

Date: 23 May 2022

Submission on behalf of the Planning Authority
Amendment C203port to the Port Phillip Planning Scheme

Council's submission: Part A

Contents

INTRODUCTION3

THE AMENDMENT3

 Summary of Amendment3

 New Municipal Planning Strategy at Clause 02.005

 Revised Local Policy Content6

 Particular Provisions and Operational Provisions8

PANEL DIRECTIONS 11

BACKGROUND TO THE AMENDMENT 11

 PPF Translation 12

 Planning Scheme Review and Audit Report 12

PREPARATION OF THE AMENDMENT..... 16

 Resolution to prepare Amendment 16

 Authorisation 16

 Exhibition 17

 Submissions 18

 Council consideration of submissions 18

STRATEGIC CONTEXT AND ASSESSMENT 19

 Amendment VC148 and the Smart Planning Program 19

 Planning Policy Framework (PPF) 20

 Municipal Planning Strategy 21

 Clause 71.02 (Operation of the Planning Policy Framework)..... 22

 Ministerial Directions 22

 Planning Practice and Advisory Notes 23

 Other relevant strategic documents 23

ISSUES IDENTIFIED IN SUBMISSIONS 25

 General themes in submissions 25

SUGGESTED CHANGES TO THE AMENDMENT IN RESPONSE TO SUBMISSIONS 25

CONCLUSION 26

LIST OF ATTACHMENTS 27

ATTACHMENT A – CHRONOLOGY OF EVENTS 28

ATTACHMENT B – COUNCIL MEETING MINUTES AND AGENDA (7 JULY 2021) 29

ATTACHMENT C – COUNCIL MEETING MINUTES AND AGENDA (2 MARCH 2022) 30

INTRODUCTION

1. This submission is made on behalf of Port Phillip City Council (**Council**).
2. Council is the Planning Authority for Amendment C203port (**Amendment**) to the Port Phillip Planning Scheme (**Scheme**). Council has prepared and is the proponent of the Amendment.
3. In broad terms, the Amendment proposes to update Council's local policies in the Scheme by replacing the Municipal Strategic Statement (**MSS**) at Clause 21 and local planning policies at Clause 22 of the Scheme with a Municipal Planning Strategy (**MPS**) and local policies within the Planning Policy Framework (**PPF**), consistent with the structure introduced by Amendment VC148. The Amendment also updates local heritage policy and introduces new local VicSmart planning provisions.
4. On 7 July 2021, Council resolved to request authorisation from the Minister for Planning to prepare and exhibit the Amendment. Relevant extracts of the Council Meeting Minutes (Resolution) and Agenda (Officer Report) are included as **Attachment B** to this submission.
5. Council received conditional authorisation from the Minister for Planning on 5 October 2021.
6. The Amendment was exhibited between 11 November 2021 and 17 December 2021.
7. In response to exhibition, nine submissions were received (including one late submission).
8. On 2 March 2022, Council resolved to request the Minister to appoint a Planning Panel to consider the submissions. Relevant extracts of the Council Meeting Minutes (Resolution) and Agenda (Officer Report) are included as **Attachment C** to this submission
9. On 22 March 2022, a Planning Panel was appointed to consider the submissions.

THE AMENDMENT

Summary of Amendment

10. The purpose of the Amendment is to:
 - 10.1 revise and update local planning policies in the Scheme by implementing the findings of the Port Phillip Planning Scheme Review (**Planning Scheme Review**) as contained in the *Port Phillip Planning Scheme Review Audit Report (23 May 2018)* (**Audit Report**) and other key pieces of strategic work undertaken since that time;
 - 10.2 facilitate the integration of Council's local policy into the PPF as required by Amendment VC148 and the Victorian Government's Smart Planning Program which seeks to simplify and modernise Victoria's planning policy, and to make planning schemes more efficient, accessible and transparent;
 - 10.3 update the local heritage policy to implement new *Port Phillip Heritage Design Guidelines (City of Port Phillip, 2021)* (**Heritage Design Guidelines**) which address known gaps and issues, and introduce the new Heritage Design Guidelines as a background document; and
 - 10.4 introduce new local VicSmart planning provisions.
11. More specifically, the Amendment:

- 11.1 introduces a new MPS at Clause 02.00 of the Scheme;
 - 11.2 introduces new and revised local policy content into the PPF at Clauses 11-19;
 - 11.3 deletes Clauses 21.01 to 21.07 to enable replacement of the MSS with a new MPS (except for Clause 21.06-8 Fishermans Bend Urban Renewal Area, which has not been translated as part of the Amendment);
 - 11.4 deletes Clauses 22.01 – 22.14 to enable replacement of the Local Planning Policy Framework (**LPPF**) (except for Clause 22.15 Fishermans Bend Urban Renewal Area Policy, which has not been translated as part of the Amendment);
 - 11.5 amends Clause 21.06 to enable retention of the local policy for Fishermans Bend Urban Renewal Area currently at Clause 21.06-8 (which has not been translated as part of the Amendment);
 - 11.6 amends the Schedule to Clause 43.01 (Heritage Overlay) to include application requirements from content previously contained at Clause 22.04 (Heritage Policy) of the LPPF and reflect the new *Heritage Design Guidelines (City of Port Phillip, 2021)*;
 - 11.7 replaces the schedule to Clause 52.06 (Gaming) with a new schedule that includes content previously contained in Clause 21.04 (Land use) and 22.07 (Gaming) of the LPPF;
 - 11.8 replaces the Schedule to Clause 59.15 (Local VicSmart Applications) to include eleven new classes of VicSmart application;
 - 11.9 introduces two new Schedules to Clause 59.16 (Information requirements and decision guidelines for local VicSmart applications) to set out information requirements and decision requirements for specific classes of VicSmart applications:
 - applications under a heritage overlay; and
 - applications for licensed premises in the Commercial 1 Zone;
 - 11.10 replaces the Schedule to Clause 72.04 (Documents Incorporated in this Planning Scheme) with a new schedule that deletes obsolete documents and updates the name of documents;
 - 11.11 introduces a new schedule to Clause 72.08 (Background Documents) comprising a list of background documents that informed the revised content in the MPS and PPF; and
 - 11.12 introduces a new Schedule to Clause 74.01 (Application of Zones, Overlays and Provisions) to provide an explanation of the relationship between the municipal objectives, strategies and controls on the use and development of land in the planning scheme;
 - 11.13 introduces a new Schedule to Clause 74.02 (Further strategic work) that consolidates all further strategic work actions previously contained in Clause 21 and updates content in accordance with the *Port Phillip Planning Scheme Audit Report (City of Port Phillip, 2018)* recommendations and *Foreshore Management Plan (City of Port Phillip, 2012)*.
12. These proposed changes are set out in further detail below.

New Municipal Planning Strategy at Clause 02.00

13. The Amendment introduces a new MPS at Clause 02.00 of the Scheme. In line with the structure outlined in Amendment VC148, the MPS supports, but does not form part of the PPF.
14. The new MPS provides the policy foundation for the Scheme and is a succinct statement of Council's planning and land use vision and directions. The new MPS has been updated to reflect adopted Council strategies.
15. In particular, the proposed MPS is structured as follows:
 - 15.1 Clause 02.01 (Context), which describes the Scheme's policy foundation, based on the City of Port Phillip's location, regional context, history, assets, strengths, key attributes and influences. In particular, the proposed Context incorporates changes in Port Phillip and is based on updated data and the adopted *Council Plan 2017-2027*. Exhibited Clause 02.01 is arranged into themes of community and population growth and housing profile and includes a context plan.
 - 15.2 Clause 02.02 (Vision), which sets out Council's vision for its municipality is derived from the adopted *Council Plan 2017-2027*.
 - 15.3 Clause 02.03 (Strategic Directions) comprises translated content from the current MSS, new content derived from adopted Council strategies and the strategic work undertaken to inform the Amendment. It is arranged under the themes of the PPF being activity centres, environmental and landscape values, environmental risks and amenity, built environment and heritage, housing, economic development, transport, infrastructure and open space. The Strategic Directions reflect existing content from the MSS that remains relevant, and the following adopted Council policies:
 - *Council Plan 2017-2027*;
 - *Don't Waste It! Waste Management Strategy (2018-28)*;
 - *Foreshore Management Plan (2012)*;
 - *Act and Adapt, Sustainable Environment Strategy (2018-2028)*;
 - *Greening Port Phillip Strategy – An urban forest approach (2010)*;
 - *Heritage Design Guidelines (Revised February 2021)*;
 - *In Our Backyard, Growing Affordable Housing in 2015-2025*;
 - *Art & Soul, Creative & Prosperous City Strategy (2018-2022)*;
 - *Move, Connect, Live: Integrated Transport Strategy (2018)*; and
 - *Public Space Strategy Draft V3 (2020)*.
 - 15.4 Clause 02.04 (Strategic Framework Plan), which contains a map of the City of Port Phillip identifying key strategic areas such as activity centres and industrial areas and assets such as open space, industrial land and sector precincts. The framework plan also identifies key strategic projects, the pedestrian, bicycle and public transport network, environmental values and areas earmarked for development such as future strategic crossings, planned new open space and proposed bus routes.

Revised Local Policy Content

16. In accordance with the changes implemented by Amendment VC148, the Amendment proposes to replace the existing LPPF with redrafted policy (including new content) in the PPF format.
17. In addition to the new and translated content, the Amendment also introduces a standardised format to the policies so that, consistently with the current PPF, policies are broken down into:
 - 17.1 objectives;
 - 17.2 strategies; and
 - 17.3 where necessary, policy guidelines.
18. The Amendment proposes to insert the following local policy into the existing Scheme structure at:
 - 18.1 Clause 11.03-1L-01 (Activity Centres);
 - 18.2 Clause 11.03-1L-02 (Bay Street Major Activity Centre);
 - 18.3 Clause 11.03-1L-03 (Carlisle Street Major Activity Centre);
 - 18.4 Clause 11.03-1L-04 (Local and Neighbourhood Activity Centres);
 - 18.5 Clause 11.03-1L-05 (South Melbourne Central Major Activity Centre);
 - 18.6 Clause 11.03-1L-06 (St Kilda Major Activity Centre);
 - 18.7 Clause 11.03-6L-01 (St Kilda Foreshore);
 - 18.8 Clause 11.03-6L-02 (St Kilda Road North Precinct);
 - 18.9 Clause 11.03-6L-03 (St Kilda Road South Precinct);
 - 18.10 Clause 12.01-1L (Urban Forest);
 - 18.11 Clause 12.02-1L (Protection of Port Phillip's Coast);
 - 18.12 Clause 13.07-1L-01 (Backpackers' Accommodation);
 - 18.13 Clause 13.07-1L-02 (Caretaker's House);
 - 18.14 Clause 13.07-1L-03 (Interfaces and Amenity);
 - 18.15 Clause 13.07-1L-04 (Tourism, Entertainment Uses and Licensed Premises);
 - 18.16 Clause 15.01-1L-01 (Signs);
 - 18.17 Clause 15.01-1L-02 (Urban Design);
 - 18.18 Clause 15.01-2L-01 (Building Design);
 - 18.19 Clause 15.01-2L-02 (Urban Art);
 - 18.20 Clause 15.01-3L (Subdivision);

- 18.21 Clause 15.01-5L (Neighbourhood Character);
- 18.22 Clause 15.02-1L (ESD);
- 18.23 Clause 15.03-1L (Heritage);
- 18.24 Clause 15.03-2L (Aboriginal Cultural Heritage);
- 18.25 Clause 16.01-1L-01 (Housing Diversity);
- 18.26 Clause 16.01-1L-02 (Location of Residential Development);
- 18.27 Clause 16.01-2L (Affordable Housing);
- 18.28 Clause 16.01-4L (Community Care Accommodation);
- 18.29 Clause 16.01-5L (Residential Aged Care Facilities);
- 18.30 Clause 17.02-1L (Mixed Use and Office Areas);
- 18.31 Clause 17.03-2L (Sustainable Industry);
- 18.32 Clause 17.04-1L-01 (Tourism and the Arts);
- 18.33 Clause 17.04-2L (Coastal and Marine Tourism);
- 18.34 Clause 18.02-1L-01 (Sustainable Personal Transport);
- 18.35 Clause 18.02-1L-02 (Walking and Bicycle Riding);
- 18.36 Clause 18.02-2L (Public Transport);
- 18.37 Clause 18.02-4L-01 (Car Parking);
- 18.38 Clause 18.02-4L-02 (Loading Facilities);
- 18.39 Clause 18.03-2L-01 (Port of Melbourne Environs);
- 18.40 Clause 18.03-2L-02 (Station Pier Environs);
- 18.41 Clause 19.02-4L (Community Facilities);
- 18.42 Clause 19.02-6L (Public Open Space and Foreshore);
- 18.43 Clause 19.03-2L (Infrastructure Design and Provision);
- 18.44 Clause 19.03-3L (Stormwater Management - Water Sensitive Urban Design); and
- 18.45 Clause 19.03-5L (Waste and Resource Recovery).

19. The Explanatory Report for the Amendment identifies whether the policy is a neutral translation of current policy, or whether new policy content is proposed.¹

¹ This information is also contained in Attachment 1 to the Council Officer Report of 7 July 2021.

Updated Schedule to Clause 43.01 – Heritage Overlay

20. The Amendment proposes to update the Schedule to Clause 43.01 (Heritage Overlay) to insert application requirements.
21. The key changes include the relocation of the application requirements currently contained in Clause 22.04 of the Scheme, in line with new Scheme format. The information requirements are also updated to address identified issues and gaps and to align with the Heritage Design Guidelines.

