

STRATEGY AND POLICY REVIEW COMMITTEE

1 JUNE 2009

POLICY AND PLANNING

A1	REVIEW OF HERITAGE OVERLAY 3 - AMENDMENT C72 TO THE PORT PHILLIP PLANNING SCHEME
LOCATION/ADDRESS:	VARIOUS PROPERTIES ACROSS MIDDLE PARK, SOUTH MELBOURNE, ALBERT PARK AND WEST ST KILDA.
RESPONSIBLE EXECUTIVE DIRECTOR:	GEOFF OULTON, EXECUTIVE DIRECTOR COMMUNITY DEVELOPMENT AND PLANNING
AUTHOR:	KATRINA TERJUNG - COORDINATOR STRATEGIC PLANNING ELI GREIG, STRATEGIC PLANNER
FILE NO:	66/01/93
ATTACHMENTS:	ATTACHMENT 1: REVIEW OF HERITAGE OVERLAY 3 (REPORT) INCL. NEW CITATIONS / STATEMENTS OF SIGNIFICANCE. ATTACHMENT 2: TABLE OF PROPOSED GRADING CHANGES – CITY OF PORT PHILLIP HERITAGE POLICY MAP. ATTACHMENT 3A: SUMMARY OF SUBMISSIONS / REPSONSES TO THE REVIEW OF HO3. ATTACHMENT 3B: SUMMARY OF LATE SUBMISSION TO THE REVIEW OF HO3 / LIST OF ADDITIONAL CHANGES TO ATTACHEMENT 1 ATTACHMENT 4: CURRENT HO3 CITATION

1. EXECUTIVE SUMMARY

- 1.1 A Review of Heritage Overlay 3 (covering extensive areas across the suburbs of South Melbourne, Albert Park, Middle Park and St Kilda West) has been undertaken, resulting in the development of more detailed and relevant Citations / Statements of Significance for seven smaller precincts. The Review also recommends changes to the heritage grading of 43 individual properties within HO3 as shown on the Port Phillip Heritage Policy Map.
- 1.2 Extensive community consultation occurred during the Review of HO3, with 6,000 letters sent and 31 written submissions received. All submissions were reviewed by Council's consultant Heritage Alliance and Council's internal

Heritage Advisor, with comments incorporated into the final draft statements as appropriate.

- 1.3 An amendment to the Port Phillip Planning Scheme is required to implement the Review of HO3, and specifically to incorporate the revised Citations / Statements of Significance and grading changes into the Port Phillip Heritage Review and Heritage Overlay which both form part of the planning scheme.
- 1.4 Incorporation of the new Statements of Significance into the Planning Scheme will provide Council with a significantly improved basis for making and defending decisions under the Heritage Overlay, and ultimately enhancing the protection of heritage assets in this part of Port Phillip.

2. RECOMMENDATION

That the Strategy and Policy Review Committee recommend that Council resolve to:

- 2.1 Amend the Citations / Statements of significance presented in Attachment 1, to include the recommended changes arising from a late submission as detailed in Attachment 3b.
- 2.2 Resolve to prepare and exhibit Amendment C72 to the Port Phillip Planning Scheme to implement the Review of HO3 by:
 - Updating the Schedule to the Heritage Overlay, and corresponding HO Maps, to delete reference to HO3 and inserting new references for HO440-HO447 (7 new precincts).
 - Amending the *Port Phillip Heritage Review* to replace the existing single citation for HO3 with 7 new citations as presented in attachment 1 with additions as per 2.1, and alter the grading of 43 properties on the *City of Port Phillip Heritage Policy Map*.
 - Amending all references in the Planning Scheme to the updated versions of the *Port Phillip Heritage Review* and *City of Port Phillip Heritage Policy Map*.
 - Including the review of Heritage Overlay 3 as a Reference Document at Clauses 21 and 22 of the Planning Scheme (Local Planning Policy Framework).
- 2.3 Request the Minister for Planning to authorise the preparation and exhibition of Amendment C72 to the Port Phillip Planning Scheme, pursuant to section 8(a) of the *Planning and Environment Act 1987*.
- 2.4 Request the Minister, pursuant to section 20(2)(a) of the *Planning and Environment Act 1987*, to grant an exemption from notification as required by section 19(1)(b) (to all owners and occupiers of land that may be affected) on the basis of the number of persons to be notified and that extensive community consultation on this matter has recently been undertaken.
- 2.5 Advise the Minister that Council will undertake the following notification in relation to Amendment C72:
 - Give direct notices to all persons who have expressed an interest or made a submission to the Review of Heritage Overlay 3, and to Prescribed Authorities.

