



# Port Phillip Planning Scheme Review

# Audit Report

23 May 2018



# Audit Report

## 1 Contents

<b>1</b>	<b>Contents</b>	<b>2</b>
<b>2</b>	<b>Glossary of terms</b>	<b>6</b>
<b>3</b>	<b>Executive Summary</b>	<b>8</b>
3.1	Overview	8
3.2	Purpose	8
3.3	Scope	9
3.4	Findings	9
3.4.1	Activity centres and employment	11
3.4.2	Built form and heritage	12
3.4.3	Environment	14
3.4.4	Health and wellbeing	15
3.4.5	Public spaces	16
3.4.6	Housing and growth	17
3.4.7	Transport, parking and waste	18
3.4.8	Effectiveness and efficiency	19
<b>4</b>	<b>Introduction</b>	<b>21</b>
4.1	What is the Port Phillip Planning Scheme?	21
4.2	Reason for the review	21
4.3	Aims of the review	23
4.4	Scope of the review	24
4.5	Methodology	24
<b>5</b>	<b>The 2006 Planning Scheme Review</b>	<b>26</b>
5.1	Implementation of the 2006 Review	26
5.1.1	MSS review	26
5.1.2	Outstanding items from the 2006 Review	27
<b>6</b>	<b>Strategic context</b>	<b>28</b>
6.1	Snapshot of Port Phillip in 2016	28
6.2	Key issues and influences	31
6.3	State and regional strategic context	32
6.3.1	Plan Melbourne 2017 – 2050	32
6.3.2	Fishermans Bend	35
6.3.3	Reformed residential zones	35
6.3.4	Reformed commercial zones	37
6.3.5	Reformed industrial zones	38



# Audit Report

6.3.6	VicSmart .....	38
6.3.7	Better apartments .....	38
6.3.8	Inner Melbourne Action Plan 2016 - 2026 .....	39
6.3.9	Council Alliance for a Sustainable Built Environment .....	39
6.3.10	State planning reform program .....	40
6.4	Legislative changes .....	41
<b>7</b>	<b>Planning scheme amendments.....</b>	<b>42</b>
<b>8</b>	<b>Local strategic context.....</b>	<b>44</b>
8.1	The Council Plan 2017-27.....	44
8.2	Key policies and strategies .....	46
8.3	Current strategic projects .....	48
8.3.1	Review of Heritage Overlay 6 .....	48
8.3.2	Waterfront Place, Port Melbourne .....	48
8.3.3	Public Spaces Strategy .....	48
8.3.4	New Housing Strategy .....	49
<b>9</b>	<b>Data analysis.....</b>	<b>50</b>
9.1	VCAT analysis .....	50
9.2	Planning panels analysis.....	51
9.3	Planning permit activity analysis .....	52
9.3.1	Land use trends .....	52
9.3.2	Dwelling activity .....	53
<b>10</b>	<b>Consultation.....</b>	<b>55</b>
10.1	Council officer workshops .....	55
10.2	Councillor feedback .....	56
10.3	Planning scheme users survey .....	56
<b>11</b>	<b>Planning issues &amp; analysis .....</b>	<b>59</b>
11.1	Activity centres and employment.....	59
11.1.1	Employment land .....	59
11.1.2	Activity Centres.....	63
11.1.3	Industrial land .....	69
11.1.4	Tourism.....	70
11.2	Built form and heritage .....	71
11.2.1	Urban design and spatial planning .....	71
11.2.2	Design excellence.....	75
11.2.3	Built form controls .....	76
11.2.4	Neighbourhood character .....	78
11.2.5	Heritage framework.....	83

# Audit Report

11.2.6	Aboriginal cultural heritage.....	88
11.3	Environment.....	92
11.3.1	Environmentally Sustainable Development.....	92
11.3.2	Ecologically significant vegetation.....	93
11.3.3	Integrated Water Management.....	95
11.3.4	Environmental risks.....	96
11.4	Health and wellbeing.....	104
11.4.1	Liveability.....	104
11.4.2	Universal accessibility.....	106
11.4.3	Food-sensitive urban design.....	107
11.4.4	Community infrastructure.....	107
11.4.5	Safer design.....	109
11.4.6	Licensed premises.....	109
11.4.7	Social impacts.....	112
11.5	Public space.....	115
11.5.1	Public open space and recreation.....	115
11.5.2	Activating laneways.....	117
11.5.3	Foreshore.....	118
11.5.4	Overshadowing of public space and the foreshore.....	119
11.6	Housing and growth.....	120
11.6.1	Housing strategy.....	120
11.6.2	Performance of housing policy.....	122
11.6.3	Fishermans Bend.....	123
11.6.4	Diverse and affordable housing.....	124
11.6.5	Physical infrastructure.....	128
11.7	Transport, parking & waste.....	130
11.7.1	Integrated transport and land-use planning.....	130
11.7.2	Sustainable transport modes.....	130
11.7.3	Sustainable car parking.....	131
11.7.4	Visitor parking.....	133
11.7.5	Car parking design.....	134
11.7.6	Green Travel Plan.....	134
11.7.7	Car share.....	134
11.7.8	Services in higher density development.....	135
<b>12</b>	<b>Effectiveness and efficiency.....</b>	<b>137</b>
12.1	The Municipal Strategic Statement.....	137
12.2	Local Planning Policies.....	139



# Audit Report

12.2.1	Area-based local policies (Clause 22).....	139
12.2.2	Non-residential uses in the residential zone (Clause 22.01).....	140
12.2.3	Backpacker’s Lodges (Clause 22.02).....	141
12.2.4	Caretaker’s houses in industrial and business zones (Clause 22.03).....	143
12.2.5	Heritage policy (Clause 22.04).....	143
12.2.6	Subdivision policy (Clause 22.05).....	146
12.2.7	Urban design policy for non-residential and multi-unit residential development (Clause 22.06).....	147
12.2.8	Gaming (Clause 22.07).....	148
12.2.9	Outdoor advertising policy (Clause 22.08).....	150
12.2.10	St Kilda foreshore area policy (Clause 22.09).....	151
12.2.11	Carlisle Street Major Activity Centre policy (Clause 22.11).....	151
12.2.12	Stormwater management – Water Sensitive Urban Design (Clause 22.12)	152
12.2.13	Environmentally Sustainable Development (Clause 22.13).....	153
12.2.14	Bay Street Activity Centre policy (Clause 22.14).....	153
12.2.15	Employment and dwelling diversity within the Fishermans Bend Urban Renewal Area (Clause 22.15).....	154
12.3	Effectiveness of the zones and overlays.....	154
12.3.1	Zones – issues & opportunities.....	154
12.3.2	Overlays.....	158
12.4	Effectiveness of the specific provisions.....	168
12.4.1	Particular provisions.....	168
12.4.2	General provisions.....	170
12.4.3	Incorporated documents.....	171
12.4.4	VicSmart planning assessment.....	172
<b>13</b>	<b>Conclusion.....</b>	<b>174</b>
<b>14</b>	<b>List of recommendations.....</b>	<b>175</b>
14.1.1	Recommendations to address potential gaps.....	175
14.1.2	Recommendations to improve policy.....	176
14.1.3	Recommendations to update policy.....	179
14.1.4	Recommendations to correct anomalies.....	180
14.1.5	Recommendations to improve efficiency and processes.....	180
14.1.6	Recommendations to continue advocacy.....	181
<b>15</b>	<b>Implementation.....</b>	<b>182</b>
<b>16</b>	<b>Appendices.....</b>	<b>184</b>

# Audit Report

## 2 Glossary of terms

B2Z	Business 2 Zone
B5Z	Business 5 Zone
CASBE	Council Alliance for a Sustainable Built Environment
CCZ	Capital City Zone
CHMP	Cultural Heritage Management Plan
Council Plan	Council Plan 2017-2027
DCP	Development Contributions Plan Overlay
DDO	Design and Development Overlay
DELWP	Department of Environment, Land and Water and Planning
EAO	Environmental Audit Overlay
EGM	Electronic Gaming Machine
ESD	Environmentally Sustainable Development
ESO	Environmental Significance Overlay
FBURA	Fishermans Bend Urban Renewal Area
GRZ	General Residential Zone
HO	Heritage Overlay
ITS	Integrated Transport Strategy
LPP	Local Planning Policy
LPPF	Local Planning Policy Framework
MSS	Municipal Strategic Statement
NCO	Neighbourhood Character Overlay
NRZ	Neighbourhood Residential Zone
Plan Melbourne	Plan Melbourne 2017-2050
PPTN	Principal Public Transport Network
RAP	Reconciliation Action Plan
RGZ	Residential Growth Zone
SBO	Special Building overlay
SEIFA	Socio-Economic Indexes for Areas
SEMC	South East Melbourne Councils
SIA	Social Impact Assessment
SPP	State Planning Policy
SPPF	State Planning Policy Framework
The Act	The Planning and Environment Act 1987
The Scheme	Port Phillip Planning Scheme
The Tribunal	Victorian Civil and Administrative Tribunal
VCAT	Victorian Civil and Administrative Tribunal
VPA	Victorian Planning Authority



# Audit Report

VPO                      Vegetation Protection Overlay  
VPP                      Victorian Planning Provisions  
WSUD                    Water Sensitive Urban Design

# Audit Report

## 3 Executive Summary

### 3.1 Overview

The Port Phillip Planning Scheme (the Scheme) plays a key role in shaping the City's evolution to protect and enhance liveability and the wellbeing of both current and future communities. The Scheme has an influence over important factors that create a liveable, attractive and sustainable City, like land use planning, housing, protection of heritage, the natural environment and responding to the impacts of climate change.

Council has undertaken an audit of the Port Phillip Planning Scheme (the Scheme) as the first step in carrying out a Planning Scheme Review. Council is required to regularly review its scheme by the *Planning and Environment Act 1987*. This is to ensure the Scheme reflects current state and local policy, addresses key planning issues affecting the City and is efficient and effective in carrying out the objectives of planning in Victoria.

This Report makes 86 recommendations, ranging in nature from relatively minor corrections, improvements to Council processes, to recommending significant further strategic work to reform key policy within the Scheme relating to housing, heritage, neighbourhood character, urban design, employment, transport, sustainability and public open space.

The recommendations will be implemented in a number of stages over a four-year period, representing a continuous improvement approach.

### 3.2 Purpose

Council is required to review its scheme periodically in accordance with the requirements of the *Planning and Environment Act 1987* (the 'Act') no later than one year after the Council Plan is approved.

The last Audit of the Port Phillip Planning Scheme (the 'Scheme') carried out in 2006 and resultant rewrite of the Local Planning Policy Framework (LPPF) implemented into the Planning Scheme in 2011.

It is now appropriate timing to review the Scheme due to:

- the legislative requirement of the *Planning and Environment Act 1987*
- the need to align with the *We are Port Phillip Council Plan 2017-27* (the Council Plan)
- significant changes to state planning policy, including:
  - reformed residential, commercial and industrial zones
  - a new metropolitan strategy – *Plan Melbourne 2017-50*
  - rezoning of Fishermans Bend
  - fast-track planning permits – VicSmart
  - new apartment design standards
  - revised State Planning Policy Framework
  - ongoing Smart Planning reforms
  - Amendments to the Planning and Environment Act 1987

Benefits of the review include:

- updating the planning scheme to effectively respond to major issues facing the municipality



# Audit Report

- updating the planning scheme to support the objectives of State Planning Policy, recognising the significant change in planning policy and legislation since the last review
- identifying and correcting inconsistencies, anomalies and errors
- ensure that the Local Planning Policy Framework assists decision making, and stands up to scrutiny at VCAT
- ensuring the application of zones and overlays, and content of schedules to zones, overlays and other provisions are working efficiently and effectively delivers its strategic intent (state and local policy); and
- bringing us back on track with the 4-year review cycle, following the adoption of the Council Plan in June 2017.

## 3.3 Scope

This report audits the performance of the Scheme and make recommendations to improve it. The time passed since the last review has seen major policy shifts and planning system reforms in both state and local policy, which created a significant level of review work. As a result, this audit focuses on a review of the policy and controls within the Scheme, rather than Council's planning processes and its overall administration of the Scheme.

The aims of the review are to provide:

- A current and relevant Scheme that reflects current policy and addresses key planning issues.
- A clear and unambiguous Scheme that clearly conveys the planning vision, objectives and strategies for the area.
- An effective and efficient Scheme that makes effective use of the Victoria Planning Provisions (VPP), reduces complex and repetitive content and streamlines planning processes.

The Audit has been informed by a review of current state and Council policies and other data. This has included:

- an analysis of the Victorian Civil and Administrative Tribunal (VCAT) and recommendations from Planning Panels Victoria
- permit data analysis
- a survey of regular scheme users; and
- consultation with Councillors and Council officers.

## 3.4 Findings

Overall, the policies and controls in Port Phillip Planning Scheme are sound, reflecting best-practice planning policy and significant strategic work undertaken by Council in recent years to manage the development and land use in Port Phillip.

The Scheme has the most extensive and detailed heritage and built form controls in Melbourne, which work effectively to manage growth and ensure the City retains its valued heritage and neighbourhood character, while accommodating growth.

However, there are a number of ways in which the Scheme could be improved and updated to address changes in policy and demographic, land use and development trends. These include improving the overall narrative for consistency, clarity and a more cohesive and holistic spatial vision to guide future growth and development in Port Phillip. There are also

# Audit Report

policies that could be strengthened and potential gaps that could be addressed to better direct key outcomes of State Planning Policy Framework, Plan Melbourne 2017-50 and the Council Plan 2017-27. These findings are summarised in key themes based on topics addressed by the Scheme:





# Audit Report

## 3.4.1 Activity centres and employment

Port Phillip is in a strategic position with high accessibility to the CBD and public transport network, making Port Phillip an attractive employment destination that will see a continued growth in jobs, including in Fishermans Bend. However recent trends are seeing the crowding out of office use by residential and retail uses in City's core commercial and mixed-use areas. Port Phillip must balance its role as an employment destination with its need to cater for housing growth.

The continued evolution and growth of Port Phillip's activity centres will be the foundation for creating a 10-minute City, where people can live close to jobs, services and public transport. Council will need to clearly define the hierarchy, role and function of Port Phillip's activity centres and to ensure they remain vibrant, balancing their growth with the protection of other values such as heritage and residential amenity.

Key issue/ outcome	Recommendation	Alignment with Council Plan
Adequate <b>employment</b> land – jobs close to where people live	Undertake further strategic work on the City's employment needs and trends (demand and supply) to inform MSS and determine whether a more proactive approach to retaining and attracting businesses is required, including creative ('makers') and knowledge-based industries.	Outcome 5.2 - A prosperous City that connects and grows business
Reinforcing the role and function of <b>activity centres</b>	Update and strengthen activity centre policy in the MSS to reinforce the role and function and future direction of activity centres, including those planned for Fishermans Bend.  Develop a new Activity Centres Strategy to inform detailed land use policy and structure plans and consider the role of neighbourhood activity centres in delivering 10-minute walking neighbourhoods.	Outcome 4.2 – A City of diverse and distinctive neighbourhoods and places
<b>St Kilda Activity Centre</b>	Develop a future vision and strategic framework (structure plan / urban design framework / review of existing planning controls & policy) to guide the role and function of the St Kilda Activity Centre (Fitzroy/Acland Streets).	Direction 4 – We are growing and keeping our character
Reducing <b>amenity conflicts</b> in and around activity centres	Consider introducing more detailed design policy to manage the potential amenity conflicts for the interface between residential and commercial areas (e.g. on noise mitigation, odour and air emissions, loading and unloading, waste removal and storage, etc).	Outcome 4.1 – Liveability in a high density City

# Audit Report

## 3.4.2 Built form and heritage

The City benefits from extensive detailed design policy in many of our growth areas. With a strong population growth projected for the City, these will need to be maintained to ensure they are delivering expected outcomes. Despite this, planning for growth in the City would benefit from a more cohesive overall vision like a city-wide spatial plan or urban design framework to protect key elements of our City and assist in more consistent, longer-term planning.

Port Phillip's heritage precincts are among the most significant and extensive in Melbourne and are generally well protected by extensive planning policy and controls. However, due to evolving heritage criteria and increasing development pressure, a number of gaps have been revealed, along with the need for more site-responsive design guidance.

Neighbourhood character is integral to the fabric of the City and is part of what makes Port Phillip a great place to live. The Scheme has robust policy and controls for precincts to protect areas of heritage value and consistent neighbourhood character. However, there are opportunities to clarify the preferred future character for areas of mixed character or those intended to cater for a higher level of growth.

Key issue/ outcome	Recommendation	Alignment with Council Plan
A more holistic <b>urban design</b> framework	Undertake a review of Port Phillip's built form and urban design policy to: <ul style="list-style-type: none"> <li>• better define and protect key features of the City's urban structure and character</li> <li>• integrate spatial elements of key strategies such as the Integrated Transport Strategy and Public Spaces Strategy</li> <li>• define 'design excellence'</li> </ul>	Direction 4 – We are growing and keeping our character
Strengthen <b>neighbourhood character</b>	In conjunction with the Housing Strategy, review Council's neighbourhood character policy to better articulate Council's preferred vision. Consider alternative to 'Contributory heritage places outside of the heritage overlay' designation to protect neighbourhood character. Progressively update the <i>Port Phillip Design Manual 2000</i> .	Outcome 4.2 – A City of diverse and distinctive neighbourhoods and places
Strengthen and broaden scope of <b>heritage policy</b>	<b>Port Phillip Heritage Review</b> Update thematic history Consider 'Contributory heritage places outside of the heritage overlay' properties for the Heritage Overlay. Review heritage overlay precinct boundaries Progressively update older heritage citations Undertake a city-wide social heritage assessment	Outcome 4.2 – A City of diverse and distinctive neighbourhoods and places



# Audit Report

	<p><b>Heritage Local Planning Policy</b></p> <p>Comprehensively review the Heritage Local Planning Policy to strengthen and broaden the scope of the local policy to address different building typologies.</p> <p>Provide guidance on the appropriate siting of ESD facilities on heritage buildings.</p> <p><b>Permit triggers</b></p> <p>Introduce planning permit exemptions for low-impact buildings and works in the Heritage Overlay.</p>	
<p><b>Aboriginal Cultural Heritage</b></p>	<p>Update MSS policy to:</p> <ul style="list-style-type: none"> <li>• better reflect Council’s obligation to identify, assess and document places of historic, cultural and social significance</li> <li>• support development that reflects Aboriginal values and urban design perspectives</li> </ul> <p>Undertake a municipal-wide Aboriginal Heritage Study</p> <p>Consider training for Council officers</p>	<p>Outcome 4.2 – A City of diverse and distinctive neighbourhoods and places</p> <p>Outcome 1.4 – Community diversity is valued and celebrated</p>
<p><b>Clarify built form controls</b></p>	<p>A policy-neutral review of all DDOs for clarity, consistency and to reduce duplication.</p> <p>Review specific Design and Development Overlays to ensure built form requirements are achieving intended outcomes (e.g. DDO6 – St Kilda/Fitzroy Street Activity Centre and DDO8 – South Melbourne Central and DDO26 – St Kilda Road North).</p>	<p>Direction 4 – We are growing and keeping our character</p>

# Audit Report

## 3.4.3 Environment

The Scheme has detailed policy on facilitating environmentally sustainable development to help mitigate the impact of the buildings on the natural environment. Policy also supports factoring climate change impacts into planning decisions, however, it is less clear in its implementation of these policies.

To more effectively deliver a greener and water sensitive City, we need to elevate the protection of ecologically significant vegetation, and an integrated water management approach.

To build a City that is more resilient to climate change, we need to work with the State Government to develop stronger planning mechanisms and an agreed approach to prioritising sustainable and resilient development.

Key issue/ topic	Recommendation	Alignment with Council Plan
<b>Environmentally Sustainable Development</b>	Continue to advocate to the Minister for Planning for a permanent or State-wide equivalent environmentally sustainable development policy which maintains and builds upon the existing local policy and improve advice on how applicants can meet the best-practice ESD objectives of this policy.	Smart solutions for a sustainable future (3)
<b>Protecting vegetation</b>	Apply the Environmental Significance Overlay to sites of biological significance to raise their profile and minimise the loss of vegetation of development. Consider using the planning scheme to protect significant trees across the municipality.	A greener, cooler and more liveable City (3.1)
<b>Climate change adaptation</b>	Add policy support in the MSS for new development to consider the impact of a changing climate. Continue to advocate to State Government for stronger planning mechanisms to influence sustainable development outcomes and respond to climate change hazards, including coastal inundation and storm surges. Work with Melbourne Water and other Councils within the Elster Creek catchment on a whole-of-catchment approach to flood prevention, including exploring the use of planning mechanisms to deliver appropriate built outcomes and infrastructure upgrades.	A City that is adapting to climate change (3.3)
<b>Greening the City</b>	Update the MSS policy on significant trees to promote the enhancement of landscape character through additional canopy tree planting to reduce the urban heat island effect. Explore options to require additional canopy trees or green infrastructure for development on private land to reduce the urban heat island effect. Review Council's process in assessing green infrastructure proposals to identify if Council can facilitate better outcomes.	A greener, cooler and more liveable City (3.1)
<b>Integrated water management</b>	Update the MSS to reflect best practice integrated water management objectives and strategies, including flood management and increasing permeable surfaces and requiring on-site detention.	A water sensitive City (3.4)



# Audit Report

## 3.4.4 Health and wellbeing

Health and wellbeing policy is embedded throughout the MSS, addressing a range of factors that contribute to liveability such as access to education and employment, public open space, local shops, community services, leisure and cultural opportunities, affordable housing and active transport. However, there is the opportunity to raise the profile of health and wellbeing policy by specifically linking these outcomes to liveability. This includes emphasising the importance of a place-based approach to matters such as food-sensitive urban design and a greater understanding of the social impacts of development.

Further, with increasingly mixed-use activity centres, amenity conflicts arise between residential and licensed premises. Council should consider more detailed policy to manage the amenity impacts of licensed premises to ensure they make a positive contribution to our City.

Key issue/ topic	Recommendation	Alignment with Council Plan
<b>Community health and wellbeing</b>	Strengthen local policies on liveable neighbourhoods and places within the MSS to raise the profile of planning policies that contribute to community health and wellbeing and place-making.	A safe and active community with strong social connections (1.1)
<b>Accessible to all</b>	Promote the concept of universal accessibility for people of all ages and abilities and age and child friendly cities in the MSS. Promote urban agriculture and food-sensitive urban design in the MSS.	Community diversity is valued and celebrated (1.4) Our streets are designed for people (2.3)
<b>Promoting green infrastructure</b>	Promote green infrastructure (including green walls, roofs, landscaping, canopy trees) and food sensitive urban design to address the link between public health, planning, urban design and environmental sustainability.	A greener, cooler and more liveable City (3.1)
<b>Community infrastructure (CI)</b>	Expand community infrastructure policy in the MSS to address co-location, clustering, adaptable spaces and design guidance for mixed use developments.	A safe and active community (1.1) with access to services (1.3)
<b>Licensed premises</b>	Develop a licensed premises policy to guide the appropriate location and design of licensed premises to ensure they make a positive contribution commensurate to the role of each activity centre and to effectively manage amenity impacts.	Liveability in a high density City (4.1) We thrive by harnessing creativity (5)
<b>Social Impact Assessments</b>	Revise the social impact assessment policy within the MSS to refine the trigger for when it's required. Develop social impact assessment guidelines to set out processes, acceptable scope and methodology and to clarify the types of development where it's required.	Liveability in a high density City (4.1) Access to services that support the health and wellbeing of our growing community (1.3)

# Audit Report

## 3.4.5 Public spaces

Port Phillip has a vast network of public spaces, including parks gardens, foreshore and hard public spaces. These spaces add to the City's character and provide leisure and recreation and conserve natural and cultural environments.

An increasing population and move towards high density living environments is putting pressure on existing spaces, which may lead to shortfalls in public space, recreation and sporting facilities. There is growing demand for new, high-quality public spaces that can also mitigate the impacts of climate change and contribute to a more liveable and water-sensitive City.

The City's current Open Space Strategy is outdated and no longer adequately informs investment in public space. The new Public Spaces Strategy will inform updates to the Scheme, including a potential change to public open space contribution rates.

Key issue/ topic	Recommendation	Alignment with Council Plan
Ensure access to <b>public space</b>	<p>Review public open space policy and controls following completion of the Public Space Strategy to address public open space deficit and facilitate smarter, multi-use and adaptable spaces.</p> <p>Assess the potential for implementing revised public open space contributions in the Scheme.</p> <p>Reflect relevant strategies of the <i>Sport and Recreation Strategy 2015 – 2024</i> and <i>Activating Laneways Strategy 2011</i> into the MSS where appropriate.</p>	Liveability in a high density City (4.1)
<b>Solar access</b> to foreshore and public space	<p>Review existing overshadowing policy to aim for greater consistency across the City.</p> <p>Consider undertaking a broader sunlight to public spaces analysis for the wider municipality.</p>	Liveability in a high density City (4.1)
Enhance the City's <b>laneways</b>	Incorporate the <i>Activating Laneways Strategy 2011</i> into the MSS to highlight the multi-functional role of laneways as unique public spaces that can reflect the City's heritage, improve pedestrian connectivity and become destination places in their own right.	A City of diverse and distinctive neighbourhoods and places (4.2)
Balance competing interests on the <b>foreshore</b>	Update foreshore policy to reflect relevant policies of the updated <i>Foreshore Management Plan 2012</i> and the <i>Victorian Coastal Strategy 2014</i> .	A City of diverse and distinctive neighbourhoods and places (4.2)



## 3.4.6 Housing and growth

Port Phillip continues to experience strong development pressure and significant population growth. The current Port Phillip Housing Strategy 2007-17 is based on sound principles of directing new housing in well-serviced locations with a high capacity for change. However, growth is exceeding levels previously anticipated and the City is facing new challenges and opportunities.

Fishermans Bend will make a significant contribution to housing growth, with 80,000 residents in new high-density neighbourhoods. Population growth will also increase urban density across established areas of the City with more medium to high density residential development and continued pressure to convert commercial areas to housing. The provision of housing in Port Phillip has established and emerging issues with a lack of diversity, accessibility, adaptability and affordability.

New opportunities are available to Council to influence housing provision following significant reform of state planning policy and residential zones in recent years. This includes the potential to capitalise on stronger state policy on affordable housing and to reflect Council's affordable housing strategy.

Key issue/ topic	Recommendation	Alignment with Council Plan
<b>New Housing Strategy</b>	Prepare a revised Housing Strategy to: <ul style="list-style-type: none"> <li>take into consideration current factors and demand influencing housing provision</li> <li>update housing policy to account for the new residential zones and Fishermans Bend</li> <li>consider using the new zones to more effectively direct housing growth and diversity while respecting heritage and neighbourhood character values</li> <li>consider the review areas that were not addressed by Amendment C123</li> <li>continue to monitor and understand housing trends in the municipality.</li> <li>clarify housing residential growth area definitions within the MSS.</li> </ul>	Liveability in a high density City (4.1)
<b>Fishermans Bend</b>	Ensure best practice urban renewal planning and sustainable development outcomes for Fishermans Bend and holistically integrate this into the MSS.	Liveability in a high density City (4.1)
<b>Housing affordability, diversity &amp; accessibility</b>	Strengthen affordable housing policy in the MSS by reflecting the directions of state policy and <i>In Our Backyard - Growing Affordable Housing in Port Phillip 2015-2025</i> .  Update the Scheme to strengthen housing diversity policy by specifying the desired outcome and including policy support for alternative forms of housing.  Update the MSS to include policy support for accessible housing that is suitable for people of all ages and abilities.	An increase in affordable housing (1.2)
<b>Development contributions</b>	Review options to fund the infrastructure required to support a growing population.	Liveability in high density City (4.1)

# Audit Report

## 3.4.7 Transport, parking and waste

Road congestion will continue to be an issue as our population grows with Port Phillip's road network at capacity. To manage this, new trips as our City grows will need to shift to non-car modes. An integrated land use and transport planning approach will help to reduce reliance on cars by directing growth to areas well served by public transport and shops and facilitate 10-minute walking neighbourhoods.

Prioritising walking, bike riding and public transport and accessible design when designing roads and private developments to ensure our streets are places designed for people and are recognised as places in their own right.

The Scheme will need to be updated to reflect an Integrated Transport Strategy and further consideration should be given to implementing more sustainable car parking rates in key high-growth locations.

Key issue/ topic	Recommendation	Alignment with Council Plan
<b>Integrate land use and transport planning</b>	<p>Update the MSS to reflect the outcomes of the Integrated Transport Strategy.</p> <p>Strengthen policies in the MSS on sustainable transport to promote the concept of placemaking in our streets.</p> <p>Support more and better designed bicycle spaces and facilities within private development, particularly where car parking is reduced.</p>	We are connected and it's easy to move around (2)
<b>Sustainable car parking</b>	<p>Consider using the Parking Overlay to require more sustainable car parking rates (including maximum rates) for new office and residential development in select high-growth locations close to public transport, shops and services.</p> <p>Investigate the potential to secure development contributions for sustainable car parking rates to fund active transport initiatives.</p> <p>Consider ways to improve policies relating to car parking, including:</p> <ul style="list-style-type: none"> <li>• facilitating flexible car parking design</li> <li>• guidance to improve Green Travel Plans</li> <li>• supporting car share facilities in on-street locations, or where demand is demonstrated.</li> <li>• Encourage the provision of space that will accommodate on-site loading for residential development</li> </ul>	The demand for car parking and car travel is moderated as our City grows (2.2)
<b>Waste management</b>	<p>Include waste management requirements for multi-unit and high density development, which maximise recycling and diversion from land fill and require Waste Management Plans to be consistent with Council's forthcoming Waste Management Guidelines for higher density residential development.</p>	A sustained reduction in Waste (3.5)



# Audit Report

## 3.4.8 Effectiveness and efficiency

The Scheme is long, complex and at times repetitive. It could be simplified and clarified without losing its strategic intent.

The MSS will need to be restructured to more closely reflect the themes of the State Planning Policy Framework to improve clarity and reduce duplication and to prepare the Scheme for translation into the new integrated planning policy framework currently being developed by the state government.

The administrative parts of the Scheme, like reference and incorporated documents require updating to remove redundant provisions.

Key issue/ topic	Recommendation
<p>Making local policy stronger</p>	<p>The MSS will need to be restructured to more closely reflect the themes of the State Planning Policy Framework to improve clarity and reduce duplication. Council should take the opportunity to work with the state government to implement the proposed integrated planning policy as part of the Smart Planning reforms.</p> <p>Review all reference documents to ensure they are still current, relevant and useful.</p> <p>Relocate the area-based Local Planning Policies to the MSS and other relevant parts of the Planning Scheme.</p>
<p>Update and improve local planning policies</p>	<p>Review the following local policies:</p> <p>Non-residential uses in the residential zones – Update to address the residential zone reforms.</p> <p>Backpacker’s Lodges – retain and update to correct minor anomalies.</p> <p>Caretaker’s houses in industrial and business zones – retain and update to reflect zone reforms.</p> <p>Heritage - comprehensive review to strengthen and broaden its scope to respond to a broader range of development types, including commercial and industrial properties and to provide guidance for ESD facilities on heritage places.</p> <p>Subdivision - retain and update to ensure they remain relevant and clear.</p> <p>Urban design policy for non residential and multi unit residential development - revise and strengthen to consolidate common urban design policies throughout the scheme (including DDOs) and consider any gaps not addressed by the new better apartment standards.</p> <p>Outdoor advertising policy - update and strengthen policy on billboards, major promotional signs, electronic signs and acceptable locations.</p> <p>Stormwater management (water sensitive urban design) local policy - retain and update to broaden its application and on-site detention criteria.</p>

# Audit Report

<p>Clarify and simplify planning scheme controls</p>	<p>Consider a policy-neutral review of all Design and Development Overlays to improve clarity and consistency and relocate generic requirements to local policy.</p> <p>Review the Design and Development Overlays for South Melbourne Central Activity Centre (DDO8), St Kilda area (DDO6) and St Kilda Road North Precinct (DDO26) to ensure the built form requirements are achieving intended outcomes.</p> <p>Review the schedule to Clause 52.28 to update the list of shopping strips/centres in which new gaming machines should be prohibited.</p>
<p>Increase efficiency</p>	<p>Introduce planning permit exemptions for properties in the Heritage Overlay for low-impact buildings and works.</p> <p>Explore the potential for Council to prescribe local classes of VicSmart applications to streamline simple planning applications.</p>
<p>Remove redundant controls</p>	<p>Review and update the incorporated documents within the Port Phillip Planning Scheme for accuracy.</p> <p>Update the Environmental Audit Overlay maps to remove obsolete provisions.</p> <p>Remove the redundant Incorporated Plan Overlay applying to Becton, Port Melbourne.</p> <p>Update the schedule to the Public Acquisition Overlay to reflect the maps.</p> <p>Review the schedule to Clause 66.06 to correct a minor anomaly.</p>



## 4 Introduction

### 4.1 What is the Port Phillip Planning Scheme?

A planning scheme is a legal instrument that guides decisions about land use and development. It includes a range of tools including state and local policies, zones, overlays and particular provisions that contain directions and controls for all land within the municipality.

See Appendix 2 for an outline of the Scheme and its parts.

### 4.2 Reason for the review

#### Review requirements

Council is required by the Act to regularly review its planning scheme – no later than one year after approval of the Council Plan.

Section 12B of the Act states the purpose of the review is to enhance the effectiveness and efficiency of the planning scheme in achieving:

- the objectives of planning in Victoria
- the objectives of the planning framework.

A planning scheme review provides the opportunity to evaluate the planning scheme to ensure that it:

- effectively sets out the policy objectives for use and development of land in the area to which the planning scheme applies
- makes effective use of State provisions and local provisions to give effect to State and local planning policy objectives; and
- is consistent in form and content with any directions or guidelines issued by the Minister.

#### Time since last review

The Port Phillip Planning Scheme was last holistically revised in June 2011 (Amendment C62) and through incremental changes since that time. The 2011 revisions were an outcome of the last Planning Scheme Audit, which was endorsed by Council in October 2006.

The 2006 Audit was completed following the 2005 Council Plan. The next scheduled review was due to be undertaken 4 years later in 2010 (following the 2009 Council Plan), however this was not undertaken as the outcomes of the 2006 Audit was still being implemented.

The last scheduled review was due to follow the 2013 Council Plan, however Council was advised by the state government to defer the review based on forthcoming state reform (zones reform and revised SPPF) and in anticipation of the release of Plan Melbourne, 2014.

Growth pressure (in Fishermans Bend and St Kilda Road) required Council to undertake significant strategic work in these areas as a matter of priority.

It is important that Council reviews its Scheme regularly so that it is up-to-date, effective and efficient and addresses current planning issues and influences to achieve the objectives of planning in Victoria, as required by the *Planning and Environment Act 1987* (the Act).

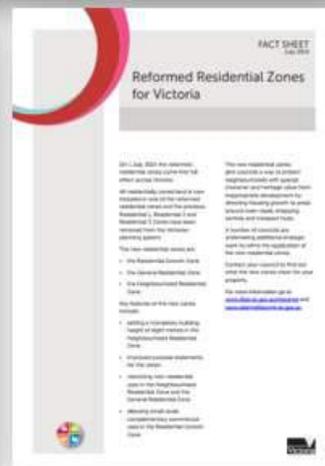
# Audit Report

## Changing policy context

There is a need to holistically review the strategic direction within the Municipal Strategic Statement (MSS) to reflect the latest urban development trends, demographic and policy changes that have shaped Port Phillip in recent years.

The state government has undertaken significant planning system reform since 2006, which has implications for the policy direction within the Port Phillip Planning Scheme. Those of particular relevance are:

- **New Metropolitan Strategy:** Plan Melbourne 2017-2050 was released by the State Government in March 2017 providing a clear long-term vision and strategic direction for land-use infrastructure and transport planning in Melbourne.
- **Revised State Planning Policy Framework:** Revised to reflect the new metropolitan strategy and current planning issues.
- **State Reformed Zones:** New suit of Residential / Commercial and Industrial Zones that was introduced by the former Government in July 2013 that broadened their scope and introduced more mandatory requirements. More recently the residential zones were revised again in March 2017.
- **Fishermans Bend:** The July 2012 identification of Fishermans Bend as an urban renewal area and rezoned as Capital City Zone.
- **VicSmart:** Introduced streamlined permit processes for straightforward applications in September 2014.
- **Better Apartments:** New design standards were introduced in April 2017 to better manage the internal amenity of apartments.
- **Planning & Environment Act 1987 amendments:** Various amendments since 2006 on VicSmart, infrastructure contributions, recognising objectors and considering (community-wide) social and economic impacts in planning decisions.





# Audit Report

## Benefits of this review

The Port Phillip Planning Scheme (the Scheme) plays a key role in shaping the City's evolution to protect and enhance liveability and the wellbeing of both current and future communities. The Scheme has an influence over important factors that create a liveable, attractive and sustainable City, like land use planning, housing, protection of heritage, the natural environment and responding to the impacts of climate change.

The Review will:

- update the planning scheme to effectively respond to major issues facing the municipality
- update the planning scheme to support the objectives of state planning policy, recognising the significant change in planning policy and legislation since the last review
- identify and correct inconsistencies, anomalies and errors
- ensure that the Local Planning Policy Framework assists decision making, and stands up to scrutiny at VCAT
- ensure the application of zones and overlays, and content of schedules to zones, overlays and other provisions are working efficiently and effectively delivers its strategic intent (state and local policy); and
- bring us back on track with the 4-year review cycle, following the adoption of the Council Plan in June 2017.

## 4.3 Aims of the review

### A current and relevant planning scheme

The review should reflect current policy and planning issues by:

- updating the Scheme to respond to priorities identified in the Council Plan
- respond to new state policies set out in Plan Melbourne 2017-50
- effectively setting out the policy objectives reflecting adopted Council policies
- implementing the State Planning Policy Framework with localised strategies and objectives
- identifying emerging issues and opportunities in response to urban development trends; and
- providing policy guidance on current planning issues and challenges.

### A clear and unambiguous planning scheme

The Review should ensure the MSS clearly outlines the strategic vision for the municipality to assist decision making on land use and development applications.

The MSS should clearly convey the relevant planning vision, objectives and strategies to provide a broad policy basis for making decisions under the scheme and to effectively implement municipal-wide and place-based strategies.

The Scheme's local planning policies (LPP) should clearly identify and guide how discretion in a zone, overlay or particular provision will be exercised to increase the transparency of decision making.

The Review should clarify any existing policy ambiguities and increase transparency with clearer decision guidelines and application requirements.

# Audit Report

## **An effective and efficient planning scheme**

The Review will examine provisions of the Scheme to ensure it makes effective use of the VPP, reduce unnecessarily complex or repetitive content, and considers the potential to streamline planning processes. To do this, planning scheme provisions, such as LPPs, zones, overlays and schedules require review to ensure they are effective and efficient in achieving strategic intent (state and local policy) and responding to emerging planning issues. This may have the benefit of reducing unnecessary planning permit requirements and correcting errors or anomalies so that planning assessments are directed towards matters of policy importance.

## **4.4 Scope of the review**

This Report audits the performance of the Scheme and makes recommendations for improvement. This will inform the continuous improvement of the Scheme by assessing what has been achieved since the last review, what has changed since that last review, and making recommendations as to where we go from here.

The time passed since the last comprehensive review of the Scheme has resulted in a significant number of changes to policies and strategies. To account for the significant level of review work, this Audit Report has been limited in scope to focus on a review of the Scheme.

This Audit Report does not include a review of Council's planning processes to improve the administration of its statutory responsibilities. Council is undertaking a separate continuous improvement initiative to improve its statutory planning processes. This program includes the expansion of the online planning applications and electronic assessment processes to reduce timeframes taken to process applications (see Appendix 1 for further details).

## **4.5 Methodology**

The Review will be undertaken over a number of stages:

- Stage 1: Planning Scheme Audit
- Stage 2: Revising the LPPF
- Stage 3: Planning Scheme Amendment

This Audit Report completes Stage 1 of the Review. The methodology undertaken to prepare the Audit Report accords with the guidelines outlined in Planning Practice Note 32 - Review of Planning Schemes (June 2015) and includes:

- Scoping the review, including:
  - identifying the aims of the review
  - developing a project methodology and consultation strategy
  - setting parameters for the review.
- Data collation, including:
  - previous Planning Scheme Review recommendations
  - analysis of VCAT decisions
  - analysis of planning panel recommendations
- workshops with statutory and strategic planners



# Audit Report

- workshops with staff from across the organisation who have a relationship to land use planning outcomes in the following key areas; environment, transport, built form, residential areas, economic development, health and wellbeing, public space
- Council briefings
- targeted survey of regular users of the Scheme
- analysis of Planning Permit Activity Reporting System data
- review of key documents including the Council Plan, state government practice notes, relevant state government strategies such as Plan Melbourne and Council strategies and policies prepared since the previous review.
- Assessment and analysis, including:
- carrying out the review by assessing the performance of the Scheme against set criteria
- analysing review findings by considering the importance of addressing issues, and the potential course of action that can be undertaken.
- Report the outcomes of the review by consolidating key findings of the above steps and making recommendations to improve the Scheme.

Stages 2 and 3 of the Review will commence following Council adoption of the Audit Report. See section 15 (implementation) of this report.

# Audit Report

## 5 The 2006 Planning Scheme Review

The last comprehensive audit of the Port Phillip Planning Scheme was endorsed in October 2006. It was completed in accordance with the requirements of the Act and involved a statutory review of the Scheme. The recommendations of the Audit resulted in a complete review of the existing Local Planning Policy Framework (LPPF) and a planning scheme amendment to implement the review (Amendment 62).

The 2006 Audit Report found the MSS and local policies required updating to reflect the Council Plan and relevant state, regional, and local policy and strategy references.

Recommendations of the 2006 Audit Report included:

- restructuring and redrafting the LPPF for best practice;
- strengthening the objectives, strategies and policies of the LPPF to better reflect the SPPF;
- updating MSS content to reflect current strategies and policies;
- rewriting all local planning policies for best practice;
- updating specific areas for rezoning and other minor zoning anomalies;
- reviewing specific DDOs;
- reviewing incorporated documents (including translating some into the scheme);
- fixing municipal boundary and zoning anomalies; and
- continuous improvement initiatives through planning process improvements.

### 5.1 Implementation of the 2006 Review

#### 5.1.1 MSS review

Following the 2006 Audit, a rewrite of the Local Planning Policy Framework (MSS and local planning policies) was undertaken. The Planning Scheme Amendment C62 was prepared to implement the review. A summary of the intent of the changes to the MSS is below:

- rewritten to a more concise and easy to use document
- focus only on land use and development matters
- stronger statements in relation to environmentally sustainable design and sustainable transport
- strengthening of policy in relation to sustainable transport
- clearer expression of Council's housing growth strategy
- defining the role and function of Port Phillip's activity centres
- new policy in relation to accessible buildings
- policy encouraging the use of more sustainable transport options
- directing the location of community facilities and services
- introduction of policy in relation to public open spaces
- introducing new policy on the social impacts of gaming venues, licensed premises and large scale housing developments
- considering the cumulative impacts of late night entertainment venues / licensed premises
- clearer strategic direction for neighbourhoods.

As well as making format and content changes to existing policies, Amendment C62 also introduced new local policies relating to:



# Audit Report

- non-residential uses in the residential zone
- backpackers' lodges
- caretaker's houses in industrial and business zones
- subdivision policy

Amendment C62 also introduced a schedule to Clause 52.01 - Public Open Space Contribution and Subdivision to require a mandatory 5% contribution towards public open space when land is subdivided.

Amendment C62 was gazetted on 27 June 2011.

## 5.1.2 Outstanding items from the 2006 Review

The 2006 Review report made 109 recommendations to update and improve the Port Phillip Planning Scheme. The 2006 review recommendations have been assessed to determine if there are any outstanding items that may have implications for the current review.

The outstanding items most relevant to the 2017 audit includes:

- preparing neighbourhood character frameworks for areas not covered by the heritage overlay or other built form controls
- preparing a structure plan for the Acland Street/Fitzroy Street (St Kilda) Activity Centre
- considering a new local policy relating to licensed premises
- considering a Development Contributions Plan for the municipality
- undertaking a comprehensive review of Clause 22.04 Heritage Policy; and
- updating incorporated documents in Clause 81.01 (underway).

Although many recommendations were addressed, further work is required to:

- better reflect Healthy by Design and accessibility principles
- better reflect Council's commitment to becoming a child-friendly and age-friendly City
- updating the Urban Iconography Strategy 2002

These outstanding items are addressed through the analysis and recommendations of this Audit Report.

A table of outstanding recommendations in Appendix 3.

# Audit Report

## 6 Strategic context

This section provides an overview of changes to the municipal and regional policy context, key issues and trends since the land planning scheme review was undertaken in 2006.

There is a need to holistically review the strategic direction within the MSS to reflect a number of urban development trends, demographic and policy changes that have shaped Port Phillip in recent years.

### 6.1 Snapshot of Port Phillip in 2016

Port Phillip's population is growing and changing. This affects the way we plan for the future of our City, in catering for growth and different demands for services. The information below is drawn from ABS Census data (2016).

#### Population

- Port Phillip's population was 108,558 in 2016<sup>1</sup>.
- Port Phillip has the highest residential population density in Greater Metropolitan Melbourne (52.7 persons per hectare).
- From 2011 to 2016, Port Phillip's population grew by 11,196 people (approximately 10%).
- The City of Port Phillip is forecast to grow by approximately an additional 60,000 people to 168,549 by 2041.

#### Age Groups

Overall, we have a young population with the largest age groups<sup>2</sup> being the 'young workforce' (25 to 34) and 'parents and homebuilders' (35 to 49).

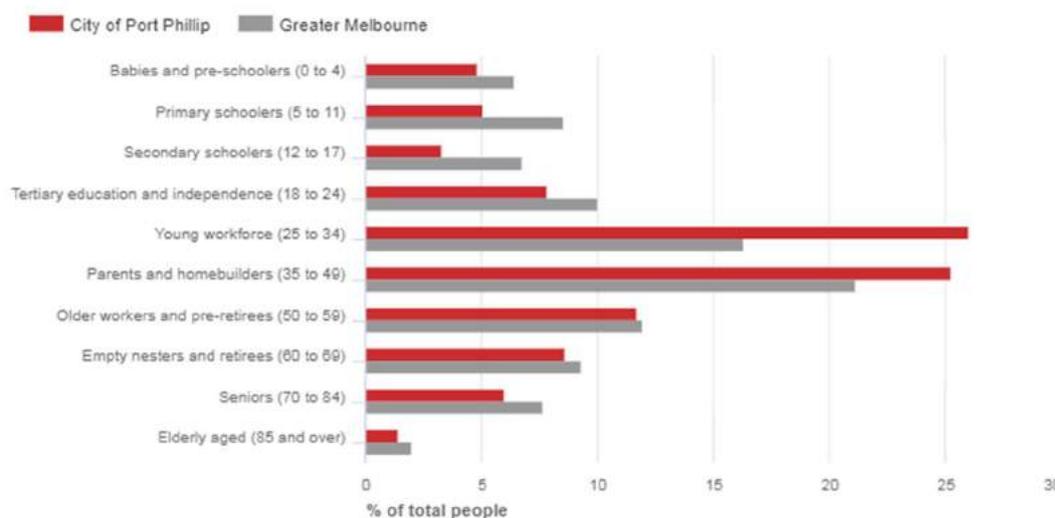
The largest changes in the age structure in this area between 2011 and 2016 were in the older age groups:

- Parents and homebuilders (35 to 49 with +1,937 people)
- Older workers and pre-retirees (50 to 59 with +1,865 people)
- Empty nesters and retirees (60 to 69 with +1,262 people)
- Seniors (70 to 84 with +1,058 people)

---

<sup>1</sup> 2016 Census estimated resident population

<sup>2</sup> Service age groups divide the population into age categories that reflect typical life-stages. They indicate the level of demand for services that target people at different stages in life and how that demand is changing



Source: Australian Bureau of Statistics, Census of Population and Housing, 2016 (Usual residence data). Compiled and presented in profile.id by .id, the population experts.



**Figure 1 – Port Phillip age structure by service age groups, 2016**

## Households

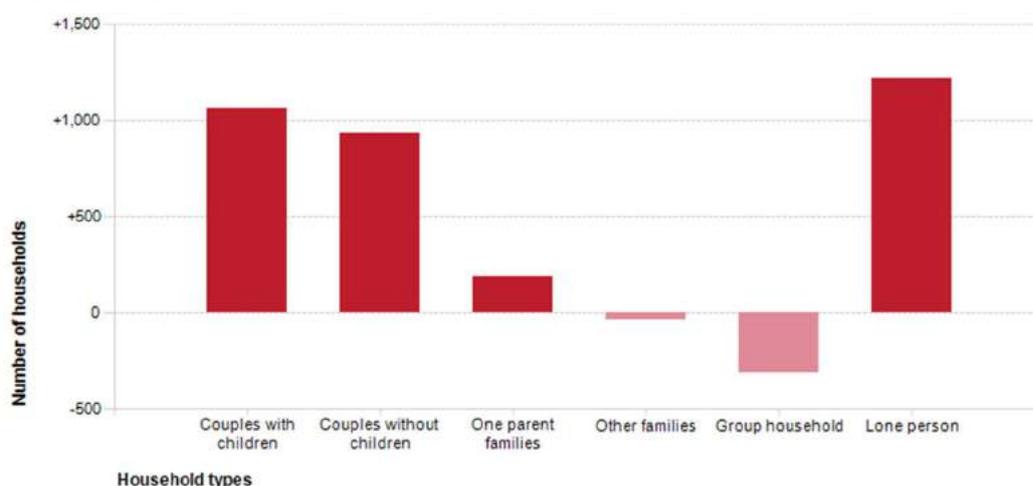
- There are 57,867 dwellings with an average household size of 1.91.
- Despite slight variations in percentages of household types, the top three dominant types have remained the same across Port Phillip for the past 20 years:
  - Lone persons (35.2% in 2016).
  - Couples without children (24.8% in 2016).
  - Couples with children (14.6% in 2016).
- There has been a steady decline of ‘group households’ in Port Phillip, with a loss of 312 households in the past 5 years, however it remains a higher proportion of total households (8.1%) compared to Greater Melbourne (4.7%).
- Port Phillip has a larger proportion of lone person households (35.2%) when compared to Greater Melbourne (22%).
- Port Phillip also has a slightly larger proportion of lone person households and a smaller proportion of larger households (with 3 persons or more), compared with other inner-city councils in the IMAP area<sup>3</sup>.

<sup>3</sup> Port Phillip lone person household (35.2%); 3 persons (12%); 4 persons (7.7%); 5 persons (2.1%); 6 or more persons (0.6%).

IMAP lone person household (31%); 3 persons (14.1%); 4 persons (9.4%); 5 persons (3%); 6 or more persons (1.2%).

# Audit Report

**Figure 2 – Port Phillip change in household type, 2011 to 2016**



Source: Australian Bureau of Statistics, Census of Population and Housing, 2011 and 2016 (Enumerated data)  
Compiled and presented in profile.id by .id, the population experts.



## Dwelling types

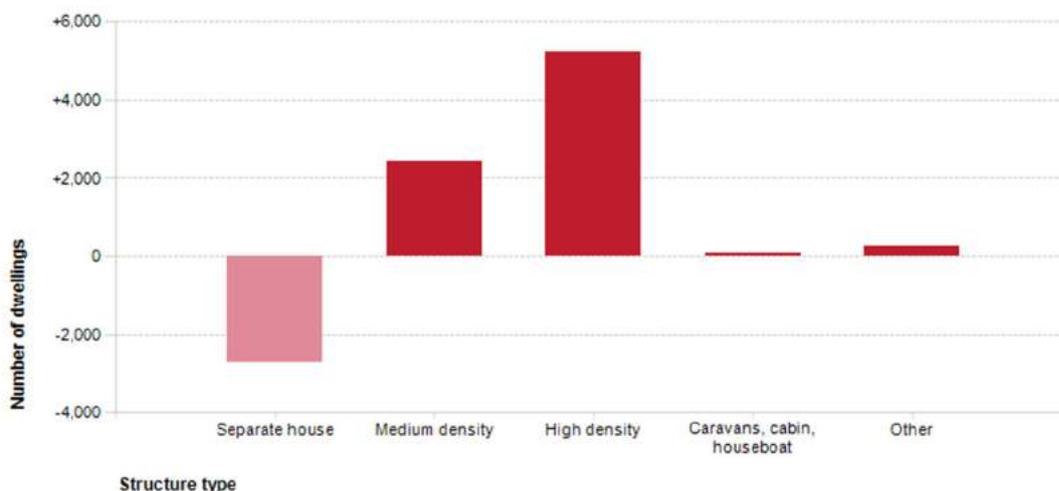
- More than half of the dwellings in Port Phillip are high density<sup>4</sup> (52.2%).
- Only a small portion of dwellings in Port Phillip are separate houses (8.4%).
- A significant portion of houses are medium density dwellings<sup>5</sup> (37.7%).
- Nearly 90% of Port Phillip’s dwelling stock is medium or high density, compared to 82.1% percent across the IMAP area and 33% in Greater Melbourne.