Retained Fishermans Bend Policy

22. The Department of Environment, Land, Water and Planning (DELWP) has assumed the responsibility for translating the local policy content for Fishermans Bend with input from Council, the Fishermans Bend Taskforce and the City of Melbourne.²
23. The translation of the Fishermans Bend policy currently contained in Clauses 21.06 and 22.15 is proposed to be undertaken through a separate stand-alone amendment. As a result of this Amendment, Clause 21.06 (Neighbourhoods) as it relates to Fishermans Bend, will remain in the Scheme while the remainder of Clause 21.06 is translated to local policies in the integrated PPF. Clause 22.15 will also remain in the Scheme, unchanged.
24. Council anticipates that when translated, the Fishermans Bend local policy will sit at Clause 11.03-6L under 'Planning for Places' with other place-specific content.

Particular Provisions and Operational Provisions

Schedule to Clause 52.28 (Gaming)

25. The Amendment makes changes to the Schedule to Clause 52.28 (Gaming) by translating existing policy from Clause 21.04 and Clause 22.07 into a new Schedule. Content has been updated to reflect urban renewal area locations and to replace individually listed strip shopping centres with all strip shopping centres within the municipality where gaming machines are prohibited. This seeks to ensure that the intent of the policy is retained regardless of changes to property addresses.

VicSmart Provisions

26. A key recommendation of the Audit Report was to introduce local VicSmart provisions into the Scheme.
27. The recommendation arises from changes to the VicSmart provisions at State level seeking to streamline the planning assessment process through VicSmart applications. These changes were implemented in:
 - 27.1 Amendment VC114 gazetted in September 2014 which introduced VicSmart into the VPP;
 - 27.2 Amendment VC135 gazetted in March 2017 which extended the VicSmart process to include more expensive buildings and works in industrial and commercial areas, small scale types of buildings and works in selected overlays, subdivision, advertising signs and car parking; and
 - 27.3 Amendment VC137 gazetted in July 2017 which introduced additional classes of application into the VicSmart provisions for residential zones.

² City of Melbourne also have local Fishermans Bend policy requiring translation, which should be consistent with Council's policy.

28. Currently, Council offers a 'Fast Track' service that streamlines the processing of minor planning permit applications. The 'Fast Track' service has been in place since 2011 and enables minor applications to be assessed quickly, without public notice and external referrals and where no further information is required.
29. The Audit Report identifies the opportunity to introduce a range of more routine permit applications currently assessed under Council's 'Fast Track' service, which would benefit from the exemptions and processes set out in the VicSmart provisions.
30. It was recommended (at Recommendation 86) that Council:

Explore the potential for Council to prescribe local classes of VicSmart applications to streamline simple planning applications.
31. The Amendment proposes to introduce a Schedule to Clause 59.15 (VicSmart) so that the minor applications currently assessed under the 'Fast Track' service can be assessed under VicSmart provisions instead. It is proposed to introduce 12 new VicSmart application types, 11 of which are currently assessed under Council's 'Fast Track' service. The new category of permit application to be assessed under VicSmart is an application for a convenience restaurant, restaurant or take away food premises to obtain a liquor licence between 7 am and 11 pm. There are a number of conditions to this category, including that the premises must be at least 30m away from the nearest residential zone and that liquor must be sold and consumed indoors.
32. In addition to the new Schedule to Clause 59.15, the Amendment also proposes to update the Schedule to Clause 59.16 (Information requirements and decision guidelines for local VicSmart applications) to introduce new information requirements and decision guidelines for applications under the Heritage Overlay and for licensed premises.
33. The *Local VicSmart Provisions Strategic Justification Report (October 2021)* provides the strategic justification for enabling applications to be processed through the formal VicSmart process rather than through Council's informal 'Fast Track' service.

Background Documents

34. The Amendment makes changes to the Schedule to Clause 72.08 (Background Documents) by adopting the format of VC148 to the current Clause 72.08 and inserting a number of new background documents that informed the revised content in the MPS and PPF, including (among others):
 - 34.1 *Act and Adapt – Sustainable Environment Strategy 2018-2028* (City of Port Phillip, 2018);
 - 34.2 *Activating Laneways Strategy* (City of Port Phillip, July 2011 adopted August 2011);
 - 34.3 *Art & Soul – Creative & Prosperous City Strategy 2018-22* (City of Port Phillip, 2018);
 - 34.4 *Australian Rainfall and Runoff – Book 9 Runoff in Urban Areas* (Commonwealth of Australia, 2018);
 - 34.5 *Car Share Policy 2016-2021* (City of Port Phillip, 2018);
 - 34.6 *City of Port Phillip Biodiversity Study* (Arcadis, May 2020);
 - 34.7 *City of Port Phillip Council Plan 2017-2027* (City of Port Phillip, 2017);
 - 34.8 *City of Port Phillip Housing Needs Assessment and Allocations Framework* (Beverley Kliger & Associates, 2019);

- 34.9 *Compliance Guidelines for Clause 22.12 Stormwater Management* (City of Port Phillip, 2017);
 - 34.10 *Don't Waste It! – Waste Management Strategy 2018-28* (City of Port Phillip, 2018);
 - 34.11 *Foreshore Management Plan 2012* (City of Port Phillip, 2012);
 - 34.12 *Getting our Community Active – Sport and Recreation Strategy 2015-2024* (City of Port Phillip, 2015);
 - 34.13 *Greening Port Phillip Strategy – An urban forest approach 2010* (City of Port Phillip, 2010);
 - 34.14 *Guidelines for Preparing a Waste Management Plan 2019* (City of Port Phillip, 2019);
 - 34.15 *Heritage Design Guidelines* (City of Port Phillip, 2021);
 - 34.16 *In our Backyard: Growing Affordable Housing in Port Phillip 2015-2025* (City of Port Phillip, 2016);
 - 34.17 *Move, Connect, Live: Integrated Transport Strategy, August 2018* (City of Port Phillip, 2018);
 - 34.18 *Public Space Strategy Draft V3* (City of Port Phillip, August 2020); and
 - 34.19 *Recreational Boating Facilities Framework* (Central Coastal Board 2014).
35. A number of strategies previously adopted by Council and already referenced in the Scheme will also be included in the new Schedule to Clause 72.08 (Background Documents), including (among others):
- 35.1 *City of Port Phillip Activity Centres Strategy (2006)*;
 - 35.2 *City of Port Phillip Activity Centres Strategy, Implementation Plan (2006)*;
 - 35.3 *City of Port Phillip Car Parking Strategy (Ratio, 2007)*;
 - 35.4 *Port Phillip Advertising Signs Policy Review (Hansen, 2007)*;
 - 35.5 *Port Phillip Design Manual (2000)* noting that the *Fishermans Bend Estate Guidelines and Garden City Estate Guidelines* have been updated as part of this Amendment.

Incorporated documents

36. The Amendment makes changes to the Schedule to Clause 72.04 (Documents incorporated in this Scheme) by deleting obsolete documents and updating references to amended documents.

Clause 74.01 - Application of Zones, Overlays and Provisions

37. The Amendment makes changes to the Schedule to Clause 74.02 (Application of Zones, Overlays and Provisions) by translating content currently in Clauses 21.04, 21.05 and 21.06 which lists the Application of Zones and Overlays in accordance with VC148.

Schedule to Clause 74.02 – Further Strategic Work

38. The Amendment proposes to insert a Schedule to Clause 74.01(Further Strategic Work) to update content previously contained in Clause 21.06 to reflect the Audit Report recommendations and content from the *Foreshore management Plan 2012*.
-

PANEL DIRECTIONS

39. This submission responds to direction #6 of the Panel Directions issued on 11 April 2022 (**Panel's Directions**) directing Council to circulate its 'Part A' submission. It is arranged under the following headings, in accordance with the Panel's Directions (Direction #6):
- 39.1 Background to the Amendment (in response to Direction #6(a));
 - 39.2 Strategic Context and Assessment (in response to Direction #6(b));
 - 39.3 Issues Identified in Submissions (in response to Direction #6(c)); and
 - 39.4 Suggested Changes to the Amendment in Response to Submissions (in response to Direction #6(d)).
40. A chronology of events is provided as **Attachment A** to this submission.
41. In accordance with Direction #8 of the Panel's Directions, on Monday 30 May 2022, Council will circulate the evidence of Mr Jim Gard'ner of GJM Heritage in relation to the heritage issues arising in the Amendment.
42. Council's 'Part B' submission will be circulated on Friday 3 June 2022 and will cover the following key matters in accordance with Direction #14 of the Panel's Directions:
- 42.1 Council's response to the issues raised in submissions;
 - 42.2 Council's response to expert evidence;
 - 42.3 Any further changes Council proposes to make to the Amendment in response to expert evidence or submissions; and
 - 42.4 Council's final position on the Amendment.
-

BACKGROUND TO THE AMENDMENT

43. The relevant background is described below. A chronology of events is also set out in **Attachment A**.
44. As noted above, the motivation for the Amendment that it seeks to:
- 44.1 facilitate the integration of Council's local policy into the PPF as required by Amendment VC148 and the Victorian Government's Smart Planning Program which seeks to simplify and modernise Victoria's planning policy, and to make planning schemes more efficient, accessible and transparent;
 - 44.2 update the local heritage policy to implement new Heritage Design Guidelines which address known gaps and issues, and introduce the new Heritage Design Guidelines as a background document;
 - 44.3 introduce new local VicSmart planning provisions; and
 - 44.4 revise and update local planning policies in the Scheme by implementing the findings of the Planning Scheme Review as contained in the Audit Report and

other key pieces of strategic work undertaken by Council since that time, across a range of disciplines including:

- *Local VicSmart Provisions Strategic Justification Report (October 2021);*
- *Update to Local Heritage Policy: Strategic Assessment Report (June 2021);*
and
- those documents listed above at paragraph 40.

45. Key documents informing the Amendment are considered in further detail below.

PPF Translation

46. Smart Planning was introduced by the State government as a reform program to make Victoria's planning system more efficient and accessible.

47. The PPF translation involves translating the LPPF content in the planning schemes into the new integrated PPF and MPS, consistent with the structure introduced by Amendment VC148 in July 2018. Council has worked closely with DELWP to ensure this translation is consistent with the *Ministerial Direction on the Form and Content of Planning Schemes* and other requirements.

48. The Amendment is required to implement the PPF translation.

Planning Scheme Review and Audit Report

49. The Planning Scheme Review was undertaken in accordance with *Planning Practice Note 32 – Review of Planning Schemes*, in order to address Council's obligations under the PE Act to regularly review its planning scheme.

50. Overall, the Planning Scheme Review found that while the policies and controls in the Scheme are sound, reflect best-practice planning policy and significant strategic work undertaken by Council in recent years. However, the Planning Scheme Review also found that there were some areas in which the Scheme could be improved and updated in order to address changes in policy and demographic, land use and development trends. These include:

50.1 improving overall narrative for consistency, clarity and a more cohesive and holistic spatial vision to guide future development;

50.2 strengthening and addressing gaps in policy in order to better direct key outcomes of the SPPF, *Plan Melbourne 2017-2050* and the *Council Plan 2017-2027*.

50.2.1 The Audit Report makes 86 recommendations which range from minor corrections to improvements in Council processes and recommendations for further strategic work to reform key policy relating to housing, heritage, neighbourhood character, urban design, employment, transport, sustainability and public open space.

51. Council considered the Audit Report at its meeting of 6 June 2018 and resolved to:

51.1 endorse the Audit Report;

51.2 submit the Audit Report to the Minister for Planning; and

51.3 commence progress with a program of updates to implement the recommendations of the Audit Report.

52. This Amendment proposes to implement 41 of the 86 recommendations from the Audit Report. The remainder of the recommendations are either in progress through Council's strategic planning work program (28 of the recommendations), or are to be programmed for future years (17 of the recommendations).

Strategic work relating to heritage

53. The Amendment makes a number of changes to heritage provisions in the Scheme to implement strategic work undertaken by Council in relation to heritage,³ including:
- 53.1 updated local heritage policy will sit at Clause 15.03-1L to replace the existing policy at Clause 22.04, with the changes to the content implementing the Heritage Design Guidelines and fill identified gaps;
 - 53.2 an updated Schedule to Clause 43.01 (Heritage Overlay) to relocate and update the information requirements;
 - 53.3 the Heritage Design Guidelines will be introduced as a background document in the Schedule to Clause 72.08;
 - 53.4 an updated *Fishermans Bend Estate Heritage Design Guidelines (Revised February 2021)* and *Garden City Estate Heritage Design Guidelines (Revised February 2021)* contained in the *Port Phillip Design Manual (2000)* which is a background document to the Scheme. The updates are generally minor changes to align with the Heritage Design Guidelines and correct identified errors.
54. The strategic background and proposed changes to the Scheme are described in more detail below.

