in increasing numbers as the Marina is one of a limited number of eastern Port Phillip Bay marinas which provide such facilities for recreational boaters.

In written and oral evidence, Mr Helms generally referred to two separate and distinct future outcomes for the dry boat storage facilities, full retention prior to and full demolition after an approved Development Plan, both managed by the extended overlay. Options for alternative outcomes had been fully explored in Mr Helms' view when questioned by the Panel, with emphasis placed on the need for ongoing overall site viability. In response to submitter questions however, Mr Helms explained that replacement would need to be supported by evidence demonstrating the facilities were no longer fit for purpose.

Written views on redevelopment ranged from envisaging full demolition, including and excluding the Beacon, to part demolition. Submission 30 wrote of a future perceived challenge of integrating contemporary buildings of an appropriate fit with retained heritage.

Submitter 17 called the Marina a 'greenfields site', posing the strongest views against retention of the storage facility claimed to be structurally, functionally and legally intact (the latter referring to marina technical design standards). Submitter 6 discussed issues of contamination, as did Submitter 12 who noted the dry boat storage facility is in major disrepair. Ms Borthwick for Plan A drew the Panel's attention to the CoDesign report (Document 63a) which she said, did not analyse the dry boat storage buildings and the SJB comparative marina analysis (Document 63b) that observed dry boat storage was not common for modern marinas.

Council's closing submissions noted significant research and work has culminated in the site planning process. This included the two reports referred to by Plan A, which provided context for and informed the Site Brief which then informed DPO. Council observed the next stage of the planning process is for professionals who run marinas to bring their expertise, recognising marinas are highly specialist sites subject to Australian technical standards well beyond the planning system.

**(ii) Discussion**

Redevelopment considerations focus on the dry boat storage buildings and whether these structures should and could be retained in the site's redevelopment. All deliberations for retaining heritage are integrated with the social and economic impacts of doing so. In this instance, these are further influenced by Council's multi-faceted role as the owner, applicant and responsible authority. Ultimately the Panel considers that economic objectives should be more highly weighted to support site redevelopment feasibility for a regional facility rather than protecting part of a locally significant heritage complex. It appears to the Panel that, despite the proposal for heritage protection, Council ultimately intends demolition and replacement of the existing facility.

The Panel agrees that a new dry boat storage facility is preferred to allow continued regional-level marina functions and it will likely need to remain in the same location, namely Area 3. The Panel sees that more boat users attracted by upgraded facilities have flow on economic benefits of enabling investment in public infrastructure, further aided by Council's unique facilitatory position. For these reasons, the Panel considers that greater emphasis should be placed on providing a new facility, rather than retaining the existing facility, and options to integrate or interpret the existing facility can be explored during later design stages.

Council commissioned a substantial number of technical reports to inform the site's redevelopment, including a preliminary feasibility stage. The age of the site, its infrastructure and specialised use suggest that significant private investment is required to keep the site as an operational marina, as required by the *St Kilda Land Act 1965*. Realisation of a new dry boat storage facility had progressed to the point that:

- an economic impact assessment suggested there will be increasing demand for dry boat storage facilities and that as a regional facility, the Marina does, and will continue to serve a large portion of demand
- the SJB analysis identified that integration of secure boat storage with public access is crucial to sustain a viable marina
- the Heritage Impact Assessment reads as an indicator that full site demolition, save for the Beacon, is the expected outcome from Council
- the Site Brief, which informed the procurement process, referenced the Heritage Impact Assessment and offered that the site's history can be recorded in alternative ways than retention of fabric, such as through photographs and drawings
- the Citation stated upgrading contributing heritage features in order to meet current marina standards are likely, specifically referencing the dry boat storage facilities, noting it contemplates full or part demolition, as well as external alterations to such features
- the Permit Exemptions Incorporated Document discharged complete demolition of primary significant buildings from HO187 when in accordance with an approved Development Plan (and exempted external alterations prior to approval)
- the DPO set the dry boat storage building boat capacity at 300 (with the option to increase to 400), noting the footprint of Area 3, where the new facility notionally sits, is set at 6,500 square metres and total building volume at 97,500 cubic metres
- the DPO requires the Development Plan include a presumably second Heritage Impact Assessment which responds to the Citation whilst specifically listing the Beacon for retention

- this second report would seemingly review a more resolved replacement building design.

The Panel's review of the place assessment prepared by CoDesign paralleled Council's observation that, as it relied on onsite observations, it precluded the dry boat storage area due to inaccessibility.

The Panel turns its mind to the practicalities of retaining the existing buildings against providing a new facility:

- State policy identifies the Marina as regionally significant and analysis shows it already enjoys a high demand and waiting lists
- for boaters, the Marina offers safe and direct access to the Bay and good dry boat storage supply with expected increasing demand and for protected spaces for larger boats
- alternative on site facility locations are not likely feasible given its required interface with the marina activity area and access to the boat ramp
- expanding the harbour is not desirable due to the site's sensitive environs
- contamination of the existing facility is probable, noting remediation works are contemplated by the DPO prior to approval of a Development Plan, notwithstanding public access around the old or new facility is not yet determined
- marina operations are subject to their own standards set at the national level, with technical information well beyond the realms of state or local planning policy
- the dry boat storage buildings form part of a wider site for which the complex is of local level significance
- the process presents no method nor motive for Council to refuse a demolition application, nor a lessee to not propose one, within the context of the Citation and Permit Exemptions Incorporated Document.

The Panel does not interpret any other potential or intended outcome than a new dry boat storage facility that replaces the existing one in some form.

The Panel does foresee however, greater potential for the second Heritage Impact Assessment in assessing a detailed demolition and development application, to seek to respectfully retain and integrate significant fabric whether repurposed or for interest only. Other workable options could be to represent identified features such as the zig-zag roofline, the visible storage shelves or even extend to retain some small boat storage supply if needed.

### **(iii) Findings**

The Panel finds that:

- Redevelopment of the site to enable ongoing marina operations will require support from a new dry boat storage facility.
- Priority for a new facility should be given over retention of the existing facility.
- Opportunities to appropriately integrate and interpret the existing demolished facility should be more explicitly expressed in the controls.

## 5.4 Heritage controls

The Amendment proposed two sets of controls under the Heritage Overlay. The first was full site protection through an extended HO187 while the second, an Incorporated Document, exempted the proposed heritage provisions for all works. Submissions were mixed and opposing views saw the controls as confusing and too restrictive to allow redevelopment.

### (i) Evidence and submissions

Council's Part B submissions attempted to explain the heritage controls.

The recommendations of the Heritage Statement raised internal Council debate on the redevelopment opportunity and feasibility, particularly regarding a new dry boat storage facility. The findings of the subsequent Heritage Impact Statement on replacement of the dry boat storage facility and jetties (the Beacon retained) were that these works are necessary for ongoing site viability and consequential loss of significant fabric was mitigated by the ability to record and document fabric.

Having viewed the brief for and draft of the Heritage Impact Statement, the Citation was then prepared by Mr Helms, based on the two preceding statements. Its stated purpose was to provide specific guidance for decision making on future site management and, in identifying the importance to continue marina functions, explained that upgrading or replacing facilities, such as the dry boat storage buildings, may be necessary.

Finally, the Permit Exemptions Incorporated Document, again prepared by Mr Helms, was informed by the Citation. Mr Helms stated its purpose was exempting minor works before an approved Development Plan, which included all external alterations and full demolition of contributory and non-contributory structures. Full site demolition was then exempt if in accordance with an approved Development Plan. This was supported by Mr Helms as the DPO requires the Development Plan to be informed by a Heritage Impact Statement which in turn needs to address the Citation.

In responding to the Panel's desire to understand the 'confused' heritage layering, Mr Helms said in the first instance, the controls intended to protect against demolition prior to an approved Development Plan. If all significant buildings were demolished, Mr Helms viewed the control would then act in a similar manner as the Melbourne Cricket Ground protection. It was explained that this site was listed on the Victorian Heritage Register but, due to modernising upgrades for the regional sporting facility, all original fabric has been replaced.

The Panel sought clarification on the varying ways in which ongoing marina use was qualified. The Heritage Statement identified the continuing marina use as important for future management whereas the Citation identified the use as being of primary significance. Mr Helms interpreted the marina use as being culturally significant and considered this explicit in the Statement of Significance. Submitter 17 put to Mr Helms that the marina use did not require heritage protection as it was set by the *St Kilda Land Act 1965*.

The Panel asked whether an extended HO187 covering just the structures of primary significance, to which Mr Helms responded there were many ways to protect heritage.

In his assessment of the proposed heritage controls, Mr Woodland gave evidence that applying the Heritage Overlay across the whole site:

... serves only a limited purpose in ensuring that the heritage significance of the marina is protected. The permit triggers under the Heritage Overlay would only come into effect in circumstances where demolition/development was proposed that was not exempt under this document, including where it was not generally in accordance with the Development Plan (which would itself present an issue under the DPO in any case).

Many written submissions supported extending Heritage Overlay. Submissions against were concerned that heritage protection was not necessary and would overly restrict redevelopment opportunities. Submitter 17 questioned whether the controls restricted the future tenderer's ability to honour the site's historic value as being the *"largest and best facility of its type yet projected in Australia"* as noted in the Heritage Statement.

Council's closing submission stated it was *"playing a straight bat"* with regards to heritage. Council would seek a Heritage Overlay for private development and therefore it had applied the same measure to itself.

## **(ii) Discussion**

The Panel does not consider the extended HO187 is required to protect the site's heritage significance, particularly in the context of the demolition afforded by the Permit Exemptions Incorporated Document. Protection can be achieved through the DPO using the heritage assessments referenced within and required by its provisions.

Neither does the Panel consider it appropriate to apply, in this instance or any, a Permit Exemptions Incorporated Document which essentially nullifies the provision under which it is incorporated. This unnecessarily complicates planning schemes, confuses the decision-making process and adds to the administrative burden the industry seeks to reduce. While balancing conflicting objectives is common practice for planning practitioners, it usually occurs across policies of differing scale and time, for example, state-wide objective for urban consolidation versus say, retention of locally significant vegetation. Conflict should not exist between two site-specific controls subject to one Amendment, moreover two controls pertaining to heritage. Neither should controls be applied which will not be relevant nor be applicable to decision making.

In reaching its conclusions, the Panel contemplated the three scenarios posed by Mr Woodland and Mr Helms regarding HO187 namely, its role before an approved Development Plan, the role after an approved Development Plan and the comparative example of the Melbourne Cricket Ground.

Mr Helms opined HO187 would be a *"pre-emptive measure"* to manage demolition before an approved Development Plan. The Panel interprets this as a type of interim protection, although is confused by its purpose. Full demolition has already been contemplated by Council as an ultimate outcome. Demolition prior to a replacement building is considered unlikely given the site currently depends on the storage facility. Managing demolition for the purposes of recording of history is neither an issue as the Heritage Statement already documents its significance, as stated by My Helms.

Once approved, the Heritage Overlay provisions would be replaced with the detailed Development Plan. HO187 then would sit as a layer over the site offering little guidance for a decision maker.

The Panel found limited useful guidance by the Melbourne Cricket Ground example. The criteria listed in the Statement of Significance for this site leans on its historical and social

values, generally being intangible and not tied to fabric. Comparably, the Heritage Statement for the Marina has criteria strongly linked to its fabric, particularly the Beacon, the dry boat storage building's form and function and the harbour. The original fabric of both latter two elements are expected to be removed and the Beacon is already protected.

The Panel notes the extent of demolition exempted by the Permit Exemptions Incorporated Document. It considers the intent of HO187 is suitably provided for in the Citation, which will be regarded in preparing the Development Plan. Listing the Heritage Statement as a reference document at Clause 22.04 or elsewhere is not considered necessary in the Panel's view given its content is captured in the Citation which also provides site-specific guidance on redevelopment. The Panel sees opportunity for the existing storage facility to be respected, partially integrated or interpreted successfully through the Heritage Impact Statement to inform a future Development Plan.

