



12.1 AMENDMENT C161PORT (UPDATE AMENDMENT) -
CONSIDERATION OF SUBMISSIONS AND REQUEST TO
PROCEED TO INDEPENDENT PLANNING PANEL

EXECUTIVE MEMBER: KYLIE BENNETTS, GENERAL MANAGER, CITY GROWTH AND
ORGANISATIONAL CAPABILITY

PREPARED BY: PHOEBE HANNA, STRATEGIC PLANNER
KELLY WHITE, HEAD OF CITY POLICY

1. PURPOSE

- 1.1 To consider written submissions received to Amendment C161port to the Port Phillip Planning Scheme during the public exhibition stage.
- 1.2 To consider endorsing a response to issues raised in submissions, including recommended changes to the Amendment.
- 1.3 To consider splitting Amendment C161port into two separate amendments (Part 1 and Part 2), and for Council:
 - To determine whether to adopt Amendment C161port - Part 1 and request Ministerial approval.
 - To determine whether to request the Minister for Planning to appoint an independent Planning Panel to consider submissions to Amendment C161port - Part 2, with the endorsed response to submissions to form the basis of Council's position at the Panel hearing.

2. EXECUTIVE SUMMARY

- 2.1 Amendment C161port to the Port Phillip Planning Scheme seeks to make a series of updates and technical corrections to the Port Phillip Planning Scheme, including zoning and overlay mapping changes and changes to the heritage gradings of properties.
- 2.2 The purpose of the amendment is to ensure the Port Phillip Planning Scheme is up to date. The amendment also seeks to implement the findings of a number of heritage studies commissioned by Council.
- 2.3 At the Planning Committee Meeting on 27 March 2019 Council decided to request authorisation of Amendment C161port from the Minister for Planning, and to place the amendment on public exhibition.
- 2.4 On 13 March 2020 Council received authorisation from the Minister for Planning to proceed to public exhibition (with conditions).
- 2.5 In light of the uncertainty surrounding the outbreak of the COVID-19 pandemic and with the approval of the Minister for Planning's delegate, the exhibition stage was deferred for a three-month period.
- 2.6 Amendment C161port was on formal public exhibition for one month from 25 June 2020 to 24 July 2020. The formal Public Exhibition process included direct letters and fact sheets to approximately 2,500 owners and occupiers of affected properties, as well as key stakeholders, ministers, referral authorities, interested parties and The Age newspaper and Government Gazette.



- 2.7 150 submissions have been received (including 11 late submissions). 134 submissions support parts of the amendment, and 16 submissions object to parts of the amendment and request changes.
- 2.8 The key issues raised in submissions include:
- Support for heritage overlay for individual properties
 - Support for rezoning proposals for individual properties.
 - Object to heritage overlay / change in heritage grading on the basis of:
 - Loss of development potential for individual properties/ ability to make building improvements
 - Financial burden associated with upkeep of a heritage property
 - Personal financial impact / Loss of property value
 - Degree of alterations to property/extent of demolition diminishing heritage significance
 - Tension between heritage value and flooding impact
- 2.9 A summary of the key issues raised in submissions and an officer recommended response is included in **Attachment 2**.
- 2.10 In response to submissions, officers recommend a number of specific changes to the amendment, as outlined in **Section 4.16** of this report.
- 2.11 On the basis that there a number of proposed planning scheme changes that were not contested through the exhibition process, and which do not specifically relate to those changes or the strategic work that has been contested, Council officers recommend splitting the amendment into two parts: Amendment C161port Part 1 and Part 2. This will enable timely adoption of Part 1, while Part 2 would need to be referred to a Planning Panel for further consideration.
- 2.12 Amendment C161port – Part 1 would include those parts of the amendment outlined in **Section 4.21** of this report and Amendment C161port – Part 2 would include those parts of the amendment outlined in **Section 4.22**.
- 2.13 It is recommended that the Council officers' response to the issues raised by the submissions and recommended changes to Amendment C161port - Part 2 provided at **Attachment 2** form the basis of Council's submission to the Independent Planning Panel hearing.
- 2.14 Council needs to decide whether to:
- Adopt Amendment C161port - Part 1 and request Ministerial approval, and refer Amendment C161port - Part 2 to an Independent Planning Panel to review submissions and make recommendations to the amendment, or
 - To abandon the amendment.
- 2.15 Should Council decide to adopt Amendment C161port – Part 1, a request will be made to the Minister for Planning for final approval within 10 business days of the Council Meeting.
- 2.16 Should Council decide to refer Amendment C161port – Part 2 to a Panel for review, pre-set dates for the Directions and Panel Hearings have been set as follows:
- Directions hearing the week of Monday 26 October 2020.



