

STRATEGY AND POLICY REVIEW COMMITTEE
4 FEBRUARY 2008 **POLICY AND PLANNING**

A2	AMENDMENT C69 – UPDATE OF PROVISIONS
LOCATION/ADDRESS:	VARIOUS
RESPONSIBLE EXECUTIVE DIRECTOR:	GEOFF OULTON, DIRECTOR - COMMUNITY DEVELOPMENT AND PLANNING
AUTHOR:	SONIA ANDERSON, STRATEGIC PLANNER
FILE NO.:	66/02/159
ATTACHMENTS:	ATTACHMENT 1 – TABLE OF CHANGES FOR AMENDMENT C69

1. EXECUTIVE SUMMARY

- 1.1. Amendment C69 has been prepared to make minor text and mapping changes which update controls / remove redundant provisions in the Port Phillip Planning Scheme (including the Port Phillip Heritage Review, Heritage Policy Map and Neighbourhood Character Map - as incorporated documents).
- 1.2. Due to the minor nature of the changes included in the amendment, it is proposed to process the amendment pursuant to section 20(4) of the Planning and Environment Act, under the new Ministerial protocol for 'fast tracking' amendments.
- 1.3. A resolution from Council is sought to endorse Amendment C69 and request the Minister for Planning to process the amendment. Under section 20(4), the Minister for Planning would become the Planning Authority for the Amendment which would be processed without formal public exhibition.

2. CONTEXT

- 2.1. The *Planning and Environment Act 1987* requires planning authorities to regularly review the provisions of planning schemes. In 2006, a full review of the Port Phillip Planning Scheme was undertaken which highlighted a number of outdated / obsolete provisions (maps and text) within the Planning Scheme and its associated Incorporated Documents.
- 2.2. Whilst these are minor and essentially do not alter the intent of the scheme, a planning scheme amendment is still required to make the corrections. It is proposed to process Amendment C69 using the new Ministerial 'protocol for fast tracking amendments'.
- 2.3. The Ministerial 'fast track' protocols recommends that amendments which essentially update schemes / remove obsolete provisions be undertaken pursuant to section 20(4) of the Planning and Environment Act. This section

enables the Minister to amend a planning scheme, with exemption from notice requirements. The Minister for Planning becomes the 'Planning Authority' for the purpose of processing the amendment. The timelines for completion of such amendments are significantly reduced, due to authorisation and exhibition processes not being required.

2.4. The Department of Planning and Community Development released protocols (March 2007) which define what types of planning scheme changes would qualify as a 'Fast Track' amendment. (Refer to discussion at paragraph 3.1 - Criterion for Recommendation.)

2.5. The changes proposed by Amendment C69 accord with these protocols and relate to different parts of the planning scheme, as follows:

A. Planning Scheme Map Corrections

A number of mapping anomalies have been identified that need to be addressed to ensure that controls for particular properties are correctly identified and applied through the planning scheme.

Tables 1 & 2 of Attachment 1 outline the proposed mapping (and associated text) corrections in detail. These are outlined generally below:

Application of Road Zone 1 - Referral Authority Request

In December 2006, VicRoads notified Council that Plummer Street between Prohasky Street and Graham Street; and including Graham Street from Plummer Street to Williamstown Road; had been declared Arterial Roads under the Road Management Act 2004. The change of road status requires the rezoning of Plummer Street to a Road Zone 1 – a rezoning of Graham Street is not required as it is currently zoned Road Zone 1.

Zoning of Land Used for Public Purposes

In the Ministerial Direction on the '*Form and Content of Planning Schemes*' (section 7(5) of the *Planning and Environment Act*) – clause 12 states:

- *“A planning scheme may only include land in a Public Use Zone, a Public Park and Recreation Zone or a Public Conservation and Resource Zone if the land is Crown land, or is owned by, vested in or controlled by a Minister, government department, public authority or municipal council.”*

There are a number of existing parks and reserves across the municipality that are not included in a Public Park and Recreation Zone. The rezoning of these sites implements the recommendations of Council's adopted Open Space Strategy (2006). These are:

- Howe Parade Reserve, Port Melbourne
- HR Johnson Reserve, St Kilda West
- Jacoby Reserve, St Kilda West
- Jim Duggan Reserve, East St Kilda

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- Newton Court Reserve, St Kilda
- Te Ari Reserve, East St Kilda
- Waterloo Crescent Reserve, St Kilda
- Williams Street Reserve, Balaclava

In addition to the rezoning of the above parks and reserves, a car park in Jackson Street, St Kilda, acquired by Council in 1999, is to be rezoned Public Use Zone 6.

Removal of Redundant Public Acquisition Overlay

The car park at Jackson Street, St Kilda was acquired by Council in 1999. Therefore the PAO applied to the property is no longer required.

