



**12.1 PLANNING SCHEME AMENDMENT C174PORT (EXTENSION TO HO8 - TIUNA GROVE, ELWOOD) - CONSIDERATION OF PANEL RECOMMENDATIONS AND ADOPTION OF AMENDMENT**

**EXECUTIVE MEMBER: LILI ROSIC, GENERAL MANAGER, CITY STRATEGY AND SUSTAINABLE DEVELOPMENT**

**PREPARED BY: KELLY WHITE, HEAD OF CITY POLICY**

**1. PURPOSE**

- 1.1 To consider the report and recommendations of the independent Planning Panel appointed by the Minister for Planning to review Amendment C174port – Extension to Heritage Overlay 8 – Tiuna Grove, Elwood.
- 1.2 To determine whether to adopt Amendment C174port (with or without changes) and request Ministerial approval.

**2. EXECUTIVE SUMMARY**

- 2.1 Amendment C174port relates to Heritage Overlay 8 (HO8) (Elwood: Glen Huntly Rd, Ormond Rd) which is a heritage precinct in Elwood.
- 2.2 Amendment C174port proposes to implement the recommendations of the *Tiuna Grove Heritage Assessment* (Barrett, 2019) by:
  - Providing permanent heritage protection to the houses at 3, 5, 7 and 15 Tiuna Grove, Elwood, further to the interim heritage controls introduced on 4 July 2019;
  - Removing contemporary development at the southwest end of Tiuna Grove (21-23, 25, 27, 29 and 31) from HO8, which are considered to be of no appreciable heritage value to the precinct.
  - Updating the Citation for HO8 Elwood: Glen Huntly and Ormond Roads precincts so that it is consistent with recognised standards of practice as outlined in the *Planning Practice Note 1: Applying the Heritage Overlay*.
- 2.3 Public exhibition of the Amendment took place from 12 September to 25 October 2019. A total of 26 submissions were received, including one late submission: 18 in support, six (6) in partial support and two (2) opposing submissions.
- 2.4 At its meeting of 12 December 2019, Council's Planning Committee resolved to:
  - Request the Minister for Planning to appoint an independent Planning Panel to review the submissions received to Amendment C174port, in accordance with Part 8 of the *Planning and Environment Act 1987*.
  - Refer all submissions to the Panel to be appointed by the Minister for Planning.
  - Write to all submitters to inform them of Council's decision to refer the amendment to the independent Planning Panel.
- 2.5 The Panel Hearing was one of the first to be impacted by the Victorian Government's State of Emergency declared on 16 March 2020 for the COVID-19 pandemic.



Subsequently, the Planning Panel process was held 'on the papers' and took place over a period of 3.5 weeks, ending on 22 April 2020.

- 2.6 The Panel Report was received by Council on 5 May 2020 and the report was sent to submitters and made publicly available on 2 June.
- 2.7 Overall, the Panel recommends that Amendment C174port be adopted as exhibited subject to the following changes:
- Amend the Schedule to Clause 43.01 to correct the Heritage place description of HO8 by replacing 'Glenhuntly' with 'Glen Huntly'.
  - Amend the Citation and Statement of Significance for 'Elwood: Glen Huntly and Ormond Roads – HO8' contained in the Port Phillip Heritage Review to:
    - a) Replace all references to 'Glenhuntly' with 'Glen Huntly'.
    - b) Under 'What is Significant?' in the Statement of Significance add after the first sentence in the third paragraph:

*Many of these are intact and evocative of Elwood in the early to mid-twentieth century being a desirable beachside suburb, a quality that continues today.*
- 2.8 A copy of the Panel Report can be found at **Attachment 1**.
- 2.9 Officers are supportive of the Panel's recommendations and recommend modifying the amendment documentation to reflect the changes proposed by the Panel. Further detail about officer recommendations and the proposed changes can be found in **section 4.25** of this report.
- 2.10 Should Council decide to adopt Amendment C174port, officers will submit the Amendment to the Minister for Planning with a request for approval.