- Panel hearing the week of Monday 23 November 2020.

3. RECOMMENDATION

That Council:

- 3.1 Having formally considered all written submissions made to Amendment C161port to the Port Phillip Planning Scheme including the eleven late submissions, Council:
 - 3.1.1 Splits Amendment C161port into two separate amendments, with Part 1 including the planning scheme changes associated with the proposals outlined in **Section 4.21** of this report and Amendment C161port – Part 2 including those changes associated with the proposals outlined in **Section 4.22**.
 - 3.1.2 Endorses the officers' response to the issues raised by the submissions relating to Amendment C161 - Part 1, as outlined in **Attachment 2**.
 - 3.1.3 Endorses the officers' response to the issues raised by the submissions and also endorses the recommended changes to Amendment C161port - Part 2, as outlined in **Attachment 2**, as the basis for Council's submission to the Panel.
- 3.2 Adopts Amendment C161port - Part 1 to the Port Philip Planning Scheme, pursuant to Section 29 of the Planning and Environment Act 1987 (the Act), generally in accordance with the amendment documentation provided at **Attachment 3**.
- 3.3 Authorises the Chief Executive Officer (or delegate) to finalise the Amendment C161port – Part 1 documentation for Ministerial approval.
- 3.4 Submits the adopted Amendment C161port – Part 1 documentation, together with prescribed information, to the Minister for Planning for approval, pursuant to Section 31 of the Act.
- 3.5 Requests the Minister for Planning to appoint an independent Planning Panel to consider the submissions related to Amendment C161port – Part 2 as outlined in **Attachment 2**, in accordance with Part 8 of the *Planning and Environment Act 1987*.
- 3.6 Refers those submissions that relate to Amendment C161port – Part 2 to the Panel to be appointed by the Minister for Planning.
- 3.7 Writes to all submitters to Amendment C161port to inform them of Council's decision.

4. KEY POINTS/ISSUES

Amendment C161port

- 4.1 Amendment C161port is an update amendment and proposes numerous updates and corrections to the Port Phillip Planning Scheme. The amendment also proposes to implement the findings of a number of heritage reports and assessments completed for Port Phillip, including:
 - *Heritage Assessment, 588-590 City Rd, South Melbourne* (Context Pty Ltd, May 2017).
 - *Heritage Assessment 2-6 Blanche Street and 110-118 Barkly Street, St Kilda* (Context Pty Ltd, December 2017).
 - *58 - 60 Queens Road, Melbourne Heritage Assessment* (Peter Andrew Barrett, November 2017).



- *Port Phillip Heritage Review Update* (David Helms Heritage Planning, February 2019).

4.2 As exhibited, Planning Scheme Amendment C161port proposes to:

4.2.1 Amend Planning Scheme Maps 2, 3, 4, 6, 7, 8 and 9 to:

Align zones to title boundaries

- Rezone part of 9 Charles Street, St Kilda from the Mixed Use Zone (MUZ) to the Neighbourhood Residential Zone - Schedule 1 (NRZ1).
- Rezone the following properties from the Commercial 1 Zone (C1Z) to the General Residential Zone - Schedule 1 (GRZ1):
 - Part of 210-218 Dorcas Street, South Melbourne.
 - Part of 31 and 31A Prentice Street, St Kilda East.
 - Part of 36 Leslie Street, St Kilda East.
- Rezone the following properties from the General Residential Zone – Schedule 1 (GRZ1) to the Commercial 1 Zone (C1Z):
 - Part of 248-250 Dorcas Street, South Melbourne.
 - Part of 1/99 Carlisle Street, St Kilda.
 - Part of 204-206 St Kilda Road, St Kilda.
- Rezone part of 350-370 Kings Way, South Melbourne from the Public Park and Recreation Zone (PPRZ) to the Public Use Zone 2 (PUZ2).
- Rezone part of 35 Lakeside Drive, Albert Park from the Public Use Zone 2 (PUZ2) to the Public Park and Recreation Zone (PPRZ).
- Rezone part of the Westgate Freeway, Port Melbourne (part of Citylink ramp near junction with Graham Street) from the Industrial 1 Zone to the Road Zone Category 1.
- Rezone part of 146 Dow Street, Port Melbourne from the Neighbourhood Residential Zone – Schedule 2 (NRZ2) to the General Residential Zone – Schedule 1 (GRZ1).

