

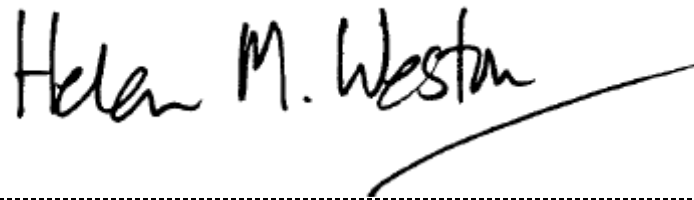
**PORT PHILLIP PLANNING SCHEME  
AMENDMENT C62  
REVISED LOCAL PLANNING  
POLICY FRAMEWORK**

**PANEL REPORT**

**NOVEMBER 2010**

**PORT PHILLIP PLANNING SCHEME  
AMENDMENT C62  
REVISED LOCAL PLANNING  
POLICY FRAMEWORK**

**PANEL REPORT**

A handwritten signature in black ink that reads "Helen M. Weston". The signature is written in a cursive style and is positioned above a horizontal dotted line.

Helen Weston, Chair

A handwritten signature in black ink that reads "Trevor". The signature is written in a cursive style and is positioned above a horizontal dotted line.

Trevor McCullough, Member

**NOVEMBER 2010**

---

# Contents

---

<b>1. SUMMARY.....</b>	<b>1</b>
<b>2. BACKGROUND.....</b>	<b>2</b>
2.1 The Amendment.....	2
2.2 The Panel .....	2
<b>3. WHAT IS PROPOSED? .....</b>	<b>5</b>
3.1 Background to the proposal.....	5
3.2 The Proposed Amendment.....	5
<b>4. PLANNING CONTEXT .....</b>	<b>8</b>
4.1 Legislated principles .....	8
4.2 Policy framework .....	8
4.2.1 State Planning Policy Framework .....	8
4.2.2 Local Planning Policy Framework.....	10
4.3 Planning scheme provisions .....	10
4.3.1 Particular provisions.....	10
4.4 Other planning strategies.....	10
4.5 Conclusions .....	10
<b>5. ISSUES .....</b>	<b>11</b>
5.1 Nature of submissions .....	11
5.2 Summary of issues .....	11
5.3 Issues from the Strategic Assessment Guidelines.....	14
5.4 Form and Content .....	15
5.5 Issues dealt with in this report .....	16
<b>6. SUSTAINABILITY ISSUES .....</b>	<b>17</b>
6.1 The Issue .....	17
6.2 Evidence and submissions .....	17
6.3 Discussion.....	18
6.4 Conclusions and recommendations.....	19
<b>7. ACTIVITY CENTRES .....</b>	<b>20</b>
7.1 The issue .....	20
7.2 Evidence and submissions .....	20
7.3 Discussion.....	21
7.4 Conclusions and recommendations.....	21
<b>8. HOUSING ISSUES.....</b>	<b>22</b>
8.1 The issue .....	22
8.2 Evidence and submissions .....	22
8.3 Discussion.....	24
8.4 Conclusions and recommendations.....	25
<b>9. ST KILDA TRIANGLE SITE, UPPER ESPLANADE AND ST KILDA FORESHORE .....</b>	<b>26</b>
9.1 The Issue .....	26
9.2 St Kilda Triangle site.....	26
9.3 The Upper Esplanade .....	27
9.4 Other Foreshore Issues .....	27

---

9.5	Conclusions .....	28
<b>10.</b>	<b>PORT OF MELBOURNE ISSUES .....</b>	<b>29</b>
10.1	The issue .....	29
10.2	Evidence and submissions .....	29
10.3	Discussion.....	32
10.4	Conclusions and recommendations.....	32
<b>11.</b>	<b>PUBLIC OPEN SPACE.....</b>	<b>34</b>
11.1	The Issue .....	34
11.2	Evidence and submissions .....	34
11.3	Discussion.....	34
11.4	Conclusions and recommendations.....	35
<b>12.</b>	<b>HERITAGE CONTROL ISSUES.....</b>	<b>36</b>
12.1	The issue .....	36
12.2	Evidence and submissions .....	36
12.3	Discussion.....	36
12.4	Conclusions .....	37
<b>13.</b>	<b>SITE SPECIFIC ISSUES.....</b>	<b>38</b>
13.1	The Issues .....	38
13.2	National Memorial Theatre.....	38
13.3	Chessell Street, Market Street, Clarke Street, South Melbourne.....	38
13.4	St Kilda Junction.....	39
13.5	Eastern Road, South Melbourne.....	40
13.6	Industrial land, Port Melbourne.....	40
13.7	Conclusions .....	40
<b>14.</b>	<b>STRUCTURE AND CONTENT OF THE PROPOSED LPPF .....</b>	<b>41</b>
14.1	The issue .....	41
14.2	Evidence and submissions .....	41
14.3	Discussion.....	41
	14.3.1 General comments.....	41
	14.3.2 Specific Matters .....	43
14.4	Conclusions and recommendations.....	43
<b>15.</b>	<b>CONCLUSIONS AND RECOMMENDATIONS .....</b>	<b>44</b>
15.1	Conclusions .....	44
15.2	Recommendations.....	44

## 1. Summary

---

The Panel was appointed on 23 July 2010 to hear and consider submissions in relation to Amendment C62 to the Port Phillip Planning Scheme.

Amendment C62 updates Port Phillip's planning vision and policies and revises the Local Planning Policy Framework – both the Municipal Strategic Statement and the Local Planning Policies. The amendment also proposes the introduction of a mandatory 5% public open space requirement for all subdivision.

Following exhibition of the amendment, 19 submissions were received - four from referral authorities, two from community groups and thirteen from residents or property owners within the municipality. While there was some support in submissions for the strategic direction of the amendment, most submissions requested changes in either the overall emphasis of aspects of the Municipal Strategic Statement or to the wording of particular local policies. Several submissions requested site-specific rezonings which were beyond the scope of this Amendment.

In relation to the strategic context, the Panel has found that the proposed amendment is generally acceptable from a planning perspective and is consistent with the Strategic Assessment Guidelines.

While the Panel acknowledges that, at a length of over 120 pages, the revised Local Planning Policy Framework reflects the complexity and diversity of the City of Port Phillip, the Panel suggests that there may be some scope to reduce this length without any substantive change to its intent.

The Panel has found that Amendment C62 to the Port Phillip Planning Scheme should be adopted with the changes recommended in this report.

## **2. Background**

---

### **2.1 The Amendment**

Amendment C62 updates Port Phillip's planning vision and policies and revises the Local Planning Policy Framework (LPPF). The LPPF includes Clause 21 – Municipal Strategic Statement (MSS) and Clause 22 – Local Planning Policies. The Amendment also introduces a mandatory 5% public open space requirement through the Schedule to Clause 52.01 - Public Open Space Contribution and Subdivision.

The planning authority is Port Phillip City Council and the proponent is also the Council.

### **2.2 The Panel**

This Panel was appointed under delegation on 23 July 2010 pursuant to Sections 153 and 155 of the *Planning and Environment Act 1987* (the Act) to hear and consider submissions in respect of the Amendment.

The Panel consisted of:

- Chairperson: Helen Weston; and
- Member: Trevor McCullough.

#### **Hearings and inspections**

A Directions Hearing was held on 11 August 2010 at 8 Nicholson Street, East Melbourne. The Panel Hearing was held on 8 September 2010 at 8 Nicholson Street, East Melbourne.

The Panel inspected parts of the municipality, making an unaccompanied visit to the following locations on 31 August 2010:

- St Kilda Junction area;
- St Kilda foreshore and 'Triangle' site; and
- Port Melbourne, South Melbourne, Balaclava and a number of other individual sites mentioned in submissions.

#### **Exhibition**

The Amendment was exhibited between 11 February and 12 April 2010. The Amendment was notified broadly across the Municipality including:

- a four page article in the Council newsletter (circulated to all properties in the City);
- Council's web site;
- fact sheets on key issues and neighbourhoods; and
- ten information sessions held at various venues across the municipality.

### Submissions

In response to the exhibition, nineteen written submissions were received (including two late submissions).

The Panel has considered all written and oral submissions and all material presented to it in connection with this matter.

The Panel heard the parties listed in Table below.

**Table 1**

Submitter	Represented By
Port Phillip City Council	Ms Leonie Kirkwood, Senior Strategic Planner
Port of Melbourne Corporation	Mr John Carey, Minter Ellison Lawyers
Strathgordon Properties Pty Ltd	Mr William Bromhead, Ratio Consultants
Ms Krystyna Kynst	
Mr David Rayson	

A list of all written submissions to the Amendment is included in Table 2.

