



6.1 AMENDMENT C142 (REVIEW OF HERITAGE OVERLAY 6, EAST ST KILDA) - CONSIDERATION OF SUBMISSIONS AND REQUEST TO PROCEED TO INDEPENDENT PLANNING PANEL

EXECUTIVE MEMBER: LILI ROSIC, GENERAL MANAGER, CITY STRATEGY AND SUSTAINABLE DEVELOPMENT

**PREPARED BY: ALEXANDRA HODGSON, SENIOR STRATEGIC PLANNER
ISOBEL MONSBOURGH, BUSINESS SUPPORT OFFICER**

1. PURPOSE

- 1.1 To consider written and verbal submissions received to Amendment C142 to the Port Phillip Planning Scheme (Review of Heritage Overlay 6, St Kilda East) during the public exhibition stage.
- 1.2 To determine whether to request the Minister for Planning to appoint an independent Planning Panel to consider submissions and the Amendment.
- 1.3 To consider endorsing a response to issues raised in submissions, to form the basis of Council's position at the Panel hearing.

2. EXECUTIVE SUMMARY

- 2.1 Amendment C142 relates to Heritage Overlay 6 (HO6) – St Kilda East, which is a precinct based heritage overlay that applies to properties within the St Kilda East area. Refer to Attachment 1 for a map of the study area.
- 2.2 HO6 was first introduced into the Port Phillip Planning Scheme in the early 2000's. The Review of Heritage Overlay 6 (the Review) is part of an on-going program to review heritage precinct overlays, to ensure that heritage controls are up to date and reflect best practice.
- 2.3 The Review implements the *Council Plan 2017-2027* (Council Plan) commitment to 'protecting heritage places' and 'ensuring new development integrates with, respects and contributes to the unique heritage, character and beauty of our neighbourhoods'. Implementation of this review is specifically listed as a priority for the first 4 years in the Council Plan, under *Direction 4.2 – 'A city of diverse and distinctive neighbourhoods and places'*.
- 2.4 Planning Committee resolved at its meeting on 12 December 2018 to request authorisation from the Minister for Planning to prepare and exhibit Amendment C142.
- 2.5 The amendment proposes to update the heritage controls in St Kilda East in accordance with the recommendations of the HO6 St Kilda East Precinct Review report (David Helms Heritage Planning, 2018) (Attachment 2 and Attachment 3). The proposed changes to HO6 (St Kilda East) and HO391 (Murchison Street / Alma Road Precinct) include:



- Adding new properties to the Heritage Overlay, including places of individual significance.
- Changing gradings of individual properties that are already within HO6, HO391 or the directly adjacent areas.
- Transferring properties from HO6 to HO391 which applies to a smaller, more specific cluster of properties in the East St Kilda area.

2.6 Authorisation to prepare and exhibit Amendment C142 was received on 24 April 2019. As a condition of authorisation, the amendment was required to be updated to comply with new requirements of the Heritage Overlay (Clause 43.01) introduced via Amendment VC148 in October 2018. This requires a separate incorporated Statement of Significance for each new individually significant heritage property, in addition to its Citation. These administrative changes were made and included.

- Three new Statements of Significance for proposed new individually significant properties HO503 (Maisonettes), HO505 (Concrete Houses) and HO506 (Shop & Residence).

2.7 Amendment C142 was exhibited from 30 May to 30 June 2019. Thirteen submissions were received, one (1) of which supports the amendment in its entirety and 12 submissions had specific concerns about the amendment. The submission feedback included:

- Requests for removal of individual properties because the heritage fabric had been altered or demolished, or was of no perceived heritage significance.
- Requests for changes in the grading of properties.
- Concern about reduction in property value of individual properties because of inclusion in the heritage overlay, or its current or proposed heritage grading.

A summary of submissions and officers proposed response is contained in **Attachment 4**.

2.8 Officers propose changes to the amendment to resolve issues raised in three submissions. No changes are proposed in response to the remaining nine submissions received. A summary of recommended changes to the amendment is included in Attachment 4.

2.9 The Planning Committee will now need to review and consider endorsing Council officers' response to submissions, and determine whether to support progressing the Amendment to an independent Planning Panel to review submissions and make recommendations to the amendment.

2.10 If the Planning Committee seeks to refer submissions to an independent Panel for review, the Directions Hearing is pre-set to take place the week of 30 September 2019, and the Panel Hearing is pre-set to take place the week of 28 October 2019.



