



# Update to local heritage policy

## Strategic assessment report

June 2021



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# Executive Summary

This report provides a strategic assessment of the heritage related updates that form part of the Port Phillip Planning Scheme (PPPS) Planning Scheme Review (PSR), in accordance with the requirements of *Ministerial Direction No.11 Strategic Assessment of Amendments*. It should be read in association with the Explanatory Report for Amendment C203port.

The PSR seeks to make the following changes to heritage provisions and documents in the PPPS to implement work produced through Council's Heritage Program:

1. **New Heritage Design Guidelines** (the Guidelines) – will be a background document to the planning scheme.
2. Updated **local heritage policy** – will sit at Clause 15.03-1L to replace the existing policy at Clause 22.04. Key changes implement the Guidelines to fill policy gaps through the inclusion of new strategies for conservation, significant trees and gardens, sustainability and services, relocation, fencing, signage, subdivision, and public realm and infrastructure. Key changes also implement the Guidelines to build on the existing policy with revised strategies and policies for demolition, visibility of additions and car parking.
3. Updated **Schedule to Clause 43.01 Heritage Overlay** – to relocate and update the information requirements.
4. Updated **Fishermans Bend Estate Heritage Design Guidelines and Garden Estate Heritage Design Guidelines** - will remain as background documents to the planning scheme. The updates comprise generally minor changes to align with the new Heritage Design Guidelines and correct errors.

The Port Phillip Planning Scheme Review Audit Report (May 2018) identified a number of heritage related issues. This coincided with the commencement of the City of Port Phillip Heritage Program in 2018. One of the key initial pieces of work under the program was the Heritage Here and Now consultation undertaken by Council in 2018, which informed the development of the Guidelines and a new Thematic environmental history. The new Guidelines in turn informed updates to the local heritage policy and Fishermans Bend Estate and Garden Estate guidelines.

This was the first time since the local heritage policy and Port Phillip Heritage Review were introduced into the new format planning scheme back in 2000 that there had been a wholistic look at the City of Port Phillip's approach to managing heritage places. Despite this, the outcomes of the work have reinforced that Council's current approach was generally sound with the result being that the ultimate changes to the controls themselves (the local policy and overlay provisions) took the form of updates to address known and identified gaps and issues and strengthen existing policies, rather than being a complete revision.

In addition, changes to the local policy have been made to address the new State government requirements introduced through VC148. Another key driver behind the Guidelines was to maximise their usability and present them in a user-friendly way, that uses illustrations and pictures to assist owners, applicants and the broader community to understand desired outcomes to managing heritage places.



The resultant proposed changes to heritage related provisions and documents in the planning scheme as part of the PSR Amendment are strategically justified and consistent with the state-wide direction on heritage and the relevant Ministerial requirements for planning scheme amendments.

# 1. Heritage legislative and policy framework

This chapter provides a brief overview of the key state and local heritage legislative and policy framework, which has formed the background to the production and implementation of the proposed updated work.

## 1.1 Statewide heritage legislative and policy framework

### 1.1.1 Legislation

A number of pieces of legislation set out the framework for heritage in Victoria. Notable are the *Planning and Environment Act 1987* (Vic) and *Heritage Act 2017* (Vic).

One of the objectives of the *Planning and Environment Act 1987* is set out at s 4(1)(d):

*to conserve and enhance those buildings, areas or other places which are of scientific, aesthetic, architectural or historical interest or otherwise of special cultural value.*

### 1.1.2 Plan Melbourne 2017-50

*Plan Melbourne 2017-50* identifies the opportunity to stimulate economic growth through heritage conservation (Policy 4.4.3). This recognises the need for heritage policy to be flexible enough to enable the regeneration of heritage assets through adaptive re-use to create unique and attractive functional places.

### 1.1.3 Burra Charter

The Australia ICOMOS Charter for Places of Cultural Significance, *The Burra Charter, 2013* (Burra Charter) provides guidance for the conservation and management of places of cultural heritage significance and sets a standard for those who make decisions about cultural heritage significance in Australia.