### **(iii) Findings**

The Panel finds that:

- Amending and extending Heritage Overlay Schedule 187 is not warranted, nor is it supported.
- The extended Heritage Overlay Schedule 187, the Permit Exemptions Incorporated Document and the Reference Document at Clause 22.04 should be deleted from the Amendment.
- Heritage Overlay Schedule 187 should only relate to the Beacon.
- The provisions of the Development Plan Overlay and the subsequent Development Plan will appropriately recognise the local heritage value of the site.

## **5.5 Recommendations**

The Panel recommends:

- 6. Delete the amended and extended Heritage Overlay 187, the Permit Exemptions Incorporated Document and the inclusion of the Heritage Statement to the list of Reference Documents at Clause 22.04.**
- 7. Include the following requirement under "Content of Development Plan" for the Heritage Impact Assessment:**
  - a) *"Identifies how the fabric of the original dry boat storage facility will be retained, repurposed, integrated or interpreted"*.**

## 6 Traffic and access

### 6.1 Context and key issues

The St Kilda Marina is a regional boating facility which attracts significant boating activity. This generates traffic movement and car parking associated with boat storage, trailer boats and other marina based and commercial uses. The site includes part of the Bay Trail which provides access for pedestrians and cyclists. In combination, these various forms of access can generate conflicts which the Amendment seeks to manage.

The site's redevelopment will see most traffic matters addressed at the development plan preparation or planning permit application stages when future uses are better known. To this extent, Council and its expert witness were not in a position to provide specific responses to many of the submitter concerns regarding the number of car spaces, impacts on the surrounding road network and parking availability, relocation of the boat ramp and likelihood of the bridge over the marina entrance. Many of these matters are proposed to be addressed within the DPO.

Mr Davies of GTA Consultants gave traffic evidence for Council.

The key traffic and access issues to be resolved are:

- access to the site and traffic impacts
- movement within the site including boat ramp locations, a bridge over the marina entrance and location of the Bay Trail
- vehicle and boat trailer parking. including multi-level parking
- use of Moran Reserve.

### 6.2 Access to the site and traffic impacts

#### (i) Evidence and submissions

The site has one central vehicular access point with a signalised intersection at Marine Parade and Dickens Street. There are two other vehicular access points associated with the existing service station on the site<sup>1</sup>. These various access points together with the Bay Trail gave rise to concern regarding conflicts between vehicles, pedestrians, and cyclists. The intention to redevelop the site added to concerns from submitters regarding planned changes to site access and associated traffic impacts on the area.

Council considered the DPO addressed future vehicle and pedestrian access to the site with the aim of reducing existing conflicts between pedestrians, cyclists and vehicles at the entry point to the marina. In Council's Part B submission, it outlined the DPO included the following requirements for access to the site (Document 29):

Table 1 (Specific Requirements) includes the following specific requirements in relation to publicly accessible open space:

- enhance the public realm and if practical, relocate the preferred vehicle route into the Marina, as shown on the Figure 1 concept plan; and

<sup>1</sup> These are separate entry and exit crossovers directly to Marine Parade which provide for left turns only by virtue of the Marine Parade central median.

- if practical, relocate electrical substation away from the primary entry at the Dickens Street approach.

The Figure 1 concept plan shows a key pedestrian connection at the Dickens Street approach into the Marina site and continuing through the site to the water and a preferred vehicle route to the public boat ramp and trailer parking within the southern boundary of the site.

The preferred vehicle access point to the site would be located opposite Thackeray Street.

Regarding traffic impacts on the site and local area, Council's Part B submission noted the DPO requires (under *Content of Development Plan*), the preparation of an Integrated Transport and Access Plan by a qualified person for inclusion in the Development Plan. The Integrated Transport and Access Plan is required to undertake an empirical assessment to support the adequacy of the car and bicycle parking provision and consider expected traffic generation and the impact on the existing road network over a 24 hour period, so that the impacts on surrounding streets can be assessed. It includes assessment of the location of car and boat trailer parking, vehicle egress and ingress points, identification of active travel and pedestrian and cycle paths, bicycle storage and end of trip facilities and appropriate traffic mitigation measures to be provided.

In addition, Council noted part of the application requirements for planning permit applications for buildings and works in the SUZ includes:

A Site plan(s), drawn to scale, which show (among other things):

- The location and layout and access to and from all car parking and loading areas and, as appropriate, a management plan for operating and maintaining the car parking areas;
- The location and layout of all boating related, pedestrian and cyclist ingress, egress and access arrangements.
- Any infrastructure works required on adjacent land including traffic management works.

A Traffic Management Plan which includes arrangements for car and trailer parking management, traffic management and traffic control works considered necessary.

A concern of submitters was that the DPO did not include enough detail to ascertain the impacts changes to access and traffic movement would have on the local area. This includes the adequacy of car parking and traffic movement to and within the site. Submitter 20 contended:

Traffic access to the marina is a fundamental design consideration that dictates the layout and character for the rest of the site.

Submitter 18 suggested there is little logic to the location of the preferred vehicle access in the south of the site opposite Thackeray Street given the configuration of Marine Parade, including the median strip and the close proximity to the signalised intersection and existing access point opposite Dickens Street. This submitter contended the Amendment failed to provide any details regarding expected traffic impacts on the surrounding residential areas to the east of the site and that a detailed traffic analysis should be provided.

Similarly, Submitter 20 considered that creating a new access point in the south of the site without a break in the median strip in Marine Parade opposite this location would reduce traffic safety due to inefficient traffic movement.



Mr Davies gave traffic evidence for Council that the requirements set out in the SUZ and DPO would be sufficient to ensure the anticipated car parking and traffic impact (and site access) associated with redevelopment of the site, including additional commercial development, would be suitably considered.

He gave evidence that the Concept Plan indicated a preferred entrance to the site further south opposite Thackeray Street while retaining the key pedestrian connection at Dickens Street. The Site Brief anticipates the removal of the existing service station as part of redevelopment of the site. Mr Davies considered that, as a result, the proposed access arrangement would result in one vehicle access point to the site compared to three existing access points. Council considered this would be an improved outcome regarding traffic safety.

Mr Davies gave evidence that, given Marine Parade is a Road Zone Category 1 and a primary arterial road under the Planning Scheme, any change in vehicle access to Marine Parade would require the approval of the Department of Transport (DoT)<sup>2</sup>. He described that:

If vehicle access was relocated to the southern end of the site as anticipated I expect it would potentially be limited to left-in / left-out access only as DoT is unlikely to support either uncontrolled right turn entry/exit across Marine Parade or signalisation of the intersection given the close proximity to Dickens Street.

He considered that removal of the service station and associated access points and reduction to a single access point to the site would be viewed favourably by DoT. However, Mr Davies suggested it would be appropriate for the DPO to include reference to DoT as an approval authority in relation to the Integrated Transport and Access Plan and recommended the following change:

An Integrated transport and access plan prepared by a qualified person, to the satisfaction of DoT and the responsible authority, which includes:

The concerns of Submitter 20 regarding reduced traffic safety and inefficient movement related to what Mr Davies described as the outcome of moving the site access to the south opposite Thackeray Street which would likely lead to an increase in U-turn movements on Marine Parade. These include at Marine Parade and Dickens Street (for traffic travelling south) and Marine Parade and Meredith Street, where there is a median break (for traffic travelling north). Mr Davies acknowledged that both types of turning movements would be difficult for vehicles towing trailer boats.

Despite these shortcomings, Mr Davies considered the requirements of the DPO, including consideration of identifying appropriate traffic mitigation measures, would, for impacts on the wider road network, be addressed as part of preparing any Development Plan.

In response to questions, Mr Davies acknowledged that with respect to U-turn movements, DoT may require restrictions on such movements. He considered that such movements reduce accessibility to the site but are not necessarily viewed as fatal given the range of considerations other than traffic.

Mr Davies did, however, acknowledge that the DPO is silent regarding the future of the existing signalised access point at the intersection of Marine Parade and Dickens Street. Further, he noted there was a lack of direction regarding investigation of appropriate access to the site<sup>3</sup>. The Concept Plan does not indicate what should happen with the existing access

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<sup>2</sup> Formerly VicRoads.

<sup>3</sup> The Panel notes that Council acknowledged that point.

point opposite Dickens Street. Nor do the principles and objectives for the site relating to parking and access include any reference to access issues. As proposed in the DPO, the principles and objectives under parking and access include the following:

- Design for flexibility within the car parking and boat trailer parking area for alternative temporary uses in the boating low season.
- Ensure car and trailer parking areas are visually softened through the provision of suitable landscaping and/or screening, particularly when viewed from streets and pathways.
- Relocate the Bay Trail to remove existing conflicts with Marina operations.

In response, Council's Part C submission recognised the intent to have one vehicle access point to the site with the purpose of reducing conflict points on Marine Parade over the Bay Trail between vehicles and pedestrians and cyclists (Document 54).

Council submitted that the intention is to relocate vehicle access and the signalised crossing to the preferred location to the south of the site opposite Thackeray Street at which point a new, single, signalised crossing would be created subject to DoT approval. Council considered it unlikely DoT would allow two signalised crossings so close to each other. Separating access by vehicles towing boat trailers and cars at this location from pedestrians/cyclists entering the site opposite Dickens Street would avoid conflict, including with the location of the proposed Civic Heart and the Marina Promenade.

However, Council acknowledged that the preferred entry point may not be achievable, possibly due to cost or lack of support from DoT. If so, the alternative may be that the Dickens Street signalised entrance would remain, and any future site developer would need to demonstrate how it would manage conflicts and ensure safety for pedestrians and cyclists.

Council accepted that the DPO and the Site Brief is not clear on what is intended for the existing Dickens Street signals. It accepted that retaining the option of the existing access point at Dickens Street should not be precluded. Council submitted that the Amendment should be changed as follows:

- Figure 1 Concept Plan in DPO2 should be amended to show both options for vehicle entry to the site (retention of the Dickens Street signals as well as the 'preferred' location); and
- A new principle/objective should be included under "Parking and Access" on page 2 of 9 about vehicle entry points to the site. We submit the change should read:
  - "Minimise vehicle entry points to the site to avoid conflict points with the Bay Trail, where possible"

Council submitted that this is a reasonable way forward noting the submissions.

In response to Mr Davies' suggested change to include DoT as an approval authority with the Integrated Transport and Access Plan, Council submitted (as part of its Part C submission) that it would only be required if there is a change of access to Marine Parade. If there is no change, then involvement of DoT would not be required. Given DoT are a determining referral authority under the Planning Scheme, Council noted it would be prepared to include the requirement on the basis that involvement of DoT would only be required where there is a change of the access from Marine Parade.

**(ii) Discussion**

A recurrent theme amongst submitters was uncertainty over what to expect as an outcome of the Amendment with respect to a range of matters including access to the site and traffic impacts.

From Council's perspective, it was difficult to determine the amount of car parking that may be required or whether changes to access to the site will be acceptable.

The Panel notes that the Amendment includes the SUZ and the DPO to establish a layered planning framework within which redevelopment of the site can proceed in an orderly manner. Both schedules provide steps along the way that allow for key aspects of change to be assessed and guidance to be provided over future land use and development outcomes. In acknowledging this, the Panel accepts the conclusion of Mr Davies that the proposed controls provide a framework within which access to the site and traffic impacts can be appropriately assessed and considered.

Before planning permits can be granted, a Development Plan must be approved. The Panel notes that before any such plan is approved, it needs to include and make provision for various principles and objectives for the site including parking and access, various specific requirements outlined in Table 1 of the DPO, and an Integrated Transport and Access Plan. Each of these elements include matters and requirements to be assessed and which inform the Development Plan. This is a structured framework that the Panel considers will provide appropriate guidance for the future changes at the site.