Align zones to land use

- Rezone properties at 2, 4, 6 and 8 Milton Street, Elwood from the Commercial 1 Zone (C1Z) to the General Residential Zone (GRZ1).

Update heritage provisions

4.2.2 Update the Schedule to Clause 43.01 (schedule to the Heritage Overlay) and corresponding planning scheme maps 2HO, 3HO, 6HO, 7HO, 8HO, 9HO to:

- Apply new individual Heritage Overlays to the following properties:
 - 110-118 Barkly Street, St Kilda, and 2-6 Blanche Street, St Kilda (HO507).
 - 588-590 City Road, South Melbourne (HO509)
 - 12 Marine Parade, St Kilda (HO510)

MEETING OF THE PORT PHILLIP CITY COUNCIL

16 SEPTEMBER 2020



- 152-154 Mitford Street, Elwood (HO511)
- 58-60 Queens Road, Melbourne (HO512)
- Apply HO5 (St Kilda Hill Precinct) to an additional 3 properties (refer to Table C in the Explanatory Report).
- Apply HO7 (Elwood, St Kilda, Balacava, Ripponlea Precinct) to an additional 17 properties (refer to Table C in the Explanatory Report).
- Extend HO260 (State School) to 161 Mitford Street, Elwood.
- Extend HO220 (Surrey Court) to all land at 71 Ormond Road, Elwood.
- Delete HO164 from the land bounded by Boundary Road, Munro Street, Ingles Street and Woodruff Street, apart from 164 Ingles Street and 14 Woodruff Street, Port Melbourne (refer to Table E in the Explanatory Report).
- Delete HO215 from the Rail over Road Bridge at Nightingale Street, Balacava, remove HO7 from the Rail over Road bridge at Carlisle Street, Balacava.
- Apply HO147 to the Rail over Road Bridges at Carlisle Street and Nightingale Street, Balacava.
- Delete HO1 (Port Melbourne) from the rear of 146 Dow Street, Port Melbourne.
- Make corrections to the Schedule to the Heritage Overlay (Clause 43.01) for 15 heritage places (HO215, HO147, HO129, HO150, HO164, HO301, HO260, HO220, HO232, HO282, HO255) (refer to Table F in the Explanatory Report for further detail).

Update the incorporated *Port Phillip Heritage Review* to:

- Introduce four new citations (refer to Table L in the Explanatory Report).
- Update 49 existing citations (refer to Table K in the Explanatory Report).

Update the incorporated *City of Port Phillip Heritage Policy Map* to show:

- 257 properties as a 'Significant Heritage Place' inside a Heritage Overlay grading (refer to Table G in the Explanatory Report).
- 17 properties as a 'Contributory Heritage Place' inside a Heritage Overlay grading (refer to Table H in the Explanatory Report).
- 25 properties as 'Non-contributory Heritage Place' inside a Heritage Overlay grading (refer to Table J in the Explanatory Report).

Update the *City of Port Phillip Neighbourhood Character Map* (Incorporated Document) to show:

- Five (5) additional properties as a 'Contributory Heritage Place outside the Heritage Overlay' grading (Refer to Table I in the Explanatory Report).
- One (1) property as 'Non-contributory Heritage place outside the Heritage Overlay' grading (refer to Table J in the Explanatory Report).



- Consequential changes to remove 'Contributory Heritage Place outside the Heritage Overlay' grading where properties are being regraded (refer to Tables B, C, G & H in the Explanatory Report).