### 1.1.4 Heritage within the Victorian Planning Provisions

Within the Planning Policy Framework, Clause 15.03-1S Heritage conservation sets out the overarching objective, strategies and policy guidelines that apply across all of Victoria. Clause 15.03-2S sets out the same for Aboriginal cultural heritage.

Clause 43.01 Heritage Overlay contains a purpose, scope, planning permit requirements and decision guidelines, among other things, that are relevant to land within a Heritage Overlay.



## 1.1.5 Planning Practice Note 1: Applying the Heritage Overlay (DELWP, August 2018)

This document provides guidance about the use of the Heritage Overlay and about what properties should be included within it, with reference to 'recognised heritage criteria' for the assessment of heritage values of a heritage place.

## 1.2 Local heritage policy framework and documents

### 1.2.1 Heritage within the local planning provisions

Heritage is a key focus within Council's existing local planning provisions in the PPPS, particularly at Clauses 21.01, 21.05 and 22.04, including:

- Clause 21.01-2 Strategic approach which seeks to 'protect and reinforce the key elements of Port Phillip's urban structure including...places and precincts of heritage significance...';
- Council's vision under Clause 21.01-1 recognising 'a city of distinct neighbourhoods where an understanding of local character and heritage is an important element of a sustainable future'; and
- The objective of Clause 21.05-1 seeking to 'conserve and enhance the architectural and cultural heritage of Port Phillip'.

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.

### 1.2.2 Port Phillip Heritage Review

The Port Phillip Heritage Review (PPHR) was commissioned in 1996 and built on a number of previous heritage studies undertaken by the former municipalities of Port Melbourne, South Melbourne and St Kilda. It sought to establish a consistent approach to heritage conservation across Port Phillip. The first version of the PPHR was completed in 1998.

The PPHR identified heritage precincts and individual heritage places including statements of significance for each. It classified all heritage places in the municipality based on three grading categories, defined in the following terms:

**"Significant Heritage Place"** include buildings and surrounds that are individually important places of either State, regional or local heritage significance or are places that together within an identified area, are part of the significance of a Heritage Overlay. These places are included in a Heritage Overlay either as an area or as an individually listed

*heritage place and are coloured “red” on the City of Port Phillip Heritage Policy Map in the Port Phillip Heritage Review, Volume 1-6.”*

*“Contributory Heritage Places” include buildings and surrounds that are representative heritage places of local significance which contribute to the significance of a Heritage Overlay. They may have been considerably altered but have the potential to be conserved. They are included in a Heritage Overlay and are coloured “green” on the City of Port Phillip Heritage Policy Map, in the Port Phillip Heritage Review, Volume 1-6.”*

*“Non-contributory properties” are buildings that are neither significant nor contributory. They are included in a Heritage Overlay and have no colour on the City of Port Phillip Heritage Policy Map in the Port Phillip Heritage Review, Volume 1-6. However any new development on these sites may impact on the significance of the Heritage Overlay, and should therefore consider the heritage characteristics of any adjoining heritage place and the streetscape as covered in this policy.”*

The PPHR consists of six volumes and two maps:

- Volume 1: outlines the methodology employed for the study, provides a thematic environmental history and makes recommendations for the protection of identified heritage places. This volume also contains citations for Port Phillip’s heritage precincts.
- Volumes 2-6: contain citations for individual heritage places, observing not all significant places that form part of a heritage precinct have individual citations.
- Heritage Policy Map: identifies the heritage grading afforded to all properties affected by the Heritage Overlay within the municipality. Properties affected by the Heritage Overlay are coloured according to classification – ‘significant heritage places’ are coloured red, ‘contributory heritage places’ are coloured green and non contributory properties’ have no colour applied.
- Neighbourhood Character Map: identifies ‘Contributory Heritage Places’, being areas deemed to be insufficiently intact to warrant a Heritage Overlay. These properties have not been assessed for their heritage value but do contribute to neighbourhood character. They are coloured yellow. Properties are removed from the Neighbourhood Character Map if they are included in a Heritage Overlay and are then represented on the Heritage Policy Map.