**Figure 3 – Port Phillip change dwelling structure, 2011 to 2016<sup>6</sup>**

<sup>4</sup> The ABS Census data’s definition of 'High density' includes flats and apartments in 3 storey and larger blocks.

<sup>5</sup> The ABS Census data’s definition of 'Medium density' includes all semi-detached, row, terrace, townhouses and villa units, plus flats and apartments in blocks of 1 or 2 storeys, and flats attached to houses.

<sup>6</sup> The ABS Census data’s definition of 'Other' includes houses and flats attached to shops or offices, and improvised homes, tents and sleepers out on Census night.



Source: Australian Bureau of Statistics, Census of Population and Housing, 2011 and 2016 (Enumerated data)  
Compiled and presented in profile.id by .id, the population experts.

.id  
the population experts

## Household income

- Comparing the household incomes of Port Phillip to Greater Melbourne indicates that there was a larger proportion of high income households (those earning \$2,500 per week or more) and a lower proportion of low income households (those earning less than \$650 per week)<sup>7</sup>.
- In the past five years, the most significant change in income in Port Phillip was a higher rate of growth in the medium-highest income quartile<sup>8</sup> with the addition of 1,646 households.

Overall, the census data reveals that Port Phillip is a relatively young population with smaller household sizes, however its population is diversifying. The City has a dense population, made up of a majority of medium-high density dwelling types (90%) and lone person and couples without children household types (60%).

## 6.2 Key issues and influences

The key issues and influences affecting the way Council will need to plan for in the future include:

- **Planning for urban intensification and growth:** Increased population and employment densities. Integrated spatial planning will (transport, open space, social infrastructure to support growth) will be required to direct growth and improve

<sup>7</sup> Overall, 29.8% of the households earned a high income and 14.8% were low income households, compared with 22.9% and 16.7% respectively for Greater Melbourne.

<sup>8</sup> The medium highest income quartile is those households earning between \$1,417 to \$2,394 per week (quartiles include: lowest, medium lowest, medium highest and highest groups). The income quartile method is a powerful and objective way of looking at income data over time as household income over time is not comparable due to fluctuations and inflation.

# Audit Report

development outcomes. Balancing high demand for residential development with retaining employment land. Planning for the Fishermans Bend urban renewal area and other high-growth locations (e.g. St Kilda Road North – Anzac Station precinct).

- **Housing diversity and affordability:** Need for greater housing choice to support access to affordable housing. Facilitating accessible housing to suit an ageing community.
- **Importance of access to open space:** Addressing deficit and quality of public space in key areas, including within growth areas, and providing quality, adaptable, multi-use and resilient spaces.
- **Creating 10-minute neighbourhoods:** Increasing emphasis on walkable neighbourhoods, mixed use, access to open space, shops and services, recognising the built environment's contribution to liveability.
- **Promoting good design:** Creating a more liveable high-density City by requiring well-designed buildings and promoting design excellence.
- **Managing development pressure while protecting what is valued:** Ensuring new development respects existing and preferred neighbourhood character. Addressing gaps in the heritage overlay and guiding new development in heritage areas. Protecting Aboriginal cultural heritage and promoting Aboriginal urban design perspectives in our City.
- **Adequate employment land:** Employment land in the inner city is at risk of being crowded out by residential uses. Need to create jobs close to where people live and retain creative industries ('makers') in the inner city region. Understanding the City's employment needs and trends is key to developing policies and strategies that ensure an adequate supply of employment land.
- **Adapting to climate change:** Planning for coastal inundation, storm surges and erosion impacts associated with climate change. Reducing greenhouse emissions and promoting greening of the City to mitigate the urban heat effect.
- **Infrastructure delivery to support growth:** Facilitating appropriate community infrastructure/space (right location, type and quality) and delivering infrastructure within 'growth' precincts
- **Managing amenity impacts within mixed use environments:** Managing conflicts between residential development and commercial uses, including licensed premises.
- **Facilitating active transport trips:** Promoting an integrated land-use and transport approach. Need for sustainable parking rates in private development and facilitating more sustainable transport modes. Facilitating active transport will reduce the impact of growth and congestion, shifting trips away from vehicles.

## 6.3 State and regional strategic context

### 6.3.1 Plan Melbourne 2017 – 2050

The Victorian Government released its revised metropolitan planning strategy Plan Melbourne 2017-50 (the Plan) on 11 March 2017. The new Plan Melbourne aims to create a clear direction for planning and a clear vision for Melbourne by integrating long-term land use, infrastructure and transport planning to meet the city's future environmental, population, housing and employment needs.

The Plan is made up of nine principles which are supported by seven outcomes, together with policy directions that will be taken to reach those outcomes.

Those outcomes and strategies of relevance to the City of Port Phillip include:



# Audit Report

## Outcome 1: Melbourne is a productive city that attracts investment, supports innovation and creates jobs.

### Policies

- Strengthening Melbourne's competitiveness for jobs and investment (1.1)
- improving access to jobs (1.2)
- creating job opportunities in urban renewal precincts (1.3)

### Implications for Port Phillip

- Fishermans Bend is identified as a major urban renewal precinct that will play an important role in accommodating future housing and employment growth – need to consider the precinct's role in providing jobs
- understanding the City's employment needs and any need for protection from residential encroachment
- considering how to retain and support creative industries
- considering the future role of St Kilda Road corridor, which is identified as part of the expanded Central City
- considering the opportunities of being linked to the metro tunnel by Anzac station
- continuing to monitor and recognise the capacity of Port Phillip's activity centres to grow and diversify to support local jobs and 20-minute neighbourhoods.

## Outcome 2: Melbourne provides housing choice in locations close to jobs and services

### Policies

- directing the supply of new housing in sustainable locations (2.1 & 2.2)
- increasing supply of social and affordable housing (2.3)
- providing greater choice and diversity of housing (2.5)

### Implications for Port Phillip

- significant state reforms underway to facilitate social and affordable housing
- zone reforms provide new height limits and garden areas requirements in residential zones – need to consider how this will affect the City's new housing
- need to develop a revised Housing Strategy to account for housing growth and promote housing diversity outcomes
- need to strengthen MSS policy on affordable housing to reflect *In Our Backyard – Growing Affordable Housing in Port Phillip 2015-25* and utilise new planning tools or mechanisms if or when they become available.

## Outcome 3: Melbourne has an integrated transport system that connects people to jobs and services and goods to market

### Policies

- transforming the transport system (3.1)
- improving local travel options to support 20-minute neighbourhoods (3.3)
- improving freight efficiency (3.4)

### Implications for Port Phillip

- scheme benefits from numerous existing policies preferencing sustainable transport modes
- a greater focus on an integrated transport system

# Audit Report

- considering the impact of the new Anzac station on growth for housing and jobs and community development
- better defining key locations for housing growth around the Principal Public Transport Network in a new housing strategy

## Outcome 4: Melbourne is a distinctive and liveable city with quality design and amenity

### Policies

- creating great public places (4.1)
- build on cultural leadership (4.2)
- promoting design excellence (4.3)
- respecting heritage as we build for the future (4.4)
- strengthen community participation (4.6)

### Implications for Port Phillip

- Scheme has an extensive and comprehensive heritage policy framework
- improvements could be made to address heritage gaps and better guide new development in heritage areas
- Scheme benefits from extensive and detailed design controls to guide built form outcomes
- consider integrating disparate design controls to set out a more holistic spatial plan to guide the City's growth.

## Outcome 5: Inclusive, vibrant and healthy neighbourhoods

### Policies

- Creating a city of 20-minute neighbourhoods (5.1)
- supporting safe and healthy communities (5.2)
- delivering social infrastructure (5.3)
- delivering local parks and green neighbourhoods (5.4)

### Implications for Port Phillip

- Strengthening health and wellbeing policy in the MSS
- Consider ways to better promote productive streetscapes for health and wellbeing
- delivering a Public Spaces Strategy to address open space deficit and facilitate smarter, multi-use and adaptable spaces
- assess whether our heritage constrained neighbourhood activity centres have any capacity to provide more choice in housing, shops and services
- refining the concept of the 20-minute neighbourhood for an inner City context (10-minute walking neighbourhoods).

## Outcome 6: Melbourne is a sustainable and resilient city

### Policies

- Transition to a low-carbon city (6.1)
- mitigate hazard events and adapt to climate change (6.2)
- integrate urban development and water cycle management (6.3)
- make Melbourne cooler and greener (6.4)
- protect natural habitats (6.5)
- improve policy on air quality, noise and waste (6.6 & 6.7).

### Implications for Port Phillip



- consider how the Scheme can improve climate change adaptation policy
- exploring the use of planning mechanisms to promote the greening of our City
- update the MSS on integrated water management and waste policy.

These policies are discussed further in each policy theme under Section 11 – Planning Issues and Gaps.

## 6.3.2 Fishermans Bend

In July 2012, the Minister for Planning identified the Fishermans Bend as an urban renewal project of State significance and rezoned the area as Capital City Zone (CCZ). The Minister for Planning is the responsible authority for strategic planning and major applications.

Fishermans Bend is Australia's largest urban renewal area, with the addition of the Employment Precinct, the total area is over 480 hectares.

Plan Melbourne 2017-50 identifies Fishermans Bend as a priority urban renewal area and a National Employment and Innovation Cluster (NEIC). Fishermans Bend is well positioned to accommodate a significant amount of residential and jobs growth over the next 35 years.

It is expected that by 2050, it will be home to approximately 80,000 residents and provide employment for up to 80,000 people. In the Port Phillip portion of Fishermans Bend it is forecast to reach 68,000 residents and 34,000 workers by 2050.

This rate of growth will have significant impacts on Council's service delivery standards and the organisation's resourcing.

### Implications for Review

The Review will need to ensure the Scheme is updated to holistically reflect and anticipate the development of Fishermans Bend.

## 6.3.3 Reformed residential zones

### State Government reforms

The former suite of residential zones (Residential 1, 2 and 3) was replaced with the Neighbourhood Residential Zone (NRZ), General Residential Zone (GRZ) and Residential Growth Zone (RGZ) by Amendment V8 to the Victoria Planning Provisions on 1 July 2013.

The new zones aimed to increase certainty about the type of development expected in residential areas by introducing mandatory height and density controls. They also broadened the range of activities allowed in the zones.

Amendment VC100 (July 2013) changed the Mixed Use Zone to promote the development of higher density housing and broaden the range of other land use activities such as office, food and drink premises and shop to establish 'as of right' with conditions limiting floor area.

Amendment VC110 (March 2017) introduced the most recent reforms to the residential zones, in response to recommendations from the Managing Residential Development Advisory Committee. The Committee recommended improvements to the 2013 reformed zones and their application.

Key changes to the zones include introducing a mandatory height limit in the GRZ and introducing a new garden area requirement in the GRZ and NRZ that requires a minimum percentage of garden area per dwelling, dependant on the size of the lot.

### Implications for Review

# Audit Report

Housing policy in the MSS will need to align with the new residential framework. The new mandatory height controls in the NRZ and GRZ provide Council with greater ability to manage residential development.

The garden area requirement may impact the built form outcomes of multi-unit development on Port Phillip's larger residential lots in Ripponlea, Elwood, St Kilda and St Kilda East, however the majority of Port Phillip's residential lots are too small to be affected by the new garden area requirement (applies to lots greater than 400m<sup>2</sup>).

Council will have the opportunity to consider the implications of the 2017 changes on its housing policy in a planned review of the housing strategy – see section 11.6.1 (housing strategy).

## **Council response to reforms**

On 1 July 2014, a default translation to the zones was applied to the Port Phillip Planning Scheme through Amendment VC116. The General Residential Zone replaced all residential 1 and 2 zones as part of this amendment.

Council has been through a lengthy process of translating the new residential zones into the Scheme, in line with its adopted Housing Strategy - City of Port Phillip Housing Strategy 2007-2017. This included several rounds of extensive community consultation over a series of proposed planning scheme amendments:

- Stage 1 Proposal - Amendment C113 adopted on 13 May 2014 (consultation proposal).
- Stage 2 Proposal - Amendment C114 adopted on 26 August 2014 (further consultation areas).
- Councils updated translation - C118 and C123 adopted on 27 October 2015 (changes requested by the Minister for Planning)

Amendments C113, C114 and C118 were not supported by the Minister for Planning.

Amendment C123 implemented the new residential zones through the Port Phillip Planning Scheme on 21 December 2017.

It introduced the Residential Growth Zone (RGZ) and the Neighbourhood Residential Zone (NRZ) and associated local schedules into the ordinance, updates an existing schedule and introduces new schedules to the General Residential Zone (GRZ), applies the zones via changes to Planning Scheme Maps 1 to 9 and amends the Local Planning Policy Framework.

Notably, under Amendment C123, Council has defined specific areas across St Kilda, East St Kilda, Ripponlea and Elwood (initially proposed as Neighbourhood Residential Zone) where a further review of zoning could occur as part of an updated Housing Strategy. These 'review areas' would remain in a General Residential Zone, a 'default' position while the further strategic work takes place.

## **Implications for Review**

Council will need to reconsider the application of the residential zones in light of the most recent reforms to the residential zones, including its commitment to consider the most appropriate zones for the 'Residential Review Areas' from Amendment C123.



# Audit Report

## 6.3.4 Reformed commercial zones

Amendment VC100 (July 2013) introduced two new commercial zones which replaced the former five business zones. The new commercial zones sought to provide greater flexibility and growth opportunities, responding to changing retail, commercial and housing markets.

### Commercial 1 Zone

The Commercial 1 Zone (which replaced the Business 1, 2 and 5 Zones) allows for a wider range of accommodation and retail uses when without the need for a permit (such as hotel, tavern, backpackers' lodge, landscape gardening supplies, car sales, etc.), office on the ground floor, exhibition centre, place of worship (when compared to the former Business 1 Zone).

The changes provide Council with less ability to control the mix of uses in activity centres and adds support for residential uses at densities complementary to the centre in the purpose of the zone.

The former Business 1 Zone was predominantly applied to Port Phillip's traditional retail strips in activity centres, with the Business 2 and 5 Zones applied to edge or out-of-centre locations. By consolidating the zones into one, the changes effectively erased the lower intensity business zones that were intended to provide a transition to adjoining residential areas, or accommodate a predominantly office-based function.

For example, the strips of former Business 2 and 5 Zones along St Kilda Road is outside the activity centre boundary and can now accommodate intensive retail uses, with retail and shops no longer requiring a planning permit.

This has implications for growth and the designation of activity centres throughout the municipality – see section 11.1.2 for a discussion on the role and function of activity centres.

### Commercial 2 Zone

Commercial 2 Zone (replaced the former Business 3 and 4 Zone) is applied to the business precincts of South Melbourne. These precincts have an office and light industrial focus.

The Commercial 2 Zone allows for a narrower range of commercial uses than the Commercial 1 Zone. However, when compared against the former Business 3 Zone, it has been expanded to accommodate a broader range of land uses without the need for a planning permit, including cinema, food and drink premises, restricted retail premises, shop, supermarket (with floor restrictions) and trade supplies.

Previously the zone was much more focused towards facilitating office and light industry land uses. Some accommodation uses and larger supermarkets are no longer prohibited, however they require a planning permit. Again, this allows less control for Council to prescribe the mix of uses in these areas.

### Implications for Review

The reforms have altered Council's discretion within the zones, making some existing policies obsolete. These will have to be updated or removed as a result.

Also see section 11.1.1 of this report for further discussion on the implications of reformed commercial zones.

# Audit Report

## 6.3.5 Reformed industrial zones

Amendment VC100 (July 2013) amended the industrial zones to allow the consideration of more land uses with a permit. The amended industrial zones sought to respond to new and emerging trends regarding the mix of industry, office and some forms of limited retail, and provide greater incentives for business investment.

Key changes include:

- removing the default floor space area restriction for an office within the Industrial 1, 2 and 3 Zones
- allowing a small scale supermarket with associated shops and convenience shops in the Industrial 3 Zone (Williams Street, Balaclava precinct).

### Implications for Review

Council's discretion on land uses within industrial zones have altered and any existing policies will have to be made consistent.

Also see section 11.1.3 of this report for a discussion of any implications of reformed industrial zones.

## 6.3.6 VicSmart

Amendment VC114 (September 2014) introduced VicSmart into the VPP – a streamlined assessment process for straightforward planning permit applications. As part of this, certain classes of application are eligible for a 10 day permit process, no advertising and delegated decision making.

Amendment VC135 (March 2017) extended the VicSmart process to including more expensive buildings and works in industrial and commercial areas, small scale types of buildings and works in selected overlays, subdivision, advertising signs and car parking.

Amendment VC137 (July 2017) introduced additional classes of application into the VicSmart provisions for residential zones.

### Implications for Review

Council now has the ability to increase the types of permits eligible for a streamlined planning permit process and the Review will need to consider the benefits of utilising this new tool. See section 12.4.4 of this report for a discussion for further discussion on reformed VicSmart provisions.

## 6.3.7 Better apartments

The State Government recently introduced the Better Apartments Design Standards to improve the liveability and sustainability of apartments across Victoria through Amendment VC136 (April 2017).

The Standards use the same performance-based approach currently used to assess residential developments (ResCode) and are incorporated into Clause 55.07 and 58 of the Scheme.

They aim to improve the internal amenity and design of new apartments by ensuring they have adequate daylight access, privacy, outlook, functional spaces, outdoor space, storage, natural ventilation and acoustic protection.

As part of the 'Better apartment' initiative, there is a greater focus on meeting the needs of people with limited mobility, providing for recycling and waste minimisation, energy and



water efficiency and adequate landscaping to minimise stormwater run-off and to help cool our urban areas.

The State Government also released new Apartment Design Guidelines for Victoria and the Urban Design Guidelines for Victoria in August 2017 which provide advice on building design and the design of public spaces.

### **Implications for Review**

Council will need to review its local policy on urban design (Clause 22.06) to ensure there is no conflict with the new apartment provisions. There is also the opportunity to consider any new policies that can supplement the standards.

## **6.3.8 Inner Melbourne Action Plan 2016 - 2026**

The Inner Melbourne Action Plan (IMAP) is a collaborative partnership between the Cities of Melbourne, Port Phillip, Stonnington, Yarra and Maribyrnong. The aim of the IMAP is for the inner Melbourne municipalities to work together to strengthen the liveability, attraction and prosperity of the region, while responding to the challenges of rapid growth.

The Inner Melbourne Action Plan 2016 – 2026 sets out a shared vision and goals to create:

- A globally significant, strong and diverse economy;
- A connected transport network that provides real travel choices;
- Diverse, vibrant, healthy and inclusive communities;
- Distinctive, high quality neighbourhoods and places;
- Leadership in achieving environmental sustainability and climate change adaptation.

The plan set out five goals and 27 strategies which propose areas where Councils can work together to progress joint advocacy, policy and projects to help address the impacts of city growth and achieve a more liveable city.

The partnership and its underpinning Action Plan is based upon a range of regionally scaled advocacy, research and development initiatives.

Council will continue to work with IMAP on various strategic and research initiatives that affect the inner metropolitan region.

### **Implications for Review**

There are a number of IMAP projects that will be progressed at staged intervals over the 10-year period. These range from research and data initiatives like the Census of Land Use and Employment Data, to policy initiatives on managing licensed premises and creating an urban forest and biodiversity approach. Where possible, the Review should consider the potential timing of IMAP research and policy inputs and align this with the Review's implementation plan.

## **6.3.9 Council Alliance for a Sustainable Built Environment**

The Council Alliance for a Sustainable Built Environment (CASBE) is an association of Victorian councils committed to the creation of a sustainable built environment within and beyond their municipalities.

CASBE's focus is on applying Environmentally Sustainable Development (ESD) principles to the built environment through the statutory planning system.

# Audit Report

The Environmentally Sustainable Development Local Policy of the Port Phillip Planning Scheme is a result of the CASBE alliance, who worked together to develop the planning scheme amendment and advocate for the policy's approval.

## Implications for Review

Council should continue to participate in the CASBE alliance to monitor and improve its ESD planning and continue advocacy in the absence of a state-wide ESD policy.

### 6.3.10 State planning reform program

The State Government recently released a new metropolitan strategy – Plan Melbourne 2017-50. This strategy and its associated implementation plan outlines an ambitious reform program, to be reviewed every five years.

Key reform initiatives that may directly affect policy and provisions within Port Phillip Planning Scheme:

- Reformed planning provisions for social and affordable housing;
- Streamlined approval processes for specific housing types;
- Reformed planning provisions for shared housing, community care units and crisis accommodation;
- Incorporating the Principal Public Transport Network into planning schemes;
- Reviewing the planning and building systems to support environmentally sustainable development.

### Smart Planning Program

The Victorian Government introduced the Smart Planning Program in July 2016 as a fully funded review and reform project. It aims to simplify planning rules and modernise digital tools, online resources and information to make the planning system easier to understand, more efficient, accessible, open and collaborative. Phases 1 and 2 of the program aim to be delivered by July 2018.

Initiatives include:

- streamlining the State Planning Policy Framework to integrate state and local policy within the SPPF to reduce duplication and complexity
- expanding VicSmart fast-track eligible permit classes
- developing an online planning portal for information and services
- developing an online permit lodgement system
- implementing a planning scheme information management system (PSIMS) to more efficiently manage local planning schemes
- interactive planning scheme maps.

The Reforming the Victoria Planning Provisions Discussion Paper was released in October 2017. The Paper foreshadows significant structural changes to integrate the state and local planning policy framework and to update and consolidate the particular and general provisions. This Review should anticipate this reform by ensuring local policies follow the structure of the existing SPPF themes, so that they can be more easily restructured to fit the new framework.

## Implications for Review



There will be significant structural changes to the Victoria Planning Provisions and all planning schemes are scheduled for July 2018. Council will need to consult with representatives from the Department to ensure Review work remains relevant. A benefit of this timing is that the MSS can be rewritten into the new format as soon as it becomes available.

## 6.4 Legislative changes

Since 2006, there have been numerous amendments to the Planning & Environment Act 1987 (the Act) and the introduction of new Planning and Environment Regulations (in 2015) which set out requirements for operation of the Act.

Some of the more significant changes are as follows:

- Planning and Environment (VicSmart Planning Assessment) Act 2012 – Introduces a streamlined assessment process for straightforward planning permit applications;
- Planning and Environment Amendment (General) Act 2013 - amends this section to require Council to take all three effects (significant environmental, social and economic effects) into account in planning decisions.
- Planning and Environment Amendment (Infrastructure Contributions) Act 2015 – provides a new system for levying contributions towards the provision of infrastructure;
- Planning and Environment Amendment (Recognising Objectors) Act 2015 – requires Councils and VCAT to have regard to the number of objectors in considering whether a permit application may have a significant social effect;
- Planning and Environment (Fees) Regulations 2016 – new fees to be paid to the Minister, planning and responsible authorities for the preparation and consideration of planning scheme amendments, applications and planning permits, certificates of compliance and planning certificates.

Any implications of these amendments are discussed under the relevant planning issues in section 11.

# Audit Report

## 7 Planning scheme amendments

Since the previous Planning Scheme Review was implemented in 2011, there have been 90 Planning Scheme Amendments gazetted that have implications for this review.

The different types of amendments comprise:

- “C” amendments: changes to one planning scheme (in this case the Port Phillip Planning Scheme)
- “GC” amendments: changes to more than one planning scheme
- “VC” amendments: changes to the Victoria Planning Provisions (VPP) and planning schemes
- “V” amendments: changes to the VPP only

### Department-led amendments

Following the last Planning Scheme Review in 2006, there have been a number of amendments to the Victoria Planning Provisions (VPP) which have introduced reformed planning controls or altered strategic direction. These amendments affect the strategic direction outlined in the LPPF, which is required to be consistent with the SPPF (part of the VPP). These changes sometimes provide the opportunity for Council to benefit from reformed planning controls and policy by localising content to better achieve the Scheme’s strategic objectives.

The following **state-led amendments** relevant to this review include:

#### Policy

- VC71 – Introduced a revised SPPF to reflect current planning issues (2010);
- VC94 – Introduced new strategies in the SPPF relating to the coastal impacts of climate change (2012);
- VC106 – Introduced Plan Melbourne 2014 into the planning scheme, replacing Melbourne 2030 (2014);
- VC134 – Implemented a revised Plan Melbourne (2017);

#### Zones & overlays

- VC88 & VC100 – Implemented commercial and Industrial zone reforms (2012-13);
- V8, VC104 & VC116 – Introduced the new suite of residential zones (2013-14);
- VC110 – Amended the residential zones to respond to recommendations of the Managing Residential Development Advisory Committee (2017);
- VC90 & VC95 – Introduced the Parking Overlay (2012-13);

#### Particular provisions

- VC114, VC135 & VC137 – Introduced the VicSmart planning assessment provisions (2014), including later expansion of VicSmart classes (2017);
- VC120 – Introduced a new particular provision for live music and entertainment noise (2014);
- V9 – Implemented Victoria’s new infrastructure contributions system;
- VC136 – Implemented Better Apartments Design Standards (2017).

#### Area-based

- C140 – Shrine of Remembrance controls (2014)
- GC54 – Introduced the Port Zone into the Scheme for Station Pier and adjoining freight yard in Port Melbourne and made the Minister for Planning responsible authority (2016);



# Audit Report

- C102, GC16, GC7, GC29 & GC50 – Established the Fishermans Bend Urban Renewal Area and subsequent changes to the planning controls, including recent targets for dwelling diversity, affordable housing and employment and applying interim mandatory height and setbacks (2012 – 2017);
- GC45 – Facilitated the delivery of the Melbourne Metro Rail Project which includes a station at Domain (2017);

The implications of these changes to strategic policy and statutory provisions for the review is examined in section 6 of this report (strategic context).

## Council amendments

The following is a list of the **key local amendments** (Council-led) since the 2006 review:

### Policy

- C62 – Implemented the 2006 MSS Review (2011)
- C78 – Water Sensitive Urban Design policy (2014)
- C97 – Inserted the new Environmentally Sustainable Development into the Scheme on an interim basis (2015)

### Heritage

- C72 – Implemented HO3 Review – South (2011)
- C89 – Implemented HO1 Review – Port Melbourne (2013)
- C117 – Introduces permanent heritage controls to sites in Fishermans Bend (2017)

### Design & development controls

- C57 (Parts 1 & 2) – Ormond Road Urban Design Guidelines (2008)
- C52 – Implemented the South Melbourne Central Structure Plan (2008)
- C80 – Implements the Carlisle Street Activity Centre Structure Plan (2012)
- C103 – Implemented the Bay Street Activity Centre Structure Plan 2014 (2016)
- C107 – Implemented the St Kilda Road North Precinct Plan 2013 (2016)
- C145 – Implemented interim height controls for the St Kilda Road South Urban Design and Land Use Framework (2017)

### Zones & overlays

- C111 – Updated the Special Building Overlay to reflect revised flood extent (2016)
- C123 – Applies the reformed residential zones to Port Phillip (2017)

For a full list of amendments, refer to the “List of Amendments” at the start of the Port Phillip Planning Scheme, which is updated frequently.

# Audit Report

## 8 Local strategic context

This section of the report identifies key strategic directions, initiatives and actions that are contained in strategic governance documents at the local level that have been adopted since the last planning scheme review.

### 8.1 The Council Plan 2017-27

The We are Port Phillip Council Plan 2017-27 sets out the long term vision for the City of Port Phillip over the next 10 years. This plan sets out what Council wants to achieve by 2027, and how it will support the current and future health and wellbeing of the City. It is a single, integrated plan that delivers the Council Plan, municipal public health and wellbeing plan, strategic resource plan, 10-year financial outlook and annual budget.

The Plan identifies the review and update of the Scheme, including the MSS, as one of the ways it will manage growth by ensuring an effective framework of local policy and controls.

Key directions and strategies include:

#### **Direction 1 We embrace difference, and people belong**

##### 1.1 A safe and active community with strong social connections

- Providing access to flexible, multi-purpose facilities that support participation in community life through sport, recreation and life-long learning.

##### 1.2 An increase in affordable housing

- Implement *In Our Backyard – Growing Affordable Housing in Port Phillip 2015-2025* to increase the supply and diversity of affordable housing aligned to priority local needs – low income families, older people, key workers, and single people at greatest risk of homelessness.

##### 1.3 Access to services that support the health and wellbeing of our growing community

- Facilitating access to relevant services that cater for all ages and life stages.
- Supporting co-located and integrated services, and shared use arrangements, to improve access for all.

##### 1.4 Community diversity is valued and celebrated

- Protecting and promoting Aboriginal culture and heritage, and continuing reconciliation with our Indigenous community.

#### **Direction 2 – We are connected and it's easy to move around**

##### 2.1 An integrated transport network that connects people and places

- Improving the connectivity, safety and amenity of walking and bike riding networks.
- Influencing truck movements to facilitate business and manage local amenity impacts.

##### 2.2 The demand for parking and car travel is moderated as our City grows

- Reducing reliance on cars, by directing housing and employment growth to areas with the best access to public transport and shops.
  - Develop a Parking Management Plan as part of the Integrated Transport Strategy, and develop new policies for paid parking, on-street permits and parking provision rates for new development.
  - Integrate land use and transport planning through a review of the Municipal Strategic Statement.



# Audit Report

## 2.3 Our streets are designed for people

- Prioritising walking, bike riding and public transport when designing roads and allocating resources.
- Pursuing universal accessibility for people with disabilities, children and older people.

## **Direction 3 – We have smart solutions for a sustainable future**

### 3.1 A greener, cooler and more liveable City

- Increasing canopy cover and diversity of tree species across our streets and open spaces.
- Facilitating the greening of our built environment, through green roofs, walls and facades.
  - Promote green buildings by applying environmentally sustainable design planning policy and guidelines.
  - Develop a heat management plan to help cool the City and reduce the impact on health.
  - Investigate opportunities to protect vegetation and increase canopy cover on private property.
  - Complete an Ecological Biodiversity Study, in partnership with the EcoCentre and local experts.

### 3.2 A City with lower carbon emissions

- Develop guidelines that enable increased uptake of environmentally sustainable design features, including roof top solar, in heritage areas.

### 3.3 A City that is adapting to climate change

- Requiring development to adapt to and positively influence the local climate.
- Managing and reducing the impacts of flooding and sea level rise.
  - Develop tools to help the community understand and adapt to the impacts of climate change.

### 3.4 A water sensitive City

- Reducing potable water consumption by encouraging more efficient water use and establishing alternative water sources.
- Improving the quality of water entering Port Phillip Bay and increasing ground permeability.

### 3.5 A sustained reduction in waste

- Update waste management guidelines for apartment developments and implement education programs.

## **Direction 4 – We are growing and keeping our character**

### 4.1 Liveability in a high density City

- Requiring well-designed buildings that contribute to safe, lively, high amenity places.
- Designing, activating and managing public spaces that are safe and inviting places for people to enjoy.
- Extending, connecting and diversifying our open space network to cater for increased demand.
  - Review and update the Port Phillip Planning Scheme and Municipal Strategic Statement to ensure an effective framework of local policy and controls to manage growth and support healthy communities.
  - Implement planning scheme amendments to strengthen design and development controls in areas undergoing significant change.

# Audit Report

- Develop a new public space strategy.

## 4.2 A City of diverse and distinctive neighbourhoods and places

- Planning for 10 minute walking neighbourhoods that give locals access to shops, community spaces and a strong sense of place.
- Protecting heritage places that represent our historic, social, cultural and architectural identity.
- Ensuring new development integrates with, respects and contributes to the unique heritage, character and beauty of our neighbourhoods.
- Enhancing the environmental and recreational qualities of the foreshore.
  - Implement a program to strengthen heritage controls including assessing sites of cultural and social significance and implementing the review of Heritage Overlay 6 (East St Kilda) through the planning scheme.
  - Review the Housing Strategy to ensure new residential development is well located and respects the character and heritage of established neighbourhoods.
  - Review the Heritage Policy in the Planning Scheme to improve guidance on retention and adaptive reuse of the City's heritage fabric.

### **Direction 5 – We thrive by harnessing creativity**

5.1 A City of dynamic and distinctive retail precincts

5.2 A prosperous City that connects and grows business

5.3 A City where arts, culture and creative expression is part of everyday life

### **Direction 6 – Our commitment to you**

6.1 A financially sustainable, high performing, well-governed organisation that puts community first

### **Implications for Review**

This Review will need to consider how planning can reflect and implement relevant strategies. Every Direction is relevant to the Review in some way and these strategic directions are considered in more detail in under relevant themes of section 11 (Planning issues & analysis).

## 8.2 Key policies and strategies

### **Existing policies**

The following key Council policies influence policy direction within the Scheme:

- City of Port Phillip Housing Strategy 2007-2017
- Port Phillip Design Manual 2000
- City of Port Phillip Activity Centre Strategy 2006
- Port Phillip Heritage Review
- Bay Street Activity Centre Structure Plan, 2014
- South Melbourne Central Activity Centre Structure Plan, 2007
- St Kilda Road North Precinct Review, 2013 (Updated 2015)
- St Kilda Road South Precinct Urban Design and Land Use Framework, 2015
- Carlisle Street Activity Centre Structure Plan 2009
- Toward Zero – Sustainable Environment 2007-2020
- Sustainable Design Strategy 2013



# Audit Report

- Open Space Strategy and Implementation Plan Framework 2009

Many of these strategies were introduced into the MSS via an issue or area specific planning scheme amendment as part of a continuous improvement approach to the Scheme. There may be opportunity through the MSS rewrite to better reflect these strategies in a more integrated manner the Scheme, or through an integrated spatial plan.

This will be discussed further in sections 11 (planning issues & analysis) and 12 (effectiveness & efficiency).

## New policies

The Review needs to be cognisant of the shifts in adopted Council policy since the last Audit Report (2006). There has been a substantial amount of new strategic work adopted by Council which may have implications for planning policy, or could be reflected within the MSS.

While some of these policies and strategies have a more direct relationship with land use planning (and therefore the planning scheme), most policies will have some bearing on changes within the City in the foreseeable future.

The following Council strategies affect planning policy and will need to be more holistically incorporated into the MSS:

- In our Backyard – Growing Affordable Housing in Port Phillip, 2015-2025 – to introduce a new Council policy on affordable housing and is a strategic priority for Council.
- Integrated Transport Strategy (Draft 2018) – to update Council’s commitments to sustainable transport targets and policies.
- Draft Fishermans Bend Framework – to holistically reflect the long term strategic plan for the development of the FBURA (once the framework is finalised).
- Sport and Recreation Strategy 2015-2024 – to reflect the vision that will guide the provision of sport and recreation facilities to meet the needs of a growing and changing population.
- Access Plan 2013-18 – to ensure accessibility is a guiding principle in the development of all major strategic planning projects.
- Foreshore Management Plan 2012 – to reflect the long term strategic vision and direction for the foreshore by identifying coastal values that need protecting and informing land use management of the foreshore.
- Reconciliation Action Plan 2017-19 – to reinforce the importance of protecting places of Aboriginal cultural heritage.
- Greening Port Phillip, an Urban Forest Approach 2010 – to reflect Council’s vision and policy context for the development and management of trees in the City of Port Phillip to support greening of the City.

See Appendix 5 – Key Policies for a list and summary of key policies and their implications for the Planning Scheme Review.

# Audit Report

## 8.3 Current strategic projects

### 8.3.1 Review of Heritage Overlay 6

A review of Port Phillip's Heritage Overlay (HO) was undertaken in March 2017 and has been included as an updated Reference Document to the scheme. The review identified that Heritage Overlay 6 (HO6) – St Kilda East should be included in the Schedule to the HO Table in the City of Port Phillip.

The current Statement of Significance for HO6 inadequately describes the significance of the place, and there are some illogical precinct boundaries and properties that have been identified, warranting inclusion and updating of the HO.

Council undertook due diligence and commissioned the review of HO6, which is currently in draft form and identifies a number of sites that should be recognised for their heritage value and included within the overlay.

An amendment to the planning scheme (Amendment C142), will be prepared in the coming year to implement the findings of the Review of HO6. This amendment will undergo a public exhibition process in accordance with the requirements of the *Planning and Environment Act 1987*. This will provide a formal opportunity for all interested persons/groups to make a submission to the proposed report.

### 8.3.2 Waterfront Place, Port Melbourne

The Port Melbourne Waterfront Urban Design Framework (UDF) was adopted by Council in November 2013, and provides direction about the future of the waterfront at a time of growth and change.

The Design Guidelines are currently being reviewed to better consider built form, land use and planning controls for the precinct generally, and for three potential redevelopment sites. These land use and public realm improvements would help to leverage tourism opportunities for the Precinct to become a vibrant place of arrival and departure and a hub of activity where visitors are inspired to spend time. These strategic objectives should be incorporated into the MSS.

### 8.3.3 Public Spaces Strategy

Scoping is currently underway for a new Public Spaces Strategy, which will aim to review and update Port Phillip's Open Space Strategy 2009.

The current Open Space Strategy provides strategic direction for the supply and development of all public open space within the City, including nine open space principles that are intended to guide future decisions regarding supply and management of open space. Recommendations of the strategy include:

- To address areas under served by public open space opportunities that exist in East St Kilda, Ripponlea and South Melbourne (complete);
- To promote Open Space principles across all council services;
- To develop a Playground Strategy (complete);
- To utilise the Developer Contributions Guidelines to gain funding or acquire land for the development of new open space (complete via Amendment C62);
- To use integrated planning methods in the management of Open Space;



# Audit Report

- To regularly seek feedback on our parks and open spaces and capital works upgrades;
- To implement master plans for historic and regional open spaces such as Sandridge Beach, St Kilda Edge and the Elwood Foreshore;
- To develop more diverse parks and open spaces;
- To manage conflicting usage of parks and open spaces;
- To increase capacity of sporting venues to provide for junior and female sport by upgrading facilities and grounds.

Since this time, many of the recommendations have been completed. The new Public Spaces Strategy will provide the opportunity to update these strategic directions.

## 8.3.4 New Housing Strategy

Scoping is currently underway for the development of a new Housing Strategy. The City of Port Phillip Housing Strategy 2007 to 2017 is due for renewal. The current strategy is based on sound strategic principles of providing opportunities for new residential development in well-serviced locations with a high capacity for change.

However, housing growth is exceeding levels previously anticipated and the City is facing a number of new challenges and opportunities. This includes the need to:

- holistically integrate the addition of 80,000 dwellings with the Fishermans Bend Urban Renewal Areas into the vision;
- consider the most recent changes to the residential zones in early 2017 and the 'review areas' of Amendment C123;
- the new strategic directions on housing in Plan Melbourne 2017-50.

An up-to-date and robust Housing Strategy that sets out a clear direction for housing development across the city will place Council in a better position to effectively respond to these changes. There is opportunity to better manage and direct housing growth through the use of amendment residential zones.

# Audit Report

## 9 Data analysis

An important part of the Planning Scheme Review is an analysis of decisions and findings by the Victorian Civil and Administrative Tribunal (VCAT) for planning permit appeals and Planning Panels Victoria (for Planning Scheme Amendments). This analysis provides valuable qualitative data regarding the key planning issues affecting the municipality.

These decisions and findings help to analyse:

- the performance of existing policy of the Scheme
- identify potential policy gaps or inconsistencies with State policy
- lessons to Council about its approach to addressing particular planning issues or its drafting of planning controls.

### 9.1 VCAT analysis

The VCAT analysis was informed by a review of a sample of 224 VCAT cases over a period of nearly 5 years January 2013 – September 2017.

Of the 224 cases considered by the Tribunal in the sample period, Council's decision was affirmed on 59 occasions (or 26% of all instances), set aside on 87 occasions (or 39% of all instances) and varied on 69 occasions (30% of all instances).

The most common issues raised in VCAT cases related to off-site amenity impacts (raised in 73% of all cases) and built form issues such as height, scale, bulk and design (raised in 60% of all cases).

In assessing various use and development proposals against Council policy, the following findings are significant:

- On a number of occasions, the Tribunal determined Council had applied its 'Limited Growth Areas' housing policy to sites with good access to jobs, services and public transport, contrary to state policy.
- The Tribunal was often critical of Council's refusal of an application on the basis of an inadequate response to neighbourhood character in circumstances where the street was more diverse in building typologies and eras and there was no single notable character.
- There were numerous occasions the Tribunal was critical with Council's use of mandatory built form controls in DDOs, noting the inefficiency and wasted opportunities mandatory controls can create in circumstances where a proposed development clearly meets the spirit of the control but fails to meet the letter of the law<sup>9</sup>.
- The Tribunal approved a number of development proposals that exceeded Council's heritage policy view line requirements (so as to not be visible from the street) indicating greater flexibility in the policy may be required for more contextual design responses.
- Numerous VCAT cases sought a waiver in car parking for sites close to public transport, suggesting there is a tension between the current parking requirements of the planning scheme and Council's sustainable policy objectives.

---

<sup>9</sup> 170 Ormond Road Pty Ltd v Port Phillip CC & Ors (Correction) [2013] VCAT 988 (18 June 2013)



# Audit Report

- Council has been relatively unsuccessful at refusing a backpacker's lodges due to inappropriate location and offsite amenity impacts.
- Council has had mixed success in refusing applications for licensed premises in proximity to support services or vulnerable communities, where the Tribunal often found there was insufficient evidence to support Council's assertions of social harm.

Each of these findings are discussed further in the section 11 (Planning issues and analysis) or the section 12.2 (Local planning policies).

See Appendix 4 for a more detailed analysis of VCAT decisions.

## 9.2 Planning panels analysis

Panel Reports are produced when they are referred an amendment to the planning scheme to hear any unresolved community submissions and to recommend whether an amendment should proceed, with or without changes.

Since the last audit of the Scheme in 2006, 18 Amendments have had a Panel Report published (at the time of writing).

Overall, the independent Panel Reports generally supported the strategic direction of the planning scheme amendments but often recommended changes to how it was proposed to be implemented into the planning scheme. Key findings are examined in the themes below.

### Mandatory and discretionary built form controls

- Planning Panels often supported the strategic work of Council in developing design guidelines, but questioned their translation into planning controls by debating the ratio of prescriptive versus mandatory controls within the framework.
- In cases with a very strong rationale for mandatory built form controls (e.g. to protect significant heritage values, or where there was a clear need for transition in scale) the Panel often supported Council's use of mandatory built form controls.
- More often than not, they cautioned against a 'heavy handed' approach to mandatory requirements and recommended a more flexible approach (i.e. discretionary controls or an increase in allowable heights - particularly in commercial areas). Reasons given included:
  - the need for a more balanced approach to juggling protection of neighbourhood character with supporting growth in appropriate locations; and
  - maintaining flexibility to support good design outcomes and lot size diversity.
- In general, Panel reports tended to favour mandatory street wall heights and setbacks of upper floor levels without placing an absolute limit on the development potential of sites.

### Heritage

- In all but one case, the Panel supported the strategic justification and methodology for heritage amendments.
- In a number of cases, Panels queried the level of heritage significance attributed to certain properties and the area used for the comparative analysis.
- Clause 22.04 Heritage Local Planning Policy does not currently provide guidance for industrial buildings and the type of growth envisaged in urban renewal and high growth areas such as Fishermans Bend.

# Audit Report

- Suggested the thematic history of the Port Phillip Heritage Review is updated in instances where an amendment considers an individual place or precinct is of sufficient importance to justify its preservation.
- Best practice includes undertaking community consultation when preparing heritage studies.

## Local Planning Policy Framework

- There is scope to reduce the length of the LPPF without changing the intent of the policies.
- Preferred a structure plan to be implemented by other VPP tools (like the MSS and DDO) over a local planning policy, to provide greater simplicity, transparency and certainty.
- Sustainable development is most efficiently assessed at the planning stage to achieve optimum ESD outcome.
- A Coastal Hazard Vulnerability Assessment for the region encompassing Port Phillip Bay should inform a planning tool to deal with coastal hazards and inundation associated with sea level rise (if supported by the state government).

See Appendix 5 for a more detailed analysis of individual planning panel reports.

## 9.3 Planning permit activity analysis

This section provides an overview of planning permits decided (for new use or development) over a period of two years, from 1 July 2015 to 30 June 2017. The purpose of the analysis is to identify any emerging land use changes or trends, and areas of high development activity to inform the Planning Scheme Review. Findings are summarised below.

### 9.3.1 Land use trends

#### Mixed Use

Within the two year period, the majority of new mixed use permits were issued for sites in Melbourne and South Melbourne (within the St Kilda Road North Precinct) and Port Melbourne.

Approximately 66% of planning permits for new mixed use developments were lodged with VCAT for review. The majority of these appeals were on failure to determine an application within the prescribed timeframe.

On 70% of occasions where an appeal for a mixed use development application was made to VCAT, a permit was issued by the Tribunal.

#### New office uses / buildings

Within the two-year period:

- only one permit was issued for a new office use / building (previously residential use), in South Melbourne
- only one permit was issued for a replacement office building, (i.e. office building on land that was previously used for an office), in Port Melbourne
- eight permits were issued for mixed use buildings that make provision for small office tenancies within the proposed building.



# Audit Report

This indicates a relatively low market provision of new office use within Port Phillip in recent years. The provision of new office uses is significantly outweighed by the loss of existing office uses that have converted to other uses, which were converted to:

- residential use (14 permits)
- mixed use buildings (13 permits with no provision for office tenancies)
- leisure and recreation uses (8 permits).

The loss of existing office buildings is predominately occurring in the suburbs of South Melbourne, Melbourne (particularly within the St Kilda Road North Precinct) and Port Melbourne.

## Licensed Premises

Of the licensed premises applications decided upon in the review period:

- The highest number of planning permits decided on for licensed premises within the review period were in St Kilda, followed by South Melbourne and Port Melbourne.
- In general, there were significantly more permits issued for licensed premises (85 applications) than there were refusals (three applications).
- The majority of applications received were for restaurants (64 applications) and bottle shop / convenience store (10 applications).
- Of the bottle shop applications, permits were most frequently located in St Kilda (four applications) on Fitzroy Street and Inkerman Street.

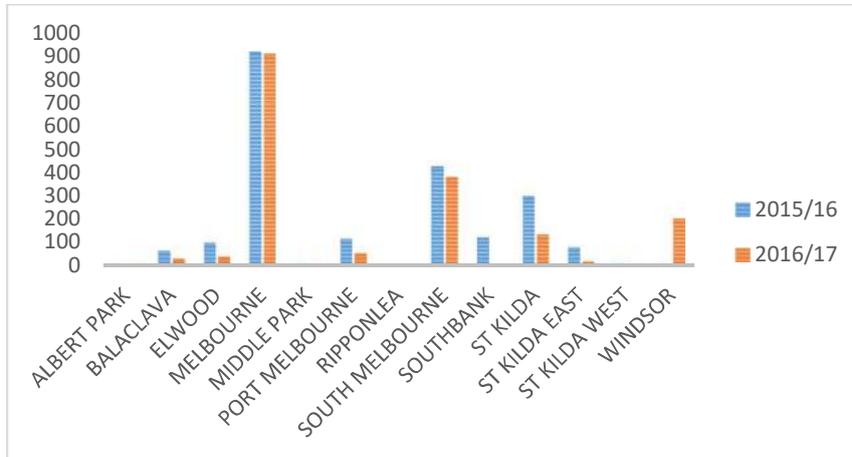
## 9.3.2 Dwelling activity

Of the residential or mixed-use planning permit applications for the construction of dwellings decided upon in the review period:

- 12% of applications were for developments greater than 50 dwellings
- 88% of applications were for developments of less than 50 dwellings where
  - 35% were replacement dwellings (29%) or single new dwellings (6%)
  - 17% were dual occupancy developments
  - 26% were developments between 2-10 new dwellings (with at least 5% being townhouses)
  - 8% were buildings with 10-19 new dwellings
  - 7% were buildings with 20-50 new dwellings
  - 6% were new buildings with unspecified number of dwellings
- Permits with the highest number of new dwellings were approved in Melbourne, South Melbourne (St Kilda Road North Precinct) and St Kilda
- The permit applications for dual occupancy were mainly in the suburbs of Port Melbourne and Elwood.

# Audit Report

**Figure 4: Total additional dwellings approved, by suburb, for period 1 July 2015 - 30 June 2017**



Note: The increase in Windsor relates to a sole permit for 203 new dwellings approved for a site on Punt Road.



## 10 Consultation

The City of Port Phillip is committed to ensuring that the community's knowledge, insight, concerns and ideas shape Council's strategic planning projects. However, it is not intended that broad community consultation occur at this stage of the Review process. This is because of the significant level of community consultation that occurred during development of the Council Plan 2017-27, of which the Review is seeking to implement.

Community consultation will be undertaken at later stages in the process through statutory exhibition of a number of planning scheme amendments to implement stages of the Review. Some amendments are also likely to be preceded by a strategic review – e.g. the Housing Strategy which would also involve an extensive community engagement process.

In order to inform the Audit report, working groups were held with council officers and a survey of regular users of the Scheme was carried out.

### 10.1 Council officer workshops

In April and May 2016, a number of workshops were held with relevant City of Port Phillip officers. Feedback was sought on current planning-related issues, along with exploring how the Port Phillip Planning Scheme could reflect and implement key policies across Council.

The working groups were held around the seven key themes and played a key role in identifying policy gaps and recommended actions. The workshops sought officer feedback on planning issues, opportunities and challenges and sought advice on improving the Scheme. Key findings across a broad range of topics include:

#### Clarity of planning scheme

- The Scheme should be simplified without losing core content.
- The built form controls should be clarified and remove repetition.

#### Housing

- Housing policy needs to be clearer about what level of growth is expected and where.
- There is an increasing need to create more affordable housing.
- Character policy on contributory areas outside the HO should be clarified.

#### Activity centres

- There is a need to understand employment capacity and growth projections.
- There is a need to manage amenity impacts and expectations of increased residential development in activity centres.
- There is a need for a structure plan to guide development within the St Kilda Activity Centre, which is an important iconic destination for tourism.
- A clearer activity centre hierarchy and policies (including maps and boundaries) would help to provide a more holistic overarching growth strategy for the municipality.

#### Heritage

- The heritage local planning policy should be reviewed and extended to apply to various building typologies and development contexts.
- Exemptions for minor development from the need for a planning permit could be explored through the use of an incorporated plan.
- Environmentally Sustainable Development and heritage policy conflicts need to be clarified.

# Audit Report

## Community development

- Health and wellbeing principles should be more clearly embedded in the MSS.
- Policies and strategies around public open space need to be updated and strengthened.
- Local policy on managing licensed premises is lacking.

## Environment

- The focus and emphasis on environmentally sustainable development should be increased.
- There is a policy gap around increased canopy cover and protecting trees on private land.

## Transport

- Car and bicycle parking rates for new developments in activity centres need to be reviewed.

The emerging issues from the working groups are discussed in more detail according to the topic in sections 11 (planning issues and analysis) and 12 (effectiveness and efficiency) of this report.

## 10.2 Councillor feedback

Feedback was sought from Councillors on the planning issues addressed by the Review. Issues were raised on a broad range of topics, including:

- Creating a more site-responsive planning response (e.g. through pre-application process).
- Making heritage planning policy and controls more extensive (fill gaps) and permissive (flexible) for better design and environmentally sustainable development outcomes.
- Encouraging innovative environmentally sustainable development to address climate change, including rooftop gardens, solar panels and addressing sea-level rise.
- Promoting food security, urban agriculture and community gardens with its social and environmental benefits.
- Making it easy for people to get around with integrated sustainable transport infrastructure.
- Preventing overshadowing of the foreshore and major parks.
- Promoting better high-density outcomes, with site-responsive design, stronger waste requirements, wind analysis, building flexibility and loading zones and design review.
- Protecting employment land and industrial areas to accommodate creative industries.

## 10.3 Planning scheme users survey

Consultation is an important part of the monitoring and review process as there are many varied users of the Port Phillip Planning Scheme. A Planning Scheme Users Survey was undertaken to gather information on the useability and effectiveness of the Scheme to inform its review.

The survey was targeted to regular users of the planning scheme who provided feedback on their experience using and interpreting relevant parts of the Scheme. Regular users of the Scheme were defined as applicants who have lodged two or more unrelated applications since the last Port Phillip Planning Scheme Review was implemented in 2011. This was designed to capture a group with the potential to provide a higher level of critique than an



# Audit Report

ad-hoc user. It also captured professionals who likely worked with other planning schemes across Melbourne, who could provide more of a comparative analysis.