Amend Clause 22.04 (Heritage Policy) to reference the following documents:

- *Heritage Assessment, 588-590 City Rd, South Melbourne (Context Pty Ltd, May 2017).*
- *Heritage Assessment 2-6 Blanche Street and 110-118 Barkly Street, St Kilda (Context Pty Ltd, December 2017).*
- *58 - 60 Queens Road, Melbourne Heritage Assessment (Peter Andrew Barrett, November 2017).*
- *Port Phillip Heritage Review Update (David Helms Heritage Planning, February 2019).*

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*).

- 4.2.3 Amend the Schedule to Clause 72.04 (Documents incorporated in this scheme) to include four new incorporated documents, being the individual Statements of Significance for new individually significant properties HO507, HO509, HO510, HO511 and HO512.

Note: The Exhibited Explanatory Report for Amendment C161port is included in **Attachment 1**.

Authorisation

- 4.3 On 13 March 2020 the Minister for Planning's delegate authorised Council to prepare and exhibit Amendment C161port (with conditions). A Council can only prepare and exhibit an amendment if authorised to do so by the Minister for Planning. The purpose of authorisation is to identify whether the proposed amendment is consistent with State policy or interests and ensure that it makes proper use of the Victorian Planning Provisions.

- 4.4 The conditions included:

- The proposed HO383 (Dutch Elm Tree) must be removed from the proposed amendment. The provision was intentionally deleted as part of the Port Phillip Planning Scheme Amendment C137, which made a range of updates to places listed on the Victorian Heritage Register as required by Section 56 of the Heritage Act 2017. If the current protections afforded to the tree are considered to be insufficient then alternate planning controls be explored.
- Individual statements of significance to be prepared for new heritage places proposed to be included in the Schedule to the Heritage Overlay, as required following Amendment VC148.
- Incorporated documents '*Port Phillip Heritage Review*', '*Port Phillip Heritage Policy Map*' and '*Port Phillip Neighbourhood Character Policy Map*' must be



updated, where relevant, to reflect the correct version number and date, and to include any recent changes made as part of approved and gazetted amendments.

- The amendment documentation, including maps and the Explanatory Report, must be updated to reflect the amendment reference number “C161port”, allocated in the Amendment Tracking System.
- 4.5 In response to the outbreak of the COVID-19 pandemic, Council officers requested an exemption from *Ministerial Direction 15* which requires an amendment to proceed to exhibition within 40 days of authorisation.
- 4.6 Whilst all reasonable steps were being taken to progress Amendment C161port, an extension was sought due to the uncertainty surrounding the impact of any future potential lock down situation required in response to COVID-19 and potential impacts on Council’s ability to engage with affected persons, to ensure a just and fair amendment process.
- 4.7 This request was granted by the Minister for Planning’s delegate on 26 March 2020, with Council required to commence exhibition prior to 30 June 2020.
- 4.8 The revised amendment documentation addressing the Conditions of Authorisation was lodged with DELWP on 29 May 2020. DELWP advised that the conditions of Authorisation were adequately resolved and agreed to commence public exhibition.

Public Exhibition of Amendment C161port

- 4.9 Amendment C161port was on public exhibition for one month from 25 June to 24 July 2020.
- 4.10 The Exhibition process included direct letters to 2,500 directly affected property owners and occupiers, Prescribed Ministers, Statutory Authorities and stakeholders (for further information see **Section 5**).
- 4.11 150 submissions (including 12 late submissions) have been received representing the views of 190 different people / organisations. These include:
- Support from the Port Melbourne Historical Society for the whole amendment.
 - 121 submissions relating to the proposal to apply an individual Heritage Overlay (HO512) to 58-60 Queens Road, Melbourne, with:
 - 1 supporting submissions from an affected property owner.
 - 117 supporting submissions from residents and owners of properties on St Kilda Road and Queens Road.
 - 3 objecting submissions from affected property owners of flats at 58-60 Queens Road, Melbourne.
 - 3 submissions from affected property owners at 12 Marine Parade, St Kilda (Edgewater Towers) in support of the proposed individual Heritage Overlay (HO510).
 - 10 submissions received in support of various site-specific zoning, heritage grading and overlay changes proposed at:
 - 45, 47 and 49 Dickens Street Elwood
 - 207 Little Page Street Middle Park

