



**12.1** AMENDMENT C142PORT (REVIEW OF HO6 - ST KILDA/ ST KILDA EAST) - CONSIDER RECOMMENDATIONS OF PLANNING PANEL REPORT AND ADOPTION OF AMENDMENT

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

**PREPARED BY:** ALEXANDRA HODGSON, SENIOR STRATEGIC PLANNER

**1. PURPOSE**

- 1.1 To consider the report and recommendations of the independent Planning Panel appointed by the Minister for Planning to review Amendment C142port (Review of Heritage Overlay 6).
- 1.2 To determine whether to adopt Amendment C142port (with or without changes) and request Ministerial approval.

**2. EXECUTIVE SUMMARY**

- 2.1 Amendment C142port relates to Heritage Overlay 6 (HO6) – St Kilda East, which is a precinct-based heritage overlay that applies to many properties within the St Kilda East area.
- 2.2 HO6 was first introduced into the Port Phillip Planning Scheme in the early 2000's. The Review of Heritage Overlay 6 (*HO6 St Kilda East Precinct Review, David Helms Heritage Planning, September 2018*) (the Review) is part of an on-going program to review heritage precincts to ensure that heritage controls are up to date and reflect best practice.
- 2.3 The Review implements the Council Plan 2017-2027 (Council Plan) commitment to 'protecting heritage places' and 'ensuring new development integrates with, respects and contributes to the unique heritage, character and beauty of our neighbourhoods'. Implementation of this review is specifically listed as a priority for the first 4 years in the Council Plan, under *Direction 4.2 – 'A city of diverse and distinctive neighbourhoods and places'*.
- 2.4 Planning Committee resolved at its meeting of 28 August 2019 to:
  - Request the Minister for Planning to appoint an independent Planning Panel to review the submissions received to the Amendment and refer all submissions to the Panel for independent assessment.
  - Endorse Council officers' response to submissions received to the Amendment, which would form the basis of Council's submission to an independent Planning Panel.
- 2.5 The two-day Panel Hearing was held from 29 October to 30 October 2019. The Panel Report was received by Council on Friday 13 December 2019 and the report was sent to submitters and made publicly available on Tuesday 7 January 2020.
- 2.6 Overall, the Panel recommended that Amendment C142port be adopted as exhibited subject to the following changes:



- Removing two properties from HO6 on the basis that they have been demolished or do not contribute to the heritage significance of the precinct.
  - Not extending the existing curtilage of HO6 to the whole of 322-332 St Kilda Road, St Kilda, as was proposed in the Amendment. Retain the existing curtilage.
  - Amending Planning Scheme Map 7HO to include a range of minor administrative changes identified by Council.
  - Amending the *Port Phillip Heritage Review* (PPHR) to remove any references to removed properties,
  - Amending three Citations in the PPHR following information received in submissions, including changes relating to 322-332 St Kilda Road, and making minor administrative changes.
  - Amending the relevant clauses in the Planning Scheme to reflect the revised date and version number of the *Port Phillip Heritage Review* and *City of Port Phillip Heritage Policy Map* and *Neighbourhood Character Map* Incorporated Documents.
  - Amending the *HO6 St Kilda East Precinct Review* (David Helms Heritage Planning, September 2018) to reflect the recommended changes to citations and other content of the amended PPHR, including the updated document date reference in Clause 22.04 and the Statements of Significance for HO503, HO505, and HO506.
- 2.7 A copy of the Panel Report can be found at **Attachment 1**.
- 2.8 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 4.29** of this report.
- 2.9 Should Council decide to adopt Amendment C142port, officers will submit the Amendment to the Minister for Planning with a request for approval by 28 February 2020.

### 3. RECOMMENDATION

That Council:

- 3.1 Adopts Amendment C142port to the Port Phillip 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 **Attachments 3, 4 and 5**.
- 3.2 Authorises the Chief Executive Officer (or delegate) to finalise the amendment documentation for Ministerial approval.
- 3.3 Submits the adopted Amendment C142port 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 all the Panel's recommendations for the reasons outlined in Section 4.29.
- 3.5 Writes to all submitters to Amendment C142port to advise them of Council's decision.