### 3. RECOMMENDATION

That Council:

- 3.1 Adopts Amendment C174port to the Port Philip Planning Scheme, pursuant to Section 29 of the Planning and Environment Act 1987 (the Act), with the changes reflected in the amendment documentation provided at Attachment 2.
- 3.2 Authorises the Chief Executive Officer (or delegate) to finalise the amendment documentation for Ministerial approval.
- 3.3 Submits the adopted Amendment C174port documentation, together with prescribed information, to the Minister for Planning for approval, pursuant to Section 31 of the Act.
- 3.4 Advises the Minister for Planning that Council accepts the Panel's recommendations, for the reasons outlined in section 4.25 of this report.
- 3.5 Writes to all submitters to Amendment C174port to advise them of Council's decision and thank them for their participation in the amendment process.

### 4. KEY POINTS/ISSUES

Background 4.1 Amendment C174port proposes to implement the recommendations of the *Tiuna Grove Heritage Assessment* (Barrett, 2019) by:

- Providing permanent heritage protection for the houses at 3, 5, 7 and 15 Tiuna Grove, Elwood, further to the interim heritage controls introduced on 4 July 2019;



- Removing contemporary development at the southwest end of Tiuna Grove (21-23, 25, 27, 29 and 31) which are of no appreciable heritage value to the precinct, from HO8
  - Updating the Citation for HO8 Elwood: Glen Huntly and Ormond Roads precincts so that it is consistent with recognised standards of practice as outlined in the *Planning Practice Note 1: Applying the Heritage Overlay*.
- 4.2 The Amendment applies to properties at 3, 5, 7, 15, 21-23, 25, 27, 29 and 31 Tiuna Grove, Elwood and to all other land within HO8 which is generally bound by Shelley Street, Goldsmith Street, Ormond Road, Beach Avenue, Ormond Esplanade and Marine Parade, Elwood.
- 4.3 The Amendment was prepared following community and Council concerns regarding the potential demolition of the dwellings at 3 and 5 Tiuna Grove arising from a planning permit application for the development of 22 apartments.
- 4.4 Interim heritage controls were applied to 3, 5, 7 and 15 Tiuna Grove, Elwood through the approval of Port Phillip Planning Scheme Amendment C173port on 4 July 2019. The interims are set to expire on 30 June 2020.
- 4.5 Council's Planning Committee at its meeting on 27 May 2020, resolved to request the Minister for Planning extend the interim heritage controls for an additional six months, to allow for Amendment C174port to be finalised. A request has been lodged with the Minister.
- 4.6 Planning Permit 772/218 applying to 1-5 Tiuna Grove was granted on 11 February 2020 for a modified proposal involving the retention of the front portions of the dwellings at 3 and 5 Tiuna Grove and construction of a reduced building footprint comprising 12 apartments.

Exhibited Amendment C174port

- 4.7 Amendment C174port has been prepared to give statutory effect to the recommendations of the *Tiuna Grove Heritage Assessment* (Barrett, 2019) by making the following specific changes to the Port Phillip Planning Scheme:
- Amending Port Phillip Planning Scheme Map 8HO to apply HO8 to 3, 5, 7 and 15 Tiuna Grove, Elwood, and remove HO8 from 21-23, 25, 27, 29 and 31 Tiuna Grove, Elwood
  - Amending the Schedule to Clause 43.01 – Heritage Overlay to remove interim HO8
  - Amending Clause 22.04 (Heritage Policy) to list *Tiuna Grove Heritage Assessment* (Barrett, 2019) as a reference document
  - Amending the *Port Phillip Heritage Review* to amend the HO8 Citation and update the version number and date of the document
  - Amending the *City of Port Phillip Heritage Policy Map* (Incorporated Document) to apply the following gradings on a permanent basis:
    - 'Significant Heritage Place' grading to 3, 5 and 15 Tiuna Grove, Elwood
    - 'Contributory Heritage Place' grading to 7 Tiuna Grove, Elwood
    - 'Nil grading' to 21-23, 25, 27, 29 and 31 Tiuna Grove, Elwood.



