

CITY OF PORT PHILLIP REPORT

ORDINARY MEETING OF COUNCIL
29 SEPTEMBER 2009

4.	AMENDMENT C70 – PLANNING SCHEME MAINTENANCE (UPDATES AND CORRECTIONS) - CONSIDERATION FOR ADOPTION
LOCATION/ADDRESS:	VARIOUS – CITY OF PORT PHILLIP
GENERAL MANAGER:	SUE WILKINSON, GENERAL MANAGER ENVIRONMENT & PLANNING
PREPARED BY:	ELI GREIG, STRATEGIC PLANNER
FILE NO.:	66/02/160
ATTACHMENTS:	1. AMENDMENT C70 - EXPLANATORY REPORT AND LIST OF CHANGES 2. HO7 STATEMENT OF SIGNIFICANCE (WITH CHANGES HIGHLIGHTED)

1. EXECUTIVE SUMMARY

- 1.1** Amendment C70 proposes to make various updates and corrections to the Port Phillip Planning Scheme, including a site specific rezoning, inclusion of additional properties in the heritage overlay, and updates / corrections to the Port Phillip Heritage Review, which is an incorporated document in the planning scheme.
- 1.2** Council is required to ensure that the provisions of the Port Phillip Planning Scheme are up-to-date. To do this it is necessary to regularly review the provisions of the scheme, identify anomalies and undertake an amendment process to correct them.
- 1.3** Amendment C70 was placed on public exhibition in accordance with Section 19 of the Planning and Environment Act 1987. One written submission was received and was subsequently withdrawn conditional on changes to the proposed Statement of Significance for Heritage Overlay 7 to include a more detailed description of the pattern of development in Albion Street, East St Kilda.
- 1.4** Council now needs to determine whether to formally adopt Amendment C70 (with these changes) and to request the Minister for Planning to approve the Amendment.

2. RECOMMENDATION

That Council:

- 2.1** Changes the exhibited amendment by altering the Statement of Significance applying to Heritage Overlay 7, which will form a part of the Port Phillip Heritage Review 2009 - Version 14, to include further detail regarding the subdivision of the Brunnings Estate and the pattern of development in Albion Street, St Kilda, in accordance with Attachment 2.
- 2.2** Adopts Amendment C70 to the Port Phillip Planning Scheme, pursuant to section 29 of the *Planning and Environment Act 1987*, with the changes outlined in section 2.1 of this recommendation, and in the form generally described in the Explanatory Report and List of Changes included as Attachment 1.
- 2.3** Submits the adopted amendment, together with prescribed information to the Minister for Planning for approval, pursuant to Section 31 of the Planning and Environment Act 1987.
- 2.4** Authorises the General Manager - Environment and Planning to finalise the amendment documentation for approval.

3. BACKGROUND AND CONTEXT

- 3.1** In September 2008, Council resolved to prepare and exhibit Amendment C70 to the Port Phillip Planning Scheme, which includes a variety of minor site specific changes and updates to the planning scheme, including to the Port Phillip Heritage Review.
- 3.2** The Explanatory Report for Amendment C70, included as Attachment 1, lists the properties affected by the amendment and includes a detailed table describing the changes proposed in respect to each property and the rationale for these changes. In summary the amendment proposes to:
 - 3.2.1** Rezone 15 Marriott Street, St Kilda from a Public Use Zone (PUZ6 – Local Government) to a Residential 1 Zone, to reflect the established residential use and private ownership of the land.
 - 3.2.2** Introduce a permanent Heritage Overlay to:
 - 1, 3 & 5 Garden Court, Elwood, through the extension of HO7.
 - Garden City Reserve, Port Melbourne -northern portion, through the extension of HO2.
 - Sea Wall and Promenade, Beaconsfield Parade, St Kilda West/Middle Park. An Incorporated Plan for the Sea Wall and Promenade is also introduced into the scheme at Clause 81.

An Interim Heritage Overlay was applied to these sites through Amendment C76, to provide heritage protection whilst permanent controls were progressed through the public exhibition of Amendment C70.