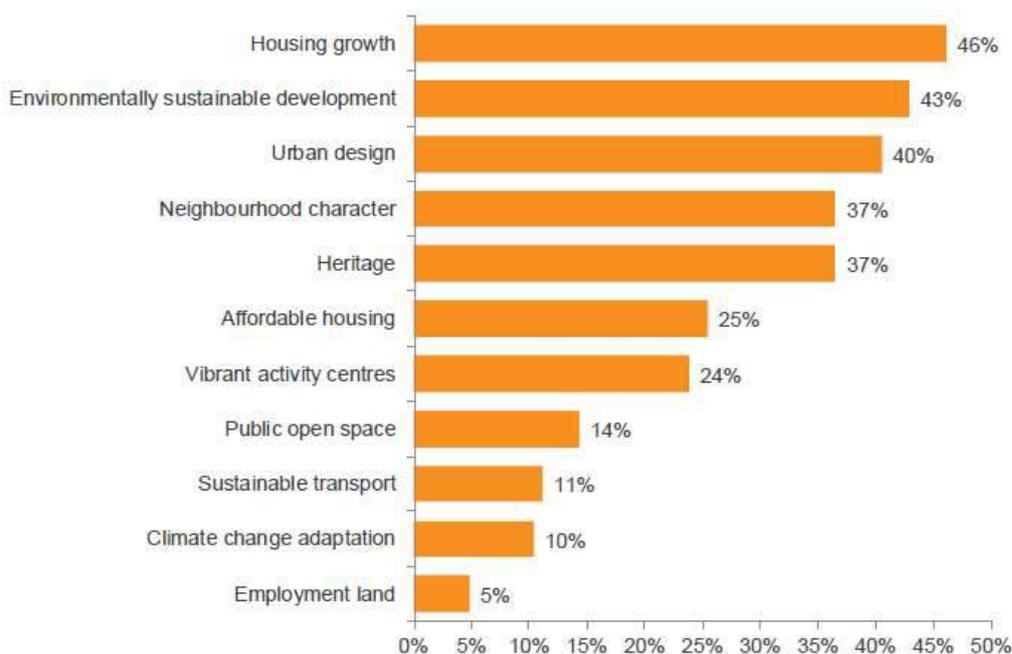
The survey used an online methodology, with an email sent out to 753 regular users of the planning scheme, of whom 126 completed the survey (completion rate of 17%).

Of those who completed the survey, nearly two in three (66%) said they were “architects, builders or developers”, while close to one in five (19%) said they were “a town planning professional”. Smaller proportions indicated they were either “surveyors” (3%) or “building designers” (2%). Over one in five (21%) were residents of the City of Port Phillip, and 16% worked within the municipality.

Key findings include:

- Housing growth, environmentally sustainable development and urban design were rated as the three most important planning issues addressed by the Scheme, followed closely by neighbourhood character and heritage.

**Figure 5 – Most important planning issues**



Q3 - What do you think are the three most important planning issues addressed by the Port Phillip planning scheme?

Base: Total respondents (n=126)

- The majority of participants rated Sustainable Land Use and Development policy as either good or excellent (62%), but were less favourable about Sustainable Transport Policy (42% rating it as good/excellent), with users noting a lack of strong policy on increased bike infrastructure and reductions in car parking.
- The Built Form & Heritage Policy was most frequently used policy by participants (75%). The majority of participants rated Heritage policy as good / excellent (57%). Of the 43% rating Heritage policy less favourably (fair/poor/very poor), a number of common themes apparent in commentary included the subjective nature of the policy, a lack of flexibility and inconsistency.

# Audit Report

- Respondents were less favourable about Urban Structure and Character Policy with 45% rating it as good/excellent. Of the 55% rating it less favourably (fair/poor/very poor) common themes apparent in commentary included a lack of recognition of the diversity of building stock and changed character of residential streetscapes.
- A substantial proportion of respondents believe the scheme is repetitious and could be made clearer – with 39% of respondents agreeing that ‘there is a lot of repetition and unnecessary content in the PPPS’ and that ‘the policy is hard to understand and could be made clearer’ (also 39%).
- Reducing unnecessary and repetitive policy was most frequently rated as a way to improve the effectiveness and clarity of the scheme (60%), followed by rewriting policy to be more succinct (45%) and improving the structure (40%).

References to more detailed commentary and findings will be found in the analysis of the planning performance of relevant planning issues and scheme structure in sections 11 (planning issues & analysis) and 12 (effectiveness & efficiency) of this report.

See Appendix 6 for the Port Phillip Planning Scheme Users Survey Summary Report.



# Audit Report

## 11 Planning issues & analysis

This section identifies the major planning issues and trends facing the municipality, structured around key themes addressed by the Scheme:

- Activity Centres and Employment
- Built Form and Heritage
- Environment
- Health and Wellbeing
- Public Space
- Housing and Growth
- Transport, Parking & Waste

Each section provides an overview of the current local and policy context, feedback from consultation, VCAT and Planning Panels analysis, the strategic performance of the Scheme and the implications or opportunities for this Review to address these issues.

### 11.1 Activity centres and employment

#### 11.1.1 Employment land

##### Local context

The City of Port Phillip is in a strategic position between the Melbourne CBD and the Bay and is home to a number of iconic tourist attractions and annual events which has allowed it to prosper economically and socially. It has convenient transportation access for freight and distribution as well as good public transportation links to the CBD (particularly via tram).

The City's key employment areas include the St Kilda Road Corridor, South Melbourne, St Kilda, Port Melbourne and Fishermans Bend. These areas also highly accessible to the CBD and public transport network, making Port Phillip a major employment destination.

Urban renewal planned for Fishermans Bend will see the City's population double through the planned development of new high-density and mixed-use precincts, impacting the number and type of businesses and jobs in that area. Fishermans Bend is expected to cater for 80,000 jobs by 2050, with just over half of these jobs (36,000) projected to be within Port Phillip.

Employment trends in the wider City are also expected to grow, with the wider trend of Melbourne's shift towards the service sector and 'knowledge economy' having a strong influence on Port Phillip's workforce and industry base, which is oriented towards the professional services, retail and community services sectors. Port Phillip will also remain a desirable location to work given the City's accessibility to public transport (including the addition of Anzac Station as part of the Melbourne Metro rail project), proximity to other employment hubs (CBD, Docklands, Southbank) and attractiveness as a place to visit and live.

Council anticipates an increase in employment land with development of Fishermans Bend and the addition of the Anzac Station, which is likely to result in increased development activity in St Kilda Road North. It remains to be seen whether this development activity remains skewed towards residential development in line with current trends, or whether employment land will flourish to take advantage of the significantly quicker access to the

# Audit Report

CBD and other National Employment and Innovation Clusters around Melbourne (particularly Parkville).

These trends will have a range of implications for the City in terms of:

- Ensuring the City has an adequate supply of commercial land for a growing employment sector, particularly office space for the ‘knowledge economy’ which is at risk of being ‘crowded out’ by residential uses.
- Land use planning policy, with the need to understand the weaknesses and capitalise on the strengths of each activity centre to ensure there’s a range of essential shops and services that can support the local population.

**Figure 6 – Commercial and Industrial Zones**



## Policy context

Plan Melbourne 2017-50 contains numerous policies relevant to economic development, including increasing Melbourne’s competitiveness, improving access to local jobs, the creation of jobs in urban renewal areas and a city of 20-minute neighbourhoods. In particular, Council is required to plan for the provision of adequate commercial land to support a competitive City and improve access to local jobs (Policy 1.1.7).

The Council Plan highlights Council’s vision for a City of dynamic and distinctive retail precincts (Outcome 5.1) and growing businesses (Outcome 5.2).



Other relevant documents include the Port Phillip Economic Development Strategy 2012-2016 and City of Port Phillip Activity Centres Review – Future Directions Strategy Paper (January 2006), however these are both in need of further work and / or updating.

IMAP Councils are also investigating urban manufacturing in the Inner Melbourne region. The over-arching hypothesis is that small, high-value added, highly-innovative urban manufacturers in Melbourne can benefit significantly from the agglomeration economies associated with inner-urban locations. It considers the level of value to the urban economy in preserving a place for manufacturing innovators in the central city and immediate inner suburban areas. The goal of this study is to deliver policy-relevant findings that can guide the IMAP councils in making strategic decisions about the use of employment land in the IMAP.

## Competition with residential uses

### Local context

The commercial zones reform in 2013 resulted in the majority of Port Phillip's business zones defaulting to Commercial 1 Zone which allows a much broader range of uses to facilitate mixed use precincts, including the specific endorsement of residential uses in the purpose of the zone. The reform, along with the high market value of housing, is seeing a market preference for residential land use and a decline in office uses in commercial zones and retail/office uses in mixed use zone.

The former zones encouraged office uses in the St Kilda Road North employment precinct (formerly Business 5 Zone), with the purpose of the zone to “encourage the development of offices”. The commercial land along St Kilda Road South (formerly Business 2 Zone) prioritised offices and associated commercial uses, with accommodation uses requiring a permit.

Recent trends along the St Kilda Road corridor have seen the majority of planning applications favouring buildings with retail at the ground floor and dwellings above. The permit activity analysis (refer to section 9.3 of this report) identified a significant loss of existing office buildings in recent years (July 2015-17), with the majority of them converting to residential or mixed-use buildings. This loss predominately occurred in the suburbs of South Melbourne, Melbourne (particularly within the St Kilda Road North Precinct) and Port Melbourne.

South Melbourne Activity Centre provides Port Phillip with a substantial amount of office space, with light industrial functions in the employment precincts to the north of the activity centre. There is pressure from landowners to rezone land within this precinct to allow residential uses, given its strategic location close to the inner City and transportation networks. This is inconsistent with the current strategic direction to maintain a mixed industry and business enterprise precinct (with new forms of hi-tech industry).

### Feedback

Council officers raised a concern with the long term viability and vitality of our employment land when facing increased residential development.

The 2016 Managing Residential Development Advisory Committee Report acknowledged the Commercial 1 Zone and Mixed Use Zone are increasingly being used for residential, rather than commercial development in metropolitan Melbourne, as Councils have no control over accommodation uses that are now allowed ‘as of right’ in the zones.

*“While the growth in apartments has many positive outcomes, the Committee agrees with the general proposition that the current dynamics in the residential market have*

# Audit Report

*favoured residential rather than commercial investment in some activity centres. This is potentially to the detriment of those activity centres and communities, where a more balanced provision of land uses might achieve broader planning objectives relating to service provision, accessibility and employment creation.”<sup>10</sup>*

The view that planning has a role in achieving a mix of residential and commercial uses in activity centres is shared by both the Advisory Committee and the Stonnington Amendment C172 Panel which considered the introduction of ‘vertical zoning’ in the proposed Activity Centre Zone for Chapel Street (requires a permit for a residential use on upper floors if it is in an area where commercial uses are encouraged). The Panel considered the proposal to be innovative, facilitative and likely to achieve the intended outcomes.

There is a growing awareness among Councils, academics and the industry, on the issue of residential uses crowding out employment uses, particularly in the Mixed Use Zone and Commercial 1 Zone. Notable projects include:

- Stonnington’s Activity Centre Zone for Chapel Street featuring vertical zoning requirements.
- Urban Manufacturing IMAP project researching urban manufacturing and policy options to retain creative industries in the inner-city.
- Melbourne City Council’s West Melbourne Structure Plan (draft for engagement) flags Council’s intention to create a customised schedule to the Special Use Zone to create a true mixed-use zone that facilitates a variety of employment uses, while allowing some residential uses.

## Opportunities

Further strategic work is required to understand the contribution of employment land within the Port Phillip to the wider economy, and how to balance the City’s role as an employment destination with its need to cater for housing growth. This will help to inform the direction for revised local land use policy within the MSS.

There will continue to be significant demographic and workforce changes in Port Phillip in coming years, with a strong demand for employment growth in the inner-city region.

The St Kilda Road corridor is now clearly identified in Plan Melbourne as part of the expanded Central City which will provide for the continued growth of employment. With the metro tunnel currently under construction including Anzac Station located under the Domain interchange, adjacent to the St Kilda Road North employment precinct, will better link St Kilda Road with other key living, learning and work precincts across Melbourne, such as Parkville. It will also take significant pressure off trams to cater for the movement of worker populations from the CBD to St Kilda Road.

The 2013 reforms created the new Commercial 2 Zone to further the creation of commercial employment precincts. Council should consider a more strategic assessment of its commercial areas to fully understand the current and likely future implications at a detailed level. Such a review may highlight opportunities to refine application of this zone. Council has less influence to require the provision of office uses over accommodation uses given the default zone translation. A more proactive approach may be required in Port Phillip to protect office use from competition with residential development, particularly in the St Kilda Road North which remains an important employment district.

---

<sup>10</sup> Managing Residential Development Advisory Committee Report, 14 July 2016, pg.133-134



# Audit Report

Council should also consider the commercial opportunities that the new Melbourne Metro will bring to the St Kilda Road North precinct, so that employment land can leverage off major transport investments (such as Anzac station, tram infrastructure improvements and the creation of improved cycling connections in this area).

Further, Council will need to ensure that planning for the Fishermans Bend mixed-use area appropriately facilitates the retention of commercial uses, employment opportunities and creative industries.

With the loss of Fishermans Bend as the City's core designated industrial area, there may be further reliance on the South Melbourne employment precinct supplying the municipality with solely commercial land (excludes residential uses). South Melbourne's employment precinct provides a unique opportunity to improve access to creative and high-value add industrial jobs because of its mix of attributes including its inner-city location, transport accessibility, existing employment cluster, access to shops and services, amenity (open space, heritage buildings, vibrant street life) and creative industries.

Any future rezoning decisions should be based on a wider study of employment land supply/demand and not be made in isolation.

It is timely that Council should carry out new strategic work to define the City's employment needs to:

- ensure the City has adequate employment land to facilitate jobs close to where people live
- consider a more proactive approach at retaining employment in the St Kilda Road North precinct (e.g. vertical zoning mechanisms)
- consider applying customised zones to activity centres or key employment areas, Activity Centre Zone or Special Use Zone to prescribe a type of mixed use zone that provides greater protections for employment land
- consider the strengthening the unique role of the South Melbourne Central employment precinct
- ensure conditions can retain and support creative industries ('makers') in the inner city region
- clarify the future commercial role of Fishermans Bend
- take advantage of the IMAP Census of Land Use and Employment (CLUE) data to be developed over the coming years
- determine the need to retain the City's remaining small pockets of industrial zoned land
- update land use policy in the MSS.

## Recommendation 1:

Undertake an employment land strategy to identify the City's employment needs and trends and determine whether a more proactive approach to retaining employment land is required.

## 11.1.2 Activity Centres

### Local context

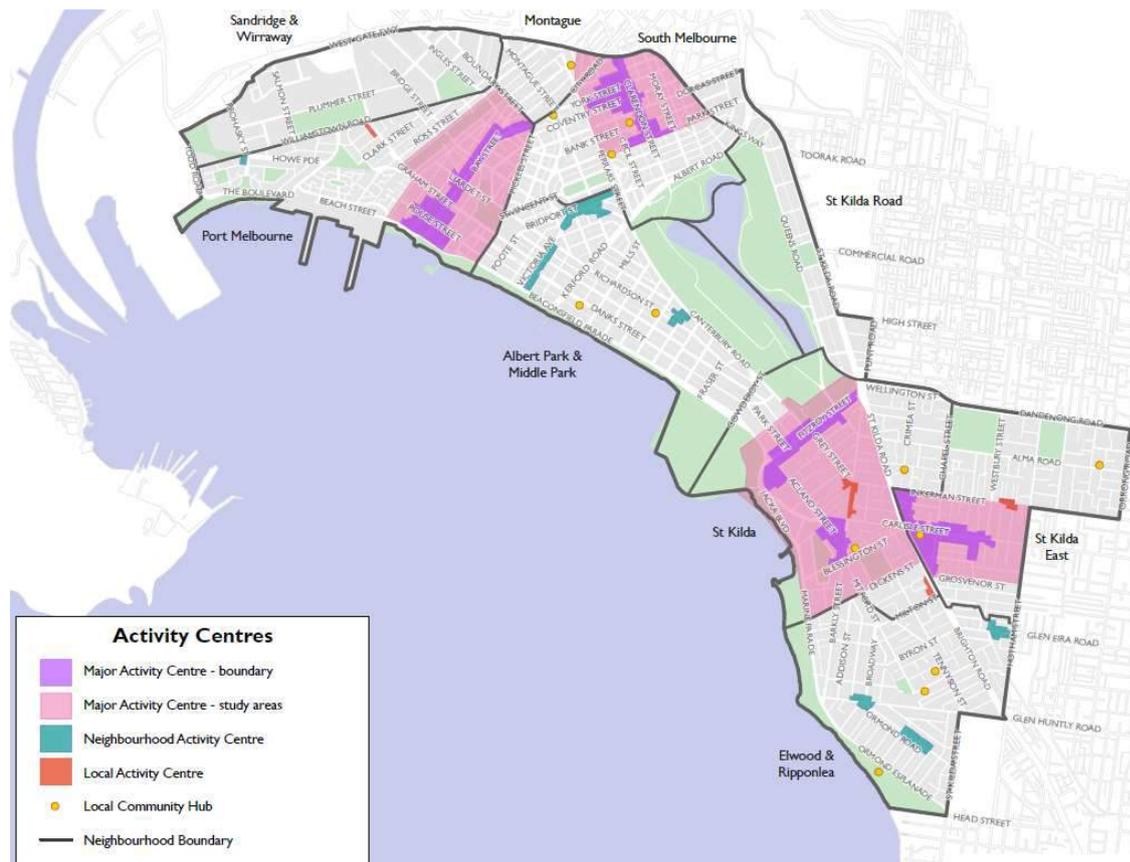
Plan Melbourne identifies four Major Activity Centres in the City of Port Phillip (Bay Street, Port Melbourne; South Melbourne Central; Fitzroy/Acland Street, St Kilda; and Carlisle Street), along with six Neighbourhood Activity Centres (Centre Avenue, Bridport Street, Victoria Avenue, Armstrong Street, Albert Park, Ripponlea and Ormond/Glenhuntly Road).

# Audit Report

These strips are predominantly traditional shopping strips and tend to function independently of each other, each with unique characteristics that draw upon different catchments.

The FBURA will also contribute towards a number of additional activity centres in the future. The core activity centre in Fishermans Bend will be located within the Sandridge Precinct, while smaller activity centres are planned for Plummer Street in the Wirraway Precinct, and Buckhurst and Normanby Road in the Montague Precinct.

**Figure 7 – Activity Centres**



## The role and function of activity centres

### Policy context

Plan Melbourne seeks to create a city of 20-minute neighbourhoods (Direction 5.1) that are linked by public transport and facilitates local living, with easy access to a range of services and facilities within a 20-minute walk, cycle, or local public transport trip.

Plan Melbourne aims for all activity centres to have the capacity to grow and diversify the range of activities they offer to provide communities with access to a wide range of goods and services and local employment and to support local economies. However, many of Port Phillip’s neighbourhood activity centres are located within areas with strong heritage and neighbourhood character values, limiting their growth potential.

With the default rezoning of commercial land in activity centres (Business 1 Zone to Commercial 1 Zone) the use of land for retail premises no longer requires a permit, nor are shops subject to size restrictions, reducing the ability for Council to control the mix of uses within activity centres.



Direction 4.2 of the Council Plan aims to create a City of diverse and distinctive neighbourhoods and places. As part of this, Council is seeking to achieve this is by planning for 10-minute walking neighbourhoods that give locals access to shops, community spaces and a strong sense of place. The MSS Review will need to refine Plan Melbourne's concept of the 20-minute neighbourhood for Port Phillip's inner-city context.

The City of Port Phillip Activity Centres Review – Future Directions Strategy Paper (January 2006) identifies the role, strengths/weaknesses and development potential for each of the Major Activity Centres. Since this review was undertaken, Port Phillip's actual growth has outstripped projections<sup>11</sup>. A more recent supply and demand study undertaken for Council in 2015 indicates that the supply and demand analysis is outdated and not an accurate reflection of today's centres, with the role of some activity centres having changed over the last decade. For example:

- Fitzroy Street has not seen a strong increase in retail and household goods as expected, with more food catering and entertainment uses than anticipated.
- The anticipation for South Melbourne Central to accommodate pent up demand for bulky goods in Port Phillip has not been realised<sup>12</sup> with a larger growth in food catering and entertainment uses.
- Bay Street Activity Centre has undergone significant change with a more diverse mix of retail stores and services and a larger provision of food catering outlets (cafes, restaurants, take-away food).

Further, the study identified that a number of Port Phillip's activity centres are imbalanced in land use mix, with a high proportion of food catering floorspace and an undersupply of retail facilities aimed at serving local residents, particularly in food/groceries.

The 2013 commercial zones reform replaced the former five business zones, resulting in default translations and a broadening of the range of activities allowed in commercial zones (and activity centres).

The current MSS land use policy (Clause 21.04) contains land use policy that identified types of land uses that are encourage or discouraged certain types of uses.

Some of these policies are now redundant, where the use has been made 'as of right' in the head provision. There is now less ability for Council to balance the retail mix within activity centres.

## Feedback

Feedback from Council officers included the desire for a more consistent approach to activity centre (e.g. clearer policy on each precinct, and maps with defined boundaries).

## Opportunities

### MSS activity centre policy

Activity centre policy in the MSS should be updated to reinforce the hierarchy role and function and future direction of activity centres. Many of the strategies seek to control the mix of uses within centres, referring to former business zones which have now been superseded.

---

<sup>11</sup> Victoria in Future 2004 estimated a population of 97,510 people in 2016. Port Phillip's estimated resident population in 2016 was 108,558 (2016 ABS)

<sup>12</sup> Bulky goods retail in South Melbourne is at 4080m<sup>2</sup>, rather than 11,200m<sup>2</sup> predicted in 2016.

# Audit Report

Further, the new commercial zones no longer provide Council with the same level of ability to control the mix of uses within centres.

The MSS Policy on considering out-of-centre development, or an extension of existing retail strips, to address a known retail gap or shortfall could be strengthened.

Further urban design and heritage work should also help to clarify how to balance additional growth in activity centres while maintaining heritage character and fine-grain subdivision of traditional retail strips. This is further explained in section 12.2.5 (heritage policy).

## **New Activity Centres Strategy**

Further strategic work would provide Council with an understanding of the projected growth in demand for retail floorspace and the capacity of our activity centres and mixed-use areas to accommodate this. The current Activity Centres Strategy is over 11 years old and is outdated.

Although some activity centres have evolved differently to the demand projections contained in the current strategy, many objectives are still useful as general urban design and retail planning principles. It is the land use policies that are in need of an update, particularly in identifying the current strengths and weaknesses of activity centres and guiding permit discretion on land use mix.

A new Activity Centres Strategy should also consider opportunities to consolidate particular sites to intensify the existing commercial floorspace to accommodate demand in many existing activity centres (particularly grocery/supermarket floorspace) to serve the daily needs of local residential catchments. For example, accommodating Small Local Enterprise Precincts (e.g. shopping centre with local services and an anchor tenant).

## **Retail mix**

Council's existing suite of detailed land use and neighbourhood policies in the MSS will need to be revised to align with the new range of allowable uses under the Commercial Zones.

Plan Melbourne notes that all activity centres have the capacity to grow and diversify the range of activities they offer to provide communities with access to a wide range of goods and services and local employment and to support local economies and the development of 20-minute neighbourhoods.

The imbalance in retail mix in some of our centres has the potential to undermine the desire to create 20-minute neighbourhoods with activity centres being unable to supply their catchments with basic needs and services. It is also harming the vitality of centres by creating an imbalance in day and night time activities. For example, Fitzroy Street comprises 60% food catering floorspace and non-retail entertainment venues. This leads to wider precinct vitality and social problems, and a high shop vacancy rate of 15.5%.

There may be benefit in applying a customised zone to allow Council to control these uses (such as the Activity Centre Zone as an outcome of a major strategic review or structure plan). This should be more holistically considered in a review of the Activity Centres Strategy.

## **Neighbourhood Activity Centres**

Plan Melbourne's '20-minute neighbourhood' concept (or '10-minute neighbourhoods' in the context of the Council Plan) emphasises the role of neighbourhood activity centres as an integral part of the polycentric city concept, potentially providing more choice in housing, shops and services. However there is no clear criteria on how this is to happen in mature activity centres with heritage and fine grain built form constraints.



# Audit Report

This highlights the need for Council to consider the need for structure plans or design guidelines for some neighbourhood activity centres to help balance the growth of activity centres with their strong heritage and neighbourhood character values.

Currently, the activity centres hierarchy/policy in the MSS is not consistent as it:

- does not define the role of some commercial precincts that defaulted to the Commercial 1 Zone where we can expect to see more traditional 'high street' retail and services establishing 'as of right' in these locations
- treats very small local activity centres (e.g. Tennyson Street, Elwood) and larger centres (Ormond Road/Glenhuntly) as NACs
- does not consider the role of 'local activity centres' (e.g. Inkerman St, Barkly Street).

A new Activity Centres Strategy should review all Neighbourhood Activity Centres (NACs) in the municipality, to establish a clear and consistent hierarchy and consider their ability to grow to fulfil their role in accommodating the local living needs of surrounding population.

## **New Fishermans Bend Activity Centres**

The role and function of activity centres within the FBURA should be reflected in any revised policy, consistent with the framework and vision currently being developed by the State Government, in consultation with Council.

### **Recommendation 2:**

Update land use policies within the MSS to align with the new commercial zones.

### **Recommendation 3:**

Update and strengthen activity centre policy in the MSS to reinforce the role and function and future direction of activity centres.

### **Recommendation 4:**

Develop a new Activity Centres Strategy and Implementation Plan to inform detailed land use policy and structure plans.

## **St Kilda Activity Centre**

### **Local context**

At present, the only Major Activity Centre with no comprehensive framework of land use and built form controls (such as is produced in a structure plan) is the St Kilda Activity Centre (Fitzroy/Acland Street), although the centre is subject to heritage and design control (DDO6) with the latter owing to a built form review in 2003.

A priority of Council over the next four years is to develop a strategic plan for the St Kilda precinct, including a strategy to revitalise Fitzroy Street (Outcome 5.1 of the Council Plan).

### **Feedback**

Feedback from Council officers was on the need for a policy framework that guides increased residential development in Fitzroy Street and Acland Street to support Fitzroy's revitalisation and facilitate more sustainable development.

Fitzroy Street is Port Phillip's primary night time precinct, with the majority of businesses operating over the night with approximately 60% of floorspace comprising food catering and non-retail entertainment uses. This results in a lack of daytime retailers and a high commercial vacancy rate (15.5% compared to average strip centre vacancy rates of

# Audit Report

between 3-7%). A recent analysis undertaken by Council found an oversupply of bars and pubs in Fitzroy Street, however the centre is also experiencing a fall in nightlife patrons, who are attracted to other areas of inner Melbourne.

Acland Street is an iconic tourist destination with a strong history of attracting tourists to the area, however the centre is struggling to secure the visitor dollar as it once did. The centre includes a strong mix of retail facilities across all categories, however there is a shortfall in supermarket floorspace to serve expected population growth.

Both centres are affected by seasonality issues, being in close proximity to the foreshore.

## Opportunities

There is a need for Council to develop a future vision and strategic directions for the St Kilda Activity Centre and its precincts to reinforce its role as a major tourist and entertainment destination, accommodate increased housing and meet the needs of local communities with businesses.

A structure plan and urban design framework should be prepared to guide the role and function of the St Kilda Activity Centre, and outcomes relating to land use, built form, the public realm, transport and access. A new plan will have to balance the need to reinforce the role of St Kilda as a tourist destination, with the centres increasingly residential role and local needs.

The plan will also need to review the need to retain the Comprehensive Development Zone at Acland Court and St Kilda Station – see section 12.3.1 (zones) for further analysis.

## Recommendation 5:

Develop a future vision and strategic framework to guide the role and function of the St Kilda Activity Centre (Fitzroy/Acland Streets).

## Amenity impacts of mixed-use environments

### Local context

The City of Port Phillip is becoming an increasingly mixed-use environment. Planning officers raised the issue of a conflict between increasing residential development in activity centres, with existing commercial uses and the potential for higher intensity uses within the centre in the future.

Prior to the commercial zones reform, the 'lower intensity' commercial zones of Business 2 and 5 zoned land were applied at the edge of activity centres (e.g. locations in Carlisle Street and South Melbourne Activity Centres where commercial land has no frontage to the main street) to provide a transition to residential areas, or along major roads in out-of-centre locations (e.g. St Kilda Road South). The new Commercial 1 Zone allows a much higher intensity of commercial uses in these locations like hotels, bars, bottle shops, cinemas and other retail premises, with the potential to introduce new amenity conflicts with surrounding residential precincts.

The recent apartment design standards introduced a noise impact objective to protect residents from external and internal noise sources by requiring appropriate levels of insulation where development was in a 'noise influence area'. These areas are restricted to proximity to industrial uses, main roads and railway services and do not consider noise from existing business premises.



# Audit Report

## Opportunities

Some other inner-city Councils with vibrant mixed-use areas have detailed policy on managing amenity impacts in mixed used environments. For example, the Yarra Planning Scheme has an interface uses policy that contains off-site amenity impact policies (e.g. on odour and emissions, light spill, loading and unloading) to address the interface of new residential development with activity centres.

The purpose of the interface policy is to reduce conflict between commercial, industrial and residential activities and to maintain the viability of existing commercial or industrial activities. Strategies include:

- detailed design requirements for non-residential development near residential properties to minimise off-site amenity impacts (e.g. acoustic protection, location of plant services, light spill mitigation, etc);
  - requiring new dwellings to include a range of design features to minimise the impact of the normal operation of business activities on dwelling amenity (e.g. layout, fume mitigation, noise assessments, screens, etc).

The Planning Scheme Review should consider expanding upon existing policy in Clause 22.06 to better guide the detailed design and planning of new development to reduce amenity conflicts in and around activity centres.

Residential amenity in activity centres could also be improved through licensed premises policy – see section 11.4.6 of this report on activity centre amenity issues.

### Recommendation 6:

Strengthen policy to manage potential amenity conflicts in mixed use environments and activity centres.

## 11.1.3 Industrial land

### Local context

The 2003 Industry and Business Strategy identified numerous challenges with Port Phillip's industrial land, including high land prices, smaller land holdings, ageing industrial buildings and interfaces with residential areas.

Nevertheless, the Strategy recommended that Council maintain an adequate supply of industrial land in the municipality to meet the demand for a range of industry and business types. It also provided the rationale for rezoning the employment precinct land in South Melbourne from industrial to business zones, to support the transition of the precinct from an industrial area to a mixed industry and business enterprise precinct (with new forms of hi-tech industry).

With the rezoning of the South Melbourne precinct and Port Phillip's core industrial area in 2008 (Amendment C52) and the FBURA to the CCZ in 2012 - the amount of industrial zoned land has diminished substantially, leaving three small areas:

- Normanby Road, Port Melbourne (IN1Z)
- City Road, South Melbourne (IN1Z)
- William Street, Balaclava (IN3Z).

Plan Melbourne identifies the need for industrial land in the right locations, particularly near transport gateways in outer-suburban areas and state-significant industrial precincts with no specific policy on inner-city industrial zoned land.

# Audit Report

## Opportunities

Industry-related policy within the MSS will need to be revised to reflect the loss of industrial-zoned land within the municipality in Fishermans Bend.

Strategic work is currently being progressed to explore the benefits of a more innovative form of small-scale urban manufacturing in Melbourne to foster creative industries and local employment.

The IMAP's urban manufacturing study is investigating the economic benefits of retaining and facilitating small, highly innovative urban manufacturers (also known as 'makers') within inner-urban locations. There may be great value to the urban economy in preserving inner-city industrial areas for manufacturing innovators who contribute towards creative cities and tourism. It is worth considering the City's need to retain the remaining small pockets of industrial land in this context.

The 2009 Carlisle Street Activity Centre Structure Plan identified a need for the William Street precinct's further review in 5 – 10 years (4.4.3 Strategic Direction) making its further consideration timely. The 2013 zones reform now allows small scale supermarket with associated shops and convenience shops without the need for a permit, expanding the role of this precinct to accommodate daily retail needs.

The limited current supply of industrial land servicing the inner-south region of Melbourne suggests that Council should undertake more detailed investigations to ascertain what approach should be pursued in the future for these areas. The Williams Street precinct currently provides a variety of fitness, car services, light industrial retail and offices for creative offices / studios and shared workspaces for the local areas. The reformed zones expansion to accommodate daily retail needs in this zone may also promote further renewal in this area.

Any future review of industrial zoned land should consider both the supply and demand for industrial premises and the outcomes of the Urban Manufacturing IMAP.

### Recommendation 7:

Carry out further strategic work to consider how to retain creative industries and urban manufacturers within the municipality, in partnership with the IMAP.

## 11.1.4 Tourism

### Local context

Port Phillip is a popular inner city area of Melbourne, attracting more than 2.8 million visitors each year, making it the second most visited place in metropolitan Melbourne, following the CBD. Its tourism and natural assets, history, cultural diversity and unique atmosphere make the area an attractive destination for residents, visitors and businesses.

Attractions include the City's vast network of open space with Catani Gardens and the St Kilda Foreshore, cruise ship destination at Station Pier, entertainment facilities like the Palais theatre and Luna Park, attractive heritage characteristics and dynamic arts culture.

The City's strong tourism industry provides employment and economic benefits, however there is also a need for Council to manage associated adverse amenity impacts for local residents, businesses and traders such as late night noise, traffic and parking congestion.

Council envisions Port Phillip to be a prosperous City that connects and grows business (Outcome 5.2 of the Council Plan), in part by promoting Port Phillip as a visitor destination in a way that respects local amenity.



# Audit Report

## Opportunities

For the City to remain a desirable destination for tourism, new space must be found for office, retail, education, health, entertainment and cultural activities (Policy 1.1.1 of Plan Melbourne) and opportunities to facilitate private-sector tourism investment (Policy 4.2.3).

Council is currently working on the Waterfront Place Precinct Design Guidelines to improve the Station Pier public realm environs, which serves as an arrival and departure destination for international and interstate visitors to Melbourne (see section 8.3.2 on Waterfront Place).

The future development of St Kilda Triangle as a new public space, commercial and cultural facility has the potential to further boost tourism and generate social and economic benefits.

Other factors facilitating tourism to the City include its ability to remain distinctive and liveable with quality design and amenity (Outcome 4 of Plan Melbourne) which is discussed in section 10.4.1 (liveability).

### Recommendation 8:

Progress further strategic work in response to development opportunities for important tourist destinations such as Waterfront Place and the St Kilda Triangle.

## 11.2 Built form and heritage

### 11.2.1 Urban design and spatial planning

Urban design focuses on the design of the public realm, its public spaces, streets, parks and paths. Urban design informs the design of infrastructure and buildings in as far as they affect the function and amenity of the public realm.

#### Policy context

Outcome 4.1 of the Council Plan seeks to maintain and enhance liveability in a high density City by:

- requiring well-designed buildings that contribute to safe, lively, high amenity places; and
- reviewing the Planning Scheme to ensure an effective framework of local policy and controls to manage growth;
- implementing planning scheme amendments that strengthen design and development planning controls in areas undergoing significant change;
- developing a vision for the St Kilda Junction;
- developing an urban design framework for the St Kilda Road North – Anzac Station precinct and surrounds.

Plan Melbourne 2017-50 includes a direction seeking to achieve and promote design excellence (Direction 4.2). It also flags the opportunity for councils to facilitate well-designed, high-density residential developments through flexible controls that maximise development opportunities.

The Port Phillip Planning Scheme addresses urban design in a number of ways, for example through:

- MSS objectives and strategies on the built form of the city, including urban structure and character, urban design and the public realm and heritage (Clause 21.05);
- Urban design local planning policy for non-residential development and multi-unit residential development (Clause 22.06);

# Audit Report

- Built form policy and controls for specific areas in various schedules to the Design and Development Overlay;
- Guidance through the Scheme's reference documents - Port Phillip Design Manual, Urban Iconography Study and various structure plans and urban design frameworks.

## Local context

The strong population growth projected for the City of Port Phillip will increase demand for new higher-density buildings in accessible locations. The design of the built environment affects how people live, work and play. Good design and planning is integral to shaping a compact city environment into places that are better for people.

In the past few years, Council has undertaken considerable strategic work on a place specific basis to plan for a number of high growth areas through developing strategic frameworks (structure plans, urban design frameworks, planning controls) for St Kilda Road North (2014), St Kilda Road South (2016) and the Carlisle Street Activity Centre (2009).

The Scheme benefits from the most extensive built form controls out of any planning scheme outside of the CBD.

## Feedback

A strong theme in feedback from Council officers was a lack of clarity on the design vision for some parts of the City, uncertainty about what constitutes design excellence, concern around the extent of discretion in built form controls and repetition and complex design controls (DDOs).

## Analysis

The MSS contains high-level strategies on reinforcing and protecting key elements of the City's overall urban structure and physical character, however it does not fully define this structure or how it can be fostered.

Some parts of the City have clear and detailed design policy in the form of structure plans or urban design frameworks, with a corresponding design vision and suite of planning policy/controls (e.g. area-based policy in the MSS and built form controls in the DDOs).

However from a municipal-wide perspective, there is a number of ageing and disparate design-related reference documents and design controls that do not provide a cohesive, clear or current vision.

## Opportunities

Despite benefiting from very thorough and extensive design controls, planning for growth in the City would benefit from a more cohesive overall vision like a city-wide spatial plan or urban design framework to assist more consistent, longer-term planning.

A spatial plan would:

- articulate Port Phillip's distinctive urban structure and character
- acknowledge a hierarchy of key streets and activity centres
- identify key boulevards, views, landmarks, landscape, open space, historic street patterns and heritage places.

Benefits of a spatial plan include:

- providing the context for planning, prioritising and assessing built form, infrastructure, public space and land use outcomes



# Audit Report

- solving issues at a strategic city-wide scale, with growth derived from the desired built form outcome
- ability to facilitate well-designed, high-density development by considering the City holistically and at a range of scales
- informing detailed planning for local areas to assist in achieving more considered and robust outcomes that assist in longer-term planning.

However, more detailed planning for key high growth locations will still be required, and should be monitored over time and improved where necessary. These more detailed place based strategies could use the overarching framework as a basis, providing a greater level of consistency in the design approach across the municipality while still allowing for local points of difference.

Refer to section 11.2.4 (neighbourhood character) for a discussion on providing a clearer, overall vision for the municipality in terms of preferred future character.

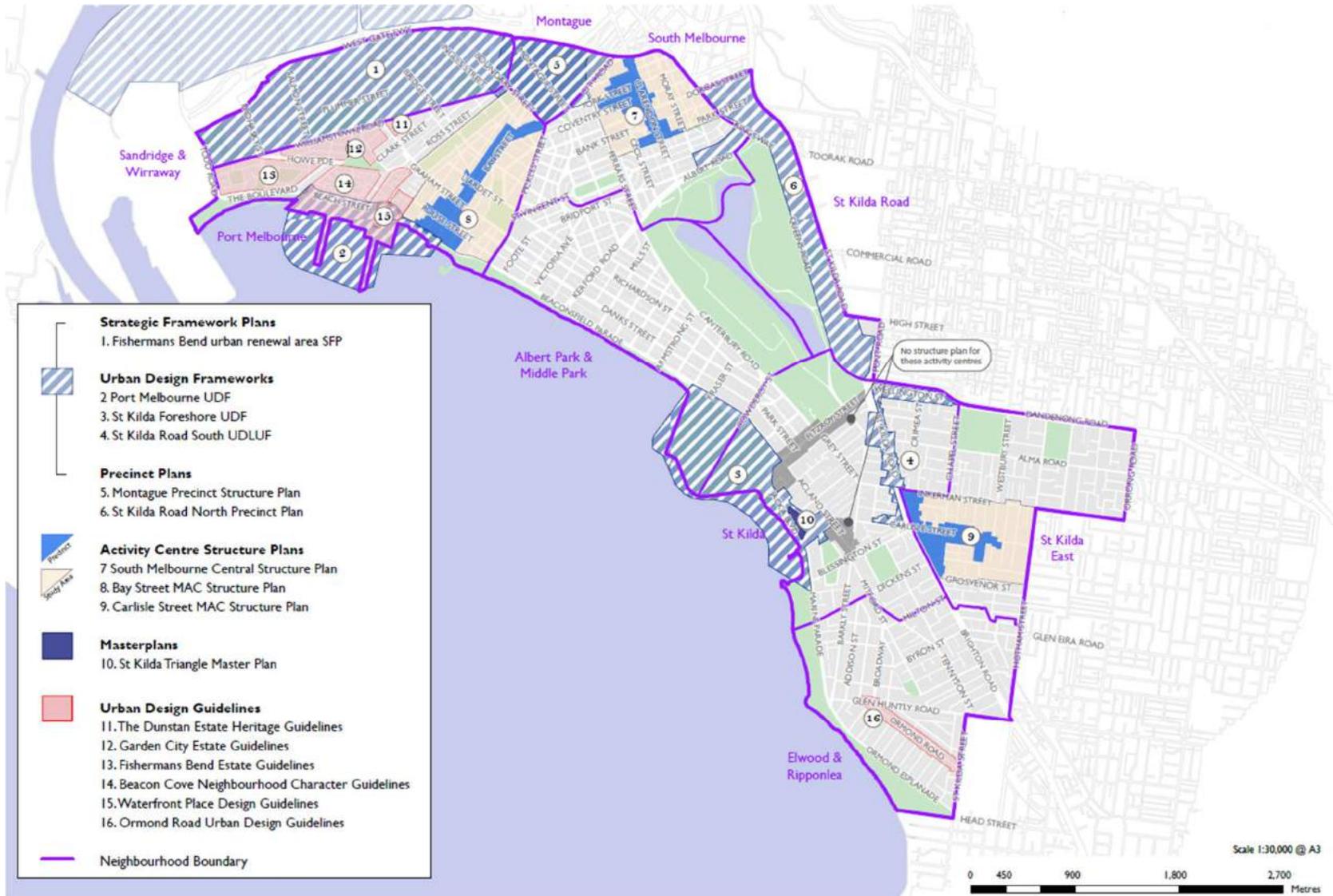
## **Recommendation 9:**

Create a city-wide spatial plan to:

- better define the City's urban structure and character at both a city-wide and local level
- integrate spatial elements of key strategies such as the Integrated Transport Strategy and Public Spaces Strategy
- protect key features of the City's urban structure and character.

# Audit Report

Figure 8 – Current planning framework for managing growth





## 11.2.2 Design excellence

### Policy context

Clause 22.04 (Heritage Policy) of the Scheme requires Council officers to assess a building's design excellence when assessing the quality of new development in a heritage overlay.

At the state level, a lot of recent work has progressed on apartment design, including:

- The apartment design standards (in Clause 55.07 and 58 and the reference document - Apartment Design Guidelines for Victoria) addresses apartment amenity.
- The Urban Design Guidelines for Victoria (reference document) addresses activity areas design, higher density residential development infrastructure design, large format retail premises, urban development design, physical activity design and public spaces design.

Design excellence is not defined in the Scheme, however the objective of the Clause 22.04 (Heritage Policy) includes the following parameters:

*“To promote design excellence (in terms of building siting, scale, massing, articulation and materials) which clearly and positively supports the heritage significance of all Heritage Overlay areas.”*

Plan Melbourne 2017-50 includes a direction seeking to achieve and promote design excellence (Direction 4.2).

### Feedback

Feedback from Council officers indicated that design excellence has proven difficult to quantify due to its subjective nature. To combat this, defining more measurable parameters was identified as a key priority.

The concept of design excellence has been debated in a number of VCAT decisions where a commonly held view was that it was the ability of a design to take into account the statutory and contextual constraints of a site<sup>13</sup>.

### Opportunities

Given the subjective nature of 'design excellence', the New South Wales Office of the Government Architect has released 'Better Placed' (September 2016). Better Placed seeks to shift the focus on measuring design excellence through a wider lens of integrating best practice planning, design, sustainability, engineering, materials and maintenance.

It may be useful for Council to consider better defining 'design excellence' and reviewing the efficacy of the Better Apartments standards and guidelines in influencing good design outcomes once some time has passed to determine if there is any policy gap at a local level.

### Recommendation 10:

Review urban design policy to clarify 'design excellence'.

---

<sup>13</sup> Becton Corporation Ltd v Port Phillip CC [2003] VCAT 1066 (22 August 2003) & Montezuma Developments Pty Ltd v Port Phillip CC [2016] VCAT 876 (6 June 2016)

# Audit Report

## 11.2.3 Built form controls

### Discretionary / mandatory requirements

Planning built form controls for activity centres or high growth areas requires Council to consider the most appropriate balance between using performance-based (discretionary) or controls-based (mandatory) planning requirements.

On one hand, mandatory requirements ensure minimum or maximum standards are achieved to ensure new development is of an appropriate scale and provides certainty to both the community and developers. On the other hand, its mandatory nature can lock out good design outcomes, prevent site responsive design and result in generic buildings built to maximum height and setback requirements.

Discretionary requirements provide enough flexibility for Council to consider each proposal on its merits, but don't guarantee maximum or minimum standards will be complied with.

Built form controls must seek a balance between preventing inappropriate design and allowing more innovative designs with high quality architecture.

### Policy context

Built form controls are typically expressed as either mandatory (must comply) or discretionary (should comply) requirements within a Design and Development Overlay. There are now also mandatory height controls within some of the zones, for example the Neighbourhood Residential Zone and General Residential Zone in relation to heights and building site coverage (known as 'garden area').

### Panels

The Planning Panels Victoria have adopted a cautionary approach to endorsing mandatory controls, emphasising the need for a more balanced approach to 'managing growth'.

*"... the [planning authority's] emphasis on managing 'development pressure' has led to restrictive built form requirements that do not recognise either the reality of recent development at greater scale or optimise the opportunity presented for urban renewal<sup>14</sup>"*

Panels have generally supported some mandatory controls in areas with strong strategic justification, however they often recommended downgrading some controls to discretionary or increasing the scale of development permissible (e.g. increasing maximum mandatory heights from 3 to 5 storeys). As part of their recommendations in this regard, they have generally cited the need for increased flexibility to allow for identified built form outcomes and more contextual designs to emerge through the planning permit process.

In general, Panel reports tended to favour mandatory street wall heights and setbacks of upper floor levels to ensure podiums create a human scale street, without placing an absolute limit on the development potential of sites.

### VCAT

VCAT members have also been critical on an over reliance mandatory controls citing that they can often appear arbitrary. They have tended to subscribe to the view that the pursuit of certainty is unlikely to produce consistently good development outcomes.

---

<sup>14</sup> Amendment C122 Panel Report – St Kilda Road South Precinct (June 2017)



The following outline VCAT's concerns with the overuse of mandatory tools:

- No flexibility to permit an innovative design that clearly meets the spirit of the control but fails to meet the letter of the law<sup>15</sup>.
- The blunt application of mandatory controls without regard to site context can result in a wasted opportunity and inefficient use of sites well suited for change<sup>16</sup>.
- Variable setbacks provide better development outcomes by striking a reasonable balance between protecting amenity and maintaining equitable development opportunities<sup>17</sup>.
- Reliance on mandatory, often arbitrary minimum standards, is unlikely to consistently produce building designs that respond to their context<sup>18</sup>.

In assessing a proposal against discretionary controls, VCAT often gave careful consideration to a site's context and the proposed design response when deciding to permit a variation to the policy.

## Analysis

While mandatory built form controls will be necessary to achieve desired built form outcomes in some areas, Council should be careful when imposing 'blanket' or uniform height controls as they could result in:

- arbitrary controls with unclear strategic justification
- controls that date quickly as a result of misjudging development capacity or growth pressure
- inflexible controls that reduce Council's ability to consider each proposal on its merits or allow good design outcomes.

Risks of these outcomes include Council having to expend significant resources and time in revising built form controls to account for unexpected circumstances.

## Opportunities

Detailed urban design analysis and modelling of controls should be undertaken for various lot sizes within the precincts to demonstrate potential development outcomes as a result of proposed design controls. This will help Council to pre-empt any site-specific issues.

Alternative built form controls should be considered for areas under significant redevelopment pressure that feature a diverse built form and lot sizes. For example, a combination of Floor Area Ratios (FARs) with accompanying built form controls (e.g. mandatory street wall height and side setbacks such as is proposed for Fishermans Bend) may provide a more sophisticated and site-responsive design framework in some locations. FARs can help to control the density of a development by tying its scale to the size of the lot. When used in combination with other built form controls, they can result in more site and context-responsive proposals and allow for a greater diversity of building typologies.

---

<sup>15</sup> Becton Corporation Ltd v Port Phillip CC [2003] VCAT 1066 (22 August 2003) & Montezuma Developments Pty Ltd v Port Phillip CC [2016] VCAT 876 (6 June 2016)

<sup>16</sup> Hocking v Port Phillip CC [2015] VCAT 124 (12 February 2016)

<sup>17</sup> 7 Bowen Crescent Developments Pty Ltd v Port Phillip CC [2016] VCAT 1576 (15 September 2016)

<sup>18</sup> Lintime Pty Ltd v Port Phillip CC [2015] VCAT 1244 (4 August 2015)

# Audit Report

Strengthening the urban design local planning policy (Clause 22.06) to address common design issues, and removing some of the repetitive content in DDOs should also be considered.

Alongside policy and guidance, Council should consider the role of its resources and processes in facilitating good design outcomes including:

- Creating a spatial plan to provide a more holistic city-wide built-form vision.
- Obtaining effective 3D modelling software and developing an interactive model of the City to better understand and communicate the impacts of proposed developments (including cumulative applications).
- Consider process improvements of providing consistent and effective advice at the pre-application meetings (potentially as a 2-step process) and establishing a design review panel to assess larger developments.
- Identifying design issues in recent developments to analyse the effectiveness of current policy and processes.
- Collaborating closely with DELWP on Fishermans Bend development proposals to elevate the culture and discourse around quality design outcomes.

See review of DDOs at section 12.3.2 for more feedback on built form issues.

## 11.2.4 Neighbourhood character

Ensuring new development respects valued neighbourhood character is a fundamental objective of planning in Victoria. The Act contains an overarching objective to conserve and enhance those areas which are of aesthetic, architectural, historical or cultural interest to the community.

Neighbourhood character is integral to the fabric of the City and is part of what makes Port Phillip a great place to live, work and recreate. It is also a highly contested and elusive concept, making it important that both Council, the community and applicants have a common understanding about the key features of neighbourhood character.

One of Council's key objectives is to create a City of diverse and distinctive neighbourhoods and places through ensuring new development integrates with, respects and contributes to the unique heritage, character and beauty of our neighbourhoods (Outcome 4.2 of the Council Plan 2017-27).

### Current framework

There are a number of ways the Scheme currently addresses neighbourhood character:

- MSS policy on urban structure and character, seeking to reinforce key elements of the City's overall urban structure by requiring new development to respect the character of the local area (Clause 21.05).
- The Port Phillip Design Manual (2000) contains neighbourhood character descriptions for each area and is a reference document in the Scheme.
- Relevant structure plans or urban design frameworks for specific areas are reference documents, with key policies incorporated into the neighbourhoods section of the MSS.
- Design and Development Overlays – often contain neighbourhood character policies and provisions that apply to specific areas.
- Heritage Overlay - protect heritage values that contribute to the neighbourhood character values of an area.



- The Neighbourhood Character Map identifies contributory heritage places outside the Heritage Overlay (in the Port Phillip Heritage Review incorporated document).
- The standard Rescode provisions (Clauses 54, 55 and 56) require neighbourhood character to be assessed for all residential development applications.
- The Neighbourhood Character Overlay applies to the Beacon Cove area.

## Feedback

### VCAT

A number of key themes were apparent in the analysis of neighbourhood character policy, including the current outdated and inconsistent neighbourhood policy framework and its lack of relevance to mixed-character neighbourhoods and diverse streetscapes.

#### Lack of clear guidance

The VCAT analysis (see Appendix 4 for detail) revealed a number of cases where the Tribunal disagreed with Council's objection to proposals on the grounds of neighbourhood character, particularly in areas where character was mixed. In some instances, the Tribunal was critical of the guidance (or lack thereof) provided on neighbourhood character.

In the Wright decision<sup>19</sup>, the Tribunal disagreed with Council's decision to refuse a permit on neighbourhood character grounds given the lack of a single, notable character in the area. In this case the Tribunal considered that, in diverse areas, Strategy 7.5 of Clause 21.05-2 sends the clear message that it is content to assess each proposal on its merits.<sup>20</sup>

In another decision<sup>21</sup> on a dual-occupancy development in Balaclava, VCAT noted the preferred character statements as being unhelpful and inconsistent with the vision for areas earmarked for a higher intensity of growth in the Carlisle Street Activity Centre Structure Plan.