MEETING OF THE PORT PHILLIP CITY COUNCIL

16 SEPTEMBER 2020



- 1-8 Milton Street Elwood
- 210-218 Dorcas Street South Melbourne.
- 16 submissions objecting to various site-specific zoning, heritage grading and overlay changes at:
 - 118 Barkly Street and 2A Blanche Street St Kilda
 - 96 Grey Street St Kilda
 - 146 Dow Street Port Melbourne
 - 335 Ferrars Street South Melbourne
 - 61 Farrell Street Port Melbourne
 - 10-18 Jacka Boulevard St Kilda (St Kilda Sea Baths)
 - 273 Bridge Street Port Melbourne
 - 9 Maryville Street Ripponlea
 - 341 Ferrars Street South Melbourne
 - 14 Woodruff Street Port Melbourne
 - 152 and 154 Mitford Street Elwood
 - 293 The Boulevard Port Melbourne
 - 2 Carlisle Street and 3, 5 and 9 Havelock Street St Kilda
 - Shop 1 137-139 Fitzroy Street St Kilda
 - Properties associated with Middle Park Primary School, South Melbourne Primary School, Elwood Primary School and MacRobertsons Girls' High School.

Overview of Written Submissions – Key Themes and Issues

- 4.12 A majority of the submissions received relate to site-specific proposals within the amendment.
- 4.13 Please refer to **Attachment 2** for a summary of the key themes and issues raised in submissions to Amendment C161port. This attachment also notes which submissions raised each issue / matter and outlines the Council officer recommended response and position on each submission.
- 4.14 The key issues raised in submissions include the following:
Support for heritage overlay for individual properties
- Support for rezoning proposals for individual properties.
 - Object to heritage overlay / change in heritage grading on the basis of:
 - Loss of development potential for individual properties/ ability to make building improvements
 - Financial burden associated with upkeep of a heritage property
 - Personal financial impact / Loss of property value
 - Degree of alterations to property/extent of demolition diminishing heritage significance
 - Tension between heritage value and flooding impact

Council's position in response to issues raised in submissions



- 4.15 Refer to **Attachment 2** for a full summary of submissions and Council officers' response and recommendations.
- 4.16 In summary, in response to submissions received, it is recommended that Council support the following specific changes to Amendment C161port:
- Remove the proposed 'Contributory outside the Heritage Overlay' grading for 146 Dow Street from the Neighbourhood Character Map as the property has been demolished.
 - Remove the proposed 'Significant heritage place' grading from 333 and 341-351 Ferrars Street and amend Revised Citation 2311 for the Railway Cutting and Bluestone bridges to remove reference to those properties, as they are contemporary buildings and not of significance.
 - Amend the Revised Citation for the Railway Cutting and Bluestone Bridges (Citation 2311) to specify those buildings which do not contribute to the significance of the railway cutting and bridges including the former South Melbourne Cycling Club where the significance has not been assessed or established.
 - Amend the proposed revised Citation for the St Kilda Seabaths to include the date of reconstruction of the Seabaths building.
 - Amend the heritage grading of 293 The Boulevard, Port Melbourne to 'Non-Contributory' as a permit has been issued to redevelop the property which will significantly diminish its integrity.
 - Include a further correction in Amendment C161port to amend the heritage grading of 3 Havelock Street from 'Significant' to 'Non-Contributory' inside Heritage Overlay 5 as it is a carpark.
 - Multiple corrections to the heritage controls applying to Elwood Primary School, Middle Park Primary School, South Melbourne Park Primary School and MacRobertson Girls' High School in response to submission 142.

Council consideration of submissions

- 4.17 Council officers recommend Amendment C161port be split into two parts to enable the processing of Amendment C161port to continue in the most timely and efficient manner.
- 4.18 The splitting of an Amendment in the manner proposed is allowable under Section 29 of the *Planning and Environment Act 1987* and is appropriate for an Amendment such as this, which proposes numerous changes that do not necessarily relate to each other.
- 4.19 The Amendment is proposed to be split into two new amendments, comprising:
- **Amendment C161port - Part 1** – Includes the proposed planning scheme changes and underlying strategic work where no submission has been made and where submissions have been made in support (and no objections). Part 1 is recommended for adoption (**see Options for Council in Section 4.24**)
 - **Amendment C161port – Part 2** – Includes all changes and underlying strategic work that is subject to unresolved objecting submissions. Submissions related to Part 2 are recommended to be referred to a Planning Panel (**see Options for Council in Section 4.24**)



Note: There are some proposed planning scheme changes that have received support through the exhibition process, or whereby Council officers are recommending changes that seek to resolve the concerns of the submitter. However, where those proposals are supported by the same underlying strategic work as proposals that have been objected to, they will need to be referred to a Panel for consideration.