- Amending the *City of Port Phillip Neighbourhood Character Map* to remove the 'Contributory outside of the HO' gradings for 3, 5, 7 and 15 Tiuna Grove, Elwood
- Making consequential changes to Clause 21.07 (Incorporated Documents), Clause 22.04 (Heritage Policy) and the Schedule to Clause 72.04 (Documents incorporated in this Scheme) to update the date and version number of the *Port Phillip Heritage Review* (including *City of Port Phillip Heritage Policy Map* and *City of Port Phillip Neighbourhood Character Map*).

Overview of submissions received to Amendment C174port

- 4.8 Amendment C174port was exhibited from 12 September to 25 October 2019. The exhibition process is outlined in Section 4 of this report.
- 4.9 26 submissions were received, including one late submission. 17 were in support, six (6) in partial support and two (2) opposing submissions.
- 4.10 The late submission was received on 2 March 2020 following the Directions Hearing and was referred directly to the Panel for its consideration.
- 4.11 The key issues raised in submissions include the following:
- the Heritage Review methodology
  - that the Heritage Overlay will restrict development
  - the heritage fabric of 3, 5 and 7 Tiuna Grove has been altered and doesn't warrant inclusion in HO8
  - the potential significance of an internal room at 3 Tiuna Grove
  - the impact of the permit for 3-5 Tiuna Grove
  - proposing 7 Tiuna Grove be identified as having a contributory heritage grading rather than a significant grading
  - retaining HO8 over 21-23 Tiuna Grove and the laneway to the rear
  - the loss of heritage properties in area
  - requests for a review of HO8 and residential zoning.

Council's Submission to the Panel

- 4.12 The following changes to Amendment C174port were recommended to the Panel in response to submissions, based on the position endorsed at the Planning Committee meeting on 12 December 2020.

Administrative changes:

- Update the references to 'Glenhuntly Road' to 'Glen Huntly Road' in the:
  - Schedule to Clause 43.01 in the Port Phillip Planning Scheme to reflect the official change in spelling. Specifically, this entails updating the reference to 'Glenhuntly Road' in the name of the heritage place for HO8 and in the description, to 'Glen Huntly Road'
  - Exhibited HO8 Citation in the Port Phillip Heritage Review.



- Correct an administrative error in the 'what the amendment does' section of the Explanatory Report to apply the following gradings on a permanent basis to the City of Port Phillip Heritage Policy Map:
  - 'Nil grading' to 21-23 Tiuna Grove, Elwood

#### Panel hearing and recommendations

- 4.13 The Directions Hearing for the Panel was held on 24 February 2020.
- 4.14 The Panel Hearing was one of the first to be impacted by the Victorian Government's State of Emergency declared on 16 March 2020 for the COVID-19 pandemic.
- 4.15 Subsequently, the Planning Panel process was conducted 'on the papers' with the support of all parties and took place over a period of 3.5 weeks, ending on 22 April 2020. The Panel acknowledged the positive way in which all parties participated in the process.
- 4.16 The Panel Report was received by Council on 5 May 2020. In accordance with section 26 of the *Planning and Environment Act 1987*, the report must be made available for inspection once 28 days have elapsed since the receipt of the report. The report was made publicly available on 2 June 2020.
- 4.17 A copy of the Panel Report can be found at **Attachment 1**.
- 4.18 The one-person Panel considered all written submissions made in response to the exhibition of the Amendment, observations from site visits, and further written submissions, evidence and other material presented to it during the Panel process.
- 4.19 The Panel also received Council's submission in support of the Amendment with the recommended changes outlined in 3.12 above. This included expert evidence on heritage from Mr Peter Barrett from Peter Andrew Barrett Heritage.
- 4.20 The main matters considered during the panel process were:
- whether the amendment is strategically justified
  - the appropriateness of including 3, 5, 7 and 15 Tiuna Grove in the Heritage Overlay, the proposed gradings, and whether internal controls should apply to 3 Tiuna
  - whether 21-23 Tiuna Grove and the adjoining bluestone laneway to the rear should be removed from the heritage overlay
  - form and content of the amendment