B. Changes to Incorporated Documents

Incorporated Documents can only be altered or removed from a Planning Scheme by a planning scheme amendment.

Land zoned for public use but no longer in public ownership

Land at 90-96 Johnson Street, South Melbourne, a former sub-station, is now privately owned and will be included in an Industrial 1 zone consistent with the surrounding area.

Removal of Redundant Site-Specific Incorporated Document

Clause 52.03 of the Planning Scheme contains a list of properties subject to site specific controls in the form of an incorporated document. In reviewing the incorporated documents for particular sites, only one was eligible for deletion - the incorporated document for 4 Princes Street, St Kilda.

The incorporated document for 4 Princes Street is a legacy from the former City of St Kilda and allowed for an office to be established within a residential zone (offices are prohibited in residential zones). Prior to municipal amalgamations, the building at 4 Princes Street operated as an office for a marketing company located at 11 Princes Street, with the two properties being tied together via a section 173 agreement. The section 173 agreement contained an expiry clause whereby the office exemption would continue as long as the company continued to operate in St Kilda or the site reverted to a residential land use. In April 1999, a planning permit was approved for the development of 2 dwellings with construction of these dwellings completed in 2000. The incorporated document is therefore redundant and should be removed from the scheme.

Updating of Port Phillip Heritage Review

The Port Phillip Heritage Review comprises:

- Individual citations for individual heritage properties and areas.

- The *City of Port Phillip Heritage Policy Map* which shows the heritage grading applied to individual properties covered by a Heritage Overlay.

A number of buildings within the Heritage Overlay have been demolished and therefore should now be classified as “non-contributory”.

- The *City of Port Phillip Neighbourhood Character Policy Map* which shows properties that “contribute” to the neighbourhood character of areas not covered by a Heritage Overlay.

A number of buildings identified as “contributory” to neighbourhood character have been demolished and therefore require deletion from this map.

As an Incorporated Document, it is important that the Port Phillip Heritage Review contains information that is accurate and correct. The changes proposed as part of Amendment C69 will achieve this. Table 3 in Attachment 1 summarises the changes to these Incorporated Documents.

C. Minor Text Changes to Planning Provisions

A number of text corrections to particular planning provisions are required as a result of the mapping and incorporated document list corrections. The tables in Attachment 1 contain the full list of consequential corrections.

3. RECOMMENDED OPTION

3.1. Criterion for recommendation

The Department for Planning and Community Development’s ‘Protocol for fast tracking amendments - March 2007’ specifies the following changes are eligible for a section 20 (4) ‘Fast Track’ amendment:

- *“Removal of an overlay that is no longer required, for example:*
 - *Land in a flood overlay where evidence is provided that it is not subject to flooding.*
 - *Land where evidence is provided that an EAO is no longer required.*
 - *Land where evidence is provided that a PAO is no longer required*
- *Removal of a Road Closure Overlay.*
- *Removal of a redundant referral where referral agency agrees.*
- *Removal of a provision that duplicates another provision.*
- *Rezoning land that is no longer in public ownership from the Public Use Zone where the replacement zoning is clear.*
- *Rezoning land in public ownership to a Public Use Zone”.*

- 3.2. Changes proposed by Amendment C69 are considered to be administrative in nature and as such will not materially affect any property owners, developers, current applications or other parties.

3.3. Sustainability Assessment

Social Equity	The corrections to the planning scheme will ensure that the Council is providing the community with correct planning scheme information.
Economic Viability	Correcting the errors in the planning scheme will improve the quality and cost effectiveness of Council's Services to the community by reducing the time spent on queries brought about by the planning scheme not operating at an optimum level.
Environmental Responsibility	The amendment will have no direct environmental implications.
Cultural Vitality	The corrections to the Heritage Overlay and the Port Phillip Heritage Review database ensure that the City's physical and cultural heritage is accurately reflected through the planning scheme.

3.4. Policy and legislative implications

All the changes proposed by Amendment C69 are consistent with Ministerial Direction on the *'Form and Content of Planning Schemes'* (section 7(5) of the Planning and Environment Act).

The changes will not have any implications for planning scheme policy.

3.5. Resource implications

If Council resolves to support Amendment C69, there are no significant resource implications, other than officer time to complete the process in coordination with the Department of Planning and Community Development.

This 'fast track' process will require significantly less resources than the standard amendment process.

GIS officer time will be required by to make corrections to the Heritage Policy and Neighbourhood Character Policy maps.

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

4. ALTERNATIVE OPTION

- 4.1. Process Amendment C69 under Section 19 of the Planning and Environment Act (ie standard Public Exhibition process).

This option would require Council to process the amendment as the Planning Authority, and include a full public exhibition process. It would be appropriate if Council wanted to provide the opportunity for public submissions to the amendment.