3. RECOMMENDATION

That Planning Committee:

- 3.1 Receives and considers all written and verbal submissions made to Amendment C142 of the Port Phillip Planning Scheme.
- 3.2 Endorses the Council officer's response to issues raised in submissions and recommended changes to the Amendment (provided in **Attachment 4**) as the basis for Council's submission to the Panel.
- 3.3 Requests the Minister for Planning to appoint an independent Planning Panel to review the submissions received to Amendment C142, in accordance with Part 8 of the *Planning and Environment Act 1987*.
- 3.4 Refers all submissions to the Panel to be appointed by the Minister for Planning, including any late submissions.
- 3.5 Writes to all submitters to inform them of Planning Committee's decision to proceed to the Panel stage.

4. KEY POINTS/ISSUES

Background

- 4.1 Council's ongoing program to review heritage precincts, ensures that heritage controls in the Port Phillip Planning Scheme are sufficiently robust and remain current, to effectively guide decision-making in relation to the conservation and management of heritage places in Port Phillip.
- 4.2 Heritage Overlay 6 (HO6) is a heritage precinct overlay that applies to many properties within St Kilda East and part of St Kilda. A citation for the precinct, including a Statement of Significance, is included in the *Port Phillip Heritage Review* (an Incorporated Document in the planning scheme). Properties within HO6 are graded as 'Significant', 'Contributory', or 'Nil' in accordance with Council's local heritage planning policy (Clause 22.04). These gradings are reflected on the *City of Port Phillip Heritage Policy Map* Incorporated Document.
- 4.3 HO6 has not been holistically reviewed since its introduction in 2001. Development of the *St Kilda Road South Urban Design and Land Use Framework* (2015) highlighted some gaps in the heritage controls across this part of St Kilda East and limitations with the existing HO6 citation, such as an absence of guidance to protect the heritage of commercial properties along St Kilda Road.
- 4.4 Council has commissioned the *HO6 St Kilda East Precinct Review* (the Review) (David Helms Heritage Planning, 2018) (**Attachment 2** and **Attachment 3**). The Review was undertaken to:
 - Ensure the HO6 citation and statement of significance adequately describes the significance of the precinct.



- Ensure the heritage controls in the precinct overlay remain current and reflect best practice to assist in the conservation of heritage places.
 - Support the conservation and management of the HO6 precinct in the future.
- 4.5 While the focus of the Review was on the HO6 precinct, the investigation and analysis also identified the need for consequential changes to HO391 (Murchison Street / Alma Road precinct), and other individually significant sites within the general study area.
- 4.6 The Review made numerous recommendations, including:
- Adding new properties to the Heritage Overlay, including new places of individual significance.
 - Changing gradings of individual properties that are already within HO6, HO391 or the directly adjacent areas.
 - Transferring properties from HO6 to HO391 which applies to a smaller, more specific cluster of properties in the East St Kilda area.

Amendment C142 – Review of Heritage Overlay 6

- 4.7 Amendment C142 has been prepared to give statutory effect to the recommendations of the Review. The amendment aims to strengthen the heritage controls in St Kilda East, by making the following specific changes to the Port Phillip Planning Scheme, on a permanent basis:
- Amend the Schedule to Clause 43.01 (Heritage Overlay) and Planning Scheme Maps 6HO and 7HO, to apply the Heritage Overlay to 138 new properties in HO6 and HO391, and remove one property (14 Raith Court, St Kilda East) from HO6 on a permanent basis.
 - Amend the Schedule to Clause 43.01 (Heritage Overlay) and Planning Scheme Maps 6HO and 7HO, to apply individual Heritage Overlays to 21 Redan Street, St Kilda (HO503), 226 Alma Road (St Kilda (HO505), and 264-266 St Kilda Road, St Kilda (HO506) on a permanent basis.
 - Update the incorporated document *Port Phillip Heritage Review* volumes 1-6 (Version 30, July 2019) to:
 - Update existing HO6 (St Kilda East) and HO391 (Murchison Street / Alma Road precinct) citations (provided at **Attachment 3**).
 - Update 76 existing individual property citations (provided at **Attachment 3**).
 - Add 5 new citations for individually significant properties within HO6 and HO391 (provided at **Attachment 3**).
 - Add 3 new citations for new individually significant properties HO503, HO505, and HO506 (provided at **Attachment 3**).
 - Update the grading of 63 properties already included in the Heritage Overlay.
 - Transfer 34 existing HO properties from HO6 to HO391.