**Table 2**

	Submitter	Organisation (if any)
1	Mr Robert Taylor	Managing Director , National Memorial Theatre of Australia
2	Mr Michael Labb	
3	Dr Chris Dow	
4	Mr Mark Haines	
5	Ms Jenny Webb	
6	Ms Deborah Riley	Town Planner, Developer Services Melbourne Water
7	Mr Deon White	Managing Director Roberts Day
8	Mr John Riley	Manager Land Use Planning Port of Melbourne Corporation

	Submitter	Organisation (if any)
9	Mr James Noy	Planning Referrals Co-ordinator Department of Transport
10	Mr David Rayson	
11	Mr William Bromhead	Ratio Consultants
12	Mr Martin Kamener	
13	Mr Peter Holland	President UnChain Inc
14	Ms K Kynst	
15	Chris Spillane	Help Save East St Kilda
16	Ms Michael Wilson	
17	Emile Kyriacou	Senior Statutory Planner, Department of Sustainability and Environment
18	Kim Belfield	
19	Mr Richard Webb	

## 3. What is proposed?

---

### 3.1 Background to the proposal

The Port Phillip Planning Scheme (the Scheme) was gazetted in 1998. Whilst minor changes have been made to the Local Planning Policy Framework (LPPF) since then, there has been no comprehensive review of the Scheme and, in particular, the LPPF.

In late 2006, a comprehensive audit of the Scheme was undertaken in accordance with the requirements of Section 12B of the *Planning and Environment Act 1987*. The audit's findings and further work since that time has formed the basis of this Amendment.

### 3.2 The Proposed Amendment

The changes proposed in this Amendment are described as follows:

#### Clause 21 - Municipal Strategic Statement

The Amendment proposes to replace the existing Municipal Strategic Statement (MSS) - Clause 21 of the Scheme - with a revised MSS.

The purposes of the key changes proposed in the MSS, as presented in the Explanatory Report, are:

- editing and restructuring to make a more concise and easy to use document;
- focussing only on land use and development matters;
- making environmental sustainability a priority and making stronger statements in regard to Council's approach to environmental sustainability, including environmentally sustainable design and development;
- strengthening of policy in relation to sustainable transport in accordance with the *Port Phillip Sustainable Transport Framework 2004 – 2006*. This includes introducing a hierarchy that gives priority to more sustainable forms of transport and encourages walking, cycling and public transport;
- providing clear direction on where housing growth should be located to make the most of existing infrastructure, balanced with the protection of heritage and neighbourhood character in

established residential areas. Based on the *Inner Regional Housing Statement* and the *Port Phillip Housing Strategy 2007*, the MSS:

- identifies 'preferred housing growth areas' - these are strategic redevelopment sites and precincts where most growth will be concentrated (for example former industrial sites and activity centres); and
- establishes that the level of change within 'established residential areas' will be more limited. The scale and design of new housing must respect the character of the neighbourhood.
  - providing greater definition of the role and function of Port Phillip's activity centres, in line with the *Activity Centres Strategy 2006*;
  - reinforcing the Council's *Community Hubs Strategy* in policy, to direct the location of community facilities and services;
  - introducing more detailed policy on public open spaces, to reflect the *Open Space Strategy* (2006, Revised 2009) to ensure the open space network can respond to the needs of the growing population;
  - introducing new policy that requires the consideration and management of the social impacts of gaming venues, licensed premises and large scale housing developments;
  - consideration of the cumulative impacts of late night entertainment venues/licensed premises when concentrated in one location;
  - introducing policy in relation to subdivision of land; and
  - more clearly expressing the strategic direction for the seven neighbourhoods in Port Phillip.

## **Clause 22 – Local Planning Policies**

The Amendment reviews Clause 22 - the Local Planning Policies. It proposes to delete six existing local planning policies and incorporate their content into Clause 21 – Municipal Strategic Statement.

The following policies are proposed to be deleted from Clause 22 as their content has been incorporated into the revised MSS:

- 22.01 Residential Neighbourhood Character Policy;
- 22.02 Retail Centres Policy;
- 22.03 Industrial Areas Policy;
- 22.05 Urban Design Policy for New Residential Development;
- 22.09 Housing;
- 22.11 South Melbourne Central.

Four new local planning policies are proposed to be added to Clause 22 as follows:

- 22.01 – Non-Residential Uses in the Residential Zone;
- 22.02 – Backpackers’ Lodges;
- 22.03 – Caretaker’s Dwellings in Industrial and Business Zones;
- 22.05 – Subdivision Policy.

The remaining existing Local Planning Policies have been reviewed and reformatted in accordance with the Victoria Planning Provisions (VPP) Practice Note *Writing Local Planning Policy*. No major changes have been made to their content. These policies are:

- 22.04 Heritage Policy;
- 22.05 Urban Design Policy for Non Residential Development and Multi Unit Residential Development;
- 22.07 Gaming;
- 22.08 Outdoor Advertising; and
- 22.10 St Kilda Foreshore Area Policy.

**Schedule to Clause 52.01 – Public Open Space Contribution and Subdivision**

It is proposed to introduce a schedule to Clause 52.01 - Public Open Space Contribution and Subdivision to require a mandatory 5% contribution towards public open space when land is subdivided. This implements the *Port Phillip Open Space Strategy* (2006, Revised 2009). This Strategy identifies the desirability of a mandatory public open space contribution of 5% of land subdivided and noted that, in most cases, this contribution would be sought as cash contributions. However, in some nominated areas of the City, based on the neighbourhood analysis presented in the Strategy, land contributions would be desirable if available in useful size and location.

## **4. Planning context**

---

### **4.1 Legislated principles**

The objectives of planning in Victoria, contained in the *Planning and Environment Act 1987*, are:

- providing for the fair, orderly, economic and sustainable use, and development of land at a local level;
- protecting natural and man made resources;
- securing a pleasant, efficient and safe working and living environment for residents, workers and visitors;
- ensuring the protection of places of historic and cultural interest;
- protecting public utilities and assets for the benefit of the community;
- facilitating appropriate development, and
- balancing the present and future needs of Port Phillip.

The Panel considers that the Amendment is consistent with, and gives effect to, these planning objectives.

### **4.2 Policy framework**

#### **4.2.1 State Planning Policy Framework**

The proposed MSS and Local Planning Policies (LPPs) provide a local interpretation of the State Policy Planning Framework (SPPF).

The majority of the directives in *Melbourne 2030 - the Metropolitan Strategy* - are relevant to this amendment. There is a high degree of consistency between the Metropolitan Strategy and the content of the Amendment, as summarised below:

Direction 1 – A more compact city

The MSS encourages a greater proportion of new houses to be built on strategic redevelopment sites and precincts (such as mixed use areas which were formerly industrial sites and activity centres). These sites and precincts are well located in relation to shops, services and public transport and offer the potential for more intensive development. The revised MSS also supports Port Phillip's network of activity centres – an important element of

the Metropolitan Strategy. In particular, the MSS provides detail about their role, function and future development.

#### Direction 2 – Better management of metropolitan growth

The policies proposed by the Amendment will assist in the management of metropolitan growth by accommodating Port Phillip's projected residential growth identified in the *Inner Regional Housing Strategy* and the *Port Phillip Housing Strategy 2007*.

#### Direction 4 – A more prosperous city

The MSS articulates and prioritises the role Port Phillip plays in supporting the regional economy, through activities including industry and manufacturing, retail, tourism and commerce. It recognises the strategic location of Port Phillip in relation to supporting the Melbourne Central Activity District and the Port of Melbourne.

#### Direction 5 – A great place to be

The MSS and LPP promote the protection of neighbourhood character and heritage values and the enhancement of open spaces. They also promote good design that improves safety. The introduction of a mandatory 5% open space contribution for all subdivision of land will assist the implementation of Council's capital works program for open space development as set out in the *Open Space Strategy (2006, Revised 2009)*.

#### Direction 6 – A fairer city

The MSS advocates an increase in and greater variety of affordable housing in the city. Enhancing the network of community facilities and the open space are promoted through the MSS and, in the case of open space, through the application of the Schedule to Clause 52.01 - *Public Open Space Contribution and Subdivision*.

#### Direction 7 – A greener city

The MSS has a strong focus on ecological sustainability, including environmentally sustainable design and development and sustainable transport.

#### Direction 8 – Better transport links

The MSS includes a clear hierarchy of decision making in relation to transportation, which gives priority to sustainable modes of transport.

Direction 9 – Better planning decisions, careful management

Refinement and streamlining of the LPPF will result in clearer and easier to use planning policy which will assist in making better planning decisions.

### **Conclusion**

Having considered the SPPF, the Panel concludes that Amendment C62 supports and implements the relevant aspects of this framework.

#### **4.2.2 Local Planning Policy Framework**

The Amendment proposes to replace the existing LPPF by introducing a revised LPPF which updates Council's policies and strategies. The content of various elements of the proposed LPPF are examined in subsequent sections of this report.

#### **4.3 Planning scheme provisions**

No changes to zones or overlays are proposed by the Amendment.