3.2.3 Amend the existing Heritage Overlay Maps to make the following corrections/updates:

- Extend HO5 to cover the whole property at 35 Gurner Street, St Kilda.
- Extend HO2 to cover the whole of the properties known as 59 & 60 Crichton Avenue, 27 Walter Street & 432 Williamstown Road, Garden City.
- Delete the HO from the area to which HO115 currently applies (area bounded by Bay Street, Little Bay Street, Dow Street and Rouse Street, Port Melbourne).
- Apply a reduced HO115 to cover 93 Dow Street, Port Melbourne only.
- Include 96 Bay Street, Port Melbourne in a new Heritage Overlay (HO452).
- Retain the underlying HO1 over the balance of the area to which the original HO115 applied (ie area bounded by Bay Street, Little Bay Street, Dow Street and Rouse Street, Port Melbourne).
- Reduce the area of HO431, to coincide with location of Scots Church at 31A Scott Street, Elwood.
- Apply HO432 to coincide with the location of the Church Hall at 31A Scott Street, Elwood.
- Delete HO432 from the land at 31B Scott Street, Elwood.

3.2.4 Update the Schedule to the Heritage Overlay at Clause 43.01 by:

- Inserting a new Heritage Overlay reference for 96 Bay Street, Port Melbourne (HO452).
- Inserting a new (permanent) Heritage Overlay reference for the Sea Wall and Promenade, Beaconsfield Parade, St Kilda West/Middle Park (HO450), including reference to the Incorporated Plan - Sea Wall and Promenade (September 2008).
- Updating the address for HO115 (93 Dow Street, Port Melbourne).
- Correcting the address for HO432 (31A Scott Street, Elwood).

3.2.5 Update the Port Phillip Heritage Review, which is an incorporated document in the planning scheme, to:

- Add 5 new citations (10 Centre Avenue, Port Melbourne, 9-23 Centre Avenue, Port Melbourne, 34 Fitzroy Street, St Kilda, 1 Morris Street, South Melbourne and 101 Alma Road, St Kilda East).
- Amend the Statements of Significance for the HO2 precinct (to make reference to the Garden City Reserve) and HO7 precinct (to make reference to Garden Court and the former Brunnings Estate).
- Correct / update text/map details on 5 existing citations.
- Update the grading of 24 individual properties on the Port Phillip Heritage Policy Map.
- Delete three (3) properties on the Port Phillip Neighbourhood Character Policy Map which are now to be included in a Heritage Overlay.

3.2.6 Update Clauses 21.05, 22.01, 22.04 of the Local Planning Policy Framework to include the revised version number and date of the Port Phillip Heritage Review, Port Phillip Heritage Policy Map and Port Phillip Neighbourhood Character Policy Map.

3.2.7 Update the Schedule to Clause 81 – Incorporated Documents, to incorporate and refer to the updated versions of the Port Phillip Heritage Review, City of Port Phillip Heritage Policy Map and City of Port Phillip Neighbourhood Character Policy Map, and to introduce an Incorporated Plan for the Sea Wall and Promenade, St Kilda West / Middle Park (dated September 2008).

4. CONSULTATION AND STAKEHOLDERS

4.1 Amendment C70 was placed on public exhibition on 11 June 2009 for a period of one calendar month, in accordance with section 19 of the *Planning and Environment Act 1987*. The public notification process included:

4.1.2 Direct notices to the owners and occupiers of properties affected by the amendment as well as adjoining or nearby properties where it was assessed that a property may be materially affected.

Individually tailored letters were prepared relating to each of the properties affected by the amendment, to ensure that the changes to the planning scheme and effect of these changes were made clear to persons notified.

4.1.3 Public notices in the Port Phillip Leader and Emerald Hill Times.

4.1.4 A Notice in the Government Gazette.

4.1.5 Display of the Amendment Documents at the Council Offices - South Melbourne and St Kilda Town Hall's, St Kilda Library and on the City of Port Phillip and Department of Planning and Community Development Web Sites.