#### *Panel response to key issues raised in submissions*

- 4.21 In response to the common issues raised in submissions, the Panel found that:

#### Strategic Justification

- The methodology applied in the Heritage Assessment is sound and consistent with *Planning Practice Note 1: Applying the Heritage Overlay*.
- Overall, that the Amendment:
  - is supported by, and implements, the relevant sections of the Planning Policy Framework
  - is consistent with the relevant Ministerial Directions and Practice Notes



- is well founded and strategically justified
- should proceed subject to addressing the more specific issues raised in submissions as discussed in the following chapters.

### 3 and 5 Tiuna Grove

- That 3 and 5 Tiuna Grove should be included in HO8 and identified as 'Significant', on the basis that:
  - The evidence of Mr Barrett should be accepted that the two dwellings are good examples of the mid 1910s bungalow styles important to HO8, and are comparative to other examples in the street. Together with the dwelling at 7 Tiuna they form part of a coherent group of dwellings that are appreciably part of the wider HO8 precinct in Tiuna Grove.
  - The extent of changes to the two dwellings is minor and easily reversible and does not impact their heritage significance and therefore should be graded Significant.
- There is insufficient evidence or assessment to support the application of internal to 3 Tiuna Grove.

### 7 Tiuna Grove

- That 7 Tiuna Grove should be included in HO8 and identified as 'Contributory', on the basis that:
  - The dwelling clearly displays the characteristics of inter-war bungalows identified in HO8 and is a representative and coherent part of the precinct in terms of its setbacks, roof form and materiality.
  - The extent of dwelling changes warrant a Contributory grading.

### 15 Tiuna Grove

- That 15 Tiuna Grove should be included in HO8 as 'Significant' within HO8, on the basis that:
  - The dwelling at 15 Tiuna Grove is comparative in terms of integrity and intactness to other bungalows in Tiuna Grove and HO8 generally.

### 21-23 Tiuna Grove and rear laneway

- That there is no strategic or heritage basis to retain 21-23 Tiuna Grove, Elwood and the abutting section of laneway within HO8. However it is noted that:
  - The Panel's view that 21-23 Tiuna Grove should be removed is not a reflection of the building's aesthetic or architectural merits. Rather, it is simply that it does not reflect what is significant about the precinct.
  - The Panel considers that a review of 1960's development could be considered in the context of a broader assessment of the significance of this era of development to the municipality.
  - The Panel considers that the appropriate response to laneways within HO8 is to consider the importance of laneway fabric as part of the overall review of the HO8 that is scheduled by Council in a subsequent year.



Form and content

- The Panel supports Council’s proposed changes to the Amendment documentation, including:
  - Correcting the references to Glen Huntly Road.
  - Correcting references within the Explanatory Report to the Heritage Policy Map.
- The Panel also supports the proposal from Mr Barrett to include an additional sentence in the precinct citation’s Statement of Significance under ‘What is Significant?’ on the basis that it is linked to other content already existing within the Citation and is not particularly consequential. The additional wording is:
 

*Many of these are intact and evocative of Elwood in the early to mid-twentieth century being a desirable beachside suburb, a quality that continues today.*