City of Port Phillip Heritage Program

55. In 2018, Council commenced the *City of Port Phillip Heritage Program (Heritage Program)*, seeking to address concerns about Council's alignment with the community about protecting heritage in the municipality and ensuring policy was updated to reflect this.
56. The Heritage Program is a key action identified in Direction 4 of the *Council Plan 2017-2027* which reads: *We are growing and keeping our character*. It has resulted in a number of pieces of work being produced, including a systematic and strategic review of a number of heritage overlay precincts within the municipality. The Program is on-going.
57. One of the key initial pieces of work undertaken in the Heritage Program was the *Heritage Here and Now* public consultation program undertaken by Council in 2018, which informed the development of the Heritage Design Guidelines.
58. The Heritage Program also informed the development of a new Thematic Environmental History, which was intended to be introduced as a background document as part of the Amendment. However, the Victorian Aboriginal Heritage Council recently advised Council that they consider that the traditional owners of the land of Port Phillip are represented by the Bunurong Land Council Aboriginal Corporation and Wurundjeri Woi-wurrung Cultural Heritage Aboriginal Corporation. Accordingly, the Thematic Environmental History requires further review and consultation before it can be implemented in the Scheme.
59. The Heritage Program was undertaken concurrently with the Audit Report which contained the following recommendations specifically relating to local heritage policy:

³ Except where specified otherwise, references in these submissions to 'heritage' are primarily intended to refer to places and sites of non-Indigenous or 'post-contact' heritage.

- 59.1 *Recommendation 70:* Comprehensively review the heritage policy to strengthen and broaden its scope to respond to a broader range of development types, including commercial and industrial properties.
- 59.2 *Recommendation 71:* Revise the Heritage Local Planning Policy to provide greater guidance for ESD facilities on heritage places.

Update to Local Heritage Policy: Strategic Assessment Report (June 2021)

- 60. The *Update to Local Heritage Policy: Strategic Assessment Report (June 2021)* (**Strategic Assessment Report**) provides a strategic assessment of the heritage related updates implemented by the Amendment.
- 61. The Strategic Assessment Report describes the heritage related changes proposed by the Amendment and provides a response to the strategic justification for the Amendment in accordance with *Ministerial Direction 11 – Strategic Assessment of Amendments*.
- 62. The Strategic Assessment Report is proposed to be included as a background document in the proposed Schedule to Clause 72.08 (Background documents).

Updated local heritage policy at Clause 15.03-1L (Heritage)

- 63. The Amendment proposed to insert Clause 15.03-1L (Heritage) into the integrated PPF to replace existing policy at Clause 22.04.
- 64. Key changes to the content of the local heritage proposed to be included at Clause 15.03-1L include:
 - 64.1 addition of specific strategies for conservation, significant trees and gardens, sustainability and services, relocation, fencing, signage, subdivision and public realm and infrastructure;
 - 64.2 increase from three illustrations to eight figures to depict specific policy outcomes and guidelines;
 - 64.3 revised strategies and policies are also proposed for demolition, visibility of additions and car parking;
 - 64.4 deletion of provisions that duplicate state standard provisions;
 - 64.5 use of consistent, plain-English terminology except where technical and/or defined terms are required; and
 - 64.6 deletion of objectives consistent with updated drafting requirements.
- 65. A comparison between the existing and proposed local heritage policies is included at section 3.3.3 of the Strategic Assessment Report.
- 66. As a result of Council's consideration of submissions, Officers made minor changes to proposed Clause 15.03-1L. At its meeting of 2 March 2022, Council endorsed the Officer's changes to Clause 15.03-1L.
- 67. Policy relevant to heritage also arises in proposed Clauses:
 - 67.1 02.03 (Strategic Directions) in particular at Clause 02.03-4 (Built Environment and Heritage);

- 67.2 11.03-1L-01 (Activity Centres) which provides broad guidance for heritage places in major, neighbourhood and local activity centres;
- 67.3 15.01-1L-02 (Urban Design) which seeks to maintain the visual prominence of and protect primary views to Port Phillip's valued landmarks; and
- 67.4 15.01-5L (Neighbourhood character) which seeks to maintain the neighbourhood character of residential zoned land within the City of Port Phillip, including when that character comprises heritage values.

Heritage Design Guidelines

- 68. As identified above, the Heritage Design Guidelines were produced as a result of the Heritage Program.
- 69. The vision for the Heritage Design Guidelines is to provide more detailed and accessible explanations of 'how' Council will achieve the overarching heritage policy and respond to key challenges and gaps identified in the strategic work undertaken.
- 70. Among other things, the Heritage Design Guidelines:
 - 70.1 contain images and drawings to demonstrate the outcomes sought to be achieved;
 - 70.2 include strategies emphasising the importance of context in the assessment of heritage values;
 - 70.3 recognise changes in the built form environment, reflected in new transitional strategies, recognising contemporary design and sustainable systems in a historical context;
 - 70.4 provide clarity on the desired outcomes and objectives but flexible ways to achieve it; and
 - 70.5 contain clear guidelines for solar panels and sustainability features.
- 71. The Heritage Design Guidelines contain detailed guidance, aligned to the policy sub-headings of Clause 15.03-1L (Heritage), in relation to:
 - 71.1 demolition and relocation;
 - 71.2 conservation;
 - 71.3 alterations and additions;
 - 71.4 new buildings
 - 71.5 car parking;
 - 71.6 fencing;
 - 71.7 signage;
 - 71.8 significant trees and gardens;
 - 71.9 sustainability and services;
 - 71.10 subdivision; and

- 71.11 public realm and infrastructure.
72. The Heritage Design Guidelines are proposed to be included as a background document in the proposed Schedule to Clause 72.08 (Background documents).
73. As a result of Council's consideration of submissions, Officers made minor changes to the Heritage Design Guidelines. At its meeting of 2 March 2022, Council endorsed the Officer's changes to the Heritage Design Guidelines.

Updated Fishermans Bend Estate Heritage Design Guidelines and Garden City Estate Heritage Design Guidelines

74. The Amendment proposes to update the:
- 74.1 *Fishermans Bend Estate Heritage Design Guidelines*; and
- 74.2 *Garden City Estate Heritage Design Guidelines*.
75. Currently, these documents form part of the *Port Phillip Design Manual (2000)* which is a reference document in the Scheme. It is proposed to update these sections of the *Port Phillip Design Manual (2000)* which will be listed as a background document in the Schedule to Clause 72.08
76. The updates comprise generally minor changes to align with the Heritage Design Guidelines and correct identified errors.

PREPARATION OF THE AMENDMENT

Resolution to prepare Amendment

77. At its meeting on 7 July 2021, Council resolved to seek authorisation from the Minister for Planning to prepare and exhibit the Amendment.
78. The Panel has been previously provided with a copy of the Council meeting minutes and officer report of 7 July 2021.

Authorisation

79. On 5 October 2021 Council received authorisation to prepare the Amendment from the Minister for Planning (under delegation), subject to the following conditions:
- 79.1 amend the proposed ordinance to:
- ensure consistency with the *Ministerial Direction on the Form and Content of Planning Schemes* by improving clarity of provisions, deleting repetition with other areas of the planning scheme, correcting formatting errors and ensuring proposed maps meet the requirements outlined in paragraph 14 of the Ministerial Direction;
 - instead of using the latest ESD policy produced by the member councils of the Council Alliance for a Sustainable Built Environment (CASBE) of which Council is a member, update Clause 15.02-1L to be consistent with the DELWP standard template for local ESD policies provided to council officers via email on 29 September 2021; and
 - update the schedule to Clause 59.15 to remove reference to Clause 34.02 Commercial 2 Zone in Table 1 as 'dwelling' is a prohibited use in the zone;

- 79.2 amend the Explanatory Report to include content about the future translation of the Fishermans Bend Urban Renewal Area policy content via a separate process.
80. In addition to the above conditions, Council was encouraged to:
- 80.1 undertake a further review of the proposed local VicSmart classes to avoid ambiguity and be as specific as possible on the types of applications that should be considered VicSmart, particularly in relation to the classes specified for Clause 43.02 Design and Development Overlay and Clause 52.05 Signs; and
- 80.2 update the Introduction of Local VicSmart Provisions Strategic Assessment Report to clarify the kinds of applications that would be considered as 'works' under Clause 43.01 Heritage Overlay.
81. Council confirms that it has complied with these conditions of authorisation. Council Officer's response to the conditions of authorisation is provided in Table 1 of the Council Officer Report dated 2 March 2022.⁴

Exhibition

82. The Amendment was exhibited from 11 November 2021 and 17 December 2021 in accordance with the *Planning and Environment Act 1987 (PE Act)*.
83. The following notification was undertaken:
- 83.1 letters sent to approximately 1,500 landowners and occupiers of properties affected by the proposed deletion of obsolete incorporated documents;
- 83.2 letters sent to prescribed Ministers, relevant statutory authorities;
- 83.3 emails sent to key stakeholder groups;
- 83.4 notice published in The Age newspaper on Monday 15 November 2021;
- 83.5 notice published in the Government Gazette on Thursday 11 November 2021 and Thursday 18 November 2021;
- 83.6 notice published in October and November editions of Council's e-publication *Diversity*, advising of the Amendment's exhibition;
- 83.7 a dedicated project webpage on Council's *Have Your Say* website, containing Amendment documentation and supporting information, as well as allowing submissions to be made. Approximately 272 unique visits to the *Have Your Say* website were recorded over the exhibition period;
- 83.8 four online information sessions were held. A general information session and heritage information session were each held on 22 November 2021 and 9 December 2021. Three people attended a session;
- 83.9 the Amendment documentation and supporting information being available on the State Government's Planning Amendments Online website;
- 83.10 the amendment documentation being available at the Port Melbourne Library and Town Hall, St Kilda Town Hall and St Kilda Library; and
- 83.11 posts advising of the Amendment on Council's social media channels.

⁴ At page 140.

Submissions

84. In response to exhibition, Council received a total of nine submissions (including one late submission). Of the nine submissions, eight sought changes to the Amendment and one raised no objection.
85. A summary of the key issues raised in the submissions is set out below at paragraph 87.

Council consideration of submissions

86. Council officers considered submissions in preparation for Council's Meeting on 2 March 2022.
87. The issues raised in submissions are briefly summarised below:
- 87.1 concern around Council's approach to heritage and assessing planning permit applications under the Heritage Overlay. Submitters request refinements to the Heritage Design Guidelines and proposed Clause 15.03-1L (Heritage) to address this;
 - 87.2 concerns that the proposed ESD policy has been weakened by the removal of references to best practice. Other changes to the ESD policy are also recommended by submitters;
 - 87.3 requests the removal of exemptions to mandatory height controls in the Design and Development Overlay Schedule 26 (DDO26) relating to the St Kilda Road North Precinct; and
 - 87.4 requests the preparation of a stand alone policy for rooming houses and social housing to manage amenity issues and regulate rents charges to tenants.
88. The issues raised in submissions and Council's response are further detailed in Attachment 1 to the Council Officer Report of 2 March 2022.
89. In response to submissions regarding the adequacy of the Heritage Design Guidelines and the local heritage policy proposed at Clause 15.03-1L (Heritage) Officers recommended minor changes to these two documents.
90. In relation to the proposed heritage policy at Clause 15.03-1L, Officers recommended minor changes to improve the clarity of the policy. The changes do not alter the intent of the policy as exhibited.
91. Minor changes were also recommended to the Heritage Design Guidelines, including:
- 91.1 updating the demolition guidelines to acknowledge that some places in the Heritage Overlay and graded as 'Significant' do not have an accompanying Statement of Significance;
 - 91.2 inserting greater direction around the proportion of a building to be conserved; and
 - 91.3 other minor clarifications.
92. Copies of the revised Clause 15.03-1L and Heritage Design Guidelines in response to submissions is included as **Attachment 4** and **Attachment 5** (respectively) to the Council Officer Report of 2 March 2022.
93. On 2 March 2022, at its Council meeting, Council considered all submissions and resolved (among other things) to:

- 93.1 endorse the Officer's response to the issues raised by the submissions and recommended changes to the Amendment (set out in Attachments 1, 4 and 5) as the basis for Council's submission to the Panel;
 - 93.2 request the Minister for Planning to appoint an independent Planning Panel to consider the submissions received to Amendment C203port, in accordance with Part 8 of the Planning and Environment Act 1987;
 - 93.3 refer those submissions received to Amendment C203port to the Panel to be appointed by the Minister for Planning, including any late submissions; and
 - 93.4 write to all submitters to Amendment C203port to inform them of Council's decision.
94. The Panel has been previously provided with a copy of the Council meeting minutes and officer report of 2 March 2022.

STRATEGIC CONTEXT AND ASSESSMENT

95. A strategic assessment of the Amendment was set out in the exhibited Explanatory Report. Council adopts that assessment for the purposes of this submission. The key issues pertinent to the Panel's consideration of submissions are expanded on below.
96. In particular, Council highlights the Amendment's role in implementing:
- 96.1 the Victorian Government's Smart Planning Program, by translating the LPPF content into the new integrated PPF and MPS; and
 - 96.2 the recommendations of the Audit Report and other key pieces of strategic work undertaken by Council.
97. A response to the strategic issues raised in the submissions to the Amendment, and more particularly, those that questioned the strategic merit of particular aspects of the Amendment, will be addressed in Council's Part B submissions.

Amendment VC148 and the Smart Planning Program

98. In July 2018, Amendment VC148 introduced widespread changes to the Victoria Planning Provisions as part of Stage 2 of the Smart Planning Program.
99. Amendment VC148 implemented changes to the Victoria Planning Provisions and planning schemes to clarify, simplify and improve their structure, function and operation, and to remove unnecessary regulation.
100. More specifically, Amendment VC148:
- 100.1 introduced a new Planning Policy Framework;
 - 100.2 enabled the future introduction of an MPS;
 - 100.3 introduced a new State, regional and local integrated policy structure;
 - 100.4 modified the schedules to some existing zones, overlays and provisions to accommodate additional local content; and
 - 100.5 created new operational provisions.