The PPHR was one of the first heritage reviews to be implemented using the Victorian Planning Provisions (VPP) Heritage Overlay. It was introduced as an incorporated document to the Scheme via Amendment C5, gazetted on 21 December 2000. Amendment C5 also implemented the PPHR by inserting:

- The Port Phillip heritage policy at clause 22.04 of the Local Planning Policy Framework
- The schedule to the Heritage Overlay and associated planning scheme maps to reflect the findings and recommendations of the study undertaken by Andrew Ward and Associates
- The Heritage Policy Map and the Neighbourhood Character Map as incorporated documents.

Since it was incorporated into the Scheme, the PPHR has been updated a number of times through subsequent planning scheme amendments to reflect more recent heritage studies undertaken by Council.





### 1.2.3 Other local background documents

A number of other reference documents are referred to in the existing local heritage policy, which may be relevant to the assessment of particular places.

## 2. Key drivers behind the changes

### 2.1 Amendment VC148

Amendment VC148, gazetted in 2018, introduced a number of changes to the structure and content of planning schemes, including to local policies. Local policies no longer sit under Clause 22. Instead, they sit within the Planning Policy Framework at Clauses 10-19 below the relevant state policies. Accordingly, any local heritage policy must sit under Clause 15.03 Heritage.

In addition, Amendment VC148 made changes to the form and content of local policies to standardise them and limit repetition. For instance, application requirements can no longer be included therein, but can be included within the Schedule to the Heritage Overlay. VC148 also updated the content of the Heritage Overlay and Schedule to the Heritage Overlay.

### 2.2 Port Phillip Planning Scheme Review Audit Report (May 2018)

The Port Phillip Planning Scheme Review Audit Report (May 2018) (the 2018 Audit) identifies a number of heritage related issues and includes the following recommendations which specifically relate to the local heritage policy:

**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.*

**Recommendation 71:**

*Revise the Heritage Local Planning Policy to provide greater guidance for ESD facilities on heritage places.*

As part of the 2018 Audit, a survey of planning scheme users was undertaken. Heritage was the fourth most important planning issue according to responders<sup>1</sup>. In addition:

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<sup>1</sup> P 57, Port Phillip Planning Scheme Review Audit Report (May 2018)

*The Built Form & Heritage Policy was most frequently used policy by participants (75%). The majority of participants rated Heritage policy as good / excellent (57%). Of the 43% rating Heritage policy less favourably (fair/poor/very poor), a number of common themes apparent in commentary included the subjective nature of the policy, a lack of flexibility and inconsistency.<sup>2</sup>*

## 2.3 City of Port Phillip Heritage Program 2018-2021

### 2.3.1 Overview of program

The City of Port Phillip established a four year heritage program running from 2018-2021. The Heritage Program is a key action identified in Direction 4 'We are growing and keeping our character' of *We are Port Phillip City of Port Phillip Council Plan 2017-27*.

The aim of the program was to address concerns about Council's alignment with the community about protecting heritage in the municipality and ensuring policy was updated to reflect this. The program takes an incremental, continuous improvement approach to ensure the City of Port Phillip retains its heritage character and amenity.

The Heritage program has produced a number of pieces of work in response to recommendations of the 2018 Audit. This includes a systematic and strategic review of heritage overlay precincts HO5 - St Kilda Hill, HO7 - Elwood, St Kilda, Balaclava, Ripponlea and HO8 - Glen Huntly and Ormond Roads, Elwood.

Key milestones of the program include:

#### **Year 1: 2017/18**

- Engaged the community through the 'Heritage Here and Now' consultation to identify how community members value heritage and identify gaps in Council's heritage provisions and policy.