*Panel recommendations*

4.22 The Panel recommends that Amendment C174port be adopted as exhibited, subject to changes, including:

- Amending the Schedule to Clause 43.01 to correct the Heritage place description of HO8 by replacing ‘Glenhuntly’ with ‘Glen Huntly’.
- Amending the Citation and Statement of Significance for ‘Elwood: Glen Huntly and Ormond Roads – HO8’ contained in the Port Phillip Heritage Review to:
  - a) Replace all references to ‘Glenhuntly’ with ‘Glen Huntly’.
  - b) Under ‘What is Significant?’ in the Statement of Significance add after the first sentence in the third paragraph:

*Many of these are intact and evocative of Elwood in the early to mid-twentieth century being a desirable beachside suburb, a quality that continues today.*

Officer recommended response to Panel recommendations

- 4.23 The Act requires Council to formally consider the Panel’s report and recommendations, and determine whether to adopt (with or without changes) or abandon the Amendment.
- 4.24 In summary, officers recommend that Council support the Panel’s recommendations and amend the amendment documentation accordingly.
- 4.25 The following table outlines officer’s recommended position for Council in response to the Panel’s recommended changes.

No.	Panel Recommendations	Officer Recommendations
1	Amend the Schedule to Clause 43.01 to correct the Heritage place description of HO8 by replacing ‘Glenhuntly’ with ‘Glen Huntly’.	<p><b>Accept the Panel’s recommendation</b></p> <p>The Panel’s recommendation is consistent with Council’s submission to the Panel and will ensure the correct spelling of Glen Huntly Rd is reflected in the Schedule to Clause 43.01 (Schedule to Heritage Overlay).</p>



No.	Panel Recommendations	Officer Recommendations
2	<p>Amend the Citation and Statement of Significance for 'Elwood: Glen Huntly and Ormond Roads – HO8' contained in the Port Phillip Heritage Review to:</p> <p>a) Replace all references to 'Glenhuntly' with 'Glen Huntly'.</p> <p>b) Under 'What is Significant?' in the Statement of Significance add after the first sentence in the third paragraph:</p> <p><i>Many of these are intact and evocative of Elwood in the early to mid-twentieth century being a desirable beachside suburb, a quality that continues today.</i></p>	<p><b>Accept the Panel's recommendation</b></p> <p>a) This recommendation is consistent with Council's submission to the Panel and will ensure the correct spelling of Glen Huntly Rd is reflected in the Citation and Statement of Significance.</p> <p>b) This additional wording proposed by Mr Barrett in his evidence will reinforce the link between the early twentieth century development of this area and its particular (and continuing) attraction as a beachside location stated elsewhere in the exhibited Statement of Significance. The new wording is not considered to have any broader or unforeseen consequences as it does not raise any new issues or themes.</p>

Adoption of Amendment documentation

- 4.26 A final version of the Amendment documentation which is recommended for adoption can be found at **Attachment 2** of this Council Report.
- 4.27 The Amendment documentation contains an administrative change by officers to update the references to the date and version of the *Port Phillip Heritage Review* incorporated document. The final date and version of the document will be assigned at the time of the amendment's gazettal.

Options for Council

- 4.28 At this stage of the amendment process, the options available to Council under The Act are:
- Option 1: Adopt the Amendment without changes.
  - Option 2: Adopt the Amendment with changes (accepting some or all of the Panel's recommendations).
  - Option 3: Abandon the Amendment.
- 4.29 Adoption of the Amendment without changes (Option 1) is not recommended given the findings of the Panel that recommend changes to the exhibited Amendment. In the absence of a balanced consideration of the Panel's findings, the Minister is likely to support the Panel's recommendations.
- 4.30 Adoption of the Amendment with changes (Option 2) is recommended, aligned to the position detailed in the table at 3.25.





4.31 Abandoning the Amendment (Option 3) is not recommended. The Amendment will implement the recommendations of the *Tiuna Grove Heritage Assessment* (Barrett, 2019) and ensure the heritage values of 3, 5, 7 and 15 Tiuna Grove are recognised through on-going heritage protection.