Amendment C161port – Part 1 – Adoption of amendment documentation

4.20 The Amendment C161port - Part 1 documentation recommended for adoption can be found at **Attachment 3**.

4.21 Specifically, Amendment C161port – Part 1 proposes to:

- Introduce a new site-specific heritage overlay (HO509) and associated controls (including new Citation and Statement of Significance incorporated documents) to 588-590 City Road, South Melbourne.
- Rezone part of 9 Charles Street, St Kilda from the Mixed Use Zone (MUZ) to the Neighbourhood Residential Zone - Schedule 1 (NRZ1).
- Rezone the following properties from the Commercial 1 Zone (C1Z) to the General Residential Zone - Schedule 1 (GRZ1):
 - Part of 31 and 31A Prentice Street, St Kilda East.
 - Part of 36 Leslie Street, St Kilda East.
- Rezone the following properties from the General Residential Zone – Schedule 1 (GRZ1) to the Commercial 1 Zone (C1Z):
 - Part of 248-250 Dorcas Street, South Melbourne.
 - Part of 1/99 Carlisle Street, St Kilda.
 - Part of 204-206 St Kilda Road, St Kilda.
- Rezone part of the Westgate Freeway, Port Melbourne (part of Citylink ramp near junction with Graham Street) from the Industrial 1 Zone to the Road Zone Category 1.

Amendment C161port – Part 2 – Refer to panel

4.22 Amendment C161port - Part 2 is recommended to be referred to a Planning Panel and includes the following proposed planning scheme changes:

- Proposed rezoning of:
 - 210-218 Dorcas Street, South Melbourne from Commercial 1 Zone to General Residential Zone – Schedule 1 (Objecting submission received).
 - 146 Dow Street, Port Melbourne (Relates to objecting submission).
 - Rezone part of 350-370 Kings Way, South Melbourne from the Public Park and Recreation Zone (PPRZ) to the Public Use Zone 2 (PUZ2) (Relates to objecting submission)
 - Rezone part of 35 Lakeside Drive, Albert Park from the Public Use Zone 2 (PUZ2) to the Public Park and Recreation Zone (PPRZ) (Relates to objecting submission).

MEETING OF THE PORT PHILLIP CITY COUNCIL

16 SEPTEMBER 2020



- Proposed new heritage overlays to:
 - 58-60 Queens Road, Melbourne (Supporting and objecting submissions received)
 - 110-118 Barkly Street, St Kilda, and 2-6 Blanche Street, St Kilda (Objecting submission received)
- All planning scheme changes proposed to implement the *Port Phillip Heritage Review Update* (David Helms Heritage Planning, 2019). Those with submissions are outlined below:
 - Proposed new heritage overlay to:
 - 152-154 Mitford Street, Elwood (Objecting submissions received)
 - 12 Marine Parade, St Kilda (Supporting submissions received)
 - Changes to the heritage overlay and associated heritage controls affecting 14 Woodruff Street and 289 Ingles Street, Port Melbourne (Objecting submission received)
 - Changes to the heritage overlay and associated heritage controls affecting Elwood Primary School, Middle Park Primary School, South Melbourne Park Primary School and MacRobertson Girls' High School (Objecting submission)
 - Extending Heritage Overlay 5 to 96 Grey Street, St Kilda (Objecting submission received)
 - Extending Heritage Overlay 7 to 41, 43, 45, 47, 51, 53, 55 and 57 Dickens Street, Elwood (Supporting submissions received)
 - Proposed changes to the heritage grading of the following properties that are already within the heritage overlay:
 - 61 Farrell Street, Port Melbourne (Objecting submission received)
 - 10-18 Jacka Boulevard (St Kilda Sea Baths) (Objecting submission received)
 - 273 Bridge Street South Melbourne (Objecting submission received)
 - 9 Maryville Ripponlea (Objecting submission received)
 - 2 Carlisle Street and 3, 5 and 9 Havelock Street, St Kilda (Cosmopolitan Hotel site) (Objecting submission received)
 - 137-139 Fitzroy Street, St Kilda (Objecting submission received)
 - 341 Ferrars Street, South Melbourne (Changes recommended to resolve submitters concerns)
 - 355 Ferrars Street, South Melbourne (Changes recommended to resolve submitters concerns)
 - 146 Dow Street, Port Melbourne (Changes recommended to resolve submitters concerns)
 - 293 The Boulevard, Port Melbourne (Changes recommended to resolve submitters concerns)