101. The PPF is the policy content of a planning scheme containing State policy (which includes regional policy) and local policy in a thematically integrated form. The PPF is complemented by an MPS at Clause 02 of the planning scheme. The MPS is a succinct expression of the overarching strategic policy directions of the planning authority. The MPS replaces and updates the Municipal Strategic Statement.
102. The MPS provides:
- 102.1 the foundation for the planning scheme's policy based on a municipality's location, regional context, assets and strengths, opportunities and challenges;
 - 102.2 an understanding of the matters that are important to the municipality from a planning perspective;
 - 102.3 the context for the local and relevant State policies in Clauses 10-19; and
 - 102.4 an outline of what planning outcomes the municipality seeks to achieve, which are then implemented through controls and policy within the planning scheme.
103. The Amendment adopts the three-tiered format implemented by VC148 to ensure better alignment and integration of local planning policy with state planning policy, and which reflects the strategic directions for the municipality.
104. By doing so, the Amendment provides for the orderly use and development of the municipality, consistent with the objectives of planning in Victoria.
105. The PPF reduces duplication, clarifies objectives and strategies, updates statistical data and improves the clarity of maps. Content is also proposed to be moved into (or added to) particular and operational provisions, as appropriate.
106. The Amendment content has been drafted in accordance with the principles set out in *A Practitioner's Guide to Victorian Planning Schemes* to ensure policy content is:
- 106.1 within the scope of the PE Act and strategically justified;
 - 106.2 clear in its application, proportional to the intended planning outcome and consistent with relevant parent provisions, practice notes, advisory notes and ministerial directions issued by the Minister for Planning; and
 - 106.3 drafted to be clear and unambiguous.
107. In relation to heritage, the Amendment seeks to implement work produced as a result of the Heritage Program, to update the heritage related provisions and documents and address known issues and gaps in Council's heritage framework, which has not undergone review since the earlier *Port Phillip Heritage Review* and local heritage policy were introduced into the Scheme in 2000 through Amendment C5.
108. The addition of the local VicSmart provisions will formalise and replace Council's current 'Fast Track' process and better utilise the SPPF. It will provide for a more streamlined process, with clearer expectations and timeframes for applicants and more efficient use of Council resources.

Planning Policy Framework (PPF)

109. It is submitted that the strategic justification for the Amendment, and in particular the implementation of the key background documents (described above), is firmly grounded in the PPF. Some examples are outlined in the Clauses below.

110. Clause 11 (Settlement) implements the key principles of *Plan Melbourne 2017-2050 (Plan Melbourne)* including providing housing choice by planning for expected housing needs and making that housing more affordable.
111. Clause 15 (Built Environment and Heritage) provides that planning should protect places and sites with significant heritage, architectural, aesthetic, scientific and cultural value.
112. Clause 16 (Housing) emphasises the importance of providing quality housing that meets the growing and diverse needs of Victorians in locations in or around activity centres.
113. Clause 17 (Economic Development) seeks to encourage development which meets the community's needs for retail, entertainment, office and other commercial services and provides a net community benefit in relation to accessibility, efficient infrastructure use and sustainability of commercial facilities.
114. Clause 18 (Transport) encourages the creation of a safe and sustainable transport system and promotes the use of sustainable personal transport.
115. The Amendment introduces local policy in a format consistent with Amendment VC148 and the Ministerial Direction on the Form and Content of Planning Schemes.
116. Where appropriate, local policy content has been relocated to local schedules. For example, the relevant local policy content relating to gaming (currently at Clause 21.04 and 22.07) has been placed in the Schedule to Clause 52.28 (Gaming).
117. Where local schedules have been amended, the form of the schedule has been modified to accord with the current Ministerial Direction on the Form and Content of Planning Schemes.

Municipal Planning Strategy

118. In addition to translating provisions of the LPPF to the PPF, the Amendment also translates content previously contained in Clauses 21 and 22 to the MPS format in accordance with the Smart Planning Program objectives (in addition to including new content derived from Council adopted strategies).
119. In particular, the Amendment supports the MPS by translating Council's context, vision and strategic direction into new Clauses 02.01, 02.02, 02.03 and 02.04 as follows:

Content	
02.01 Context	Describes the planning schemes policy foundation, based on the municipality's location and regional context, history, assets, strengths, key attributes and influences derived from Council strategies and updated demographic data, previously contained in the LPPF at Clause 21.02 Municipal context and profile.
02.02 Vision	Introduces new content which establishes a vision for the municipality to be a vibrant, liveable and sustainable inner-city that the community can be proud of. The vision sets out the spatial response to the <i>Council Plan 2017-27</i> vision.
02.03 Strategic directions	Addresses the key land use themes based on the PPF and provides a brief overview and strategic directions for each theme, derived from adopted strategies across Council and based on content previously contained in the LPPF. Provides Port Phillip City Council's response to the implementation of <i>Plan Melbourne 2017-2050</i> , the MPS.

02.04**Strategic Framework Plan**

Includes new strategic framework plan maps that express the strategic framework for the municipality, based on various existing provisions and documents.

Clause 71.02 (Operation of the Planning Policy Framework)

120. Clause 71.02-1 sets out the purpose of the PPF as follows:

The Planning Policy Framework provides a context for spatial planning and decision making by planning and responsible authorities. The Planning Policy Framework is dynamic and will be built upon as planning policy is developed and refined, and changed as the needs of the community change. The Planning Policy Framework seeks to ensure that the objectives of planning in Victoria (as set out in section 4 of the Act) are fostered through appropriate land use and development planning policies and practices that integrate relevant environmental, social and economic factors in the interests of net community benefit and sustainable development.

121. Clause 71.02-3 requires Council as the Planning Authority (as well as in the context of considering an application a Responsible Authority) to:

... integrate the range of planning policies relevant to the issues to be determined and balance conflicting objectives in favour of net community benefit and sustainable development for the benefit of present and future generations.

122. Council submits the Amendment strikes an appropriate balance in accommodating and facilitating growth while recognising and protecting the heritage significance and public realm amenity of Council's activity centres and other parts of the municipality.

Ministerial Directions

123. The Amendment is consistent with the *Ministerial Direction on the Form and Content of Planning Schemes* issued under s 7(5) of the PE Act. The proposed ordinance changes have been prepared in accordance with the relevant requirements of the Ministerial Direction.

124. The Amendment has also been prepared in accordance with other relevant Ministerial directions:

124.1 Ministerial Direction No. 9 – Metropolitan Planning Strategy;

124.2 Ministerial Direction No. 11 – Strategic Assessment of Planning Scheme Amendments;

124.3 Ministerial Direction No. 14 – Ports Environs; and

124.4 Ministerial Direction No. 15 – The Planning Scheme Amendment Process.

125. The Amendment also directly addresses the principles set out in *A Practitioner's Guide to Victorian Planning Schemes*. In particular, the Amendment has been drafted to ensure policy content is:

125.1 within the scope of the Planning and Environment Act 1987 and is strategically justified;

125.2 clear in its application, proportional to the intended planning outcome and consistent with relevant parent provisions, practice notes, advisory notes and ministerial directions issued by the Minister for Planning; and

125.3 clear and unambiguous.

Planning Practice and Advisory Notes

126. The Amendment has been prepared in a manner consistent with the following Planning Practice Notes:
- 126.1 PPN32 - *Review of Planning Schemes (PPN32)* explains what a planning scheme review is and suggests a process for conducting and reporting the review;
 - 126.2 PPN61 – *Licensed premises: assessing cumulative impact (PPN61)* which explains cumulative impact in relation to licensed premises in the planning system. It provides guidelines that assist a permit applicant when considering and responding to the potential cumulative impact of their proposal and support a council when assessing the cumulative impact of licensed premises as part of a planning permit application. It also provides guidance on preparing and assessing an application under Clause 52.27 of the planning scheme. Council has had regard to PPN61 when preparing the proposed local VicSmart provisions relating to licensed premises.
 - 126.3 PPN01 – *Applying the Heritage Overlay (PPN01)*, which provides guidance about the use of the Heritage Overlay and about what properties should be included in it, with reference to 'recognised heritage criteria' for the assessment of heritage values of a heritage place. Of relevance to this Amendment, PPN01 advises "The schedule allows for application requirements to be specified".
127. The Amendment has also been prepared with regard to the following Planning Practice Notes and Planning Advisory Notes:
- 127.1 PPN13 – *Incorporated and Background Documents (PPN13)*;
 - 127.2 PPN46 – *Strategic Assessment Guidelines (PPN46)*;
 - 127.3 PPN74 – *Availability of planning documents (PPN74)*.
 - 127.4 PPN77 – *Pre-setting panel hearing dates (PPN77)*;
 - 127.5 PPN94 – *Land use and transport integration (PPN94)*; and
 - 127.6 Planning Advisory Note 55 – *VicSmart Planning Assessment (AN55)*;
 - 127.7 Planning Advisory Note 71 – *Amendment VC148 – Planning Policy Framework (AN71)*; and
 - 127.8 Planning Advisory Note 72 – *Amendment VC148 – Victoria Planning Provisions (VPP) and Planning Schemes (AN72)*.

Other relevant strategic documents

Plan Melbourne 2017-2050

128. The Amendment supports and facilitates the delivery of *Plan Melbourne 2017-2050 (Plan Melbourne)*.
129. The Amendment supports the following key directions and policies from Plan Melbourne:

- 129.1 Direction 1.1 - Create a city structure that strengthens Melbourne's competitiveness for jobs and investment;
 - 129.2 Direction 1.2 - Improve access to jobs across Melbourne and closer to where people live;
 - 129.3 Direction 2.1 - Manage the supply of new housing in the right locations to meet population growth and create a sustainable city;
 - 129.4 Policy 2.1.2 – Facilitate an increased percentage of new housing in established areas to create a city of 20-minute neighbourhoods close to existing services, jobs and public transport;
 - 129.5 Policy 2.1.4 – Provide certainty about the scale of growth in the suburbs;
 - 129.6 Direction 2.2 – Deliver more housing close to jobs and public transport;
 - 129.7 Policy 2.2.3 – Support new housing in activity centres and other places that offer good access to jobs, services and public transport;
 - 129.8 Direction 2.3 - Increase the supply of social and affordable housing;
 - 129.9 Direction 2.4 - Facilitate decision-making processes for housing in the right locations;
 - 129.10 Direction 2.5 - Provide greater choice and diversity of housing;
 - 129.11 Direction 4.3 – Achieve and promise design excellence;
 - 129.12 Policy 4.3.1 – Promote urban design excellence in every aspect of the built environment;
 - 129.13 Direction 4.4 – Respect Melbourne's heritage as we build for the future;
 - 129.14 Policy 4.4.1 – Recognise the value of heritage when managing growth and change;
 - 129.15 Direction 5.1 – Create a city of 20-minute neighbourhoods;
 - 129.16 Policy 5.1.1 – Create mixed-use neighbourhoods at varying densities; and
 - 129.17 Policy 5.1.2 – Support a network of vibrant neighbourhood activity centres.
130. In particular Clause 02.03 (Strategic Directions) provides Port Phillip's response to the implementation of Plan Melbourne.

The objectives of planning in Victoria

131. Finally, Council submits that the Amendment implement the objectives of planning in Victoria, as set out in section 4(1) of the PE Act. In particular, it will do so by:
- 131.1 implementing the Audit Report and restructuring and updating local policy content into the MPS, PPF and local schedules. In doing so, the Amendment will clarify, condense and modernise the Port Phillip Planning Scheme. This will ensure fair and orderly use and development outcomes and facilitate appropriate development. The Amendment provides certainty to users of the Scheme and provides clear strategic direction that will inform decision making regarding use and development in the municipality, consistent with these objectives;

- 131.2 updating the local heritage provisions and documents. The Scheme will continue to conserve and enhance places of significance in accordance with current heritage practices; and
- 131.3 introducing local VicSmart application types into the Scheme. The faster, simpler and more consistent processing of these applications will have economic benefits through the reduction of regulatory and administrative burden for both permit applicants and Council.

ISSUES IDENTIFIED IN SUBMISSIONS

General themes in submissions

- 132. The issues raised in submissions are briefly summarised below:
 - 132.1 concern around Council's approach to heritage and assessing planning permit applications under the Heritage Overlay. Submitters request refinements to the Heritage Design Guidelines, and proposed Clause 15.03-1L (Heritage) to address this;
 - 132.2 concern that the proposed ESD policy has been weakened by the removal of references to best practice. Other changes to the ESD policy are also recommended by submitters;
 - 132.3 requests the removal of exemptions to mandatory height controls in the Design and Development Overlay Schedule 26 (DDO26) relating to the St Kilda Road North Precinct;
 - 132.4 requests the preparation of a stand along policy for rooming houses and social housing to manage amenity issues and regulate rents charges to tenants.
- 133. The Officer Report dated 2 March 2022 provides a detailed summary of the key issues raised in the submissions, together with the Officers' response to these issues. Attachment 1 to the Officer Report includes a summary of the key issues raised in submissions and the Officers' response to these issues.
- 134. The Council Officers' response to submissions as refined by Council in its resolution of 2 March 2022 is adopted by Council for the purposes of the Panel hearing. Council will expand on the key issues raised by submitters through its Part B submissions at the Panel hearing.