- Place Public Notices of the Amendment in the Port Phillip Leader, Emerald Hill Times and Government Gazette.
 - Include information about Amendment C72 and the opportunities to make submissions in Council's 'Diversity' publication which is circulated to all residents and businesses.
- 2.6 Formally consider all submissions received in response to the exhibition of Amendment C72 and determine whether to refer submissions to an Independent Panel.
- 2.7 Request the Minister to authorise Council to approve the amendment, pursuant to section 11 of the *Planning and Environment Act 1987*.
- 2.8 Authorise the Executive Director, Community Development and Planning, to finalise all amendment documentation.

3. DISCUSSION

Background - Heritage Overlay 3 - Port Phillip Heritage Review

- 3.1 Heritage Overlay Precinct 3 (HO3) is included within the Port Phillip Planning Scheme and covers an extensive area across the suburbs of South Melbourne, Albert Park, Middle Park, and West St Kilda. The precinct also includes the Albert Park Lake and associated parkland. The extent of HO3 is shown by the map below:



- 3.2 A single 'Citation' and 'Statement of Significance' for HO3 currently forms part of the *Port Phillip Heritage Review* which is an Incorporated Document within the Planning Scheme (Attachment 4).
- 3.3 Statements of Significance (relating either to precincts or individual heritage places) are used together with the Heritage Policy to assess planning applications triggered by the Heritage Overlay. A Statement of Significance explains why and what elements of a precinct are of heritage value, and is used as the basis for determining whether an application positively supports the heritage significance of a particular place.

- 3.4 HO3 was identified as a heritage precinct in the *Port Phillip Heritage Review 2000*. This document built upon a number of previous studies undertaken by the former St Kilda, South Melbourne and Port Melbourne Councils. In relation to HO3, key background studies relating to the HO3 area are the:
- South Melbourne Urban Conservation Study, 1987, Allom Lovell Sanderson Pty Ltd
 - South Melbourne Conservation Study, 1975, Yuncken Freeman Ashton Wilson
- 3.5 The *Port Phillip Heritage Review* also includes the *City of Port Phillip Heritage Policy Map* which identifies the significance of all properties covered by a Heritage Overlay. Properties are identified either as a 'Significant Heritage Place', 'Contributory Heritage Place' or a 'non-contributory' property.

Review of Heritage Overlay 3

- 3.6 Since the introduction of HO3, users of the planning scheme including residents, developers, council planners and VCAT have experienced some limitations in the relevance of the Statement of Significance, due to the lack of detail that a single statement covering an extensive area can provide.
- 3.7 In 2008, Council engaged heritage consultants, Heritage Alliance P/L, to:
- Review the existing Statement of Significance of Heritage Overlay 3 (HO3) and its relevance to the precinct;
 - Create new, smaller precincts within the boundaries of HO3, each with its own Statement of Significance relevant to that precinct; and
 - Review the Heritage Policy Map and the level of significance of properties within each new, smaller precinct as either significant, contributory or non-contributory.
- 3.8 The Review of HO3 has produced draft Citations which include Statements of Significance for 7 smaller precincts (included as Attachment 1):
- St Vincent Place East, South Melbourne
 - Armstrong Street Commercial Precinct, Middle Park
 - Bridport Street / Victoria Avenue Commercial Precinct, Albert Park
 - Emerald Hill Residential
 - Middle Park/St Kilda West Residential
 - Albert Park Residential Precinct
 - Albert Park Lake Precinct

The Review also recommends that the grading of 43 individual properties be amended on the Heritage Policy Map. (Attachment 2).

Community Consultation / Submissions

- 3.9 Extensive community consultation occurred during the Review of HO3, with approximately 6,000 letters and copies of citations sent to property owners to inform them of the process and invite their input.

30 written submissions were received, with all comments and suggestions reviewed by Heritage Alliance and Council's Heritage Advisor, and incorporated into the final draft statements as appropriate. Attachment 3 provides a summary of these submissions.