##### **4.3.1 Particular provisions**

The Amendment proposes the introduction of a Schedule to Clause 52.01 - Public Open Space Contribution and Subdivision to require a mandatory 5% contribution towards public open space when land is subdivided. This aspect of the Amendment implements a key recommendation of the *Port Phillip Open Space Strategy* (2006, Revised 2009).

#### **4.4 Other planning strategies**

The Amendment ensures the Scheme is up to date and reflects the current Council Plan and related strategies which have been developed in consultation with the community.

#### **4.5 Conclusions**

The Panel has reviewed the Amendment in accordance with the relevant provisions of the *Planning and Environment Act 1987*, the Port Phillip Planning Scheme and adopted planning strategies. The Panel concludes that the Amendment is consistent with and will give effect to these provisions and strategies.

## **5. Issues**

---

### **5.1 Nature of submissions**

A total of 19 submissions about the Amendment were made in response to the exhibition by residents, landowners and community groups within the municipality as well as referral authorities. No referral authorities had objections to the Amendment but several required additional matters to be addressed in the content of relevant sections of Clause 21.

A number of the submissions were generally supportive of the strategic planning intent reflected in the revised MSS but raised various issues related to the emphasis placed on issues such as sustainable development, activity centres, housing density and heritage. In addition, a number of submissions addressed site-specific planning control issues which were essentially beyond the scope of the matters included in this Amendment.

### **5.2 Summary of issues**

From the submissions to the Amendment, the Panel identified a number of key issues that needed to be addressed. The key issues raised in the submissions of the various parties are summarised as follows:

#### **Planning Authority**

The key issues for Council were:

- reflecting issues raised in the 2006 Statutory Audit and Review of the Planning Scheme;
- improving useability of the LPPF;
- alignment with state, regional and Council strategies and policies – of the City of Port Phillip, adjoining municipalities and the Port of Melbourne Planning Scheme; and
- incorporation of policy and open space issues raised in consultation with key stakeholders, particularly:
  - environmentally sustainable design and development;
  - sustainable transport;
  - housing growth and location; and
  - directions for activity centres and neighbourhoods.

## **Community groups**

*Help Save East St Kilda* (Submission no. 15) expressed concerns about the direction of the MSS and the Council in relation to provision of services. This group did not support the priority given to sustainable transport and suggested that adequate parking should be provided in new developments and built form outcomes should be improved. This group considered that further housing growth in East St Kilda should be limited and the emphasis in the strategy related to tourism and the arts should focus on residents rather than tourists. Concern was also expressed that encouraging high densities in the Carlisle Street Activity Centre will encourage higher density elsewhere in Balaclava.

*UnChain Inc* (Submission no. 13) supported aspects of the revised MSS in relation to the Tourism and the Arts strategy that requires the consideration of the cumulative impact of late night licensed entertainment venues. The group considered that the MSS needed to be more specific about the commercial and retail component for the St Kilda 'Triangle' site. The group did not support the policy about the provision of yacht support facilities at St Kilda Harbour (included in the St Kilda Foreshore Local Planning Policy).

## **Individual landowners and residents**

Requests for site-specific rezonings were submitted in relation to the following sites:

- the National Theatre's site at the corner of Carlisle and Barkly Streets;
- land bounded by Clarendon, Chessell, Market and Clarke Streets; and
- land at the corner of Eastern Road and Dorcas Street, South Melbourne.

Another property owner advocated for a wider range of land uses at St Kilda Junction including substantial housing and higher building heights to recognise this gateway location.

A resident suggested that part of the industrial land in Port Melbourne north of Williamstown Road should be rezoned to residential.

A range of issues were raised in residents' submissions including:

- heritage controls should be relaxed;
- heritage is not being protected;
- the concept of 'neighbourhood character' is outdated;

- need for better transport routes between Port Melbourne and Elwood;
- build new tram routes throughout the city as locations for high density residential development;
- policies should prevent the overshadowing of windows in residential development;
- further housing growth should be limited;
- Port Phillip needs to accommodate more population growth;
- higher density communities should be located in Port Melbourne and St Kilda/Balaclava;
- improve the design of residential development;
- open space and recreation areas are essential for city building;
- ensure sustainable infrastructure is provided and green building techniques are used;
- need to maintain the retail mix in Ackland and Fitzroy Streets;
- MSS does not encourage enough density in Activity Centres;
- promote small local centres;
- The importance of the Upper Esplanade should be recognised through improvements in wording to the St Kilda Foreshore policy (Clause 22.10);
- MSS does not address complex issues such as climate change and peak oil, or do enough to support sustainability and reduce dependence on the car;
- improve the sustainability of parks;
- concern about congestion caused by the Port of Melbourne;
- the MSS is too long and complex; and
- the MSS should be reviewed for ambiguities and 'weasel' words.

A trader expressed concern about cyclists and skateboarders using footpaths as well as the strict restrictions on footpath trading.

### **Referral authorities**

While *Melbourne Water* supported the emphasis in the revised MSS on responsiveness to climate change, Water Sensitive Urban Design and reducing water consumption, it requested the inclusion of a strategy that protects the amenity and landscape values of Elwood Canal.

The *Department of Transport* supported references to public transport, suggested that the importance of Webb Dock should be recognised in the MSS and that new residential development should take freight routes into

account, and sought clarification of an alternative freight route and inclusion of a strategy to manage deliveries in Activity Centres.

The Department of Sustainability and Environment expressed support for the amendment.

### **Port of Melbourne Corporation**

The *Port of Melbourne Corporation* sought various changes or inclusions as follows:

- the recognition in the LPPF of the concept of a two-way buffer along the port boundaries;
- acknowledgement of the role of Perc White Reserve in Port Melbourne as a buffer separating port activities from residential and recreational areas;
- removal of the reference to a potential linear link along Williamstown Road into Webb Dock;
- recognition of Station Pier as a trade and transport asset;
- clarification of alternative freight routes; and
- inclusion of a strategy discouraging residential frontages to Todd Road, Port Melbourne.

The Port expressed support for the inclusion of a policy in relation to Caretaker's dwellings in Industrial and Business Zones.

## **5.3 Issues from the Strategic Assessment Guidelines**

The purpose of the Strategic Assessment Guidelines is to provide a consistent framework for the evaluation of a proposed planning scheme amendment and the outcomes it produces.

The Guidelines require the Panel to consider:

- Why is an amendment required?
- Does the Amendment implement the objectives of planning and any environmental, social and economic effects?
- Does the Amendment support or implement the SPPF?
- How does the Amendment support or implement the LPPF, and specifically the MSS?
- Does the Amendment make proper use of the Victorian Planning Provisions (VPP)?
- How does the Amendment address the views of relevant agencies?

- Have the resource and administrative implications of the Amendment for the responsible authority been properly considered?

The Panel has considered the response to the Strategic Assessment Guidelines included in the exhibited Explanatory Report for the Amendment and in Council's submission to the Panel. The Panel endorses Council's response and considers that no issues are raised by an assessment against the Strategic Assessment Guidelines.

### **Ministerial Directions**

The Amendment is consistent with *Minister's Direction 11 – Strategic Assessment of Amendments* under section 12(2) of the Act.

The Amendment is consistent with *Minister's Direction 9 – Metropolitan Strategy* under section 12(2) of the Act. The Amendment has been prepared having regard to the Metropolitan Strategy - *Melbourne 2030 – Planning for sustainable growth* (see Section 4.2.1).

## **5.4 Form and Content**

The Minister has made a direction under Section 7(5) in relation to the Form and Content of Planning Schemes. In addition, *Using Victoria's Planning System, Chapter 9: Plain English* provides advice on form and content as do the following practice notes:

- Writing schedules;
- Using maps in planning schemes;
- Applying the Public Land Zones;
- Writing a local planning policy;
- Format of Municipal Strategic Statements; and
- Incorporated and reference documents.

Based on the assessment of the Amendment, the Panel considers that the amendment generally complies with this Direction. However, the Panel considers that there is some scope to reduce the length of the proposed LPPF and thus improve its readability. Suggestions are presented in Chapter 14.

## **5.5 Issues dealt with in this report**

The Panel has considered all written submissions, as well as submissions presented during the Hearing. In addressing the issues raised in those submissions, the Panel has been assisted by the information provided by various parties as well as observations of specific sites within the Structure Plan Area.

This Report deals with the issues under the following headings:

- Sustainability issues;
- Activity centres;
- Housing;
- St Kilda Triangle site, Upper Esplanade and St Kilda Foreshore;
- Port of Melbourne;
- Public Open Space;
- Heritage controls;
- Site specific issues; and
- Structure and content issues.

The following chapters deal with these issues.

## 6. Sustainability Issues

---

### 6.1 The Issue

Submitters raised a range of concerns in relation to the way that the Amendment addresses environmentally sustainable land use and development; and sustainable transport. The Panel has considered how these issues have been dealt with in the proposed changes to the Local Planning Policy Framework (LPPF).