4.2 One submission was received in response to the exhibition of Amendment C70. The submission requested that the Statement of Significant for Heritage Overlay 7 include a more detailed description of the pattern of development in Albion Street, East St Kilda to reflect various stages of development prior and subsequent to the subdivision of the Brunnings Nursery.

4.3 Discussions were held with the submitter to determine an agreed description of the development phases in Albion Street. The recommended changes to the Statement of Significance for Heritage Overlay 7 are reflected in Attachment 2.

4.4 Following this process the submission was formally withdrawn and the submitter expressed support for the amendment process to proceed, contingent upon Council accepting the revised Statement of Significance.

5. DISCUSSION

5.1 OPTIONS

5.1.1 Following Public Exhibition, the *Planning and Environment Act, 1987* outlines three options that are available to the Council:

Option 1 - Adopt the amendment (with or without changes). Adoption of an amendment at this stage is only possible where there are no submissions or the amendment can be changed to accommodate the issues raised in any submission.

Option 2 - Refer submissions to an Independent Panel for consideration.

Option 3 - Abandon the amendment.

5.1.2 Option 1, to adopt the amendment (with changes), is recommended on the basis that:

- The Amendment can be modified to accommodate the issues identified by the one submission received. The submission has been conditionally withdrawn on the basis of these changes.
- Amendment C70 proposes a range of minor changes, updates and corrections to the planning scheme and the associated Port Phillip Heritage Review. These are necessary to maintain the accuracy of scheme provisions and ensure appropriate heritage controls over significant heritage places.

5.1.3 Option 2 would be necessary if Council determines not to accept the changes proposed to the Statement of Significance for Heritage Overlay 7. In this case Council would need to request the Minister for Planning to appoint an Independent Panel, and to formally refer the submission to that Panel for consideration.

5.1.4 Option 3 is not recommended. Abandoning the amendment at this stage would result in the necessary updates to the Planning Scheme not being implemented.

5.2 ALIGNMENT TO COUNCIL PLAN

5.2.1 Amendment C70 responds to Council Plan Strategies 4.1: 'A sense of Place' and 4.1.7: 'Preserving our heritage' by retaining and protecting places identified as being of cultural heritage significance.

5.3 POLICY IMPLICATIONS PLAN

5.3.1 The amendment is consistent with the Local Planning Policy Framework in the Port Phillip Planning Scheme which seeks to retain, protect and enhance places of heritage significance, and to encourage new development that is respectful of these heritage places.

5.3.2 The amendment is consistent with state government / legislative requirements that require the Port Phillip Planning Scheme to be correct and up-to-date.

5.4 FINANCE / RESOURCE IMPLICATIONS

5.4.1 If Council resolves to adopt Amendment C70, a statutory fee of \$798 is payable to the Department of Planning and Community Development to consider approval of the amendment.

5.4.2 By adopting the amendment, efficiencies will be gained through the availability of accurate information in the Port Phillip Planning Scheme and the Port Phillip Heritage Review.

5.5 LEGAL & RISK IMPLICATIONS

5.5.1 No significant risk implications have been identified. The 'continuous improvement' of Planning Schemes is encouraged by the Department of Planning and Community Development and accordingly, Departmental and Ministerial support for the approval of the Amendment is anticipated.

6. IMPLEMENTATION STRATEGY

6.1 TIMELINE

6.1.1 Should Council adopt the recommendations of this report, a submission to the Minister for Planning advising of the Council's decision to adopt Amendment C70 and requesting Ministerial approval of the amendment, can be made within two weeks of Council's decision.

6.1.2 Approval of the amendment by the Minister would be expected within the following two months. Benchmarks set by the Department of Planning and Community Development outline that, in 80% of cases, the assessment of amendments for approval will be dealt with in 30 working days.

6.2 COMMUNICATION

6.2.1 The sole submitter will be provided with written advice of Council's decision in relation to Amendment C70, and any subsequent decision (approval or otherwise) by the Minister for Planning.

6.2.2 All owners of affected properties will be advised in writing of the Ministers decision to approve (or abandon) Amendment C70, to ensure awareness of the changes to the scheme brought about by the amendment.

7. OFFICER DIRECT OR INDIRECT INTEREST

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