Details are not possible to be presently specified because the ultimate land use and development design is not known. However, the planning framework provided by the controls will allow for those details to eventuate, guided by the combination of the Concept Plan, the eventual Development Plan itself, and the myriad of investigative studies and the planning permit process all linked to the 'generally in accordance with' principle. In the Panel's view, this provides for a fine balance between certainty and flexibility. It allows for a structure within which design creativity can be encouraged.

Regarding the above framework, the Panel acknowledges that Clause 4.0 - *Requirements for development plan* under the DPO requires that the Development Plan must be generally in accordance with the Concept Plan. The Panel observes and as acknowledged by Council and Mr Davies in response to questioning, that the Concept Plan is silent on the future status of the existing signalised Dickens Street access point to the site and only refers to the preferred access point in the south of the site opposite Thackeray Street.

The Panel agrees this is a shortcoming with the Concept Plan but is comforted by Council's acknowledgement of this issue and accepts its suggested amendments to the DPO to address this oversight.

The Panel agrees with Mr Davies that DoT should be included as an approving authority for any Integrated Transport and Access Plan. Marine Parade is an arterial road carrying approximately 47,000 vehicles per day. Involvement in any investigation of access to the site should inherently involve DoT given its determining referral authority status under the Scheme. The Panel does not agree with Council's suggestion in its Part C submission that if there is no change to site access, there should be no involvement (or referral) with DoT.

The Integrated Transport and Access Plan is a mandatory requirement for the content of the Development Plan. The Panel does not view the Integrated Transport and Access Plan as a discretionary requirement, but rather key strategic work that informs the Development Plan including where and how access to the site (including signalisation) should be provided, upgraded or changed. This includes the involvement (and/or referral) of DoT as the relevant road planning and management authority.

The Panel does not consider the DPO locks in a particular access point to the site. Its views on this are supported by the reference in Table 1 under '*Publicly accessible open space*' to the use of the term "*if practical*" for both relocation of the preferred vehicle route into the site and the electrical substation. This, together with Council's suggested Part C submission changes provides for an appropriate consideration of site access, based on reducing their number and minimising conflicts with pedestrian and cyclists.

The Panel agrees with Mr Davies that traffic impacts can and will be appropriately addressed under the Integrated Transport and Access Plan requirements.

### **(iii) Findings**

The Panel finds that:

- The planning framework allows for an orderly planning process to be undertaken regarding access to the site and traffic impacts.
- The proposed amendments to the DPO suggested by Mr Davies and by Council in its Part C submission relating to:
  - minimising vehicle entry points to the site to avoid conflict points with the Bay Trail, where possible
  - preparing an integrated transport and access plan by a qualified person, to the satisfaction of DoT and the responsible authority
  - amending the Concept Plan to show both options for vehicle entry to the site (retention of the Dickens Street signals as well as the 'preferred' location)
 are supported.

## **6.3 Movement within the site**

### **(i) Evidence and submissions**

Vehicle, pedestrian and cyclist movement within the site is determined by the interplay between boat launching, the layout of parking, the potential for a pedestrian bridge over the entrance to the Marina, the location of the Bay Trail and the ultimate layout of built form.

There is some guidance provided by the Concept Plan that shows the following elements relating to movement:

- preferred vehicle access point in the south of the site
- key pedestrian connections through the site from the Dickens Street intersection to Port Phillip Bay
- shared use Marina Promenade located on the east side of the Marina Activity Area linking the Civic Heart with Marina Reserve
- shared use Peninsula Promenade located adjacent to Port Phillip Bay linking Moran Reserve with the Beacon and potential bridge over the Marina entrance
- new bridge over the Marina entrance

- future Bay Trail with a new alignment located from within the southern portion of the site to an alignment adjacent to Marine Parade.

The general theme arising from submissions was the lack of detail about the eventual outcome from this Amendment. The DPO does not provide detail or certainty regarding where and how movement within the site will occur or function.

There was concern and perhaps confusion from submitters about the relationship between the Amendment and the Site Brief. The Site Brief contained quite specific information regarding parking and provision of a public boat ramp. The proposed controls are not as specific, but as Council submitted, sought to establish criteria from the Site Brief to guide future change at the site. This concern or rather, confusion, was best exemplified with parking and boat ramps with respect to movement within the site.

Regarding parking, there was an issue where access to, and the location of, parking areas for both boat trailers and general car parking would be located (e.g. Submitters 3, 6, 8, 9, 13, and 26). This was highlighted by the extent of the building envelopes across the site and whether space would be found within these areas for access to and provision of parking.

Similarly, there was concern over the future location of the public boat ramp (Submitters 3, 6, 8 and 26). Currently, the public boat ramp is located at the southern end of the Marina Activity Area with boat trailer parking nearby at the southern end of the site. Along the peninsula arm of the site, there are two private boat ramps associated with boat launching from the dry berths. The Site Brief includes figures showing the current boat ramp and an alternative location closer to the Beacon (Figures 14 and 15). Pictorial information such as this has drawn the attention of submitters to issues about movement and conflict between an alternative public boat ramp and associated boat trailer parking with that of the proposed Peninsula Promenade, a potential pedestrian bridge and possible relocation of the Bay Trail.

Council's position was that the provisions of the DPO provide requirements for a Development Plan to be prepared which include:

- provision for publicly accessible open space
- provision for Marina functions, but the Concept Plan not indicating where a public boat ramp is to be established (it is silent on whether the existing public boat ramp remains in place or not) and provision for additional capacity of the boat ramp and boat trailer parking in peak periods (summer) without compromising safety, queuing or safe water practice and functionality
- requiring a public boat ramp and boat trailer parking to provide a minimum of 80 public boat trailer parking spaces within proximity of the public boat ramp
- requiring an application for the Development Plan to include an Urban Concept Report which demonstrates proposed movement networks through the site, including pedestrian, cycling, vehicle, boat launching and car and boat trailer parking
- requiring an Integrated Transport and Access Plan.

In response to questions on access to the site, Mr Davies commented on the opportunity for circular movement around Area 2 in the southern portion of the site that would allow for movement utilising either the Dickens Street access if retained, or the preferred southern access point, if pursued by a developer.

Regarding the location of the Bay Trail, Submitter 17 considered that if a bridge crossing over the entrance to the Marina was developed, that, in conjunction with the Peninsula

Promenade, would offer a more seamless route for a new alignment of the Bay Trail from its existing point of entry into the south-western corner of the site from Moran Reserve and continuing along the Port Phillip Bay foreshore edge of the site. Many submitters, like Submitter 17 considered the bridge should be given greater emphasis through provision of incentives to encourage its implementation.

Council's position was that redevelopment of the site needs to ensure conflict between vehicles, pedestrians and cyclists are reduced. It noted that the ultimate location of the Bay Trail is along Marine Parade. Council submitted that if a bridge is built over the Marina entrance, the Peninsula Promenade would be an alternate route to the Bay Trail. The Bay Trail serves both a commuter and recreational cycling route and in Council's opinion, commuter cyclists would be unlikely to take a detour to travel along the water edge. However, if the bridge is built it would allow for an alternative route for pedestrians and cyclists.

Council submitted the bridge over the Marina entrance is a proposal and not a mandatory element because of its broader public benefit which should not be solely funded by a future developer. It is an asset that would have a significant cost and would require public contributions. Accordingly, Council included the bridge in the DPO as a key strategic, but not mandatory imperative.

Mr Davies' evidence was that the proposed alignment of the Bay Trail shown in the Concept Plan either along the Peninsula Promenade and across a new bridge or through Moran Reserve and along Marine Parade was appropriate and would reduce the number of conflict points with pedestrians and vehicles. He noted that the route through Moran Reserve and along Marine Parade would be dependent on the removal of the existing service station.

## **(ii) Discussion**

The overall position of Council was that the Amendment establishes a planning framework within which to plan for and guide future planning for redevelopment of the site. While there was criticism over the lack of detail in the DPO, the Panel observes that a significant focus from submissions and commentary at the Hearing was on the Site Brief. Presumably this is because it contains information that is somewhat more tangible with figures and maps upon which to make comment.

A fundamental difference with future redevelopment of the site is that the Site Brief, despite its role with the procurement process, does not form any part of the Amendment and if the Amendment is approved, the Site Brief would not form part of the Planning Scheme. What role the Site Brief would have in development of a Development Plan and informing future planning permit applications and assessment under the Planning Scheme is unclear. This translates to the guidance in the DPO and SUZ being robust enough to provide enough scope to manage change on the site.

The Panel notes the identification of an alignment for the Bay Trail and for a bridge over the entrance of the Marina in the Concept Plan. The DPO refers to the potential for the bridge to be constructed and accordingly, makes provision for it. However, the Panel agrees with Council that the Amendment has appropriately dealt with the bridge as a desirable, rather than mandatory outcome. The Panel accepts that the matter of whether a bridge crossing over the mouth of the Marina is provided is a matter for the tenderer and for Council to address in time through the tender process.

The Panel notes the DPO includes as one of its objectives, the enhancement of the long-term operational function of the Marina, promoting it as a destination for active public use and enjoyment. This is supported by requiring a Development Plan that is generally in accordance with the Concept Plan and including or making provision for the following vision for the site:

A special place on the foreshore for everyone, that welcomes a diversity of sustainable uses anchored by a working Marina.

The specific requirements and content of the Development Plan allows sufficient scope in the Panel's opinion to appropriately manage internal movement and access within the site by allowing vehicle, pedestrian and cyclist movement to be considered and planned for in conjunction with other elements of the site's redevelopment including the Civic Heart, Bay Trail, potential bridge over the Marina entrance and new built form.

### **(iii) Findings**

The Panel finds that:

- The planning controls are appropriate to manage the future planning, design and layout of movement and access within the site.

## **6.4 Vehicle and boat trailer parking**

### **(i) Evidence and submissions**

Currently, the Marina provides public boat trailer and general car parking within the southern end of the site behind the existing service station within a tolled parking area. Private Marina related parking for boat trailers are provided along the peninsula area behind and north of the existing dry berth storage buildings.

Car parking including boat trailer parking and multi-level car parking attracted multiple submissions and commentary (e.g. Submitters 3, 4, 6, 8, 9, 13, 14, 15, 16, 18, 19, 20, 26, 29, 32, 33 and 35). Again, a significant issue was the lack of information regarding specifying car parking provision and any assessment of its adequacy, particularly given the intention to expand commercial floor space on the site. Submitters recognised that the DPO included a specific requirement nominating boat trailer parking capacity for 80 spaces to be provided within proximity of the public boat ramp. However, the lack of any nominated number for the provision of general car parking was highlighted as a shortcoming with the Amendment.

Confounding the lack of specificity regarding car parking was the inclusion of figures in the Site Brief (Figures 14 and 15) showing an investigation area for integrated boat trailer parking over the northern edge of Moran Reserve. This generated a high degree of concern and commentary from submitters (this is addressed in Chapter 6.5).

Submitters questioned the lack of traffic analysis or study into car parking requirements, particularly associated with the expansion of development by an additional 1,400 square metres to reach a ceiling of 5,000 square metres of commercial floor space.

A concern for those submitters in the local area was the potential congestion that could result from a lack of on-site parking and the overflow effects it would produce with off-site parking in the surrounding street network. Submitter 20 expressed the view that during the peak boating season and on hot summer days, the tolled parking area within the Marina would not be used in preference for free off-site parking in local streets. This could create traffic impacts

and congestion with over-loaded on-street parking and difficulties for parking by local residents.

Submitters expressed concern about the potential for a multi-level car park, arguing that such a building would be out of character with the coastal location and result in visual bulk and loss of views. A predominant view was that car parking should be either at-grade or below-grade and designed to be hidden from public viewpoints.