- 207 Little Page Street, Middle Park (Supporting submissions received)

4.23 It is recommended that the Council officers' responses and recommended changes provided at **Attachment 2** form the basis of Council's position at an independent Planning Panel hearing appointed for Amendment C161port – Part 2.

Options for Council

4.24 At this stage of the process, Council has following options available to it under Sections 23 and 29 of the *Planning and Environment Act 1987*:

- Option 1: Split the Amendment into two new amendments (Part 1 and Part 2), adopt Amendment C161port – Part 1 and request Ministerial approval, and refer all written submissions that relate to Amendment C161port – Part 2 to an independent Planning Panel for review (recommended);
- Option 2: Do not split the Amendment. Refer all written submissions received to Amendment C161port to an independent Planning Panel for review.
- Option 3: Abandon Amendment C161port.

Council does not have the option to adopt Amendment C161port in its entirety at this stage as submissions objecting to the amendment were received and are not proposed to be resolved.

4.25 Option 1 is recommended, as it would enable timely approval of those changes which are uncontested and / or supported, and allow unresolved submissions to be considered by a Planning Panel. 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 Amendment C161port – Part 2 (with or without changes).

It is recommended that the Council officers' responses provided at **Attachment 2** would form the basis of Council's position at an independent Planning Panel hearing.

4.26 Option 2 would delay adoption of those planning scheme changes that have not been contested through the exhibition process. Council could decide to take this option if it considered Amendment C161port in its entirety should be referred to a Panel for review.

4.27 Option 3 would result in Amendment C161port not being progressed. Council could decide to take this option if it considered the Amendment is not worth pursuing.

5. CONSULTATION AND STAKEHOLDERS

Public Exhibition of Amendment C161port

5.1 Public exhibition of Amendment C161port took place from 25 June to 24 July 2020 in accordance with the Planning and Environment Act 1987 and having regard to the restrictions imposed in response to COVID-19, and it involved:

- Direct notification (letter) to owners and occupiers of affected properties (approx. 2,500 letters);



- Direct notification (letter) to Prescribed Ministers, Statutory Authorities and stakeholders;
- Public Notices in The Age Newspaper on Tuesday 23 June 2020 and in the Government Gazette on Thursday 25 June 2020;
- Availability of the amendment documentation and supporting information on Council's website and the State Government's Planning Amendments Online website;
- Hard copies of Amendment documentation were offered to be sent to those without internet access (one member of the community took Council up on this offer);
- Virtual meetings between community members and a strategic planner to discuss the amendment (Note: This was in place of face-to-face community drop-in sessions which could not be held due to COVID-19 restrictions); and
- Stakeholders were also invited to call or e-mail Council planners to discuss the amendment.

5.2 In response to COVID-19, the Victorian Government introduced *the COVID-19 Omnibus (Emergency Measures) Bill 2020* which includes temporary changes to the *Planning and Environment Act 1987*. This meant that planning documents previously required to be physically available to view at state and local government offices are now only required to be available for online inspection, including planning scheme amendment documentation.

5.3 All submitters were invited to attend and participate in this Council Meeting.

5.4 It is noted that it is generally preferred for large scale planning scheme amendments such as this to provide Council with the opportunity to hear and receive submissions and decide a position at separate Council Meetings. However, given the timing of the upcoming caretaker period and Council election, the opportunity to hear and receive submissions over two Council Meetings is not available.

6. LEGAL AND RISK IMPLICATIONS

6.1 No significant risk implications have been identified. All affected owners and occupiers were notified of the exhibition of Amendment C161port 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.