#### **Year 2: 2018/19**

- Reviewed the Port Phillip Thematic Environmental History (TEH) based on the previous year's consultation. As a result a new TEH framework was prepared. This underpins future reviews of Port Phillip's heritage areas by:
  - Providing a comprehensive context and framework for the identification, review and assessment of cultural heritage
  - Reflecting the rich and diverse history of Port Phillip including more intangible values that were overlooked in the past.
- In-house preliminary review of the three large remaining heritage overlay precincts:
  - HO5: St Kilda Hill
  - HO7: St Kilda, Elwood, Balaclava, Ripponlea

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<sup>2</sup> Ibid.



- HO8: Elwood: Ormond and Glen Huntly Roads.

#### **Year 3: 2019/20**

- Prepared the detailed TEH, based on the framework developed in the previous year
- Review of Council's local heritage planning policy and design guidelines in the Port Phillip Planning Scheme to improve guidance on infill development in heritage areas. The heritage policy and design guidelines were engaged on with a revised version prepared for inclusion in the planning scheme review
- Commence and complete HO7 precinct Stage 1 review.

#### **Year 4: 2020/21**

- Continued review of three remaining heritage overlay precincts.
- Commence HO7 precinct Stage 2 (detailed assessment) review
- Commence and complete HO8 precinct Stage 1 review
- Development of a publicly accessible heritage map.

## 2.3.2 Consultation

Extensive consultation has been undertaken as part of the program.

Phase 1 municipal wide community consultation on the 'Heritage: Here and Now' program occurred in Year 1 (2017/18) of the Heritage Program in May and June 2018.

The Phase 1 Consultation Plan was designed to provide Council with views from a broad range of demographic backgrounds and to understand how less engaged community groups (e.g. youth) view local heritage. To help participants to connect with the campaign, Elton Consulting created the campaign title 'Heritage here and now' which was the first step in educating the audience to think about current perceptions and experiences of local heritage.

This consultation aimed to provide the City of Port Phillip with a better understanding of the local heritage places and characteristics that people valued. The issue was brought to the fore by the community campaigns and subsequent demolition of the London Hotel and Greyhound Hotel in 2017. This consultation is a direct response by Council to the perceived misalignment between community understanding of heritage and Council's approach to the identification and management of local heritage places.

The consultation included a four-week visual campaign, community pop-up events, group and individual meetings with local stakeholders and an online survey open to all members of the community over 4 weeks.

The *Heritage Review: Consultation Report* (Elton Consulting, 29 June 2018) states:

*The core components of this consultation included a local awareness campaign, local poster drop to traders, a webpage (712 visitors), an online survey (217 respondents), key stakeholder meetings (21 people), three community pop ups (well over 1500 people). The campaign also included two advertisements placed in local media and social media posts through the Council's online channels.*

Additional consultation was undertaken by the Council and Lovell Chen, including key stakeholder meetings (45 people) and informal conversations with community members (over 90 people).

Calculating these numbers, it is estimated that well over 2500 people have experienced a touchpoint for the consultation campaign.

The outcomes of Stage 1 were used to inform future stages of the Heritage Program.

In addition, pre-consultation on the Heritage Policy and New Heritage Design Guidelines occurred for 3 weeks in July 2019 and included:

- Engagement with broader community via Council's online engagement platform - Have Your Say
- Targeted consultation with key stakeholders and community interest groups - including local heritage organisations and community groups as well as development industry stakeholders.

### 2.3.3 New Thematic environmental history (TEH)

The new TEH produced as part of this program 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 Woiwurrung 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.

### 2.3.4 Inclusion in PSR Amendment

The work completed through the program that applies to the overall municipality, not just to a specific heritage area, is proposed to be implemented into the PPPS through the PSR Amendment. This includes the Heritage Design Guidelines and updating of the Fishermans Bend Estate Heritage Design Guidelines and Garden Estate Heritage Design Guidelines.