#### 4. KEY POINTS/ISSUES

##### Background

- 4.1 Council's ongoing program to review heritage precincts, ensures that heritage controls in the Port Phillip Planning Scheme are sufficiently robust and remain current, to effectively guide decision-making in relation to the conservation and management of heritage places in Port Phillip.
- 4.2 Heritage Overlay 6 (HO6) is a heritage precinct overlay that applies to many properties within St Kilda East and part of St Kilda. A citation for the precinct, including a Statement of Significance, is included in the *Port Phillip Heritage Review* (PPHR) (an Incorporated Document in the planning scheme). Properties within HO6 are graded as 'Significant', 'Contributory', or 'Nil' in accordance with Council's local heritage planning policy (Clause 22.04). These gradings are reflected on the *City of Port Phillip Heritage Policy Map* Incorporated Document.
- 4.3 HO6 has not been holistically reviewed since its introduction in 2001. Development of the *St Kilda Road South Urban Design and Land Use Framework* (2015) highlighted some gaps in the heritage controls across this part of St Kilda East and limitations with the existing HO6 citation, such as an absence of guidance to protect the heritage of commercial properties along St Kilda Road.
- 4.4 Council has commissioned the *HO6 St Kilda East Precinct Review* (the Review) (David Helms, Heritage Planning, 2018 (updated 2020)) (included in **Attachment 5**). The Review was undertaken to:
  - Ensure the HO6 citation and statement of significance adequately describes the significance of the precinct.
  - Ensure the heritage controls in the precinct overlay remain up-to-date and reflect best practice to assist in the conservation of heritage places.
  - Support the conservation and management of the HO6 precinct in the future.
- 4.5 While the focus of the Review was on the HO6 precinct, the investigation and analysis also identified the need for consequential changes to HO391 (Murchison Street / Alma Road precinct), and other individually significant sites within the general study area.
- 4.6 The Review made numerous recommendations, including:
  - Adding new properties to the Heritage Overlay, including new places of individual significance.
  - Changing the heritage gradings of individual properties that are already within HO6, HO391 or the directly adjacent areas.
  - Transferring properties from HO6 to HO391 which applies to a smaller, more specific cluster of properties in the East St Kilda area.



Exhibited Amendment C142port – Review of Heritage Overlay 6

- 4.7 Amendment C142port was prepared to give statutory effect to the recommendations of the *HO6 St Kilda East Precinct Review* (David Helms Heritage Planning, 2018).
- 4.8 The Amendment aims to strengthen the heritage controls in St Kilda East by making the following changes to the Port Phillip Planning Scheme, on a permanent basis:
- Applying the Heritage Overlay to 140 new properties in HO6 and HO391, and removing one property (14 Raith Court, St Kilda East) from HO6.
  - Applying new individual Heritage Overlays to 21 Redan Street, St Kilda (HO503), 226 Alma Road (St Kilda (HO505), and 264-266 St Kilda Road, St Kilda (HO506).
  - Updating the incorporated document *Port Phillip Heritage Review Volumes 1-6* (PPHR) to:
    - Update the existing HO6 (St Kilda East) and HO391 (Murchison Street / Alma Road precinct) citations.
    - Update 76 existing individual property citations.
    - Add 5 new citations for individually significant properties within HO6 and HO391.
    - Add 3 new citations for new individually significant properties HO503, HO505, and HO506.
    - Amend the incorporated *City of Port Phillip Neighbourhood Character Map* and *City of Port Phillip Heritage Policy Map* to update the gradings for newly added and removed 'Significant Heritage Place', 'Contributory Heritage Place' and 'Nil / Non-contributory Place' gradings in the HO6 and HO391 precincts, and update the heritage gradings of 63 properties already in the heritage overlay.
    - Update the version number and date of the PPHR (including the City of Port Phillip Heritage Policy Map and the City of Port Phillip Neighbourhood Character Map).
  - Transferring 34 properties from existing heritage overlays to HO391 (Murchison Street / Alma Road precinct).
  - Introducing three new incorporated documents to the Scheme, being the individual Statements of Significance for new individually significant properties HO503, HO505 and HO506.
  - Include the *HO6 St Kilda East Precinct Review* (David Helms Heritage Planning, 2018) as a reference document.