Council reiterated that the DPO recognised that demand for parking varies on a seasonal basis, resulting in large expanses of the site remaining under-utilised or vacant for lengthy periods of the year. Accordingly, Council submitted the controls include a comprehensive suite of requirements for improved parking on the site including:

- The requirement for any Development Plan to address the following principles and objectives for parking and access:
  - design for flexibility within the car parking and boat trailer parking area for alternative temporary uses in the boating low season
  - ensure car and trailer parking are visually softened through the provision of suitable landscaping and/or screening, particularly when viewed from streets and pathways.
- The requirement for a Development Plan to make provision for the following specific requirements (from Table 1 of the DPO):
  - public boat ramp and trailer parking: provide a minimum of 80 public boat trailer parking spaces within proximity of the public boat ramp and the trailer parking area must include landscaping and Water Sensitive Urban Design (WSUD) principles to increase surface permeability and improve place amenity, when not in use
  - car parking: encourage the use of a shared use car parking system; if a car parking structure is provided, it must have a ground level minimum floor to ceiling height of 3.3 metres and a minimum of 3 metre floor to ceiling heights for other levels; where possible, carparking structures should be sleeved with active uses where there is an interface with public spaces; and minimise the need for mechanical ventilation in car parking
- An application for a Development Plan to include an Integrated Transport and Access Plan to address the location of car and trailer parking and an empirical assessment to support the adequacy of the car parking provision.

In addition, under the SUZ, an application for a permit for buildings and works includes a Traffic Management Plan which addressed, amongst other matters, arrangements for car and trailer parking management.

Council reiterated that any planning permit application would be subject to the car parking requirements of Clause 52.06 of the Scheme, including the assessment of any application seeking a reduction in the statutory requirement. The number of car parking spaces required would depend on the proposed land uses and the size or intensity of the use.

Regarding a multi-level car park, Council acknowledged that while the DPO contemplated the provision of a multi-level car park on the site as an option for shared-user car parking, or to consolidate parking on the site, there is no absolute requirement to provide a multi-level car park. Council submitted that a developer may choose to retain car parking at grade. If a multi-level car park is ultimately proposed, the DPO provides adequate guidance to ensure the



design outcome is appropriate, by the provision of requirements such as sleeving, active frontages and adequate floor to ceiling height to allow for future conversion to other uses.

Regarding the additional commercial floor space, Mr Davies gave evidence that:

In my opinion there is likely to be ample opportunity within the St Kilda Marina site to adequately address the parking requirements associated with 1,400 sqm of additional commercial and retail floor space as anticipated by DPO2 and the proposed Schedule is considered appropriate.

The evidence of Mr McGauran suggested green travel be encouraged to reduce vehicle generation at the site and offered several changes, including:

- bike share facilities be provided for marina visitors in key arrival points both for visiting vessels and visitors
- short stay bicycle facilities are provided adjacent to the key hospitality destinations
- secure bike storage areas are provided for marina users and staff at benchmarks that demonstrate leadership in green travel solutions
- bicycle repair station facilities be provided for visitors, employees and marina users.

Council was ambivalent as to whether the DPO be amended accordingly, leaving the matter to the Panel's discretion.

Mr McGauran suggested a number of editorial changes to the DPO regarding minimising pedestrian and visitor traffic conflicts, car and bicycle parking arrangements under the Table 1 Specific Requirements and to the Integrated Transport and Access Plan relating to bicycle transport. Council's response was that these changes were repetitive and duplicated existing provisions.

## **(ii) Discussion**

Much of the concern expressed with respect to parking is coincidental with the lack of specificity in the DPO regarding numbers, design, and layout, a recurrent theme in the Amendment. Similarly, is Council's reiteration that the DPO, SUZ, Development Plan and planning permit application process will guide how parking for boat trailers and general car parking is addressed, planned and provided.

The Panel is comfortable with Council's approach. It is an approach that embodies a strategic methodology leading to a statutory outcome in accordance with other relevant provision of the Planning Scheme. Together these controls will provide a framework that governs what, where and how parking for boat trailers and other vehicles are provided on the site, once the details of site planning are advanced.

The Panel notes Mr Davies estimated that under Clause 52.06, an additional 1,400 square metres of commercial floor space would require provision for 50 car parking spaces<sup>4</sup>. The Panel accepts his evidence and conclusions that the requirement for the Development Plan to include an Integrated Transport and Access Plan and an empirical assessment for parking would include consideration of temporal parking demands. The Panel accepts this would appropriately address parking requirements for the Marina and it is confident the site can adequately accommodate the necessary parking, including for 80 boat trailer parking spaces.

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<sup>4</sup> This is based on the proximity of the site to the Principle Public Transport Network under the provisions of Clause 52.06.

The DPO establishes a series of criteria relating to boat trailer parking and general car parking to be located and designed within parameters including WSUD, opportunities for alternative use of the space during low seasonal demand and be designed to protect amenity through development at or below grade or possibly at multi-level. This is required to be designed to a high quality and with active frontages and well-designed landscaping. The Panel commends these goals.

The Panel does not consider the concerns expressed by submitters will be realised. The proposed controls provide a framework that is sufficiently robust to ensure that appropriate checks and balances are in place with a degree of certainty, while allowing flexibility through creative planning and design.

Regarding Mr McGauran's suggested changes to encourage green travel, the Panel accepts these and as suggested by Council, considers they could be included as specific requirements under bike parking in Table 1 of the DPO. With respect to his other suggested changes, the Panel agrees with Council and considers they duplicate provisions and should not be included in the final form of the DPO.

### **(iii) Findings**

The Panel finds that:

- The proposed controls are appropriate to manage the future planning, design and layout of vehicle and boat trailer parking within the site.
- The changes proposed by Mr McGauran to encourage green travel are supported.

## **6.5 Moran Reserve**

### **(i) Evidence and submissions**

The status of Moran Reserve and whether the northern portion of the Reserve was proposed to be "*investigated for integrated trailer parking*" generated a significant degree of heat in submissions to the Amendment. The majority of submissions expressed concern over the inappropriate use of public open space for parking associated with the Marina and how access associated with it would operate.

Mr Davies observed that some submissions assumed there will be provision for trailer parking within the existing Moran Reserve. He clarified his understanding that the intention was for trailer parking to be contained within the existing boundaries of the site.

As noted earlier, and reiterated by Council, the DPO and SUZ only applies to the site and does not apply to any land within Moran Reserve.

Council submitted that any future proposals (including vehicle access or parking) on land beyond the site (such as within Moran Reserve) would be subject to a separate planning process and it does not form part of this Amendment.

Confusion appeared to precede the different roles the Site Brief played compared to the controls proposed under the Amendment. As Council submitted, it has incorporated what is necessary from the Site Brief from a planning perspective. Importantly, the Site Brief does not have Background Document status in this Amendment.

**(ii) Discussion**

The Panel is satisfied the Amendment does not affect Moran Reserve. On the contrary, it is clear from the principles and objectives under *'Open space and public realm'* for a Development Plan to *'improve the site's interface with Moran Reserve'*.

Both Council and Mr Davies expressed their views that the Amendment clearly only relates to the site and no change is proposed for Moran Reserve and the Panel accepts this. However, both Council and Mr Woodland noted that the Public Park and Recreation Zone, for which Moran Reserve is zoned, does not trigger a permit for works undertaken on behalf of the public land manager, being Council. While this is correct, the Panel notes that any proposed works under such an exemption is linked to relevant legislation including the *Crown Land (Reserves) Act 1978* and given Moran Reserve is coastal Crown land, a coastal management consent would remain a requirement. Accordingly, any proposal for car parking on Moran Reserve would require satisfying coastal and legislative policy.

If anything, the Panel considers the DPO requires the Development Plan to specifically consider its treatment with the interface with Moran Reserve to ensure the public realm and public open space is enhanced, including the extent of native vegetation found along the northern edge of the Reserve.

Council noted that the Site Brief is intended to inform the procurement process to provide, as Mr Woodland has referenced, the requirements for the future development of land. To avoid further concern over the future of Moran Reserve, the Panel encourages Council to revise the Site Brief to ensure that parking to service the site will be wholly located in the site and remove references to development occurring in the adjacent Moran Reserve.

**(iii) Findings**

The Panel finds that:

- The proposed controls are appropriate in protecting and managing the interface with Moran Reserve.

**6.6 Recommendations**

The Panel recommends:

- 8. Amend Clause 4.0 - Requirements for development plan under Content of Development Plan to read:**
  - a) An Integrated transport and access plan prepared by a qualified person, to the satisfaction of Department of Transport and the responsible authority, which includes ...**
- 9. Add the following Specific Requirements to Table 1 under Bike parking to read:**
  - a) Provide adequate bicycle facilities for employees, marina users and visitors.**
  - b) Provide bike share facilities for marina visitors in key arrival points both for visiting vessels and visitors to the precinct.**
  - c) Provide short stay bicycle facilities adjacent to key hospitality destinations within the precinct.**
  - d) Provide secure bike storage areas for marina users and staff of all uses within the development at benchmarks that demonstrate leadership in green travel solutions.**

- e) **Provide bicycle repair station facilities for the use of visitors, employees and marina users.**

## 7 Environmental issues

### 7.1 Context and key issues

Written submissions raised a range of environmental issues.

The key issues to be resolved relate to:

- environmental technical assessment
- whether environmental impact studies were appropriate
- significant trees
- site contamination
- potential noise impacts
- impacts on the St Kilda fairy penguins
- impacts on the St Kilda sea wall.

### 7.2 Environmental technical assessment

Concerns that the Amendment was not appropriately informed by environmental technical assessments were raised by some submitters.

Council responded that it engaged Water Technology in 2018 to prepare the *St Kilda Marina Environmental and Coastal Hazard Assessment* in consultation with the Port Phillip Ecocentre, DELWP and Earthcare.

This report informed the Amendment regarding marine ecosystems, water quality analysis and environmental management and coastal hazard vulnerability assessment. In particular, the report provided guidance to ensure redevelopment of the site actively responds to opportunities and constraints in the context of existing marine and land ecosystems (including flora, fauna, and water quality), while also considering coastal hazard vulnerability and exposure to climate change impacts such as sea level rise, storm surge and coastal erosion. Apart from concerns expressed by Submitter 12 in relation to site contamination and the lack of suitable habitat for penguins by Submitter 17, matters of environmental concern were not raised as significant issues during the Hearing.

The Panel accepts that the Amendment has been suitably informed by environmental technical information and that the Panel's recommended controls provide sufficient guidance on further technical input required to inform the Development Plan and subsequent planning permits.

### 7.3 Environmental impact studies

Submissions raised concern that impacts on marine life, flora and fauna, Aboriginal cultural heritage, rubbish, and effluent and stormwater runoff were not appropriately assessed.

Council's response and the Panel's assessment is that the Amendment appropriately addresses these various concerns.

The Panel notes a cultural heritage due diligence assessment was undertaken by Council to address the likely impacts on Aboriginal cultural heritage. While the site is located within a wider area of cultural heritage sensitivity, it is unlikely significant material exists as the Marina was constructed on reclaimed land. Only works beyond the reclaimed land moving into the

seabed would trigger a mandatory Cultural Heritage Management Plan prior to removal of any buildings or works.

The specific requirement of the DPO includes repairing or restoring the seawall, which accommodates predicted sea level rise and improves habitat for flora and fauna. The DPO lists various requirements regarding the content of the development plan, which includes:

- preliminary Wave Climate and Wave Management Report that demonstrates the seawall restoration works meet the specific requirements listed in the overlay
- Sustainability Management Plan which addresses various matters, including water sensitive urban design, environmentally sustainable development, and waste management systems
- Stormwater and Flood Management Plan (noting that the eastern portion of the site adjoining Marine Parade is affected by the Special Building Overlay)
- Construction Environmental Management Plan
- Arborist Report that outlines the proposed vegetation for retention and removal and identifying any high value vegetation.

Council's Part C version of the DPO proposed to include an additional key element for waste management which ensures storage is contained in buildings and collection occurs away from open space and thoroughfares (Document 64).

The Panel is satisfied that, subject to Council's proposed changes in the DPO Part C version, the environmental related concerns of the submitters have been appropriately addressed.