4.1.1. **Sustainability assessment**

Social Equity Pillar	Whilst this process would provide the opportunity for public submissions, as the changes proposed relate only to outdated / obsolete provisions of the scheme this is not considered necessary.
Economic Viability Pillar	The 'process' associated with the amendment will have no economic implications, aside from additional staff resources.
Environmental Responsibility Pillar	The 'process' associated with the amendment will have no environmental implications.
Cultural Vitality Pillar	The changes to the Port Phillip Heritage Review relate to a change of heritage / neighbourhood character grading where the original building has already been demolished. Hence, the amendment will have no direct cultural implications and hence public consultation is not considered necessary.

4.1.2. **Policy and legislative implications**

Section 19 of the Planning and Environment Act would require a public notification / exhibition process, the opportunity for public submissions and, potentially, the establishment of an Independent Panel.

4.1.3. **Resource implications**

Significant additional staff resources and costs (in particular if the amendment proceeded to Panel) would be incurred as a result of this option. Given there is no 'change of intent' to the scheme, but rather a necessary updating of provisions, the use of additional resources is not warranted. The Ministerial 'Fast Track' protocols were released as part of the State's 'Cutting Red Tape Program' - designed to improve the operation and efficiency of the planning system.

5. PARTICIPATION AND ENGAGEMENT

5.1. **Internal**

- 5.1.1. The changes proposed to the Port Phillip Heritage Review have been identified by the Statutory Planning Unit.

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5.1.2. The proposed parks and reserve rezonings have been included at the request of the Parks and Open Space Unit.

5.2. **External**

5.2.1. The Department of Planning and Community Development were consulted to ensure that proposed changes outlined in Amendment C69 are consistent with the department's 'Protocol for fast tracking amendments'.

6. IMPLEMENTATION

6.1. The purpose of Amendment C69 is to make minor changes which update the Port Phillip Planning Scheme and Incorporated Documents.

6.2. A Ministerial Amendment pursuant to section 20(4) of the Act, provides an appropriate and expedient process to achieve these updates.

7. RECOMMENDATION

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

7.1. Council resolves:

7.1.1. To endorse the changes to the Port Phillip Planning Scheme proposed as part of Amendment C69 (as outlined in Attachment 1).

7.1.2. To request the Minister for Planning to process Amendment C69 to the Port Phillip Planning Scheme, pursuant to section 20(4) of the Planning and Environment Act 1987.

7.1.3. To authorise the Executive Director, City Development and Planning to finalise the amendment documentation for submission to the Minister in association with the amendment request.

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ATTACHMENT 1:

TABLE 1: The following table summarises the list of changes to the planning scheme zoning and overlay maps.

SUBJECT LAND	PROPOSED CHANGE	RATIONALE
Plummer Street from Prohasky Street to Graham Street, Port Melbourne	Rezone Plummer Street to Road Zone 1 (RDZ1)	Change of road status to a Declared Road under Road Management Act 2004.
Jackson Street Carpark 34 Jackson Street St Kilda	Delete Public Acquisition Overlay 3 (PAO3)	Property acquired by Council in 1999 and developed as public car park. Apply appropriate public zone.
	Rezone to Public Use Zone 6 – Local Government (PUZ6)	
Howe Parade Reserve, Port Melbourne	Rezone to Public Park and Recreation Zone (PPRZ)	Closed road redeveloped as a public park. The appropriate public zone is to be applied.
HR Johnson Reserve 198 Canterbury Road St Kilda West	Rezone to Public Park and Recreation Zone (PPRZ)	Land used as a public park and currently zoned Residential 1. Identified in the <i>City of Port Phillip Open Space Strategy (2006)</i> for rezoning to Public Park and Recreation Zone.
Jacoby Reserve 1C Deakin Street, St Kilda West	Rezone to Public Park and Recreation Zone (PPRZ)	Land used as a public park and currently zoned Residential 1. Identified in the <i>City of Port Phillip Open Space Strategy (2006)</i> for rezoning to Public Park and Recreation Zone.
Jim Duggan Reserve Marriott Street St Kilda East	Rezone to Public Park and Recreation Zone (PPRZ)	Land used as a public park and currently zoned Public Use Zone 6. Identified in the <i>City of Port Phillip Open Space Strategy (2006)</i> for rezoning to Public Park and Recreation Zone.
Newton Court Reserve 63-71 Newton Court St Kilda	Rezone to Public Park and Recreation Zone (PPRZ)	Land used as a public park and currently zoned Residential 1. Identified in the <i>City of Port Phillip Open Space Strategy (2006)</i> for rezoning to Public Park and Recreation Zone.
Te Ari Reserve 202 Alma Road St Kilda East	Rezone to Public Park and Recreation Zone (PPRZ)	Land used as a public park and currently zoned Residential 1. Identified in the <i>City of Port Phillip Open Space Strategy (2006)</i> for rezoning to Public Park and Recreation Zone.
Waterloo Crescent 4 Waterloo Crescent St Kilda	Rezone to Public Park and Recreation Zone (PPRZ)	Land used as a public park and currently zoned Residential 1. Identified in the <i>City of Port Phillip Open Space Strategy (2006)</i> for rezoning to Public Park and Recreation Zone.
Williams Street Reserve 35-37 Williams Street Balaclava	Rezone to Public Park and Recreation Zone (PPRZ)	Land used as a public park and currently zoned Residential 1. Identified in the <i>City of Port Phillip Open Space Strategy (2006)</i> for rezoning to Public Park and Recreation Zone.