SUGGESTED CHANGES TO THE AMENDMENT IN RESPONSE TO SUBMISSIONS

- 135. Some changes are required to the Amendment as a result of Council's consideration of submissions.
- 136. In response to submissions regarding the adequacy of the Heritage Design Guidelines and the local heritage policy proposed at Clause 15.03-1L (Heritage) Officers recommended minor changes to these two documents.
- 137. In relation to the proposed heritage policy at Clause 15.03-1L, Officers recommended minor changes to improve the clarity of the policy. The changes do not alter the intent of the policy as exhibited.
- 138. Minor changes were also recommended to the Heritage Design Guidelines. The changes include:

- 138.1 updating the demolition guidelines to acknowledge that some places in the Heritage Overlay and graded as 'Significant' do not have an accompanying Statement of Significance;
- 138.2 inserting greater direction around the proportion of a building to be conserved; and
- 138.3 other minor clarifications.
139. Copies of the revised Clause 15.03-1L and Heritage Design Guidelines in response to submissions is included as **Attachment 4** and **Attachment 5** (respectively) to the Council Officer Report of 2 March 2022.
140. In relation to the other issues raised, Council Officers recommended that no change was required to the Amendment because either the submission raised issues that were already addressed by the Amendment or would require further strategic work to be undertaken and are therefore outside of the Amendment.
141. On 2 March 2022, at its Council meeting, Council considered all submissions and resolved (among other things) to:
- 141.1 endorse the Officer's response to the issues raised by the submissions and recommended changes to the Amendment (set out in Attachments 1, 4 and 5) as the basis for Council's submission to the Panel;
- 141.2 request the Minister for Planning to appoint an independent Planning Panel to consider the submissions received to Amendment C203port, in accordance with Part 8 of the Planning and Environment Act 1987;
- 141.3 refer those submissions received to Amendment C203port to the Panel to be appointed by the Minister for Planning, including any late submissions;
- 141.4 write to all submitters to Amendment C203port to inform them of Council's decision.
142. The Panel has been previously provided with a copy of the Council meeting minutes and Officer Report of 2 March 2022.
143. Council also proposes to make minor administrative amendments, in the nature of clarifications or corrections, which will be set out in Council's Part B submission.

CONCLUSION

144. This completes the 'Part A' submission for the Council.



Maria Marshall
Maddocks
Lawyers for the Planning Authority
23 May 2022

LIST OF ATTACHMENTS

- **Attachment A** – a chronology of events
- **Attachment B** – Council Meeting Minutes (Resolution) and Agenda (Officer Report) of 7 July 2021 (relevant extract)
- **Attachment C** – Council Meeting Minutes (Resolution) and Agenda (Officer Report) of 2 March 2022 (relevant extract)

ATTACHMENT A – CHRONOLOGY OF EVENTS

Date	Event / Description
2017-2018	<i>Port Phillip Planning Scheme Review</i> undertaken
23 May 2018	<i>Port Phillip Planning Scheme Review Audit Report</i> finalised
6 June 2018	<i>Port Phillip Planning Scheme Review Audit Report</i> adopted
7 July 2021	Council resolved to request the Minister for Planning give authorisation to prepare the Amendment
5 October 2021	Council received authorisation to prepare the Amendment
11 November 2021	Exhibition period commenced
17 December 2021	Exhibition period concluded
2 March 2022	Council resolved to request the Minister for Planning appoint a Planning Panel to consider submissions received in relation to the Amendment
22 March 2022	Planning Panel appointed
5 April 2022	Directions hearing held
6 June 2022	Panel Hearing commences



Maddocks

ATTACHMENT B – COUNCIL MEETING MINUTES AND AGENDA (7 JULY 2021)



MEETING OF THE PORT PHILLIP CITY COUNCIL

MINUTES

7 JULY 2021



Please consider
the environment
before printing



Consider carefully how
the information in this
document is transmitted



10. LIVEABLE PORT PHILLIP

Nil.

11. SUSTAINABLE PORT PHILLIP

Nil.

12. VIBRANT PORT PHILLIP

12.1 Preparation and exhibition of Amendment C203port Planning Scheme Review

Purpose

- 1.1 For Council to request Ministerial Authorisation to prepare and exhibit Amendment C203port Planning Scheme Review to the Port Phillip Planning Scheme.

MOVED Crs Copsey/Martin

That Council:

- 3.1 Endorse the draft Municipal Planning Strategy, local policies and supporting documents as a basis for Amendment C203port to the Port Phillip Planning Scheme.
- 3.2 Resolve to prepare Amendment C203port to the Port Phillip Planning Scheme to implement the Planning Scheme Review, generally in accordance with the documentation at **Attachments 1-25**.
- 3.3 Delegates authority to the CEO to reflect any changes made by Council at tonight's meeting which are not reflected in **Attachments 1-25**, to make minor corrections and updates, and to make editorial changes that reflect any changed obligations to Council required by state government agencies.
- 3.4 Request the Minister for Planning to authorise the preparation and exhibition of Amendment C203port to the Port Phillip Planning Scheme, pursuant to Section 8A of the Planning and Environment Act 1987.
- 3.5 Place Amendment C203port on exhibition, in accordance with Section 19 of the Planning and Environment Act 1987, subject to Ministerial Authorisation.

A vote was taken and the MOTION was CARRIED unanimously.

13. WELL GOVERNED PORT PHILLIP

13.1 Local Festivals Fund - Revised Guidelines and Criteria

The CEO advised that in light of matters raised immediately prior to the meeting, and in accordance with Governance Rules 19 and 69, that he was seeking consent of the Mayor to remove the matter from the Agenda to obtain advice on the proposed resolution. The Mayor approved and the item was removed.



**12.1 PREPARATION AND EXHIBITION OF AMENDMENT
C203PORT PLANNING SCHEME REVIEW**

**EXECUTIVE MEMBER: KYLIE BENNETTS, GENERAL MANAGER, CITY GROWTH AND
ORGANISATIONAL CAPABILITY**

**PREPARED BY: KATHRYN POUND, ACTING MANAGER CITY STRATEGY DESIGN
AND SUSTAINABILITY**

1. PURPOSE

- 1.1 For Council to request Ministerial Authorisation to prepare and exhibit Amendment C203port Planning Scheme Review to the Port Phillip Planning Scheme.

2. EXECUTIVE SUMMARY

- 2.1 The City of Port Phillip Planning Scheme Review (**the Review**) is a targeted review of local content to improve the usability and efficiency of the planning scheme and enable better decision making. The Review has been underway since 2018 through the preparation of the *Port Phillip Planning Scheme Review Audit Report* (23 May 2018) (**the 2018 Audit Report**).
- 2.2 The Review will be implemented into the planning scheme through Planning Scheme Amendment C203port (**the Amendment**).
- 2.3 All local content currently contained in the Municipal Strategic Statement and local policies has been reviewed and translated into a new format to comply with State Government changes. New background documents will be introduced and some existing ones (and one Incorporated document) will be amended. Local VicSmart planning provisions will be introduced. Updates to heritage provisions are proposed to deliver work produced through the Heritage Program.
- 2.4 A full list of proposed changes to the planning scheme with a summary of key changes is contained in **Attachment 1**. A full copy of all proposed provisions marked up to show what content is new and where it has been sourced from is contained in **Attachment 2**.
- 2.5 This report recommends that a request be made for Ministerial Authorisation to prepare and exhibit Amendment C203port Planning Scheme Review to the Port Phillip Planning Scheme. The Amendment would be put on public exhibition in September 2021.

3. RECOMMENDATION

That Council:

- 3.1 Endorse the draft Municipal Planning Strategy, local policies and supporting documents as a basis for Amendment C203port to the Port Phillip Planning Scheme.
- 3.2 Resolve to prepare Amendment C203port to the Port Phillip Planning Scheme to implement the Planning Scheme Review, generally in accordance with the documentation at **Attachments 1-25**.
- 3.3 Delegates authority to the CEO to reflect any changes made by Council at tonight's meeting which are not reflected in **Attachments 1-25**, to make minor corrections and updates, and to make editorial changes that reflect any changed obligations to Council required by state government agencies.



- 3.4 Request the Minister for Planning to authorise the preparation and exhibition of Amendment C203port to the Port Phillip Planning Scheme, pursuant to Section 8A of the Planning and Environment Act 1987.
- 3.5 Place Amendment C203port on exhibition, in accordance with Section 19 of the Planning and Environment Act 1987, subject to Ministerial Authorisation.

4. KEY POINTS/ISSUES

- 4.1 The Review is a targeted review of local content to improve the usability and efficiency of the planning scheme and enable better decision making. In particular it:
 - Delivers Council's statutory obligation as Responsible Planning Authority under the *Planning and Environment Act 1987 (the Act)* to undertake a regular review of its planning scheme. The last review commenced in 2006 and was completed in 2011. It does this by:
 - Implementing recommendations of the 2018 Audit report.
 - Making generally minor updates to local content to implement Council documents and strategies adopted or prepared since the last Planning Scheme Review, including the *Council Plan 2017-27, Act and Adapt, Don't Waste It, In Our Backyard, Art + Soul, Move, Connect, Live* and *Draft Public Space Strategy*.
 - Removing obsolete incorporated and reference documents.
 - Restructures and redrafts all local policy content to align with Victorian Government required changes to the format and drafting of planning schemes brought in through Amendment VC148 in 2018.
 - Updates the local heritage policy to implement new *Port Phillip Heritage Design Guidelines* (City of Port Phillip, 2021) which address known gaps and issues, and introduce the new *Heritage Design Guidelines* as a background document.
 - Introduces new local VicSmart planning provisions.
- 4.2 Each of these key outcomes is discussed in turn as follows:

Council's obligation to review the planning scheme & the 2018 Audit Report

- 4.3 Council has a statutory obligation as Responsible Planning Authority under the Act to undertake regular reviews of its planning scheme. The last review occurred when Amendment C62 was gazetted into the planning scheme on 27 June 2011. Amendment C62 implemented recommendations from a 2006 audit of the planning scheme.
- 4.4 Council planning officers undertook a comprehensive audit of the planning scheme in 2018. The *Port Phillip Planning Scheme Review Audit Report* (23 May 2018) (**the 2018 Audit Report**) makes 86 recommendations ranging from relatively minor corrections to improvements to Council processes and recommending significant further strategic work to reform key policy within the Scheme relating to housing, heritage, neighbourhood character, urban design, employment, transport, sustainability and public open space. Many, but not all, of these recommendations will be addressed through this review. The 2018 Audit Report is contained at **Attachment 25**.
- 4.5 At an Ordinary meeting of Council on 6 June 2018, Council resolved to adopt the 2018 Audit Report, submit it to the Minister for Planning under the *Planning and Environment Act 1987* and to commence progress with a program of updates to the local content



(policy and provisions) generally in accordance with the recommendations of the 2018 Audit Report.

- 4.6 Consequently, the 2018 Audit Report was submitted to the Minister for Planning, and the review of local content was commenced by planning officers.

New Victorian Government requirements on the form and content of planning schemes – Amendment VC148

- 4.7 Another key driver of the Review has been the Victorian Government's requirement for local content within planning schemes to be updated and translated into a new format. Reformed planning schemes were introduced through state-wide Amendment VC148 which was gazetted in 2018.

- 4.8 The key changes brought in by Amendment VC148 include:

- Introducing a new Municipal Planning Strategy at Clause 2 (with content taken in part from the existing Municipal Strategic Statement).
- Relocating content from the Municipal Strategic Statement and local policies at Clauses 21 and 22 to sit under the Planning Policy Framework at Clauses 10-19 directly beneath the relevant state provision.
- Changes to the structure of provisions, including to what can and cannot be included. For instance, it is no longer possible to include application requirements in the planning policy framework.

- 4.9 The Victorian Government allocated resources through DELWP's Smart Planning program to assist Councils to translate and redraft their local policy content. The local policy content has gone through a lengthy review process with DELWP staff who have provided detailed feedback on three drafts in August 2020, December 2020 and March 2021.

Alignment with Council Plan and policies

- 4.10 A key aim of the Review is to update local policy content to align with various adopted Council policies and the *Council Plan 2017-27*. This includes *Act and Adapt, Don't Waste It, In Our Backyard, Art + Soul, Move, Connect, Live* and *Public Space Strategy*.

- 4.11 The list at **Attachment 1** outlines which local provisions these documents have informed.

- 4.12 The new Council Plan 2021-2031 has recently been adopted by Council and it would be ideal to align this into the planning scheme through the Review. This is not possible because Council would not meet the State government's requirements to commence the implementation of the new format planning scheme. Future policy changes can be included in subsequent reviews.

Implementation of new heritage work

- 4.13 The 2017-2021 City of Port Phillip Heritage Program has produced a significant amount of work which is ready to be implemented into the planning scheme. This is discussed in further detail below.

Introduction of local VicSmart planning permit applications

- 4.14 A key recommendation of the 2018 Audit Report was to introduce local VicSmart applications into the planning scheme.



- 4.15 The Victorian Government introduced VicSmart planning permit applications for certain types of development in 2014. In 2017 provisions were introduced so that Councils could introduce their own additional VicSmart application types.
- 4.16 VicSmart is a streamlined assessment process for straightforward planning permit applications. An application identified in the Planning Scheme as being VicSmart has specified requirements for information, assessment processes and decision guidelines. Key features of VicSmart include:
- A 10-day application process.
 - Applications are not advertised and there are no third party appeal rights (i.e. objectors cannot appeal a decision to VCAT).
 - Information requirements are pre-determined.
 - What Council can consider when making a decision is limited.
- 4.17 Before VicSmart applications were introduced, in 2011 Council's City Development Unit developed a Fast Track application stream for certain minor application types. This streamlines the assessment process of eligible minor applications to 10 days for the cost of an additional fee. Council also employs a Fast Track Planner to deal with these applications (and VicSmart ones).
- 4.18 As part of the Review, in consultation with City Development, it is proposed to introduce 12 new VicSmart application types for minor application types. Eleven of the application types are already processed through Council's Fast Track service. These eleven types relate to planning permit triggers for minor buildings and works under the Heritage Overlay, Design and Development Overlay and commercial zones in addition to some types of signs. The one new category proposed is for certain liquor licence applications in limited circumstances.
- 4.19 This will essentially formalise and replace the Fast Track process and better utilise the state planning provisions. It will provide for a more streamlined process, with clearer expectations and timeframes for applicants and more efficient use of Council resources.
- 4.20 The proposed VicSmart provisions are contained in full **Attachment 4**. The VicSmart Strategic Assessment Report sets out a full background and overview of the proposed provisions and is contained at **Attachment 23**.