- Amend the Schedule to Clause 72.04 (Documents incorporated in this scheme) to include three new incorporated documents, being the individual Statements of Significance for new individually significant properties HO503, HO505 and HO506.
- Update the incorporated *City of Port Phillip Neighbourhood Character Map* and *City of Port Phillip Heritage Policy Map* (Versions 30, July 2019) to show the added and removed 'Significant Heritage Place', 'Contributory Heritage Place' and 'Nil / Non-contributory Place' gradings in the HO6 and HO391 precincts.
- Include the *HO6 St Kilda East Precinct Review* (David Helms Heritage Planning, 2018) as a reference document in Clause 22.04 (Heritage Policy); and
- Make consequential changes to Clauses 21.07 (Incorporated Documents), Clause 22.04 (Heritage Policy) and the Schedule to Clause 72.04 (Documents incorporated in this scheme) to update the version number and date of the *Port Phillip Heritage Review* (including the *City of Port Phillip Heritage Policy Map* and the *City of Port Phillip Neighbourhood Character Map*).

Conditions of Authorisation

- 4.8 Council's Planning Committee resolved at its meeting on 12 December 2018 to request authorisation from the Minister for Planning to prepare and exhibit Amendment C142.
- 4.9 Authorisation was received from the Minister for Planning on 24 April 2019.
- 4.10 As a condition of authorisation, the amendment was required to be updated to comply with new requirements of the Heritage Overlay (Clause 43.01) introduced via Amendment VC148 in October 2018. This requires a separate incorporated Statement of Significance for each new individually significant heritage property, in addition to its Citation. These changes were made accordingly and include:
- New Statements of Significance for proposed new individually significant properties HO503 (Maisonettes), HO505 (Concrete Houses) and HO506 (Shop & Residence).
- 4.11 The process of including separate Statements of Significance only for new inclusions to the Heritage Overlay is in place until a full review of the *Port Phillip Heritage Review* Incorporated Document (PPHR) can be undertaken. Until this occurs, citations for all places within the Heritage Overlay will continue to be included and updated in the PPHR.

Overview of written submissions received to Amendment C142

- 4.12 Amendment C142 was exhibited from 30 May to 30 June 2019. The exhibition process is outlined in Section 4 of this report.
- 4.13 Thirteen submissions were received, one of which supports the amendment in its entirety and 12 submissions had specific concerns about the amendment.
- 4.14 A summary of key issues raised in submissions and the corresponding officer response is included in the table below:



Summary of issues raised in submissions	Summary of officer response/ recommendation
<p>Properties should be removed from the Heritage Overlay (HO) due to demolition or no heritage significance:</p> <ul style="list-style-type: none"> • 23 Lambeth Place, St Kilda • 11 Hotham Street, St Kilda 	<p>Support removal of properties from the proposed HO on the basis that:</p> <ul style="list-style-type: none"> • 23 Lambeth Place has been demolished. The property sits on the boundary of the proposed Heritage Overlay extension and its demolition has not impacted the character of the streetscape. • 11 Hotham Street is of no heritage significance and given its location at the edge of the heritage precinct and lack of street presence to Johnson Street, any future redevelopment of the property is unlikely to impact neighbouring 24 Johnson Street (which has a proposed Significant grading), the Johnson Street heritage streetscape or the broader precinct.
<p>The following Citations should be updated to include additional information (outlined further in attachments #4 and #5):</p> <ul style="list-style-type: none"> • Citation 2388 (Marlton Crescent & 25-27 Chapel Street, St Kilda – St Michael’s School) • Citation 78 (4 Chapel Street, St Kilda – St Michael’s School) 	<p>Support proposed changes to Citations.</p> <p>These updates are considered minor and do not affect the overall intent of the revised Statement of Significance for these properties, which continue to clearly identify the significance of each site. Refer to Section 4.19 of this Report.</p>
<p>Request that properties be removed from the HO on the basis that they will affect future development potential or resale value:</p> <ul style="list-style-type: none"> • 31 Crimea Street, St Kilda East • 44 Hotham Street, St Kilda East • 5/226 Alma Road, St Kilda East 	<p>No change.</p> <p>The Heritage Overlay does not prevent development but rather ensures that heritage matters are considered at the planning permit stage, with the intent to retain and reuse significant heritage fabric.</p> <p>Impact on individual property values are not a consideration in determining whether to apply the heritage overlay.</p>
<p>Request that 9 Johnson Street, St Kilda East be removed from the HO on the basis that it provides no contribution from a heritage standpoint, and its inclusion in the overlay may affect its potential resale value.</p>	<p>No change.</p> <p>9 Johnson Street forms part of the Johnson Street precinct extension and due to its location within the street has a contribution to make to the historic streetscape character. It is appropriate that it be included as a nil graded property within the heritage overlay.</p>



