St Kilda Marina Planning Amendment FAQs

June 2019

| **Question** | **Answer** |
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| What is a planning scheme amendment? | A planning scheme amendment is a formal process that changes the Planning Scheme to improve the planning controls or reflect new circumstances that change the way that land can be used or developed. |
| Why do we need a planning scheme amendment for St Kilda Marina? | Council is preparing a planning scheme amendment to rezone the  St Kilda Marina site from the Public Park and Recreation Zone (PPRZ) to the Special Use Zone (SUZ) with a new schedule, and apply a Development Plan Overlay (DPO) with a new schedule.  The best way to ensure delivery of Council’s vision and objectives for the site (as outlined in the Site Brief) is to undertake a planning scheme amendment. This will ensure that the planning controls are aligned with the intended use and development of the site, providing a higher level of transparency and certainty to all stakeholders including Council, the community and future lease holders  The existing planning controls would not adequately facilitate the vision and objectives for the redevelopment of the St Kilda Marina as specified in the Site Brief, while also providing a level of certainty to all stakeholders including Council, the community and the future lease holders.  The proposed new planning controls will aid the decision-making process, ensure a ‘master planned’ approach and support the timely delivery of the redevelopment of the St Kilda Marina. |
| How does the site brief underpin the amendment? | The Site Brief is designed to inform both the procurement of a new lease and a planning scheme amendment.  The Site Brief translates the vision and objectives for the St Kilda Marina into design criteria for a future redevelopment of the site. The design criteria include text and plan based guidance on the site’s future form, function and issues such as height, scale, location and siting of new buildings, the location and quality of publicly accessible open space and connections, views and movement, marina function and complementary uses.  It is envisaged that the design criteria set out in the Site Brief will inform the drafting of planning controls, which form the basis of the planning scheme amendment. |
| What planning controls currently apply to the St Kilda Marina? | **Public Park and Recreation Zone (PPRZ)** – the purpose of which includes: to recognise areas for public recreation and open space, protect and conserve areas of significance and provide for commercial uses where appropriate.  **Design and Development Overlay 10 (DDO10** – Port Phillip Coastal Area) – the purpose of which includes: to preserve existing beaches and natural beauty of the foreshore and enable public enjoyment.  **Heritage Overlay (HO187)** – the purpose of which includes: to conserve and enhance the historic beacon.  **Special Building Overlay (SBO1)** – Applies to a small portion of the site and ensures development is compatible with flood hazard and local drainage conditions.  **Note:** the above overlays that currently apply to the Marina site – DDO10, HO187, SBO1, are to be retained. |
| Why is the site proposed to be rezoned from PPRZ to SUZ? | ThePPRZ is a public land zone that gives broad powers to a public land manager to use and develop the land without planning approval for the purposes of the public land manager. If the developer or manager of the public land is a person other than the public land manager, a planning permit is required. Permit applications need to be considered in the context of the purpose of the PPRZ.  The SUZ is applied to a single site that is proposed to be used for a mix of purposes ultimately for the enjoyment of the community. Tailoring the planning controls specifically for the Marina use will support the ongoing operation of the Marina. It is proposed to appoint a commercial operator to develop and manage the ongoing operations of the various facilities on the site and potentially expand the range of activities. Therefore, it is appropriate to rezone the land to a zone that is not predicated on the use and development of the land by a public land manager (such as Council).  The SUZ will provide a high level of control over the land use via a customised schedule to the zone specifically tailored for the unique operational needs of the St Kilda Marina. The PPRZ does not provide this function. |
| How will the Development Plan Overlay (DPO) inform the redevelopment of the Marina? | The DPO is a planning control that requires a development plan to be approved by Council prior to granting any planning permit. The key requirement under the DPO is that any planning permit must be generally in accordance with the approved development plan, and include any conditions or requirements specified in a schedule.  The DPO schedule will include a concept plan that confines the future use and development to certain development parameters, informed by the endorsed St Kilda Marina Site Brief, while allowing for innovative design solutions.  An effect of the approval of a development plan is that while planning permits must still be obtained under the zone provisions, third party rights are removed. That means that when a permit is sought, third parties are not required to be notified and if a permit is issued, there are no rights of review to VCAT by third parties. |
| Why is Council proposing to remove third party appeal rights from the planning permit process? | Due to the complex operational arrangements of the Marina and the proposed procurement process, it is necessary to provide a reasonable level of certainty to the future tenderer, Council (as landlord) and the community regarding the type of development outcomes to be achieved. This approach is designed to provide certainty to all stakeholders that proposals consistent with agreed outcomes for the site won’t be subjected to uncertain approval timeframes.  The Site Brief has been prepared in consultation with a Community Panel and the wider community through Council’s online survey, as well as technical and other expert advice.  Through the planning scheme amendment process, the community will have the opportunity to have input into the proposed changes to the scheme, through making a submission to Council and to an Independent Panel appointed by the Minister for Planning. The Minister will ultimately make the determination of the proposed changes to the planning controls. It is proposed that the introduction of the DPO will not include third party appeal rights during the development plan and planning permit application processes. However, following the amendment, Council will continue to seek community feedback. (Opportunities for consultation are outlined in question 8 below). |
| How will the community be consulted / make submissions? | The planning approach is intended to support community input at key points in the process with a mixture of statutory and non-statutory opportunities to participate. The community will have the opportunity to have input into the proposed changes to the scheme, through making a submission to an independent Panel, before the Minister ultimately determines the planning scheme amendment.  In addition to the planning process, Council will also seek community feedback on:   * The detailed design (‘look and feel’) of the proposed development, prior to lodgement of the development plan. This consultation will allow the community to comment on the aesthetics of the design before Council issues planning permits. * The proposed development plan, prepared by the preferred tenderer, prior to its approval by Council. This consultation will allow the community to comment on whether any proposed development plan (master plan) is in accordance with the DPO schedule.   Consultation will include the giving of notice to affected parties, receiving and considering submissions and responding to submissions. |
| Why is the planning scheme amendment happening at the same time as the procurement process? | The planning scheme amendment is being undertaken concurrently with the procurement process to:   * Manage these two separate processes in a timely manner. The outcomes of the amendment process will inform the finalisation of the procurement process. * Achieve a balance in ensuring community involvement and providing a level of certainty to the market. It is fair to provide certainty to all stakeholders that proposals that are consistent with the agreed outcomes for the site would not be subjected to uncertain approval timeframes.   Similar concurrent processes have been used to facilitate other large projects in Victoria, including the Marysville Hotel redevelopment and the Ballarat Station redevelopment. |