Overview of submissions received to Amendment C142port

- 4.9 Amendment C142port was exhibited from 30 May to 30 June 2019. The exhibition process is outlined in **Section 5** of this report.
- 4.10 Thirteen (13) submissions were received, one (1) of which supported the amendment in its entirety and twelve (12) submissions which had specific concerns about the amendment and requested the following changes:



- Properties should be removed from the Heritage Overlay (HO) due to demolition or having no heritage significance:
  - 23 Lambeth Place, St Kilda
  - 11 Hotham Street, St Kilda
- The following Citations should be updated to include additional information:
  - Citation 2388 (Marlton Crescent & 25-27 Chapel Street, St Kilda – St Michael’s School)
  - Citation 78 (4 Chapel Street, St Kilda – St Michael’s School)
- Request that properties be removed from the HO on the basis that they will affect future development potential or resale value:
  - 31 Crimea Street, St Kilda East
  - 44 Hotham Street, St Kilda East
  - 5/226 Alma Road, St Kilda East
- Request that 9 Johnson Street, St Kilda East be removed from the HO on the basis that it provides no contribution from a heritage standpoint, and its inclusion in the overlay may affect its potential resale value.
- Request that properties be removed from or downgraded in the heritage overlay due to alterations:
  - 35 Crimea Street, St Kilda East
  - 21 Lambeth Place, St Kilda
  - 322-332 St Kilda Road, St Kilda
  - 9 Shirley Grove, St Kilda East
- Request that property be removed from the HO on the basis that the property is not ‘Significant’ and that the owners were not informed when a ‘Significant’ grading was placed on the property, with individual Citation 2015 outlining the statement of significance, in 2004:
  - 42 Hotham Street, St Kilda East

4.11 Council’s Planning Committee considered the submissions at its Meeting on 28 August 2019. The Planning Committee resolved to recommend changes to the amendment in response to three (3) submissions (detailed in 4.12 below) and request the appointment of an independent Planning Panel to consider the amendment and hear all submissions.

Council’s Submission to the Panel

4.12 The following changes to Amendment C142port were recommended to the Panel in response to submissions, and to correct minor administrative errors identified by officers.



Response to submissions:

- Update Citation 2388 (Marlton Crescent & 25-27 Chapel Street, St Kilda – St Michael’s School), and Citation 78 to provide additional information in the ‘Statement of Significance’ and ‘Description’ for each of the heritage places.
- Update Citation 2015 to remove reference to ‘Summers House’.
- Remove 11 Hotham Street, St Kilda East and 23 Lambeth Place, St Kilda from inclusion in HO6.

Administrative changes:

- Update the Schedule to Clause 43.01 to correctly identify the HO6 precinct boundaries and Statements of Significance being incorporated in the Scheme under Clause 72.04.
- Update all references to the PPHR, City of Port Phillip Heritage Policy Map and City of Port Phillip Neighbourhood Character Map to reflect the correct version and date of the documents.
- Update Planning Scheme Map 7HO to correct minor mapping errors.
- Update Clause 72.04 to reference the correct address for 264-266 St Kilda Road.

Panel hearing and recommendations

- 4.13 The Directions Hearing for the Panel was held on 30 September 2019.
- 4.14 The Planning Panel Hearing took place over 2 days, beginning on 29 October and ending on 30 October 2019.
- 4.15 The Panel Report was received by Council on Friday 13 December 2019. 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 Tuesday 7 January 2020.
- 4.16 A copy of the Panel Report can be found at **Attachment 1**.
- 4.17 The one-person Panel considered all written submissions received to the amendment, including verbal submissions made during the Panel Hearing by:
- Legal representatives for the Owners Corporation of 322-332 St Kilda Road, St Kilda, including expert evidence provided by heritage consultant John Briggs:
    - The submitter contested the proposed heritage grading change from ‘Nil’ to ‘Significant’ based on a lack of a thorough comparative analysis provided through the Review and that alterations to the façade and rear of the building are of no value.