Key proposed changes forming part of the Amendment

Local policy translation

- 4.21 All local content currently contained in the Municipal Strategic Statement and local policies is being reviewed and translated into a new format, and several background documents will be introduced or amended. A full list of proposed changes to the planning scheme with a summary of key changes is contained in **Attachment 1**. A full copy of all proposed provisions is contained in **Attachment 2** (with source referencing) and **Attachment 3** (clean official version).
- 4.22 Much of the content translation has been policy neutral. This is because this work is a targeted review of local policy content based on strategic work that has been produced by Council since the last Planning Scheme Review was completed in 2011. It is not a wholesale review of all local planning policy objectives and is not an opportunity to review zoning and overlay controls that apply to specific parcels of land. Further strategic work would be required before such changes could be made. Careful



communication is required as part of the exhibition process to ensure that the community understands this.

- 4.23 There are some limited instances where changes have been made to the local policy content that do not seek to implement an adopted Council document. These instances are captured in column 2 of the table in **Attachment 1**. Overall, these changes are of a minor nature and do not change the intent of any existing policy. Rather, they generally seek to augment the existing policy by filling a known policy gap and/ or respond to a recommendation of the 2018 Audit report.

Updates to heritage provisions

- 4.24 The Amendment will make a number of changes to heritage provisions in the planning scheme to implement work produced through Council's Heritage Program:
- New Heritage Design Guidelines will be introduced as a background document to the planning scheme.
 - Updated local heritage policy will sit at Clause 15.03-1L to replace the existing policy at Clause 22.04. Key changes implement the new Heritage Design Guidelines.
 - Updated Fishermans Bend Estate Heritage Design Guidelines and Garden Estate Heritage Design Guidelines will be updated as background documents to the planning scheme. The updates comprise generally minor changes to align with the new Heritage Design Guidelines and correct identified errors.
- 4.25 A new Thematic Environmental History was also produced through Council's Heritage Program and was intended to be introduced as a background document as part of the PSR Amendment. However the Victorian Aboriginal Heritage Council recently advised Council that they consider that the traditional owners of the land of Port Phillip are represented by the Bunurong Land Council Aboriginal Corporation (BLCAC) and Wurundjeri Woi-wurrung Cultural Heritage Aboriginal Corporation (WWWCHAC). In light of this, the Thematic Environmental History requires further review and consultation before it can be implemented into the planning scheme.
- 4.26 The Heritage Updates Strategic Assessment Report sets out a full background and overview of the proposed changes and is contained at **Attachment 24**. Key changes are discussed as follows:
- New Heritage design guidelines*
- 4.27 New Heritage Design Guidelines will be introduced as a background document to the planning scheme. The Guidelines were produced under Council's 2017-2021 Heritage Program. They were prepared by Council Heritage, Urban Design and Planning staff in 2019-20, following targeted stakeholder consultation.
- 4.28 The Guidelines are a user-friendly document, containing images and pictures alongside text. They are aimed at prospective applicants, to explain to them what heritage outcomes are sought by Council, and how they can be achieved.
- 4.29 The Guidelines comprise detailed guidelines for eleven development themes. They seek to respond to key challenges and gaps identified by Council, including through public consultation on *Heritage Here and Now*, the recommendations of the *Port Phillip Planning Scheme Review Audit Report* (23 May 2018) and by internal reviews.
- 4.30 The Guidelines are proposed to be a background document to the planning scheme. Background documents do not form part of the planning scheme, but provide



background and explanation to provisions (in this case, to the updated local heritage policy).

Updates to local heritage policy

- 4.31 Council's existing local heritage policy at Clause 22.04 has not been reviewed since its introduction into the planning scheme in 2000 (Amendment C5). It applies to the assessment of all planning permit applications where the Heritage Overlay is a permit trigger. There is a large number of properties within the Heritage Overlay (approximately 60% of the municipality). The Heritage Overlay contains planning permit triggers for a number of different development types. Therefore this policy is one of the most frequently relied on policies in planning permit decision making.
- 4.32 Updated local heritage policy will sit at Clause 15.03-1L to replace the existing policy at Clause 22.04. Key changes implement the new Heritage design guidelines.
- 4.33 Key changes proposed to the local heritage policy include the inclusion of new strategies for conservation, significant trees and gardens, sustainability and services, relocation, fencing, signage, subdivision and public realm and infrastructure. Revised strategies and policies are also proposed for demolition, visibility of additions and car parking).
- 4.34 The updated Policy is proposed to comprise:
- **Policy application** specifying that the policy applies to all land within the Heritage Overlay
 - **General strategies** that are of an overarching nature and relevant to all applications
 - **Strategies** for each of the eleven development themes outlined in the Guidelines
 - **Policy guidelines** for additions
 - **Policy documents** which are the relevant Incorporated and Background documents (such as the City of Port Phillip Heritage Review)
- 4.35 Key changes proposed to the Policy are:
- General:**
- Removal of provisions that duplicate state provisions
 - Use of consistent, plain-English terminology (except where technical and defined terms are relevant)
 - Focus on 'what' outcomes are sought, with detailed explanation of 'how' these outcomes will be achieved contained within the Guidelines
 - Deletion of objectives (no longer permitted under Victorian government drafting requirements)
- Strategies and policies:**
- Inclusion of specific strategies for conservation, significant trees and gardens, sustainability and services, relocation, fencing, signage, subdivision and public realm and infrastructure
 - Revised strategies and policies for demolition, visibility of additions and car parking
 - Increase from three illustrations to eight figures to depict specific outcomes sought.
- 4.36 A detailed list of changes is contained in the Heritage Updates Strategic Assessment Report at **Attachment 24**.



Local ESD policy

4.37 The proposed local ESD policy at Clause 15.02-1L (contained in **Attachment 3**) is in the form proposed by CASBE and Council’s officers. It differs from the current DELWP accepted version in the drafting of the second strategy, shown in the table below:

DELWP approved second strategy	CASBE & Council’s proposed second strategy
<p><i>Encourage environmentally sustainable development that:</i></p> <ul style="list-style-type: none"> • <i>Is consistent with the type and scale of the development.</i> • <i>Responds to site opportunities and constraints.</i> • <i>Uses a combination of methods, processes and locally available technology that demonstrably minimise environmental impacts.</i> 	<p><i>Achieve Best Practice environmentally sustainable development that:</i></p> <ul style="list-style-type: none"> • <i>Is relevant to the type and scale of development.</i> • <i>Responds to site opportunities and constraints.</i> • <i>Utilises a combination of locally available techniques, methodologies and systems that have demonstrated to achieve optimum ESD outcomes.</i> • <i>Encompass the full life of the build.</i>

4.38 DELWP Officers have advised Council Officers that this drafting is not supported. Therefore the Minister for Planning may include conditions at either the authorisation or final approval stage for the Amendment to require the wording be amended. It is not unusual for the Minister to require some changes to an amendment at either stage.

4.39 However, separate to this Amendment process, Council and CASBE have made submissions to the City of Yarra planning scheme amendment which proposes to update their local ESD policy in the same way (subject to minor tweaks consistent with CASBE’s latest position). Therefore, this drafting will be considered by an independent Panel who will make recommendations on this wording.

4.40 Separate to this Planning Scheme review process, Council is also part of a group led by CASBE seeking to review the local ESD policy and develop strategic justification to update various requirements and performance measures. If following this work, Council resolves to proceed with an update to the ESD Policy, this would require a separate Planning Scheme Amendment and would most likely supersede the version under the Planning Scheme Review.

Local Fishermans Bend policy

4.41 DELWP has taken on the role of translating the local policy content for Fishermans Bend into the new format, with input from Council, the Fishermans Bend Taskforce and City of Melbourne (who also have local Fishermans Bend content requiring translation which should be consistent with Council’s policy). The new local policy will likely sit at Clause 11.03-6L under ‘Planning for Places’ (along with all other place specific content)

4.42 To date, the translation has not been resolved. To ensure this does not delay the Amendment, it is proposed to omit the translated local policy for Fishermans Bend from the Amendment. Instead, it would be implemented into the planning scheme through a separate stand-alone amendment. This would likely be administered by DELWP and undertaken without public notice (because it would be wholly policy neutral).



5. CONSULTATION AND STAKEHOLDERS

Consultation to date

- 5.1 Extensive consultation on the translated local provisions has occurred with DELWP officers and Council officers.
- 5.2 The Heritage Design Guidelines underwent targeted stakeholder consultation in 2019, which informed the latest draft.

Exhibition of the Amendment

- 5.3 Amendment C203port is proposed to undergo a full statutory exhibition process for four (4) weeks, in accordance with the Act. This is expected to occur in September. This would include:
 - General 'Drop-in session/s' held in-person or online (depending on Covid constraints) with Council officers available to provide information.
 - Heritage specific 'Drop-in session/s' held in-person or online (depending on Covid constraints) with Council officers and Council's Heritage Advisor to provide information specifically about the heritage components.
 - Publication of a Public Notice in the government Gazette.
 - Direct notice sent to owners and occupiers of properties where an incorporated plan applies and is proposed to be removed.
 - Direct notice sent to statutory agencies, relevant Registered Aboriginal Party/s, adjoining Councils and people known to have participated in previous consultation on the heritage guidelines and thematic history.
 - A dedicated Council webpage on the 'Have your say' website with an explanation of the Amendment and relevant documentation.
 - Relevant documentation made publicly available in Council's Town Halls and libraries. Anyone can also request a hard copy of the documentation in the event that Covid impacts these premises being open or otherwise affects people's ability to view the documentation in person or online.
- 5.4 The exhibition process provides a formal opportunity for all interested parties to make a written submission on the proposed amendment.
- 5.5 All submissions received to the Amendment will be reported to Council. Any submissions that cannot be resolved will be referred to an independent Planning Panel for review and recommendation prior to any decision by Council to adopt or abandon the amendment.

6. LEGAL AND RISK IMPLICATIONS

- 6.1 The Amendment will be undertaken in accordance with the statutory requirements of the Act.
- 6.2 Council has a statutory obligation to regularly review the planning scheme under the Act, and to translate its local provisions into the new format planning scheme introduced by the state government in 2018.
- 6.3 There is a risk to Council in failing to regularly review the planning scheme. Where content becomes out-of-date and misaligned to other Council policies, the consistency and quality of decision making on planning permit applications and planning scheme amendments can be affected and there is a risk of decisions not being upheld at VCAT.



There is also a risk of local policies becoming less effective in delivering local objectives in planning decision making.

- 6.4 There is a risk to Council in delaying the amendment process to translate the local provisions into the new format planning scheme. This includes a risk that DELWP will do the translation without consulting Council, meaning Council has no say over how the translation occurs and the final output.

7. FINANCIAL IMPACT

- 7.1 The costs associated with undertaking the Amendment will be funded through the Planning Scheme Amendment 2021-22 program budget.
- 7.2 The expenses include payment of statutory fees, notification costs during public exhibition and running an independent Planning Panel hearing if there are any unresolved submissions.

8. ENVIRONMENTAL IMPACT

- 8.1 There will be a positive environmental impact from aligning the planning scheme with Council's existing vision and priorities including *Act and Adapt, Move, Connect, Live and Don't Waste It*.

9. COMMUNITY IMPACT

- 9.1 There will be a positive community impact from aligning the planning scheme with Council's existing vision and priorities.

10. ALIGNMENT TO COUNCIL PLAN AND COUNCIL POLICY

- 10.1 The Amendment is consistent with the Council Plan 2021-2031 Direction 2 'Liveable Port Phillip'.

11. IMPLEMENTATION STRATEGY

Timeline

- 11.1 Should the Planning Committee decide to proceed with the amendment, a request for Ministerial authorisation for the Amendment will be sent to the Minister for Planning.
- 11.2 Once authorisation is received, the Amendment will commence public exhibition, providing a formal opportunity for all interested parties to make a written submission on the proposed amendment. This is anticipated to occur in September 2021.

Communication

- 11.3 Information about the Amendment and the upcoming exhibition process will be provided on both Council's normal website and Have Your Say page.
- 11.4 If authorised, the Amendment will be publicly exhibited pursuant to s 19 of the Act (refer Section 5 - Consultation and stakeholders).

12. OFFICER DIRECT OR INDIRECT INTEREST

- 12.1 No officers involved in the preparation of this report have any direct or indirect interest in the matter.