A late submission was received on 30 March 2008, with comments and suggestions reviewed by Heritage Alliance and Council's Heritage Advisor, and proposed to be incorporated into the citation (attachment 1) as outlined in attachment 3b.

- 3.10 Submissions generally raised the following matters:
- Requests for further information regarding; the purpose and intent of the City of Port Phillip Heritage Review; individual property grading's; the scope of the current review - these submissions did not seek changes to citations.
 - Suggestions / requests for corrections of fact or expression.
 - Requests for changes / additions to Citations including; more historical detail, specific facts and references, inclusion of cultural history and an increased focus upon individual streets and properties.
- 3.11 Planning Scheme Amendment process, which is required to incorporate the Review in the Port Phillip Planning Scheme, will provide the opportunity for further community input.

Proposed Amendment C72 - Implementation of the Review

- 3.12 Council now needs to determine whether to implement the Review of Heritage Overlay 3 through an amendment to the Port Phillip Planning Scheme.
- 3.13 An amendment to the Planning Scheme is required to include the revised Citations / Statements of Significance in the schedule and maps to the Heritage Overlay (Clause 43.01), and the *Port Phillip Heritage Review* (as an Incorporated Document in the scheme).
- 3.14 Specifically, Amendment C72 would:
- a. Update the Schedule to the Heritage Overlay, and corresponding HO Maps, by deleting reference to HO3 and inserting new references for HO440-HO447 (7 new precincts).
 - b. Amend the *Port Phillip Heritage Review* to:
 - Replace the existing single citation for HO3 with 7 new citations.
 - Alter the grading of 43 properties on the *City of Port Phillip Heritage Policy Map* identified as being incorrect during the review (refer Attachment 2).
 - c. Amend all references in the Planning Scheme to the updated versions of the *Port Phillip Heritage Review* and *City of Port Phillip Heritage Policy Map*.
 - d. Amend citation / statement of significance (attachment 1) to incorporate the recommended changes as per attachment 3b.

Financial Implications

- 3.15 Consultancy cost for the Review of HO3 was \$16,000. Costs for the community consultation process (printing and postage of letters / citations) was approximately \$7,500 plus officer time.
- 3.16 Council will incur costs associated with the formal processing of Amendment C72, including for Public Notification, any Panel Hearing and Statutory Fees associated with Ministerial approval. The costs can vary significantly depending upon the number and nature of public submissions.
- 3.17 Funding has been allocated in both the 08/09 and 09/10 budgets to enable the project to proceed.

Legal Implications

- 3.18 No significant risk implications have been identified. Amendment will not alter the status of the existing Heritage Overlay provisions in the scheme, but rather provide an improved and more accurate basis for Council decision-making. The 'continuous improvement' of Planning Schemes is encouraged by the Department of Planning and Community Development and accordingly, DPCD and Ministerial support for the Amendment is anticipated.
- 3.19 Extensive community consultation has already been undertaken with positive feedback overall. The community will have a further opportunity to make submissions during the formal public exhibition of Amendment C72 and any unresolved matters will be considered by an Independent Panel.

Options Available To Council

- 3.20 A number of options are available to Council in relation to implementing the Review of HO3 via a planning scheme amendment, and the associated exhibition and approval processes.

Options to progress the implementation of HO3 Review:

- 3.21 The following options are available to Council:
- Option 1: Implement the review of HO3 via Amendment C72 to the Port Phillip Planning Scheme.
 - Option 2: Undertake further work on the Review of HO3, prior to commencing Amendment C72.
 - Option 3: Not progress with the Review of HO3 or Amendment C72.
- 3.22 Option 1 is recommended.

The Review of HO3 provides Council with a very comprehensive study undertaken by a qualified heritage consultant, with input from Council's own Heritage Advisor. The Review has been undertaken in accordance with the guidelines established by the Australian ICOMOS Burra Charter. The study therefore provides a sound strategic basis from which to progress an amendment to the Port Phillip Planning Scheme.

Incorporating the Review into the Planning Scheme will provide it with the necessary statutory weight, and will significantly enhance the basis for making and defending decisions on heritage matters in this locality.

The planning scheme amendment process will provide further opportunity for input from interested persons.