- Evidence from Mr Briggs, identified that much of the original fabric of the shop front (as evidenced from earlier streetscape photographs) had been almost entirely removed leaving the Gresham Parapet as the only element of heritage significance on the site. Evidence also showed that the contemporary buildings on the rear of the site do not contribute to the heritage significance of the site.
- On that basis it was argued that the existing heritage overlay boundary be left as it is (and not extended to the entire property boundary as proposed in the exhibited Amendment), or preferably contracted to a 10-metre wide strip (including airspace) along the St Kilda Road frontage.
- It was also requested that the varying levels of significance across the site be addressed by a clear explanation in an individual statement of significance or appropriate mapping.
- Council's heritage expert Mr Helms provided that the building would not warrant an individual Citation however supported additional detail being provided in the HO6 Precinct Citation related to this site. Further, Mr Helms argued that the building justifies a 'Significant' grading based on his comparative analysis of other shops and gradings in Port Phillip with similar intact parapets.
- In response to the above, changes were proposed to the HO6 precinct Citation which were supported by the two parties, including:
  - Replacing the reference to 'Gresham Laundry' with the broader description of 'commercial complex at 322-332 St Kilda Road, St Kilda'
  - Identifying the site development history and buildings changes
  - Removing references to the 'arcade'
  - Identifying the remaining elements of significance within the site.
- Landowner of 42 Hotham Street, St Kilda East.
  - The submitter rejected the 'Significant' grading of the building identifying the addition of a fence and enclosure of a verandah among other alterations.
  - Further, it was suggested that the Precinct Review does not identify anything of real importance, and that the place name 'Summers House' is a fictitious place name afforded to the property.
  - The submission also articulated frustration at the amendment process dating back to 2004.
- Landowner of 44 Hotham Street, St Kilda East.



- The submitter expressed concern with the amendment process, considering that there was not a consistent approach to establishing heritage value on the property.
- The submitter additionally identified concerns about the challenges proposed by a Heritage Overlay to undertaking building upgrades to accommodate mobility and improved amenity and that the financial impacts of the Amendment did not provide for a positive community benefit.

4.18 The Panel also heard Council's submission in support of the Amendment with the recommended changes outlined in 3.6 above. This included expert evidence from David Helms (on behalf of David Helms Heritage Planning).

*Panel response to common issues raised in submissions*

4.19 There were several common issues raised in submissions relating to property value and financial implications; building condition, development opportunity, building alterations and maintenance.

4.20 The main issues raised in relation to property value and financial implications include:

- Whether the property value and financial implications are relevant when considering whether a place has sufficient local heritage significance to justify the Heritage Overlay.
- Whether the application of the Heritage Overlay will have a positive community impact.

4.21 The Panel acknowledged that the Amendment may have some economic impact on land owners, however this is a private economic impact rather than a broader community impact. The Panel does not consider that these private impacts outweigh the broader community benefit of the Amendment.

4.22 Ultimately the Panel supported Council's position that the Amendment will achieve a net community benefit by ensuring heritage places are protected and heritage values are considered when determining whether new development is acceptable. The Panel also concluded that individual economic impacts are more appropriately dealt with at the planning permit stage.

4.23 The main issue raised in relation to building condition, development opportunity, building alterations and maintenance is how these are relevant when considering whether a place has sufficient local heritage significance to justify the Heritage Overlay.

4.24 The Panel acknowledged that building condition and development opportunities are not generally relevant to an amendment that seek to apply a Heritage Overlay and can be considered at the planning permit stage. However, the issue may be relevant where there is clear technical evidence that the building is in such a poor structural condition that the heritage fabric is unlikely to survive in the short term. No evidence or submissions were put to the Panel to identify that such a risk existed for particular sites.

4.25 Council acknowledged that the Heritage Overlay introduces another layer of control over property owners by imposing permit triggers and relevant considerations.





- 4.26 The Panel considers that the Heritage Overlay is necessary to ensure that heritage values are recognised and appropriately managed. The Panel also notes that only those with development aspirations would ever need to apply for a permit and property owners who only seek to alter the building interior and conduct general external maintenance would not require a permit.

*Panel recommendations*

- 4.27 The Panel recommends that Amendment C142port be adopted as exhibited, subject to changes including:

Removal of properties from the Review

- The panel recommends that the following properties are removed from the Review:
  - 11 Hotham St, St Kilda East from the review as it does not contribute to the heritage significance of the precinct
  - 23 Lambeth Place, St Kilda from the review as it has been demolished and replaced with a new townhouse development.