In the absence of sufficient guidance the Tribunal made reference to its own observations to determine neighbourhood character, particularly at the more detailed streetscape level.

#### Respecting the prevailing streetscape character

MSS neighbourhood character policy encourages residential development to respect and be consistent with the prevailing streetscape character. The policy provides a preferred maximum height for residential development in the context of the immediately adjoining dwelling (Strategy 7.5, Clause 21.05-2).

A number of VCAT decisions<sup>22</sup> have disregarded this policy, and looked at the broader context, particularly where the street has more diverse building typologies and eras, sometimes finding that there was no prevailing pattern of siting or built form.

---

<sup>19</sup> Peter Wright & Associates v Port Phillip CC [2013].

<sup>20</sup> Peter Wright & Associates Pty Ltd v Port Phillip CC & Ors [2013] VCAT 1396 (8 August 2013)

<sup>21</sup> Justin v Port Phillip CC [2013] VCAT 2205 (17 May 2013)

<sup>22</sup> Padelas v Port Phillip CC (Correction) [2015] VCAT 116 (10 February 2015), UI Dickens Street Pty Ltd v Port Phillip CC & Ors [2013] VCAT 1218 (16 July 2013)

# Audit Report

Another decision<sup>23</sup> used this policy when affirming Council's decision to refuse a four-storey building given its massing, however they noted a more appropriate fourth level was possible with a greater setback and recessive design.

Another case noted that, despite attempting to distinguish between consistent and diverse streetscapes, the policy is the same in terms of the preferred height<sup>24</sup>. The only point of difference is that consistent streetscapes should ensure the upper level does not dominate the streetscape.

## Consultation

Feedback from Council officers in the workshops was generally positive on the performance of existing neighbourhood character policy. However, they indicated the character statements of the reference document – Port Phillip Design Manual need updating, with the more recent examples being more useful.

Feedback from the Regular Users Survey on neighbourhood character included the following responses critiquing policy applied to diverse streetscapes:

“It is a large area covering diverse neighbourhood characters lumped together under one expectation of design style.”

*“Ignores the diversity of building stock. Defaults to pretty Victorian era cottages as the development benchmark.”*

## Opportunities

### Strengthening neighbourhood character policy

Overall, the current policy framework for neighbourhood character is working well to protect areas of heritage value and consistent neighbourhood character. However, the framework is less clear for those areas of mixed character or areas intended to cater for a higher level of growth.

All areas have a character, yet it is more obvious or attractive in some areas than others. If a change in the character of an area is anticipated or sought, then this should be set out in a statement of the area's preferred future character.

Currently, the Scheme has an inconsistent and outdated approach for neighbourhood character across the municipality with many areas lacking preferred character statements. This is particularly beneficial for areas with a more diverse character that is common to many parts of Port Phillip.

A municipal-wide approach to addressing neighbourhood character should be considered when developing a new Housing Strategy.

### Contributory heritage places outside of a heritage overlay

*Port Phillip has over 3000 properties identified on the Neighbourhood Character Map as 'Contributory Heritage Places outside of a Heritage Overlay'.*

These are properties that are located outside of a Heritage Overlay (HO) that have contributory heritage significance, but are located in areas not deemed to be sufficiently

---

<sup>23</sup>Kaazam Developments Vic Pty Ltd v Port Phillip CC [2013] VCAT 1565 (6 September 2013)

<sup>24</sup>Wang v Port Phillip CC [2016] VCAT 193 (16 February 2016)



# Audit Report

intact to warrant the application of a precinct based HO, or significant enough in their own right to justify a site-specific HO.

Council's policy towards these properties has often been the subject of debate when deciding on applications for redevelopment. In one case, VCAT found that the MSS objective to protect and enhance the varied, distinctive and valued character of neighbourhoods across Port Phillip had no specific bearing on its decision to allow a redevelopment of a contributory property outside of the HO (see Appendix 4 for more detail regarding the analysis of VCAT decisions).

These properties are not protected from demolition, compared to properties in the heritage overlay which require a planning permit to demolish a building. A property's contributory heritage status is mainly considered when assessing whether an application for new development on an adjoining site respects neighbourhood character. The policy does not clearly identify how new development must respond to this designation, particularly given neighbourhood character considerations are part of the permit process.

There are also some contributory properties that may be more suitable for protection under the Heritage Overlay – see section 11.2.5 (heritage issues and gaps).

## Updating the Port Phillip Design Manual 2000

The neighbourhood character descriptions in the Port Phillip Design Manual 2000 were based on the Port Phillip Urban Character Study 1998. Although heritage and other aspects of neighbourhood character are longstanding, at almost 20 years since being written, there are some areas that have changed over time and have altered characteristics. There is a risk that out-of-date statements may cause VCAT afford them less decision-making weight.

The 2006 Planning Scheme Review also identified an inconsistency of the urban character assumptions in the Design Manual - which was not working well in mixed character areas, or where change was desired. However, the Review Report questioned whether it was an effective use of Council's resources to 'redo' the municipal-wide character study. It recommended a future review of Neighbourhood Character Frameworks for areas not covered by the HO or DDO. Work to date has been focused on new character statements for the Carlisle Street and Bay Street Activity Centres in association with their structure plans due to their status as higher-growth areas under the housing policy.

Importantly, there are few preferred neighbourhood character statements that accompany the existing character descriptions in the Design Manual. Outlining the preferred future character of an area is particularly important for those facing high-growth, or where a change in character is sought or mixed character is evident.

Progressively updating the neighbourhood character statements for areas that have been subject to change, and are most likely to be subject to change should be part of Council's future work program.

## Local Planning Policy

There is the opportunity for more comprehensive local planning policy to incorporate preferred neighbourhood character statements into the Scheme across the municipality and outline neighbourhood character objectives for particular areas that have clear intended outcomes. Currently, the Port Phillip Design Manual is a reference document (not part of the scheme) and it contains few preferred character statements.

The Scheme previously had a Residential Neighbourhood Character Local Policy that was removed in the 2006 Review to reduce the level of duplication between the MSS and local policies. This was due to the high-level nature of the policy at the time.

# Audit Report

The development of new policy on neighbourhood character, as a comprehensive breakdown of the municipality's different areas and existing/preferred neighbourhood character should be considered in a future Neighbourhood Character Review.

## **Neighbourhood character – zones and overlays**

Although the Neighbourhood Character Overlay is applied to the Beacon Cove in Port Melbourne, the use of a Neighbourhood Character Overlay more broadly to areas (outside of Heritage Overlay areas) should only be considered when there are specific characteristics of an area that are not being adequately catered for through policy, or the standard Rescode provisions and a strengthened policy approach would be more suitable.

A number of the Design and Development Overlays (DDOs) contain preferred character statements for activity centres alongside design objectives and requirements.

The new residential zones schedules provide an opportunity for Council to include neighbourhood character statements, however, these will be broad in nature given the expanse of land within each zone schedule. They also provide the opportunity to increase maximum mandatory heights and to vary Rescode standards like minimum setbacks, site coverage, permeability, landscaping and private open space.

Any use of the residential zone schedules to protect neighbourhood character requires a detailed strategic analysis and justification and should be considered as part of a revised Housing Strategy or Neighbourhood Character Review.

See section 11.6.1 (housing strategy) for further discussion on the role of a new housing strategy in protecting neighbourhood character.

See section 11.3.4 (environmental risks - enhancing landscape character) for a discussion on the landscape character of neighbourhoods.

## **Impact of residential zones reform**

There may be implications for neighbourhood character policy from the latest changes to the residential zones (Amendment VC110, March 2017) which introduced a garden area requirement to replace the density control for lots over 400m<sup>2</sup>.

The majority of Port Phillip's fine-grain, historic residential areas have lots less than 400m<sup>2</sup> in size, however some areas with larger lots may be affected – like Ripponlea, Elwood, St Kilda East and St Kilda.

This may affect the way new multi-unit developments are designed, where reduced building footprints could increase the bulk of buildings at upper levels. This would place greater weight on the role of MSS's neighbourhood character policy (or heritage controls) to protect valued characteristics of these areas.

## **Recommendation 11:**

Review Port Phillip's neighbourhood character policy to better articulate Council's preferred vision.

## **Recommendation 12:**

Consider the need to retain the 'Contributory Heritage Places outside of the Heritage Overlay' designation for properties not suitable for a heritage overlay and alternative ways to protect neighbourhood character of residential areas.



# Audit Report

A review of Council's heritage framework is timely in the context of the significant growth and development projected for the City of Port Phillip, and a renewed focus on heritage within Council and the community.

Plan Melbourne 2017-50 identifies that decisions that affect heritage places should recognise the value of heritage when managing growth and change (Policy 4.4.1) with the periodic identification and review of currently unprotected heritage sites and targeted assessments in areas facing substantial change.

Outcome 4.2 of Council's Council Plan 2017-27 seeks to create a City of diverse and distinctive neighbourhoods and places through protecting heritage places that represent our historic, social, cultural and architectural identity and ensuring new development integrates with, respects and contributes to the unique heritage, character and beauty of our neighbourhoods.

Council priorities include:

- implementing a program to strengthen heritage controls including; assessing sites of cultural and social significance
- implementing the review of Heritage Overlay 6 (East St Kilda) through the planning scheme
- reviewing the Heritage Policy in the Port Phillip Planning Scheme to improve guidance on the retention and adaptive reuse of the City's heritage fabric (residential, commercial, retail and industrial).

## Background to Port Phillip's heritage framework

The Port Phillip Heritage Review (the Heritage Review) is an Incorporated Document in the Port Phillip Planning Scheme and forms the framework for Council's approach to heritage.

The Heritage Review was developed following fieldwork and a study undertaken by Andrew Ward and Associates between 1997- 98 (the Ward Study). The review built upon a number of previous heritage studies<sup>25</sup> undertaken by the former municipalities of Port Melbourne, South Melbourne and St Kilda. The Ward study used traditional A to F grading system that Andrew Ward used in his field work that was prevalent prior to the introduction of the New Format Planning Schemes in 1999. This was translated into a three part classification system, which is defined in and applied through Clause 22.04 (Heritage Policy) of the Port Phillip Planning Scheme.

The three part classification system is defined as follows:

- **“Significant Heritage Places** include buildings and surrounds that are individually important places of either State, regional or local heritage significance or are places that together within an identified area, are part of the significance of a Heritage Overlay. These places are included in a Heritage Overlay either as an area or as an individually listed heritage place and are coloured “red” on the City of Port Phillip Heritage Policy Map in the Port Phillip Heritage Review, Volume 1-6.”

---

<sup>25</sup> South Melbourne Conservation Study (1975), Port Melbourne Conservation Study (1979), South Melbourne Conservation Study (1987), St Kilda Conservation Study Area 1 (1982), St Kilda Conservation Study Area 2 (1985), City of St Kilda Twentieth Century Architectural Study (1992), Port Melbourne Conservation Study Review (1995).



# Audit Report

- **“Contributory Heritage Places** include buildings and surrounds that are representative heritage places of local significance which contribute to the significance of a Heritage Overlay. They may have been considerably altered but have the potential to be conserved. They are included in a Heritage Overlay and are coloured “green” on the City of Port Phillip Heritage Policy Map, in the Port Phillip Heritage Review, Volume 1-6.”
- **“Non-contributory properties** are buildings that are neither significant nor contributory. They are included in a Heritage Overlay and have no colour on the City of Port Phillip Heritage Policy Map in the Port Phillip Heritage Review, Volume 1-6. However any new development on these sites may impact on the significance of the Heritage Overlay, and should therefore consider the heritage characteristics of any adjoining heritage place and the streetscape as covered in this policy.”

Over time, Council has undertaken further heritage studies (of both precincts and individual sites) to further develop, verify and refine this earlier work, including precinct review in Swallow Street (2004), East St Kilda (2004), Elwood (2005), City Road Industrial Precinct (2005), Nightingale Street (2008), Heritage Overlay 3 (2009/10), Heritage Overlay 1 (2011) and Heritage Overlay 6 (2016 – not yet implemented).

## Heritage issues and gaps

The former heritage grading system used for our Heritage Review doesn't directly align with the current acceptable methodology for applying the heritage overlay – through recognised heritage criteria and the process set out in the Australia ICOMOS Burra Charter 2013.

Both the broad nature of the 1998 Heritage Study and the evolution in acceptable heritage assessment methodology over time has resulted in a number of gaps and inconsistencies within the Port Phillip heritage policy framework.

There is the opportunity for Council to review the suite of heritage provisions to systematically identify gaps and respond to them. The substantial level of work required to will necessitate an incremental, continuous improvement and risk-based approach, prioritising the high-risk areas and issues first.

Council is in the process of developing a four-year heritage program to address concerns about growth and Council's alignment with the community on the conservation of properties of heritage values across the municipality.

The development and implementation of a four-year heritage program will:

- Consider emerging issues and challenges relating to the pressures of development and its impact on heritage places.
- Engage with the community to better understand what the community values and considers to be of significance.
- Provide for a more proactive and holistic approach to identifying and protecting new heritage sites within the municipality.

The scope of the four-year heritage program will include recommendations of this report.

## Updating the Port Phillip Heritage Review

Feedback from the council officer workshops raised a number of issues with maintaining and updating the Port Phillip Heritage Review (Incorporated Document) which is an important part of the Council's heritage policy framework.

The Heritage Review requires a number of updates including:

### Heritage themes

# Audit Report

A wider review of the thematic history should be undertaken first to establish any gaps in the historical context and to provide a basis for undertaking a detailed review of gaps, precincts and citations. The thematic review should also consider post-war properties (i.e. properties constructed after World War II).

## **Individual place citations**

Feedback from the workshop identified Council has not been maintaining individual property heritage citations within the Port Phillip Heritage Review (Incorporated Document). There are many basic older citations in need of updating – for example, some require a description, comparative analysis and a new statement of significance.

## **Heritage precinct boundaries**

Feedback from the Planning Panels Review of the Elwood Heritage Precinct Review (HO8) was that the thematic history of the Heritage Review should be revised to include statements as to what sections of that history are of sufficient importance to justify the preservation of individual places and precincts, and what criteria should be adopted to identify appropriate places for these important themes.

The Panel for the Fishermans Bend Heritage Review in 2016 (Amendment C117) recommended that including a number of proposed HO properties in the pre-existing Albert Park heritage precinct (HO442) was not appropriate as they do not relate to the area. The Panel recommended Council review the Montague slum precinct for potential heritage significance on its own right instead.

## **Recommendation 14:**

Update the thematic history in the Port Phillip Heritage Review to addressing any heritage gaps.

## **Recommendation 15:**

Review heritage overlay precincts HO6 (part St Kilda/East St Kilda), (HO5 St Kilda Hill), HO7 (parts Elwood, Balaclava, Ripponlea) and HO8 (Elwood) and the Montague Precinct.

## **Recommendation 16:**

Progressively review older individual heritage citations to ensure they meet the current criteria for establishing heritage significance.

## **Contributory heritage places outside the HO**

One of the gaps 'hot spots' includes the 'Contributory heritage places' that are located outside of the heritage overlay. These places were not afforded heritage protection in the original Review as they are located outside areas deemed to be sufficiently intact to warrant a precinct based Heritage Overlay, however this requires review in light of current heritage methodology.

Council has had a recent experience reacting to the proposed demolitions of a number of properties where their significant heritage status was identified at the time the property was proposed to be redeveloped. This includes recent proposed amendments for the London Hotel and a single dwelling in Port Melbourne.

This type of reactive and ad-hoc action by Council to prepare last-minute heritage studies, amendment documents to introduce interim and permanent heritage controls is time-consuming, resource-intensive and at risk of failure.



# Audit Report

## Feedback

Feedback from Council officers in the workshops agreed that the status of these properties is ambiguous and does not provide certainty to property owners, prospective purchasers or Council officers.

Respondents for the Planning Scheme Users Survey also noted gaps and inconsistencies in the heritage policy framework:

“Heritage citations and overlays drastically out of date. For example modern replacement buildings still have a citation as significant Heritage buildings. Overlays etc. need a detailed review.”

## Opportunities

Consequently, Council should consider ways it can utilise its resources more efficiently and effectively in identifying gaps in the Heritage Overlay.

One way Council can do this is by undertaking a review of all properties identified as ‘Contributory Heritage Places outside of the Heritage Overlay’ to determine which, if any, warrant inclusion in the Heritage Overlay.

This process would determine whether any of these properties earmarked for their heritage values in the past will meet the current-day criteria for heritage significance, thereby addressing the most pressing potential gaps within our Heritage Overlay.

### Recommendation 17:

Undertake a review of all properties identified as ‘Contributory Heritage Places outside of the Heritage Overlay’ to determine whether any warrant inclusion within the Heritage Overlay.

## Social significance

The City has recently lost two prominent buildings of social heritage significance in the municipality (the London Hotel, Port Melbourne and Greyhound Hotel, St Kilda) which were not protected from demolition by the Heritage Overlay. Despite Council’s attempts at seeking interim and permanent heritage protection, the Minister for Planning refused in both instances citing the following reasons:

- Council allowed a building permit for demolition to be issued;
- the social significance of the heritage place was not established beyond reasonable doubt;
- there may be other non-statutory means of recognising the hotels historic (cultural) and social significance.

Currently, there is ambiguity around how social significance is identified and treated in the planning system. Council should explore this issue further through a municipal-wide social heritage assessment that also explores whether the heritage overlay, or an alternative means is the appropriate way to recognise social heritage significance.

### Recommendation 18:

Undertake a city-wide social heritage assessment.

## Heritage & flooding

A Special Building Overlay (SBO) affects land liable to flood in a 1 in 100 year event due to overland flow paths from the stormwater drainage system. An SBO often requires new

# Audit Report

development to raise habitable floor levels above stormwater flows to maintain its free passage and to minimise flood damage to property.

Councillors raised concerns about the effect of the SBO's requirement to raise floor levels (and thus building heights) on heritage precincts. Feedback from Council's heritage officers indicate that poor design outcomes can be negotiated through the planning permit process.

Further, upper level extensions within Heritage Overlay areas are still possible despite raised floor level requirements under the SBO. A practical approach is taken by Council officers in applying the 10 degree sightline (a performance measure in Clause 22.04 - Heritage Policy) in areas affected by an SBO to balance these different objectives.

It may be useful to consider incorporating further design guidance for SBO affected properties in the development of any heritage design guidelines.

## 11.2.6 Aboriginal cultural heritage

### Background

Before the arrival of Europeans in 1835, the City of Port Phillip area was managed by the Yalukit Weelam clan of the Boon Wurrung people or language group, meaning 'river home' or 'people of the river'. The local area has changed vastly since European occupation but it was once a kind of 'temperate Kakadu' surrounded by sea, river, creeks, lakes and lagoons. Between the sea and the river was a score of wetlands surrounded by dunes, heath, woodlands, salt marsh and beach."<sup>26</sup>

Several contemporary sites of interest in Port Phillip occupy locations that were first significant to the Boon Wurrung, the First Peoples of Port Phillip. These sites include:

- Ngargee Tree is a 300-500 year old River Red Gum in Albert Park, St Kilda which was a significant Corroboree Tree and junction for walking trails;
- St Kilda Town Hall sits on a natural spring and a former Boon Wurrung camp;
- St Kilda was known as Euro-Yroke, which means the 'grinding stone place', with the Esplanade once a stone quarry for tool making;
- Point Ormond Hill is a remnant of what was once a striking rocky headland called Little Red Bluff, which was a high placed used as an outlook and defensive location;
- Emerald Hill, now the site of South Melbourne Town Hall, which was a significant local site to engage in ceremonies and trade.

### Policy context

Outcome 1.4 of the Council Plan 2017-27 is about celebrating and valuing community diversity and social inclusion by protecting and promoting Aboriginal culture and heritage and continuing reconciliation with our Indigenous community. This includes developing and implementing the Council's second Reconciliation Action Plan 2017-2019 and updating the Aboriginal and Torres Strait Islander Arts Plan.

Council's Reconciliation Action Plan 2017-19 (RAP) includes the following actions:

- Develop and maintain mutually beneficial relationships with Traditional Owners, Aboriginal and Torres Strait Islander peoples, communities and organisations.

---

<sup>26</sup> Eidelson 2015 Yalukit Willam, The River People of Port Phillip; City of Port Phillip



- Support the protection and recognition of the cultural and intellectual property of the Boon Wurrung people during the planning phase of the Fishermans Bend Urban Renewal Area.
- Update the Municipal Strategic Statement in the Port Phillip Planning Scheme to reinforce the importance of protecting places of Aboriginal cultural heritage. This includes facilitating stakeholder input into the review and incorporating policy objectives for identifying and protecting places of Aboriginal cultural heritage significance in the Fishermans Bend Urban Renewal Area.

Policy 4.4.2 of Plan Melbourne 2017-50 aims to respect and protect Melbourne's Aboriginal cultural heritage. The Plan also seeks to protect Melbourne's heritage through telling its stories (Policy 4.4.4)

## Aboriginal Heritage Act Requirements

As a responsible authority for planning permits, Council has an obligation under the *Aboriginal Heritage Act 2006* to check whether a Cultural Heritage Management Plan (CHMP) is required, and to only grant a planning permit that is consistent with an approved CHMP.

Generally, a CHMP is required for development in areas of Aboriginal cultural heritage sensitivity for development applications with high impact activities, like the construction of three or more dwellings or activities or buildings and works that result in significant ground disturbance as is common in Port Phillip. A CHMP may not be required, however, where land has already been subject to significant ground disturbance, like deep soil ripping, filling, underground tanks and basements.

A permit applicant is responsible for establishing whether a project requires a CHMP, and for undertaking one.

The Act was amended in 2016 (Aboriginal Heritage Amendment Act 2016) to improve the reporting requirements in relation to Aboriginal cultural heritage, including new measures for managing intangible heritage, increased roles for Registered Aboriginal Parties and Traditional Owners and of providing greater enforcement regulations.

## Officer feedback

Feedback from Council officers indicates there is some uncertainty with regard to Council's obligations under the Act.

Council should ensure officers have access to information and training to ensure it is effectively fulfilling its duties under the Act to identify areas of 'cultural heritage sensitivity' within the municipality where a Cultural Heritage Management Plan (CHMP) will be required and for what type of development.

## Planning Scheme

The MSS contains an objective to protect and sensitively manage indigenous cultural heritage, with a number of strategies relating to Council's obligation under the Aboriginal Heritage Act 2006 and Regulations, to identify sites of indigenous cultural heritage significance (Clause 21.05-1). It also contains strategies supporting the use of installing interpretive infrastructure and indigenous plant species on sites and areas of Aboriginal cultural heritage.

The Heritage Overlay identifies two Aboriginal heritage places, including:

- Corroboree Tree, Albert Park (HO14)
- Point Ormond and Surrounding Landscape, Point Ormond Rd, Elwood (HO227)

# Audit Report

The Port Phillip Heritage Review (incorporated document in the Scheme) only addresses post-contact places of heritage significance and a horticultural study. To date, there has been no municipal Aboriginal cultural heritage study.

Some Aboriginal heritage places with material remains are suitable to be included in Heritage Overlay controls, as the Burra Charter encompasses the concept of 'Place' as embodied in the fabric and material remains of a place.

However broad protection of Aboriginal heritage places and areas of sensitivity (including those identified in the Heritage Overlay) is provided under the Aboriginal Heritage Act. A Register of Aboriginal Heritage sites is maintained by Aboriginal Affairs Victoria and Council has access to GIS mapping to identify sensitive sites.

## Opportunities

### New focus on telling stories

Planning and urban development practices do not typically acknowledge or include indigenous values, history or perspectives. There is an opportunity for Council, through planning and place-making to meaningfully engage with Indigenous communities to influence design outcomes and reflect indigenous values. The recently released Plan Melbourne 2017-50 provides policy support for development to reflect and celebrate cities and towns as indigenous places.

The MSS should be updated to reflect new strategies of Plan Melbourne 2017-50 which provide policy support for protecting Melbourne's intangible heritage through telling its stories (Policy 4.4.4). This includes supporting new and innovative ways to tell Melbourne's pre-contact heritage stories, through promoting the inclusion of Aboriginal urban design perspectives in new development (Policy 4.3.1), the arts, interpretive infrastructure, and cultural projects.

Aboriginal cultural values can be found in places of memory, ceremony and spirituality, stories and landmarks, archaeological sites, natural waterways and landforms and scarred trees. These values and perspectives can be adapted into the modern environment, through artistic expression, landscape design and architecture. Other outcomes can be more interactive, through the creation of public meeting and ceremonial spaces, cultural facilities and interpretive signage.

### Updating the MSS

The MSS should also be strengthened to better reflect Council's obligation to identify, assess, document and protect places of Aboriginal cultural heritage significance (in accordance with Clause 15.03-2 of the SPPF) and Council's Reconciliation Action Plan 2017-19 (RAP) Action 11.

Policy objectives should also be included for identifying and protecting places of Aboriginal cultural heritage significance in the Fishermans Bend Urban Renewal Area.

### Recommendation 19:

Update policy in the MSS relating to aboriginal cultural heritage to:

- better reflect Council's obligation to identify, assess and document places of historic, cultural and social significance
- support development that reflects Aboriginal values and urban design perspectives.



# Audit Report

## Municipal Aboriginal Cultural Heritage Study

Council has not yet undertaken a municipal Aboriginal Cultural Heritage Study/Strategy which would contribute towards Council's overall heritage management program.

Such a study would provide a comprehensive document detailing the City's tangible and intangible heritage, and potentially identifying further places of Aboriginal Heritage Significance in the Overlay.

An Aboriginal Cultural Values Interpretation Study has been undertaken by the State Government for the Fishermans Bend Urban Renewal Area to identify and understand the traditional, historic and contemporary cultural values and meanings in the FBURA. The scope of the municipal-wide Study could also include historical content for interpretive direction, principles and guidelines.

The scope of the study/strategy will need to be further refined, in consultation with the Aboriginal community. The following are potential benefits of a municipal Aboriginal cultural heritage study or strategy:

- providing an overview of Aboriginal cultural heritage within the City of Port Phillip
- reviewing existing and potential further sites of pre and post-contact Aboriginal heritage within the City
- providing a comprehensive record of all Aboriginal heritage places in the City
- conducting meaningful engagement with the Aboriginal community at early stages of the planning process
- providing a historical document to help inform interpretive infrastructure and inclusion of Aboriginal urban design perspectives in new development
- identify other actions for Council to celebrate and recognise the City's indigenous heritage.

### Recommendation 20:

Carry out a municipal Aboriginal cultural heritage study/strategy.

## Training for Council officers

In light of the limited understanding of Aboriginal cultural heritage processes identified by Council officers, Council should consider hosting a recurring awareness and training program or developing internal guidelines to improve understanding of Aboriginal cultural heritage sites and processes.

The program scope should consider addressing:

- understanding of the nature and location of Aboriginal cultural heritage sites within the City of Port Phillip
- the role of planning in protecting Aboriginal heritage sites
- Cultural Heritage Management Plans and the processes triggered under the *Aboriginal Heritage Act 2006*
- recent State policy on promoting interpretive infrastructure and Aboriginal urban design perspectives in development.

### Recommendation 21:

Consider training and/or developing guidelines to inform Council officers of Aboriginal cultural heritage sites and processes.

# Audit Report

## 11.3 Environment

The Council Plan 2017-27 is highly focused on delivering smart solutions for a sustainable future for the City (Direction 3) seeking a City that is greener, cooler and more liveable, has lower carbon emissions, is resilient to climate change, is water sensitive and achieves a sustained reduction in waste.

### 11.3.1 Environmentally Sustainable Development

One of Council's key priorities to promote the greening of our buildings through the application of environmentally sustainable development (ESD) planning policy and guidelines.

The Environmentally Sustainable Development Local Planning Policy was introduced into the scheme in November 2015 (Amendment C97) on an interim basis following a push by a number of Councils (Council Alliance for a Sustainable Built Environment - CASBE) to incorporate ESD into planning schemes to fill a state policy gap.

The ESD local policies seek to ensure that proposed developments are designed with the capacity of achieving best practice in addressing the principles of ESD from the design stage through to construction and operation.

The local policy requires development applicants to consider the following ESD categories:

- energy usage
- renewable energy generation
- water conservation
- sustainable stormwater management
- waste management
- urban ecology
- indoor environmental quality
- transport.

However, the ESD local planning policy will expire on 30 June 2019, or earlier if replaced by new state policy. The State Government has commitment to address ESD at the state level (Plan Melbourne Implementation Plan, Action 80 – Review of planning and building systems to support environmentally sustainable development outcomes).

The group of CASBE Councils is liaising with the State Government to monitor the performance of the policy and advocating for removal of the expiry date.

Also refer to section 12.2.13 for a review of Clause 22.13 - Environmentally Sustainable Development local planning policy.

#### **Opportunities**

Council can consider improving guidance and advice on how applicants can meet the objectives of the policy to achieve best-practice ESD outcomes in their development proposals.

#### **Recommendation 22:**

Continue to advocate to the Minister for Planning for a permanent Environmentally Sustainable Development Local Planning Policy, or an equivalent state-wide provision which



# Audit Report

maintains and builds upon the existing local policy and improve advice on how applicants can meet the best-practice ESD objectives of this policy.

## 11.3.2 Ecologically significant vegetation

### Policy context

Direction 6.5 of Plan Melbourne 2017-50 aims to protect and restore natural habitats by clearly articulating the spatial extent and management objectives of each part of the green network.

Outcome 3.1 of the Council Plan is to create a greener, cooler and more liveable City, by increasing canopy cover and diversity of tree species across our streets and open spaces. This City's commitment to maintaining its natural heritage and protect local biodiversity is reinforced by the Towards Zero Sustainable Environment Strategy (2007-2020).

The Greening Port Phillip Strategy (2010) recognises the role of the urban forest in supporting biodiversity by providing habitat for native flora and fauna. Actions include maintaining and strengthening wildlife corridors and increase habitat where appropriate.

### Local Laws

Significant trees are protected by local laws in Port Phillip, requiring a permit to prune or remove a significant tree or palm (Community Amenity Local Law No.1, Clause 44) which is reflected in the MSS.

### Planning Scheme

The Scheme currently has relatively limited policy on vegetation and biodiversity in the MSS:

- Clause 21.03 (Ecologically sustainable development) - Encouraging innovative landscape design that maximises biodiversity and uses indigenous and drought tolerant plant species.
- Clause 21.05-2 (Urban structure and character) – To maintain significant trees and vegetation as a key element of Port Phillip's character.

Other policies and controls in the Scheme that seek to protect mature trees:

- the Heritage Overlay (approximately 22 properties), if the tree controls are 'turned on' via the schedule and through an individual listing for the Corroboree Tree, Albert Park (HO14).
- ResCode standards encourage the retention of mature vegetation, including significant trees.
- Environmentally Significant Overlay (ESO) schedules applying to small parts of the municipality, remnant indigenous vegetation along the parts of the light rail, the Corroboree Tree in Albert Park, the West Beach Natural History Reserve.
- A Vegetation Protection Overlay (VPO) for one English Oak Tree in St Kilda.

### Local context

Since European arrival, native vegetation clearance has fundamentally altered the landscape of Port Phillip. Very little remnant vegetation now remains, however replanting efforts have been substantial leading to a number of significant sites of indigenous vegetation. Some native vegetation has also colonised environments such as rail lines and foredunes.

# Audit Report

## Feedback

Council officers raised the need for mechanisms in the planning scheme to assess biodiversity, particularly for private properties. Loss of vegetation and canopy cover will result in less biodiversity and habitat for native flora and fauna.

Another issue raised was the need to protect significant trees on private land from the effects of development such as basements intruding on root zones.

## Opportunities

### Ecologically significant vegetation

There are a number of indigenous vegetation sites – containing Grassy Woodland Plains and Coastal Dune Scrub that are not protected by planning controls, including:

- 
- Canterbury Road Urban Forest
- Sandridge Beach, Port Melbourne
- Point Ormond Reserve
- HR Johnson Reserve
- Elwood Foreshore
- Tea Tree Reserve

The sites identified of being ecologically significant are on land owned or managed by Council. However, the site's significant vegetation could be affected by buildings or works in the future, particularly with the intensification of uses in our parks and open spaces.

The ESO has broader applicability than the VPO and would be a suitable overlay to apply to sites of ecological significance. It can include a permit trigger for buildings and works.

This would provide a spatial representation and more transparent management of ecologically significant vegetation by outlining its extent and helping to mitigate incremental loss or damage from buildings or works.

### Significant trees

The MSS contains policy seeking to maintain significant trees and vegetation as a key element of Port Phillip's character, along with this being a standard of ResCode provisions. However, there are few formal tree controls (e.g. vegetation management overlays) within the municipality. Instead, Council relies on a local laws permit process for removing or pruning trees over a certain size.

Limitations of the current approach include:

- Policies seeking to retain mature vegetation have no statutory "teeth"
- The permit streams (local laws and planning permit) can sometimes result in contradictory permit decisions.
- There is essentially a duplicate assessment for situations where a planning permit is already required, given the local laws permit is still required.

There is the opportunity for Council to shift the protection of significant trees to the Scheme to proactively identify significant vegetation and trees. This process would involve an ecological study of the municipality to identify, assess (comparative analysis) and map significant vegetation to inform using planning scheme environmental management overlays (e.g. VPO, ESO) to protect significant trees, to supplement or replace the local laws process.

Benefits of this approach include



- raising the profile of significant tree protection, improving awareness and support (significant trees would be visible on planning scheme maps)
- reduce Council processes to one permit, if a planning permit is already triggered by the proposed buildings or works
- provide an upfront assessment of vegetation significance to better inform decision-making.

However, this approach may result in significant changes to the way Council's permit processes operate. Further work is required to determine the most suitable approach.

The Council Plan identifies the need for an Ecological Biodiversity Study to be carried out in the next four years. This study should feed into the application of any environment management overlays.

Also see section 11.3.4 on 'Cooling the City' by facilitating greater canopy cover and green infrastructure.

### **Recommendation 23:**

Apply the Environmental Significance Overlay to sites of biological significance to raise their profile and minimise the loss of significant vegetation.

### **Recommendation 24:**

Explore the benefit of using the planning scheme provisions over local laws to protect significant trees across the municipality.

## **11.3.3 Integrated Water Management**

Drainage infrastructure in Port Phillip is currently beyond capacity in many areas. Managing all aspects of the water cycle (mains water, stormwater, wastewater and groundwater) in an integrated water management approach offers the opportunity to limit the effect of these capacity issues while also facilitating reductions in potable water use and improving the quality of stormwater entering the waterways and Bay and mitigating flooding.

### **Policy context**

Direction 6.3 of Plan Melbourne 2017-50 aims to integrate urban development and water cycle management to support a resilient and liveable city.

Direction 3 of the Council Plan 2017-27 is to have smart solutions for a sustainable future, with Outcome 3.4 identifying a vision for Port Phillip to be a water sensitive City. Water Management is identified as a Transformational project, further raising its priority. The Plan seeks to reduce potable water consumption, encouraging more efficient water use and alternative water sources and increasing ground permeability (Outcome 3.4, Council Plan 2017-27).

Priorities for Council over the next four years include increasing permeable land on private property and developing a Stormwater Management Policy and Guidelines to require onsite stormwater detention for new developments.

Council's Water Plan - Toward a Water Sensitive City (2010) sets integrated water management targets for 2020 and outlines five strategies for integrated water management.

# Audit Report

The MSS, at Clause 21.05-4 (Physical Infrastructure) and Clause 22.12 (Stormwater Management – Water Sensitive Urban Design) address integrated water management principles. See section 12.2.12 for a review of the local policy for stormwater management.

## Opportunities

The MSS at Clause 21.05-4 (Physical Infrastructure) would benefit from being restructured to expand upon and promote an integrated water management (IWM) approach. An improved structure would draw together policies to cover:

- requiring development to adopt an integrated approach to water management and infrastructure provision (efficient and sustainable use of water);
- minimising the risk to people, property and the environment as a result of flooding; and
- protecting the ecological health of waterways from the impact of development.

The MSS at Clause 21.03-1 (Ecologically sustainable land use and development) seeks to promote sustainable design and development by:

- Encourage water sensitive urban design in all new developments, to increase on-site stormwater retention and treatment to improve water quality to the bay, and to facilitate water conservation.

Further detail should be added to expand on principles to minimise water consumption, harness stormwater as a resource for all water sources and recycle stormwater (e.g. greywater, stormwater, surface water, and groundwater).

Further strategies should be investigated in the review to consider:

- reducing impervious surfaces on private land (potentially utilising the permeability standard of ResCode);
- updating the local policy to require onsite stormwater detention facilities for new developments (see section 12.2.12 for a review of the WSUD local planning policy – Clause 22.12).

## Recommendation 25:

Investigate ways to increase impervious surfaces in new development and facilitate onsite stormwater detention to become a more water sensitive City.

## 11.3.4 Environmental risks

### Climate change resilience

The planning system can help to address climate change through encouraging more sustainable built form, however it also must play a role in responding to environmental hazards that are exacerbated by climate change (increasing frequency, intensity and extent), such as the urban heat island effect, flooding, storm surges and coastal inundation.

### Policy context

There is strong state-wide policy support in the factoring climate change impacts into planning decisions, including Policy 5.6.1 of the Victoria's Climate Change Adaptation Plan 2017-20 and direction 6.2 of Plan Melbourne 2017-50 which seeks to reduce the likelihood and consequences of natural hazard events and adapt to climate change.



# Audit Report

Council's vision is to be a city that is adapting to climate change (Outcome 3.3 of the Council Plan 2017-27) by increasing community resilience, requiring development to adapt and reduce the impacts of flooding and sea level rise.

Council's Climate Adaptation Plan (2010) outlines a number of actions to address climate change, including updating the MSS, planning policy and controls to:

- restrict coastal and flood prone development, or require development to include climate resilient design measures;
- reduce/prevent future flooding by increasing absorbent surfaces, stormwater storage and treatment and water sensitive urban design applications; and
- new design and planting provisions (canopy trees, rooftop/vertical greening, etc) in new developments, activity centres and public spaces.

## Opportunities

Currently the MSS has no particular climate change resilience policy on responding to natural hazard events.

Land use planning and development can have regard to climate change resilience by:

- managing intensification of high-risk areas from coastal inundation or flooding;
- encouraging sustainable design in all developments;
- reducing demand for the private car; and
- greening our urban areas.

Plan Melbourne 2017-50 introduced state policy support for considering climate change impacts, however at present there is no clear direction on how to implement this by considering climate change in planning decisions, or apply mechanisms to increase green infrastructure and canopy trees on private land.

Planning for land use and development should consider natural hazard events, including coastal inundation, storm surges, erosion impacts and the urban heat island effect, with the view to mitigating the potential future impacts of climate change.

### Recommendation 26:

Add policy support in the MSS for new development to consider the impact of a changing climate.

### Recommendation 27:

Continue to advocate to the State Government for stronger planning mechanisms that will allow Council to influence sustainable development outcomes and respond to climate change hazards.

## Cooling the City

### Policy context

The Council Plan seeks to achieve a greener, cooler and more liveable City (Outcome 3.1) through increasing canopy cover and the diversity of tree species across and facilitating the greening of our built environment through green roofs and walls.

Priorities for Council over the next four years include:

- promoting the greening of buildings through the application of environmentally sustainable design planning policy and guidelines
- developing a heat management plan to help 'cool the City'

# Audit Report

- implementing and reviewing progress on the Greening Port Phillip Plan - An Urban Forest Approach 2010
- investigating opportunities to protect vegetation and increase canopy cover on private property.

Plan Melbourne links the intensification of our urban areas to the urban heat-island effect, which can result in heat-related morbidity and mortality. It seeks to address this by:

- making Melbourne cooler and greener through greening urban areas, buildings, transport corridors and open spaces;
- strengthening the open space network; and
- updating residential development provisions to protect against the loss of tree canopy cover and permeable surfaces as a result of urban intensification.

## Local context

As an inner-city and highly urbanised municipality, parts of Port Phillip are particularly sensitive to the Urban Heat Island Effect.

A map of Melbourne's heat related vulnerability index and ambulance callouts (Jan 2002-Dec 2011)<sup>27</sup> identified that while most suburbs within the City of Port Phillip rate in the mid-range for the vulnerability index, Port Melbourne and St Kilda rate extremely high for emergency ambulance callouts during days where the temperature had reached 34°C or higher.

Council currently has a range of policies that promote the use of green infrastructure in new buildings, including:

- Clause 21.03 (MSS) - encourages innovative landscape design that minimises water consumption and maximises biodiversity, including greater use of indigenous and drought tolerant plant species.
- Clause 22.13 (ESD Local Planning Policy) - promotes enhancing biodiversity and minimising the urban heat island effect, retaining significant trees and including productive gardens.
- Clause 22.12 (Stormwater Management – Water Sensitive Urban Design) requires a WSUD response for all new buildings and larger extensions.
- Clause 56.07 (Integrated Water Management) also requires the treatment of stormwater for subdivision.
- Clause 55.07 and Clause 58 (Apartment developments) requires the retention and replacement of significant trees and provision of a deep soil area for sites over 750 square metres to plant a canopy tree. If this is not possible, it seeks an equivalent canopy cover through canopy trees or climbers (over a pergola) with appropriately sized planter pits, vegetated planters, green roofs or green facades.

## Green infrastructure

Green infrastructure can refer broadly to the interconnected network of physical assets that deliver landscape and environmental values or functions to people and places. This section, however, is focused on the type of green infrastructure that can occur on private land in a high-density environment like green walls, green roofs, green facades, landscaping and canopy trees.

---

<sup>27</sup> Mapping Heatwave Vulnerability by the National Climate Change Adaptation Research Facility (NCCARF) and Monash University



# Audit Report

## Feedback

Council officers identified a need to better promote green infrastructure through creative and innovate green spaces in urban environments like greening laneways, walls and podiums to help cool the City.

Officers noted the poor design response and consideration of green infrastructure in recent high-density development applications. Green walls/roofs were often not well detailed at the planning stage, with little consideration to its design, functionality, access and maintenance.

This feedback suggests that Council processes in assessing development applications could also be improved. At present, different officers are assessing different aspects of the development – e.g. landscaping, sustainable design assessment, design and context. A more integrated and consistent process for Council officers when assessing for best practice outcomes could be considered in the future.

## Policy performance

There are numerous existing 'policy hooks' within the Scheme to support the provision of green infrastructure in development.

Green infrastructure can provide multiple benefits, which is reflected it being addressed by many parts of the Scheme – e.g. green roofs, walls and facades can help to address stormwater management by slowing the entry of run-off into the stormwater system and reducing impervious surfaces.

## Opportunities

Council should strengthen policy on green infrastructure by recognising its multifunctional role and intersecting benefits and embed policy support throughout the Scheme, including in health and wellbeing, urban design excellence, public space and climate change adaptation policy. This will also help to improve understanding in the broader community.

Council should review its approach to promoting (pre-application process) and assessing green infrastructure (planning application & referrals process) to ensure it is providing consistent, informed and useful advice to guide well-thought-out green infrastructure at the planning stage.

Council could also explore the benefit of developing quality measures for common types of green infrastructure which could be used as guidelines or a condition of permit. Quality measures may cover appropriate container size, soil specifications and substrates, maintenance system, daylight requirements and plant species selection to ensure proposals are less likely to fail.

In planning for high-growth areas, Council could consider using incentive-based planning measures to facilitate specific green infrastructure outcomes.

Current policy is skewed towards residential buildings. The MSS should also promote green infrastructure in commercial buildings, which have an equal part to play in mitigating the effects of climate change and providing attractive and healthy workplaces.

## Recommendation 28:

Review Council's process in assessing green infrastructure proposals to identify if Council can facilitate better outcomes.

# Audit Report

## Enhancing landscape character

With its historic and fine grain urban fabric, the majority of residential areas in Port Phillip are made up of low-rise and medium-density residential development. As the City continues to densify, the need to retain and enhance the landscape character will become increasingly important.

### Feedback

Officers also noted the importance of retaining and replacing and increasing canopy trees on private land given its value to the neighbourhood character and contribution to biodiversity and shelter.

### State policy context

A garden area requirement was recently introduced by the State Government (Amendment VC110 - March 2017) which amended two of the residential zones (GRZ & NRZ) to replace the density control (dwelling cap) with a minimum garden area requirement. Its purpose is to protect the open space character of Victoria's neighbourhoods by ensuring infill developments on lots over a certain size retain some garden space. However, this control will not apply to majority of residential lots in the municipality as are not large enough to trigger the requirement (over 400m<sup>2</sup>).

### Local policy context

The 'Greening Port Phillip – An Urban Forest Approach 2010' has general objectives to enhance liveability by ensuring planning strategies (including the MSS, UDF and structure plans) incorporate trees to achieve the desired neighbourhood character, develop new boulevards and minimise the impact of the urban heat island effect by increasing overall canopy cover.

For development in residential zones, ResCode objectives in Scheme can introduce street setback requirements and landscaping objectives, including to retain and replant trees where these make up part of the neighbourhood character.

A new ResCode landscaping objective for apartment developments was recently introduced to promote climate responsive landscape design to reduce the urban heat island effect. This can be achieved by including an area of deep soil to accommodate a canopy tree, or to provide green walls/roofs where this is not possible. However, it remains to be seen how effective this new policy will be in facilitating effective or well-designed outcomes.

### Policy performance

The current Scheme and regulatory context is skewed towards the protection and retention of existing landscape character in established neighbourhoods, particularly as it relates to the public realm. Arguably, it is equally important to enhance the landscape character on private land to help mitigate the effects of climate change, increase biodiversity and improve amenity and community health and wellbeing.

### Opportunities

Council could investigate the addition of a new policy and mechanism to enhance landscape character in our neighbourhoods, building upon the well-established policy of protecting and replacing significant trees.

Council should investigate ways to strengthen its approach in requiring additional tree planting (either on private property or on street) as a result of new development, particularly if this is offsetting the displacement of existing mature vegetation.



# Audit Report

Council has the opportunity to vary ResCode standards in the schedules to residential zones (e.g. landscaping standards) to achieve localised outcomes. For example, Brimbank City Council recently varied the ResCode landscape standard of its residential zones to require (discretionary) a minimum of one medium-sized canopy tree to be provided with new development. In reviewing the proposal, the Residential Advisory Committee accepted the tree planting requirement was strategically justified to reduce heat-related harm outlined in the Greening the West project, with the support of Brimbank's Housing Strategy and the objectives of Plan Melbourne:

*“The Committee finds the proposed use of the schedules is an effective mechanism to link data with statutory planning to improve health and wellbeing outcomes. While Council has a responsibility to improve environmental and liveability outcomes through investing in public spaces, private residential development also has a role.”*

## **Recommendation 29:**

Update the MSS policy on significant trees to promote the enhancement of landscape character.

## **Recommendation 30:**

Explore options to require additional canopy trees or green infrastructure with new development.

## **Coastal impacts of climate change**

### **Policy context**

Much of Port Phillip is only one to three metres above sea level, making the City susceptible to the impacts of climate change over time, especially flooding from sea level rise and coastal erosion.

The SPPF addresses possible coastal inundation by requiring urban infill development to plan for an increase in sea levels of 0.2m over current 1 in 100 year flood levels by 2040 and 0.8 by 2100 (Clause 13.01-1 - Coastal inundation and erosion).

However, at present, state policy provides no direction on an appropriate planning response to coastal inundation for existing urban settlements, limiting Council's ability to effectively respond to this through the planning scheme.

Aside from the flooding of property and engineering responses, there are broader questions on how a risk-management approach could conflict with other state policies.

For example, State policy recommends intensifying inner-city areas given their high amenity value, access to public transport, shops and jobs. This conflicts with the policy to avoid development in identified coastal hazard areas susceptible to inundation.

There are also wider risks to consider on the future inundation of the public foreshore (if not protected) which is a valuable open space, recreation and tourist asset to the City.

### **Feedback**

Council officers identified a weakness in the current process of referring planning applications to the relevant water management authority. Where land is affected by a Special Building Overlay (SBO), Council refers development applications to Melbourne Water as required by the Act. This ensures a response and provides Melbourne Water with a determining referral authority status.

# Audit Report

For significant applications like infill development (new dwellings) on land in proximity to the coast with the potential to be affected by increased sea level and storm surge, Council may notify Melbourne Water under Section 52 of the Act and informally seek their advice which holds less decision-making weight.

There is also no formal trigger for considering the impacts of sea level rise on new development in the Scheme outside of SBO areas, making it difficult for Council to provide reliable and conclusive advice on coastal inundation issues to prospective permit applicants.

## Opportunities

Council is currently working with the Municipal Association of Victoria and the Association of Bayside Municipalities on the Port Phillip Bay Coastal Planning Project to respond and adapt to coastal climate change, including developing a planning framework and practical responses for managing coastal hazards. The project will help to shed more light on an appropriate planning response and adaptation pathways, including land use policy, design measures and potentially new tools in the Scheme.

In the meantime, the MSS could be updated to incorporate policy support for considering coastal inundation impacts in specific locations in proximity to the coast and other relevant waterways (like the Elwood Canal), reflecting our obligations under the State Planning Policy Framework.

Council can continue work with partners to develop a bay-wide coastal hazard assessment and advocate for a planning scheme tool to identify and manage coastal inundation.

## Recommendation 31:

Continue to advocate for new tools to identify coastal areas vulnerable to climate change, including coastal inundation and storm surges.

## Flooding

### Policy context

Port Phillip has progressed significant strategic work in flood mapping in recent years, with the planning scheme flood maps (Special Building Overlay maps) updated to reflect flood modelling data from Melbourne Water (Amendment C111 in May 2016). This updated mapping helps to reduce the risk and impacts of overland flooding by ensuring new development is appropriately sited and designed.

However, the MSS has limited policy on reducing the impact on flooding, referring to WSUD and requiring Environmental Management Plans for large developments.

### Opportunities

Council should consider improving the MSS by adding specific strategies on how Council will implement the flood objectives of the SPPF. For example, strategies could include avoiding the intensification of development on land prone to flooding if it increases the risk of flooding. Or by requiring development to mitigate the risk of flood to people, property and the environment, rather than state need for an Environmental Management Plan for large developments.

The SBO Review did not include any predicted increases in rainfall as a result of climate change for catchments. This should be reconsidered in any future review of the SBO areas.



# Audit Report

Additional flooding as a result of climate change and sea-level rise will be considered through Council's participation in the Association of Bayside Municipalities coastal planning project as outlined in the 'coastal inundation' section of this report.

As Port Phillip is located at the bottom of the Elster Creek and Yarra River catchments, existing flooding issues will require a regional 'whole-of catchment' partnership approach to enable both proactive and emergency flood management responses. This includes advocacy to Melbourne Water on appropriate flood management options for the Elster Creek/Elwood Canal Catchment and working with partners to develop a long-term action plan for the Elster Creek catchment to mitigate flooding, including exploring the use of catchment-wide planning mechanisms to deliver appropriate built form outcomes and infrastructure upgrades.

## **Recommendation 32:**

Update the MSS to reflect best practice integrated water management objectives and strategies, including the efficient and sustainable use of water, minimising risk of flooding and protecting the ecological health of waterways.

## **Recommendation 33:**

Work with Melbourne Water and other Councils within the Elster Creek catchment on a whole-of-catchment approach to flood prevention, including exploring the use of planning mechanisms to deliver appropriate built form outcomes and infrastructure upgrades.

## **Contaminated Land**

### **Policy context**

In the planning system, potentially contaminated land is defined as land used or known to have been used for industry, mining or the storage of gas, wastes or liquid fuel.

Where land is potentially contaminated and proposed to be used for a sensitive use (defined as residential, child-care centre, pre-school centre or primary school), agricultural or public open space, the planning authority must satisfy itself that the land is or will be suitable for that use (Ministerial Direction No.1).

The Environmental Audit Overlay (EAO) is a mechanism that is applied to potentially contaminated land to require an environmental audit to be undertaken (and any remediation of land to be carried out) before the commencement of the sensitive use, or any buildings and works associated with that use.

### **Feedback**

Council officers raised the issue of the EAO triggering the need for a costly environmental audit to be undertaken for minor buildings and works and low-scale development. They also raised the issue of the need for ongoing maintenance of the EAO (e.g. the need to remove the overlay when an audit is complete).

### **Opportunities**

Council is unable to introduce permit exemptions to make the EAO more flexible as it has no local schedule. The State Government has identified a reform action (Action 29 of the Plan Melbourne 2017 Implementation Plan) to improve the processes for assessing and

# Audit Report

remediating contaminated to reduce the uncertainty of clean-up requirements and bring land to market sooner.

The SPPF directs Council to require applicants to provide adequate information on the potential for contamination where land is known to have been used for industry, mining or the storage of gas, wastes or liquid fuel (Clause 13.03-1).