6.2 Council officers have sought informal advice from officers of the Department, Environment, Land, Water and Planning in relation to the splitting of the amendment to ensure on-going compliance with the relevant requirements of the *Planning and Environment Act 1987*.

6.3 Timeframes related to the panel hearing and the release of the panel report may be subject to change by Planning Panels.

6.4 The Planning Panel report may recommend changes to Amendment C161port – Part 2. The recommendations will be considered by Council at the next stage in the statutory process.



- 6.5 Amendment C161port – Part 1 and Part 2 are subject to Ministerial approval. The Minister may approve the amendment with or without changes.

7. FINANCIAL IMPACT

- 7.1 The financial costs associated with Amendment C161port relate to the panel hearing, expert evidence and legal representation and statutory fees for Ministerial approval. Splitting the amendment in the manner proposed is expected to reduce the financial costs associated with a planning panel process but result in an additional statutory fee (\$481.30 per amendment) associated with Ministerial approval.
- 7.2 Provision for these costs is made in the annual Planning Scheme Amendments Program budget 2020/2021.

8. ENVIRONMENTAL IMPACT

- 8.1 Amendment C161port 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 C161port will assist in ensuring the Port Phillip Planning Scheme is up to date and minimising errors or anomalies. Being responsive to requests for updates and corrections as they are identified benefits all users of the planning scheme and stakeholders in the planning process. This will have a positive economic impact through removing redundant planning provisions and permit triggers and promoting the cultural economy through heritage conservation.
- 9.2 Amendment C161port is likely to impose some additional costs on the owners or developers of the properties to be included in the Heritage Overlay for the first time through increased planning permit requirements. The economic effects of requiring a planning permit may be reduced through the availability of Port Phillip's heritage, urban design and planning officers' free-of-charge at any time prior to, during, or following the planning permit application process to assist in the planning permit process.
- 9.3 The amendment will have a positive social impact on the community, through protecting historically significant places within Port Phillip for the benefit of current and future generations.

10. ALIGNMENT TO COUNCIL PLAN AND COUNCIL POLICY

- 10.1 Amendment C161port is aligned with the Council Plan Strategic Direction 4 – We are growing and keeping our character.
- 10.2 The Amendment proposes to make corrections to the planning scheme and protect a number of new places of local heritage significance. This will allow development to take place without being inhibited by incorrect planning controls and ensures Port Phillip's heritage is appropriately protected.

11. IMPLEMENTATION STRATEGY

- 11.1 Amendment C161port - Part 1



- If adopted, Amendment C161port - Part 1 will be sent to the Minister for Planning for final approval within 10 business days.
- The Amendment would take effect once notice of its approval is published in the Victorian Government Gazette.

11.2 Amendment C161port - Part 2

- Preliminary dates for the Panel process are as follows:
 - Directions Hearing the **week of Monday 26 October 2020**.
 - Panel hearing the **week of Monday 23 November 2020**.
- The Panel report and recommendations to Council would be anticipated to be received in late December 2020.
- Subject to the above dates being met, it is anticipated that Council would consider the Panel report and recommendations in February 2021 and decide to:
 - Adopt Amendment C161port Part 2 (with or without changes) and request Ministerial approval, or;
 - Abandon the Amendment.
- If adopted, Amendment C161port - Part 2 will be sent to the Minister for Planning for final approval within 10 business days.
- Amendment C161port - Part 2 would take effect once notice of approval is published in the Victorian Government Gazette.

12. COMMUNICATION

- 12.1 All submitters to Amendment C161port will be notified of the outcome of this Council Meeting.
- 12.2 Council's website will be updated to reflect the next steps in the amendment process.
- 12.3 Should Council request the Minister for Planning to appoint an independent planning panel, those submitters that are party to that process (Part 2) will be notified via letter and of the opportunity to present verbally at the Panel Hearing.
- 12.4 Once a Panel has been appointed, those submitters that are party to that process will be contacted by Planning Panels Victoria and invited to participate on the Planning Panel Process.

13. OFFICER DIRECT OR INDIRECT INTEREST

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

TRIM FILE NO: 66/02/279

ATTACHMENTS

1. Attachment 1 - C161port Exhibited Explanatory Report
2. Attachment 2 - Summary of Submissions and Officer Response
3. Attachment 3 - Amendment C161port Part 1 Amendment Documentation for Adoption