Extent and grading of Heritage Overlay at 322-332 St Kilda Road, St Kilda

- The Panel did not support Council's proposal to extend the heritage overlay to the entirety of the site, and recommends that the existing overlay be maintained. Refer to **Attachment 2** for a map showing the current and proposed extent of HO6 to 322-332 St Kilda Road, St Kilda.
- The Panel supports the proposed grading of 'Significant' property within Heritage Overlay 6.
- The Panel considered that while there may be some merit in applying an individual Heritage Overlay to this site, that this was not sought by Council and the approach to identifying the site as Significant within HO6 is more appropriate as it is consistent with the broader approach adopted by Council in the Amendment.
- The Panel recommends that the St Kilda East (HO6) Precinct Citation be updated to reflect the proposed changes proposed by Council in its submission to the Panel noting that they contain the essential elements of Mr Briggs' suggested changes.

Minor administrative changes

- The Panel recommends a number of minor administrative changes in line with Council's submission and minor updates required by the Panel, these are detailed in the table at **Section 4.29** of this report, and broadly include:
  - Amending Planning Scheme Map 7HO to include a range of minor administrative changes including the removal of properties from the maps



in line with the Panel's recommendations, and addition of properties identified in Council's submission

- Amending the *Port Phillip Heritage Review Volumes 1-6* to remove reference to removed properties and include changes relating to 322-332 St Kilda Road, St Kilda, as well as update Citations 78, 2388 and 2015. As well as to update the *City of Port Phillip Heritage Policy Map* and *Neighbourhood Character Map* accordingly
- Amending the *Port Phillip Heritage Review Volumes 1-6* Murchison Street / Alma Road Precinct Citation or the Schedule to Clause 43.01 to ensure a consistent precinct title for HO391.
- Amending the relevant clauses in the Planning Scheme and new Statements of Significance with the revised date and version number of the *Port Phillip Heritage Review Volumes 1-6* and the *City of Port Phillip Heritage Policy Map* and *Neighbourhood Character Map*.

Changes to the HO6 St Kilda East Precinct Review (David Helms Heritage Planning)

- Amend the *HO6 St Kilda East Precinct Review, Final Report*, David Helms Heritage Planning, September 2018 to reflect the recommended changes to citations and other content of the amended *Port Phillip Heritage Review Volumes 1-6*. Include the updated document date references in Clause 22.04 and the Statements of Significance for HO503, HO505 and HO506.

Officer recommended response to Panel recommendations

- 4.28 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.
- 4.29 The following table outlines officer's recommended position for Council in response to the Panel's recommended changes to Amendment C142port.

No.	Panel Recommendations	Officer Recommendations
1	Remove the following properties from the Heritage Overlay (HO6)	
1a	11 Hotham Street, St Kilda East	<b>Accept the Panel's recommendation</b> The Panel's recommendation is consistent with Council's submission to the Panel to remove 11 Hotham Street, St Kilda East from the Heritage Overlay. All Amendment documentation, including Incorporated Documents and Reference Documents should be updated to remove references to this property.
1b	Remove 23 Lambeth Place, St Kilda	<b>Accept the Panel's recommendation</b> The Panel's recommendation is consistent with Council's submission to the Panel to remove 23 Lambeth Place, St Kilda from the Heritage Overlay. All