## 11.4 Health and wellbeing

### 11.4.1 Liveability

#### Policy context

Council's integrated Council Plan 2017-27 incorporates its Health and Wellbeing Plan. Council's vision for a healthy community includes:

- a safe and active community with strong social connections. including facilities for sport, recreation and learning (1.1)
- an increase in affordable housing (1.2)
- access to services that support health and wellbeing (1.3)
- valuing and celebrating community diversity (1.4)
- designing out streets for people, including universal accessibility (2.3)
- a greener, cooler and more liveable City (3.1)
- liveability in a high density city (4.1)
- a City of diverse and distinctive neighbourhoods and places (4.2)
- a City where arts, culture and creative expression is part of everyday life (5.3)

#### Liveability

With increasing density and vertical living, more people will use our parks, villages, roads and footpaths, beaches and public transport. Our neighbourhoods will need to be safe and walkable, with good access to shops and flexible community spaces, and a balance of residential and commercial uses so we can reap the benefits of a vibrant 'mixed use' city while supporting healthy, active and connected communities.

'Liveability' is a term used throughout Plan Melbourne 2017-50, with its vision to create a distinctive and liveable city with quality environments. In its recent update, a new emphasis on the concept of 'Place and Identity' was introduced to support the Melbourne's distinctiveness and unique character, which contributes to the City's liveability.

Liveability refers to the degree to which communities are safe, attractive, environmentally stable, socially cohesive and inclusive. This requires affordable and diverse housing, convenient public transport, walking and cycling infrastructure, access to education and employment, public open space, local shops, health and community services, and leisure and cultural opportunities (Lowe et al. 2013)<sup>28</sup>.

The way we plan and manage our neighbourhoods affects community health and wellbeing by shaping places that people live in and identify with. By integrating a range of factors that improve community health and wellbeing, planning can help to facilitate liveable neighbourhoods.

---

<sup>28</sup> Victorian Public Health and Wellbeing Plan 2015-2019



## Place-making

The concept of liveability is best promoted through 'place making' which is a conscious strategy designed to promote people's health, happiness, prosperity and wellbeing. It brings together a range of factors and disciplines, including economic development, urban design and environment, culture, community engagement, finance and governance. Place-making can apply to whole regions or individual neighbourhoods and places. In all cases it aims to capitalise on local assets, inspiration and potential<sup>29</sup>.

A place-based approach can target an entire community and focus on the multiple determinants of health and wellbeing in a particular area, such as poor housing, social isolation, transport and neighbourhood safety. It can also focus on community strengths and enhancing protective factors<sup>30</sup>.

Plan Melbourne recognises the role of place-making in creating pedestrian-friendly neighbourhoods by integrating place-making practices into road-space management (policy 4.1.2). This recognises the ability of streets to be destinations in their own right – e.g. prioritising pedestrians over vehicles and promoting activity.

The creation of place can also facilitate an identity and connection to a place. This can be expressed through urban design, the landscape, historic or cultural elements and physical and social infrastructure.

This approach is consistent the Council Plan policy to design, activate and manage public spaces to be safe and inviting places for people to enjoy (4.1).

## Healthy neighbourhoods

The state government recently addressed the concept of 'liveability and place-making' in the SPPF through policy seeking to achieve neighbourhoods that foster healthy and active living and community wellbeing (Clause 15.01-6 – Amendment VC139).

The policy includes strategies to design neighbourhoods that foster community interaction and make it easy for people of all ages and abilities to live healthy lifestyles and engage in regular physical activity by providing:

- connected walking networks and cycling networks
- streets with direct, safe and convenient access to destinations
- conveniently located public spaces for active recreation and leisure
- accessibly located public transport stops
- amenities and protection to support physical activity in all weathers.

It refers to the Urban Design Guidelines for Victoria (DELWP, 2017) to assist in achieving this objective.

## Feedback

There was strong support from Council officers on strengthening and integrating a number of policies relating to health and wellbeing, community safety, active communities, urban ecology and community infrastructure.

---

<sup>29</sup> Plan Melbourne 2017-50, State Government of Victoria, p.78

<sup>30</sup> Victorian Public Health and Wellbeing Plan 2015-2019, p.44

# Audit Report

## Opportunities

While the MSS currently addresses planning objectives that contribute to liveability, they are scattered throughout the Scheme. The MSS benefit from providing localised policies to the SPPF healthy neighbourhood's policy (Cl. 15.01-6) to better promote the range of factors that contribute to liveability in places to improve its sense of place, identity and liveability and raise the profile of health and wellbeing policy.

Council should also consider providing localised to State's healthy neighbourhoods policy to address other aspects such as green infrastructure, place identity and access to transport, shops, employment and community services.

The MSS should emphasise the importance of a place-based approach to the planning and delivery of development, infrastructure, services and activities for activity centres to create attractive, well-landscaped and pedestrian-friendly environments that promote social interaction and physical activity. This includes developing and implementing structure plans and place-based infrastructure projects in partnership with local communities, local businesses and other key stakeholders.

The development of arts and cultural facilities should also be recognised in contributing to a sense of place, identity and distinctiveness for local areas.

### **Recommendation 34:**

Strengthen local policies on liveable neighbourhoods and places within the MSS to raise the profile of planning policies that contribute to community health and wellbeing and place-making.

## 11.4.2 Universal accessibility

The Council Plan 2017-27 aims for our streets to be designed for people, partly by pursuing universal accessibility for people with disabilities (Outcome 2.3).

The City of Port Phillip Access Plan 2013-18 supports universal access and accessibility improvements to Council buildings and public spaces, including beach access.

One relevant action is to ensure accessibility is a guiding principle in the development of all major strategic planning projects. This can include streetscape planning, structure planning and urban design frameworks (Action 17.4.2).

The MSS should be updated to reflect the objectives of the Access Plan to support universal design, including street furniture, pathways and amenities in all publicly accessible buildings and spaces.

Council should also explore ways to extend the consideration of accessible infrastructure to Council's commitment to becoming a child-friendly and age-friendly city. There is the opportunity to reflect relevant principles of Age Friendly Cities (World Health Organisation) and Child Friendly Cities and Communities (Victorian Local Governance Association) initiatives in the MSS.

### **Recommendation 35:**

Promote the concept of universal accessibility for people of all ages and abilities and age and child friendly cities in the MSS.



# Audit Report

## 11.4.3 Food-sensitive urban design

### Policy context

Plan Melbourne 2017-50 introduced new policy on delivering local parks and green neighbourhoods in collaboration with communities, including by supporting community gardens and productive streetscapes (Direction 5.4).

'Food-sensitive urban design' is a term used to describe the incorporation of spaces in our City that can be used to grow food and generative ecologies, from backyards to community gardens and streetscape planting of fruit trees. They can help to provide communal spaces where people can engage in sustainable practices and connect with their community, reducing social isolation and providing recreation, education and access to healthy foods.

### Local context

Port Phillip has a number of different types of community gardens, mostly on public land, ranging from large incorporated gardens such as Veg Out in St Kilda to small community initiatives like small plots in a playground at Te-Arai Reserve, St Kilda East. However with an increasingly dense urban environment, a greater focus will be placed on using private land for community uses, like open space, community facilities and community garden initiatives.

### Feedback

Council officers noted a policy gap in the MSS on the linking of green infrastructure as critical to community health and wellbeing, particularly in a dense, inner-city environment.

### Opportunities

The Planning Scheme can support innovative urban agriculture by encouraging it to be incorporated into the design and layout of new development on private land. This may include the provision of private or shared garden space for healthy food production on private land in larger residential and mixed use developments, including rooftop gardens.

### Recommendation 36:

Promote urban agriculture and food-sensitive urban design in the MSS.

## 11.4.4 Community infrastructure

### Local context

The City of Port Phillip is facing significant population growth that will increase demand for all Council services and amenities. As an established urban area, the City has limited space for additional community infrastructure and faces high land prices. This growth, coupled with the increasing cost of providing services, will stretch services and infrastructure.

One focus for Council is how to manage the rapid urban growth in the Fishermans Bend while ensuring there is adequate and timely provision of community infrastructure, and that it is delivered in an efficient and cost-effective way.

Another key concern is how we are going to plan for current and future infrastructure and service requirements in our established areas and manage the impact of additional growth in Fishermans Bend on surrounding community infrastructure.

# Audit Report

## Policy context

Plan Melbourne 2017-50 recognises the need to deliver social infrastructure to support strong communities (Direction 5.3).

The Council Plan 2017-27 seeks to:

- create a community with strong social connections by providing access to flexible, multi-purpose facilities and investing in a long-term program of community facility upgrades to ensure they are fit for purpose and meet current and future community needs (Outcome 1.1);
- improve access to services that support the health and wellbeing of our growing community by providing co-located and integrated facilities and cater for all ages and life stages (Outcome 1.3).
- Collaborate with partners and service providers to undertake neighbourhood based planning and delivery of community infrastructure, services, programs and outreach aligned to community needs.

## Feedback

The current MSS has policy relating the equitable and accessible location and flexibility of community services and facilities to meet community needs. Council officers noted this could be strengthened by providing guidance for integrated community infrastructure and service delivery, including:

- facilitate the co-location and clustering of community infrastructure hubs
- facilitating adaptable spaces
- more detailed locational criteria for activity centres and where accessible by public transport
- design, space and access criteria for delivering community infrastructure in mixed use developments - including configuration, street frontage and accessibility
- identifying the current and future needs of the community (health and social data).

## Opportunities

Council will collaborate with partners and service providers to undertake neighbourhood based planning and delivery of community infrastructure, services, programs and outreach aligned to community needs.

Council officers have also flagged the need for preparation of a municipal Community Infrastructure Strategy to inform community infrastructure policy and explore the potential to collect development contributions towards identified infrastructure needs. See section 11.6.5 for further discussion on development contributions.

Another tool Council may use to assess the capacity of the existing and planned community infrastructure is a Social Impact Assessment for particular types of development (see section 11.4.7 on Social Impact Assessments).

### **Recommendation 37:**

Expand community infrastructure policy in the MSS to address co-location, clustering, adaptable spaces and design guidance for mixed use developments.



# Audit Report

## 11.4.5 Safer design

Council officers noted that the perception of safety was poor in some areas of the City and policy in the MSS could be strengthened to achieve development aligned with safer design principles through environmental design.

The Scheme currently has 'safer design principles' referenced throughout the MSS on building design and the public realm, public open space and in considering the cumulative impact of late night entertainment uses.

There is more detailed safer design policy in design controls for some areas with requirements for development to address street activation of buildings and passive surveillance of the street.

Further strategic work should be undertaken for the St Kilda Activity Centre to identify issues associated with the imbalance between night and day economies and real or perceived safety impacts. This includes investigating ways to facilitate a greater mix of compatible uses and activities to maximise natural surveillance and support 24-hour public presence in activity centres. See section 11.1.2 (activity centres) on undertaking further strategic work for the St Kilda Activity Centre.

## 11.4.6 Licensed premises

### Local context

Licensed premises can contribute to a vibrant night time economy and provide employment opportunities. They can also support the social, artistic and cultural vibrancy of our City with live music, food and entertainment.

At the same time, Port Phillip has a high density of licensed venues and is seeing increasing residential development in and around our entertainment precincts. This places pressure on Council to enforce all available laws to balance the needs of the commercial operators and the residents who wish to maintain their amenity.

The social and cultural benefits of tourist and entertainment uses need to be balanced with the alcohol related harm and amenity impacts to ensure Port Phillip continues to be a desirable place to visit and live.

### Policy context

The Council Plan 2017-27 seeks to create a City of dynamic and distinctive retail precincts (outcome 5.1) by collaborating to ensure our entertainment and local economies thrive, while ensuring safe, enjoyable places for everyone. Council will work with IMAP councils to develop approaches to better manage licenced premises and entertainment precincts.

Clause 52.27 (Licensed Premises) triggers the need for a planning permit to use land to sell or consume liquor under certain circumstances. The purpose of the provision is to ensure licensed premises are situated in appropriate locations, and no adverse amenity impacts on the surrounding area occur – like considering the hours of operation and number of patrons in proximity to residential uses. There is little guidance in the state system as to what constitutes 'appropriate locations', however there is a practice note guidance Council on how to consider the 'cumulative impact' of licensed premises, where clustering can result in anti-social behaviour.

# Audit Report

The current MSS has general policy relating to licensed premises in Clause 21.04-6 (Tourism and the Arts) with an objective and strategies that seek to minimise the impact of tourism and entertainment uses. There are also policies throughout the LPPF relating to discouraging licensed premises and the concentration of bars, taverns and nightclubs in activity centres, while other policies seek to support the entertainment role of some centres while preventing the cumulative impacts of such uses on amenity and community safety.

Prior to the default translation of the former business zones to the new commercial zones, the lower intensity business zones (Business 2 and 5 zones) were primarily located at the edge of activity centres. The default translation of the former Business 5 Zones into the Commercial 1 Zone allowed a higher intensity of commercial uses in these locations like hotels, taverns and bottle shops, which may increase amenity conflicts with surrounding residential precincts.

The Port Phillip Activity Centres Direction Strategy (2006) identifies St Kilda and Bay Street Activity Centres as having regional entertainment and tourist role.

## Feedback

### Officers

Council officers raised concerns about the high level of complaints and compliance investigations into licensed premises and their adverse amenity impacts, particularly near residential areas (e.g. courtyards at the rear). Council officers suggested a licensed premises local planning policy to help to manage amenity impacts, as demonstrated in similar policies in other inner-city Councils.

### Data

A review of permits decided in recent years (July 2015-17) found the highest number of permits issued were in St Kilda and South Melbourne, followed by Port Melbourne. The majority of permits issued were for liquor licences associated with a restaurant. However there were 10 applications for bottle shops within this period, with 4 of these located in St Kilda. See section 9.3.1 (land use trends – licensed premises).

Planning compliances investigations for licensed premises over the last three years (July 2014 – June 2017) reveal that licensed premises have consistently remained the second highest complaint (following non-compliance with planning permits/the planning scheme) at an average of 85 complaints per year.

A recent supply and demand study commissioned by Council has provided some insight into the night-time economy of Port Phillip's activity centres. The analysis revealed that there is an oversupply of pubs, taverns and bars considered supportable at the St Kilda Activity Centre, where some may be supported by gaming as a source of revenue.

### VCAT

The analysis of VCAT cases revealed a series of inconsistent decisions by VCAT on the impact of new licensed premises. In three recent VCAT cases<sup>31</sup>, Council sought to refuse a planning permit for the use of land for packaged liquor outlets due to their inappropriate location close to community services, social support providers and vulnerable persons or its cumulative impact, and was successful in one instance.

---

<sup>31</sup> *Morraine Nominees Pty Ltd v Port Phillip CC 2017 & Lahdo v Port Phillip CC 2017 VCAT 868 & Pace Development Group Pty Ltd v Port Phillip CC [2017] VCAT 1015*



# Audit Report

In the successful case, Council's decision for refusal was affirmed on the basis of the venue's close proximity to the housing of vulnerable young people and families. In the other two cases, VCAT set aside Council's decision - both of which were also proximate to community services or vulnerable people.

See section 9.1 VCAT Findings – licensed premises for further details.

## Alcohol-related harm

The City of Port Phillip experiences significantly higher levels of alcohol-related harm compared to other metropolitan Melbourne areas. The social and cultural benefits of tourist and entertainment uses need to be balanced with the alcohol related harm and amenity impacts to ensure Port Phillip remains a desirable and safe place to visit and live.

However, Council's discretion in considering the health and social impacts of licensed premises is limited under Clause 52.27 (Licensed premises) to considering appropriate locations and amenity impacts, rather than more broadly considering alcohol-related harm in the wider community (e.g. family violence)<sup>32</sup>.

Although the social effects of a planning application may conceivably be a relevant consideration under the Act (Section 60), a number of VCAT decisions and Panel Reports<sup>33</sup> have found that as a general principle, a broad concern about the social harm caused by the community's accessibility to alcohol, or the potential for the abuse or misuse of alcohol, will rarely (if ever) be a relevant consideration in the exercise of discretion under Clause 52.27 for a planning permit. They note the abuse or misuse of alcohol is an appropriate consideration under the Liquor Control Reform Act 1998.

Circumstances where licensed premises may cause 'social impacts' under the scope of the Act is on amenity impacts or safety issues. For example, Council was successful in a recent VCAT case<sup>34</sup> to refuse a packaged liquor application by establishing a direct nexus between the selling of packaged liquor and its proximity to housing for vulnerable people:

*“The impact on the vulnerable and disadvantaged young people is not about social impact in a broad, abstract, or social sense, but a situation where the very substance many of these young people are vulnerable to are close by and accessible.”*

The South East Melbourne Councils (SEMC) alliance is currently advocating to the State Government for reform of the policy frameworks to address the density and floorspace of licensed premises, in particular packaged liquor to reduce alcohol harm to local communities.

Research to date has indicated that alcohol-related harm in the community may be linked to the total floor area size of all types of licensed premises (including packaged liquor outlets) rather than just the number of premises in an area.

Council should monitor the outcomes of the SEMC advocacy and consider research findings in a review of licensed premises policy.

Social Impact Assessments – licensed premises are further discussed in section 11.4.7 of this report.

---

<sup>32</sup> Hunt Club Commercial Pty Ltd v Casey CC (includes Summary)(Red Dot) [2013] VCAT 725

<sup>33</sup> Yarra Planning Scheme Amendment C209, Panel Report 27 June 2017, p.33

<sup>34</sup> Lahdo v Port Phillip CC 2017 VCAT 868

# Audit Report

## Opportunities

The review of VCAT decisions found that, in the absence of more specific policy, the Tribunal often defers to the current broad policy support for entertainment venues in and around Major Activity Centres.

More detailed local policy on licensed premises will enable Council to more effectively manage the location, venue type, mix, capacity, venue design, operation and hours and patron movement to protect the amenity of nearby properties. Locational policy can guide an appropriate separation distance from vulnerable persons and community services.

Policy could also set out application requirements, like a noise amenity plan to ensure compliance with State Environment Protection Policies and a cumulative impact assessment report.

Policy could also address an identified oversupply of licensed premises in particular activity centres to support the social and economic vitality of activity centres (e.g. Fitzroy Street – see section 11.1.2 - St Kilda Activity Centre).

Council has been criticised by VCAT for providing insufficient evidence to support its assertions that proposed licensed premises would cause unreasonable social impacts. The review should consider requiring a Social Impact Assessment as part of the permit process for particular types of licensed premises/locations to provide social evidence.

### **Recommendation 38:**

Develop a licensed premises policy to guide the appropriate location and design of licensed premises to ensure they make a positive contribution commensurate to the role of each activity centre and to effectively manage amenity impacts.

## 11.4.7 Social impacts

An objective of the Act is to consider social and economic effects when decisions are made about the use and development of land. In assessing planning permits, Council has a mandate to consider any 'significant social and economic effects' which it considers a proposed use or development may have (Section 60(1)). And as a planning authority, Council must consider 'social and economic effects' in carrying out planning scheme amendments (S 12(2)).

In doing so, Council should integrate a range of relevant environmental, social and economic factors into its decision-making on land use and development applications, and balance these to make a decision in favour of net community benefit and sustainable development (Clause 10.02 – 10.04 of the SPPF).

Social effects are not defined in the P&E Act, but those matters which VCAT have held to be relevant social effects under the Planning and Environment Act 1987 include whether development:

- increases demand for /or provides adequate community facilities and services;
- improve or reduces accessibility to social and community facilities;
- provides greater or lesser choice in housing, shopping, recreational and leisure services;
- meets the needs of targeted groups, such as aboriginal communities, youth, unemployed, aged, disabled, etc
- improves or reduces community safety and amenity;



# Audit Report

In defining 'significant social effects' under Section 60(1)(f) of the Act for permit applications VCAT have held that they must affect an identifiable section of the community, and be based on proper evidence or empirical analysis, preferably through a formal social impact assessment.

## Social Impact Assessments

A Social Impact Assessment is a tool that analyses the social consequences of planned development and provides the social evidence needed to influence development design in favour of a positive social outcome. The process uses measurable social variables (and sometimes community consultation) to assess the potential social impacts of change and plan for ways to manage negative impacts, or enhance positive impacts.

An SIA provides a comprehensive social assessment method to enable Council to satisfy itself of the social impact of planning decisions, and to influence development outcomes to mitigate and manage anticipated adverse effects.

Benefits of undertaking SIAs may include:

- providing a means of comprehensively assessing the social effects of development to satisfy our obligation under the Act
- proactively responding to the social consequences of development to facilitate better outcomes for the community
- providing evidence of likely social impacts to influence development outcomes within the planning process (e.g. decision will be upheld at VCAT)
- building social capital by engaging the community in the decision-making process
- improving relations between government and the private sector and communities.

The benefits of this approach are consistent the Council Plan 2017-27, by providing a way for Council to effectively measure impact of development applications on the community's health and wellbeing, providing greater transparency in decision-making, and community involvement in the lead up to planning applications (Directions 1 & 6).

## Current policy

The current MSS, at Clause 21.04-8 (Social Impact Assessments), contains policy to ensure major land use and development proposals deliver a positive social benefits to the community through requiring the preparation of an SIA with planning applications for the following types of development:

- Residential development where the form or density is not anticipated by the planning scheme (over 30 dwellings);
- Residential development accommodating residents of a specific age cohort or with high needs (over 20 residents – e.g. student housing, aged care facilities);
- Where a planning permit or rezoning is required for a new venue (or a change to an existing venue) where gambling occurs;
- New Taverns, Nightclubs and Hotels, or where an increase in the patron numbers to such Licensed Venues is proposed;
- Rezoning of land from and Industrial, Business or Public Use zone which enables residential use for the first time (over 30 dwellings)
- Rezoning of public open space.

The local policy for Gaming (Clause 22.07) has an application requirement a social and economic assessment of the benefits and disadvantages of the proposed gaming machines.

# Audit Report

## Feedback

Feedback from Council officers found there is limited awareness of the Social Impact Assessment requirement in the MSS.

Since the policy was introduced in the previous MSS Review (Amendment C62, 2011) it has not been widely used, with only a small number of SIAs having been required or received for permit applications relating to the installation of gaming machines and licensed premises.

Officers also suggested the triggers relating to the types of development that require a SIA should be reviewed.

## Policy performance

The legislative framework provides Council with a mandate to consider any significant social effects of a proposed development and to satisfy itself that a net community benefits is achieved. In order to make that decision, a certain degree of information may be required by Council like a Social Impact Assessment.

The Planning Institute Australia recognises that there is limited understanding or poor perceptions by development proponents and local authorities of the benefits of SIAs. They concluded that they are often viewed as a 'tick the box' requirement at the end of the development process with no real value. Less rigorous SIAs can also result from this assessment being developer-led (viewed as biased), insufficient timeframes, budget constraints, limited community feedback, lack of data and few identifiable impacts.

In order to overcome these limitations and common pitfalls in practice, a number of Councils have developed Social Impact Assessment Planning Guidelines to supplement their policy. The Guidelines can inform both applicants and Council officers by setting out the legislative requirements, definitions, best practice methodology, community engagement methods, access to information and data sources and identifying in detail the types of development that are most likely to require an SIA.

## Opportunities

In order to improve understanding and uptake of the policy within Council, and to guide permit applicants in appropriate SIA scope and methodology, Council should consider developing its own set of SIA guidelines.

The current list of 'trigger points' that relate to types and scale of development that would trigger the need for a SIA to be provided also needs refinement and review.

Council should be careful not to impose onerous requirements where it lacks justification. For example, there is less need to thoroughly assess social impacts for more common or smaller-scale developments when it would result in incremental social change in an area or is a use or development that is anticipated by the Scheme. Many of the likely social impacts of these uses can often be sufficiently addressed by the regular planning process - for issues related to traffic, noise, amenity and design and through community consultation.

Larger-scale residential developments that result in a sudden and significant increase in local population to an area are more likely to result in more complex social impacts, including generating demand for community facilities, providing greater or lesser choice in housing, shopping, recreational and leisure services and meeting the needs of targeted groups. In these circumstances, a SIA can provide the social evidence needed to influence the site layout or design, land uses and accommodation of social and safety factors.

Further, an SIA is a useful tool for larger scale development to assess the capacity of existing or planned community (and other) infrastructure in areas surrounding proposed developments.



# Audit Report

It is common practice among councils to require a Social and Economic Impact Assessment for gaming applications. This reflects existing Council policy on harm minimisation and should be retained.

SIAs are also often required for planning applications for licensed premises. Clause 52.27 (Licensed Premises) limits Council's discretion to the proposal's amenity impacts on the surrounding area and ensuring it's an appropriate location. This would help to establish evidence demonstrating the potential for a direct social harm impact on an identified group of vulnerable persons, given the proposal's proximity to social housing and Council's support services – see Section 11.4.6 on licensed premises.

The SIA requirement for a Nightclub, Tavern or Hotel should be revised to consider all licensed premises for circumstances where its location is likely to harm to a particular segment of the community.

Other general amenity and cumulative impacts are currently adequately catered for by the current planning permit process which considers cumulative impact.

## **Recommendation 39:**

Revise the social impact assessment policy within the MSS to refine the trigger for when it's required.

## **Recommendation 40:**

Develop social impact assessment guidelines to set out processes, acceptable scope and methodology and to clarify the types of development where it's required.

## **11.5 Public space**

Port Phillip has a vast network of public open space that includes parks and gardens, the foreshore and Albert Park Lake, all of which help to define the City's character, provide leisure and recreation facilities for residents and visitors and provides for the conservation of natural and cultural environments.

### **11.5.1 Public open space and recreation**

As our City densifies, our public open spaces become increasingly important as it will need to cater for different and increased use as they will become many residents' backyards.

The City of Port Phillip does not have a current strategic plan to inform investment in public space. Council's existing Open Space Plan was endorsed in August 2009 and is now out of date, with many of its recommendations realised. Since that time, Fishermans Bend was rezoned to the Capital City Zone, which will result in unprecedented population growth in the City of Phillip.

Other emerging issues and challenges putting pressure on existing open spaces and amenities are:

- Increasing high density living, leading to a growing number of residents and visitors;
- Growth in other strategic locations with public space shortfalls, such as St Kilda Road;
- Increasing community demand for higher quality public spaces and WSUD initiatives;
- Climate change - urban heat island effect, flooding and the aim to limit potable water use;

# Audit Report

- There is an anticipated shortfall of sport and recreation open space and facilities in the City, with current sporting facilities at or near capacity;
- There is a rise in demand for informal open space and recreation opportunities.

## Policy context

Plan Melbourne 2017-50 includes a direction to create more great public places across Melbourne – the planning system will strengthen the design quality of public spaces and the interfaces between private development and the public domain (4.1). It also seeks to develop a network of accessible, high-quality, local open spaces (Direction 5.4).

The Council Plan 2017-27 seeks to maintain and enhance liveability in a high density City, through designing, activating and managing public spaces that are safe and inviting places for people to enjoy and extending, connecting and diversifying our open space network to cater for increased demand (Outcome 4.1).

To help achieve this, Council will develop a new Public Spaces Strategy and review Council's design and technical standards for streets and public spaces.

## Feedback

Council officer feedback identified the need to be smarter about how we use public open space – to consider multi-functional uses, solar access, vertical and green infrastructure for urban spaces, greater canopy cover, irrigation and maintenance.

Council officers also noted shortfalls of public open space in East St Kilda, Ripponlea and South Melbourne. With high inner-city land values making it difficult to purchase, this could justify an increase in the standard 5% public open space contribution requirement (8% for Fishermans Bend) in Clause 52.01 of the Scheme for certain areas.

## Opportunities

Council is committed to delivering a new Public Spaces Strategy to address open space deficit and facilitate smarter, multi-use and adaptable spaces.

A new framework for public space management will address these drivers as well as provide clarity around the funding and financing of public space and will set priorities for the spending of public open space contributions.

This Public Open Space Strategy will be able to inform:

- locations where there is a shortage of public open space
- identify locations for new open space linkages
- a potential increase in the 5% open space contribution for some areas
- guidance on facilitating high quality, unencumbered, adaptable, multi-use and resilient public open space
- guidance for development of 'hard' and civic spaces and innovative greening
- activation of our public spaces through local cultural events and urban art
- the need for more detailed public open space local policy to implement the objectives of the strategy and identify where land contributions for public open space are preferred over cash contributions.

Policy in the MSS should be updated to reflect strategies of the Sport and Recreation Strategy 2015-24 relating to the provision of active and passive open space and community facilities to meet the needs of a growing and changing population.



## **Recommendation 41:**

Review public open space policy and controls following completion of the Public Space Strategy to address public open space deficit and facilitate smarter, multi-use and adaptable spaces.

## **Recommendation 42:**

Assess the potential for implementing revised public open space contributions in the Scheme.

## **Recommendation 43:**

Review the Sport and Recreation Strategy 2015 – 2024 and reflect current key issues and recreation trends and incorporate relevant strategies into the MSS where appropriate.

## **11.5.2 Activating laneways**

### **Local context**

The City of Port Phillip has over 42 kilometres of laneways which are often forgotten spaces. Yet their gritty charm and human scale provide great potential for them to become enticing and interesting places for residents, businesses and visitors.

### **Policy context**

Plan Melbourne 2017-50 includes a new direction to create more great public places across Melbourne (4.1) to

- Support Melbourne's distinctiveness (Policy 4.1.1)
- Integrate place-making practices into road-space management (Policy 4.1.2)

Plan Melbourne also links the existing atmospheric laneways of Melbourne to its liveability and reputation.

The Council's Activating Laneways Strategy (2011) encourages the use of Port Phillip's network of laneways for unique public spaces. It defines 'destination' and 'active' laneways' and includes design and Council process aspirations.

### **Opportunities**

The MSS should be revised to incorporate key strategic principles of the Activating Laneways Strategy 2011.

Policy could be included in MSS for development to consider and address its interface with a laneway. It will also highlight the multi-functional role of laneways as unique public spaces that can serve as reminder of the City's heritage, improve pedestrian connectivity and potentially become destination places in their own right.

## **Recommendation 44:**

Reflect the Activating Laneways Strategy 2011 in the MSS to highlight the multi-functional role of laneways as unique public spaces.

# Audit Report

## 11.5.3 Foreshore

### Local context

The foreshore is Port Phillip's most outstanding natural and cultural asset and plays a very important social and recreational role for the local and wider population, with 11 kilometres of coastline between Sandridge Beach and Elwood.

### Policy context

Plan Melbourne 2017-50 identifies the need strike a balance between supporting a variety of coastal land uses and minimising risks to protect the coastlines and waters of Port Phillip Bay (Policy 6.5.3).

The Council Plan 2017-27 seeks to enhance the environmental and recreational qualities of the foreshore to support diverse and distinctive neighbourhoods and places (Outcome 4.2). Design guidelines will be developed for key foreshore destinations including the St Kilda Triangle, St Kilda Marina and Port Melbourne Waterfront, including the effective management of the new lease for the St Kilda Marina.

The existing MSS has policy on protecting and enhancing the foreshore by ensuring use and development is sympathetic to the coastal landscape and balances the competing demands of foreshore users, visitors and residents.

### Opportunities

Existing policy should be updated to reflect Council's Foreshore Management Plan 2012 which provides a long term strategic vision and direction for the foreshore.

Key considerations include the following:

- Reinforcing the unique characteristics of each of the five foreshore areas.
- Recognising the need to define parameters for new development for renewal and upgrades to facilities and infrastructure (potentially consider as part of a wider urban design framework).
- Addressing declining vegetation – consider applying an environmental overlay to protect significant coastal vegetation identified in plan to reinforce its ecological significance.
- Improving linkages and access to the foreshore for people of all ages and abilities.
- Planning for the impacts of climate change and sea level rise.
- Protecting Aboriginal cultural heritage sites and promoting heritage values and stories through art, natural and public realm improvements.

Policy should also be generally consistent with the Victorian Coastal Strategy 2014, which replaced the Victorian Coastal Strategy 2008 (reference document in the Scheme).

### Recommendation 45:

Update foreshore policy to reflect relevant policies of the updated Foreshore Management Plan 2012 and be consistent with the Victorian Coastal Strategy 2014.



# Audit Report

## 11.5.4 Overshadowing of public space and the foreshore

### Policy context

The Scheme contains a suite of policy and controls that seek to prevent overshadowing of the public foreshore and public space throughout the municipality. However, there is a variation in the policy and controls throughout the scheme.

#### Policy

The MSS contains high-level policies seeking to protect public open space and the foreshore from overshadowing by private development. There is some repetition and variation in the wording of the policy throughout the MSS, with some being more specific than others. For example some policies seek to prevent overshadowing between a certain time/date during the winter solstice, while others reference mid-winter.

#### Controls

A number of Design and Development Overlays also apply to the foreshore and its surrounds, including DDO10 – Port Phillip Coastal Area which manages buildings, works and removal of vegetation on the coastal area while other DDOs (DDO1, DDO5, DDO6, DDO7, DDO23) implement building height restrictions to preserve sunlight to the foreshore.

Currently, there are varied controls seeking to prevent overshadowing of the foreshore from Port Melbourne to Elwood with variations in

- the mandatory nature of the control – should vs must
- the dates and time windows in which no or minimal overshadowing is to occur.

The DDO provisions for the St Kilda area (DDO6) the strongest stating: *'Buildings must not cast a shadow onto any land within the Port Phillip Foreshore Reserve between 10.00am and 4.00pm on 21 June'*.

### Feedback

Councillors sought a more consistent approach in overshadowing controls seeking to prevent overshadowing of the foreshore and major parks.

A different approach is sometimes the result of the planning process, with public consultation and Planning Panels advice. This is the case for 1-7 Waterfront Place (DDO23) where Panel found that a shadow diagram analysis of a proposed development justified customised controls for the site. Panel also sought a more flexible approach to minimise rather than prevent overshadowing of at certain times:

*"On the evidence, use of the beach at the solstice is limited and shadow effects, when sunny days occur during winter are equally limited but, at the Equinox and between the Autumn and Spring Equinoxes, use is consistent and sunlight is valuable."*

### Opportunities

A review of current policies relating to overshadowing at the foreshore in the MSS should be undertaken to provide a more consistent city-wide approach, where possible.

Council may also consider strengthening and drawing together policies into an overshadowing section to raise the profile of current disparate policies, like in the Melbourne Planning Scheme (Clause 22.02 - Sunlight to Public Spaces).

However, any changes to established overshadowing controls in schedules to the DDOs would need to be underpinned by further evidence like a broader foreshore overshadowing analysis. The potential to achieve mandatory controls is likely to vary across sections of the

# Audit Report

foreshore, having regard to the existing level of shadowing and the nature of public access/use.

**Recommendation 46:**

Review existing overshadowing policy to aim for greater consistency across the City.

**Recommendation 47:**

Consider undertaking a broader sunlight to public spaces analysis for the wider municipality.

## 11.6 Housing and growth

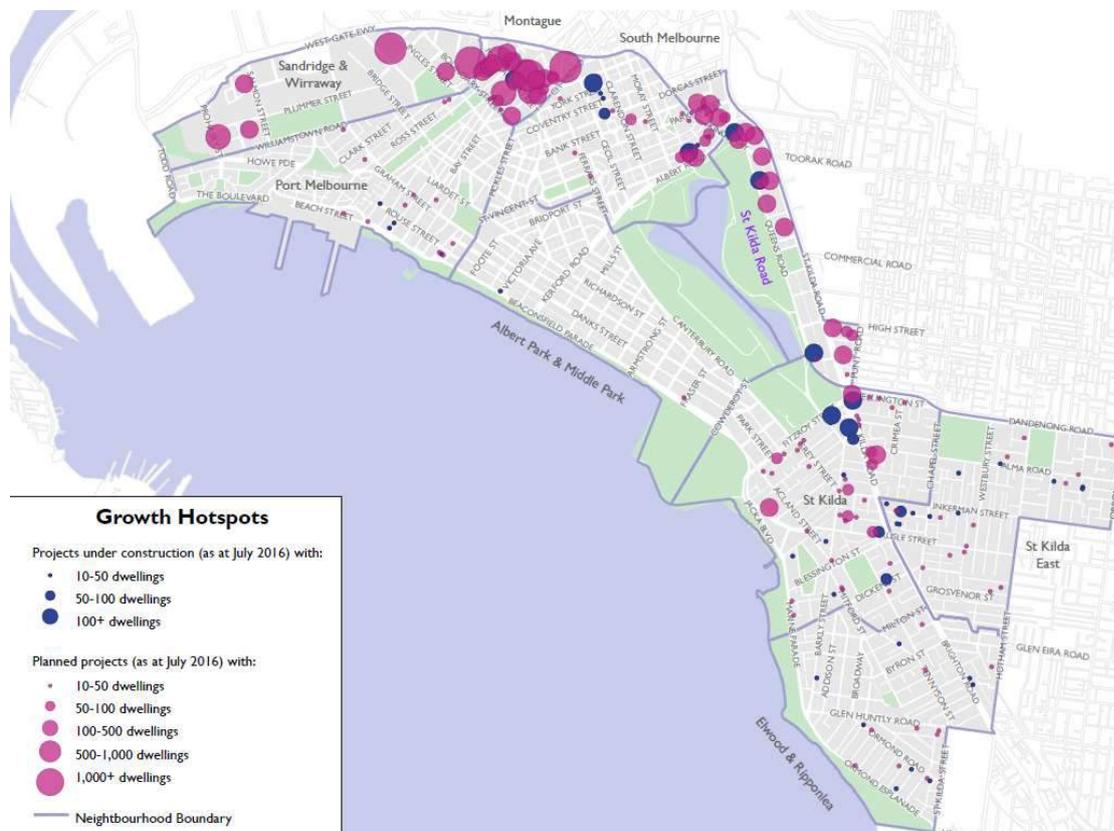
### 11.6.1 Housing strategy

**Local context**

The City of Port Phillip Housing Strategy 2007-17 is due for renewal. The current strategy is based on sound strategic principles of providing opportunities for new residential development in well-serviced locations with a high capacity for change. However, housing growth is exceeding levels previously anticipated and the City is facing a number of new challenges and opportunities.

Population growth will drive an increase in urban density in Port Phillip. Fishermans Bend will make a significant contribution to housing growth, with new high-density neighbourhoods. The density of established areas across the City will also increase, with the St Kilda / St Kilda West and St Kilda Road neighbourhoods accounting for more than half of the projected housing growth outside Fishermans Bend over the next 20 years. We will see more medium to high density residential development and continued pressure to convert commercial areas to residential use.

**Figure 10 – Growth hotspots July 2016**



Also refer to section 9.3 (planning permit activity analysis – dwelling activity) of this report for further detail of recent planning permit activity.

## Policy context

There have been significant changes to State planning policy since the Housing Strategy was prepared in 2007 which has local implications:

- Rezoning Fishermans Bend in 2012 to accommodate approximately 40,000 new dwellings and 80,000 residents over the next 50 years. The City delivers close to 900 new dwellings a year and, as the Fishermans Bend is redeveloped, they will contribute an additional 800+ dwellings per year effectively doubling the City’s contribution of new housing.
- Plan Melbourne 2017-50 outlines how Melbourne will meet demand for housing diversity and growth, including by accommodating an increased percentage of new housing in established areas and neighbourhood activity centres.
- Introduction of a new suite of residential zones in 2013 provided councils with the opportunity to better direct the location and scale of residential change.
- Changes to the residential zones in March 2017 altered the purpose of some residential zones, mandatory heights and introduced a new garden area requirement.

Plan Melbourne aims to increase the percentage of new housing in established urban areas. It also promotes the role of neighbourhood activity centres as integral to the creation of 20-minute neighbourhoods (Policy 2.1.2).

The Council Plan seeks to maintain and enhance liveability in a high-density City, through requiring well-designed buildings that contribute to safe, lively, high amenity places

# Audit Report

(Outcome 4.1) by updating the Scheme to ensure an effective framework of local policy and controls to manage growth.

## Opportunities

An up-to-date and robust Housing Strategy that sets out clear direction for housing development across the City will place Council in a better position to more effectively respond to and direct its population growth, while respecting the City's heritage and neighbourhood character. A new Housing Strategy will also enable Council to holistically integrate the Fishermans Bend Urban Renewal Area into its overall housing vision.

The majority of Port Phillip's activity centres are located within areas with strong heritage and neighbourhood character values, constraining their growth potential. A new Housing Strategy should consider the potential to accommodate infill housing in established low-rise areas with proximity to neighbourhood activity centres and transport corridors, while remaining sensitive to heritage values.

The Strategy should also consider the implications of the new mandatory minimum garden area requirement on infill development potential (introduced in March 2017). Although the majority of Port Phillip's residential lots are too small to be affected by the new garden area requirement, it has the potential to significantly influence the built form outcomes on larger residential lots in Ripponlea, Elwood, St Kilda and St Kilda East.

This also provides the opportunity to address a number of residential 'review areas' that were not included in Amendment C123, which implemented the reformed residential zones. These review areas require a more detailed assessment to determine the most appropriate residential zone.

A number of other councils have developed a more prescriptive guidance on preferred housing typologies and design in conjunction with a housing strategy. Council should consider supporting a new Housing Strategy with neighbourhood character and design policy to better articulate its vision for preferred dwelling types in defined character areas. See section 11.2.4 (neighbourhood character) for further discussion.

## Recommendation 48:

Prepare a revised Housing Strategy to:

- take into consideration current factors and demand influencing housing provision
- update housing policy to account for the new residential zones and Fishermans Bend
- consider using the new zones to more effectively direct housing growth and diversity while respecting heritage and neighbourhood character values
- consider the review areas that were not addressed by Amendment C123
- continue to monitor and understand housing trends in the municipality.

## 11.6.2 Performance of housing policy

The MSS housing policy defines five types of Housing Growth Areas: Substantial, Moderate, Incremental, Limited and Minimal (Clause 21.04-1).



# Audit Report

## Feedback

Feedback from Council officers indicates that the current housing policy framework could be clearer on the level of growth that is expected to be accommodated within Neighbourhood Activity Centres.

There has been a number of VCAT cases that have debated the definition and delineation of residential growth areas, with uncertainty created by the absence of maps in the scheme. There were a number of cases where proponents identified their sites as 'strategic redevelopment sites', without the support of Council. This could be due to the lack of a definition in the scheme on how to identify strategically appropriate locations for intensive housing redevelopment.

A number of cases raised issue with Council's interpretation of 'Limited Growth Areas' being inconsistent with the SPPF, with some sites appearing to be in locations with good access to public transport, jobs and services (refer to Appendix 4 – VCAT analysis).

The Managing Residential Development Advisory Committee Report (July 2016) also reflected this view, stating that it is not appropriate to direct all or the overwhelming majority of growth to main roads and activity centres as this would present a missed opportunity for townhouses and other forms of medium density housing to be located off main roads, but near and close to public transport and activity centres.

## Opportunities

The five housing growth area definitions are generally based on sound strategic planning principles to direct housing growth to those locations within the municipality that have the greatest capacity for change – close to transport, shops and other services.

However, the debate on the policy's limitation of residential growth in areas very well serviced by public transport indicate the definitions should be reviewed in the new Housing Strategy to clarify where growth is expected to occur, including identifying strategic redevelopment sites.

Other improvements include supporting the housing definitions with spatial representation to reduce dispute over interpretation and rationalising the categories into fewer types of growth areas to simplify the policy without losing strategic intent.

In the short-term, there is opportunity to clarify the definitions of the housing growth areas in a policy-neutral manner. At present, there are inconsistencies between the MSS housing growth area definition table and strategies.

## Recommendation 49:

Clarify housing residential growth area definitions within the MSS based on an updated Housing Strategy.

## 11.6.3 Fishermans Bend

Over the next 40 years, the City of Port Phillip's population is forecast to double with the redevelopment of Fishermans Bend. Both the level and rate of this growth will have significant implications for Council's service and infrastructure needs, and the overall liveability of the City.

Planning for the FBURA is being led by the State Government, in consultation with Council. Council is committed to ensuring Fishermans Bend is a great place to live, work and play and is advocating to the Victorian Government for the following priorities:

- an integrated transport plan for Fishermans Bend

# Audit Report

- an economic investment narrative and development plan for Fishermans Bend to continue growing Melbourne's economy
- commitment to creating a diverse community
- a comprehensive sustainable development plan
- catalytic investment in infrastructure to direct development
- informed density and quality design controls
- achieving a 6 Star Greenstar Community in Fishermans Bend

The strategic planning for Fishermans Bend is planned to be finalised in 2018.

The Review will need to holistically integrate the vision for the Fishermans Bend area into the MSS and remainder of the Scheme, along with identifying any interface issues and implications of this growth on surrounding areas.

## **Recommendation 50:**

Ensure best practice urban renewal planning and sustainable development outcomes for Fishermans Bend and holistically integrate this into the MSS.

## **11.6.4 Diverse and affordable housing**

### **Affordable housing**

#### **Local context**

The proportion of affordable housing units in the City of Port Phillip is declining, while affordable housing needs are growing:

- Rapidly increasing land prices and housing costs (from affecting the lower 50 - 60% of the income range in 1995 to affecting the lower 70% in 2015).
- Housing prices are twice as expensive compared with Greater Melbourne.
- Less than 1% of private rental housing is affordable to low income households.
- Median priced houses or units are generally only affordable to persons in the highest 10 per cent of the income range. This represents a broadening of the housing affordability problem.
- Closure of private rooming houses and the subdivision of rental flats for home ownership or higher rental flats.
- Publicly funded housing is not keeping pace with demand.

If no new social housing units are delivered in Port Phillip over the next decade, this crucial component of affordable housing as a proportion of the City's total housing stock will reduce further, from the current 7.2% to a forecast 5.9% by 2025. This is at a time when the broadening affordability challenge means new target groups will place additional demand on the existing supply of affordable housing. This decline will detract from the City's reputation as a diverse, inclusive and equitable City.

#### **Policy context**

Plan Melbourne 2017-50 seeks to increase the supply of social and affordable housing in Melbourne, recognising that a range of programs across all levels of government is required (Direction 2.3). Part of its approach is strengthening the role of planning in facilitating and delivering the supply of social and affordable housing by exploring inclusionary zoning and other mechanisms to capture and share value created through planning controls.



# Audit Report

In June 2017, the State Government has introduced the *Planning and Building Legislation Amendment (Housing Affordability and Other Matters) Bill 2017* to facilitate agreements (S.173) for the provision of affordable housing as part of development applications. The Planning and Environment Act is due to be amended (gazetted) in June 2018 to implement the Bill.

The Council Plan seeks to increase affordable housing by increasing the supply and diversity of affordable housing aligned to priority local needs of low income families (including larger families), older people (in particular older single women), key workers (or low income wage earners), and singles at greatest risk of homelessness (Outcome 1.2).

Council's affordable housing strategy - *In Our Backyard – Growing Affordable Housing in Port Phillip 2015-2025* – generally aligns with the directions of Plan Melbourne by using surplus Council property to deliver affordable housing and identifying opportunities to partner with the Victorian Government to develop planning mechanisms that can deliver social and affordable housing.

The affordable housing strategy also contains an ambitious aim to facilitate new multi-unit residential development that provides 20% of new dwellings as affordable and investigating value-share opportunities as incentives, such as floor space ratios in association with development bonuses.

The local planning policy for Fishermans Bend (Clause 22.15) includes policy to encourage all new development of accommodation uses over 12 storeys in height to allocate at least 6% of dwellings as affordable housing to a registered housing association or provider.

## Opportunities

Council recognises the need to respond proactively to ensure affordable and diverse housing remains available across the City. In the short term, the Review should update and strengthen affordable housing strategies in the MSS to reflect Council's affordable housing strategy and new state policy.

High land values in Port Phillip present a major constraint to investment in affordable housing. Planning mechanisms are needed that:

- both require and incentivise the provision of social and private affordable housing
- facilitate delivery of a range of affordable housing products to address the broadening housing affordability problem, including private rental and home ownership models for low to moderate income households
- maintain social housing delivered in perpetuity for future generations, through an affordable housing trust or similar arrangement
- provide the flexibility for contributions to be provided as units or 'cash-in-lieu'.

Affordable housing needs to be delivered through a combination of 'opt-in' (incentivised) and 'mandated' (inclusionary) planning mechanisms. In the medium-long term, Council should be prepared to respond to the direction of the state government reforms by:

- utilising potential new planning mechanisms when they become available (e.g. voluntary agreements)
- considering the introduction of discretionary target rates of affordable housing in the Scheme
- considering the use of development incentives (via a Floor Area Uplift mechanism) to facilitate the provision of social housing as a priority 'public benefit' in key growth areas
- continue to advocate for strengthened affordable housing planning mechanisms and processes and inform the state reforms.

# Audit Report

## Recommendation 51:

Strengthen affordable housing policy in the MSS by reflecting the directions of state policy and *In Our Backyard - Growing Affordable Housing in Port Phillip 2015-2025*.

## Housing diversity & adaptability

### Policy context

Planning also has a role in facilitating a range of housing types to meet the needs of current and future residents. A key direction of Plan Melbourne 2017-50 is to provide greater choice and diversity across the city to enable housing choice, for larger households to remain within a preferred location, or for smaller households to downsize and 'age in place'.

This includes:

- establishing a diverse range of styles, types, forms and sizes (number of bedrooms) of houses that is suitable for all types of households, income levels and life stages;
- adaptive and flexible housing to meet changing household needs (e.g. design can be later consolidated or split to suit housing needs); and
- alternative housing (e.g. tiny houses, secondary dwellings/granny flats/bedsits).

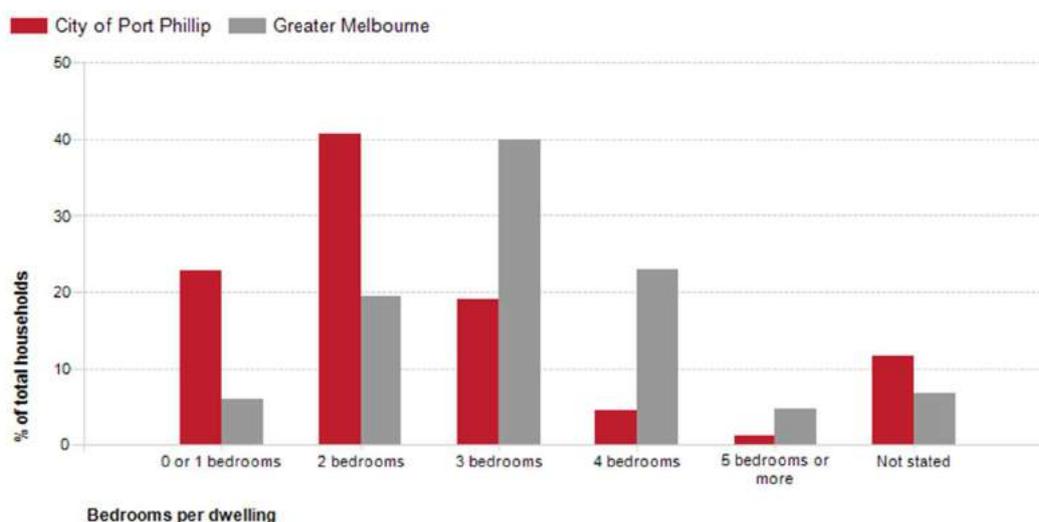
### Feedback

The VCAT analysis revealed at least one case for an apartment building that provided no larger dwelling types (3 or more bedroom dwellings). After considered Council's current housing diversity policy in the MSS, VCAT found the proposal was acceptable. Refer to dwelling diversity in the VCAT Analysis in Appendix 4.

### Data

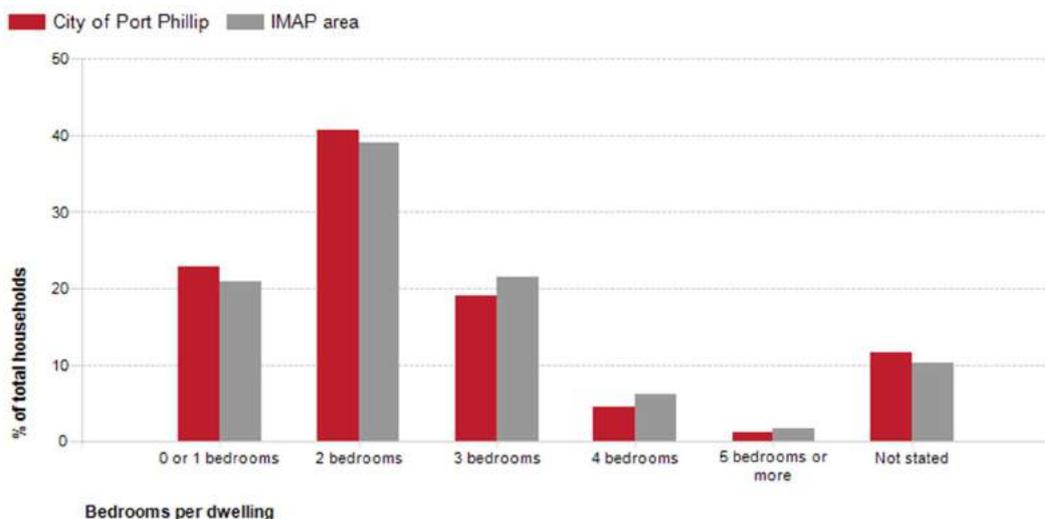
The 2016 Census data reveals that the City of Port Phillip has a lower percentage of total households with 3 and 4 bedrooms than both Greater Melbourne and the IMAF area.