4.32 Under the *Planning and Environment Act 1987* (the Act) Council must consider all the Panel's recommendations but it is not obligated to accept them. If in determining to adopt the amendment Council does not accept one or more of the Panel's recommendations, it must provide its reason(s) why.

## 5. CONSULTATION AND STAKEHOLDERS

5.1 Public exhibition of Amendment C174port took place from 12 September to 25 October 2019 in accordance with the Act and involved:

- Direct notification (letter) to owners and occupiers within HO8 (approx. 2,000 letters)
- Direct notification (letter) to owners and occupiers of properties in Tiuna Grove, as well as the immediate surrounding area
- Direct notification (letter) to Prescribed Ministers and Statutory Authorities
- Public Notices in the Port Phillip Leader on Tuesday 10 September 2019 and in the Government Gazette on Thursday 12 September 2019
- Availability of amendment documentation and supporting information on Council's website and the State Government's Planning Amendments Online website
- Availability of amendment documentation at St Kilda Town Hall and St Kilda Library
- A drop-in session was also held from 5pm – 7pm at Council Chamber, St Kilda Town Hall.

5.2 A letter was sent to submitters on 3 February 2020 notifying them of Council's Planning Committee's decision to refer all submissions to an independent Planning Panel, and advising that they would have the opportunity to submit their case at the hearing to the panel.

5.3 Following appointment of a Panel, Planning Panels Victoria liaised with submitters to communicate the Panel process including any requests to speak, and the Directions and Panel hearing dates.

## 6. LEGAL AND RISK IMPLICATIONS

6.1 All affected owners and occupiers were notified of the exhibition of Amendment C174port and given the opportunity to make a written submission. The Amendment is being process in accordance with the requirements of the Act.

6.2 In considering a planning scheme amendment for the site, Council must consider only its role as Planning Authority to ensure transparency of its decision making.

6.3 The Planning Scheme Amendment is subject to Ministerial approval. The Minister may approve the amendment with or without changes to the planning controls.



**7. FINANCIAL IMPACT**

- 7.1 The financial costs associated with Amendment C174port relate to the panel hearing, expert evidence and legal representation. Provision for these costs is made within the annual budget allocated for the Planning Scheme Amendments Program.

**8. ENVIRONMENTAL IMPACT**

- 8.1 Amendment C174port will have a positive environmental impact by protecting places of historic significance and facilitating the reuse and recycling of existing building stock.

- 8.2 The Victorian heritage strategy, *Victoria's Heritage: Strengthening our Community* details the environmental benefits of conservation:

*'Heritage policies and programs can help achieve the broader goals of sustainability... [Heritage conservation] recognises the embodied energy and life-cycle value of traditional materials, and reduces the water associated with demolition and new buildings'*

**9. COMMUNITY IMPACT**

- 9.1 Amendment C174port will have a positive community effect through the preservation of historically significant places in Elwood for the benefit of current and future generations.

**10. ALIGNMENT TO COUNCIL PLAN AND COUNCIL POLICY**

- 10.1 Amendment C174port is consistent with the *'We are Port Phillip' Council Plan 2017-2027* commitment to 'protecting heritage places' and 'ensuring new development integrates with, respects and contributes to the unique heritage, character and beauty of our neighbourhoods'.

**11. IMPLEMENTATION STRATEGY**

**11.1 TIMELINE**

- 11.1.1 Should Council decide to adopt the Amendment (with or without changes), Council officers will lodge a request for approval to the Minister for Planning within 10 business days of this Council meeting.

**11.2 COMMUNICATION**

- 11.2.1 All submitters will be notified of Council's decision.  
11.2.2 Council's website will be updated to reflect the decision at this meeting.

**12. OFFICER DIRECT OR INDIRECT INTEREST**

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

**TRIM FILE NO: 66/02/283**

**ATTACHMENTS**

- 1. Port Phillip C174port Panel Report**
- 2. C174port Amendment documentation for adoption**