#### **7.4 Significant trees**

The presence of trees on the site considered to be significant were raised by Submitter 20 in relation to a large Moreton Bay Fig where the preferred access to the site is proposed and from Submitter 15 regarding Norfolk Island Palm trees along the proposed Marina Promenade.

Council responded that the DPO seeks to encourage retention of vegetation identified as high value. It requires a Site Analysis Plan that includes analysis of significant vegetation and an Arborist Report to be prepared as part of the Development Plan that outlines the proposed vegetation for retention and removal and identifying any high value vegetation.

The Panel considers the Amendment provides a suitable framework to manage impacts on trees within the site. Despite the size of building envelopes shown on the Concept Plan, the Panel is satisfied that the combination of floor space limits, open space requirements, setbacks and built form and interface design and landscaping requirements will result in the ability to develop layout configurations that can accommodate existing trees identified as significant to be retained and to make provision for landscaping to ensure an attractive outcome for the redevelopment of the site.

#### **7.5 Site contamination**

Submissions raised concern over site contamination given the past use of the Marina over the last 50 years with marine boating activity including cleaning, repairs and refuelling, the perceived poor tidal flushing within the Marina Activity Area and the ability to undertake routine dredging works that may disturb contaminants. The presence of the service station and the proposal for its removal has heightened issues around contamination.

Council responded that the Amendment did not address site contamination because no sensitive uses are proposed under the SUZ provisions, where the *Table of Uses* prohibits accommodation.

Council submitted that an Environmental Site Assessment was undertaken of the site, which found that the Marina is built on landfill and that there are areas of contamination that need to be managed as part of the redevelopment works. Council advised that site contamination will be managed through the new lease for the Marina.

Regarding the service station, Council advised that its sub-lease provides that at the end of its tenure, all associated infrastructure including fuel pumps and tanks are to be removed and site cleaned to the satisfaction of the EPA.

The Panel acknowledges that the EPA responded to Council's referral of the Amendment in accordance with Ministerial Direction No. 19. The EPA advised that given the scope of the Amendment, it considered the proposal did not present a significant risk in terms of environment, human health and amenity. The EPA advised that it did not consider there to be a role specifically for it in relation to the Amendment.

The Panel notes that under Clause 2.0 of the DPO – *Requirement before a permit is granted* that provision is included to allow a planning permit to be granted before a Development Plan is approved for:

Any buildings and works associated with the remediation of the land in accordance with or for the purpose of obtaining a Certificate or Statement of Environment Audit under the *Environmental Protection Act 1970*.

The Panel is satisfied that site contamination is capable of being appropriately managed. Irrespective of whether the Amendment specifically seeks to manage contaminants, the risk is addressed under separate legislation (the *Environment Protection Act 1970* and its successor, the new *Environment Protection Act Amendment 2018*)<sup>5</sup> and the level of risk to human health is reasonable given no sensitive land uses are proposed under the Amendment.

## **7.6 Potential noise impacts**

Submissions included requests for future development to be informed by acoustic assessments to manage noise emissions, particularly during the night. This relates to potential future uses on the site that may involve function centres, restaurants, and other retail premises.

Council notes that the SUZ requires that an acoustic report be prepared to demonstrate how sensitive uses will be protected from noise amenity impacts. The assessment is to provide details of any acoustic measures required. In response to the Panel's questions, Mr Woodland highlighted that the EPA State Environment Protection Policies will apply to planning permit applications for noise from public premises and commercial, industry and trade as relevant.

The Panel is satisfied that the Amendment suitably addresses noise impacts.

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<sup>5</sup> Note, at the time of writing proclamation of this new legislation has been delayed due to the COVID-19 pandemic to 2021.

## 7.7 Impacts on St Kilda's fairy penguins

Some submissions claimed potential impacts on the local fairy penguin colony of St Kilda had not been assessed.

Council responded that prior to preparation of the Site Brief, it undertook extensive collaboration with the Port Phillip EcoCentre and Earthcare. Surveys revealed no evidence of penguins in or around the site. Rather, the colony is located at the St Kilda Pier on the adjacent breakwater and associated Royal Melbourne Yacht Squadron. A survey conducted of the site and surrounds by local groups occurred as recent as 12 March 2020. As a result, these organisations were satisfied that no penguins, or evidence of penguins were located. It was noted the area comprised limited suitable areas for the birds to nest as the rocks were very exposed and filled with rubbish. This outcome was supported by Submitter 17 (Document 49).

The Panel accepts that there will be no impacts on the penguin colony.

## 7.8 Sea wall

In response to Planning Practice Note 53 - *Managing Coastal Hazards and the Coastal Impacts of Climate Change*, the explanatory report noted the Amendment will ensure that the sea wall will be designed and reconstructed to minimise potential coastal hazards. Further, future development within the site responds to potential risks and impacts associated with projected sea level rise.

The Panel is satisfied that the Amendment appropriately responds to and addresses coastal hazard vulnerability.

## 7.9 Findings

The Panel finds that:

- The range of environmental issues do not pose unreasonable impacts on the site and they can be appropriately managed by the provisions of the Amendment.
- The changes proposed in Council's Part C version of Schedule 2 to the Development Plan Overlay are acceptable, including the introduction in Table 1 – *Specific Requirements* for 'Waste Management' and under *Content of Development Plan* with landscaping provisions in the Urban Concept Report, Landscape and Public Realm Plan.



## 8 Other matters

### 8.1 Context and key issues

There were various other issues raised through written and oral submissions.

The key issues to be resolved relate to:

- increase in allowable commercial and retail floor space
- perceived conflict of interest by Council
- removal of service station.

### 8.2 Increase in the allowable commercial and retail floor space

Some submitters were concerned with the 5,000 square metre cap on commercial and retail uses identified in the DPO. The cap permits an additional 1,400 square metres compared to the existing 3,600 square metres. Submitters sought either less floor space for reasons of public land, while others sought more commercial floor space to incentivise delivery of the bridge. Mr McGauran identified the benefits of commercial uses in the Marina to attract activity and maximise use of the space. Mr Woodland noted such uses will form an essential revenue stream for the ongoing viability of the place. Further, that an additional 1,400 square metres would be a modest increase that will not disadvantageously compete with surrounding commercial centres.

The Panel considers the increase in allowable commercial and retail floor space is suitable. It will ultimately be a matter for any future developer, however, the Amendment establishes requirements that act as parameters within which such decisions can be made with certainty as to what could be applied for with planning permit applications.

### 8.3 Perceived conflict of interest by Council

The Council openly ran a concurrent Amendment and procurement process and some submitters raised issue with this.

The procurement process is outside the scope of the Amendment and for this reason, beyond the remit of this Panel to make recommendations on. The Panel does note however that it is not unusual for a public body to ask the private industry to deliver a major site redevelopment rather than using public funds, particularly where significant infrastructure is required. Indeed, the site has a history of private investment since its inception in the 1960s. The site will remain in public ownership and, as guided by Council and community input, its redevelopment can provide a net community benefit.

The Panel encourages Council to ensure the community is kept informed on the continuing Amendment and procurement process for the Marina.

### 8.4 Removal of service station

The views on the removal of the service station were divided. Opposing views referenced commercial viability and loss of local convenience.

The service station was first co-located to service marina vehicles in the 1960s, a time when petrol supply was not as convenient, and demand as extensive as it is now. The original design

was aesthetically presented to integrate with the Marina's architectural expression, much different from today's franchised, heavily patronised and convenience-focussed appearance.

The Panel's view is that its replacement with an improved and inviting interface along Marine Parade, a designated and prominent boulevard enjoyed by residents and visitors alike and Moran Reserve, a popular recreational asset, will offer clear community benefits. Council provided clarification that fuel supply for the Marina will be provided.

The Panel notes that although the Site Brief does not support a service station, it remains a discretionary permit required use under the SUZ. The Panel has no issue with this discretion being provided. It allows scope for a proposal which, if required, would be assessed on its individual merits against both the physical and planning policy contexts at the time.

## **8.5 Findings**

The Panel finds that:

- The increase in allowable commercial and retail floor space is reasonable.
- The potential for any conflict of interest by Council is minimised through application of the proposed controls under the Amendment.
- The future of the service station is a matter that sits outside of the scope of the Amendment and a matter for Council and future leasing arrangements.

## Appendix A Submitters to the Amendment

No.	Submitter	No.	Submitter
1	Dino Scungio	27	Sally & Robert Green
2	Jamie Ramage	28	Johnny & Duy Nguyen
3	Joseph Bailey	29	Vijay Verma and Geeta Verma
4	Tina and Terry Mulligan	30	Jill Garner and Lindsay Davis
5	Peter Tanner	31	Peter Matthews
6	Geoff Gowers	32	Diana Hartshorn
7	Mark White and Jennifer Lucas	33	Dr Nicholas Nicoloudis
8	Tim and Era Kennedy	34	Port Melbourne Historical & Preservation Society
9	Roger and Mandy Anderson	35	Artemis Damigos Anna Spiliotis George Malliaras Christina Damigos Angelo Damigos
10	Heather Buchan	36	Airlie Rose Flavell-Towie
11	Australian Marina Development Corporation Pty Ltd (AMDC)	37	Alana Gates
12	Trevor White	38	Ange Smagas
13	Nathan Carmichael	39	Angela & Robert Morris
14	Wanda Strange and Alan McDonald	40	Angela Efthimiadis
15	Rosalie Freeman	41	Angela Papapoulia
16	Alan and Fay Richardson	42	Ann Akras
17	Peter Holland	43	Anna & Paul Mathieson
18	Consortium of landowners who own properties on the east side of Marine Parade	44	Armino & Maria Dos Santos
19	Philip Bird and Jane Ballantyne	45	Barton & Leah Jennings
20	Peter A Meston-Watson and Eve L Sayers	46	Bobby Dhaman
21	Rebecca & Matthew Stoios	47	Cathy Evriniadis
22	Meredith Tye	48	Cheryl Lee Formosa
23	Alice Holdsworth	49	Chris Koziaris
24	Sean Hewitt	50	Christine and John Chamberlain
25	Michael William Brasher	51	Christine Voudouris
26	Carmen Reyneke and Dr. Li Huey Tan	52	Clementine Godfrey

53	Con Lazarus	87	Marisa Scarlata
54	Danuta Clark	88	Mary Kapetis
55	David Melatti	89	Maya Mitilineos
56	Desi Giannopoulos	90	Meredith & Richard Burn
57	Dimitra Georgakopoulos	91	Michael Lambourne & Tonya Jennings
58	Dimitris Kyriakopoulos	92	Michael Vellas
59	Dominica Pearce	93	Nancy Staub Little & Terence Little
60	Effie Dimitropoulos	94	Nick Golias
61	Elizabeth Ellinida	95	Nick Kara
62	Evanthia Yvonne Marinis	96	Nicki Larionoff
63	Frank Kotsiopoulos	97	Nikki & Daniel Maxwell
64	George Cotsanis	98	Pam Chessel
65	Georgos Koutras	99	Penny Koullinos
66	Gisele Baker	100	Peter Zoulas
67	Haig & John Jennings	101	Phillip Shearer
68	Helen Chronis	102	Rachelle Simons & Lewis Goldman
69	Helen Finn	103	Ramona Albrecht & Mark Kerger
70	Ivana Trajanovski	104	Renata Cardozo
71	Jackie Cade & Jim Dimitriou	105	Rosanne Skinner
72	James Gunstone	106	Rosemarie Sommer
73	Janette & John Gonsal	107	Sally Samato
74	Jeanie Lushes	108	Shelly Bledsoe
75	Jessica Guseynov	109	Sophie Simson Roseneath
76	Jim & Tina Neofytou	110	Stacey Vlahos
77	Joan Raven	111	Stella & Mal Skinner
78	Joanna Karayiannis	112	Sue & Don Black
79	John Feeny	113	Susan M Wall
80	Katherine Leonardos	114	Themis Drakos
81	Lee Coulson	115	Theo Haranas
82	Louise Dobbie	116	Theresa Le Duc & Greg Tweedley
83	Margaret Sheppard	117	Tina Sutherland
84	Maria Chronis	118	Tom Kennett
85	Marina Gallagher	119	Tom Kondo
86	Marina Tsianakas	120	Tricia Loutas