### 6.2 Evidence and submissions

Council's submission, presented by **Ms Kirkwood**, argued that the proposed Clause 21.03 of the Municipal Strategic Statement (MSS) was soundly based on key directions identified in the *Council Plan 2009-2013* and the following strategies:

- Towards Zero Sustainable Environment Strategy 2007;
- Sustainable Design Policy 2006;
- Port Phillip Sustainable Transport Framework 2004;
- Walking Strategy 2005 – 2010; and
- Cycling Strategy 2005 – 2010.

Council submitted that the new Clause 21.03-1 - *Environmentally sustainable land use and development* - is a stronger and more comprehensive response to sustainability and green building design than the previous MSS and responds to Council's stated intention in the Council Plan to creating ... "*a City with the smallest possible ecological footprint.*"

Council also argued that the proposed Clause 21.03-2 – *Sustainable transport* – responds to specific objectives identified in Council's *Sustainable Transport Policy* and, in particular, clarifies Council's intention to prioritise transport modes in the following order:

- Walking;
- Cycling;
- Public transport;
- Freight;
- Multiple occupant vehicles; and
- Single occupant vehicles.

The Panel heard from **Mr Rayson** (Submission no. 10) who submitted that the proposed revisions to the MSS did not do enough to address climate change, promote sustainable building practices, support sustainability or reduce car dependence. Mr Rayson argued that the proposed LPPF needs further consideration of climate change and sustainability issues and it should reflect that heritage and neighbourhood character should be given less priority than sustainability. Mr Rayson argued that higher density development, particularly around activity centres, should be embraced in preference to maintaining existing character, and higher density urban living is the key to reducing urban emissions and producing a more sustainable society.

In response to Mr Rayson's position on climate change, Council acknowledged that the amendment does not introduce any significant new measures to address climate change but did highlight work currently being undertaken by Council to further target responses to climate change in the future. In response to Mr Rayson's other issues, Council argued that the issues were being taken up in the proposed LPPF through strong positions on activity centres and promoting more sustainable building practices.

A submission from **Help Save East St Kilda** (Submission no. 15) argued that the MSS should not prioritise walking and bicycles over cars and that more parking should be provided in new developments. Council did not accept these positions.

A submission from **Dr Dow** (Submission No. 3) proposed that the MSS should specifically nominate public transport links to Elwood. Council accepted this as a valid comment and has proposed that Strategy 4.4 in Clause 21.3-2 should be altered to include reference to Elwood.

### **6.3 Discussion**

The current MSS makes general reference to environmental sustainability, green building design and sustainable transport.

The proposed revised MSS includes a new Clause 21.03 – *Ecologically Sustainable Development* – which, in the Panel's view, successfully strengthens references to environmentally sustainable design and development and strengthens policy in relation to sustainable transport.

The proposed MSS places a greater priority on sustainability and requires planning applications to be assessed in relation to the sustainable design and development strategies set out in Clause 21.03-1. Proposed Clause 21.03-2 requires new use and development to prioritise transport modes to favour more sustainable modes; proposes specific strategies with greater emphasis

on walking and cycling and managing freight routes; and requires more detailed traffic and parking analysis to accompany applications.

Mr Rayson's concerns seem to have been reasonably responded to by Council and, whilst the proposed MSS may not go quite as far as Mr Rayson would like, the Amendment appears to the Panel to make significant steps towards recognising and implementing Council's environmental sustainability agenda.

The Help Save East St Kilda submission seems incongruous with State and local planning objectives to reduce car dependence. The position put forward by Help Save East St Kilda is not supported by the Panel.

## **6.4 Conclusions and recommendations**

The proposed Clauses 21.03-1 and 21.03-2 are clear and well drafted strategic responses to environmentally sustainable land use and development and sustainable transport. The proposed objectives and strategies are soundly based in detailed strategic work completed by Council over the past 6 years.

The Panel notes the further work being undertaken by Council with regard to responding to the effects of climate change and agrees that further changes may be required to the LPPF after planned Council and State investigations and strategic planning work have been completed.

Accordingly, the Panel recommends:

- 1. Amend proposed Clause 21.03 – Ecologically Sustainable Development – to add 'and Elwood' to strategy number 4.4 and include an additional Local Strategy in relation to 'Along Elwood Canal' as follows – '6.2.19 Ensure new development along Elwood Canal is set back and landscaped so it does not dominate or detract from the landscape character of the canal corridor' as per the changes proposed by Council.**

## 7. Activity centres

---

### 7.1 The issue

Submitters raised several issues related to Activity Centres including the relative role of various centres within the municipality, density and design issues, and managing deliveries in activity centres. Some of these issues were intertwined with the Housing issues discussed in Chapter 8.

### 7.2 Evidence and submissions

**Ms Webb** (submission no. 5) suggested that small local activity centres should be promoted to serve local needs and reflect community values as an alternative to the congestion in and presence of big companies in larger Activity Centres. This submission also expressed concern about the changing nature of the Acland Street Centre with the progressive demise of shops that serve day to day needs of residents.

In response, Council submitted that the proposed MSS identifies a network of activity centres in Port Phillip, describes the role and function of each centre and sets out the types of land use activities to be encouraged to reinforce those roles. Council noted that it is not able to manage retail mix through the Scheme as no distinction is made between specific types of 'shops'.

Mr Rayson (Submission no. 10) suggested that the MSS is not encouraging enough density in activity centres by directing residential development to these locations consistent with sustainability principles. To support such high density communities in activity centres, services, facilities and employment must be integrated into these locations. In response, Council submitted that Activity Centres are a key to sustainability with strategic directions for housing growth in the MSS focussed on delivering well-located new dwellings in and around activity centres.

**Help Save East St Kilda** (Submission no. 15) expressed concern that if higher density is encouraged in the Carlisle Street Activity Centre then this may result in higher density development elsewhere in Balaclava. Council responded that the Carlisle Street Structure Plan (which is to be implemented through a subsequent amendment process) will provide a very detailed policy basis for development within this activity centre.

The **Department of Transport** (Submission no. 9) submitted that the MSS should include a strategy to encourage off peak delivery of freight to minimise traffic, amenity and safety issues on adjacent dwellings. Council

noted that Clause 22.06 – *Urban Design Policy for Non-Residential Development and Multi-Unit Residential Development* includes a number of policies on loading facilities and that no additional policy is considered necessary. Council submitted that it did not support a policy directed at requiring off-peak deliveries because, while potentially assisting management of traffic congestion, it would be likely to have adverse impacts on nearby residential development.

### 7.3 Discussion

Given the strategic importance of activity centres to the vision and approach presented in the MSS, the Panel notes that relatively few issues were raised in submissions in relation to activity centres. The Panel considers that the MSS policies provide a sound framework for the sustainable development of activity centres that will continue to play a vital role in defining the diverse character of Port Phillip and serving the needs of residents and visitors alike.

The Panel notes that under Clause 21.06-1 *East St Kilda and Balaclava* that one of the Key Planning Challenges is *implementing the Carlisle Street Activity Centre Structure Plan*. The Panel considers that, although implementing this Structure Plan may well be a challenge, this statement seems at odds with the other challenges listed which all directed to specific use or development outcomes. As Council has foreshadowed that the St Kilda Structure Plan is to be implemented through a separate amendment, this statement is perhaps premature and appears unnecessary in this location.

The Panel agrees with the Council's response in relation to management of deliveries in activity centres which essentially relies on the provision of the facilities for loading and unloading of vehicles through Planning Scheme provisions (Clause 52.07 in particular) and consideration of the introduction of off peak delivery activities on a case-by-case basis.

### 7.4 Conclusions and recommendations

The Panel concludes that the only change that should be considered in relation to activity centres is the deletion of the phrase *implementing the Carlisle Street Activity Centre Structure Plan*.

Accordingly, the Panel recommends that:

- Delete the phrase 'implementing the Carlisle Street Activity Centre Structure Plan' from the Key Planning Challenges listed under Clause 21.06-1 East St Kilda and Balaclava.**

## 8. Housing issues

---

### 8.1 The issue

Issues raised in submissions on the Amendment in relation to housing ranged from: general concerns about the rate of housing growth foreshadowed; the density of development required; and the location of housing in activity centres and elsewhere, to quite detailed matters such as the need to prevent overshadowing of windows in existing residential development.

### 8.2 Evidence and submissions

#### Location and rate of housing growth

**Mr Rayson** (Submission no. 10.) submitted that Port Phillip needs to accommodate more population growth than the anticipated 28,000 people flagged in the MSS to be accommodated in Port Phillip over the next 16 years. Mr Rayson contended that a more aggressive approach of 80,000 to 100,000 additional persons is needed to comprehensively address the problems of sustainability and macro issues of climate change and peak oil.