**Figure 11 – Number of bedrooms per dwelling – Port Phillip vs Greater Melbourne, 2016**





**Figure 12 – Number of bedrooms per dwelling – Port Phillip vs IMAP Councils (inner-city region), 2016**



Source: Australian Bureau of Statistics, Census of Population and Housing, 2016 (Enumerated data)  
 Compiled and presented in profile.id by .id, the population experts.



## Opportunities

It is clear from the data, that the needs of larger family households in particular have not been met by new housing delivered in Port Phillip. Despite the lack of planning mechanisms available to Council in prescribing housing diversity requirements, the MSS housing diversity policy could be strengthened (at Clause 21.04-1, Objective 3) with more prescriptive strategies on housing diversity and flexibility.

Council should consider identifying acceptable ratios of housing diversity, particularly for key housing growth areas. This could take the form of a policy encouraging a minimum percentage of three bedroom dwellings in developments over 10 dwellings.

Other considerations could be to encourage the provision for home-offices and extended family households, through features such as removable/sliding internal walls, flexible layouts and spaces with services located to allow adaptation, and dual key apartments which allow parts of dwellings to be occupied independently.

### Recommendation 52:

Update the Scheme to strengthen housing diversity policy by specifying the desired outcome and including policy support for alternative forms of housing.

## Accessible housing

### Policy context

An outcome of the Council Plan 2017-27 (Strategy 2.3) is to pursue universal accessibility for people with disabilities, children and older people.

# Audit Report

Plan Melbourne 2017-50 also seeks to facilitate housing that offers choice and meets changing household needs, including universal design (Policy 2.5.1).

The new apartment standards (at Clause 55.07 and Clause 58 of the Planning Scheme) include an accessibility objective to ensure the design of dwellings meets the needs of people with limited mobility, with a standard for at least 50% of dwellings having universal design attributes like wide openings, hallways and adaptable bathrooms.

More general accessibility objectives are also contained within ResCode standards for multi-unit developments.

Commercial buildings need to comply with the Commonwealth Government's Access to Premises Standards to have an accessible main entrance, common area, toilet and car parking.

## Feedback

Council officers raised the issue of facilitating housing design that is accessible for all ages and abilities, including residential care for older persons.

The current MSS raises, as a key issue, the failure of the private market in adequately providing housing which is accessible and adaptable for people with disabilities and for older persons (to enable 'aging in place') and larger dwellings suited to households with children. However, there are no specific strategies relating to accessible housing.

## Opportunities

Council should consider including a strategy within the MSS to support the provision of accessible housing for people of all ages and abilities to promote accessible housing in all forms of development, including smaller-scale residential premises.

See section 11.4.2 for universally accessible design.

## Recommendation 53:

Update the MSS to include policy support for accessible housing that is suitable for people of all ages and abilities.

## 11.6.5 Physical infrastructure

Port Phillip's growing resident, worker and visitor population will see further strain placed on existing transportation networks and other infrastructure (social, physical and public open space). This is exacerbated by an 'at-capacity' road network and the majority of local workers travelling to Port Phillip from other municipalities. Infrastructure contributions will be required to deliver infrastructure to support this growth.

## Development contributions

Development contributions are payments or works-in-kind towards the provision of infrastructure made by the proponent of a new development.

For local infrastructure contributions through development applications, the Planning and Environment Act 1987 allows for it to be provided through:

- Development contributions plans (DCPs) – plans incorporated in the planning scheme to levy new development across a broad area (Development Contributions Plan Overlay)



- Conditions on planning permits – requiring provision of infrastructure (or payments) relevant to the planning application provided on or to the land
- Voluntary agreements – Section 173 Agreements for a planning scheme amendment request or permit application

A DCP can fund the acquisition of land for public infrastructure, and the construction of transport, community, open space and recreation infrastructure.

A new system for Infrastructure Contributions Plans (ICP) was introduced in 2016 for regional and growth areas. The State Government has indicated this system will be extended to apply to strategic development areas in the metropolitan region at some stage.

## Local context

Council will experience increasing demands on its existing infrastructure in the coming decades and expanding or creating new infrastructure will be challenging from a cost and space perspective. As a result, it must consider ways in which it can fund infrastructure provision into the future. As planning controls open up new opportunities for more intensive forms of urban development, there is a need to ensure that such redevelopments make a fair contribution to the associated cost of delivering new community services, facilities and infrastructure.

Currently, the Scheme has two areas within a Development Contributions Plan Overlay – the Port Melbourne mixed use area DCP (streetscape works) and the Fishermans Bend Urban Renewal Area.

## Opportunities

The use of development contributions should be considered as a potential funding option available to Council for its high-growth precincts and areas. Benefits of a traditional DCP process must be weighed up, given the considerable time and resources required, and the infrastructure funding commitments that come with it.

Open space contributions are provided through Clause 52.01 of the Port Phillip Planning Scheme to help councils fund new open space or improve existing open space from the subdivision of land. This rate can be updated as part of the new Public Spaces Strategy - see section 11.5 on Public Space.

The state government has identified committed to reviewing infrastructure funding across the metropolitan area of Melbourne to ensure that the infrastructure required to support existing and future communities will be provided (Plan Melbourne Implementation Plan).

The VPA and DELWP are currently working on introducing an infrastructure contributions system for strategic development areas within established areas of Melbourne.

Strategic development areas include urban renewal areas, brownfield sites, activity centres and areas identified for substantial housing or employment growth. Consultation on a draft set of levies is expected to occur in 2018.

Council should consider the outcomes and timing of the State-led review when considering future infrastructure funding options.

## Recommendation 54:

Review options to fund the infrastructure required to support a growing population.

# Audit Report

## 11.7 Transport, parking & waste

Road network congestion will continue to be an issue as our population grows with Port Phillip's road network at capacity. Supporting people to travel by non-car modes is essential and will require better integration of the land use and transport system.

### 11.7.1 Integrated transport and land-use planning

#### Policy context

The Council Plan seeks an integrated transport network that connects people and places (Outcome 2.1). An Integrated Transport Strategy will be developed to improve bike riding, walking network connectivity, safety and amenity.

Council also seeks to create 10-minute walking neighbourhoods that give locals access to shops, community spaces and a strong sense of place (Outcome 4.2).

Plan Melbourne 2017-50 encourages Councils to direct high-intensity uses to the Principal Public Transport Network (PPTN - Policy 3.1.4). The PPTN outlines the routes where high-quality public transport services are or will be provided. It also promotes the location of schools and other regional facilities near existing public transport (Policy 3.3.4).

#### Opportunities

An integrated transport and land use policy framework will guide decision making to maximise access between residences, places of employment, markets, services and recreation. This supports the development of an effective transport system that is less reliant on the need for private motor vehicle transport.

Housing growth and a mix of uses will need to be directed to areas which offer highest access to public transport, which in turn encourages walkable neighbourhoods and an increased take-up sustainable transport options.

The review of transport and land-use policy within MSS should be informed by the strategic directions of the forthcoming Integrated Transport Strategy.

A new Housing Strategy should also clarify the role of housing growth in proximity to the Principal Public Transport Network, particularly at interchanges, activity centres and where principal public transport routes intersect.

Land use planning will also need to consider future transport facilities such as the new Anzac Station, which has the potential to have a transformative impact on this precinct for housing and jobs.

#### Recommendation 55:

Update the MSS to reflect the outcomes of the Integrated Transport Strategy.

### 11.7.2 Sustainable transport modes

#### Policy context

The Council Plan 2017-27 directs that our streets and places should be designed for people, by prioritising walking, bike riding and public transport and pursuing universal accessibility (Outcome 2.3).



# Audit Report

Plan Melbourne 2017-50 seeks to create pedestrian friendly neighbourhoods, with priority given to movement and needs of pedestrians (Policy 3.3.1).

The current MSS has comprehensive sustainable transport policy which sets out a transport mode hierarchy to prioritise walking above all other methods of transport, followed by cycling, public transport, freight, multiple occupancy vehicles, with single occupancy vehicles last (Clause 21.03-2).

## Feedback

The majority of participants from the Planning Scheme Users Survey rated sustainable land use and development policy as either good or excellent (62%), but were less favourable about sustainable transport policy (42% rating it as good/excellent).

Some users didn't see the relevance of this policy for smaller private development, which doesn't create the need for new transport infrastructure. Other users noted the policy was failing to result in increased bike infrastructure or a change in car land use patterns.

## Opportunities

Sustainable transport policy could be improved in the MSS by removing repetition and relocating advocacy strategies. The effectiveness of the sustainable transport mode hierarchy could be strengthened by linking it to

- a place-making approach that recognises our streets as important public places in their own right that contribute to the economic vibrancy and social functioning of our cities
- more detailed policies on how pedestrian and bicycle movement can be prioritised in larger developments
- encouraging larger developments to increase bicycle parking infrastructure and create more bicycle-friendly design outcomes.

## Recommendation 56:

Strengthen policies in the MSS on sustainable transport to promote the concept of placemaking in our streets.

## 11.7.3 Sustainable car parking

### Policy context

The Council Plan 2017-27 envisions the demand for parking and travel to be moderated as our City grows (Outcome 2.2). This will be achieved by integrating land use and transport planning in the MSS and reducing reliance on cars by directing growth to areas well served by public transport and shops. Another priority includes developing updated parking provision rates for new development, including provision of car share vehicles.

Minimum car parking requirements are mandated through Clause 52.06 of the Scheme. This is a state-standard provision that applies the same rates across the state. At present, these can only be reduced if an applicant seeks a lower rate through the permit process, and Council waives this requirement. This does not allow Council to require a reduction to the standard rates to encourage more sustainable development. To set alternative mandatory

# Audit Report

maximum or minimum car parking rates through the Planning Scheme, a Parking Overlay must be applied. This requires significant strategic justification and evidence.

Council's Sustainable Parking Policy is used during the planning permit process to advocate for more sustainable car parking rates in new development. It is also used as a basis to waive the Clause 52.06 requirements. This will be reviewed and updated alongside the Integrated Transport Strategy.

Currently the Port Phillip Planning Scheme applies Parking Overlay to Fishermans Bend which reduces the standard number of car parking spaces required.

## Feedback

There was strong support from Council officers on addressing a 'policy gap' on sustainable car parking rates. Currently the Planning Scheme contains state-standard parking requirements through Clause 52.06 (Car Parking).

The Council's statutory planners noted they consistently advocate for lower car parking provision in new development (where appropriate) by referring to the Sustainable Parking Policy.

The Department has previously suggested to Council to use the Parking Overlay as an alternative to the Sustainable Transport Policy and Parking Rates Report (2007) reference document, to apply variations to car parking rates in its activity centres.

## Survey

The majority of respondents to the Planning Scheme Users Survey ranked sustainable transport policy in the MSS unfavourably, with one respondent indicating there was no strong policy support for reducing the number of cars in new development:

"There is general acceptance that less cars and less traffic is desirable yet not (sic) policy strongly supporting reductions in car parking."

A recent study commissioned by Council collected survey data to examine car parking supply and demand and travel mode choice at a number of high-density buildings across the municipality. The study found there was an average on-site parking occupancy of 73% across the surveyed sites. This indicates that the private car parking provided within buildings is generally not fully utilised and that there may be scope to lower car parking rates in new development.

## VCAT

A review of VCAT cases (see section 9.1 of this report) found:

- In most cases, Council and VCAT supported a waiver of minimum car parking standards.
- In one case, Council opposed an application to waive car parking requirements for three new dwellings due to pressure in on-street parking in the area. VCAT disagreed, finding the location suitable given its proximity to public transport, share cars and shops.
- No permit is required when an oversupply of car parking (rate exceeding minimum standards of Clause 52.06) is proposed development unless Council applies a parking overlay.

## Opportunities

Benefits of a Parking Overlay include:



# Audit Report

- potential to reduce congestion by encouraging the uptake of sustainable transport travel methods in areas facing significant levels of growth
- the ability to set lower or higher car parking requirements if an area experiences consistently higher or lower than average car parking demand
- ability to secure financial contributions for developments that provide less parking spaces (i.e. cash in lieu of parking waivers from parking requirements) to fund other car parking facilities or public or active transport initiatives
- ability to secure cash in lieu of parking waivers for commercial developments to accommodate additional traffic within an activity centre that a new business is expected to generate.

A Parking Overlay with varied rates must be supported by a car parking plan that provides strategic justification for the rates specified in the overlay. There is a significant level of strategic work that must accompany the introduction of a Parking Overlay to an area. Council should determine whether a Parking Overlay would be beneficial for certain activity centres or high-growth areas of the municipality.

The Victorian Government has identified the possibility of updating the state-wide car parking rates of the head car parking provision (Clause 52.06) in the context of transport mode shifts, lifestyle and technology changes and densification – see the Reforming the Victoria Planning Provisions Discussion Paper, October 2017 (page 57).

## **Recommendation 57:**

Consider using the Parking Overlay to require more sustainable car parking rates (including maximum rates) for new office and residential development in select high-growth locations close to public transport, shops and services.

## **Recommendation 58:**

Investigate the potential to secure development contributions for sustainable car parking rates to fund active transport initiatives.

### **11.7.4 Visitor parking**

Feedback from Council officers was that, for many larger development applications, developers were requesting a waiver or reduction of state-standard on-site visitor parking rates.

A request to waiver or reduce the rate of visitor parking is considered on a case-by-case basis, by surveying parking demand in the vicinity of the site and considering the level of additional demand a development may provide. However, this method may not accurately account for the cumulative impact of a number of developments approved around the same time. This may have implications for the demand for on-street parking in an area which is often a concern of surrounding residents.

A waiver or reduction in the state-standard visitor parking rate is often appropriate where a site has suitable alternatives for visitor car parking. A reduction may also have benefits in reducing the provision of under-utilised car parking spaces which would add to the development costs and affordability of new housing.

The Integrated Transport Strategy will define how Council will manage on-street parking into the future through smart street management, to balance and reconcile the demands on our street network as our city grows.

# Audit Report

A more strategic analysis of setting more sustainable levels of visitor parking rates in private development rates can be further explored with a potential Parking Overlay (Recommendation 57).

## 11.7.5 Car parking design

A number of DDOs have requirements for car parking levels to be of a minimum floor to ceiling height of 3.5m so that it has the potential to be repurposed for habitable uses later, if the demand and utilisation of car parking is reduced. A more consistent policy on flexible and adaptive reuse of car parking levels in buildings should be considered in the Review.

Another issue raised by Council officers was on the design of standard car parking stackers not being large enough to accommodate some vehicle types, and only 25% of car parking stackers required to accommodate a 1.8m clearance height, potentially increasing on-street car parking demand.

These issues should be further explored in conjunction with the Integrated Transport Strategy and sustainable parking policy.

## 11.7.6 Green Travel Plan

A Green Travel Plan is a process undertaken by a site developer to assess, develop and implement initiatives to facilitate and encourage the use of more sustainable travel options.

Larger non-residential developments are required to provide a Green Travel Plan in accordance with the Environmentally Sustainable Development Local Planning Policy in the Scheme (Clause 22.13). Council often includes this as a permit condition for larger residential developments.

Officer feedback suggested Green Travel Plans may not be working as effectively as they could, with little guidance on the appropriate contents of Green Travel Plans (e.g. threshold for acceptability and encouraging best practice). There is also little in the way of follow-up on whether Plans have been implemented, as this requires enforcement action.

This should be further explored in conjunction with a potential Parking Overlay. A template Green Travel Plan policy that sits outside the planning scheme may be useful in providing more detailed advice to developers on expected outcomes.

## 11.7.7 Car share

The MSS aims to reduce the impact of vehicles on local areas by supporting shared parking facilities in retail shopping strips.

Council's Car Share Policy 2016-21 supports the provision of car share vehicles within new developments, alongside a reduction in the number of private car spaces provided on site, to reduce the need for car parking and car ownership and to supplement the local on-street car share network.

Council's Green Transport Plan condition requires that a 'share car' parking space is provided within the development for use by residents of the proposed development. However, Council officer feedback indicated there were issues with car share viability in some developments due to lack of public access to private buildings and costs to body corporate. Council officers also noted car share operators don't favour car share parks located in basements of private buildings as they are not well utilised and on-street provision is preferable.



# Audit Report

Council's Car Share Policy seeks to prioritise car share provision outside of residential or commercial properties for greater convenience.

## **Recommendation 59:**

Consider ways to improve policies relating to car parking, including:

- facilitating flexible car parking design
- guidance to improve Green Travel Plans
- supporting car share facilities in on-street locations, or where demand is demonstrated.

## **11.7.8 Services in higher density development**

### **Bicycle parking**

The Port Phillip Planning Scheme contains a state-wide provisions, at Clause 52.34 Bicycle Facilities, that sets out bicycle parking rates for a new use or for where the floor area of an existing use is increased.

Feedback from Council officers indicate the minimum bicycle parking rates per dwelling (at 1 for every 5 dwellings) is too low to encourage sustainable transport options.

A post-occupancy survey of 13 high-density buildings across the municipality found that bicycle parking rates vary widely, but are generally underprovided for in new developments. One building had a formal supply of 30 bicycle parks and an observed demand of 60 bicycle parks (200% demand).

The provisions are set by the State Government and do not allow Council to vary the requirements through a schedule. At present, the only way at present for Council to vary bicycle parking rates is through applying the Activity Centre Zone, however this is a highly complex zone and should not be used solely to increase bicycle parking provisions.

Council can encourage a reform of the bicycle facilities provision through advocacy to the Minister for Planning.

Council can provide policy support in the MSS to encourage greater provision and better design / access of bicycle spaces and facilities within developments.

## **Recommendation 60:**

Support more and better designed bicycle spaces and facilities within private development, particularly where car parking is reduced.

## **Waste management**

### **Policy context**

Council's vision is to achieve a sustained reduction in waste (Outcome 3.5 of the Council Plan 2017-27) by reducing waste and maximising recycling and diversion from landfill and managing waste collection.

One of Council's key priorities over the next four years is to develop and implement a new municipal Waste Management and Resource Recovery Plan, pursuing waste innovations in Fishermans Bend and updating the Waste Management Guidelines for apartment developments.

# Audit Report

Plan Melbourne 2017-50 seeks to improve waste and resource recovery systems to meet the logistical challenges of medium and higher-density developments (Policy 6.7.2).

The recently introduced apartment developments standards (Clause 55.07 and 58) in the Scheme provides a standard for waste and recycling management facilities to be designed and managed in accordance with a Waste Management Plan approved by the Council, however this is not a mandatory requirement.

## Opportunities

The Waste Management Guidelines are currently being reviewed by Council to strengthen sustainable waste outcomes with stronger waste diversion targets from landfill. Council should reflect its waste management policies in the MSS.

The new waste management standards in Clause 58 are performance based, meaning Council has less prescriptive control on design outcomes. There is the possibility a development may meet the Clause 58.06-3 objective without being in accordance with Council's preferred waste requirements.

There is the opportunity for Council to strengthen the requirement for a Waste Management Plan to be provided for a range of development types in accordance with its Guidelines.

### **Recommendation 61:**

Update the MSS to include waste management requirements for multi-unit and high density development, which maximise recycling and diversion from land fill.

### **Recommendation 62:**

Incorporate an application requirement for high-density development that requires Waste Management Plans to be consistent with Council's Waste Management Guidelines, once developed.

## Loading requirements

The apartment standards in Clause 58 of the Planning Scheme do not include loading requirements and service vehicle areas for residential developments over a certain threshold (e.g. high-density apartment developments).

This can create circumstances where trucks need to temporarily park on street, which can have traffic implications for certain areas.

Guidance should be provided in the Urban Design Local Planning Policy (Clause 22.06 – Urban Design Policy for Non Residential and Multi Unit Residential Development) to encourage developments to provide loading areas on site to prevent these situations from having a cumulatively negative impact on building frontages and amenity. Also see section 12.2.7 of this report (review of Clause 22.06) for further discussion of this issue.

Where possible, developments should be encouraged to integrate or share these areas where possible.

### **Recommendation 63:**

Update design policy for higher density residential development to encourage the provision of space that will accommodate on-site loading where development is on a busy road.



# Audit Report

## 12 Effectiveness and efficiency

This section reviews the structure and the content of the Port Phillip Planning Scheme to determine whether improvements can be made. Key considerations include:

- updating content and removing redundant controls
- considering permit exemptions to improve efficiency
- ensuring controls are clear and reducing repetition to improve effectiveness.

### 12.1 The Municipal Strategic Statement

#### Local context

There is no prescribed format for the structure of the MSS, but widely accepted principles include that the structure should be logical and provide a clear link between state and local policy.

#### Feedback

Council officers raised a number of issues with the length and ambiguity of the current MSS and the way the strategies have been drafted. They suggested:

- substantially reducing the length
- reducing duplication and inconsistency within the scheme
- remove references to 'encourage' and 'ensure' in the strategies
- adding maps to provide more spatial guidance and a visual interpretation of policy.

The responses to the Planning Scheme Users Survey indicate there is wider support for the Scheme being simplified. The three most frequently mentioned responses were:

- 'Reduce unnecessary and repetitive policy' (noted by 60% of respondents);
- 'Rewrite policy to be more succinct' (mentioned by 45%); and
- 'Improve the structure to make it easier to follow' (40%).

Feedback from the Planning Panel that implemented the last planning scheme review (Amendment C62, 2011) noted there would be merit in Council streamlining the content without changing the intent of the new LPPF to reduce the length and this improve its readability:

*"at over 120 pages in length and, arguably, reflecting the complexity and diversity of the City of Port Phillip, there would be some merit in Council judiciously reviewing and, where possible, streamlining the content without changing the intent of the new LPPF"*

#### Opportunities

Port Phillip's existing MSS contains the relevant information, however it has a unique structure that doesn't directly follow the preferred model set out in the practice note. This should be reviewed to ensure the MSS follows a logical format with:

- descriptive content of the municipality upfront
- key planning issues and influences that help to demonstrate local and demographic trends
- a statement on Council's vision for the City's future
- a clearer strategic framework plan that provides the spatial representation of key strategic directions and issue of the municipality

# Audit Report

- strategic directions that set out how Council will address the key issues affecting the City.

This helps to lay out the foundations for the detailed objectives and strategies of the remainder of the MSS.

The remainder of the MSS, which sets out detailed policies and objectives on land use and development can be set out in a format of Council's choosing. One approach worth considering is to set out the policies and objectives to broadly follow the themes of the SPPF.

The benefits of this approach is to better align and integrate local and state policy, as it more clearly draws a link between state and local policy and it reduces repetition between the two policy levels.

This will also assist in translating Council's local policy into the proposed new integrated planning policy framework being developed by the State Government (see section 6.3.10 for details on the Smart Planning Program).

Throughout the remainder of the MSS there are common issues that could be improved, including:

- clarifying overarching motherhood policy statements
- using active verbs and plain English format
- reducing repetitive strategies between themes
- making policies more concise
- removing inconsistent strategies, where possible<sup>35</sup>
- adding maps at the end of each theme
- removing strategies not relevant to planning from the Scheme.

## **Recommendation 64:**

The MSS will need to be restructured to more closely reflect the themes of the State Planning Policy Framework to improve clarity and reduce duplication. Council should take the opportunity to work with the state government to implement the proposed integrated planning policy as part of the Smart Planning reforms.

## **Reference documents**

Reference documents provide background information to assist in understanding the context within which a particular policy or provision has been framed.

Reference documents have only a limited role in decision-making as they are not part of the planning scheme. They do not have the status of incorporated documents, nor carry the same decision-making weight.

They are mentioned frequently throughout the Port Phillip Planning Scheme, however, as they often reflect Council or State Government strategic documents, they are prone to becoming outdated over time, or superseded by a newer version of policy.

All reference documents should be reviewed to ensure they are current, provide useful background information or general advice to applicants, or will assist in understanding the scheme.

---

<sup>35</sup> Some conflicting planning policies are unavoidable and must be weighed up in decision-making in favour of net community benefit – see Clause 10.04 of the Port Phillip Planning Scheme.



# Audit Report

## Recommendation 65:

Review all reference documents to ensure they are still current, relevant and useful.

## 12.2 Local Planning Policies

The role of a Local Planning Policy (LPP) is different to that of the MSS. LPPs should not contain the local strategic direction of a planning scheme. Rather, its purpose is to guide the exercise of discretion under a planning scheme controls (relating to a planning permit trigger under a zone, overlay or particular provision) to deliver an objective or strategy of the MSS.

### 12.2.1 Area-based local policies (Clause 22)

#### Local context

There are two area-based LPPs in the Scheme that contain detailed guidance on strategic direction in relation to activity centres at Carlisle Street and Bay Street. These area-based LPPs aim to implement structure that are intended to set the long term strategic direction for land use and development, along with some more detailed built form objectives.

The State Government is proposing an integrated state and local planning policy framework that is proposing to remove this distinction between the LPPs and the rest of the MSS – see section 6.3.10 (Smart Planning Program). If this is implemented as proposed by the State Government, this will require all Local Planning Policies to be translated into the MSS at some point.

#### Feedback

In the Planning Panel for Amendment C52 - South Melbourne Central, the Panel found that the local policy could be dispensed with and re-distributed into the MSS or the DDO.

The June 2007 Making Local Policy Stronger Ministerial Report noted the proliferation of local planning policies in many planning schemes were attempts to apply specific land use controls to local areas, which is more effectively achieved through the zone and overlay provisions. The Report also noted the tendency for Councils to 'load-up' their LPP with as much detail as possible to provide 'insurance' against any possible outcome, resulting in an over bloated LPPF where important messages are lost.

Although this structure can be perceived as a useful 'one-stop shop' for detailed policy on an area, if not carefully drafted, it tends to result in policies that repeats the MSS and planning controls and, at times, does not relate to a discretion in the scheme.

#### Opportunities

Best practice advice is to deconstruct these policies to include the broad strategic objectives in the MSS and use the zones and overlays to deliver the policy objectives. The benefits of this approach include:

- reducing repetition and streamlining the LPPF
- making better use of the zone and overlay controls
- creating an LPPF that is more easily understood by decision-makers and the community
- strengthening the role of, and policy within, the MSS

# Audit Report

- making it easier for practitioners and the public to navigate and decipher policy direction.

Rolling the area-based policies into the MSS is consistent with the proposed integrated Planning Policy Framework reforms that are proposed by the State Government as part of the Smart Planning program. Detailed built form requirements in the LPPs that are not suitable for the MSS may be able to be added to the relevant DDO.

The update of the remainder of the LPPs should consider how the proposed reforms will affect the policy and ensure they can be more easily retrofitted to the future Integrated Planning Policy Framework.

## **Recommendation 66:**

Relocate the area-based Local Planning Policies to the MSS and other relevant parts of the Planning Scheme.

## **12.2.2 Non-residential uses in the residential zone (Clause 22.01)**

### **Context**

Clause 22.01 – The Non-residential uses in the residential zone was introduced as part of the last planning scheme review (Amendment C62 in 2011) to guide discretion in applications for non-residential uses such as convenience stores, restaurants and medical centres in the former Residential 1 and 2 Zones (replaced by the reformed residential zones in 2013).

### **Feedback**

Council officers suggested considering the implications the reformed residential zones to respond to changes in permit discretion.

Officer feedback also indicated there was not comprehensive guidance for other types of non-residential uses that typically receive more community concern, like veterinary centres.

However, when reviewing a VCAT decision which considered a proposed veterinary centre in a residential zone, the Tribunal<sup>36</sup> had regard to the policy objectives at Clause 22.01. In that decision, VCAT ultimately affirmed Council's decision to refuse the permit, citing that the proposed land use did not meet the locational criteria outlined for non-residential uses in the residential zone, and was not consistent with the outcomes sought by local policy.

### **Opportunities**

Overall, the outcomes of the VCAT case and recent Council decisions indicate that policy objectives are being considered. The policy continues to provide useful guidance for non-residential uses in the residential zones.

The changes to the residential zones made medical centres as-of-right (under 250sq.m) in the General Residential Zone, Neighbourhood Residential Zone and the Residential Growth Zone, along with a small shop and office in the Residential Growth Zone.

---

<sup>36</sup> *Paws v Port Phillip CC [2015] VCAT 1833 (19 November 2015)*



# Audit Report

There is no need to change policy guidance for remaining permit discretions where medical centres are now section 1 use. In regards to the new permit discretions in the RGZ – shop and office, they are not expected to have fundamentally different impacts to the types of uses the policy currently covers - convenience shops and medical /veterinary centres given size limitations.

The existing Clause 22.01 policies that are based on protection of residential amenity is still relevant.

## **Recommendation 67:**

Retain and update local policy on non-residential uses in the residential zones to reflect permit discretions in the reformed zones.

## **12.2.3 Backpacker's Lodges (Clause 22.02)**

### **Policy context**

Clause 22.02 -The Backpackers' Lodges Local Planning Policy was introduced in the last planning scheme review (Amendment C62, 2011) to formalise an adopted Council policy - Backpackers' Lodges in the City of Port Phillip, March 2000. It seeks to protect the conversion of social housing and private rooming houses to backpackers' lodges and outlines requirements relating to their location, design and operation.

### **Feedback**

Council has been unsuccessful at arguing before VCAT that a proposal to use land for a backpackers' lodging does not meet the policy objectives of Clause 22.02 (Backpackers' lodges) on a number of occasions. See section 9.1 of this report for a VCAT analysis of backpackers' lodges.

### **Location criteria**

Both VCAT decisions supported the proposed backpackers' lodges given their proximity to:

- Good local public transport options;
- commercial areas or zones;
- Shops and services in activity centres;

In both cases, VCAT considered the policy to locate backpackers' lodges away from residential areas, finding:

- The location of a backpackers' lodge in proximity to residential uses does not make the proposal unacceptable;
- Mixed use buildings can be considered as a 'residential area';
- Transition areas between residential and commercial zoning may be appropriate.

### **Noise impacts**

Officer feedback indicated that noise is a major issue with regards to the off-site impacts of Backpackers' Lodges. The VCAT cases indicate that noise impacts are carefully considered by the Tribunal:

# Audit Report

*“I acknowledge that it is appropriate that the Tribunal exercise some caution about the potential off-site amenity impacts of approving a backpacker’s facility, particularly in a residentially zoned area<sup>37</sup>”*

Both VCAT cases considered the noise impacts of each proposal on its merits and considered impacts to be reasonable with appropriate venue management conditions.

However, both decisions considered these noise factors were given less weight due to existing conditions in the area - with the high-degree of traffic noise at St Kilda Junction for the McGuire case and the existing levels night activity an area is subject to in the Raff Holdings case:

*“I am also mindful that the Clause 22.02 objectives need to be sensibly considered in light of this being a less than pristine local area<sup>38</sup>”.*

## Definitions

Officers raised concerns about an exemption provided by Clause 52.23 (Shared housing) intended to benefit rooming houses, that also exempts the use of land for backpackers’ lodge in residential areas if it is less than 10 habitable rooms. There is some potential that this issue will be addressed by the State Government, with the Minister for Planning currently considering reforms to the VPP to stipulate that the exemption only applies to rooming houses and community care accommodation.

## Opportunities

Despite Council’s lack of recent success in opposing backpackers’ lodges at VCAT, the decisions indicate that the policies of Clause 22.02-3 on location criteria and amenity impacts are being carefully considered.

The tensions that exist with backpacker’s lodges are similar to issues raised with licensed premises and residential amenity impacts in activity centres, due to our commercial areas intensifying and becoming increasingly mixed-use.

Overall, the policy objectives are being considered and implemented. Council should continue to monitor the performance of this policy over the coming years to potentially strengthen policies relating to venue management and noise mitigation.

Further, as backpackers’ lodges will naturally locate in similar areas, close to popular tourism precincts like St Kilda, there should be a greater focus on demonstrating the cumulative impact of backpackers’ lodges (and their interaction with licensed premises). Although Council has not recently opposed any permits on this basis, it should monitor the policy’s effectiveness at managing cumulative impacts over time.

There are a couple of a minor anomalies within the policy that will need to be updated, including an error in the policy reference to the SPPF provision.

## Recommendation 68:

Retain and update policy on backpacker’s lodges to correct minor anomalies.

---

<sup>37</sup> Raff Holdings Pty Ltd v Port Phillip CC [2014] VCAT 996 (14 August 2014)

<sup>38</sup> Raff Holdings Pty Ltd v Port Phillip CC [2014] VCAT 996 (14 August 2014)



# Audit Report

## 12.2.4 Caretaker's houses in industrial and business zones (Clause 22.03)

Clause 22.03 – Caretaker's houses in industrial and business zones was introduced to the Scheme in the 2006 review (Amendment C62, 2011) to formalise an adopted Council Policy (Port Phillip Practice Notes, Policy no. 15 – Caretaker's Dwellings). It introduced policy relating to the design and operation of caretaker's houses in Industrial 1 and 3, and Business 3 Zones.

During consultation, Council officers suggested updating the zone references following the 2013 zone reforms. The reformed zones generally allow more uses within these zones, however accommodation (other than Caretaker's house) remains prohibited in the Industrial zones. Within the Commercial 2 Zone (formerly the B3Z) a Motel and Residential hotel are now allowed with a permit.

The number of permit applications for caretakers' houses has seen a significant decline in recent years following rezoning of the majority of Port Phillip's industrial land in the Fisherman's Bend Urban Renewal Area to Capital City Zone (via Amendment C102 - July, 2012).

Despite this, the policy position continues to be relevant for the remaining small parcels of industrial land to ensure the City's remaining industrial-zoned land is protected from encroachment by non-industrial uses.

The zone references in Clause 22.03 and Port Phillip Practice Notes, Policy no. 15 – Caretaker's Dwellings – Reference document should be updated.

### **Recommendation 69:**

Retain and update local policy on caretaker's houses in industrial and business zones to reflect the zone reforms.

## 12.2.5 Heritage policy (Clause 22.04)

### **Policy context**

Plan Melbourne 2017-50 identifies the opportunity to stimulate economic growth through heritage conservation (Policy 4.4.3). This recognises the need for heritage policy to be flexible enough to enable the regeneration of heritage assets through adaptive re-use to create unique and attractive functional places.

The Burra Charter<sup>39</sup> is guidance for the conservation and management of places of cultural heritage significance and sets a standard for those who make decisions about cultural heritage significance in Australia.

The Burra Charter notes that change may be necessary to retain cultural significance (heritage values), but is undesirable where it reduces it (Article 15.1).

### **Feedback**

#### **2006 Audit**

The 2006 Planning Scheme Review identified the need for a number of refinements to the Heritage Local Planning Policy at Clause 22.04, only some of which were undertaken. It is

---

<sup>39</sup> Australia ICOMOS Charter for Places of Cultural Significance, The Burra Charter, 2013 (Burra Charter)

# Audit Report

timely that a comprehensive review of the Heritage Local Planning Policy be undertaken to strengthen and broaden scope of Heritage Policy to address different typologies and accommodate sensitively designed development.

## Survey

The Planning Scheme Users Survey identified the policy as the most frequently used policy, however results on its performance were varied, with approximately half of respondents rating it favourably. About 17% of respondents rated it as 'poor' or 'very poor' and raised the following concerns:

- The policy contains arbitrary and excessive restrictions that don't reflect present and future needs for well balanced, higher density housing;
- Prescriptive heights and setbacks need to be more flexible to accommodate new and interesting designs, rather than considering the streetscape as a 2D Hollywood set;
- The 10 degree viewline rule is nonsensical in instances where a ridgeline would hide new work;
- Clearer guidance and more flexibility is required for sections that have limited visibility from the street.

## Officers

Feedback from Council officers also raised the inflexibility of the prescriptive measures as an issue. They noted the 10 degree viewline policy for additions or alterations to heritage places has been designed to apply to a single-storey house and has limited applicability to other building typologies (e.g. non-residential buildings) and roof forms (e.g. Edwardian roof forms).

The development of Fishermans Bend will also see a number of heritage buildings redeveloped to a higher scale, with industrial heritage fabric.

## VCAT

A number of VCAT cases took a contextual approach and accepted design proposals as appropriate that didn't strictly comply with the Policy's 10 degree sightline performance measure - as detailed in Appendix 4.

In one case, VCAT noted that if Council wants strict compliance with the 10 degree measure, it should elevate the policy measure as a control.

A number of VCAT cases also considered the demolition policy, often setting aside Council's decision by finding buildings structurally unsound.

One case<sup>40</sup>, however approved demolition of two significant heritage places that were structurally sound, contrary to the policy, finding that demolition would improve the adjacent heritage place. Findings about the demolition policy include:

- The policy would prevent the demolition of any significant heritage building unless it is structurally unsound, affording the buildings greater protection than they would have if on the register of buildings of State significance under the Heritage Act 1995.
- The policy significantly narrows the broad discretion given under the head provision (Clause 43.01 – Heritage Overlay) which may grant a permit to demolish a building and called for a resolution of conflicting controls.

---

<sup>40</sup> Milgrom v Port Phillip CC [2014] VCAT 439 (17 April 2014)



# Audit Report

## Panels

The Planning Panel for Amendment C143 (Fishermans Bend Heritage Study) noted the tension between Clause 22.04 (Heritage Policy) demolition policy and the citation, which recommends a less restrictive approach to demolition.

The Panel also noted a tension between the Policy's built form guidance and the scale of development envisaged by DDO30 in the Fishermans Bend Urban Renewal Area:

*"In areas where redevelopment at significant scale is envisaged, a policy of 'concealment' of new development of land within the Heritage Overlay, as envisaged by the Clause 22.04 policy, will not necessarily strike the right balance. The Policy seems more suited to low scale residential heritage places or precincts than areas identified for intensive redevelopment."*

## Opportunities

It is timely that a comprehensive review of the Heritage Local Planning Policy take place, as part of Council's broader heritage review program.

The following revision or improvements should be addressed:

- Revise the viewline requirement (Performance Measure 1) to address a wider range of building typologies, including identifying circumstances when a variation to the measure is acceptable.
- Explore options for new exemptions from the viewline requirement to allow innovative and contextual roof forms.
- Clarify the 'demolition' policy. Despite VCAT findings, the Burra Charter 2013 is clear in its policy that that demolition of significant fabric of a place is generally not acceptable (15.3) except minor demolition as part of conservation.
- Better define 'design excellence' for replacement buildings.
- Review the format and consistency to reduce repetition (including between the MSS and local policy) and simplify language for improved clarity.
- Include a specific section on the conservation of heritage fabric (this is currently missing or mixed in with other policies) to discourage works that would damage heritage fabric.
- Consider whether any of the guidelines that are contained in the Design Manual reference documents (e.g. Fisherman's Bend Guidelines, Garden City Guidelines in the Design Manual) could be incorporated into the local policy to give them more weight).
- Ensure a revised heritage local planning policy is consistent with the principles of The Burra Charter: The Australia ICOMOS Charter for Places of Cultural Significance, 2013.

## Recommendation 70:

Comprehensively review the heritage policy to strengthen and broaden its scope to respond to a broader range of development types, including commercial and industrial properties.

## Heritage & Environmentally Sustainable Development

One of the priorities for Council in Outcome 3.2 of its Council Plan 2017-27 - for a city with lower carbon emissions is to develop guidelines that enable an increased uptake of environmentally sustainable design features, including rooftop solar, in heritage areas.

It is recognised that the retention of heritage building fabric has environmental sustainability benefits in reducing the energy usage associated with demolition, waste disposal and new

# Audit Report

construction and conserving the embodied energy (mining and manufacturing of materials) in existing buildings.

However, Environmentally Sustainable Development (ESD) and heritage policy within the planning system tend to clash where ESD facilities installed on heritage buildings are visible from the street. This affects the ability for some heritage building owners to achieve modern sustainability outcomes for both internal comfort and energy consumption and associated costs.

The Heritage Overlay triggers a permit requirement for minor buildings and works including domestic services, solar energy facilities and rainwater tanks if visible from the street. For many properties, a visible location may be the only feasible or efficient option for installing energy efficient facilities. However, there is no clear policy guidance on what measures can be undertaken to reduce the visual impact of these facilities on the heritage value of the property.

## Feedback

Respondents for the Planning Users Survey also raised this issue:

“The weighting required between heritage and ESD was not well recognised.”

Council officers highlighted the issue of heritage controls overriding sustainable design initiatives such as solar PV panels and identified the need for a policy position.

They suggested supporting particular ESD features visible from the street if it is removable and doesn't affect the heritage fabric of a building.

## Opportunities

A Local Planning Policy within the Yarra Planning Scheme (Clause 22.02) outlines development guidelines for sites subject to the heritage overlay. The policy allows ESD facilities on heritage buildings where:

- there is no reasonable alternative location; and
- it is sensitively designed; and
- it can be removed without damaging the heritage fabric.

However there is no specific guidance on what constitutes a 'sensitive design' in the Yarra Policy. While the schedule to the heritage overlay does allow Council to exempt particular buildings and works from requiring a permit if it is in accordance with an incorporated document (see heritage permit exemptions in section 12.3.2 – heritage overlay), further work would need to be undertaken to prescribe 'sensitive' ESD facility siting and design.

## Recommendation 71:

Revise the Heritage Local Planning Policy to provide greater guidance for ESD facilities on heritage places.

## 12.2.6 Subdivision policy (Clause 22.05)

### Policy context

Clause 22.05 – Subdivision policy, was introduced to the Scheme in the last planning scheme review (Amendment C62, 2011) to formalise the adopted Council policy – City of Port Phillip Subdivision Guidelines 2000.



# Audit Report

Port Phillip is the only Council in Victoria that has a specific clause dedicated to a subdivision policy, other Councils include subdivision policies within the MSS or a local policy on public open space contributions.

## Feedback

Officers suggested the Subdivision Local Planning Policy is predominantly used to notify landowners that no approval will be granted for vacant land subdivision.

During consultation, Council officers suggested changes to:

- Consider allowing a development plan to be submitted concurrently with the subdivision of vacant land (rather than approval prior to subdivision);
- Review all policies to ensure they relate to the discretion provided with applications for subdivision.
- Remove 'subdivision of a residential lot containing an existing dwelling' car parking policies as these are considered at development stage.
- Update the zone references following the 2013 zone reforms.
- Improve the wording to clarify policy intent.

## Opportunities

A review of the subdivision policy should be undertaken in consultation with subdivision officers to ensure policies are clear and relevant.

The local policy includes a number of high-level policies that could be relocated to the MSS. Criteria relating to public open space contributions could be relocated to public open space policy, following a review of Council's Public Space Strategy – see section 11.5.

If the review finds the many of the existing policies redundant, it may be worth considering whether the Clause can be dissolved, with strategic directions relocated to relevant parts of the MSS.

## Recommendation 72:

Retain and update subdivision local policy to ensure they remain relevant and clear.

## 12.2.7 Urban design policy for non-residential and multi-unit residential development (Clause 22.06)

### Policy context

Clause 22.06 – Urban design policy for non-residential and multi-unit residential development was last reviewed with the last planning scheme review (Amendment C62, 2011). As part of C62, the policy was reworded to improve its legibility, flow, and consistency with the practice note on writing a local policy. It also provided more specific guidance on some matters and introduced content from the Urban Art Strategy 2002.

The Policy applies to new non-residential development, multi-unit residential development above 4 storeys (apartments) and alterations and additions. It doesn't apply to the Fishermans Bend Urban Renewal Area.

### Feedback

Feedback from the Council officers raised the following issues:

# Audit Report

- a high degree of repetition with many of the DDOs – suggested policy could be removed from the DDOs consolidated into this clause;
- inconsistency with the SPPF Clause 15.01 – Urban Design Principles;
- lack of clarity as to what size of commercial development it applies to.

## Opportunities

This Policy needs to be revised following the 2017 release of the Better Apartments Design Standards in the Planning Scheme (Amendment VC36) to reduce repetition and inconsistency.

The Policy should also be updated to improve clarity and understanding of the policies as a number of policies are lengthy and unclear.

Revisions should consider the following issues:

- clarification regarding when the clause applies to development
- relocating universal design requirements that are common to most DDO schedules by creating a new section for activity centres / mixed use zones in the MSS
- removal of the section on energy and resource efficiency as it duplicates the ESD local planning policy and Clause 58.03-1 (better apartments energy efficiency objectives)
- removing duplication between the sections on energy and resource efficiency, private and communal open space and residential amenity where duplicates / is superseded by better apartments
- consider any design issues that are not addressed by the better apartment design standards
- considering providing further detail in the landscape policy section on improved green infrastructure outcomes – such as green and living walls and roofs;
- Improve loading facilities requirements to address residential loading issues (see section 11.7.8 (services in higher density development – loading requirements);
- Improve car parking and pedestrian access to reinforce consideration of pedestrian movements and access for cyclists in the design and layout of developments.

## Recommendation 73:

Revise and strengthen local urban design policy to consolidate common urban design policies throughout the scheme (including DDOs) and consider any gaps not addressed by the new better apartment standards.

## 12.2.8 Gaming (Clause 22.07)

### Policy context

Clause 22.07 – Gaming was introduced with the new format planning scheme in 1998 as part of Amendment NPS1. It was comprehensively reviewed in 2013 (Amendment C88) to give effect to the Port Phillip Responsible Gambling Policy (2011) which seeks to minimise harm associated with all forms of gambling.

Since the gaming local planning policy was updated in 2013, Council has only received three planning applications for amendments to existing gaming planning permits, with no increase in additional electronic gaming machines (EGMs).



# Audit Report

## VCAT and Panel

The Gaming Local Planning Policy was afforded some weight in its draft form (as exhibited) in *Bay & Bridge Hotel v Port Phillip* (2011)<sup>41</sup> which considered the use of land for 29 EGMs. In that case, the Tribunal found that the EGMs were acceptable as they were located over 400m walking distance from sites occupied by concentrations of social housing, among other reasons.

However one area of concern is that this case, along with previous cases<sup>42</sup> also cited Port Phillip's higher overall economic and social advantage, with low levels of disadvantage and relatively low number of EGMs as a factor influencing their decision.

The Planning Panel, in considering the proposed gaming policy in C88 found:

*"A challenge for a local policy is to encompass the range of relevant considerations as a basis for assessing the location of gaming machines. The Panel does not consider the policy is flawed because it links vulnerable communities to the two criteria of social housing and support/referral services that vulnerable people are likely to access. It has accepted these criteria as appropriate for this community.*

*However, the Panel finds the exhibited local policy should be broadened in its components to ensure that it does encompass the range of relevant considerations. For example, while the Productivity Commission suggested that SEIFA is not the only indicator of risk, the inclusion of a SEIFA analysis as part of the policy is appropriate in understanding the characteristics of the population around a proposed location for gaming, not solely in terms of proximity to social housing."*

## Opportunities

The municipality is currently well below its regulated municipal cap for allowable gaming machine entitlements, with 418 and a cap of 830. There remains the capacity for further applications for new gaming machines within the City and the policy remains important.

The Policy contains best-practice 'harm minimisation' principles to locate gaming machines away from vulnerable communities, away from areas of high pedestrian activity (reducing convenience gambling) and in venues with a choice of other entertainment. The Policy does not require a comprehensive review at this time.

However, the Amendment C88 Planning Panel recommended inserting the SEIFA index benchmark to assess areas of disadvantage given its widespread use in gaming assessments across the State. This has the potential to mask the real level of disadvantage in an area if it is juxtaposed with affluent areas, as demonstrated in the VCAT cases above.

The lack of recent applications indicates the policy's locational criteria has not been properly 'tested' since it was introduced. It is therefore worth monitoring the effectiveness of the policy criteria to discourage the location of EGMs proximate to disadvantaged communities over time.

See section 12.4.1 for the schedule to Clause 52.28 that prohibits gaming machines in strip shopping centres and complexes.

### **Recommendation 74:**

Retain Gaming local policy in its current form.

---

<sup>41</sup> *The Bay & Bridge Hotel Pty Ltd v Port Phillip CC* [2011] VCAT 423

<sup>42</sup> *Bells Hotel Pty Ltd v Port Phillip CC* [2010] VCAT 569

# Audit Report

## 12.2.9 Outdoor advertising policy (Clause 22.08)

### Policy context

Clause 22.08 – Outdoor advertising policy and the City of Port Phillip Outdoor Advertising Guidelines (Reference Document) have been in effect since the gazettal of the new format Port Phillip Planning Scheme in 1998. The policy and guidelines were reviewed in the Port Phillip Advertising Signs Policy Review, Hansen Partnership 2007 (Reference document) and subsequently revised in the 2011 scheme review (Amendment C62).

Clause 22.08 provides guidance on the siting and design of outdoor advertising in Port Phillip. It builds on the provisions of Clause 52.05 (Particular Provisions) and sets out permit triggers for advertising signs and specific categories of advertising controls that apply to the land use zones. Overlap between the local policy and VPP is kept to a minimum.

### VCAT

During the review period for the scheme audit, eleven VCAT cases considered proposals for promotional signage. The Tribunal set aside Council's decision in 64% of those cases. The majority of cases related to applications for electronic signage (45%) and internally illuminated signage (27%).

The key issues and implications of these decisions are summarised as:

- New technologies such as LED have benefits over other forms of lighting in terms of controlling light output and spillage.
- An improved level of clarity provided through electronic signage does not automatically create a poorer amenity impact over a traditional sign<sup>43</sup>.
- Council has been largely unsuccessful in arguing a proposal does not meet policies on 'visual clutter'. The notion of 'visual clutter' in this context is largely subjective and left to the judgement of the Tribunal<sup>44</sup>.

### Opportunities

The main issues at VCAT related to amenity impacts of signage, indicate that Council may be interpreting policy on illuminated and electronic signs and visual impact of signs too narrowly, or that policy may be too inflexible for more modern technologies.

This was also raised during feedback with Council officers, who identified a number of issues and gaps in the policy provisions. These include:

- further define 'visual clutter'
- strengthening policy positions on billboards and major promotional signs
- clarify the existing policy on preventing signs from 'breaking the sky-line of the building' or otherwise dominating the building
- expand guidance on electronic signs and other emerging technologies
- consider addressing abutments between mixed use and commercial zones with residential zones in the Policy
- improve diagrams.

---

<sup>43</sup> APN Outdoor Pty Ltd v Port Phillip CC [2013] VCAT 1853, oOh!Media v Port Phillip CC [2016] VCAT 480

<sup>44</sup> Drive by Media v Port Phillip CC [2013] VCAT 449, Maple Media Pty Ltd v Port Phillip CC [2017] VCAT 367



# Audit Report

## Recommendation 75:

Update and strengthen local advertising policy on billboards, major promotional signs, electronic signs and acceptable locations.

## 12.2.10 St Kilda foreshore area policy (Clause 22.09)

### Policy context

Clause 22.09 - St Kilda Foreshore Area Policy was introduced to the Scheme in 2002 (Amendment C36). The policy provides the strategic directions for land use and development applications, based on the St Kilda Foreshore Urban Design Framework, 2002 (Incorporated Document).

The Policy is one of the Scheme's placed-based local planning policies that provides integrated strategic guidance for a specific area.

Amendment C106 proposed to amend the policy to implement the policy directions of St Kilda Triangle Masterplan (adopted by Council in March 2016) however this amendment lapsed in May 2017.

### Feedback

A review of the policy reveals the local planning policy:

- repeats the policies contained within Clause 21.06-6 of the MSS
- expands on the MSS in more detail
- refers to the incorporated document 'St Kilda Foreshore Urban Design Framework, 2002' for detailed policy.

### Opportunities

The Review should consider the opportunity to relocate the St Kilda Foreshore Area policies to the Neighbourhoods section of the MSS (currently Clause 21.06).

The incorporated document 'St Kilda Foreshore Urban Design Framework, 2002' contains both general land use policy and urban design objectives and principles for built form structure, views, and other associated matters that could be extracted from the document and included in the MSS and a new Design and Development Overlay (or amended DDO10 – Port Phillip Coastal Area).

Refer to Recommendation 66 in section 12.2.1 on the area-based policies.

## 12.2.11 Carlisle Street Major Activity Centre policy (Clause 22.11)

Clause 22.11 – Carlisle Street Major Activity Centre was introduced into the Scheme in May 2012 by Amendment C80, which implemented the Carlisle Street Activity Centre Structure Plan (2009).

The policy is one of the Scheme's area-based LPPs that contains detailed guidance on strategic direction in a specific neighbourhood.

A review of the local planning policy reveals the local planning policy is:

- highly repetitive of the policies contained within Clause 21.06-1 of the MSS;

# Audit Report

- is a vague, generalised policy that is contained elsewhere in the MSS;
- expands on a MSS policy in more detail.
- Includes land use policies that have been undermined by the 2013 zones reform (e.g. discouraging food and drink premises on ground floor retail core which is an 'as of right use' in C1Z).