121	Troy Clonan	
122	Valquiria Silva	
123	Viki & Ken Godfrey	
124	Voula Paras	
125	Yolanda Jennings & Scott Matthews	
126	Yvonne Demetriou	
127	Anita Aarons	
128	Vonny Montague Wilson	
129	Melbourne Water	
130	Greg and Catherine Mundy	
131	Tass Mousaferiadis	

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## Appendix B Parties to the Panel Hearing

Submitter	Represented by
<b>Port Phillip City Council</b>	Terry Montebello and Kristen Richardson of Maddocks Lawyers, who called expert evidence on: <ul style="list-style-type: none"> <li>- Urban Design from Rob McGauran of MGS Architects</li> <li>- Planning from Mark Woodland of Echelon Planning</li> <li>- Traffic from Simon Davies of GTA Consultants</li> <li>- Heritage from David Helms of David Helms Heritage Planning</li> </ul>
<b>Submitters 36 - 128</b>	Anna Borthwick of Plan A
<b>Geoff Gowers</b>	
<b>Peter Holland</b>	
<b>Peter Matthews</b>	
<b>Peter Meston-Watson</b>	
<b>Peter Tanner</b>	
<b>Tim Kennedy</b>	
<b>Trevor White</b>	

## Appendix C Document list

No.	Date	Description	Provided by
1	17/12/19	Folder – Volume 1: Exhibited amendment documents, background and supporting documents	City of Port Phillip (Council)
2	“	Folder – Volume 2: Council reports and meeting minutes	Council
3	02/03/20	Directions and Version 1 Timetable and Distribution List	Planning Panels Victoria (PPV)
4	“	Email: Maddocks advising Council experts and order of appearance	Maddocks Lawyers
5	06/03/20	Email: Maddocks advising sites to be inspected for site inspection	Maddocks Lawyers
6	16/03/20	Council Part A submission	Maddocks Lawyers
7	“	Council expert evidence of Simon Davies (Traffic)	Maddocks Lawyers
8	“	Council expert evidence of David Helms (Heritage)	Maddocks Lawyers
9	“	Council expert evidence of Mark Woodland (Planning)	Maddocks Lawyers
10	17/03/20	Council expert evidence of Rob McGauran (Urban Design)	Maddocks Lawyers
11	19/03/20	Letter from Panel to all parties proposing on-the-papers hearing	PPV
12	“	Response to Panel letter	Mr Tanner
13	20/03/20	Response to Panel letter	Maddocks Lawyers
14	“	Response to Panel letter	Mr Holland
15	“	Response to Panel letter	Ms Borthwick
16	24/03/20	Response to Panel letter	Mr Meston Watson
17	25/03/20	Response to Panel letter	Mr Kennedy
18	“	Letter from Panel to all parties seeking further submission on proposed hearing process	PPV
19	“	Response to Panel letter (2)	Maddocks Lawyers
20	26/03/20	Response to Panel letter (2)	Mr Tanner
21	“	Response to Panel letter	Mr Matthews
22	27/03/20	Response to Panel letter (2)	Mr Matthews

No.	Date	Description	Provided by
23	"	Response to Panel letter (2)	Mr Meston Watson
24	29/03/20	Response to Panel letter and further comments	Mr White
25	30/03/20	Revised on-the-papers Directions and timetable	PPV
26	"	Invitation from Council for practice video conferencing session	Maddocks Lawyers
27	31/03/20	Submission	Mr Kennedy
28	01/04/20	Response to Council's invitation for practice video conferencing session	Mr Matthews
29	"	Council Part B Submission and Attachment	Maddocks Lawyers
30	02/04/20	Submission (revised to correct minor errors)	Mr Holland
31	"	Council response to Direction 12 and attached maps	Maddocks Lawyers
32	"	Email from Council request to change dates of video conference and Panel response	Maddocks Lawyers and PPV
33	"	Correspondence from Council confirming video conference sessions and order of experts	Maddocks Lawyers
34	03/04/20	Witness Questions document	PPV
35	<b>23/03/20</b>	Letter confirming matter will proceed on the papers	PPV
36	<b>27/03/20</b>	Letter reiterating intention to proceed on the papers with clarifications	PPV
37	<b>28/03/20</b>	Questions for experts	Mr Gowers
38	<b>02/04/20</b>	Questions for experts	Mr Holland
39	"	Questions for experts	Mr Kennedy
40	"	Questions for experts	Mr Gowers
41	"	Questions for experts	Mr White
42	"	Questions for experts	Mr Meston Watson
43	"	Questions for experts	Ms Borthwick
44	06/04/20	Overshadowing image and photos shown to Mr McGauran by Mr Montebello	Mr Montebello
45	07/04/20	Questions regarding overshadowing image and photos	Mr Matthews
46	"	Extract from Page 46 of Attachment 1 to the Council report dated 29 January 2020	Mr Montebello
47	"	Correspondence regarding a Day 3 video conferencing session	PPV



No.	Date	Description	Provided by
48	08/04/20	Submission and attachments	Mr Tanner
49	"	Submission (additional)	Mr Holland
50	"	Correspondence from Panel to all parties and attached example DPO schedules	PPV
51	09/04/20	Email and revised Witness Statement of Mr Helms	Maddocks Lawyers
52	"	Version 2 Timetable	PPV
53	11/04/20	Submission (additional)	Mr Holland
54	14/04/20	Council Part C Submission	Maddocks Lawyers
55	"	Email from Mr Woodland attaching Part B version of DPO2 with comments	Maddocks Lawyers
56	"	Part B version of DPO2 with Mr McGauran's tracked changes	Maddocks Lawyers
57	"	Submission	Ms Borthwick
58	"	Submission	Mr Meston Watson
59	"	Images and illustrations	Mr Matthews
60	15/04/20	Version 3 Timetable	PPV
61	16/04/20	Submission	Mr Gowers
62	"	Submission	Mr Matthews
63	"	Email: Maddocks providing the following attachments: 63a: CoDesign Place Assessment and 63b: SJB Comparative Study	Maddocks Lawyers
64	21/04/20	Letter: Maddocks providing the following attachments: 64a: EPA email correspondence to Council regarding Ministerial Direction No. 19 64b: Marked up Part C version of DPO2 reflecting Council's final position.	Maddocks Lawyers
65	<b>12/03/2020</b>	Letter updating submitters about potential COVID-19 implications (out of sequence)	PPV

## Appendix D Panel recommended version of Schedule 2 to Development Plan Overlay

This version of the DPO is based upon Council's Part C final version, noted as Document 64b.

~~Panel recommended deletions~~

[Panel recommended inclusions](#)

### --/--- SCHEDULE 2 TO CLAUSE 43.04 DEVELOPMENT PLAN OVERLAY

Proposed C171port

Shown on the planning scheme map as **DPO2**.

#### ST KILDA MARINA REDEVELOPMENT

##### 1.0

##### Objectives

--/---  
Proposed C171port

To enhance the long-term operational function of the marina, promoting it as a destination for active public use and enjoyment.

To ensure a master-planned approach to the redevelopment of the marina.

To ensure that the redevelopment achieves innovative and sustainable design excellence and high-quality architecture, public realm and landscaping outcomes.

To ensure the redevelopment is responsive to the site's significant coastal landscape, biodiversity and environmental context.

To ensure development respects and enhances the marina's cultural and heritage significance.

##### 2.0

##### Requirement before a permit is granted

--/---  
Proposed C171port

A permit may be granted before a development plan has been prepared for the following:

- Any buildings and works associated with the remediation of the land in accordance with or for the purpose of obtaining a Certificate or Statement of Environment Audit under the *Environmental Protection Act 1970*.
- Minor works or demolition involving the maintenance and repair of existing buildings and structures on the land.
- Dredging works.
- A temporary use or single storey temporary building no greater than 500sqm.

Before granting a permit, the responsible authority must be satisfied that the permit will not prejudice the preparation of a development plan and the future use and development of the land in an integrated manner and in accordance with the vision and objectives for the site contained in this schedule.

**3.0**

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Proposed C171port

**Conditions and requirements for permits**

A permit must include a condition, as appropriate, to give effect to any relevant requirement of an approved development plan.

**4.0**

--/---  
Proposed C171port

**Requirements for development plan**

The development plan must be generally in accordance with the Concept Plan shown at Figure 1 and include or make provision for:

- The following vision for the site: *'A special place on the foreshore for everyone, that welcomes a diversity of sustainable uses anchored by a working Marina'*.
- The following principles and objectives for the site:

**Land use**

- Ensure commercial uses demonstrate a coastal or tourism dependency reflecting the site's coastal foreshore location or recreational marina function.
- Provide for a mix of uses, including community uses to activate the precinct year-round.
- Design spaces so that they are also suitable for temporary event.

**Character and built form**

- Require built form to achieve design excellence and respond to its prominent coastal location and significant historical context of the site.
- Encourage smaller interrelated built forms to create diversity of public spaces and to protect and enhance sightlines as shown on the Concept Plan (Figure 1).
- Design new buildings to be adaptable to a variety of future uses.
- Activate building frontages where they adjoin key public spaces.

**Open space and public realm**

- Allow for views of the activities of the Marina from public spaces.
- Encourage the provision of additional high quality publicly accessible open space and a diversity of public spaces including passive, active and viewing spaces.
- Improve the site's interface with Moran Reserve.
- Maintain and enhance the landmark role, destination and setting of the Beacon.
- Celebrate the cultural heritage and the history of the Marina through design, photographic material and the provision of public art.
- Design the marina water edge to encourage a diversity of public uses, accessible to a range of users, including places for young people and places of quiet contemplation.
- Provide for clearly legible separated walking and cycling paths in high traffic areas, where appropriate.
- Encourage retention of vegetation identified as high value.

### Parking and access

- Design for flexibility within the car parking and boat trailer parking area for alternative temporary uses in the boating low season.
- Ensure car and trailer parking areas are visually softened through the provision of suitable landscaping and/or screening, particularly when viewed from streets and pathways.
- Relocate the Bay Trail to remove existing conflicts with Marina operations.
- Minimise vehicle entry points to the site to avoid conflict points with the Bay Trail, where possible.