## 3. Changes proposed

### 3.1 Overview of changes proposed

The PSR seeks to make the following changes to heritage provisions and documents in the PPPS to implement work produced through Council's Heritage Program, which will be discussed in turn.

1. **New Heritage Design Guidelines** (the Guidelines)– will be a background document to the planning scheme.
2. Updated **local heritage policy** – will sit at Clause 15.03-1L to replace the existing policy at **Clause 22.04**. Key changes implement the Guidelines to fill policy gaps through the **inclusion of new strategies for conservation, significant trees and gardens, sustainability and services, relocation, fencing, signage, subdivision and public realm and infrastructure**. Key changes also implement the Guidelines to build on the existing policy with revised strategies and policies for demolition, visibility of additions and car parking.

3. Updated **Schedule to Clause 43.01 Heritage Overlay** – to relocate and update the information requirements.
4. Updated **Fishermans Bend Estate Heritage Design Guidelines** and **Garden Estate Heritage Design Guidelines** - will remain 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.

## 3.2 New Heritage design guidelines

The Heritage Design Guidelines 2021 (the Guidelines) are a key piece of work developed by Council Heritage, Design and Planning staff.

The vision for the Guidelines was to provide more detailed and accessible explanations of ‘how’ we will achieve the overarching heritage policy, and to respond to key challenges and gaps identified from various processes including the public consultation on *Heritage Here and Now*, Planning Scheme Audit Report and internal reviews.

The Guidelines were commenced in 2019, with a draft prepared based on a review of local heritage guidelines in Victoria and internationally, with consultant input.

The first draft was used as the basis for targeted consultation (focus groups) with both internal and external stakeholders. The feedback from the consultation fed into the current version of the Guidelines, ultimately a much more detailed document. Consultation on the final draft was always earmarked to occur as part of the Planning Scheme Review PSA in 2021.

The Guidelines is made up primarily of detailed guidelines for each of the following development themes:

1. Demolition and relocation
2. Conservation
3. Alterations and additions
4. New buildings
5. Car parking
6. Fencing
7. Signage
8. Significant trees and gardens
9. Sustainability and services
10. Subdivision
11. Public realm and infrastructure

The Guidelines are intended to be a user-friendly document, containing images and pictures alongside clear text. Highlights include:

- Introduction of clear guidelines for solar panels and sustainability features
- Drawings and photos used wherever possible to demonstrate the outcomes sought by the heritage controls and policy. This includes photo precedents, diagrams and styles of common typologies in our city
- Emphasis on the importance of context and taking a contextual approach

- Respond to changes in the built form environment, reflected in new transitional strategies, recognising contemporary design and sustainable systems in a historical context
- Provision of clarity on the desired outcomes and objectives but flexible ways to achieve it.

## 3.3 Updated local heritage policy

### 3.3.1 Overview of updated local heritage policy

An 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 and implement the State government required changes as a result of VC148.

The Port Phillip Planning Scheme Review Audit Report (May 2018) identified a number of heritage related issues. This coincided with the commencement of the City of Port Phillip Heritage Program in 2018. One of the key initial pieces of work under the program was the Heritage Here and Now consultation undertaken by Council in 2019, which informed the development of the Guidelines and a new Thematic environmental history. The new Guidelines in turn informed updates to the local heritage policy and Fishermans Bend Estate and Garden Estate guidelines.

This was the first time since the local heritage policy and Port Phillip Heritage Review were introduced into the new format planning scheme back in 2000 that there had been a wholistic look at the City of Port Phillip's approach to managing heritage places. Despite this, the outcomes of the work have reinforced that Council's current approach was generally sound with the result being that the ultimate changes to the controls themselves (the local policy and overlay provisions) took the form of updates to address known and identified gaps and issues and strengthen existing policies, rather than being a complete revision.

### 3.3.2 Key changes proposed

Key changes proposed to the local heritage policy include the inclusion of new strategies to fill gaps, 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.

The updated local heritage policy at Clause 15.03-1L 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).

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,<sup>3</sup> 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.