- 3.23 Option 2 would be appropriate if Council were of the view that changes or additions to the Review of Heritage Overlay 3 are still required.

Comments have been raised specifically in relation to the Middle Park / St Kilda West precinct and the view that it could be broken into smaller areas to reflect the diversity of development styles in this area.

Advice from Council's Heritage Consultant is that the precinct is heterogeneous in its mixture of Victorian, Edwardian, inter-war and post-war development, and that it is these successive layers of development that define its overall significance. Splitting of the precinct is not recommended as this 'would lose sight of the overall picture of development and in doing so diminish the significance of this area'.

Further changes to the Statements of Significance at this stage would also result in delays to the project without necessarily improving heritage protection.

In the event that an individual property is considered under threat of demolition through relying only on a more general precinct citation, it is common practice for Council to prepare a site specific citation to ensure more 'fine grain' heritage values are reflected.

The local community has already been provided with the opportunity to be involved in the development of new Citations, with valuable input received and incorporated into the review as appropriate.

Further opportunity for input and changes to Citations will be provided by the Amendment process.

- 3.24 Option 3 would be appropriate if Council does not consider that the Review of HO3 will contribute to more informed and improved decision making on heritage matters across the suburbs of Middle Park, South Melbourne, Albert Park and West St Kilda.

Options for the Public Notification Process of Amendment C72

- 3.25 Section 19 of the Planning and Environment Act 1987 sets out the standard requirements for formal public exhibition of a planning scheme amendment including:

- Placing Public Notices in Local Papers and the Government Gazette.
- Direct notification to all owners and occupiers of property that may be materially affected by the amendment.
- Notification to prescribed authorities.

- 3.26 Section 20(2) of the Act provides for 'limited notification' of amendments. The Minister may grant an exemption from the requirements of the Act if it is considered that compliance is not warranted. Exemptions may be considered where the extent of notification will be excessive due to the large area affected, and /or where consultation on the matter has already taken place.

3.27 Council therefore has the following two options in relation to notification of the amendment:

- Option 1: Provide direct notification to all persons who have recorded an interest in the HO3 review but seek an exemption from the Minister from giving direct notification to all owners and occupiers (on the basis of the number of notices that would need to be given and that significant community consultation occurred during the Review of HO3).
- Option 2: Send direct notices again to all owners and occupiers of properties included within the area covered by HO3.

3.28 Option 1 is recommended.

All persons who submitted or recorded an interest during the review process, and owners of properties subject to grading changes, would still receive direct notice of the proposed amendment.

It was determined that extensive community consultation and input was most appropriate and valuable at the earlier 'review' stage of HO3 rather than at the later amendment stage. The 6,000 letters sent during the consultation process clearly outlined the intent to undertake more limited notification at the planning scheme amendment stage.

Amendment C72 will undergo a formal notification process, in addition to the formal public notification processes required by the Planning and Environment Act, Council's "Diversity" publication will be used to ensure wide community knowledge of the project and the opportunities for comment.

All persons who have made comments on the Review of HO3 and those who make formal submissions during the Amendment process will be kept informed throughout key stages of the project.

Limited notification does not restrict in any way an interested person or group from making a submission to the amendment.

Option 2 is not recommended based on the cost and resource implications of repeating the consultation process. The community is not expecting further direct notification to be carried out.

Option for Approval of Amendment by Council

3.29 The Minister for Planning is typically responsible for approving an Amendment following its adoption by Council. Council may however, request authorisation from the Minister to approve the amendment itself, pursuant to section 11 of the Act. This process was introduced to streamline minor local amendments such as C72 and is recommended to Council on the basis of the effective use of staff resources.

Next Steps

3.30 Subject to Council deciding to commence an Amendment process and to it receiving Ministerial Authorisation, the following processes will be carried out:

- Formal Public Exhibition of Amendment C72 for 1 month inviting public submissions. This would be anticipated to commence August /

September 2009, but will depend on the timing of Ministerial Authorisation.

- Consideration of all submissions by Council Officers / Heritage Advisors.
- Report to Council to formally consider submissions.
- Independent Panel Hearing (if submissions can not be resolved).
- Council consideration of Panel Report and recommendation.
- Council decision whether to adopt the Amendment (with or without changes). Adoption and approval of Amendment C72 would be anticipated in early 2010.