### Environmental design

- Apply Water Sensitive Urban Design (WSUD) principles to increase surface permeability and improve place amenity.
- Plan for sea level rise and incorporate flood mitigation techniques through an integrated water management approach.
- Maximise opportunities for innovate environmental sustainability design initiatives across the site.
- Identify methodologies for construction and uses to minimise environmental impact on surrounding coastal environment.
- The following requirements for use and development:

**Table 1: Specific Requirements**

Element	Specific requirement	Development outcomes
<b>Key views shown in Figure 1</b>	New built form must not obstruct key views to and from the marina including: <ul style="list-style-type: none"> <li>▪ From Point Ormond Lookout</li> <li>▪ To Station Pier</li> <li>▪ To City</li> <li>▪ To Palais Theatre</li> </ul>	Built form that: <ul style="list-style-type: none"> <li>▪ Retains and enhance key sightlines to and from the Marina.</li> </ul>
	<ul style="list-style-type: none"> <li>▪ Towards the Bay and Marina activity</li> <li>▪ To the Marina approach.</li> </ul>	
<b>Built Form Envelopes 1 and 2 as shown in Figure 1</b>	Maximum building height of 11 metres for Built Form Envelope 1 and 12 metres for Built Form Envelope 2 (inclusive of all roof structures). Minimum 15 metres setback from the crest of the seawall. Minimum setback of 4 metres from Bay Trail on Marine Parade. Built Form Envelope 1 only: <ul style="list-style-type: none"> <li>▪ Built form to occupy a maximum of 50 per cent of the Marine Parade frontage to allow for sightlines and site permeability as shown on the Concept</li> </ul>	Built form that: <ul style="list-style-type: none"> <li>▪ Allows for sightlines between Marine Parade, key public spaces, <a href="#">and landmarks</a> and Marina Activity Area.</li> <li>▪ Provides sufficient area for sightlines, entries, walking, cycling, events and landscaping.</li> <li>▪ Responds to the scale and rhythm of adjacent built form along Marine Parade.</li> <li>▪ Is set within a landscaped setting which allows for effective integration with</li> </ul>

Element	Specific requirement	Development outcomes
	<p>Plan (Figure 1).</p>	<p>adjoining parklands, Port Phillip Bay and Marine Parade.</p> <ul style="list-style-type: none"> <li>▪ Minimises overshadowing of Moran Reserve between 9am and 3pm at the solstice (June 22).</li> <li>▪ Does not become visually dominant within the Marina complex.</li> <li>▪ Maintains and enhances the contributory and valued natural landscape and native vegetation along Parkland edges.</li> </ul>
<p><b>Built Form Envelope 3 as shown in Figure 1</b></p>	<p>Maximum building height of 15 metres.</p> <p>Architectural features such as domes, towers, masts and building services, including enclosed stairwells can exceed the height of the maximum height specified above to a maximum of 3 metre. The floor area of these features must not exceed 20 per cent of the gross floor area of the top building level.</p> <p>Maximum building width of 40 metres.</p> <p>Minimum 15 metres setback from the crest of the seawall.</p>	<p>If possible, provide for a smaller building footprint than the allowable envelope.</p>
<p><b>Kiosk (outside of Built Form Envelopes 1,2 and 3)</b></p>	<p>Allow the provision of a single storey kiosk of a maximum of 50 square metres plus storage for stand up paddleboards and canoes at the end of the Peninsula Promenade, adjacent to the Beacon.</p>	<p>Built form that:</p> <ul style="list-style-type: none"> <li>▪ Protects views to the Beacon, identifies in Figure 1 Concept Plan</li> </ul>
<p><b>Dry boat storage building</b></p>	<p>The building footprint must not exceed 6,500 square metres with a total maximum volume of 97,500m<sup>3</sup>; unless:</p> <ul style="list-style-type: none"> <li>▪ Complementary uses are provided, where the maximum building footprint size can increase up to 7,000sqm provided the volume of the dry storage facility has a total maximum volume of 97,500m<sup>3</sup></li> <li>▪ Maximum capacity is 300 boats, with option to increase to 400 boats with evidence of sustainable market demand.</li> </ul> <p>Buildings must showcase the working Marina either through active frontages or visual connections between the interior of the buildings and key public spaces and promenades, and primary and secondary connections, shown on the Concept Plan (Figure 1)</p>	<p>Built form that:</p> <ul style="list-style-type: none"> <li>▪ Ensures elements of dry storage operations are visible from key public spaces, connections.</li> <li>▪ Responds to the site’s visual prominence and visibility from key public spaces in the Marina, built with durable and high-quality materials.</li> <li>▪ Responds to its location within a significant coastal landscape.</li> <li>▪ <del>Maintains a clear hierarchy of built form, which ensures the dry boat storage (whether the existing, or a new building) remains the most prominent and visible feature within the Marina complex.</del></li> </ul>

Element	Specific requirement	Development outcomes
<b>Commercial and retail buildings</b>	<p>The total leasable commercial and retail floor area must not exceed 5,000 square metres.</p> <p>Provide for a flexible space suitable for meetings of at least 100 persons, for regular and seasonal use.</p> <p>Buildings should provide active frontages where buildings front public space, key pedestrian connections, the Marine Parade frontage and the Marina Activity Area.</p>	<p>Built form that:</p> <ul style="list-style-type: none"> <li>▪ Provides for active frontages where adjacent to key public spaces and key pedestrian connections including Marina Parade.</li> <li>▪ Responds to the site's visual prominence and visibility from key public spaces in the Marina, built with durable and high-quality materials.</li> </ul>
<b>Civic Heart Public Space</b>	<p>Provide a publicly accessible and active 'civic heart' public space of a minimum 700sqm area, with shelter and a connection to the water and boating activities within the envelope shown on Figure 1 Concept Plan, or an alternative location providing an equivalent level of amenity, <a href="#">views and aspect</a>.</p>	<p>A public space that:</p> <ul style="list-style-type: none"> <li>▪ Is accessible to the public with areas of solar access and shade <a href="#">with a minimum 50% of space accessing sunlight between the hours of 10am and 3pm at the winter solstice June 22</a>.</li> <li>▪ Ensures connection to the water and boating activities.</li> <li>▪ <del>Endeavours to</del> <a href="#">Ensures appropriate wind speed standards</a> <del>conditions</del> for sitting and standing are achieved</li> </ul>
<b>Publicly accessible open space</b>	<p>Provide no less than 20 per cent of the site as public open space.</p> <p>Minimal fencing and obstacles to movement from Marine Parade and Marine Reserve to the Marina promenade.</p> <p>Enhance the public realm and if practical relocate the preferred vehicle route into the Marina, as shown on the Concept Plan (Figure 1).</p> <p>If practical, relocate electrical substation away from the primary entry at the Dickens Street approach.</p> <p>Provide publicly accessible amenities independent of those provided by the commercial operations.</p>	<p>Additional high quality publicly accessible open space across the site.</p> <p>Publicly accessible open spaces that:</p> <ul style="list-style-type: none"> <li>▪ Have good solar amenity and good passive surveillance.</li> <li>▪ Minimise, where practical, the impact of vehicles</li> <li>▪ Endeavours to ensure appropriate wind speed conditions for walking in primary walking networks are achieved.</li> <li>▪ Ameliorate adverse wind conditions at ground level on publicly accessible spaces both within and abutting the site.</li> <li>▪ Street, promenade, walk and park level interface treatments contribute to high levels of pedestrian amenity and safety</li> <li>▪ Provide landscaping to reduce the visual impact of development and enhance the microclimate within and abutting the Marina</li> </ul>

Element	Specific requirement	Development outcomes
<b>Marina Functions</b>	<p>Provide storage facilities to support small craft (Stand up paddleboard/ kayak) with the provision of a safe launching area.</p> <p>Provide safe and efficient public boat ramps in a suitable location, for vessel launching and retrieval.</p> <p>Provide for additional capacity of the boat ramp and trailer parking in peak periods (summer) without compromising safety, queuing or safe water practice and functionality.</p>	<p>Marina functions, including the boat ramp operations, designed and operated to provide for the safety of users and visitors to the area year-round.</p>
<b>Public boat ramp and trailer parking</b>	<p>Provide a safe public boat ramp with a minimum 4 vessel capacity in a location which will provide suitable vessel loading amenity on land and marina water.</p> <p>Provide a minimum of 80 public boat trailer parking spaces within proximity of the public boat ramp.</p> <p>Trailer parking area must include landscaping and WSUD principles to increase surface permeability and improve place amenity, when not in use.</p>	<p>Boat ramp design that:</p> <ul style="list-style-type: none"> <li>▪ Meets AS 3962-2001 Guidelines for Design of Marinas Safe Water, Vessel and Vehicle access.</li> <li>▪ Ensures a safe, high quality environment for primary and secondary pedestrian connections in accordance with the Concept Plan (Figure 1).</li> <li>▪ Optimises ‘all weather’ safe haven and reduce congestion of marina water.</li> </ul> <p>Trailer parking that is proximate to the public boat ramp.</p>
<b>Car parking</b>	<p>Encourage the use of a shared use car-parking system.</p> <p>If a car parking structure is provided:</p> <ul style="list-style-type: none"> <li>▪ Ground Level minimum floor to ceiling height of 3.3 metres.</li> <li>▪ Minimum of 3 metre floor to ceiling heights for other levels.</li> </ul> <p>Where possible, carparking structures should be sleeved with active uses where there is an interface with public spaces.</p> <p>Minimise the need for mechanical ventilation in car parking structures.</p> <p>Provide for central car parking below grade if practical.</p>	<p>Car parking areas that:</p> <ul style="list-style-type: none"> <li>▪ Demonstrate design excellence and incorporate high quality screening.</li> <li>▪ Allow for the future conversion of the space to other uses.</li> <li>▪ Provide for active frontages where adjacent to key public spaces and key pedestrian connections.</li> </ul>
<b>Bike parking</b>	<p>Provide adequate bicycle facilities for employees, marina users and visitors.</p> <p><a href="#">Provide adequate bicycle facilities for employees, marina users and visitors.</a></p> <p><a href="#">Provide bike share facilities for marina visitors in key arrival points both for visiting vessels and visitors to the precinct.</a></p> <p><a href="#">Provide short stay bicycle facilities adjacent to key hospitality destinations within the precinct.</a></p> <p><a href="#">Provide secure bike storage areas for marina users and staff of all uses within the development at benchmarks that</a></p>	<p>Bicycle facilities that:</p> <ul style="list-style-type: none"> <li>▪ Encourage sustainable transport modes.</li> <li>▪ Include end of trip facilities and where possible, and cycle repair facilities.</li> </ul>

Element	Specific requirement	Development outcomes
	<p><a href="#">demonstrate leadership in green travel solutions</a></p> <p><a href="#">Provide bicycle repair station facilities for the use of visitors, employees and marina users.</a></p>	
<b>Waste Management</b>	<p>Ensure core infrastructure services storage and collection points are fully contained within new building envelopes and located away from parkland, pedestrian spaces, walks and promenades, Marine Parade interfaces and are not visible in key views to and through the site identified in Figure 1 Concept Plan.</p>	<p>Minimise the visual, <a href="#">amenity</a> and operational impact of waste management facilities and storage.</p> <p>Appropriately located waste recycling</p>
<b>Peninsula promenade path as shown in Figure 1</b>	<p>Minimum 4 metre pedestrian priority shared path (if no bridge is provided as part of the proposal).</p> <p>Ensure there is the ability to widen the path to 6m for the provision of the future bridge connection.</p> <p><a href="#">Provide for sitting areas at key locations along the path for comfort and amenity.</a></p> <p>If a bridge is provided a separated walking and cycling path is required:</p> <ul style="list-style-type: none"> <li>▪ Minimum 3 metre path for walkers.</li> <li>▪ Minimum 0.5 metre separator</li> <li>▪ Minimum 2.5 metre bidirectional cycle path</li> </ul>	<p>A new pedestrian connection that:</p> <ul style="list-style-type: none"> <li>▪ Provides access to the Beacon along a new Peninsula Promenade.</li> <li>▪ <a href="#">Provides landscape improvements to the entire setback zone between Building Areas 2 and 3 and the water's edge.</a></li> </ul> <p>Early delivery of the separated peninsula promenade path, if a bridge is not to be constructed as part of the proposal.</p>
<b>Marina Promenade as shown in Figure 1</b>	<p>Pedestrian ways must be designed to promote a slower walking environment along Marina promenade.</p> <p>Incorporate areas of <a href="#">seasonally-appropriate</a> shade along the Marina Promenade.</p>	<p>Enhanced pedestrian amenity and safety.</p>
<b>Potential pedestrian and cycle bridge as shown in Figure 1</b>	<p>If provided, the pedestrian and cycle bridge should include:</p> <ul style="list-style-type: none"> <li>▪ Minimum 3 metre path for walkers.</li> <li>▪ Minimum 0.5 metre separator</li> <li>▪ Minimum 2.5 metre bidirectional cycle path</li> </ul>	<p>A new pedestrian and cycle bridge that, if provided:</p> <ul style="list-style-type: none"> <li>▪ Demonstrates design excellence in its contextual architectural response including through integration with adjoining public realm.</li> <li>▪ Does not significantly impact on Marina operations.</li> </ul>
<b>Bay Trail</b>	<p>Relocate the Bay Trail as shown on the Concept Plan (Figure 1). Provide for the following</p> <ul style="list-style-type: none"> <li>▪ Minimum path width of 3 metre for pedestrians.</li> <li>▪ Minimum 0.5 metre separator</li> <li>▪ Minimum 3.5 metre bidirectional cycle path.</li> </ul> <p>Where the Bay Trail is adjacent to on-</p>	<p>A relocated Bay Trail that:</p> <ul style="list-style-type: none"> <li>▪ Minimises conflicts along the path between different users (walkers, riders, vehicles and boat ramp users).</li> <li>▪ Provides clear lines of sight for trail users and walkers at pedestrian crossings.</li> <li>▪ Provides sightlines to Marina.</li> </ul>



Element	Specific requirement	Development outcomes
	street vehicle parking, an outer separator of 1 metre is required.	
<b>Beacon</b>	Maintain and enhance the landmark role, destination and setting of the Beacon.	Built form that: <ul style="list-style-type: none"> <li>▪ Maintains the visual prominence of the Beacon.</li> </ul>
<b>Seawall and internal marina walls</b>	<p>Repair or replace the seawall and internal marina walls for storm protection, and to accommodate projected sea level rise (0.8m by 2100).</p> <p>Use alternative treatment on internal marina walls to increase habitat amenity.</p> <p>Improve habitat for native flora and fauna through planting of native vegetation, including seaward edge of breakwater and vegetation connections with Elwood Canal.</p> <p>Design sea walls to ensure intertidal areas are not less than present day extent and are preserved for projected water levels in 2070 (anticipated seawall design life) to accommodate bird roosting.</p> <p>Provide water quality systems (including WSUD) for stormwater outfalls within the subject site.</p>	Appropriate protection measures for sensitive marine habitats potentially impacted by modifications to the seawall.