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SUBJECT LAND	PROPOSED CHANGE	RATIONALE
90-96 Johnson Street South Melbourne	Rezone to Industrial 1 (INZ1)	Change of ownership from public to private. Remove land from public zone and apply surrounding Industrial 1 zone.
95 Ormond Road Elwood	Delete HO314 from Heritage Overlay Maps	Original building demolished and site redeveloped.
82 Queens Road Melbourne	Delete HO372 from Heritage Overlay Maps	Building demolished
7 Rainsford Street Elwood	Delete HO430 from Heritage Overlay Maps	Building demolished

TABLE 2: The following table summarises the list of consequential changes to the planning scheme provisions as result of the changes to the zoning and overlay maps.

SUBJECT LAND	PROPOSED CHANGE	RATIONALE
Jackson Street Carpark 34 Jackson Street St Kilda	Delete reference to Public Acquisition Overlay 3 (PAO3) in the Schedule to Clause 45.01	Property acquired by Council in 1999 and developed as public car park. Apply appropriate public zone.
4 Princes Street	Delete reference to 4 Princes Street, St Kilda in following Schedules: - Schedule to Clause 52.03: Site Specific Exclusions - Schedule to Clause 81 – List of Incorporated Documents.	The original incorporated document for this property allowed for an office to be established within a residential zone. The office at 4 Princes Street was connected to a company operating at 11 Princes Street, St Kilda with the two properties being tied together via a section 173 agreement. The section 173 agreement would expire if the site reverted to a residential land use. In April 1999, a planning permit was approved for the development of 2 dwellings with construction of these dwellings completed in 2000. The incorporated document therefore redundant.
82 Queens Road Melbourne	Delete HO372 from Schedule to Clause 43.01 in Planning Scheme	Building demolished
95 Ormond Road Elwood	Delete HO314 from Schedule to Clause 43.01 in Planning Scheme	Original building demolished and site redeveloped.
7 Rainsford Street Elwood	Delete HO430 from Schedule to Clause 43.01 in Planning Scheme	Building demolished

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TABLE 3: The following table summarises the list of corrections to the City of Port Phillip Heritage Policy Map and Neighbourhood Character Policy Map (both incorporated documents to the Port Phillip Planning Scheme).

SUBJECT LAND	PROPOSED CHANGE	REASON FOR AMENDMENT
173 Buckhurst Street, South Melbourne	Update Heritage Policy Map to show property as "non-contributory"	New building but listed as significant in Heritage Policy Map
257 – 267 Clarendon Street South Melbourne	Update Heritage Policy Map to align area of "significance" with HO108.	Significant heritage grading covers area of redeveloped supermarket.
70 Crockford Street Port Melbourne	Delete property from Neighbourhood Character Policy Map.	Vacant lot
99-101 Esplanade West	Update Heritage Policy Map to show property as "non-contributory"	Original building demolished and replaced by townhouses
2, 4A & 4 Glen Huntly Road	Update Heritage Policy Map to show property as "non-contributory"	Original building demolished and site redeveloped.
2 Inkerman Street	Update Heritage Policy Map to show property as "non-contributory"	Vacant lot
66 Lyons Street Port Melbourne	Delete property from Neighbourhood Character Policy Map	Vacant lot
99 Market Street South Melbourne	Update Heritage Policy Map to show property as "non-contributory"	Building demolished as a part of the "RedBears" (now new Safeway supermarket) redevelopment.
110 – 120 Neville Street, Middle Park	Update Heritage Policy Map to show properties as "non-contributory"	Original building demolished 1984 and replaced by 6 townhouses
95 Ormond Road Elwood	Update Heritage Policy Map to show property as "non-contributory"	Original building demolished and site redeveloped.
17 Pine Avenue Elwood	Update Heritage Policy Map to show property as "non-contributory"	Original building demolished in 2002
82 Queens Road Melbourne	Update Heritage Policy Map to show property as "non-contributory"	Building demolished
7 Rainsford Street Elwood	Update Heritage Policy Map to show property as "non-contributory"	Building demolished