MEETING OF THE PORT PHILLIP CITY COUNCIL

7 JULY 2021



TRIM FILE NO: 66/02/291-001

- ATTACHMENTS**
1. Attachment 1 - Overview of Changes to the Planning Scheme
 2. Attachment 2 - Proposed new provisions with source information
 3. Attachment 3 - Amendment documentation for Authorisation
 4. Attachment 4 - Act and Adapt - Sustainable Environment Strategy 2018 - 2028 (City of Port Phillip , 2018)
 5. Attachment 5 - Activating Laneways Strategy (City of Port Phillip July 2011 , adopted 22 August 2011)
 6. Attachment 6 - Art and Soul - Creative and Prosperous City Strategy 2018 - 2022 (City of Port Phillip , 2018)
 7. Attachment 7 - Australian Rainfall and Runoff - A Guide to Flood Estimation - Book 9 Runoff in Urban Areas (Commonwealth of Australia 2019)
 8. Attachment 8 - Car Share Policy 2016 - 2021 (City of Port Phillip , 2018)
 9. Attachment 9 - City of Port Phillip Biodiversity Study (Arcadis , 2020)
 10. Attachment 10 - City of Port Phillip Council Plan 2017 - 2027 full accessible version (City of Port Phillip , 2017)
 11. Attachment 11 - City of Port Phillip Housing Needs Assessment and Allocations Framework (Beverley Kliger & Associates , 2019)
 12. Attachment 12 - Compliance Guidelines For Clause 22.12 Stormwater Management WSUD (City of Port Phillip , 2017)
 13. Attachment 13 - Dont Waste It! - Waste Management Strategy 2018 - 2028 (City of Port Phillip, 2018)
 14. Attachment 14 - Getting Our Community Active - Sport and Recreation Strategy 2015 - 2024 (City of Port Phillip, 2015)
 15. Attachment 15 - Greening Port Phillip Strategy - An Urban Forest Approach 2010 (City of Port Phillip, 2010)
 16. Attachment 16 - Guidelines for Preparing a Waste Management Plan 2019 (City of Port Phillip, 2019)
 17. Attachment 17 - Heritage Design Guidelines (City of Port Phillip, 2021)
 18. Attachment 18 - Move Connect Live - Integrated Transport Strategy (City of Port Phillip, 2018)
 19. Attachment 19 - Fishermans Bend Guidelines (City of Port Phillip, updated 2021)
 20. Attachment 20 - Garden City Guidelines (City of Port Phillip, updated 2021)
 21. Attachment 21 - Public Space Strategy Draft V3 (City of Port Phillip, August 2020)
 22. Attachment 22 - Recreational Boating Facilities Framework (Central Coastal Board 2014)
 23. Attachment 23 - VicSmart Strategic Assessment Report June 2021
 24. Attachment 24 - Heritage Strategic Assessment Report - June 2021
 25. Attachment 25 - Port Phillip Planning Scheme Audit Report May 2018

****Due to the volume of attachments, these have been provided in separate pdf documents alongside the agenda.***



ATTACHMENT C – COUNCIL MEETING MINUTES AND AGENDA (2 MARCH 2022)



MEETING OF THE PORT PHILLIP CITY COUNCIL

MINUTES

2 MARCH 2022



Please consider
the environment
before printing



Consider carefully how
the information in this
document is transmitted



3. Investigates and analyses further possible funding options including seeking clarity from the VSBA on funding options and timeframes.
4. Includes and applies the following principles in analysing the viability of options to inform the Options Analysis Report required in 2 above:
 - No permanent loss of the total places in council operated or community managed centres in Elwood, East St Kilda or St Kilda as reported in the KISP.
 - Buildings to be fit for purpose and compliant with any regulatory requirements, including DDA compliance (with necessary exemptions).
 - Centres that service the local area and promote healthy travel to centres.
 - Provides families access to a variety of models and scale of centres.
 - Maximises funding opportunities from state or federal governments.
 - Broader community benefit including gender considerations.
 - Alignment with Council's adopted policies
5. Notes that Council will not make a final decision on the sale of the properties and the future of the services until they have the feedback from the community engagement, and the options analysis.
6. In relation to the potential sale of 17 Eildon Road, St Kilda, moves the indicative timing of its settlement from early 2023 to the end of 2023.
7. Acknowledges the value provided by the respective centres to the community and the municipality, and as a matter of principle, shall endeavour to minimise the uncertainty and disruption to the delivery of those services.
8. Notes that the CEO and officers will continue to work collaboratively with the Committees of Management from each of the three centres.
9. Requests the CEO to bring back options for support for the centres during this process such as (but not limited to) a reduction in maintenance levies

A vote was taken and the MOTION was CARRIED.

Cr Crawford called for a Division

For: Cr Sirakoff, Cr Copey, Cr Consolo, Cr Pearl, Cr Martin, Cr Crawford, Cr Baxter

Against: Cr Clark

Abstained: Cr Bond

The motion was CARRIED.

11. SUSTAINABLE PORT PHILLIP

11.1 Amendment C203port (Planning Scheme Review) - Consideration of submissions

Purpose



- 1.1 To consider written submissions received to Amendment C203 (Planning Scheme Review) to the Port Phillip Planning Scheme during the public exhibition stage.
- 1.2 To determine whether to request the Minister for Planning to appoint an independent Planning Panel to consider submissions and the Amendment.
- 1.3 To consider endorsing a response to issues raised in submissions, including recommended changes to the Amendment, to form the basis of Council's position at the Panel Hearing.

MOVED Crs Bond/Copsey

That Council:

- 3.1 Having formally considered all written submissions made to Amendment C203port to the Port Phillip Planning Scheme including the one late submission, endorses the officers' response to the issues raised by the submissions and recommended changes to the Amendment (set out in **Attachments 1, 4 and 5**) as the basis for Council's submission to the Panel.
- 3.2 Requests the Minister for Planning to appoint an independent Planning Panel to consider the submissions received to Amendment C203port, in accordance with Part 8 of the *Planning and Environment Act 1987*.
- 3.3 Refers those submissions received to Amendment C203port to the Panel to be appointed by the Minister for Planning, including any late submissions.
- 3.4 Writes to all submitters to Amendment C203port to inform them of Council's decision.

A vote was taken and the MOTION was CARRIED unanimously.

12. VIBRANT PORT PHILLIP

Nil.

13. WELL GOVERNED PORT PHILLIP

13.1 Records of Informal Meetings of Council

Purpose

- 1.1 The purpose of this item is to report to Council written records of Informal Meetings of Councillors at the City of Port Phillip as required by the Local Government Act.

MOVED Crs Pearl/Cunsolo

That Council

- 2.1 Receives and notes the written records of Informal Meetings of Councillors (attached) as required by the Local Government Act.

A vote was taken and the MOTION was CARRIED unanimously.



**11.1 AMENDMENT C203PORT (PLANNING SCHEME REVIEW) -
CONSIDERATION OF SUBMISSIONS**

**EXECUTIVE MEMBER: KYLIE BENNETTS, GENERAL MANAGER, CITY GROWTH AND
DEVELOPMENT**

**PREPARED BY: MATTHEW BUDAHAZY, SENIOR STRATEGIC PLANNER
KELLY WHITE, HEAD OF CITY POLICY
BRIAN TEE, EXECUTIVE MANAGER CITY PLANNING AND
SUSTAINABILITY**

1. PURPOSE

- 1.1 To consider written submissions received to Amendment C203 (Planning Scheme Review) to the Port Phillip Planning Scheme during the public exhibition stage.
- 1.2 To determine whether to request the Minister for Planning to appoint an independent Planning Panel to consider submissions and the Amendment.
- 1.3 To consider endorsing a response to issues raised in submissions, including recommended changes to the Amendment, to form the basis of Council's position at the Panel Hearing.

2. EXECUTIVE SUMMARY

- 2.1 Amendment C203port (Planning Scheme Review) is the outcome of a targeted review of local content in the planning scheme to improve its usability and efficiency as well as enable better decision making. This work has been underway since 2018 through the preparation of the *Port Phillip Planning Scheme Review Audit* (23 May 2018).
- 2.2 At its 7 July 2021 Ordinary Council Meeting, Council resolved to endorse the draft Municipal Planning Strategy, local policies and supporting documents as a basis for Amendment C203port to the Port Phillip Planning Scheme. It also resolved to request the Minister for Planning to authorise the preparation and exhibition of Amendment C203port to the Port Phillip Planning Scheme, pursuant to Section 8A of the *Planning and Environment Act 1987*.
- 2.3 On 5 October 2021, the Minister for Planning's delegate authorised the preparation and exhibition of Amendment C203port.
- 2.4 The amendment was exhibited for 5 weeks from 11 November 2021 to 17 December 2021. A total of 9 submissions were received, including 1 late submission, of which 8 sought changes to the Amendment and 1 raised no objection.
- 2.5 A summary of the key issues raised in the submissions and a recommended officer response is presented in Section 3.8 of this report, and a detailed assessment and recommendation is included as **Attachment 2**.
- 2.6 Considering the issues raised in the submissions, some generally minor changes are proposed to the Amendment, which are outlined in sections 4.14 to 4.24 of this report.
- 2.7 The next step will be for Council to decide whether to refer Amendment C203port to an independent Planning Panel to consider submissions, make any changes to the Amendment in response to submissions or to abandon the Amendment. This is scheduled for Council on 2 March 2022.



- 2.8 Subject to confirmation from the Minister for Planning and Planning Panels Victoria, pre-set Panel hearing dates have been scheduled for:
- Directions hearing: the week commencing Monday 24 March 2022.
 - Panel hearing: the week commencing Monday 2 May 2022.

3. RECOMMENDATION

That Council:

- 3.1 Having formally considered all written submissions made to Amendment C203port to the Port Phillip Planning Scheme including the one late submission, endorses the officers' response to the issues raised by the submissions and recommended changes to the Amendment (set out in **Attachments 1, 4 and 5**) as the basis for Council's submission to the Panel.
- 3.2 Requests the Minister for Planning to appoint an independent Planning Panel to consider the submissions received to Amendment C203port, in accordance with Part 8 of the *Planning and Environment Act 1987*.
- 3.3 Refers those submissions received to Amendment C203port to the Panel to be appointed by the Minister for Planning, including any late submissions.
- 3.4 Writes to all submitters to Amendment C203port to inform them of Council's decision.

4. KEY POINTS/ISSUES

Background

- 4.1 Amendment C203port (Planning Scheme Review) is the outcome of a targeted review of local content in the planning scheme to improve its usability and efficiency as well as enable better decision making. In particular, Amendment C203port:
- Delivers Council's statutory obligation as Responsible Planning Authority under the *Planning and Environment Act 1987* to undertake a regular review of its planning scheme. The last review commenced in 2006 and was completed in 2011. It does this by:
 - Implementing recommendations of the *Port Phillip Planning Scheme Review Audit* (23 May 2018).
 - Making updates to local content to implement Council documents and strategies adopted or prepared since the last Planning Scheme Review, including the *Council Plan 2017-27, Act and Adapt – Sustainable Environment Strategy 2018-28, Art and Soul – Creative and Prosperous City Strategy 2018-22; Don't Waste It! – Waste Management Strategy 2018-28, In Our Backyard – Growing Affordable Housing in Port Phillip 2015-25, Move, Connect, Live – Integrated Transport Strategy 2018-28*.
 - Removing obsolete incorporated and reference documents.
 - Restructures, translates and redrafts all local policy content in the Municipal Strategic Statement and Local Planning Policy Framework of the Port Phillip Planning Scheme to comply with Victorian Government changes to planning schemes regarding language, format and structure introduced by Amendment VC148 in 2018. This new structure combines State and Local policy and will be



known as the Planning Policy Framework (PPF). A new Municipal Planning Strategy (MPS) will support the PPF, introducing Council's vision for the city and setting the basis for local content in the planning scheme. The PPF provides an overview of important planning issues within the municipality and outlines the strategic directions for land use planning and development in Port Phillip.

- 4.2 Most of this translation is 'policy neutral' and does not alter the meaning of the policy. Where it is not policy neutral, it gives effect to adopted Council strategies, as described above.
- 4.3 There are some limited instances where changes have been made to the local policy content that do not seek to implement an adopted Council document. These instances are captured in Column 2 of the table in **Attachment 2**. Overall, these changes are of a minor nature and do not change the intent of any existing policy. Rather, they seek to augment the existing policy by filling a known policy gap and/or responding to a recommendation of the *Port Phillip Planning Scheme Audit 2018*.
- 4.4 All local content currently contained in the Municipal Strategic Statement and Local Planning Policy Framework of the Port Phillip Planning Scheme has been reviewed and translated into the new format. Exceptions include two policies applying to the Fishermans Bend Urban Renewal Area, which will be addressed by the City of Port Phillip, City of Melbourne and Victorian Government in the future.
- 4.5 A full list of proposed changes by Amendment C203port to the planning scheme with a summary is contained in **Attachment 2**. The exhibited explanatory report which explains what the Amendment proposes in detail is contained at **Attachment 3**.
- 4.6 At its 7 July 2021 Ordinary Council Meeting, Council resolved to:
- Endorse the draft Municipal Planning Strategy, local policies and supporting documents as a basis for Amendment C203port to the Port Phillip Planning Scheme.
 - Resolve to prepare Amendment C203port to the Port Phillip Planning Scheme to implement the Planning Scheme Review.
 - Delegate authority to the CEO to make minor corrections and updates, and to make editorial changes that reflect any changed obligations to Council required by state government agencies.
 - Request the Minister for Planning to authorise the preparation and exhibition of Amendment C203port to the Port Phillip Planning Scheme, pursuant to Section 8A of the *Planning and Environment Act 1987*.
 - Place Amendment C203port on exhibition, in accordance with section 19 of the *Planning and Environment Act 1987*, subject to Ministerial Authorisation.
- 4.7 On 5 October 2021, the Minister for Planning's delegate authorised the preparation and exhibition of Amendment C203port.
- 4.8 A summary of the Minister's authorisation conditions and how Officers responded to these conditions is presented in Table 1 below:



Table 1: Summary of authorisation conditions and Council Officer’s response

Minister’s authorisation conditions	Officer response
Ensure consistency with the <i>Ministerial Direction on the Form and Content of Planning Schemes</i> by improving clarity of provisions, deleting repetition with other areas of the planning scheme, correcting formatting errors and ensuring proposed maps meet the requirements of the Ministerial Direction.	Officers reviewed the provisions proposed by Amendment C203port, correcting any formatting and grammatical errors. No instances of repetition with other parts of the planning scheme were found. Proposed maps meet the requirements of the Ministerial Direction.
Update Clause 15.02-1L - Environmentally sustainable development (ESD) to be consistent with the Department of Environment, Land, Water and Planning standard template for local ESD policies.	Officers updated Clause 15.02-1L to be consistent with the template. However, 2 submitters have requested changes to this provision.
Review the proposed schedules to 59.15 and 59.16 in relation to the proposed local VicSmart application classes to avoid ambiguity and ensure they are as specific as possible.	An Officer and legal review was undertaken to ensure the proposed local VicSmart application classes are specific and unambiguous. As a result, minor changes to wording were made to improve clarity.
Amend the explanatory report to include content about the future translation of the Fishermans Bend Urban Renewal Area policy content via a separate process.	Officers updated the explanatory report accordingly.