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No.	Panel Recommendations	Officer Recommendations
		Amendment documentation, including Incorporated Documents and Reference Documents should be updated to remove references to this property.
2	Do not extend the curtilage of the Heritage Overlay (HO6) to the whole of 322-332 St Kilda Road, St Kilda as exhibited. Retain the existing curtilage.	<p><b>Accept the Panel's recommendation</b></p> <p>Officers accept retaining the existing curtilage of the Heritage Overlay in line with Panel's recommendation as this would exclude the contemporary buildings to the rear of the site which are of no heritage significance. This approach will ensure the significant components of the site (The Gresham parapet) are included within the Heritage Overlay. All mapping should be updated accordingly.</p>
3	Amend Map 7HO to:	
3a	Include all of the property at 19 Hotham Street, St Kilda East in HO6	<p><b>Accept the Panel's recommendation</b></p> <p>The Panel's recommendation is consistent with Council's submission to the Panel to update the mapping for these properties. All mapping should be updated accordingly.</p>
3b	Remove 42 Hotham Street, St Kilda East from HO397 and include it in HO391	
3c	Remove 18 Lansdowne Road, St Kilda East from HO179 and include it in HO391	
3d	Remove 26A Lansdowne Road, St Kilda East from HO180 and include it in HO391	
3e	Include 119, 119A, 121 and 123 Alma Road, St Kilda East in HO6.	
4	Amend the <i>Port Phillip Heritage Review Volumes 1-6</i> (Version 28, May 2019) as follows:	
4a	<p>Amend the St Kilda East HO6 Precinct Citation to:</p> <ul style="list-style-type: none"> <li>• Remove references to 11 Hotham Street, St Kilda</li> <li>• Remove references to 23 Lambeth Place, St Kilda</li> <li>• Include the changes relating to 322-332 St Kilda Road, St Kilda shown in Appendix C of the Panel Report.</li> </ul>	<p><b>Accept the Panel's recommendation</b></p> <p>The Panel's recommendation is consistent with Council's submission to the Panel to update the HO6 citation to reflect these changes.</p>
4b	Amend Citations 78 (4 Chapel Street, St Kilda) and 2388 (25-27	<p><b>Accept the Panel's recommendation</b></p>

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No.	Panel Recommendations	Officer Recommendations
	Chapel Street, St Kilda) as shown in Appendix D of the Panel Report.	The Panel's recommendation is consistent with Council's submission to the Panel to update these Citations.
4c	Amend Citation 2015 for 42 Hotham Street, St Kilda East to replace the reference to 'Summers House' with 'House'.	<b>Accept the Panel's recommendation</b>  The Panel's recommendation is consistent with Council's submission to the Panel to update this Citation.
5	Amend the <i>Port Phillip Heritage Review Volumes 1-6</i> (Version 28, May 2019) Murchison Street / Alma Road Precinct Citation or the Schedule to Clause 43.01 to ensure a consistent precinct title for HO391.	<b>Accept the Panel's recommendation</b>  The <i>Port Phillip Heritage Review</i> including Citation HO391, and the Schedule to Clause 43.01 should be updated to reflect a consistent Citation name being 'Murchison Street / Wavenhoe Avenue HO391'.
6	Amend Clause 21.07, Clause 22.04, the schedules to Clause 43.01 and 72.04 and the Statements of Significance for HO503, HO506 to reflect the revised date and version number of the <i>Port Phillip Heritage Review Versions 1-6</i> (Version 28, May 2019)	<b>Accept the Panel's recommendation</b>  The Planning Scheme clauses and Statements of Significance should be updated to reflect the most recent version number and date of the <i>Port Phillip Heritage Review Volumes 1-6</i> .
7	Amend the <i>City of Port Phillip Heritage Policy Map</i> and <i>Neighbourhood Character Map</i> to remove 11 Hotham Street, St Kilda and 23 Lambeth Place, St Kilda and to include mapping corrections to reflect the recommended changes to the <i>Port Phillip Heritage Review Volumes 1-6</i> and Map 7HO.	<b>Accept the Panel's recommendation</b>  The Panel's recommendation is consistent with Council's submission to the Panel to update the mapping for these properties. All mapping should be updated accordingly.
8	Amend the Schedule to Clause 72.04 to reflect the revised date and version numbers of the <i>City of Port Phillip Heritage Policy Map</i> and the <i>Neighbourhood Character Map</i> .	<b>Accept the Panel's recommendation</b>  The Planning Scheme clauses should be updated to reflect the most recent version number and date of the <i>City of Port Phillip Heritage Policy Map</i> and the <i>Neighbourhood Character Map</i> .
9	Amend the <i>HO6 St Kilda East Precinct Review, Final Report</i> , David Helms Heritage Planning, September 2018 to reflect the recommended changes to	<b>Accept the Panel's recommendation</b>  The Panel's recommendations are consistent with Council's submission to the Panel. Officers accept the Panel's recommended changes to citations (including

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No.	Panel Recommendations	Officer Recommendations
	citations and other content of the amended <i>Port Phillip Heritage Review Volumes 1-6</i> . Include the updated document date references in Clause 22.04 and the Statements of Significance for HO503, HO505 and HO506	HO6 to add more information relating to 322-332 St Kilda Road, Citations 78, 2388 and 2015). The <i>HO6 St Kilda East Precinct Review, Final Report</i> , should be updated by David Helms Heritage Planning accordingly.