A comparison between the existing and proposed updated local heritage policies, as well as a discussion of key issues and the resultant proposed changes follows.

### 3.3.3 Comparison of heritage policy components

Proposed local heritage policy at Clause 15.03-1L	Current local heritage policy at Clause 22.04	Discussion
Policy application	Policy application	No change, the policy still applies to all land in the Heritage Overlay.
	Objectives	Objectives are no longer permitted under Victorian government drafting requirements. Where appropriate/ necessary, these have been translated into strategies.
Strategies – General	Policy - General	The proposed use of strategy instead of policy is consistent with the Victorian government drafting requirements.  Strategies specify how policy is to be achieved while policy guidelines provide detailed guidance or suggested options on how a policy may be achieved.  Both the strategies and policy must be considered has relevant in the decision.

<sup>3</sup> Fencing is currently included within the existing policy under 'new development in Heritage Overlay areas' of Clause 22.04, while signage is currently included in the local Outdoor Advertising policy at Clause 22.08.



<p>Strategies – Specific for:</p> <ul style="list-style-type: none"> <li>- demolition and relocation</li> <li>- conservation</li> <li>- alterations</li> <li>- additions</li> <li>- new buildings</li> <li>- car parking</li> <li>- fencing</li> <li>- signage</li> <li>- significant trees and gardens</li> <li>- sustainability and services</li> <li>- subdivision</li> <li>- public realm and infrastructure</li> </ul>	<p>Policy – Specific for:</p> <ul style="list-style-type: none"> <li>- additions and/or alterations to heritage places</li> <li>- new development in heritage overlay areas</li> <li>- demolition</li> <li>- car parking</li> <li>- laneways, kerbs and channels</li> <li>- street furniture</li> </ul>	<p>All existing policies have undergone some refinement, based on the Heritage Design Guidelines. These changes are detailed in the table below.</p> <p>The key changes to heritage outcomes are:</p> <ul style="list-style-type: none"> <li>- Six additional sub-categories of strategies have been included, providing detailed guidance on application types that was not previously provided. This will assist both decision makers and applicants.</li> <li>- Change to when full demolition will be supported. This is detailed in the table below.</li> </ul>
<p>Policy guidelines - Specific for:</p> <ul style="list-style-type: none"> <li>- additions</li> </ul>		<p>This provides more specific guidance on sighting of additions to heritage places. It includes reference to seven figures to assist both decision makers and applicants.</p>
<p>Policy documents</p>	<p>Incorporated Document and Reference documents</p>	<p>The Port Phillip Heritage Review will remain as an incorporated document which must still be considered as relevant.</p> <p>The current list of reference documents has been refined to remove documents referred to in the Schedule to the Heritage Overlay. These documents must still be considered as relevant.</p>
	<p>Application requirements</p>	<p>Application requirements are no longer permitted under Victorian government drafting requirements. Instead they have</p>





		<p>been included in the Schedule to the Heritage Overlay.</p> <p>They have also been refined and augmented.</p>
	Definitions	<p>Definitions are no longer permitted under Victorian government drafting requirements.</p> <p>The existing policy includes definitions of heritage place, significant heritage places, contributory heritage places and non-contributory properties. These definitions remain in the Port Phillip Heritage Review which will remain as an incorporated document.</p>

### 3.3.4 Key issues and proposed changes

Key Issues	Proposed Changes
<b>Content and language</b>	
Duplication of State heritage policy or controls	Deletion of policy that duplicates State heritage policy or provisions in the heritage overlay (PPN8).
Inconsistency of language	Ensuring that terminology is consistent throughout, and also with other Council policies and, with the exception of technical and defined terms, uses plain English wherever possible (PPN8).
Use of mandatory language that contradict allowable discretion in the planning scheme	A policy will no longer have mandatory or contradictory provisions (PPN8). For example, the word 'refuse the demolition' cannot be used, 'discourage demolition' is appropriate.
<b>General Policy</b>	
'Design excellence', referred to throughout the policy, is not defined and is a subjective term. The lack of a clear definition has led to VCAT deciding on its own interpretation	Instead of 'design excellence' the new policy and guidelines encourage design that responds to context and is guided by the heritage significance of places.