In a letter to Council dated 5<sup>th</sup> June 2016, the Planning Minister stated that local policies should be self-contained and should not rely on external documents to guide decision making. He stated that he to see Council review its scheme and re-visit the role of the reference documents in Carlisle and Bay Streets as there may be opportunity to draw key content from the reference documents into the planning scheme, thereby providing more robust and transparent planning policy'.

Refer to Recommendation 66 in section 12.2.1 on the area-based policies.

## 12.2.12 Stormwater management – Water Sensitive Urban Design (Clause 22.12)

### Policy context

Clause 22.12 – Stormwater Management (Water Sensitive Urban Design) was introduced into the Port Phillip Planning Scheme in 2014 (Amendment C78). The policy requires best practice stormwater management outcomes for new larger development or extensions (over 50m<sup>2</sup>), establishing best practice performance objectives for stormwater management.

Port Phillip, along with other Councils in the IMAP (Inner Metropolitan Action Plan) developed the policy as an interim measure until such time as either the building or planning regulations are amended to include Water Sensitive Urban Design (WSUD) principles. At the time of writing, this has not occurred. However, Action 94 Plan Melbourne Implementation Plan indicates the VPP will be reviewed to improve stormwater management.

Since the policy has been in effect, Council has developed guidelines on how to submit an adequate Stormwater Management Assessment in accordance with Clause 22.12-4. This document should be included as a reference document.

One of the priorities of the Council Plan 2017-27 (Action 3.4) is to develop a Stormwater Management Policy and Guidelines to require onsite stormwater detention for new developments.

### Feedback

Feedback from Council officers was generally positive, however identified the following issues with the Water Sensitive Urban Design Policy:

- The Policy is limited in its application and should be expanded to include other types of works, for example construction of an at grade car park.
- The Policy could further embed the principle of 'on-site detention', consistent with the City of Port Phillip Water Sensitive Urban Design Guidelines, 2009.

In June, 2017, Council commissioned a study entitled 'Progressing Water Sensitive Urban Design on Private Land in the City of Port Phillip' for the purpose of establishing if the WSUD policy has proven effective.

Findings were not able to establish the outcomes of policy performance at this stage. The findings indicate there is considerable variety in the quality of planning applications submitted to Council. It also identified issues with the processing of applications and the implementation of the policy. Of note, the findings identified a gap in the process, whereby



# Audit Report

there is no feedback mechanism in place to ensure WSUD treatments are constructed as approved.

A number of recommendations were outlined to improve the processing and approval of WSUD applications within Council, including training, meetings and potential new conditions. A potential condition on planning permits was recommended to resolve this issue. A separate review process will explore this further.

## Opportunities

The policy objectives of Clause 22.12 remain sound and consistent with best practice, however, consideration should be given to improving on-site detention policy and major works, as identified by the Council Plan.

### Recommendation 76:

Retain and update stormwater policy to broaden its application and on-site detention criteria.

## 12.2.13 Environmentally Sustainable Development (Clause 22.13)

Clause 22.13 – Environmentally Sustainable Development was introduced into the Port Phillip Planning Scheme in November 2015 by Amendment C97.

The ESD local policies seek to ensure that proposed developments are designed with the capacity of achieving best practice in addressing the principles of ESD from the design stage through to construction and operation.

Refer to section 11.3.1 – Environmentally Sustainable Development for further details.

## Opportunities

Recent data collated from all six Councils with a current ESD local planning policy shows they are achieving demonstrable ESD outcomes, including: 635kW solar panels, 3,187kL of rainwater harvesting capacity, improved energy efficiency and the consistent use of the BESS tool. Port Phillip has internal planning processes in place to ensure ESD reports are being reviewed in a timely and efficient manner.

Future improvements suggested by Council officers include:

- raising bar on ESD standards to guarantee even more sustainable outcomes, and;
- extending the policy requirements to single or replacement dwellings.

However, these should only be pursued following the State Government's review. In the meantime, Council should continue to advocate for a permanent removal of the expiry clause to the local planning policy or a state-wide policy that maintains the requirement of the current local policy (refer to Recommendation 22).

## 12.2.14 Bay Street Activity Centre policy (Clause 22.14)

Clause 22.12 - Bay Street Activity Centre was introduced by Amendment C103 in July 2016, to reflect the intent of the Bay Street Activity Centre Structure Plan (2013).

The policy represents one of the Scheme's area-based LPPs that contains detailed guidance on strategic direction in a specific neighbourhood.

A review of the local planning policy reveals the local planning policy is:

# Audit Report

- highly repetitive of the policies contained within Clause 21.06-4 of the MSS;
- is a vague, generalised policy that is contained elsewhere in the MSS;
- expands on a MSS policy in more detail.

In his letter approving Amendment C103 (Bay Street Structure Plan dated 5<sup>th</sup> June 2016) the Minister stated that he would like to see Council review its scheme and re-visit the role of these reference documents (Carlisle and Bay Streets) and the weight Council wishes to attribute to the related policies, particularly those contained in Clause 22.14. There may be opportunity to draw key content from the reference documents into the planning scheme, thereby providing more robust and transparent planning policy'.

Further, many of the urban design, public realm and sustainable access and movement policies could be consolidated into urban design policy.

Refer to Recommendation 66 in section 12.2.1 on the area-based policies.

## 12.2.15 Employment and dwelling diversity within the Fishermans Bend Urban Renewal Area (Clause 22.15)

### Context

Clause 22.15 – Employment and dwelling diversity within the Fishermans Bend Urban Renewal Area was introduced through Amendment GC50 into the Port Phillip and Melbourne Planning Schemes in November 2016. It applies to all land in the Fisherman's Bend Urban Renewal Area and was introduced by the State Government to provide guidance to the development industry regarding expectations about dwelling diversity, affordable housing and inclusion of employment uses, without setting mandatory targets.

### Opportunities

The Policy is derived from the reference document to the Scheme - Fishermans Bend Strategic Framework Plan (2014). A new Draft Fisherman's Bend Framework was released in October, 2017 for consultation, accompanied by draft planning controls that includes updates to this policy.

The State Government informally exhibited a draft amendment (GC81) in late 2017 and announced that a Planning Review Panel (set up pursuant to Section 151 of the Act) will review submissions on the draft amendment.

## 12.3 Effectiveness of the zones and overlays

### 12.3.1 Zones – issues & opportunities

This section audits the use and application of zones and overlays in the Scheme to determine if there are any opportunities to improve their performance or application to better meet the objectives of planning in Port Phillip.



# Audit Report

## Residential zones

### Application

The new residential zones have been recently applied in Port Phillip, following gazettal of Amendment 123 (December 2017) which translated the new residential zones based on the current Housing Strategy 2007-17 and community consultation.

Port Phillip also has a number of mixed use precincts where the Mixed Use Zone has been applied to provide for increased housing growth in formerly industrial areas (e.g. Crockford Street, Port Melbourne) or commercial areas (e.g. St Kilda Road North and South) while the Capital City Zone is applied to the Fishermans Bend Urban Renewal Area. These zones are appropriate for inner urban environments where renewal and a mix of uses is to be facilitated.

### Opportunities

The current zones are based on the former housing strategy which is in need of renewal (see section 11.6.1). It is likely that further changes to the application of the residential zones will be required once housing policy is updated - see section 11.6.1 (housing strategy).

The schedules to the residential zones are in their 'default' form, with no conditions or variations to the ResCode standards specified. The schedules allow variations to ResCode standards to be specified including:

- minimum street setback
- site coverage
- permeability
- landscaping
- side and rear setbacks
- walls on boundaries
- private open space.

The use of these can be explored as part of the scope of the new housing strategy or neighbourhood character policy. Refer to section 11.2.4 (neighbourhood character) and section 11.3.4 (environmental risks - enhancing landscape character).

## Industrial zones

### Application

The proportion of industrial land within the City of Port Phillip was reduced significantly following rezoning of the Fishermans Bend Urban Renewal Area in 2012, leaving only three small areas left within the City of Port Phillip.

The industrial zones applied in the Port Phillip Planning Scheme include:

- Industrial 1 Zone (IN1Z) – Applied to small parcels of land on Normanby Road, Port Melbourne and City Road, South Melbourne which currently have a number of office uses.
- Industrial 3 Zone (IN3Z) – The Industrial 3 Zone is applied to a small precinct on Williams Street in Balaclava. For a review of this precinct in the context of a wider strategic analysis of industrial land.

# Audit Report

## Opportunities

Both schedules may be used to prohibit office use over a certain size. This can be considered in the event that a future industrial land review indicates the need to intervene to prevent offices crowding out more traditional industrial uses - see section 11.1.3 (industrial land).

## Commercial zones

### Application

The commercial zones applied in the Port Phillip Planning Scheme include:

- Commercial 1 Zone – This is the most common commercial zone that is applied to traditional retail strips, and along other main roads.
- Commercial 2 Zone – This zone is exclusively applied to land in the business precincts in the South Melbourne Central Activity Centre.

### Opportunities

The default blank schedule for the Commercial 1 Zone can only be used in a planning scheme outside of metropolitan Melbourne to specify floor caps for as-of-right office or shop uses. Port Phillip has no opportunity to utilise schedules to the commercial zones.

As part of a wider employment land strategy, Port Phillip may wish to expand the use of the Commercial 2 Zone which is a flexible employment-only zone designed to accommodate appropriate office, industrial, bulky goods retailing and other commercial services – see section 11.1.1 (employment land).

## Public Land Zones

### Application

The special purpose zones applied in the Port Phillip Planning Scheme with local schedules include:

- Public Use Zone (PUZ) – applied to public land used for the purposes of service/utility, education, community/health, transport, cemetery, local government or other public use. The schedule allows use or development conditions to be specified.
- Public Park and Recreation Zone (PPRZ) – applied to public land used for public recreation and open space, to protect and conserve areas of significance and provide for some commercial uses.

### Opportunities

The PUZ schedule is left blank in the Port Phillip Planning Scheme. This schedule can be utilised to specify development conditions, if and when the need arises in planning for new community services, facilities and public utility.

The PPRZ schedule is used to list a use allowed to operate in accordance with an incorporated plan. Currently the schedule lists Albert Park, the Melbourne Sports and Aquatic Centre and West Beach Pavilion Precinct for food and drink premises. This schedule may be utilised to specify conditions for certain uses on public land in the PPRZ if and when the need arises.



# Audit Report

## Special Purpose Zones

### Special Use Zone (SUZ)

#### Application

The SUZ provides for the use and development of land for specific purposes, as identified in a schedule to the zone. The Port Phillip Planning Scheme has three SUZ schedules for:

- St Kilda Sea Baths (SUZ1)
- Luna Park (SUZ2)
- The Triangle Site – St Kilda (SUZ3)

Each of the zones refers to related incorporated documents to guide the use and development of land.

#### Opportunities

SUZ1 and SUZ2 and their incorporated documents are still valid and no changes to the existing schedules are recommended at this time.

However, Council may wish to replace the SUZ3 to reflect the St Kilda Triangle Masterplan 2016 to implement this vision.

There is the potential for Council to make greater use of the SUZ for particular sites / precincts. For example, the City of Melbourne has proposed the use of the SUZ to implement the proposed West Melbourne Structure Plan. The intent is to use the SUZ as a modified mixed-use zone that provides for vertical zoning through a wider range of employment land-related uses, with conditional residential - see section 11.1.1 (employment land).

### Comprehensive Development Zone (CDZ)

#### Application

The CDZ provides for a range of uses and development of land in accordance with a comprehensive development plan incorporated into the scheme. Currently, the Port Phillip Planning Scheme has three areas zoned CDZ:

- Beacon Cove, Port Melbourne (CDZ1)
- St Kilda Station Redevelopment (CDZ2)
- Acland Courtyard (CDZ3)

#### Opportunities

##### CDZ1 (Beacon Cove)

An incorporated document provides for the redevelopment of Beacon Cove, Port Melbourne. This area includes Princes Pier, Station Pier, the waterfront promenade and the commercial waterfront precinct. Council is currently reviewing the Port Melbourne Waterfront Urban Design Framework, and the design guidelines will inform any update to the existing zone and other planning scheme controls.

##### CDZ2 (St Kilda Station Redevelopment)

This schedule provides for the use and redevelopment of the former St Kilda Station precinct. It seeks to establish a range of Museum Precinct, commercial precinct and residential precinct. This schedule has been in the Scheme since the new format planning scheme in 1998. Although the precincts has seen some commercial and residential

# Audit Report

redevelopment, the establishment of a Museum precinct has not been realised. This zone schedule should be reviewed as part of a wider St Kilda Activity Centre Structure Plan.

CDZ3 (Acland Courtyard)

This schedule provides for the comprehensive redevelopment of land at 181-189 Barkly Street, St Kilda – the historic Acland Market building to encourage a range of residential and commercial uses. It also provides for the creation of pedestrian linkages between Acland Street and Barkly Street.

This land has now been redeveloped into the Acland Court Shopping Centre and the controls are no longer required. This zone schedule should be reviewed as part of the wider St Kilda Activity Centre Structure Plan.

See section 11.1.2 (Activity Centres – St Kilda Activity Centre)

## Capital City Zone (CCZ)

### Application

The CCZ is exclusively applied to the Fishermans Bend precinct. This zone used to recognise an area's contribution to Melbourne's central city.

### Opportunities

Further work on the planning controls for Fishermans Bend will be undertaken by the State Government, in consultation with Council.

## Activity Centre Zone (ACZ)

The ACZ is not currently applied within the City of Port Phillip.

### Opportunities

There is the potential for Council to utilise this zone for some of our activity centres.

Benefits include the ability to provide for vertical zoning. However, this zone has the potential to become a highly complex and cumbersome zone schedule which has seen it fall out of favour in recent times.

Any consideration of using this zone should follow the outcomes of the State Government's Smart Planning Program, which flags the potential to remove this zone.

Refer to section 11.1.1 (employment land) which discusses the use of this zone for vertical zoning opportunities to retain commercial land in mixed use areas.

## 12.3.2 Overlays

### Environmental and Landscape Overlays

#### Environmental Significance Overlay (ESO)

##### Application

Use of the ESO is relatively limited in the City of Port Phillip.

It is currently applied to strips of remnant vegetation within the city to identify areas with identified environmental values, including remnant indigenous vegetation adjacent to the historic light rail in South Melbourne, the Corroboree tree in Albert Park and West Beach Natural History Reserve.



The schedule also applies to the Port of Melbourne Environs to identify and manage potential conflicts between land in the port environs and adjoining Port of Melbourne.

## **Schedule opportunities**

There is opportunity for greater use of this overlay - refer to Section 11.3.2 (ecologically significant vegetation).

## **Vegetation Protection Overlay (VPO)**

### **Application**

Use of the VPO is currently limited in the Scheme – applied to one English Oak at 71 Grey Street, St Kilda.

Its purpose is to protect areas of significant vegetation and to ensure development minimises loss of vegetation.

### **Schedule opportunities**

There is opportunity for greater use of this overlay – refer to Section 11.3.2 (ecologically significant vegetation).

## **Heritage and Built Form Overlays**

### **Heritage Overlay (HO)**

#### **Application**

The HO affects large swathes of the municipality, as either a place of individual heritage significance or heritage precincts.

For further background on heritage in the City of Port Phillip and discussion on the overlay's application - see section 11.2.5 (heritage overlay gaps).

#### **Opportunities**

Council receives a high number of applications in precinct heritage overlay areas that involve minor alterations, and buildings and works that don't ordinarily require a planning permit outside of the heritage overlay.

Some of these provisions are subject to the VicSmart process, however there may be scope to further reduce regulatory burden by introducing permit exemptions for development that meets the requirements of an incorporated plan.

Respondents from the Planning Scheme Users Survey highlighted the burden of red tape with the heritage overlay:

*“...It requires a permit to change the paint colour when replacing rusted gutters, rather than suggesting permissible colours with variations by permit. This level of red tape leads to low compliance and poor outcomes.”*

Other Councils, including Yarra and Moonee Valley City Council have developed a permit exemptions policy (as an incorporated plan under Clause 43.01-2) that exempts the need for a planning permit if the policy is adhered to. For example, a permit may not be required for:

- for small sheds if it is constructed to the rear of the house
- external painting visible from the street are chosen from a paint chart (and no unpainted surface is painted)

# Audit Report

- demolition or alterations are proposed to non-contributory buildings.

In considering categories for exemptions, Council needs to weight up any value added through the permit process against the benefits of reducing regulatory burden by ensuring low-impact development is in accordance with the incorporated plan.

## **Recommendation 77:**

Introduce planning permit exemptions for properties in the Heritage Overlay for low-impact buildings and works.

## **Design and Development Overlay (DDO)**

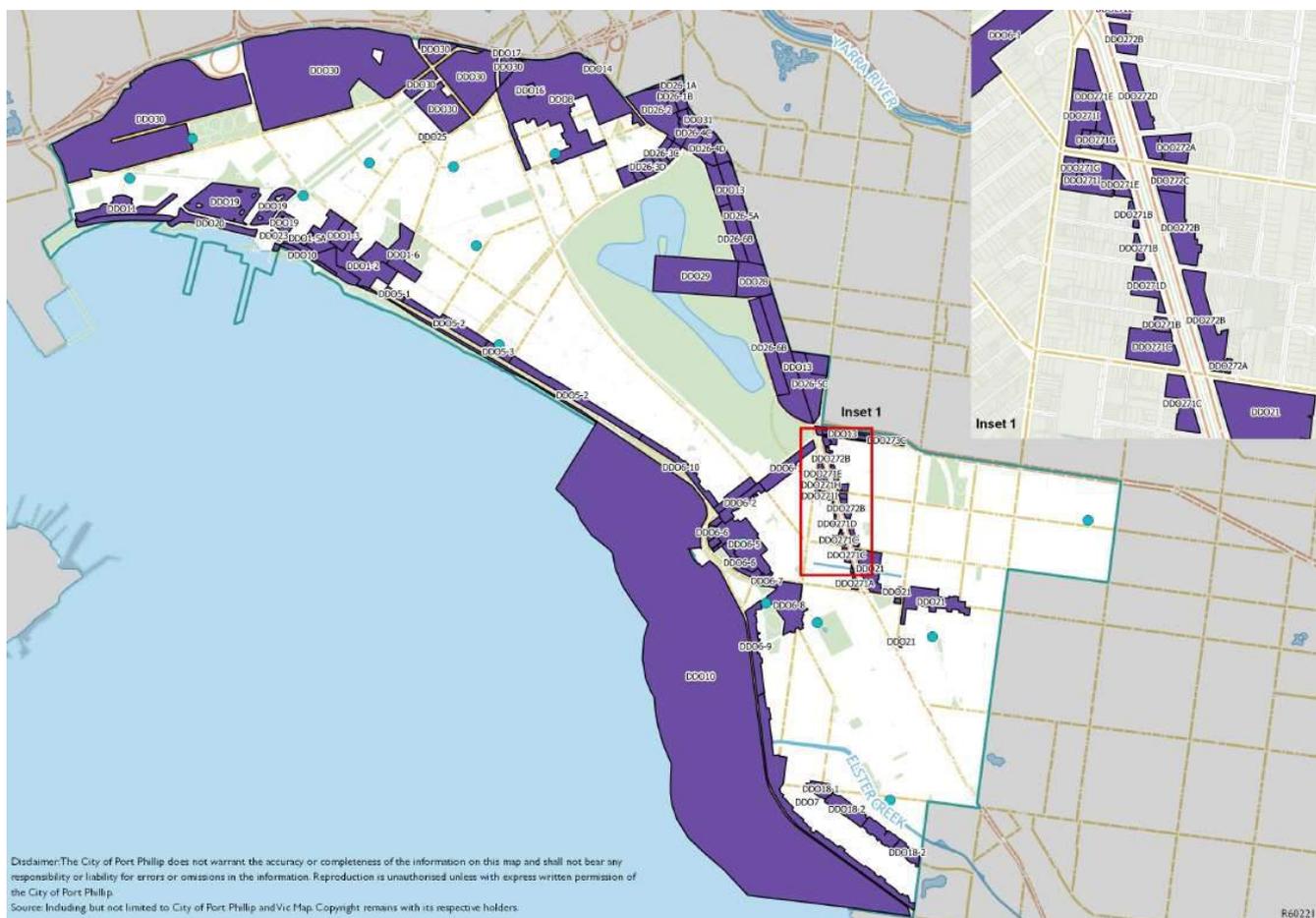
### **Application**

The Port Phillip Planning Scheme has extensively applied schedules to the Design and Development Overlays across the municipality – refer to Figure 13 below. The Scheme currently has 24 Design and Development Overlays (DDOs) applying to specific areas, including activity centres, growth areas, coastal areas and specific sites:

- DDO1 - Port Melbourne Mixed Use Growth Area
- DDO5 – Albert Park and Middle Park Foreshore
- DDO6 – St Kilda Area – Including Fitzroy Street, the Esplanade and Acland Street
- DDO7 – Marine Parade and Ormond Esplanade
- DDO8 – South Melbourne Central
- DDO9 – Docklands Buffer Overlay
- DDO10 – Port Phillip Coastal Area
- DDO11 – Garden City
- DDO12 – Esplanade Hotel Site
- DDO13 – Shrine Vista
- DDO14 – City Link Exhaust Stack Environs
- DDO16 – Cnr York, Cecil & Market Streets, South Melbourne
- DDO17 – Bridge Protection
- DDO18 – Elwood Neighbourhood Activity Centres and Adjoining
- DDO19 – Fences in the Beacon Cove Low Rise Residential Precinct
- DDO20 – Beacon Cove High Rise Residential Precinct
- DDO21 – Carlisle Street Major Activity Centre
- DDO23 – Waterfront Place Design and Development Area
- DDO25 – Crockford Street Precinct
- DDO26 – St Kilda Road North Precinct
- DDO27 – St Kilda Road South Precinct – St Kilda Road and Wellington Street
- DDO28 – Alfred Hospital Emergency Medical Services Helicopter Flight Path Protection (Inner Area)
- DDO29 – Alfred Hospital Emergency Medical Services Helicopter Flight Path Protection (Other Area)
- DDO30 - Fishermans Bend Urban Renewal Area
- DDO31 - Melbourne Metro Rail Project – Infrastructure Protection Areas



**Figure 13 – Map of Design and Development Overlays**



## Feedback

Strong themes coming out of the Council officer workshop on built form related to uncertainty of discretionary built form controls and the lengthy and complex nature of many of the DDO schedules. Generally, officers indicated they could be rationalised and made more concise.

Other issues raised include minor inconsistencies in controls and the need for exemptions for sustainability outcomes – e.g. solar panels.

There was also an identified need to review policy and DDOs that express overshadowing policies or controls to ensure a consistent approach across the foreshore (see section 11.5.3).

A number of VCAT decisions provided feedback on the expression of building heights, with a clear preference for expression of building heights in metres (over storeys) to reduce confusion (see Appendix 4 – VCAT Analysis).

There were also a number of occasions the Tribunal was critical of Council’s use of mandatory built form controls in Design and Development Overlays, where:

# Audit Report

- mandatory controls can create inefficiencies and wasted opportunities in circumstances where a proposed development clearly meets the spirit of the control but fails to meet the letter of the law<sup>45</sup>
- mandatory controls are so prescriptive, arbitrary and inflexible as to prevent reasonable development like a wind turbine to exceed the maximum height limit in DDO18<sup>46</sup>.

## Issues and Opportunities

### *Reducing length and complexity*

There are many generic urban design requirements common to the majority of the DDO schedules, particularly those affecting activity centres. As a result, there is scope to relocate these universal design requirements to the MSS. This would enable the DDO schedules to better focus on place-specific built form and design elements. Refer to section 11.2 for further discussion around this.

### *Overshadowing*

Review all existing overshadowing policy and controls to strengthen and provide a consistent city-wide approach for solar access to foreshore and public space, where possible – refer to section 11.5.3.

### *Interaction with heritage areas*

Council officers identified an inconsistency and general lack of guidance on how the DDO interacts with a heritage areas. For example, some DDO schedules include a statement that where a site is affected by the Heritage Overlay, the provisions of that overlay take precedence. Some DDOs also require compliance with another part of the scheme, like Clause 22.04 Heritage Local Planning Policy. Any review should consider a more consistent approach.

### *Accommodating relocated built form policies from dissolved LPPs*

There are a number of local planning policies that apply to local areas which have the potential to be dissolved, with content relocated to the MSS and appropriate DDOs – refer to section 12.2.1.

### *Change to the format of DDO schedules*

The Minister for Planning recently amended the Ministerial Direction on the Form and Content of Planning Schemes to limit the number of objectives a DDO may have to a maximum of five to reduce the increasing complexity of schedules. The implications of this will need to be considered, potentially impeding the ability for Council to conduct a policy-neutral review of some DDO schedules.

## **Recommendation 78:**

Consider a policy-neutral review of all Design and Development Overlays to improve clarity and consistency and relocate generic requirements to local policy.

---

<sup>45</sup> 170 Ormond Road Pty Ltd v Port Phillip CC & Ors (Correction) [2013] VCAT 988 (18 June 2013)

<sup>46</sup> Eidelson v Port Phillip CC [2008] VCAT 1066 (19 June 2008)



# Audit Report

## Content of DDO schedules

There are a number of specific DDO schedules that Council officers highlighted as potentially in need of a content review, given they are resulting in unintended or poor development outcomes.

### DDO8 (South Melbourne Central)

The South Melbourne Activity Centre Structure Plan and Urban Design Framework (undertaken in 2007) was translated into the Scheme in 2008, through MSS policy and a new DDO for South Melbourne Central area.

The DDO8 reflects the implementation of the South Melbourne Central Structure Plan and Urban Design Framework (2007). DDO8 contains a detailed range of mandatory and discretionary provisions. The three aspects of the mandatory controls relate to:

- street wall heights
- building setbacks (above street wall and upper level setbacks - multiple tiers)
- other design requirements (street activation, glazing, ground floor level, articulation, sunlight to streets and open space)

The Planning Panel's review of DDO8 (Amendment C52 Panel Report, December 2006), recommended removing mandatory building heights. However, upper level setbacks were considered justified to achieve a consistent streetscape and maintain a sense of openness and sky visibility.

Officer feedback identified the need for a review of DDO8 to ensure detailed design requirements are achieving design objectives, given the following issues with implementation of the mandatory controls:

- some properties cannot develop above the street wall height due to mandatory requirements for large upper level setbacks, and the sites being too small to accommodate these (e.g. area 8-9a)
- in a few cases, a single street block has two areas applied to it (one to each half). A number of sites have consolidated since the DDO and now larger developments are having to address different mandatory requirements (street wall heights, upper level setbacks)
- poor built form outcomes (such as stepped 'wedding cake' style building designs) due to overshadowing and upper level setback requirements
- building proposals that exceed discretionary height limits exacerbate the 'wedding cake' building designs, as the higher the development, more tiered setbacks are required
- no height limits in some areas (e.g. area 8-1) may result in inappropriate building heights adjacent to heritage buildings
- clarify expression of discretionary building heights given the significant disparity in height. This is due to VCAT identifying confusion its interpretation (e.g. the maximum overall building height should not exceed 23.5 meters or 6 storeys, whichever is lesser). VCAT found:

*"No party could explain definitively why there is both a metre and storey measure for height or why the measures have potential for significant disparity in height. Council referred to allowing for flexibility in use through higher floor to ceiling heights and Mr Sheppard thought it was to achieve improved ESD outcomes relating to daylight access."*

# Audit Report

## **DDO6 (St Kilda Area)**

The DDO6 applies to the St Kilda Activity Centre and foreshore area which was last updated in 2005 by Amendment C43.

A priority of Council over the next four years is to develop a strategic plan for the St Kilda precinct, including a strategy to revitalise Fitzroy Street (Outcome 5.1 of the Council Plan 2017-27). It is timely that a comprehensive review of the St Kilda Activity Centre take place – refer to section 10.1.2 (St Kilda Activity Centre).

## **DDO26 (St Kilda Road North Precinct)**

The built form controls to implement the St Kilda Road North Precinct Plan were introduced in June 2016.

There are a number of issues with DDO26 that require clarification, relating to side and rear setbacks, setbacks to laneways, exceptions to mandatory requirements and location of pedestrian through-block links.

In approving the Amendment, the Minister for Planning made some mandatory controls discretionary, without changing the way the requirements were worded resulting in some confusing discretionary 'musts'. These non-mandatory requirements should be redrafted from 'must' to 'should' to clarify the control is discretionary.

Council is currently progressing a review of the DDO requirements to iron out some of the current issues. Council is also undertaking further strategic work in the form of a Domain Precinct Plan to consider the implications of further growth in this precinct, including the policies of *Plan Melbourne 2017-50* and the addition of the new Metro station 'Domain'.

### **Recommendation 79:**

Review the Design and Development Overlays for South Melbourne Central Activity Centre (DDO8), St Kilda area (DDO6) and St Kilda Road North Precinct (DDO26) to ensure the built form requirements are achieving intended outcomes.

## **Incorporated Plan Overlay (IPO)**

### **Application**

The Scheme applies the IPO1 to land bounded by Rouse Street, Esplanade East, Graham Street and Esplanade West in Port Melbourne.

The purpose of the IPO1 is to facilitate the use and development of the land for residential purposes in accordance with an Incorporated Plan. In this case, it relates to the Development Concept Plan and Building Envelope Plan dated 22 October, 1996.

### **Opportunities**

The land covered by the overlay has now been developed in accordance with the incorporated document and this overlay should be removed.

### **Recommendation 80:**

Remove the redundant Incorporated Plan Overlay applying to Becton, Port Melbourne.



# Audit Report

## Development Plan Overlay (DPO)

### Application

The only schedule to the DPO is applied to the St Kilda Triangle site, which is the land bound by Jacka Boulevard, Cavell Street and The Esplanade, St Kilda.

### Opportunities

At some point, this may be replaced by a new suite of planning controls to implement the updated St Kilda Triangle Masterplan 2016.

## Neighbourhood Character Overlay (NCO)

### Application

Five schedules to the NCO were introduced into the Scheme via Amendment C73 (2011) which implemented the planning framework for the residential component of Beacon Cove.

The schedules were applied to the low rise residential area in Beacon Cove to control the form of future development to maintain the character of future development, and were prepared having regard to the reference document Beacon Cove Neighbourhood Guidelines, SJB Urban, 2010.

### Opportunities

The recent application of the new residential zones through Amendment C123 creates some overlap with the Neighbourhood Residential Zone (NRZ) given their shared purpose to ensure that development respects neighbourhood character.

There is also some overlap with the Design and Development Overlay (DDO19) which provides design requirements for front fences in Beacon Cove. These controls could also be rationalised through a schedule to the NRZ.

A review of the controls applying to Beacon Cove should be undertaken with a view to simplifying the suite of controls that apply to the properties, to remove any duplication that may exist and provide transparency to scheme users.

Council may wish to expand the use of the NCO to preserve neighbourhood character for other areas within the municipality exhibiting distinct character elements.

This should be explored as part of future work on reviewing Council's Local Housing Strategy and/or undertaking a Neighbourhood Character study.

See sections 11.2.4 (neighbourhood character) and 10.6.1 (housing strategy) for further discussion around this issue.

## Land Management Overlays

### Special Building Overlay (SBO)

#### Application

A schedule to the SBO has been applied to land liable to flood in a 1 in 100 year event due to overland flow paths from the stormwater drainage system. It seeks to maintain the free passage of floodwaters, minimise flood damage. It applies to various parcels of land across the municipality, generally in low lying areas with proximity to drains and other waterbodies.

# Audit Report

## Opportunities

The Scheme's flood mapping extent (land covered by SBO) was recently updated in Amendment C111 in May 2016. The update was based on flood modelling by Melbourne Water. As its application is based on the most up-to-date information, there is no need to update the SBO maps at this time.

However, the update did not take into consideration flooding as a result of the impacts of climate change (increased rainfall) or land that will be subject to coastal inundation in by 2100. There is an opportunity to review the maps in the future to accommodate flood modelling that incorporates increased rainfall as a result of climate change once the data is available.

## Land Subject to Inundation Overlay (LSIO)

### Application

The LSIO is not currently used within the Scheme. The purpose of this overlay is to identify land in a flood storage or flood fringe area to ensure development addresses flooding.

### Opportunities

The recent amendment to Council's flood maps through Amendment C111 (SBO maps) did not take into consideration flooding by coastal inundation as a result of climate change. There is the potential to apply this overlay to the municipality's coastal areas - see section 11.3.2 (Coastal impacts of climate change) for further detail.

## Other Overlays

### Public Acquisition Overlay (PAO)

#### Application

The PAO identifies land which is proposed to be acquired by a Minister, public authority or municipal council to ensure that any use or development won't prejudice the purpose for which the land is to be acquired.

The PAO currently applies to a number of wedges proposed to be acquired by VicRoads for road widening. It also applies to one residential house surrounded by a public reserve which is earmarked to be acquired for the purposes of public open space.

#### Opportunities

This schedule can be utilised if and when the need arises.

The schedule currently specifies PAO1 for open space, which no longer applies in map form. The schedule should be reformatted to reflect this.

#### Recommendation 81:

Update the schedule to the Public Acquisition Overlay to reflect the maps.

### Environmental Audit Overlay

#### Application

The EAO is applied to land that is potentially contaminated and zoned to allow a sensitive use that could be significantly adversely affected by any contamination.



# Audit Report

The EAO applies to land across Port Phillip in residential, mixed use and commercial zones, to trigger the requirement for an environmental audit to be carried out prior to the commencement of a sensitive use (residential use, child care centre, pre-school centre, primary school) or construction or carrying out of buildings and works in association with a sensitive use commences.

## Opportunities

Once a Certificate of Environmental Audit is issued, or a Statement of Environmental Audit determines the site is suitable for a sensitive use, a permitted development/ land use can commence.

The EAO requires regular review and Council is currently progressing an amendment to remove the EAO from a number of properties where a Certificate or Statement of Environmental Audit has been issued in accordance with Part IXD of the *Environment Protection Act 1970*.

## Recommendation 82:

Update the Environmental Audit Overlay maps to remove obsolete provisions.

## Development Contributions Plan Overlay (DCPO)

### Application

An approved Development Contributions Plan (DCP) is implemented through the DCPO in the Scheme. Currently, the Scheme has two areas within a Development Contributions Plan Overlay – the Port Melbourne mixed use area DCP (streetscape works) and the Fishermans Bend Urban Renewal Area.

### Opportunities

Refer to section 11.6.5 (Physical infrastructure – development contributions) for further discussion on development contributions.

## Parking Overlay (PO)

### Application

The Scheme currently has only utilised the parking overlay for the Fishermans Bend Urban Renewal Area.

### Opportunities

Refer to section 11.7.3 (sustainable car parking – parking overlay) for an analysis of this overlay and its opportunities.

# Audit Report

## 12.4 Effectiveness of the specific provisions

### 12.4.1 Particular provisions

#### **Public open space contribution schedule (Clause 52.01)**

The schedule to Clause 52.01 (Public Open Space Contribution and Subdivision) specifies the amount of contribution to the council a person who proposes to subdivide land must make. Currently the schedule lists 5% for all land in the municipality and 8% for Fishermans Bend Land.

Refer to section 11.5.1 of this report which discusses potential updates to this schedule following the development of the new Public Space Strategy which is currently underway.

#### **Easements, restrictions and reserves schedule (Clause 52.02)**

This schedule specifies land for which an easement or restriction may be removed or varied and how, under Section 23, 24 and 36 of the Subdivision Act 1998.

No updates are required unless the need arises on a case-by-case basis.

#### **Site specific exclusions schedule (Clause 52.03)**

The schedule to Clause 52.03 lists land for which the normal provisions of the scheme do not apply, and reference specific controls in an incorporating document corresponding to that land.

A review of this schedule (and the incorporated documents at Clause 81.01) was a recommendation of the 2006 Audit, however this has not been implemented.

The schedule will need to be reviewed to determine if any of the properties listed (and any associated incorporated document at the schedule to Clause 81.01) can be removed from the list.

See Incorporated documents section below for the review recommendation.

#### **Advertising signs (Clause 52.05)**

The purpose of this schedule is to list an area in which a major promotion sign is exempt from notice and decision requirements. Currently, Council has not identified the strategic need to utilise this schedule.

#### **Native vegetation precinct plan schedule (Clause 52.16)**

The purpose of this schedule is to list any native vegetation precinct plans within a defined area. A native vegetation precinct plan sets out requirements for the protection and removal of native vegetation for a defined area. It is useful for areas with significant native vegetation proposed to undergo significant change. Council currently has no native vegetation precinct plans, nor any strategic need to utilise this schedule.



# Audit Report

## Native vegetation schedule (Clause 52.17)

This schedule is used to specify areas in which the need for a permit to remove, destroy or lop native vegetation under Clause 52.17 is exempt. It may also specify weeds that are exempt from the same requirements.

The native vegetation requirements are only triggered on properties over 0.4 hectares and the City has few of them. Accordingly, there is currently no identified need to use the schedule to streamline native vegetation removal permit requirements.

## Licensed premises schedule (Clause 52.27)

The purpose of this schedule is to exempt specific liquor licences from requiring a permit under Clause 52.27 for the land specified. Currently a number of 'On Premises Licences' are exempt for properties around Beacon Cove.

It may also be used to specify land and a type of licence to be prohibited.

Any review of this schedule should be included in the development of a licensed premises local planning policy identified in section 11.4.6.

## Gaming schedule (Clause 52.28)

The schedule to Clause 52.28 (Gaming) prohibits the installation or use of a gaming machine on land specified in the schedule to the clause.

The schedule currently lists one shopping complex and 18 shopping centres, with property ranges specified. The properties apply to commercial zoned land.

The Schedules to Clause 52.28 were not changed by Amendment C88 which updated the gaming policy in 2013. This means the centres have not been comprehensively reviewed since 1999 (Amendment VC5) when councils were offered the opportunity to nominate strip shopping centres and shopping complexes where gaming machines would be prohibited as part of the State-wide initiative.

It is timely that a review take place to ensure the schedule applies to relevant land. There are a number of commercially zoned land parcels missing from the list, including in Mills Street, Middle Park and north of York Street, South Melbourne (which includes a Centrelink office). Consideration should be given to prohibiting all strip shopping centres which meets the definition within the head provision:

As specified in Clause 52.28 (Gaming) a strip shopping centre is an area that meets all of the following requirements:

- zoned for commercial use
- consists of at least two separate buildings on at least two separate and adjoining lots
- is an area in which a significant proportion of the buildings are shops
- is an area in which a significant proportion of the lots abut a road accessible to the public generally.

Updating this schedule would have the benefit of accommodating changes in zoning and land use over time, to capture they types of strip centres for which harm minimisation accessibility principles are intended to apply. It would also automatically capture any new commercial land that is established, without needing to wait until the next time the schedule is reviewed (e.g. within Fishermans Bend).

# Audit Report

An update could also be made to specify any prohibition of gaming machines in shopping complexes (e.g. new internal shopping centres/malls) that do not meet the definition of a 'shopping strip' in the head provision.

## **Recommendation 83:**

Review the schedule to Clause 52.28 to update the list of shopping strips/centres in which new gaming machines should be prohibited.

## **Post boxes and dry stone walls schedule (Clause 52.37)**

The schedule to Clause 52.37 requires a permit for the removal of post boxes constructed before 1930 and dry stone walls constructed before 1940 on land specified in the schedule to the clause. Currently, there are none specified in the schedule. Feedback from Council's heritage officer reveals there are no known dry stone walls within the City of Port Phillip. As a result, this schedule does not require updating.

## **Live music and entertainment noise schedule (Clause 52.43)**

Clause 52.43 was introduced into the VPP in September 2014 to respond to the increasing tensions between live music venues and medium and high-density residential developments. The provision requires that a new development, be it a new live music venue (LMV) or new residential development, incorporate appropriate noise attenuation measures to protect residents from adverse amenity impacts. This is called the 'agent of change' principle. It is intended that the provision protects both live music venues and sensitive uses.

Port Phillip is increasingly seeing residential development within mixed-use precincts and activity centres, where licensed premises that incorporate some form of live music are often located. Feedback from Council officers suggests there is an increase in residential development in activity centres and therefore increased amenity expectations; affecting business and music venues.

Council has the ability to utilise the schedule to Clause 52.43 to define conditions or limitations of the Clause for specific venues. For example, the Yarra Planning Scheme has nominated the Collingwood Arts Precincts as a 'Live Music Venue' that will be protected by the provision. This aligns with the Victorian Government's intention to use the land for a creative hub / integrated arts precinct. Council has the ability to utilise this schedule if a need arises in the future.

The management of noise from live music venues is also addressed by Clause 52.43.

## **12.4.2 General provisions**

### **Administration and enforcement of this scheme (Clause 61.01)**

This schedule sets out the responsible authority for administering and enforcing the scheme, which is generally Port Phillip City Council. It also lists alternative responsible authorities for certain provisions under the scheme, including the Minister for Planning (e.g. for Albert Park Reserve, the Port Zone, the Melbourne Convention Centre and Fishermans Bend) and Metropolitan Planning Authority for development contributions in Fishermans Bend.

This schedule does not require updating, however it is noted that Council is seeking to establish greater Responsible Authority status in the proposed GC81.



# Audit Report

## Area covered by the Scheme (Clause 61.02)

This schedule sets out the area covered by the scheme. The area covered by the Scheme has not changed so no update is required.

## Maps comprising part of the scheme schedule (Clause 61.03)

This schedule sets out a list of planning scheme maps detailing zones and overlays across the municipality that make up part of the Port Phillip Planning Scheme.

This schedule gets regularly updated by planning scheme amendments that make zone or overlay changes, however there is merit in regularly auditing the schedule to check that it accurately reflects the current scheme and to correct any anomalies that may have occurred.

## Commencement of the Scheme (Clause 61.04)

This schedule identifies the date at which the new format Port Phillip Planning Scheme commenced and accurately reflects the maps which makes up the planning scheme. It does not require updating.

## Referral of permit applications under local provisions (Clause 66.04)

This schedule lists referral requirements for certain types of planning permit applications under local provisions. This list is currently up-to-date.

However, Council is advocating to the State Government to have referral authority status for applications in Fishermans Bend where the Minister for Planning is the Responsible Authority. This will be consistent with the referral authority status given to Melbourne City Council for similar applications in Fishermans Bend. It will also ensure Council will automatically be party to relevant VCAT proceedings.

## Notice of permit applications under local provisions (Clause 66.06)

This schedule lists notice requirements for certain types of planning permit applications under local provisions.

There is an anomaly in the wording for the provision relating to Schedule 26 to Clause 43.02 (DDO26) that specifies the Clause for height exemptions (Clause 4.0), rather than the Clause for the mandatory height limits within the schedule (Clause 3). This is not significant, as the schedule to DDO26 identifies the correct notice procedure, but it should be corrected in the Review.

### Recommendation 84:

Review the schedule to Clause 66.06 to correct a minor anomaly.

## 12.4.3 Incorporated documents

### Incorporated documents (Clause 81.01)

A review of the incorporated documents listed in the schedule to Clause 81.01 (and the list of site specific exclusions at Clause 52.03) was a recommendation of the 2006 Audit and has not been implemented.

# Audit Report

A preliminary review of incorporated documents listed in the schedule to Clause 81.01 revealed many comprise site specific exclusion controls for individual sites that have now been developed and can be removed from the Scheme.

This will require further investigation and Council should review the permits for the properties with incorporated documents at the schedule to Clause 81.01 (Along with its corresponding control at the schedule to Clause 52.03) to determine whether they can be removed from the list.

## **Recommendation 85:**

Review and update the incorporated documents within the Port Phillip Planning Scheme for accuracy.

## **12.4.4 VicSmart planning assessment**

### **Local VicSmart applications (Clause 94 and 95)**

#### **Application**

VicSmart allows Council to 'schedule in' local classes of applications that are not specified at the state level. Port Phillip's VicSmart schedules are currently blank.

Council has a Fast Track Service to speed up the planning process for minor planning applications that are not eligible for VicSmart. These are confined to minor buildings and works that do not require advertising or external referrals.

At the time of writing, very few Councils have taken advantage of the VicSmart local provisions. Of the Councils that have local VicSmart provisions, the following is an example of the types of applications that could benefit from the process:

- Use land to sell or consume liquor with a food and drink premises between certain hours (Greater Geelong)
- Construct a building or carry out works under a specific DDO schedule (Ballarat).

#### **Feedback**

Council officers have identified a number of types of permit applications that may be suitable for the VicSmart process.

#### **Opportunities**

There is an opportunity to introduce a greater range of more routine permit applications than what is provided under Council's Fast Track Service that would benefit from the exemptions and process set out in the VicSmart process.

For example, the schedule allows Council to establish a set of local criteria for applications under particular zones, overlays and particular provisions which, if met, would provide a faster and more efficient planning process. The provision provides for a 10 day permit process, pre-set information requirements and, provided applications meet certain requirements, exemption from notice and third party review (no advertising or objector appeal rights) and exemption from assessment against broader planning scheme objectives.

The benefits of undertaking such a process include a reduced regulatory and administrative burden, including alleviating the pressure on planning resources and potential positive economic benefits from reducing the cost and timeframe associated with the planning permit process for more routine planning applications.



# Audit Report

## **Smart Planning reforms to VicSmart**

The state government's Smart Planning program is proposing to broaden the application of VicSmart by better integrating it into the VPP (structural changes) and evolving its operation to support more codified assessment pathways. This may assist simple common applications with multiple permit triggers (e.g. a small café in an existing high street shop). Council should liaise with the Department prior to implementing any outcomes of the Review.

### **Recommendation 86:**

Explore the potential for Council to prescribe local classes of VicSmart applications to streamline simple planning applications.

# Audit Report

## 13 Conclusion

This Audit Report represents a comprehensive review of the Port Phillip Planning Scheme, as required by the Act. The Review has analysed the Scheme's strategic performance to ensure it is current and relevant, clear and unambiguous and effective and efficient.

Overall, the Port Phillip Planning Scheme is sound and most of its policy direction remains valid. However it has been some time since its last update in 2011. Since then, significant shifts in state and local planning policy and reformed controls have taken place. This includes the rezoning of the Fishermans Bend, the planning scheme zones reform and a new Metropolitan Strategy (Plan Melbourne 2017-50), all of which have implications for local policy.

The City is facing unprecedented population growth and urban intensification which has implications for housing policy, access to open space, the evolution of our activity centres, pressure on heritage areas and employment precincts, increased amenity impacts and infrastructure that is at capacity. Council has undertaken significant strategic work in recent years in response. Going forward, there is a need to more holistically plan for and respond to the City's growth.

The Audit Report analysed data, policy and feedback on the performance of the Scheme and makes 86 recommendations to update or improve the Scheme, or carry out further strategic work. They range from minor updates, to more comprehensive reviews and development of new policy to addressing gaps in the Scheme and to create a clearer, more succinct planning scheme.

A four-year implementation plan has been developed which will prioritise recommendations based on a needs and risk-based approach and considering realistic timing and resources to implement the reforms. The LPPF will be revised in a two-stage approach, with two main planning scheme amendments to be undertaken over a four year period. Some of the larger policy reviews will be undertaken and implemented separately, representing the continuous improvement of the Port Phillip Planning Scheme over the next four years.



## 14 List of recommendations

### 14.1.1 Recommendations to address potential gaps

**Recommendation 5:**

Develop a future vision and strategic framework to guide the role and function of the St Kilda Activity Centre (Fitzroy/Acland Streets).

**Recommendation 7:**

Carry out further strategic work to consider how to retain creative industries and urban manufacturers within the municipality, in partnership with the IMAP.

**Recommendation 8:**

Progress further strategic work in response to development opportunities for important tourist destinations such as Waterfront Place and the St Kilda Triangle.

**Recommendation 9:**

Create a city-wide spatial plan to:

- better define the City's urban structure and character at both a city-wide and local level
- integrate spatial elements of key strategies such as the Integrated Transport Strategy and Public Spaces Strategy
- protect key features of the City's urban structure and character.

**Recommendation 11:**

Review Port Phillip's neighbourhood character policy to better articulate Council's preferred vision.

**Recommendation 14:**

Update the thematic history in the Port Phillip Heritage Review to addressing any heritage gaps.

**Recommendation 15:**

Review heritage overlay precincts HO6 (part St Kilda/East St Kilda), (HO5 St Kilda Hill), HO7 (parts Elwood, Balaclava, Ripponlea) and HO8 (Elwood) and the Montague Precinct.

**Recommendation 17:**

Undertake a review of all properties identified as 'Contributory Heritage Places outside of the Heritage Overlay' to determine whether any warrant inclusion within the Heritage Overlay.

**Recommendation 18:**

Undertake a city-wide social heritage assessment.

**Recommendation 20:**

Carry out a municipal Aboriginal cultural heritage study/strategy.

**Recommendation 23:**

Apply the Environmental Significance Overlay to sites of biological significance to raise their profile and minimise the loss of significant vegetation.

**Recommendation 26:**

Add policy support in the MSS for new development to consider the impact of a changing climate.

# Audit Report

**Recommendation 30:**

Explore options to require additional canopy trees/green infrastructure with new development.

**Recommendation 34:**

Promote the concept of universal accessibility for people of all ages and abilities and age and child friendly cities in the MSS.

**Recommendation 35:**

Promote urban agriculture and food-sensitive urban design in the MSS.

**Recommendation 37:**

Develop a licensed premises policy to guide the appropriate location and design of licensed premises to ensure they make a positive contribution commensurate to the role of each activity centre and to effectively manage amenity impacts.

**Recommendation 46:**

Consider undertaking a broader sunlight to public spaces analysis for the wider municipality.

**Recommendation 52:**

Update the MSS to include policy support for accessible housing that is suitable for people of all ages and abilities.

**Recommendation 52:**

Review options to fund the infrastructure required to support a growing population.

**Recommendation 56:**

Consider using the Parking Overlay to require more sustainable car parking rates (including maximum rates) for new office and residential development in select high-growth locations close to public transport, shops and services.

**Recommendation 57:**

Investigate the potential to secure development contributions for sustainable car parking rates to fund active transport initiatives.

**Recommendation 61:**

Update design policy for higher density residential development to encourage the provision of space that will accommodate on-site loading where development is on a busy road.

**Recommendation 69:**

Comprehensively review the heritage policy to strengthen and broaden its scope to respond to a broader range of development types, including commercial and industrial properties.

**Recommendation 70:**

Revise the Heritage Local Planning Policy to provide greater guidance for ESD facilities on heritage places.

**Recommendation 85:**

Explore the potential for Council to prescribe local classes of VicSmart applications to streamline simple planning applications.

## 14.1.2 Recommendations to improve policy

**Recommendation 1:**



# Audit Report

Undertake an employment land strategy to identify the City's employment needs and trends and determine whether a more proactive approach to retaining employment land is required.

**Recommendation 3:**

Update and strengthen activity centre policy in the MSS to reinforce the role and function and future direction of activity centres.

**Recommendation 4:**

Develop a new Activity Centres Strategy and Implementation Plan to inform detailed land use policy and structure plans.

**Recommendation 6:**

Strengthen policy to manage potential amenity conflicts in mixed use environments and activity centres.

**Recommendation 10:**

Review urban design policy to clarify 'design excellence'.

**Recommendation 12:**

Consider the need to retain the 'Contributory Heritage Places outside of the Heritage Overlay' designation for properties not suitable for a heritage overlay and alternative ways to protect neighbourhood character attributes of residential areas.

**Recommendation 19:**

Update policy in the MSS relating to aboriginal cultural heritage to:

- better reflect Council's obligation to identify, assess and document places of historic, cultural and social significance
- support development that reflects Aboriginal values and urban design perspectives.

**Recommendation 29:**

Update the MSS policy on significant trees to promote the enhancement of landscape character.

**Recommendation 32:**

Update the MSS to reflect best practice integrated water management objectives and strategies, including the efficient and sustainable use of water, minimising risk of flooding and protecting the ecological health of waterways.

**Recommendation 33:**

Work with Melbourne Water and other Councils within the Elster Creek catchment on a whole-of-catchment approach to flood prevention, including exploring the use of planning mechanisms to deliver appropriate built form outcomes and infrastructure upgrades.

**Recommendation 34:**

Strengthen local policies on liveable neighbourhoods and places within the MSS to raise the profile of planning policies that contribute to community health and wellbeing and place-making.

**Recommendation 37:**

Expand community infrastructure policy in the MSS to address co-location, clustering, adaptable spaces and design guidance for mixed use developments.

**Recommendation 39:**

# Audit Report

Revise the social impact assessment policy within the MSS to refine the trigger for when it's required.

**Recommendation 41:**

Review public open space policy and controls following completion of the Public Space Strategy to address public open space deficit and facilitate smarter, multi-use and adaptable spaces.