Conversely, **Mr Webb** (Submission no. 5) submitted that other newer suburbs which have better infrastructure should accommodate population growth instead of Port Phillip because housing growth destroys neighbourhoods and heritage. This submitter also suggested that Council should lobby the State Government to create infrastructure for the future - creating suburbs next to newly built rail networks and highways.

In response to these submissions, Council submitted:

- *The MSS acknowledges that Port Phillip's current population is projected to increase 31% by 2026 and opportunities for housing growth need to be provided;*
- *Planning for population growth must, however, involve a metropolitan response and must not compromise the attributes of the inner region that make it an attractive place to live. The State Government is undertaking a metropolitan wide housing capacity assessment which will assist in future planning. The MSS provides significant opportunities for well-located new housing, to meet current population projections over the next two decades;*

- *State planning strategies clearly direct housing growth across the metropolitan area including the inner area, and this, coupled with strong market demand, will see on-going development pressures in Port Phillip;*
- *It is essential that Council adopts a 'planned approach' to meeting this demand through ensuring suitable locations for new housing are identified, whilst also protecting the highly valued character and amenity of established residential areas;*
- *The Port Phillip Housing Strategy 2007 which underpins the housing directions in the MSS identified there is capacity to deliver the majority of required growth in specific strategic locations/sites without the need to compromise established residential areas.*
- *On this basis, directions for housing in the MSS reflect a balanced 'housing growth' strategy based on:*
  - *Directing new housing development to 'preferred housing growth areas', i.e. locations which have capacity for change, and which offer highest accessibility to public transport, shops and social infrastructure, whilst:*
    - *Limiting new residential development within 'established residential areas' where considerations of neighbourhood character and heritage are paramount.*

### **Better design of residential development**

**Ms Webb** (Submission no. 5) submitted that aspects of the design of new residential development required improvement. The aspects nominated were:

- need for larger front setbacks which should include trees and landscaping;
- garden courts should be required in developments of 8 or more apartments. This would encourage neighbours to meet, enjoy green space and feel part of the community; and
- bins and air-conditioning units should be screened.

In response, Council submitted that the first two aspects were already addressed under Clause 22.06 – *Urban Design Policy for Non-Residential Development and Multi-unit Residential Development*. The policy also requires the screening of bins; however, it does not address air conditioners. A standard condition is applied to planning permits (where these are required) to require the screening of air conditioners and other plant equipment.

The **Department of Transport** (Submission no. 9) submitted that, in the context of freight movements from the Port of Melbourne, the design of residential development should take freight routes into account. In response, the Council submitted that a number of changes should be made to the LPPF in relation to the interface between the Port and nearby residential areas (see Chapter 10) but contended that the exhibited (and revised) LPPF adequately addresses the issue of protecting residential development abutting freight routes.

### **Overshadowing of windows**

**Mr Haines** (Submission no 4) submitted that the policy in Clause 22.06 - Urban Design Policy for Non-residential Development and Multi-unit Residential Development that states that Main living room windows on existing or nearby properties are not significantly overshadowed should be applied in ResCode (Clause 54.04-3 - Daylight to existing windows objective) and should apply to single dwellings. The submitter suggested that residential properties, which may not be north facing, can be affected by overshadowing regardless of whether the development is a single or multi-unit development.

In response, Council submitted that this request was beyond the scope of the Amendment because the submission requests a change to Clause 54.04 – *One dwelling on a lot*. This is a State planning provision and only the State Government can amend this section of the Scheme.

## **8.3 Discussion**

The Panel recognises that the issue of an appropriate level of residential growth in any area can be a contentious issue but notes that there was a modest number of submissions on this issue. The Panel considers that the MSS adequately and appropriately addresses this issue in the context of metropolitan planning.

The Panel acknowledges that Clause 22.06 – *Urban Design Policy for Non-Residential Development and Multi-unit Residential Development* provides an appropriate basis on which Council can consider the detailed design aspects of multi-unit residential development.

The Panel agrees with Council that the issues related to Clause 54.04 - *One dwelling on a lot* - are beyond the scope of this Amendment. In relation to overshadowing of windows of existing or nearby properties, the Panel notes that Clause 22.06 - *Urban Design Policy for Non-residential Development and Multi-unit Residential Development* - provides a policy basis for the assessment of permit applications.

## **8.4 Conclusions and recommendations**

The Panel concludes that no changes are required to the proposed LPPF in relation to the issues raised on housing growth or design issues relating to residential development. Recommendations relating to issues associated with interface management between residential areas and the Port of Melbourne are presented in Chapter 12.

## 9. St Kilda Triangle site, Upper Esplanade and St Kilda Foreshore

---

### 9.1 The Issue

A number of submitters raised questions in relation to how the proposed amendment may influence future development of the St Kilda foreshore and the St Kilda Triangle site.

The Panel has considered how these areas are addressed in the proposed amendment.

### 9.2 St Kilda Triangle site

#### Evidence and submissions

The Panel received a submission from **Unchain Inc** (submission no. 13) which generally supported the intent of references to the St Kilda Triangle site in Clause 21.06-6 - *St Kilda*, but put the position that the reference in Strategy 6.6.22 should be more specific to further limit the scope of development on the St Kilda Triangle site. Unchain Inc pointed to the importance placed on the content of the planning scheme in VCAT cases in relation to the St Kilda Triangle site and hence the need for the MSS to be very clear on the intent. **Ms Kynst** (Submission no. 14) raised the same issue in her submission.

In response, Ms Kirkwood put Council's position that a further separate strategic planning process is being undertaken to determine the future use and development of the St Kilda Triangle site and that more detailed reference in the MSS to the site would pre-empt that process. Ms Kirkwood advised the Panel that the anticipated timeframe is for the options for the St Kilda Triangle to be tested and decisions made by around November 2012, with further work on a St Kilda Structure Plan to follow in 2013. Council further advised that this work would also involve a review of the urban design framework relating to the Triangle site.

#### Discussion

Strategies in a MSS should necessarily be broad and strategic in their direction. The current statements on each neighbourhood in the proposed MSS are consistently at a broad and strategic level. To pick out any particular precinct for more detail would not be appropriate in the MSS.

It could, however, be appropriate to include a policy (or structure plan) into the Local Planning Policies section of the Scheme once the appropriate planning investigations and consultation has been completed. It is common for Local Planning Policies to set out more specific policy and implementation mechanisms of the type suggested by Unchain Inc. The Panel agrees with Council's conclusion that the proposed wording of the strategies in relation to the St Kilda Triangle should not be changed at this time but, rather, be reviewed once further planning work is completed.

### **9.3 The Upper Esplanade**

#### **Evidence and Submissions**

**Ms Kynst** (Submission no. 14) argued that the Upper Esplanade was not part of the St Kilda Triangle site and should be given its own specific mention in the St Kilda neighbourhood area section of Clause 21.06.

In response, Council advised that it does not support this proposal as the *St Kilda Foreshore Urban Design Framework, 2002* (which includes principles and strategies for the Upper Esplanade) is already an Incorporated Document in the Scheme.

#### **Discussion**

The Panel accepts that the Upper Esplanade is not part of the St Kilda Triangle site but accepts that, as it immediately abuts the Triangle site, it is likely that future plans for the Triangle site should be influenced by Council's vision for the Upper Esplanade.

The Panel accepts Council's contention that principles and strategies for the Upper Esplanade are set out clearly and in some detail in the *St Kilda Foreshore Urban Design Framework, 2002*. The Panel noted over 70 references to the Upper Esplanade in the *St Kilda Foreshore Urban Design Framework*, including clear statements in the objectives, strategies and urban design principles that should help guide any development in the area. As this document is an Incorporated Document and, as such, must be given consideration, the Panel agrees that no change is required to the proposed MSS to specifically refer to the Upper Esplanade.

### **9.4 Other Foreshore Issues**

#### **Evidence and Submissions**

**Ms Webb** (Submission no 5) argued that proposed references to the foreshore favoured tourism over foreshore protection.

In response, Council put the view that MSS Clause 21.04-6 – Tourism and Arts – contains specific strategies to “*minimise the impact of tourism and entertainment uses*”.

**UnChain Inc** (Submission no. 13) submitted that Clause 22.10-3 – *St Kilda Foreshore Area Policy* be re-worded to broaden the reference to include other boat owners not just the Royal Melbourne Yacht Squadron. The submission raised concerns particularly about the extent of the hardstand area in the proposed Royal Melbourne Yacht Squadron development and argued that the proposed policy statement *Consolidating yacht support services at the Royal Melbourne Yacht Squadron* would preclude other site options.

In response, Council argued that Clause 21.06 reflected the strategic direction for the *St Kilda Foreshore Urban Design Framework* and the amendment does propose any changes to the Policy.