Key Issues	Proposed Changes
No clear policy to guide the decisions for projects in a diverse streetscapes in Port Phillip	Restructuring of existing policy to equally recognise the importance of both diverse and consistent streetscapes.
Incremental loss of heritage places or parts of a heritage place	Creating new policy to: <ul style="list-style-type: none"> <li>- maintain the integrity, intactness and significance of heritage places.</li> <li>- avoid alterations, additions or demolition that would result in the incremental or complete loss of significance of a heritage place.</li> </ul>
No policy for adaptive re-use	Allow adaptive re-use if the new use supports the conservation of a heritage place.
No policy for archaeology	Avoid inadvertent destruction of archaeological remains.
No policy for relocation as an alternative to full demolition.  Burra Charter allows relocation where it is the only means of conserving a place.	<b>New policy allowing relocation of a building or feature where:</b> <ul style="list-style-type: none"> <li>- It is the only means of ensuring conservation of the building and the option of retaining the building in the current location is not feasible, or the building or feature has a history of relocation.</li> <li>- Policy guidance to consider the most recent statement of significance (if there is more than one), or is there is a statement of significance at both the individual and precinct level then both should be considered.</li> </ul>
<b>Specific Policy</b>	
<b>Demolition</b>	
Use of 'design excellence' for replacement buildings, and in 'exceptional circumstances where the streetscape is not considered intact or consistent' as tests to allow the full demolition of a heritage place has led to the loss of Contributory and Significant heritage places.	<b>Full demolition will only be considered if:</b> <ul style="list-style-type: none"> <li>- Building is structurally unsound (Council Building Surveyor to assess).</li> <li>- Building is in poor condition and it is proposed to accurately reconstruct it.</li> </ul>

Key Issues	Proposed Changes
Demolition results in the retention of only external walls, and sometimes only the front wall.	New policy discouraging 'facadism' where only external walls are retained.
<b>Conservation</b>	
Lack of policy guidelines for conserving heritage places.	A suite of new policies and guidelines for repair and maintenance, restoration and reconstruction and other conservation actions.
<b>Alterations and additions</b>	
<p>Lack of policy guidance as to when the 10 degree sightline for additions should be varied.</p> <p>Sightline policy is specifically designed for residential places and is not appropriate for other types of heritage places.</p> <p>As it is currently worded, it is unclear whether the policy applies to Nil grade places</p>	<p>New policy that new additions should:</p> <ul style="list-style-type: none"> <li>- Be fully concealed within consistent streetscapes or if the place has an individual heritage citation, or</li> <li>- Partially concealed within a diverse streetscape and does not have an individual citation.</li> </ul> <p>This will also apply to Nil-grade places. The policy is supported by new sightline diagrams for different types of buildings, including illustrations of 'consistent' and 'diverse' streetscapes, which will be contained in the guidelines.</p> <p>This will also include guidance on different scenarios such as corner sites.</p>
<p>Current sightline policy is specifically designed for residential places and is not appropriate for other types of heritage places.</p> <p>Visible additions may be appropriate for some types of heritage places</p>	<p>New policy that allows for visible additions where:</p> <ul style="list-style-type: none"> <li>- The heritage place is situated on a site or area where higher density development is encouraged (e.g. areas included within the DDO such as activity centres), or</li> <li>- The additions are in accordance with specific development guidelines for the place (For example, Fishermans Bend).</li> </ul>
<b>Car parking</b>	
Existing car parking policy has resulted in poor outcomes including part demolition of original front fences and consequent applications for car port and garages in front yards of heritage places.	<p>New policy guidance that new vehicle crossovers will only be considered when:</p> <ul style="list-style-type: none"> <li>- Streets where crossovers are part of the historic character, and</li> <li>- There is no existing crossover</li> <li>- It does not require the alteration of a significant fence.</li> </ul>