Summary of issues raised in submissions	Summary of officer response/ recommendation
	<p>'Nil' graded properties have no specific heritage significance however any further development should respect the streetscape character, and character of neighbouring properties.</p> <p>Impact on individual property values are not a consideration in determining whether to apply the heritage overlay.</p>
<p>Request that properties be removed from or downgraded in the heritage overlay due to alterations:</p> <ul style="list-style-type: none"> • 35 Crimea Street, St Kilda East • 21 Lambeth Place, St Kilda • 322-332 St Kilda Road, St Kilda • 9 Shirley Grove, St Kilda East 	<p>No change.</p> <p>The significance of these places has been established by the <i>HO6 St Kilda East Precinct Review</i>. The methodology for this report accords with the Burra Charter and Heritage Victoria guidelines (which include clear 'criterion' for determining significance – HERCON criteria).</p> <p>Where alterations have occurred, they have not compromised the heritage significance of the heritage place or its contribution to the precinct. The proposed gradings are appropriate.</p>
<p>Request that property be removed from the HO on the basis that owners were not informed when the original 'Significant' grading was placed on the property, with individual statement of significance through Citation 2015, in 2004:</p> <ul style="list-style-type: none"> • 42 Hotham Street, St Kilda East 	<p>No change.</p> <p>The property has been included in the Heritage Overlay since 2004. The amendment proposes to transfer the property to HO391 through Amendment C142.</p> <p>While there have been some minor alterations to the property over time, this has not affected its significance or its contribution to the precinct. The property should remain within the heritage overlay as a 'Significant' graded property.</p>

4.15 Refer to **Attachment 4** for a full summary of submissions and Council officer responses and recommendations.

Recommended changes to the Amendment following exhibition

4.16 Of the 12 submissions, three (3) submissions are proposed to be resolved through changes to the amendment. No changes are proposed in response to the remaining 9 issues raised.

4.17 The recommended changes to the Amendment are included in the response to submissions in **Attachment 4**.

4.18 The following is a summary of the recommended key changes to the amendment:



Updates to Citations

- Update Citation 2388 (Marlton Crescent & 25-27 Chapel Street, St Kilda – St Michael’s School) to provide additional information in the Statement of Significance to describe why the 1925 school building is of secondary significance, and update the description to note which aspects of the building have significance.
- Update Citation 78 (4 Chapel Street, St Kilda – St George’s Church) to provide additional information in the Statement of Significance and to note that the church hall is of secondary significance.
- Track changes to Citations are provided as **Attachment 5**.

Removal of sites from Amendment

- Remove 11 Hotham Street, St Kilda East and 23 Lambeth Place, St Kilda from inclusion in HO6.

Administrative changes

- Update all references to the PPHR, City of Port Phillip Heritage Policy Map and City of Port Phillip Neighbourhood Character Map to reflect Version 30, July 2019.

Options

4.19 Under the *Planning and Environment Act 1987*, Planning Committee has the following options at this stage in the amendment process, when presented at the Planning Committee meeting on 28 August 2019:

- Option 1: Refer Amendment C142 and all submissions to an independent Planning Panel for review.
- Option 2: Abandon Amendment C142.

Planning Committee does not have the option to adopt the amendment at this stage, given there are objecting submissions.

4.20 Option 1 would enable the amendment process to continue and progress updated heritage controls for the St Kilda East area.

The Panel process provides for an independent review of submissions and supporting expert evidence. This offers a transparent process to enable stakeholder interests to be fully considered and reconciled where possible. The Panel will provide its report and recommendations to Council, to enable a final decision on whether to adopt the amendment (with or without changes).

The officer responses provided at **Attachment 4** would form the basis of Council’s position at an Independent Planning Panel hearing.

4.21 Option 2 would result in Amendment not being progressed.

Planning Committee could decide to take this option if it considered the work is not worth pursuing or decided that further work should be undertaken on the Amendment.