### Content of Development Plan

The development plan must include:

- A **Site analysis plan** of the site's regional and strategic context, including or explaining:
  - Existing coastal character analysis including landscape features, topography and significant vegetation.
  - Current movement networks in and around the site.
  - Existing uses and surrounding uses.
  - The historical and cultural significance of the site.
- An **Urban concept report** which includes or explains plans or diagrams demonstrating the following:
  - Any proposed demolition works.
  - Proposed land uses across the site.
  - Project Vision and Key Design Principles underpinning the concepts.
  - Conceptual elevations.
  - Building envelopes.
  - The location and dimensional attributes of primary and secondary pedestrian and cycling promenades, trails, paths and walks relative to buildings as described in the landscape plans.
  - Fully dimensioned cross sections of all proposed building envelopes, showing any level changes across the site. View analysis including views from locations

identified in the Figure 1 Concept Plan [demonstrating realisation of key view ambitions](#).

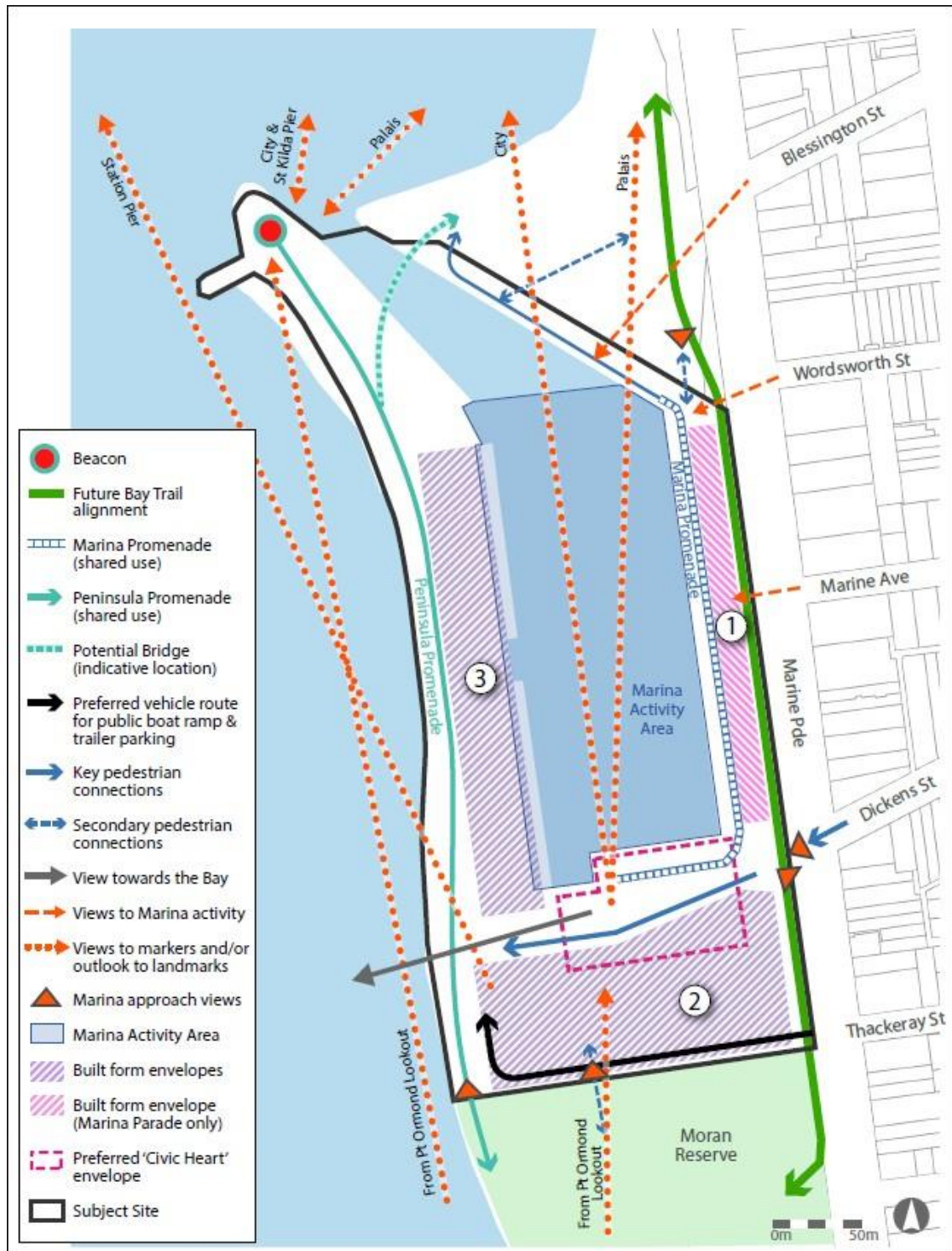
- The design quality and design language of building systems, building materials, treatments, including reflectivity requirements, and architectural styles throughout the site and the benchmarks of best practice guiding these choices.
- Guidelines for the interface responses and indicative sections of built form, movement networks and landscapes both externally with the adjoining Bay, MO Moran Reserve, Marina Reserve and Marine Parade and internally with the marina water, Civic Heart, Marina and Peninsula Promenades and primary and secondary pedestrian connections.
- Proposed movement networks through the site, including pedestrian, cycling, vehicle and boat launching and car and trailer parking.
- Details of any proposed reorganisation or changes to wet berths.
- The location of heritage buildings and infrastructure and significant vegetation to be retained (where applicable).
- Shadow diagrams between 9am and 3pm on 22 June and 22 September.
- Details of any infrastructure works required on adjacent land including traffic management works.
- **A Heritage impact assessment** prepared by a qualified person explaining how the development plan responds to the cultural heritage significance of the Marina and which:
  - Responds to the guidelines set out in Citation 2057 (St Kilda Marina) in the Port Phillip Heritage Review (June 2019).
  - Identifies how the site heritage is to be interpreted in the future development of the site.
  - [Identifies how the fabric of the original dry boat storage facility will be retained, repurposed, integrated or interpreted.](#)
  - Provides guidance on the ongoing maintenance and management of the heritage places to be retained.
  - Identifies how the scale, form and location of any new buildings or structures will ensure the prominence of the 'Beacon' as a local landmark is respected and maintained.
- **A Staging plan**, if relevant, detailing proposed sequencing of the development and which includes details of:
  - The indicative timing of development, infrastructure and services.
  - The overall integration with other development stages.
  - Vehicular access points, road infrastructure works and traffic management for each stage of the development.
- **A Landscape and public realm plan** prepared by a qualified person, identifying all structures and treatments and showing:
  - Landscaping concepts proposed throughout the site.
  - The areas of public or publicly accessible open space (including the proposed location and dimensional attributes of the Civic Heart) and the percentage of

publicly accessible open space within the site.

- Typical street, Marina Promenade, Peninsula Promenade, primary and secondary pedestrian connections and Bay Trail cross sections.
- The management of landscaped areas, including sustainable irrigation treatments such as water sensitive urban design opportunities.
- Details of how the Landscape Concept Plan responds to the Sustainable Management Plan.
- Concepts for street furniture, landscaping and materials and finishes.
- Location and/or details of public art to be provided.
- Location of wayfinding signage.
- An upward light output ratio less than 5 per cent for all external lighting.
- **A Signage and wayfinding strategy** to provide for:
  - The orderly display of signage integrated with the built form.
  - Signage that demonstrates legibility to and through the site for walkers, cyclists and drivers in the design response.
  - Signage in keeping with the character and sensitive coastal location of the area.
- ~~An **Integrated transport and access plan** prepared by a qualified person which includes:~~
- An **Integrated transport and access plan** prepared by a qualified person, to the satisfaction of Department of Transport and the responsible authority, which includes:
  - Expected traffic generation and the impact on the existing road network over a 24-hour period.
  - Location of car and trailer parking, vehicle egress and ingress points.
  - The identification of active travel and pedestrian and cycle paths, bicycle storage and end of trip facilities.
  - The identification of appropriate traffic mitigation measures to be provided.
  - An empirical assessment to support the adequacy of the car parking and bike parking provision.
- A preliminary **Wind engineering report** prepared by a qualified person which reports on the functionality of the designs having regard to the range of intended uses and the amenity of public spaces.
- An **Arborist report** prepared by a qualified person outlining the proposed vegetation for retention and removal and identifying any high value vegetation.
- A preliminary **Wave climate and wave movement report** prepared by a qualified person, demonstrating the seawall restoration works meet the requirements specified in this Schedule.
- A **Sustainability management plan**, including a Water Sensitive Urban Design Response, by a suitable qualified person which identifies the environmentally sustainable initiatives to be included in the development and demonstrates, as appropriate:
  - Equivalent 5 Star Green Star Communities rating or higher.

- Integrated ESD for water, waste and energy.
- Landscaping and WSUD principles to increase surface permeability and improve place amenity.
- Waste management systems.
- An assessment which demonstrates how Council's sustainability targets will be achieved or exceeded.
- Low carbon, energy and water efficient building design and operations.
- A **Stormwater and flood management plan** prepared by a qualified person.
- A **Construction environmental management plan** prepared by a qualified person.
- A report investigating and demonstrating opportunity for the future provision of a bridge between Marina reserve and the peninsula, including consideration of the indicative location shown in Figure 1 and the following:
  - The likely impact of the bridge on the marina operations.
  - The likely functionality of the bridge.
  - The opportunities and constraints of realigning the Bay Trail to make use of the bridge.
  - The likely impact of a bridge on views to the beacon.
  - The likely public realm outcomes.
- **A Community engagement report which outlines the consultation which has occurred to inform the preparation of the Development Plan, including but not limited to the following stakeholders:**
  - Office of the Victorian Government Architect
  - Transport for Victoria
  - Neighbouring owners and occupiers.

Figure 1: Concept Plan



**NOTE:** Council to amend Figure 1 to show two options for vehicle access to the site (retention of the Dickens Street signalised intersection and the 'preferred' location).

**Recommendation 5:**

Add the following to Figure 1 Concept Plan:

- The Point Ormond to Palais theatre view line as a "views to markers and/or outlook to landmarks"
- The Thackeray Street to the Marina view line as a "views to marina activity"
- The Dickens Street to the Bay interface view line as a "key pedestrian connection".