Key Issues	Proposed Changes
	Parking can be provided in the rear yard or side set back area.
<b>Fencing</b>	
Existing fencing policy is only for new fences and does not include original fences.	New policy for conservation of historic fences.
Lack of consistency of fencing detracts from the appearance of terrace rows and pairs or houses in a consistent streetscape	New policy that encourages a consistent fencing style for related groups of buildings such as terrace rows or consistent streetscapes.
<b>Significant trees (new)</b>	
There is no policy for significant trees	New policy for conservation of significant trees and for replacement of dead or diseased trees.
<b>ESD (new)</b>	
There is no policy for building services including <b>environmental sustainability</b> systems and equipment for heritage places such as solar panels and water tanks.	<p>New policy encourages services and sustainability features to be concealed, but allows for them to be in visible locations where there is no feasible alternative and appropriate design and location. This is consistent with policy adopted by other Councils.</p> <p>Policy is supported by new diagrams in the guidelines showing preferred locations.</p>
<b>Public realm and infrastructure</b>	
<p>Existing laneways, kerbs and channels policy includes policy specifically for historic bluestone kerb and channelling as well as for new buildings in laneways.</p> <p>The new buildings in laneways policy duplicates the general policy for new buildings.</p>	<p>Restructured Public Realm and Infrastructure policy focuses on heritage laneways, kerbs and channels and incorporates the policy for street furniture.</p> <p>Guidance on new buildings in laneways is provided through the new design guidelines.</p>

### 3.4 Updated Schedule to Clause 43.01 Heritage Overlay



It is proposed to update the Schedule to Clause 43.01 Heritage Overlay to include information requirements. The key changes are their relocation from the local policy section of the scheme, in line with new format requirements, and to update them to address identified issues and gaps and tie back into the Guidelines. Importantly, the information requirements are not mandatory and are required where relevant to the type of development proposed.

### **3.5 Updated Fishermans Bend Estate heritage design guidelines and Garden Estate heritage design guidelines**

It is proposed to update both the Fishermans Bend Estate Heritage Design Guidelines and Garden Estate Heritage Design Guidelines. These will remain as background documents to the planning scheme. The updates comprise generally minor changes to align with the new Guidelines and correct identified errors.

## **4. Strategic justification questions**

### **4.1 Why is an amendment required?**

The amendment is required to implement changes to heritage provisions and documents in the PPPS to implement work produced through Council's Heritage Program and ensure that Council's approach to managing heritage remains aligned with contemporary practices and Ministerial directions.

The outcomes of the work have reinforced that Council's current approach to managing heritage outcomes was generally sound, albeit narrow, with the result being that the ultimate changes to the controls themselves (the local policy and overlay provisions) take the form of updates to address known and identified gaps and issues, rather than a complete revision.

### **4.2 Does the Amendment implement the objectives of planning and address any environmental, social and economic impacts?**

The amendment will implement the following objectives of planning in Victoria set out in section 4(1) of the *Planning and Environment Act 1987*:



- b) To provide for the protection of natural and man-made resources and the maintenance of ecological processes and genetic diversity.*
- d) To conserve and enhance those buildings, areas or other places which are of scientific, aesthetic, architectural or historical interest, or otherwise of special cultural value.*

The amendment is expected to have positive environmental effects for the community by updating the heritage policy to provide clear and specific guidance on significant trees and gardens and sustainability and services.

The amendment is expected to have positive social effects for the community by updating the heritage policy to address recognised gaps and refine existing policies, and provide clearer and more user friendly guidelines.

The amendment is expected to have positive economic effects for the community from updating the heritage policy to address recognised gaps and refine existing policies improve the efficiency of decision making.

## **4.3 What impact will the new planning provisions have on the administrative costs of the responsible authority?**

The amendment is not expected to impose any significant additional resource or administrative costs on the responsible authority.