5. CONSULTATION AND STAKEHOLDERS

Exhibition of Amendment C142

- 5.1 Exhibition of the amendment was undertaken from 30 May to 30 June 2019 in accordance with the *Planning and Environment Act 1987* and involved:
- Direct notification (letter) to owners and occupiers of affected properties. Enclosed with the letter was a formal Notice of Amendment (approximately 3,500 letters).
 - Direct notification (letters) to the Minister for Planning, Prescribed Ministers, Statutory Authorities and key stakeholder groups.
 - Availability of amendment documentation and supporting information on Council's website. Amendment documentation was also provided on the State Government's Planning Amendments Online website.
 - Availability of amendment documentation at St Kilda Town Hall, and St Kilda Library.
- 5.2 A drop-in session for interested parties was held on 6 June 2019 at St Kilda Town Hall. 5 people attended this session to talk to planners or Council's heritage advisor one-on-one about the amendment.
- 5.3 Approximately 22 phone calls were received seeking additional information about the amendment.

6. LEGAL AND RISK IMPLICATIONS

- 6.1 No significant risk implications have been identified. Prior to the start of the Amendment process, the Review was consulted on with the community. Allowing for consultation of the Review before the commencement of the planning scheme amendment process gave the community an opportunity to provide input to the process at an early stage.
- 6.2 All affected owners and occupiers have been notified of the exhibition of Amendment C142 and were given the opportunity to provide a formal submission to the amendment, in accordance with the requirements of the *Planning and Environment Act 1987*. This provided a fair and transparent process.

7. FINANCIAL IMPACT

- 7.1 Costs associated with progressing Amendment C142 include panel hearing fees, expert evidence / representation at the panel and statutory fees at the approval stage. Provision for these costs is made in the annual Planning Scheme Amendments Program budget 2019/2020.

8. ENVIRONMENTAL IMPACT

- 8.1 Amendment C142 will have a positive environmental impact by protecting places of historic significance.



- 8.2 The Victorian heritage strategy, Victoria's Heritage: Strengthening our Community details the environmental benefits of conservation:

'Heritage policies and programs can help achieve the broader goals of sustainability. It recognises the embodied energy and life-cycle value of traditional materials, and reduces the water use associated with demolition and new buildings'.

9. COMMUNITY IMPACT

- 9.1 Amendment C142 will have a positive community effect through the preservation of historically significant places in the St Kilda East area for the benefit of current and future generations.

10. ALIGNMENT TO COUNCIL PLAN AND COUNCIL POLICY

- 10.1 Amendment C142 is consistent with the 'We are Port Phillip' Council Plan 2017-2027 commitment to 'protecting heritage places' and 'ensuring new development integrates with, respects and contributes to the unique heritage, character and beauty of our neighbourhoods'. Implementation of the review is specifically listed as a priority for the first 4 years under Direction 4.2 – 'A city of diverse and distinctive neighbourhoods and places'.

11. IMPLEMENTATION STRATEGY

11.1 TIMELINE

- 11.1.1 Should the Planning Committee decide to request the Minister for Planning to appoint an Independent Planning Panel, the following pre-set panel hearing dates will apply:
- Directions hearing: week of 30 September 2019
 - Panel hearing: week of 28 October 2019
- 11.1.2 The Panel report would be due to Council either in late November / December 2019, subject to the number of panel members appointed by the Minister.
- 11.1.3 Council would then consider the Panel report and recommendations to determine whether to adopt Amendment C142 (with or without changes) and request Ministerial approval, or abandon the amendment. Subject to Council's decision, approval of the amendment would be anticipated in early 2020.

11.2 COMMUNICATION

- 11.2.1 If the Planning Committee request the Minister for Planning to appoint an Independent Planning Panel, all submitters will be notified via letter and of the opportunity to present verbally at the Panel hearing.
- 11.2.2 Council's website will be updated to reflect the decision at this meeting and the next steps in the amendment process.



12. OFFICER DIRECT OR INDIRECT INTEREST

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

TRIM FILE NO: 66/05/31

ATTACHMENTS

- 1. Attachment 1 - Map of study area including additions to HO**
- 2. Attachment 2 - Review of Heritage Overlay 6 Report - Part 1**
- 3. Attachment 3 - Review of Heritage Overlay 6 Report - Part 2**
- 4. Attachment 4 - Amendment C142 submissions including officer response and recommendations**
- 5. Attachment 5 - Track-changed versions of Citations 2388 and 78**