## Options for Council

- 4.30 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.
- 4.31 Adoption of the Amendment without changes (Option 1) is not recommended given the findings of the Panel that recommend numerous 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.
- 4.32 Option 2, adoption of the Amendment with changes is recommended, aligned to the position detailed in section 4.29.
- 4.33 Abandoning the Amendment (Option 3) is not recommended. The Amendment will ensure heritage controls in St Kilda East are up-to-date and facilitate clear and consistent decision-making on development applications.
- 4.34 Under the *Planning and Environment Act 1987* 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

### Exhibition of Amendment C142port

- 5.1 Exhibition of the amendment was undertaken from 30 May to 30 June 2019 in accordance with the *Planning and Environment Act 1987* and involved:
- Direct notification (letter) to owners and occupiers of affected properties. Enclosed with the letter was a formal Notice of Amendment (approximately 3,500 letters).
  - Direct notification (letters) to the Minister for Planning, Prescribed Ministers, Statutory Authorities and key stakeholder groups.



- Availability of amendment documentation and supporting information on Council's website. Amendment documentation was also provided on the State Government's Planning Amendments Online website.
  - Availability of amendment documentation at St Kilda Town Hall, and St Kilda Library.
- 5.2 A drop-in session for interested parties was held on 6 June 2019 at St Kilda Town Hall. 5 people attended this session to talk to planners or Council's heritage advisor one-on-one about the amendment.
- 5.3 Approximately 22 phone calls were received seeking additional information about the amendment.

#### Notification of Independent Planning Panel

- 5.4 A letter was sent to submitters on 9 September 2019 notifying them that an independent Planning Panel had been appointed and that they would have the opportunity to submit their case at the hearing.
- 5.5 Following the appointment of the 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 No significant risk implications have been identified. Prior to the start of the Amendment process, the Review was consulted on with the community. Allowing for consultation of the Review before the commencement of the planning scheme amendment process gave the community an opportunity to provide input to the process at an early stage.
- 6.2 All affected owners and occupiers were notified of the exhibition of Amendment C142port 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.

## **7. FINANCIAL IMPACT**

- 7.1 Costs associated with progressing Amendment C142port included Panel hearing fees, including the costs associated with procuring expert evidence and legal representation for the Panel. A statutory fee is also required at the approval stage.
- 7.2 Provision for these costs is made in the annual Planning Scheme Amendments Program budget 2019/2020.

## **8. ENVIRONMENTAL IMPACT**

- 8.1 Amendment C142port will have a positive environmental impact by protecting places of historic significance.
- 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. It recognises the embodied energy and life-cycle value of*



*traditional materials, and reduces the water use associated with demolition and new buildings’.*

## 9. COMMUNITY IMPACT

- 9.1 Amendment C142port will have a positive community impact through the preservation of historically significant places in the St Kilda East area for the benefit of current and future generations.

## 10. ALIGNMENT TO COUNCIL PLAN AND COUNCIL POLICY

- 10.1 Amendment C142port 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’. Implementation of the Review is specifically listed as a priority for the first 4 years of Council Plan under Direction 4.2 – ‘A city of diverse and distinctive neighbourhoods and places’.

## 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 by letter.
- 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 the matter.

**TRIM FILE NO:** 66/05/31

### ATTACHMENTS

1. Amendment C142port Panel Report
2. Map showing current and proposed extent of HO6 to 322-332 St Kilda Road, St Kilda
3. Amendment C142port Amendment Documentation (part 1)
4. Amendment C142port Amendment Documentation (part 2)
5. Amendment C142port Amendment Documentation (part 3)

***Attachments are provided separately***