### **Discussion**

The Panel accepts Council’s response to Ms Webb’s concerns. Whilst the proposed MSS recognises tourism and entertainment as an integral part of the St Kilda area, it also contains a number of objectives and strategies that balance this with some protection from adverse impacts on local residential amenity.

The Panel has reviewed the wording of Clause 22.10-3 in relation to the Royal Melbourne Yacht Squadron and notes that the full statement reads:

*It is policy to:.... enhance the function of specific sites by:.... consolidating yacht support services at the Royal Melbourne Yacht Squadron.*

As this statement does not include any reference to this site being developed in preference to, or as a priority over, other sites, it is the Panel’s interpretation that the reference relates only to the form of development of this particular site and does not preclude the option of providing yacht support services at other sites.

## **9.5 Conclusions**

The Panel concludes that no changes are required to the proposed LPPF in relation to the issues raised on the St Kilda Triangle site, Upper Esplanade or St Kilda foreshore.

## 10. Port of Melbourne issues

---

### 10.1 The issue

A number of issues relating to the interface between the Port of Melbourne and residential areas in Garden City and Port Melbourne were raised, largely by the **Port of Melbourne Corporation** (Submission no 8). Several related issues were raised in regard to freight routes to and from the Port by the **Department of Transport** (Submission no 9).

### 10.2 Evidence and submissions

In its submission, the Port of Melbourne Corporation (the Corporation) noted that the Amendment generally reflects support for the Port of Melbourne and port-related issues. However, the Corporation requested several changes to the LPPF, essentially to recognise the concept of a 'two way buffer' to assist the management of the interface between the Port and residential areas in Garden City and Port Melbourne.

Following exhibition of the Amendment, the Corporation met with Council officers to discuss issues raised in its submission. In response, Council prepared alterations to the exhibited LPPF which addressed most of the matters raised by the Corporation. In its presentation to the Hearing, the Corporation submitted that, with one exception, these proposed alterations addressed the issues raised by the Corporation. These issues raised and proposed changes to the LPPF agreed by the Council and the Corporation are presented below:

Recognise 'two way buffer' concept throughout the LPPF

- include the two-way concept into Clause 21.01-2 - *Strategic Approach*. The existing clause relating to the Port should include an additional element – “*the protection of the viability of the port and freight network from encroachment and intensification of incompatible land uses.*”; and
- in Clause 21.04-4 Industry - Amend Strategy 3.3 to read “Seek to protect the ongoing development and operation of the port by preventing encroachment of incompatible land uses and intensification of development in residential areas adjoining the port (consistent with the policies proposed under the heritage status of Garden City).”

The Port acknowledged that there is little opportunity for uses within Port Phillip to ameliorate the impacts of the Port, given the land which adjoins the Port is already extensively developed and has various planning controls in place to limit redevelopment. However, the Port requested that Council's strategies not allow sensitive land uses to encroach further on the port.

In response, the Council proposed to amend:

- the last dot point under 'land use' aspects of Clause 21.02-2 – *Strategic Approach* by the addition of the highlighted words:
- ensure that the viable and efficient operation of the Port of Melbourne (and associated freight corridors) occurs in a sustainable manner, which includes minimising the potential environmental and amenity impacts on the local area and its communities *and ensuring that sensitive uses do not further encroach on the Port.*
- under the Objectives and Strategies in Clause 21.04-4 – *Industry*, amend Strategy 3.3 and insert Strategy 3.4 as follows:
  - 3.3 Seek to establish buffer areas around the Port *on Port land* to protect the amenity at the Garden City residential interface.
  - 3.4 Discourage the further encroachment of sensitive uses and intensification of residential development in Garden City and Beacon Cove.

Acknowledge Perc White Reserve's role as a buffer

- acknowledge that Perc White Reserve is located on Port of Melbourne land and is therefore subject to the Port of Melbourne Planning Scheme and its role as a buffer separating port activities from residential and recreational areas.

In response, the Council proposed to:

- include under the Key Issues of Clause 21.04-5 *Public Open Space and Foreshore*, the following wording as an additional key issue:
  - Recognise that Perc White Reserve provides a 'distance/separation' buffer between the Port and residential uses and Sandridge Beach, however its primary role is as open space. Perc White Reserve contains remnant foreshore grassland of regional significance which must be protected from the environmental impacts of Port operations.

The Corporation generally supported this proposed inclusion but objects to the statement that the primary role of the Reserve is as open space.

At the Hearing, after further discussion in relation to the various administrative and other boundaries in the vicinity of Perc White Reserve at

Port Melbourne, the Council agreed to amend the Open Space and Foreshore Framework Plan in Clause 21.04-5 *Public Open Space and Foreshore* to delineate between the City of Port Phillip local government area boundary and the Port Phillip Planning Scheme boundary in relation to Perc White Reserve. Council did not agree to change the reference to the primary purpose of the Reserve as open space.

Remove reference to linear link to River through the Port:

- Clause 21.05-4 *Open Space and Foreshore Framework Plan* – Designation of a potential linear link along Williamstown Road into Webb Dock is not appropriate because access to the river is not available via Williamstown Road and the link would be affected by the proposed closure of the Williamstown Road/Todd Road intersection. The link as currently shown on the map would be severed by the construction of Dockside Road.

The Corporation clarified that it would support the link if shown on the Open Space and Foreshore Framework Plan in its current location, i.e. running parallel with Todd Road to Westgate Park. The Council agreed to the deletion of the arrow showing the potential link west of Todd Road and proposed a new arrow running north-south from the foreshore to the direction of Westgate Park (beyond the boundary of the Scheme).

Recognise Station Pier as trade and transport asset:

- in Clause 21.04-5 – *Public Open Space and Foreshore*, given Station Pier is considered part of the foreshore, Objective 7 should acknowledge the foreshore as being a trade asset as well as a tourist asset;
- Strategy 7.2 should acknowledge support for trade services and facilities at Station Pier;
- in Clause 21.06-4 *Port Melbourne and Garden City* - There is scope in the 'Vision' to acknowledge Station Pier's role as a freight transport gateway.

In response, Council agreed to add:

- an additional strategy under Clause 21.04-5 *Public Open Space and Foreshore* as follows:
  - 7.3 Support tourism and trade/freight services and facilities at Station Pier.
- the following two additional visions under Clause 21.06-4:
  - Station Piers retains its role as a trade/freight gateway; and
  - A freight network, which includes the development of key road and rail infrastructure projects, is in place to minimise amenity impacts on local residents.

- the following strategy as Clause 6.4.6 under 'Local Strategies':
  - Discourage the primary entry and orientation of new residential development in Garden City from facing or fronting Todd Road.

### **10.3 Discussion**

The Panel notes that the Corporation and the Council had had constructive discussions prior to the Hearing and had agreed to mutually acceptable proposed changes to the exhibited LPPF with the one exception in relation to the primary purpose of Perc White Reserve.

The Panel believes that the main point in relation to the role of Perc White Reserve is that it forms a buffer to the Port activities. This is not in dispute. The issue of what the primary purpose of the Reserve may be is considered by the Panel to be of less significance and the Panel believes that this reference can therefore be removed.

### **10.4 Conclusions and recommendations**

Based on the discussions between Council and the Corporation and the Panel's consideration of the issues raised, the Panel concludes that the concept of two way interface management between the Port of Melbourne and development in Garden City, Port Melbourne and Beacon Cove will be appropriately incorporated in the Scheme.

**Accordingly the Panel recommends that the following changes be made to Clause 21:**

3. **Add to the last dot point under 'land use' aspects of Clause 21.02-2 – *Strategic Approach*, after 'communities' the words: '*and ensuring that sensitive uses do not further encroach on the Port.*'**
4. **Amend Strategy 3.3 and insert Strategy 3.4 under the Objectives and Strategies in Clause 21.04-4 – *Industry*, as follows:**
  - **3.3 Seek to establish buffer areas around the Port *on Port land* to protect the amenity at the Garden City residential interface.**
  - **3.4 Discourage the further encroachment of sensitive uses and intensification of residential development in Garden City and Beacon Cove.**
5. **Amend the Open Space and Foreshore Framework Plan in Clause 21.04-5 *Public Open Space and Foreshore*:**

- to delineate between the City of Port Phillip local government area boundary and the Port Phillip Planning Scheme boundary in relation to Perc White Reserve;
  - to delete the arrow showing the potential link west of Todd Road and add a new arrow running north-south from the foreshore to the direction of Westgate Park (beyond the boundary of the Scheme);
6. Add an additional strategy under Clause 21.04-5 *Public Open Space and Foreshore* as follows:
- 7.3 Support tourism and trade/freight services and facilities at Station Pier.
  - the following two additional visions under Clause 21.06-4:
    - Station Piers retains its role as a trade/freight gateway;
    - A freight network, which includes the development of key road and rail infrastructure projects, is in place to minimise amenity impacts on local residents.
  - the following strategy as Clause 6.4.6 under 'Local Strategies':
    - Discourage the primary entry and orientation of new residential development in Garden City from facing or fronting Todd Road.
7. Include under the Key Issues of Clause 21.04-5 *Public Open Space and Foreshore*, the following wording as an additional key issue:
- Recognise that Perc White Reserve provides a 'distance/separation' buffer between the Port and residential uses and Sandridge Beach. Perc White Reserve contains remnant foreshore grassland of regional significance which must be protected from the environmental impacts of Port operations.