Overview of written submissions received to Amendment C203port

- 4.9 The amendment was exhibited for 5 weeks from 11 November 2021 to 17 December 2021. The exhibition process is outlined in Section 4 of this report.
- 4.10 A total of 9 submissions were received, including 1 late submission, of which 8 sought changes to the Amendment and 1 raised no objection.
- 4.11 The key issues raised in the submissions include:
- Refinements are required to the proposed Heritage Policy and Heritage Design Guidelines, in response to concerns about Council’s overall approach to heritage and assessing planning permit applications in the Heritage Overlay.
 - The proposed Environmentally Sustainable Design (ESD) policy has been weakened by the removal of references to best practice, with other recommended changes required to the ESD policy.
 - Requesting the removal of exemptions to mandatory height controls in the Design and Development Overlay Schedule 26 (DDO26) – St Kilda Road North Precinct.
 - Requesting the preparation of a standalone policy for rooming houses and social housing to manage amenity issues and regulate rents charged to tenants.
- 4.12 Refer to **Attachment 1** for the full assessment of submissions and Council officer responses and recommendations.



Recommended response to submissions

- 4.13 Some changes are recommended in response to submissions.
- 4.14 With respect to the proposed Heritage Policy at Clause 15.03-1L only minor changes are recommended to improve the clarity of the policy, without changing their intent (reflected in **Attachment 4**).
- 4.15 Similarly, only minor changes are proposed in response to submissions made about the Heritage Design Guidelines (reflected in **Attachment 5**). Changes relate to updating demolition guidelines to acknowledge that some places in the Heritage Overlay graded Significant do not have a Statement of Significance, providing greater direction around the proportion of a building to be conserved and other minor clarifications.
- 4.16 No other changes are recommended to the Amendment in response to the issues raised in submissions. This is generally because:
- Policy already exists in the planning scheme addressing submitters' concerns.
 - Amendment C203port is introducing policy to address the submitters' concerns.
 - Further strategic work would be required to investigate a response to the submitter' concern.
 - The change is beyond the scope of Amendment C203port.
- 4.17 In particular, with respect to the proposed Environmentally Sustainable Development (ESD) policy at Clause 15.02-1L, the proposed policy adopted by Council is the preferred policy version of the councils forming the Council Alliance for a Sustainable Environment (CASBE).
- 4.18 As a condition of authorisation to prepare and exhibit Amendment C203port, the Minister for Planning required Council to change the drafting of the proposed ESD policy at Clause 15.02-1L from the version adopted by Council on 7 July 2021 for exhibition. This included removing reference to "best practice", in addition to other changes that could limit ESD outcomes.
- 4.19 Despite Council's adopted position (and the CASBE preferred policy) being generally consistent with that of the submitters, Council is bound by the Minister for Planning's conditions of authorisation. Hence, no change is recommended.
- 4.20 Council officers' responses provided at **Attachment 1** are proposed to form the basis of Council's position at an independent Planning Panel hearing.

Independent Planning Panel

- 4.21 The Panel process provides for an independent review of submissions and offers a further opportunity for submitters to have their submissions considered and directly address the Panel, including calling any expert evidence. This provides a fair, robust and transparent process enabling stakeholder interests to be fully considered and reconciled where possible.
- 4.22 In preparing its report and recommendations, the Panel will consider all written submissions referred to it.
- 4.23 The Panel will provide a report with recommendations to Council on whether the amendment should proceed. This will enable Council to make a final decision on whether to adopt the amendment as exhibited, adopted it with changes or abandon it.



Options for Council

- 4.24 After considering submissions Council has the option to either change the amendment in the manner requested, refer submissions to a Planning Panel for a third party assessment and recommendation, or abandon the amendment or part of the amendment. Under the requirements of the *Planning and Environment Act 1987* Council is required to refer unresolved submissions to an independent Planning Panel.
- 4.25 The submissions have been assessed and some remain unresolved. Accordingly, it is recommended that the submissions be referred to an independent Planning Panel for consideration.
- 4.26 Council does not have the option to adopt the amendment at this stage, given there are objecting submissions.
- 4.27 Council officers' responses provided at **Attachment 1** will provide the basis of Council's position at an independent Planning Panel hearing.

5. CONSULTATION AND STAKEHOLDERS

- 5.1 Exhibition of Amendment C203port occurred over five weeks from 11 November 2021 to 17 December 2021, pursuant to the statutory notification requirements of the *Planning and Environment Act 1987* and involved:
- Direct notification by letter to approximately 1,500 owners and occupiers of properties affected by the proposed removal of obsolete incorporated documents. Enclosed with the letter was a formal Notice of Amendment.
 - Direct notification by letter to Prescribed Ministers and Statutory Authorities.
 - Direct notification by email to key stakeholder groups.
 - Public Notices in *The Age* on Thursday 11 November 2021 and Thursday 18 November 2021, as well as in the Government Gazette on Thursday 18 December 2021.
 - Posts advising of the Amendment's public exhibition on Council's social media channels.
 - Articles in the October and November editions of *Diversity* advising of the Amendment's exhibition.
 - A dedicated project webpage on Council's *Have Your Say* website, containing Amendment documentation and supporting information, as well as allowing submissions to be made. Approximately 272 unique visits to the Have Your Say website were recorded over the exhibition period.
 - Four online information sessions were held. A general information session and heritage information session were each held on 22 November 2021 and 9 December 2021. Three people attended a session.
 - Availability of the Amendment documentation and supporting information on the State Government's Planning Amendments Online website.
 - Availability of amendment documentation at the Port Melbourne Library and Town Hall, St Kilda Town Hall and St Kilda Library.



5.2 A summary of engagement metrics is provided in Table 2.

Table 2: Summary of engagement metrics

Engagement method	Result
Submissions	A total of 9 submissions were received
Have Your Say page	A total of 272 unique visits were recorded. Approximately 25% of visitors returned more than once.
General online information session 22 November 2021	A total of 2 people attended the information session.
Heritage online information session 22 November 2021	A total of 2 people registered to attend the session, however only 1 person attended.
General online information session 22 November 2021	No people registered to attend this session.
Heritage online information session 22 November 2021	One person registered to attend this session, however did not attend.
Email enquiries	A total of 2 email enquiries were received.
Phone calls	A total one 1 phone call was received.

5.3 Table 2 indicates that despite notification and advertising attracting 272 unique visitors to the project Have Your Say website, this translated to a very low level of attendance at project online information sessions and a very low level of enquiries.

5.4 These figures suggest the information on Have Your Say project website responded to community enquiries without the need for the community to contact Officers for further information. Conversely, low attendance figures at online information suggests the need to consider different engagement approaches for similar planning scheme amendments in the future rather than holding drop in sessions. That said, these attendance figures also could reflect that Amendment C203port does not propose any changes to the zones and overlays applying to properties. It may also be reflective of community priorities at this point in time as a result of the ever changing COVID-19 landscape.

6. LEGAL AND RISK IMPLICATIONS

6.1 All affected owners and occupiers, as well as key stakeholder groups, were directly notified of the exhibition of Amendment C203port and were given the opportunity to provide a formal submission to the Amendment in accordance with the requirements of the *Planning and Environment Act 1987*. This provided a fair and transparent process.

5.2 The most significant risk implication that has been identified is the rapidly evolving situation around COVID-19 and any subsequent restrictions that may be enforced by the Victorian Government to manage this situation. This may impact Council's ability to meet the statutory timeframes set out in the *Planning and Environment Act 1987* and Ministerial Direction 15 *The Planning Scheme Amendment Process*. If this risk eventuated, Council would need to seek approval for an extension of time from the



Minister for Planning (likely to be granted), and this could further impact the timeframes for finalisation of the amendment.

- 6.2 Concerns around the spread of COVID-19 may impact whether submitters are able to participate in the meeting scheduled for 24 March 2022 given previous restrictions implemented on in-person attendance, or if they do not have access to the appropriate technology to enable online participation.
- 6.3 As per recent arrangements for independent Planning Panels, Planning Panels Victoria may reschedule, postpone or cancel face-to-face scheduled hearings at short notice in response to the ongoing risks around COVID-19.
- 6.4 If face-to-face hearings are cancelled, the Panel hearing may proceed 'on the papers' and without attendance from parties. This may impact the pre-set hearing times specified in section 9.3 below.

7. FINANCIAL IMPACT

- 7.1 Costs associated with progressing Amendment C203port include panel hearing fees, expert evidence / representation at the Panel and statutory fees at the approval stage. Provision for these costs is made in the annual Planning Scheme Amendments Program budgets 2021/22.

8. ENVIRONMENTAL IMPACT

- 8.1 There will be a positive environmental impact from aligning the planning scheme with Council's existing vision and priorities including *Act and Adapt, Move, Connect, Live and Don't Waste It*, as well as updating the local ESD policy.

9. COMMUNITY IMPACT

- 9.1 There will be a positive community impact from aligning the planning scheme with Council's existing vision and priorities, as well as improving its usability.

10. ALIGNMENT TO COUNCIL PLAN AND COUNCIL POLICY

- 10.1 Amendment C203port is aligned with the 'Liveable Port Phillip', 'Sustainable Port Phillip' and 'Vibrant Port Phillip' strategic directions in the Council Plan 2021-31.
- 10.2 The Amendment implements the outcome of a targeted review of local content in the planning scheme to improve its usability and efficiency as well as enable better decision making. In turn, this will enable enhanced liveability outcomes for the municipality.
- 10.3 The Amendment also implements Council documents and strategies adopted or prepared since the last Planning Scheme Review, including the *Council Plan 2017-27, Act and Adapt – Sustainable Environment Strategy 2018-28, Art and Soul – Creative and Prosperous City Strategy 2018-22; Don't Waste It! – Waste Management Strategy 2018-28, In Our Backyard – Growing Affordable Housing in Port Phillip 2015-25, Move, Connect, Live – Integrated Transport Strategy 2018-28*. These strategies contribute to achieving the 'Liveable Port Phillip', 'Sustainable Port Phillip' and 'Vibrant Port Phillip' strategic directions in the Council Plan 2021-31.

11. IMPLEMENTATION STRATEGY

- 11.1 Timeline



11.1.1 Should Council decide to request the Minister for Planning to appoint an independent Planning Panel, the following pre-set Panel hearing dates will apply:

- Directions Hearing the week of Monday 24 March 2022.
- Panel hearing the week of Monday 2 May 2022.

11.1.2 These dates have been brought forward from the initial pre-set Panel hearing dates set out in the Explanatory Report (**Attachment 4**).

11.1.3 The Panel report and recommendations to Council would be anticipated to be received in June 2022.

11.1.4 Subject to the above dates being met, it is anticipated that Council would consider the Panel report and recommendations in August 2022 and decide to:

- Adopt Amendment C203port (with or without changes) and request Ministerial approval, or;
- Abandon the Amendment.

11.1.5 If adopted, Amendment C203port will be submitted to the Minister for Planning for final approval within 10 business days of Council's adoption.

11.1.6 Amendment C203port would take effect once notice of approval is published in the Victorian *Government Gazette*.

11.2 Communication

11.2.1 All submitters to Amendment C203port will be notified of the outcome of this Council Meeting.

11.2.2 Council's website will be updated to reflect the next steps in the amendment process.






11.2.3 Planning Panels Victoria (PPV) administer planning panel hearings. Therefore, should Council refer submissions to an independent planning panel, PPV will directly contact submitters about any Planning Panel Hearing matters, including confirmation of dates.

11.2.4 Once a Panel has been appointed, submitters will be contacted by PPV and invited to participate in the Planning Panel process.

12. OFFICER DIRECT OR INDIRECT INTEREST

12.1 No officers involved in the preparation of this report have any material or general interest in the matter.

ATTACHMENTS

1. Analysis of submissions received to Amendment C203port  [Download](#)
2. Summary of changes proposed by Amendment C203port  [Download](#)
3. Exhibited Amendment C203port Explanatory Report  [Download](#)
4. Updated Heritage Policy  [Download](#)
5. Proposed changes to the Heritage Design Guidelines  [Download](#)