## **11. Public Open Space**

---

### **11.1 The Issue**

The Amendment proposes the insertion of a new Schedule to Clause 52.01 – *Public Open Space Contribution and Subdivision* – which specifies a mandatory 5% public open space contribution when land is subdivided.

### **11.2 Evidence and submissions**

Council's submission, presented by **Ms Kirkwood**, argued that the proposed Schedule implements the recommendation in the *Port Phillip Open Space Strategy* (2006, Revised 2009). The Strategy identifies the setting of a mandatory public open space contribution as a means of addressing increasing demand for public open space in Port Phillip.

Council provided extracts from the *Port Phillip Open Space Strategy* (2006, Revised 2009) and from the *Inner Regional Housing Statement* (2005) to demonstrate strategic support for a mandatory contribution. Council also provided information on the growing population, reducing provision of private open space and increasing density of development in support of the need for a mandatory 5% public open space contribution.

Council argued that 5% was the most appropriate figure, being a conservative figure that has been consistently applied across the City for a number of years. Council also argued that a fixed rate was most appropriate in order to achieve consistency and certainty for developers.

There were no submissions to the Panel, other than from Council, in relation to the proposed Schedule to Clause 52.01.

### **11.3 Discussion**

The Panel accepts that there is sound strategic support for a mandatory 5% public open space contribution when land is subdivided. It is noted that there were no submissions opposing the application of the mandatory contribution.

## **11.4 Conclusions and recommendations**

- 8. The Panel recommends that the proposed Schedule to Clause 52.01 – *Public Open Space Contribution and Subdivision* – be adopted as exhibited.**

## 12. Heritage control issues

---

### 12.1 The issue

Conflicting views on the role of heritage within the municipality and its influence on development were presented in several submissions.

### 12.2 Evidence and submissions

**Mr Labb** (Submission no. 2) suggested that the Heritage Overlay is applied too rigidly and its application should be tempered by the needs of occupants for environmentally friendly designs and increased space and amenity. This resident did not support 'grey box' second storey additions and suggested that such additions should be in harmony with the period of the dwelling. **Mr Rayson** (Submission no 10) submitted that the MSS requirement to maintain neighbourhood character and conserve heritage is in conflict with the need to address sustainability and the macro issues.

**Ms Webb** (Submission no. 5) submitted, without elaboration, that heritage is not being protected.

Council submitted that heritage is extensively protected by the Scheme and that the extent of the Heritage Overlay is regularly reviewed by Council and heritage protection for other areas which meet the required criteria will be sought. Council further contended that the focus on protecting heritage and neighbourhood character in established areas of the municipality reflects widespread community aspirations.

Strategy 1.7 of Clause 21.03-1 - *Ecologically Sustainable Land Use and Development* seeks to promote improved environmental performance and heritage conservation as mutually supportive planning considerations. Council noted that the content and directions of Clause 22.04 – *Heritage Policy* had not been amended as part of this Amendment. Under this policy, an interpretive design approach to second storey additions is encouraged.

### 12.3 Discussion

The three submissions on heritage controls essentially encapsulate the broader community positions of either too much or too little control over heritage resources. The Panel notes that the Amendment was essentially 'policy neutral' on heritage matters – merely reviewing and reformatting in accordance with the VPP Practice Note *Writing Local Planning Policy*. The

Panel also notes that Council is currently reviewing its *Sustainable Design Policy and Strategy* and that one aspect of this review is examining the relationship between ecologically sustainable design measures and heritage management.

## **12.4 Conclusions**

The Panel concludes that no changes are required to the Local Planning Policy in relation to heritage matters.

## 13. Site Specific Issues

---

### 13.1 The Issues

A number of submitters raised issues specific to particular sites, either as suggested changes to the proposed objectives and strategies in the MSS or as requests for site-specific rezonings. The Panel has examined each of these submissions.

### 13.2 National Memorial Theatre

A submission on behalf of the **National Memorial Theatre** (Submission no. 1) argued that the Theatre site on the corner of Carlisle and Barkly Streets should be rezoned from the existing Residential 1 Zone on the basis that the existing zoning places unreasonable restrictions on the operation of the Theatre.

The Panel agrees with the Council's conclusion that a site-specific rezoning is not within the scope of Amendment C62. Any such rezoning proposal would need to be pursued through a separate strategic review and amendment process.

### 13.3 Chessell Street, Market Street, Clarke Street, South Melbourne

A submission was received from **Roberts Day** (Submission no. 7) on behalf of the owners of 31-33 Chessell Street, 56A Market Street, Lot 3 Market Street and 68 Clarke Street which argued that the land should be rezoned from Business 3 Zone to Business 1 Zone and be included in the Northern Mix Activity Edge Precinct to enable the site to be redeveloped for infill development with a residential component.

The Panel agrees with the Council's conclusions that no change be made to the proposed amendment on the basis that:

- site-specific rezoning is not within the scope of Amendment C62; and
- the proposed rezoning is contrary to recent strategic planning directions of the *South Melbourne Central Structure Plan* and Amendment C52.

## 13.4 St Kilda Junction

The Panel received a presentation from **Mr Bromhead** from **Ratio Consultants** on behalf of Strathgordon Properties Pty Ltd (Submission no. 11) in relation to a property at 2 St Kilda Road. The owner intends to seek approval to redevelop the site for a multi-storey apartment building with ground level retail. In support of this foreshadowed application, Mr Bromhead sought to have the wording of the MSS in relation to the area around the St Kilda Junction changed to encourage higher building forms.

In support of this position, Mr Bromhead argued that there seems to be Council support for improving the form and function of buildings around the Junction but that the amendment is not explicit enough in setting out the desired outcomes, nor expansive enough in the types of uses to be encouraged. Mr Bromhead argued that St Kilda Junction is a gateway site that should be differentiated from the balance of the St Kilda area in the MSS.

Mr Bromhead referred a number of times in his submission to the requirement in Clause 21.06-6 Strategy 6.6.32 for development in this area to *Ensure new development responds to the consistent 2 storey scale and setbacks of buildings along the east side of St Kilda Road*. Mr Bromhead argued that this was unrealistically restrictive in terms of its impact on the form of development achievable on his client's site.

Mr Bromhead proposed a number of changes to the Amendment that have a similar theme of increasing development opportunities and scale around the Junction.

In response, Council officers argued that changes to the strategic direction of development around the St Kilda Junction area had not been tested through a public consultation process and the changes suggested by the submitter would therefore be inappropriate. Council did make the point that the wording of Strategy 6.6.32 does not limit development on this site to two storeys and that it is possible that more intensive development could be acceptable under existing controls.

The Panel agrees with the Council's conclusion that no change be made to this Amendment at this time. Any further changes to the MSS as suggested by the submitter would need to be pursued through a separate strategic review and amendment process. The Panel also notes that the owner has existing development options, along the lines of his proposal, under the present controls.

### 13.5 Eastern Road, South Melbourne

A late submission was received from **Kim Belfield Planning Consultant** (Submission no. 18) on behalf of the owner of 24 Eastern Road, South Melbourne proposing that the land at this address be rezoned from the current Business 3 Zone to either Business 5 Zone or Mixed Use Zone so as to facilitate development with convenience, office and residential uses.

Council acknowledged that the uses in this area are changing over time and that it may well be an area that is appropriate for a broader range of uses, including residential, in the future. However, Council submitted that insufficient strategic work has been done at this time to justify any rezoning.

The Panel agrees with the Council's conclusions that no change be made to the Amendment on the basis that:

- Site-specific rezoning is not within the scope of Amendment C62; and
- The proposed rezoning is contrary to recent strategic planning directions of the South Melbourne Central Structure Plan and Amendment C52.

### 13.6 Industrial land, Port Melbourne

The Panel received a late submission from **Mr Webb** (Submission no. 19) that argued that the industrial area of Port Melbourne north of Williamstown Road and east of Graham Street should be rezoned to allow part residential use.

The Panel notes Council's response that this area is being examined as part of the *Fishermans Bend Industrial Strategy* and, as such, will be the subject of further strategic analysis and community consultation. It is also noted that references to this area in the proposed MSS are unchanged from those in the previous MSS.

The Panel concludes that any revised statements of policy, objectives or strategy in relation to this area should wait until after the proposed *Fishermans Bend Industrial Strategy* has been completed. Any rezoning proposals for this area should also await the outcome of this strategic work.

### 13.7 Conclusions

The Panel concludes that no changes are required to the proposed amendment in relation to the site-specific issues discussed in Sections 13.2 to 13.6 of this report.

## **14. Structure and content of the proposed LPPF**

---

### **14.1 The issue**

Several submitters commented on aspects of the presentation of the LPPF text. In addition, the Panel has taken the opportunity to offer some comments on the structure and content of the LPPF that were noticed during the Hearing and report preparation process.

### **14.2 Evidence and submissions**

Mr Rayson (Submission no 10) contended that the MSS is far too long and complex and that there is also substantial ambiguity and obfuscation. He further submitted that the MSS would be a far more effective document if it was completely re-considered, reformatted and substantially reduced in size. Mr Rayson also considered that the purpose and reasoning behind each objective needs to be clearer and that there should be some exploration of the inter-relationship between objectives.

Ms Kynst (Submission no 14) submitted that the MSS should be vetted for ambiguities, anachronisms and 'weasel words'. In particular, she requested that the term 'St Kilda-ness' should be removed from the MSS as this concept was coined some years ago with the best intentions to conserve the intangibles of St Kilda's character and incorporated/presented in the St Kilda Urban Development Framework 2002. She contended that:

*This noble effort to hold onto a St Kilda rapidly disappearing under the pressure of gentrification, resulted in the term being coopted, instead, to define and promote the consumerist vision embedded in the Triangle proposal.*

The Council did not make any specific responses to these issues.

### **14.3 Discussion**

#### **14.3.1 General comments**

Overall, the Panel considers that the revised MSS and the Local Planning Policies (LPPs) have a clear and logical structure. They assist the reader in understanding what the objectives are and how they will be achieved. They also clearly demonstrate how these two major clauses are linked and interact with each other.

In particular, the framework provided in the MSS key themes - Ecologically Sustainable Development, Land Use and Built Form - lead the reader through the development of the policies. The step-by-step framework of 'Key Issues', 'Objectives and Strategies' and 'Planning Scheme Implementation' presented under each key theme is helpful.

The LPPs follow through with this structure and with the objectives set out in the MSS by indicating, where appropriate, the relevant provisions of the MSS on which they build.

There is, however, a significant amount of detail included in the MSS. In the interests of streamlining the MSS and producing a more user-friendly document, the Panel suggests that some of this detail could be reviewed and removed where appropriate. For example, Clause 21.01-3 *Organisational planning framework* outlines the *Council Plan* in detail. This Plan is an Incorporated Document and, therefore, does not require such a detailed treatment in the Scheme. Further, it is assumed that Council has sought to implement the main vision and priorities of the Plan in the body of the MSS, therefore, its repetition here is not required.

Further, the clauses headed 'Planning Scheme Implementation' within the key themes of the MSS provide helpful guidance on how the preceding key issues and objectives and strategies will be implemented. However, it is noted that some of the implementation strategies are superfluous and could be removed in the interests of reducing content and focussing the reader on the specific implementation strategies which require attention. For example, under Clause 21.03-2 - *Sustainable Transport*, it is noted that the strategies will be implemented by:

*Applying the Road Zone, Category 1 to all declared main roads to reflect their status under the Transport Act.*

This is a broad strategy which, in any event, is an overarching requirement for roads given this status. It is considered that this, and other similarly broad implementation strategies in the MSS (for example, *Applying the Residential 1 Zone to residential land*), could be removed without prejudice to achieving the outcome sought.

This is contrasted to a more specific implementation strategy such as that under Clause 21.04-1 - *Housing and Accommodation* which states:

*Applying the Mixed Use Zone to former industrial areas on the periphery of major activity centres to provide opportunities for new well located residential development at increased densities (page 18 of 89, second dot point).*

It is considered that an implementation strategy such as this should be included as it identifies Council's specific strategic approach towards an issue, compared to matters already required elsewhere in the Scheme.

### **14.3.2 Specific Matters**

Clause 21.03-2 - *Sustainable Transport* includes a clause under the heading 'Exercise of Discretion' (page 13 of 89) which requires traffic and parking analysis to accompany certain applications. It is noted that this clause reads as a Decision Guideline and, at first reading, does not appear appropriate for inclusion within the MSS. Council may wish to review the placement of this clause and whether there is a more appropriate place for its inclusion in the Scheme.

Consistent with the definition in Clause 74 of the Scheme, the Panel suggests that the term 'Caretaker's House' not 'Caretaker's Dwelling' should be used in the heading to and content of Clause 22.03 - *Caretaker's Dwellings in Industrial areas*.

The Panel notes that the Council proposed to make minor amendments to Objectives and strategies under Clause 21.05-2 *Urban Structure and Character* to add 'Beach Street/The Boulevard,' and 'Broadway' to the fifth dot point under subclause 1.1.

## **14.4 Conclusions and recommendations**

The Panel concludes that, while the revised MSS and LPPs have a clear and logical structure, at over 120 pages in length and, arguably, reflecting the complexity and diversity of the City of Port Phillip, there would be some merit in Council judiciously reviewing and, where possible, streamlining the content without changing the intent of the new LPPF. This process should have regard to the matters raised in Section 14.3. The Panel also recognises that the LPPF review process has been underway for several years and the benefits that could be achieved through such a review process must be balanced against the wider benefits to the administration of the Scheme of having an updated LPPF in the Scheme sooner rather than later.

Accordingly, the Panel recommends:

- 9. Review and, where possible, streamline the content of the new LPPF without changing its intent, having regard to the matters raised in Section 14.3 of this report.**

## **15. Conclusions and recommendations**

---

### **15.1 Conclusions**

The Panel concludes that:

- the Amendment is consistent with and will give effect to relevant provisions of the Act, the Port Phillip Planning Scheme and adopted planning strategies; and
- the Amendment generally complies with relevant Ministerial Directions but there is some scope to reduce the length of the proposed LPPF and thus improve its readability.

### **15.2 Recommendations**

Based on the reasons set out in this report, the Panel makes the following recommendation to the Planning Authority:

Amendment C62 to the Port Phillip Planning Scheme should be adopted as exhibited subject to the following recommended changes:

- 1. Amend proposed Clause 21.03 – Ecologically Sustainable Development – to add ‘and Elwood’ to strategy number 4.4 and include an additional Local Strategy in relation to ‘Along Elwood Canal’ as follows – ‘6.2.19 Ensure new development along Elwood Canal is set back and landscaped so it does not dominate or detract from the landscape character of the canal corridor’ as per the changes proposed by Council.**
- 2. Delete the phrase ‘implementing the Carlisle Street Activity Centre Structure Plan’ from the Key Planning Challenges listed under Clause 21.06-1 East St Kilda and Balaclava.**
- 3. Add to the last dot point under ‘land use’ aspects of Clause 21.02-2 – Strategic Approach, after ‘communities’ the words: ‘and ensuring that sensitive uses do not further encroach on the Port.’**
- 4. Amend Strategy 3.3 and insert Strategy 3.4 under the Objectives and Strategies in Clause 21.04-4 – Industry, as follows:**
  - **3.3 Seek to establish buffer areas around the Port on Port land to protect the amenity at the Garden City residential interface.**

- **3.4 Discourage the further encroachment of sensitive uses and intensification of residential development in Garden City and Beacon Cove.**
- 5. Amend the Open Space and Foreshore Framework Plan in Clause 21.04-5 Public Open Space and Foreshore:**
- to delineate between the City of Port Phillip local government area boundary and the Port Phillip Planning Scheme boundary in relation to Perc White Reserve;
  - to delete the arrow showing the potential link west of Todd Road and add a new arrow running north-south from the foreshore to the direction of Westgate Park (beyond the boundary of the Scheme).
- 6. Add an additional strategy under Clause 21.04-5 Public Open Space and Foreshore as follows:**
- **7.3 Support tourism and trade/freight services and facilities at Station Pier.**
  - the following two additional visions under Clause 21.06-4:
    - Station Piers retains its role as a trade/freight gateway;
    - A freight network, which includes the development of key road and rail infrastructure projects, is in place to minimise amenity impacts on local residents.
  - the following strategy as Clause 6.4.6 under 'Local Strategies':
    - Discourage the primary entry and orientation of new residential development in Garden City from facing or fronting Todd Road.
- 7. Include under the Key Issues of Clause 21.04-5 Public Open Space and Foreshore, the following wording as an additional key issue:**
- Recognise that Perc White Reserve provides a 'distance/separation' buffer between the Port and residential uses and Sandridge Beach. Perc White Reserve contains remnant foreshore grassland of regional significance which must be protected from the environmental impacts of Port operations.
- 8. The Panel recommends that the proposed Schedule to Clause 52.01 – Public Open Space Contribution and Subdivision – be adopted as exhibited.**

- 9. Review and, where possible, streamline the content of the new LPPF without changing its intent, having regard to the matters raised in Section 14.3 of this report.**