**Recommendation 42:**

Assess the potential for implementing revised public open space contributions in the Scheme.

**Recommendation 48:**

Prepare a revised Housing Strategy to:

- take into consideration current factors and demand influencing housing provision
- update housing policy to account for the new residential zones and Fishermans Bend
- consider using the new zones to more effectively direct housing growth and diversity while respecting heritage and neighbourhood character values
- consider the review areas that were not addressed by Amendment C123
- continue to monitor and understand housing trends in the municipality.

**Recommendation 49:**

Clarify housing residential growth area definitions within the MSS based on an updated Housing Strategy.

**Recommendation 50:**

Ensure best practice urban renewal planning and sustainable development outcomes for Fishermans Bend and holistically integrate this into the MSS.

**Recommendation 51:**

Strengthen affordable housing policy in the MSS by reflecting the directions of state policy and In Our Backyard - Growing Affordable Housing in Port Phillip 2015-2025.

**Recommendation 52:**

Update the Scheme to strengthen housing diversity policy by specifying the desired outcome and including policy support for alternative forms of housing.

**Recommendation 56:**

Strengthen policies in the MSS on sustainable transport to promote the concept of placemaking in our streets.

**Recommendation 59:**

Consider ways to improve policies relating to car parking, including:

- facilitating flexible car parking design
- guidance to improve Green Travel Plans
- supporting car share facilities in on-street locations, or where demand is demonstrated.

**Recommendation 60:**

Support more and better designed bicycle spaces and facilities within private development, particularly where car parking is reduced.

**Recommendation 76:**



Retain and update Water Sensitive Urban Design policy to broaden its application and on-site detention criteria.

### 14.1.3 Recommendations to update policy

**Recommendation 2:**

Update land use policies within the MSS to align with the new commercial zones.

**Recommendation 13:**

Progressively update the Port Phillip Design Manual 2000, starting with the areas subject to the greatest change and development pressure.

**Recommendation 16:**

Progressively review older individual heritage citations to ensure they meet the current criteria for establishing heritage significance.

**Recommendation 42:**

Review the Sport and Recreation Strategy 2015 – 2024 and reflect current key issues and recreation trends and incorporate relevant strategies into the MSS where appropriate.

**Recommendation 43:**

Reflect the Activating Laneways Strategy 2011 in the MSS to highlight the multi-functional role of laneways as unique public spaces.

**Recommendation 44:**

Update foreshore policy to reflect relevant policies of the updated Foreshore Management Plan 2012 and be consistent with the Victorian Coastal Strategy 2014.

**Recommendation 45:**

Review existing overshadowing policy to aim for greater consistency across the City.

**Recommendation 55:**

Update the MSS to reflect the Integrated Transport Strategy, once developed.

**Recommendation 61:**

Update the MSS to include waste management requirements for multi-unit and high-density development, which maximise recycling and diversion from land fill.

**Recommendation 65:**

Review all reference documents to ensure they are still current, relevant and useful.

**Recommendation 67:**

Retain and update local policy on non-residential uses in the residential zones to reflect permit discretions in the reformed zones.

**Recommendation 69:**

Retain and update local policy on caretaker's houses in industrial and business zones to reflect the zone reforms.

**Recommendation 73:**

Retain and update subdivision local policy to ensure they remain relevant and clear.

**Recommendation 77:**

Introduce planning permit exemptions for properties in the Heritage Overlay for low-impact buildings and works.

# Audit Report

**Recommendation 79:**

Review the Design and Development Overlays for South Melbourne Central Activity Centre (DDO8), St Kilda area (DDO6) and St Kilda Road North Precinct (DDO26) to ensure the built form requirements are achieving intended outcomes.

**Recommendation 83:**

Review the schedule to Clause 52.28 to update the list of shopping strips/centres in which new gaming machines should be prohibited.

**Recommendation 74:**

Retain Gaming local policy in its current form.

## 14.1.4 Recommendations to correct anomalies

**Recommendation 80:**

Remove the redundant Incorporated Plan Overlay applying to Becton, Port Melbourne.

**Recommendation 68:**

Retain and update policy on backpacker's lodges to correct minor anomalies.

**Recommendation 81:**

Update the schedule to the Public Acquisition Overlay to reflect the maps.

**Recommendation 82:**

Update the Environmental Audit Overlay maps to remove obsolete provisions.

**Recommendation 84:**

Review the schedule to Clause 66.06 to correct a minor anomaly.

**Recommendation 85:**

Review and update the incorporated documents within the Port Phillip Planning Scheme for accuracy.

## 14.1.5 Recommendations to improve efficiency and processes

**Recommendation 21:**

Consider training and/or developing guidelines to inform Council officers of Aboriginal cultural heritage sites and processes.

**Recommendation 24:**

Explore the benefit of using the planning scheme provisions over local laws to protect significant trees across the municipality.

**Recommendation 28:**

Review Council's process in assessing green infrastructure proposals to identify if Council can facilitate better outcomes.

**Recommendation 40:**

Develop social impact assessment guidelines to set out processes, acceptable scope and methodology and to clarify the types of development where it's required.

**Recommendation 64:**



# Audit Report

Restructure the MSS to more closely reflect the themes of the State Planning Policy Framework, Council priorities and to improve clarity and reduce duplication. This structure will need to follow any Smart Planning Reforms to an integrated planning policy framework.

**Recommendation 66:**

Relocate the area-based Local Planning Policies to the MSS and other relevant parts of the Planning Scheme.

**Recommendation 73:**

Revise and strengthen local urban design policy to consolidate common urban design policies throughout the scheme (including DDOs) and consider any gaps not addressed by the new better apartment standards.

**Recommendation 78:**

Consider a policy-neutral review of all Design and Development Overlays to improve clarity and consistency and relocate generic requirements to local policy.

## 14.1.6 Recommendations to continue advocacy

**Recommendation 22:**

Continue to advocate to the Minister for Planning for a permanent Environmentally Sustainable Development Local Planning Policy, or an equivalent state-wide provision which maintains and builds upon the existing local policy and improve advice on how applicants can meet the best-practice ESD objectives of this policy.

**Recommendation 27:**

Continue to advocate to the State Government for stronger planning mechanisms that will allow Council to influence sustainable development outcomes and respond to climate change hazards.

**Recommendation 31:**

Continue to advocate for new tools to identify coastal areas vulnerable to climate change, including coastal inundation and storm surges.

# Audit Report

## 15 Implementation

This Audit Report represents a comprehensive review of the Port Phillip Planning Scheme, making 85 recommendations. These range from minor corrections to significant pieces of strategic work and policy review.

See Figure 14 – Stages of the Planning Scheme Review.

### **Continuous improvement approach**

The majority of the recommendations to amend the LPPF will be implemented in two main 'Planning Scheme Review Amendments' to be undertaken over a four-year period. Other recommendations that don't fit within the scope of these amendments will be undertaken separately, including some of the larger policy reviews like the Housing Strategy and Public Spaces Strategy. These will be implemented through a holistic rewrite of the MSS to align with the Council Plan, the SPPF and address current planning issues and policies.

Policy development will be limited to those Council strategies that have been completed by mid-2018. The development of policies that require significant strategic work will be undertaken separately or through the second Review amendment which will be undertaken in later years.

Council will liaise with the State Government on their proposed development of an integrated planning policy framework, which will have implications for the MSS rewrite. Council may be able to rewrite the MSS into the new integrated state and local planning policy framework due to be finalised by the State Government in mid-2018.

### **Implementation Plan**

An Implementation Plan will be developed to provide an indicative four-year work program to phase the implementation of the recommendations and further strategic work, representing a continuous improvement of the Scheme over the next four-years.

The recommendations will be prioritised based on their alignment to the Council Plan and a project priority matrix. This will recognise the ease at which some recommendations can be implemented, compared to others. As the LPPF establishes a strategic basis for decision making for Council's planning decisions, any major changes must be justified either through existing policies, or carrying out further strategic work to establish an evidence base to introduce new policy or controls. The timeframes will also factor in the capacity of Council to implement the reforms and a change in circumstances or priority.

A quarterly reporting framework will be established to inform Councillors of the progress of the Review and to monitor the progress of the Plan.

For an overview of the Planning Scheme Review implementation, see Appendix 6.

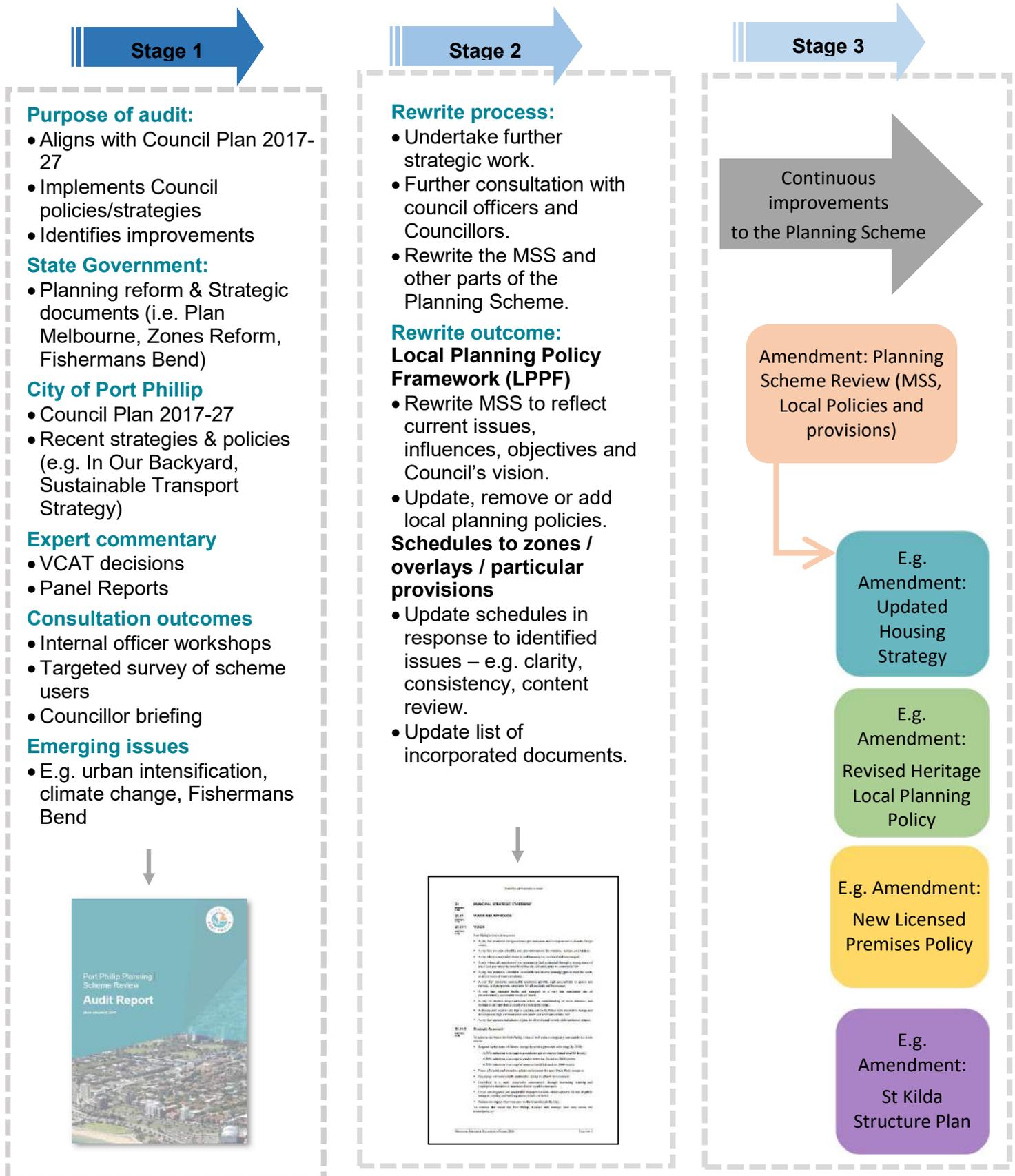
### **State policy and advocacy**

The State Government is currently progressing a significant work program of policy and structural reform to implement Plan Melbourne 2017-50 and the Smart Planning Program. This may result in changes to some recommendations, which will be reflected in the reporting framework.

A number of recommendations rely on further clarity, policy direction or reform by the State Government to address policy issues or implement Plan Melbourne strategies. The Review will need to be informed by further discussions with State Government agencies to clarify the scope or intention of these policies and how they can be implemented at a local level.



Figure 14 – Stages of Planning Scheme Review



## 16 Appendices

Appendix 1 – Statutory Planning Improvement Program

Appendix 2 – What is the Port Phillip Planning Scheme?

Appendix 3 – Outstanding recommendations

Appendix 4 – Planning panels analysis

Appendix 5 – VCAT analysis

Appendix 6 – Key policies

Appendix 7 – Planning scheme users survey report



# Audit Report

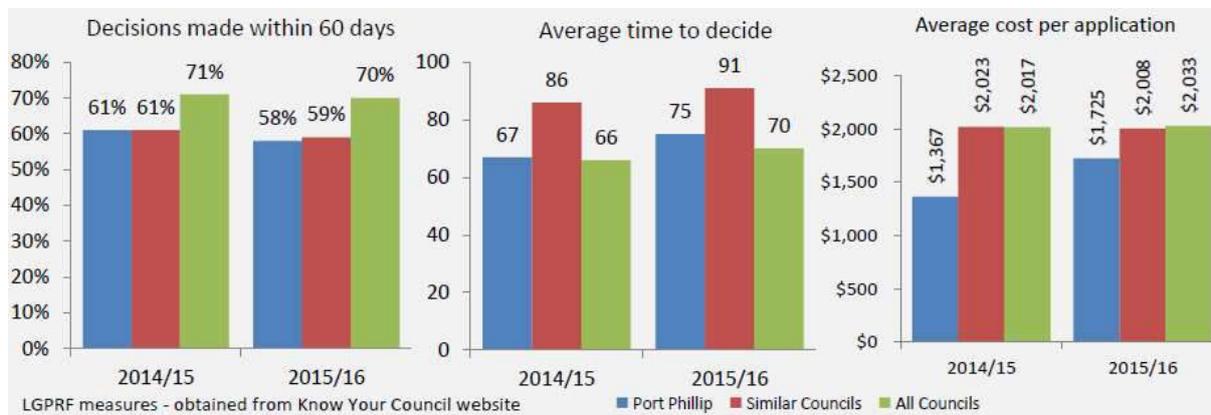
## Appendix 1 - Statutory Planning Improvement Program

Figure 1 – Statutory Planning Improvement Program

Year	Initiative	What we did	Why we did it	Benefits
2014/15	Advertised planning applications online	Made available previously hardcopy planning applications online	Previously, to view a planning application required the community to visit CoPP Town Hall in person as they were only available in hardcopy.	<ul style="list-style-type: none"> <li>✓ Reduced community wait time</li> <li>✓ Faster feedback/objections</li> <li>✓ Electronic access to applications</li> <li>✓ Reduced paper use and inventory</li> </ul>
2015/16	Planning applications online	Provide functionality through e-Services portal lodge a planning application	To lodge a planning application customers would provide hard copy in person, via mail, or email. This required manual intervention to extract information into the corporate IT system.	<ul style="list-style-type: none"> <li>✓ Integrated with IT system</li> <li>✓ Reduced staff time</li> <li>✓ Reduced paper use &amp; inventory</li> <li>✓ Applications and plans available electronically</li> <li>✓ 10% uptake since launch</li> </ul>
2016/17	Electronic planning assessment	Provide software that allows officers to review, assess, make a decision and stamp a planning application. This integrates with the online planning applications and other corporate IT systems.	Previously, to provide feedback and make a decision on planning applications, officers would manually retrieve, stamp, measure and store physical plans.	<ul style="list-style-type: none"> <li>✓ Faster feedback to applicants via email</li> <li>✓ Reduced manual effort stamping and printing plans</li> <li>✓ Reduced paper use and inventory</li> <li>✓ 80% of all plans assessed electronically</li> </ul>
2017/18	Planned digitisation of archived planning files (still in project scoping phase)	A large amount of plans and applications are housed by Council according to statutory requirements.	Paper files are expensive to archive, difficult to locate, and can be prone to disaster.	<ul style="list-style-type: none"> <li>✓ Other departments within can access files</li> <li>✓ Reduced motion retrieving documents</li> <li>✓ Reduced inventory costs</li> </ul>

# Audit Report

**Figure 2 – Statutory Planning Key Performance Measures**



Based on last year’s result and year to date results a forecast for 2016/17 applications was prepared at 5 per cent decrease and 10 per cent for decisions.

Overall, the City of Port Phillip performs better than similar councils for both average time taken to decide and average cost per application and is on par with decisions made within 60 days.

The total applications or decisions does not reflect the complexity of the applications, where the City of Port Phillip is seeing an increasing number of large, complex permit applications with additional layers of planning control.



# Audit Report

## Appendix 2 – What is the Port Phillip Planning Scheme?

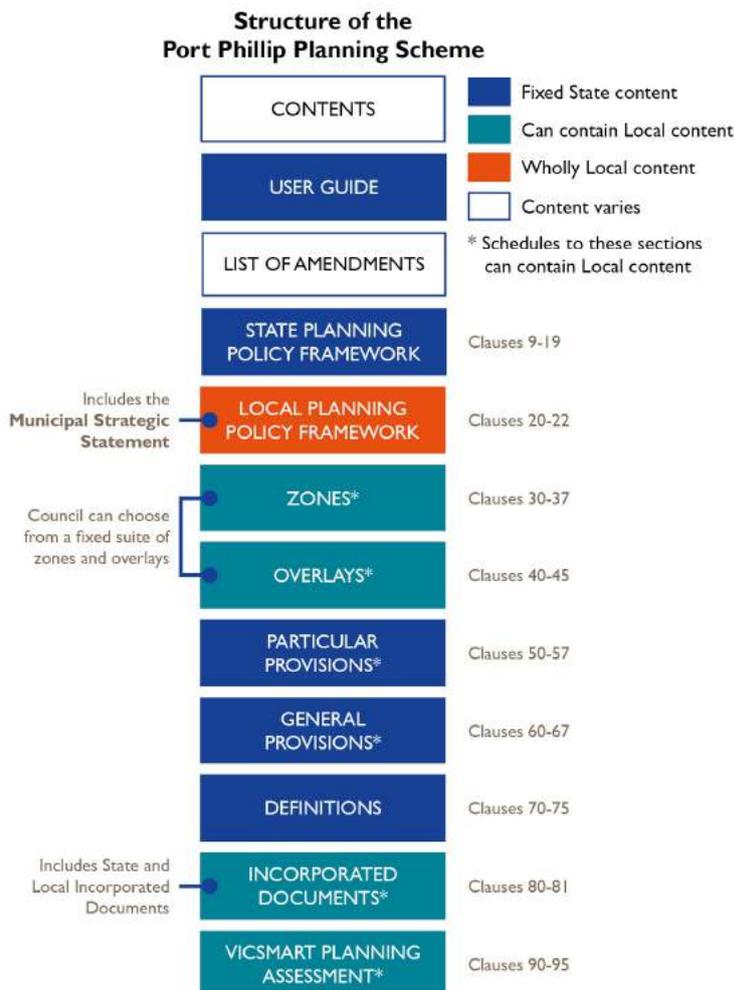
A planning scheme is a legal instrument that guides decisions about land use and development. It includes a range of tools including state and local policies, zones, overlays and particular provisions that contain directions and controls for all land within the municipality.

The boundaries of the Scheme generally align with the municipal boundaries of the City of Port Phillip (except for some foreshore areas).

The planning scheme informs how people can develop their land and what restrictions or controls might be on the land.

Figure 1 provides a snapshot of the various components of the planning scheme and the sections in which Council has the opportunity to include local content. Further information on the purpose and content of the different sections of the Scheme is provided in the following pages.

**Figure 1 – Structure of the Port Phillip Planning Scheme**



# Audit Report

## State Planning Policy Framework

State policies are contained in the State Planning Policy Framework (SPPF). They are the same in every planning scheme in Victoria and must be taken into account in land use and development decisions.

The SPPF comprises general principles for land use and development in Victoria. It is divided into the following nine key areas, where it provides specific strategies for:

- Plan Melbourne (the Metropolitan Strategy)
- Settlement
- Environmental and Landscape Values
- Environmental Risks
- Natural Resource Management
- Built Environment and Heritage
- Housing
- Economic Development
- Transport
- Infrastructure.

## Local Planning Policy Framework

The purpose of the LPPF is to demonstrate how broader State planning policies will be achieved or implemented in a local context. It contains a number of components; The MSS at Clause 21, and LPP at Clause 22, and local schedules to zones, overlays, general and particular provisions.

- The MSS provides a statement of the key strategic planning, land use and development objectives for the municipality, and sets out the strategies and actions for achieving those objectives.
- A MSS should support and implement the State Planning Policy Framework, which together with the MSS, provides the strategic basis for application of planning controls.
- Local planning policies are policy statements about specific types of land uses or developments, or circumstances (e.g. development in heritage areas).

## Zones, overlays, particular and general provisions

- Zones reflect the primary character of land, such as residential, commercial, rural or other; and indicate the type of use which may be appropriate in that zone.
- Overlay controls operate in addition to the zone controls and ensure that important aspects of the land are recognised (e.g. heritage places and flood prone areas).
- Particular provisions are additional planning provisions for a range of specific type of uses and developments (e.g. advertising signs, bicycle facilities and car parking).
- General provisions are operational requirements which are consistent across the Stat (e.g. existing use rights, administrative provisions, ancillary activities and referral of applications).
- Incorporated Documents comprise documents that are essential to the administration or enforcement of the planning scheme.
- The VicSmart planning assessment process outlines classes of applications that are eligible for the streamlined VicSmart assessment process.



## Appendix 3 – Outstanding recommendations

Table 1 – Outstanding recommendations from the 2006 Planning Scheme Review

Rec	2006 Review Recommendation	Topic/Reference Doc	Status	Implication for 2017 Review
12	Amend minor zoning anomalies at 99 Carlisle Street and 100 Blessington Street, and 31 Prentice Street, St Kilda.	Zones	Zoning anomalies have not been amended to date.	Add the zoning anomalies identified in the 2006 Review to the fix-up list. Maintain a database of anomalies and updates to carry out with regular 'fix-up' planning scheme amendments.
15	Redraft SUZ1 to reflect the Incorporated Document "St Kilda Sea Baths" and delete this document from Clause 81.	Particular Provision	St Kilda Sea Baths is still an incorporated document in the Scheme.  Current best practice is not to have detailed, site specific zone schedules.	Review all incorporated documents to determine if they are still relevant, or could be incorporated into the scheme in a more effective and transparent manner.
16	Seek legal advice as to whether Luna Park can be deleted from Clause 81 and, if it can, redraft the incorporated document into Schedule 2 to the SUZ.	Particular Provision	Luna Park is still an incorporated document in the Scheme.  Current best practice is not to have detailed, site specific zone schedules.	As above.
17	Review the permits for each of the following properties to determine whether they can be deleted from the schedule to Clause 52.03 – Specific Sites and Inclusions (and consequentially from the schedule to Clause 81). Legal advice may be required. <ul style="list-style-type: none"> <li>• 360 – 370 St Kilda Road, Melbourne</li> <li>• 414 – 416 St Kilda Road and 418 St Kilda Road</li> <li>• 582 – 584 St Kilda Road, Melbourne</li> <li>• 167 Fitzroy Street, St Kilda</li> <li>• 29 Fitzroy Street, St Kilda</li> </ul>	Particular Provision	All properties except for 4 Princes Street are still listed in the schedule.  A review was undertaken and some were retained for transparency or continued approvals.  This should be reviewed again.	Review the permits for the properties listed in the schedule to Clause 52.03 (and any associated incorporated document at the schedule to Clause 81.01) to determine whether they can be removed from the list.

# Audit Report

Rec	2006 Review Recommendation	Topic/Reference Doc	Status	Implication for 2017 Review
	<ul style="list-style-type: none"> <li>• 89 Fitzroy Street St Kilda</li> <li>• 14 – 16 The Esplanade, St Kilda</li> <li>• 12 Acland Street, St Kilda</li> <li>• 132 – 134 Bank Street and 223 – 227 Moray Street, South Melbourne</li> <li>• 315 – 317 Beaconsfield Pde and 109 – 111 Park Street, St Kilda</li> <li>• 400 – 410 City Road, 1-48 Cecil Street and 127 – 135 Whiteman Street, South Melbourne</li> <li>• 4 Princes Street, St Kilda</li> <li>• Bertie Street, Port Melbourne (Part 61 Bertie Street, Port Melbourne 2001)</li> </ul>			
63	<p>Review the Urban Iconography Strategy 2002 and identify icons within the strategy that have not been translated into the scheme via a Heritage amendment. Note these icons as requiring Heritage Overlays to be applied under “Future Work”.</p>	Urban Iconography Study (2002)	<p>Clause 21.05 (Built Form) mentions Port Phillip’s icons contribute towards a ‘sense of place’.</p> <p>Strategy 1.9 of Clause 21.05-1 (Heritage) is to maintain the visual prominence of icons. Strategy 6.6.41 (St Kilda Foreshore Area – in Clause 21.06 Neighbourhoods) is to retain and reinforce the unique cultural heritage of the area through ensuring new uses and development complement and enhance establish iconic buildings, spaces and attractions.</p> <p>The Study is not a reference document within the MSS, but it is in Clause 22.09 (St Kilda Foreshore Area Policy) and DDO21.</p>	Consider the Iconography Strategy as part of the Heritage Program.
78	<p>Review the LPPF (specifically Clause 21.05-4 and Clauses 22.05/22.06) to reflect the following action: “to develop criteria</p>	Municipal Early Years Plan – Creating a Child	General community facilities strategies were included in the MSS.	Consider ways in which the MSS can better reflect Council’s commitment to



Rec	2006 Review Recommendation	Topic/Reference Doc	Status	Implication for 2017 Review
	<p>for child friendly buildings and developments in Port Phillip”.</p> <p>Recognise the need to undertake further work, in the form of a Playground Strategy, to meet the goal of improving child development, health and wellbeing and specifically, maximising opportunities for play.</p>	Friendly Port Phillip	<p>Playgrounds are described as part of physical infrastructure in Clause 21.05-4 which includes a number of objectives and strategies relating to meeting the needs of current and future generations.</p> <p>Play Space Strategy 2011</p> <p>Creating a Child Friendly Port Phillip 2012-15</p> <p>Councillors adopted the Victorian Child Friendly Cities and Communities Charter in 2015</p>	becoming a child-friendly and age-friendly city and reflect adopted Council strategies.
79	Update the MSS to reflect the objective of increasing opportunities for physical activity and developing supportive environments.	ISEPICH Community Health Plan 2004-2006	The MSS has indirect policies relating to creating an integrated sustainable transport network supporting cycling and walking in terms of sustainability, but doesn't mention health and wellbeing benefits.	Consider ways to better reflect the health and wellbeing benefits of active transport and open space and facilities for recreation in the MSS.
93	Identify the preparation of a Lanes policy under “Future Work” in the MSS.	Policy gaps identified by Council, planners and VCAT	<p>Activating Laneways Strategy July 2011 was adopted by Council on 22 August 2011 which was after the last Planning Scheme Review was implemented in C62.</p> <p>The MSS has policy on (Clause 21.05-2 – Urban Structure and Character) protecting and enhancing the function of laneways.</p>	Review the Activating Laneways Strategy July 2011 to incorporate relevant content into the MSS to provide further guidance on use of our laneways, and include it as a reference document.
95	<p>Incorporate relevant principles of the nightlife policy framework into the MSS.</p> <p>Identify the investigation as to the preparation of a local policy relating to licensed premises operating after 1am and providing amplified music as “Future Work” in the MSS.</p>	Policy gaps identified by Council, planners and VCAT	<p>Clause 21.04-6 (Tourism and the Arts) includes two strategies relating to minimising the impact of late night entertainment uses.</p> <p>Clause 21.04-8 (Social Impact Assessments):</p> <p>Strategy 1.1 requires preparation of a Social Impact Assessment in association with applications for new Taverns, Nightclubs and Hotels, or where an increase in the patron</p>	<p>This action was superseded by the 1am lockout laws and freeze on late night licenses.</p> <p>Review licensed premises policy to determine if the current policy in the MSS is effective and a LPP is warranted.</p>

# Audit Report

Rec	2006 Review Recommendation	Topic/Reference Doc	Status	Implication for 2017 Review
			numbers to such Licensed Venues is proposed.	
98	<p>Identify the preparation of Neighbourhood Character Frameworks for areas not covered by the HO or a DDO in “future work” in the MSS.</p> <p>Update the MSS to reflect areas where consistency of character is important, and where change will be encouraged, where known.</p> <p>Amendments to Clause 22.04 - Heritage</p>	<p>Policy gaps identified by Council, planners and VCAT</p>	<p>The MSS at C62 introduced a new section in Clause 21.05-2 (Urban Structure and Character) to strengthen neighbourhood character objectives and strategies.</p> <p>Future work was not identified in the MSS in C62.</p> <p>No broader review of the Design Manual for areas not covered by a HO or DDO has been undertaken, however new character statements were added for the Carlisle Street and Bay Street Activity Centres when their structure plans were prepared in 2009 and 2014, respectively.</p>	<p>Progressively update Phillip Design Manual 2000, starting with the areas subject to the greatest change and development pressure.</p>
99	<ul style="list-style-type: none"> <li>• Review the Clause 22 Heritage Policy to clarify the definition of feasible reuse.</li> <li>• Review Clause 22.04 – Heritage Policy to address policy clarifications and gaps as identified by the planners.</li> <li>• Identify the review of the application of the Heritage Policy under “future work” in the MSS.</li> <li>• Identify the preparation of heritage policy for non residential buildings under “Future Work” in the MSS.</li> </ul>	<p>Policy gaps identified by Council, planners and VCAT</p>	<p>In Amendment C62 the policy was:</p> <ul style="list-style-type: none"> <li>○ reworded to ensure consistency with the practice note and provide more specific guidance</li> <li>○ restructured to improve the flow of the policy for applicants and decision makers</li> <li>○ amended to add an objective encouraging retention, reuse and recycling of heritage buildings</li> <li>○ amended to introduce policy in regard to laneways, kerbs and channels and street furniture.</li> </ul> <p>The addition of policy in relation to lane ways, kerbing and channelling is a minor change to the policy. The change implements the Council’s Heritage Kerbs, Channels and Laneways Guideline (2006).</p> <p>The mention of ‘feasible reuse’ in relation to demolition of heritage buildings has been removed from Clause 22.04.</p>	<p>Undertake a comprehensive review of Clause 22.04 Heritage Policy as part of the broader Heritage Program.</p>



Rec	2006 Review Recommendation	Topic/Reference Doc	Status	Implication for 2017 Review
			<p>No heritage policy has been prepared for non-residential buildings.</p> <p>No refinements to the performance measures were included.</p> <p>The extent of the heritage overlay has been subject to a continuous improvement initiative, reviewing particular areas over time.</p>	
102	Identify the preparation of a Development Contributions Plan for the municipality as future work in the MSS.	Policy gaps identified by Council, planners and VCAT	<p>Future work was not part of the MSS structure from the last rewrite.</p> <p>No municipal-wide DCP has been prepared.</p>	<p>Outstanding.</p> <p>In the medium-long term, Council should review the options available to fund the infrastructure needed to support its growing population.</p>
103	<p>Review the Yarra Planning Scheme and Melbourne Planning Scheme accessibility framework and incorporate a similar framework into the Port Phillip MSS.</p> <p>Prepare a local policy for accessible buildings for incorporation in the Local Policy planning Framework.</p>	Policy gaps identified by Council, planners and VCAT	The MSS identifies that future housing must respond to the need for housing which is accessible and adaptable for people with disabilities and older persons, as the housing market is not adequately providing for these types. However at the time, Council was not permitted by the Minister to introduce any more prescriptive requirement.	<p>Include policy in the MSS supporting the provision of flexible and accessible housing that is suitable for all ages and abilities.</p> <p>The better apartments standards include accessibility requirements.</p> <p>Advocate for more prescriptive requirements for smaller developments.</p>
104	<p>Identify the preparation of appropriate planning frameworks under Future Work for the following places:</p> <ul style="list-style-type: none"> <li>• Acland Street, St Kilda</li> <li>• Fitzroy Street, St Kilda</li> <li>• Brighton Road</li> <li>• St Kilda Junction</li> </ul>	Policy gaps identified by Council, planners and VCAT	<p>Identification of future work was not included in the MSS in C62.</p> <p>No structure plan has been prepared for Acland/Fitzroy Street St Kilda Activity Centre.</p> <p>St Kilda Road North and St Kilda Road South have had structure plans prepared.</p> <p>The others are NACs and further planning work will be undertaken as the need arises.</p>	<p>Outstanding.</p> <p>Prepare a structure plan for the St Kilda Major Activity Centre.</p>

# Audit Report

Rec	2006 Review Recommendation	Topic/Reference Doc	Status	Implication for 2017 Review
	<ul style="list-style-type: none"><li>• Armstrong Road/Victoria Street Shopping Centre</li><li>• Brigport Street Shopping Centre</li><li>• Central Avenue, Garden City</li></ul>			



# Audit Report

## Appendix 4 - Planning panels analysis

An amendment to the Port Phillip Planning Scheme may be referred to an independent Planning Panel to hear any unresolved community submissions and to recommend whether an amendment should proceed, with or without changes. Planning Panels are established under the Planning and Environment Act 1987.

The Panel assesses a proposed planning scheme amendment by considering submissions, conducting hearings and preparing reports. Planning Panels are only advisors and make recommendations. The Act requires Council to formally consider the Panel's report and recommendations, and determine whether to adopt the amendment with or without changes.

The findings of the Panel can provide expert advice and lessons to Council about its approach to addressing particular planning issues, its drafting of planning provisions and controls and in recommending a best practice approach.

Since the last audit of the Port Phillip Planning Scheme in 2006, 18 Amendments have had a Panel Report published (at the time of writing). Overall, the independent Panel Reports generally supported the objectives of these planning scheme amendments, either as exhibited or subject to changes as recommended by the final Panel report.

The amendments varied in their scope from a site specific heritage review, medium to large heritage precinct reviews, structure plan implementation and design reviews (DDOs) and the previous Planning Scheme Review. Key findings are examined in themes below.

### Mandatory and discretionary built form controls

Since the last audit of the Port Phillip Planning Scheme, there have been five amendments to the Port Phillip Planning Scheme that have sought to apply mandatory or discretionary heights controls (St Kilda Road South – C122, South Melbourne Central – C52, Bay Street - C103, St Kilda Road North - C107, 1-7 Waterfront Place - C104, Ormond Road - C57).

Key findings include:

- Planning Panels often supported the strategic work of Council in developing design guidelines, but questioned their translation into planning controls by debating the ratio of prescriptive versus mandatory controls within the framework.
- In cases with a very strong rationale for mandatory built form controls (e.g. to protect significant heritage values, or where there was a clear need for transition in scale) the Panel supported Council's use of mandatory built form controls.
- However more often than not, they cautioned against a 'heavy handed' approach to mandatory requirements and recommended a more flexible approach (i.e. discretionary controls) or an increase in allowable heights, particularly in commercial areas.
- Reasons given included:
  - the need for a more balanced approach to juggling protection of neighbourhood character with supporting growth in appropriate locations; and
  - Maintaining flexibility to support good design outcomes and lot size diversity.
- In general, Panel reports tended to favour a mix of discretionary and mandatory built form controls (e.g. street wall heights or setbacks of upper floor levels) without placing an absolute limit on the development potential of sites.

# Audit Report

## **Amendment C122 Panel Report – St Kilda Road South Precinct (June 2017)**

Amendment C122 implements the St Kilda Road South Land Use and Design Framework. While the Panel supported the overall objectives of the Framework, their overall view is that the precinct has a strategic role to support growth and intensification:

*“... the [planning authority’s] emphasis on managing ‘development pressure’ has led to restrictive built form requirements that do not recognise either the reality of recent development at greater scale or optimise the opportunity presented for urban renewal.”*

The Panel recommended significantly increasing heights of discretionary building heights at the Junction, St Kilda Hill and at key intersections (by between 3-8 storeys). It also recommended increasing discretionary building heights by 1-2 storeys along the western side of St Kilda Road.

The Panel stated that generally, the Amendment was balanced in its proposed use of mandatory controls where building heights are mainly discretionary except for Wellington Street and around the Presbyterian Church. However, in practice it did not support the application of mandatory building heights (proposed in Wellington Street and in the vicinity of the Church).

However, it did support mandatory setbacks to protect view lines to the church, and a mandatory street wall height on the eastern side of St Kilda Road to reinforce the heritage elements of the streetscape.

In Council’s response to the Panel Report, it varied many of the Panel’s recommended changes and maintained some of the mandatory controls (e.g. on Wellington Street and around the Church).

## **Amendment C52 Panel Report – South Melbourne Central (December 2006)**

Amendment C52 implemented the City of Port Phillip’s Structure Plan and Urban Design Framework for the South Melbourne Central Major Activity Centre.

The Panel analysed the role of mandatory provisions in planning scheme, and found that mandatory controls are the exception to the norm, with a preference for detailed objectives and performance measures rather than prescriptive standards.

*“In particular, the Panel wishes to reiterate the comments that, simply because a discretion exists in the planning controls, this does not mean that a departure from the nominated building height should, or will, be supported.”*

On the basis of its analysis, the Panel found support for a mandatory regime for the street wall height and the upper level setbacks but it did not endorse a mandatory regime for absolute height, as it lacked strategic justification within the structure plan.

The Panel made it clear that in recommending a discretionary height regime, they do not anticipate that much (if any) variation will be given to the maximum height.

## **Amendments C57 Panel Reports Parts 1 & 2: Ormond Road Design Guidelines (July 2007 & June 2008)**

Amendment C57 implemented the Ormond Road Urban Design Guidelines (2007). Overall, the Panel supported mandatory height and some setback controls in the precinct, however recommended increasing the height. The Panel found the benefit of mandatory controls in providing certainty for developers and the community outweighs the benefits of discretion for a few select sites.

The Panel supported mandatory height controls in this precinct given the Ormond Road area was under redevelopment pressure. The Panel noted inappropriate developments of up to



five storeys (approved by VCAT) were changing the desirable scale of the area and could be used as benchmarks:

*“We accept that, in the circumstances of the particular urban character of this area and its development pressures, the application of certain mandatory rather than merely preferred or discretionary design requirements is appropriate, including specification of maximum overall building heights.”*

However, the Panel found the proposed controls limiting, and in need of increased heights and exemptions for further flexibility.

Other key findings in relation to mandatory controls for Amendment C57 include:

Removing “illogical” height controls for the Residential Precinct 2 in close proximity to the activity centre with existing height diversity.

Raising commercial building heights to accommodate commercial floor levels and the SBO raised floor level requirements.

Making the front & side setback requirements mandatory, given the importance of generous setbacks in this residential area, and that they be landscaped.

Making discretionary other proposed mandatory controls relating to zero building setbacks, verandah and canopy effects, visual interaction with the street, street wall articulation and neighbouring amenity for flexibility.

Total invisibility of the upper level in the commercial areas is excessive, as it should allow visibility of a small extent, particularly for oblique views.

Amendment C52 was split to re-exhibit the proposed changes in Residential Precinct 2. The second Panel generally supported the proposed Part 2 changes, however reiterated the findings of the first Panel in recommending a slight rise in the mandatory maximum front wall height to provide design flexibility on top of accommodating the SBO raised floor levels.

### **C103 Panel Report: Bay Street Structure Plan implementation (June 2014)**

The amendment implemented the Bay Street Structure Plan. The Panel’s overall recommendation was that Amendment C103 to the Port Phillip Planning Scheme be adopted, subject to minor wording changes, excluding specific properties and deleting amenity standards.

The proposed DDO25 comprised mandatory street wall heights and setbacks of upper floor levels from the front and rear boundaries, but a discretionary overall height.

In discussing the use of mandatory street wall height and upper floor setback controls the Panel noted:

‘Panel accepts that Council has achieved successful built form outcomes through the use of mandatory elements such as mandatory street wall heights in DDO1 at the southern end of Bay Street. In these cases, Council has been careful to apply mandatory controls to the most critical elements of the built form to achieve a human scale at street level’ and that the Panel did not see strong arguments to depart from the approach that has been successful in managing the area to date.

Further, the Panel noted:

‘This proposed redrafting of DDO25 with the mandatory provision of street wall heights and setbacks of upper floor levels from the front and rear boundaries, but not overall height remove debate about key development features required to fully implement the aspirations of the Structure Plan without placing an absolute limit on the development potential of the site.’

# Audit Report

## **C104 Panel Report: 1-7 Waterfront Place, Port Melbourne (February 2014)**

This amendment sought to facilitate the renewal of a strategic development site at 1-7 Waterfront Place, Port Melbourne by introducing a suite of planning controls for the land, including mandatory height controls.

The Panel's overall recommendation was that Amendment C104 be adopted, subject to changes to the proposed development controls. In regards to use of mandatory controls over discretionary provisions, the Panel stated:

“Imposing arbitrary requirements such as height limits would unnecessarily constrain good design outcomes. Instead, a high quality design outcome should be sought for this strategic redevelopment site through a combination of mandatory and discretionary provisions’

The Panel commended the strategic work in developing the Guidelines, but queried whether they should be translated literally (mandatory) or in a less prescriptive manner. The Panel found there were exceptional circumstances surrounding the subject site to warrant some mandatory provisions. This view was based on the site's sensitive interface to the north, to the historic station and in regards to overshadowing of the beach.

The Panel found that a human scale would be best achieved with a mandatory street wall height, however the height and envelope of the buildings should be determined by a rigorous design analysis and response driven by overshadowing objectives (discretionary controls).

Regarding the use of mandatory height controls to prevent overshadowing of the foreshore the Panel stated that shadow diagrams and design responses were useful in that they provided Panel with the ‘ability to view the shadow consequences of so many optional design responses, from low rise up to 19 storeys with many varying building locations and also both equinox and solstice outcomes.’

The Panel concluded that mandatory height provisions should dictate the perimeter, street wall parts of the building and that the height of the internal portions should be driven by shadowing provisions.

Council responded by undertaking additional urban design analysis and modelling of overshadowing impacts. Following completion and review of the detailed urban design analysis Council determined to not accept all of the Panel's recommendations.

Council submitted the revised amendment which was gazetted with the Minister supporting Council's position on mandatory height controls and overshadowing of the beach.

## **C107 Panel Report: St Kilda Road North Precinct Review (May 2015)**

The Amendment implemented the St Kilda Road North Precinct Plan. The Panel's overall view was that the discretionary provisions, applied together with the extensive design objectives in the DDO, provide a robust framework in which to assess applications.

The Panel expressed strong support for the fundamental ‘urban design’ vision and character ‘key design elements which underpin the amendment’. These reflect important principles in relation to building heights, and the scale relationship between precincts and interface areas in particular protecting the Shrine, overshadowing, garden setbacks etc.

The Panel shared Council's concern about the protection of the boulevard character of St Kilda Road and stepping development down from St Kilda Road to Queens Road, however it found that a similar approach was not required for Kings Way.

The Panel found that mandatory tower separation distance provision was not warranted or practical and discretionary side and rear setbacks were appropriate.

Council disagreed with Panel's recommendations on a number of occasions as it would result in less prescriptive controls for the Precinct than proposed by the exhibited



# Audit Report

amendment, through making the majority of the design requirements discretionary rather than mandatory.

In approving the amendment, the Minister made some mandatory provisions discretionary, including podium setbacks and tower separation.

## **C83 Priority Development Panel – 400-430 City Road, Southbank (December, 2009)**

The Amendment was part of a combined permit and amendment application for the City Road wedge in Southbank, seeking to amend the DDO8 to accommodate a large mixed-use development at the request of the proponent.

A Priority Development Panel (PDP) was requested by the Minister to appraise the concept and give advice in relation to appropriate controls.

The PDP dismissed Council's objection to amend the DDO to vary the mandatory 10m setback of podium to accommodate proposed design's setback of 3.5-8m:

*"The PDP agrees that the proposed approach represents a more appropriate design outcome than would be achieved by strict interpretation of the mandatory controls, and agrees that DD08 should be amended to clarify the wording of the setback requirements, as suggested by Council."*

## **Heritage**

There were seven amendments that went to Panel that considered heritage matters, since the last Planning Scheme Review – Amendments C143, C122, C132, C117, C103, C89, C68.

Key findings include:

- In all but one case, the Panel supported the strategic justification and methodology for heritage amendments.
- In a number of cases, Planning Panels queried the level of heritage significance attributed to certain properties and the area used for the comparative analysis.
- Clause 22.04 Heritage Local Planning Policy doesn't provide for industrial buildings and the type of growth envisaged in urban renewal and high growth areas.
- Best practice includes undertaking community consultation when preparing heritage studies.
- Update thematic history in the Port Phillip Heritage Review sections of that history are of sufficient importance to justify the preservation of individual places and precincts.

## **Amendment C143 Panel Report: Heritage Overlay HO472 (September 2017)**

The Amendment implements the recommendations of the Fishermans Bend Heritage Study (2013) by applying the Heritage Overlay (HO472) to two properties in Port Melbourne (split from Amendment C117).

Council applied a heritage overlay to the entire complex at 19 Salmon Street. The Citation attributes levels of significance (primary and secondary) within the site, and had recommendations for redevelopment based on the significance, i.e. retain all primary elements, and adapt secondary elements.

The landowner submitted that only the art deco / corner entry building should be in the overlay, and that an overlay applied to the whole site is inconsistent with the Fishermans bend framework that promotes significant redevelopment.

# Audit Report

The Panel recommended that the heritage overlay be reduced to the 'primary significant' buildings only. The Panel considered the 1955 extensions ('Secondary significance' in the Citation) to be of low heritage significance and not worthy of the Heritage Overlay.

The Panel concluded that while it is generally standard practice to apply the Heritage Overlay to all of the parcel of land, on larger sites and in the context of strategic policy support to facilitate significant redevelopment, that the extent of the Heritage Overlay should relate only to the extent of land necessary to protect significant heritage values.

The Panel also noted the tension between Clause 22.04 (Heritage Policy) demolition policy and the citation, which recommends a less restrictive approach to demolition. They also noted a tension between the policy's built form guidance and the scale of development envisaged by DDO30 in the Fishermans Bend Urban Renewal Area:

"In areas where redevelopment at significant scale is envisaged, a policy of 'concealment' of new development of land within the Heritage Overlay, as envisaged by the Clause 22.04 policy, will not necessarily strike the right balance. The Policy seems more suited to low scale residential heritage places or precincts than areas identified for intensive redevelopment."

## **Amendment C117 Panel Report: Fishermans Bend (September 2016)**

The Amendment implements the recommendations of the Fishermans Bend Heritage Study (2013) to introduce heritage controls to a number of properties in Fishermans Bend, including placing sites in a Heritage Overlay. For other sites, which are already in a Heritage Overlay, the amendment updated citations, heritage gradings and statements of significance.

The Panel for Amendment C117 made various changes and amendments to the exhibited heritage citations including making minor revisions and corrections through to deleting / removing citations from the amendment.

The Panel recognised that the amendment was an important step in protecting important heritage places and planning for change within the Fishermans Bend Urban Renewal Area, which is poised for substantial strategic redevelopment. It also found the Amendment was supported by and implements the relevant sections of the state and local planning policy framework, was of sound methodology and generally well founded and strategically justified, subject to addressing the specific issues.

The Panel recommended some fundamental changes including removing sites west of Smith Street from the HO, retaining three properties in the precinct HO4 (over individual an HO) and abandoning the proposed heritage overlay for some properties within the extended area of HO442.

The Panel acknowledged that those buildings are of heritage significance but considered the application of HO442 (which covers Albert Park residential area) inappropriate as they are unrelated to the historical development of Albert Park.

The sites west of Smith Street were not recommended for inclusion in the HO as the significance had not been demonstrated, as they had no historical association with the significant places.

Concerning community consultation the Panel noted that one of the limitations of the study was that property owners were not consulted while the study was being prepared. The Panel stated that it considers that it is best practice to undertake community consultation in preparing heritage studies.



# Audit Report

The Panel also recommended Council assess the “former Montague slum neighbourhood” for potential heritage significance as a potential precinct, a series of individual buildings/infrastructure items or serial listing, noting Amendment C117 did not address the wider Montague Precinct.

Part of the Amendment was split for two properties (see Amendment C143) due to notification issues.

## **Amendment C54 Panel Report: Elwood Heritage Review (August 2006)**

Implemented the findings and recommendations of the Elwood Heritage Review 2005 by amending the schedule and maps to the Heritage Overlay and making changes to the Port Phillip Heritage Review.

In handing down its report the Panel expressed concern in relation to a number of matters relating to the rigour with which the study had been conducted:

*‘the lack of clearly defined assessment criteria, an absence of any clearly defined thresholds of local heritage significance and reliance on the Elwood locality as a basis for the comparative assessments’.*

The Panel recommended that the various statements of significance in the Elwood Heritage Review should be reviewed, with a view to placing them on a more rigorous foundation, including a clear statement of the definition of each criterion.

The Panel recommended that any future heritage studies for the City of Port Phillip should include, as part of the thematic history, statements as to what sections of that history are of sufficient importance to justify the preservation of individual places and precincts, and what criteria should be adopted to identify appropriate places for these important themes.

## **Local Planning Policy Framework**

Other Panels considered various amendments to the Local Planning Policy Framework on a number of topics, including the MSS rewrite, environmentally sustainable development and a SBO Review.

Key findings include:

- Sustainable development is most efficiently assessed at the planning stage to achieve optimum ESD outcome;
- There is scope to reduce the length of the Local Planning Policy Framework without changing the intent of the policies;
- A Coastal Hazard Vulnerability Assessment for the region encompassing Port Phillip Bay should inform a planning tool to deal with coastal hazards and inundation associated with sea level rise;
- The MSS and DDO are the better VPP tools to use than a local planning policy, to implement the South Melbourne Central Structure Plan, providing greater simplicity, transparency and certainty.

## **Amendment C97 - Environmentally Efficient Design Local Policies (April 2014)**

For Amendment C97, the Minister appointed an Advisory Committee to hear submissions in response to a number of Council amendments that sought to introduce a local planning policy on built form sustainability; and to advise on the broader applicability and suitability of a local planning policy to require sustainability to be considered at the planning stage rather than the building stage.

# Audit Report

Amendment C97 was co-exhibited with five other Councils and introduced a new policy at Clause 22.13- Environmentally Sustainable Development with objectives for new development to achieve best practice in environmentally sustainable development.

The Committee concluded that sustainable development has had long history in planning; and that the issue has evolved to the point where many Councils are seeking to advance sustainable outcomes. It considered that, in principle, a State-wide approach was the best way to facilitate an increased focus on sustainability, however in the interim the Committee supported the amendments.

Regarding the use of the Planning Scheme to guide policy, the Panel found that:

*‘There is a strong legislative and policy framework that supports the need for sustainable development and which recognises that both planning and building have a significant role to play in achieving it’*

And to achieve sustainability in planning, it should be undertaken using the most efficient mechanisms to minimise cost to consumers and industry – which can be achieved through the implementation of the amendments, and will enhance the role and a statutory obligation for planning to advance sustainability.

Regarding the potential for the building systems to be the appropriate legislative tool, the Panel found that although there is a clear need for an integrated planning and building approach to achieve sustainable outcomes planning is best suited to dealing with the ‘big picture’ upfront issues, and building is best suited to managing the detailed aspects.

The Panel also found that involvement of planning at the initial site planning stage enables the orientation, internal layouts and site development to be dealt with in a manner that assists at the building approval stage in achieving the best design outcome.

The overall Panel recommendation was to approve Amendment C97 to the Port Phillip Planning Scheme generally as exhibited with minor changes to the wording to rename the policy to Environmentally Sustainable Development.

## **Amendment C62 – Revised Local Planning Policy Framework (November 2010)**

Amendment C62 updated the Municipal Strategic Statement to reflect the Council Plan and strategies, deleted several existing local policies and introduced four new policies. The Panel broadly supported the exhibited amendment, with the some minor changes.

The Panel found that the proposed MSS and Local Planning Policies support and implement relevant aspects of the State Planning Policy Framework, that the policies have a clear and logical structure and assist the reader in understanding what the objectives are and how they will be achieved.

The Panel was however critical of the drafting of the LPPF:

*“While the Panel acknowledges that, at a length of over 120 pages, the revised Local Planning Policy Framework reflects the complexity and diversity of the City of Port Phillip, the Panel suggests that there may be some scope to reduce this length without any substantive change to its intent.”*

In relation to the proposal to include a mandatory 5% public open space contribution, the Panel concluded that there is sound strategic support for the policy. The Open Space Strategy and Inner Regional Housing Statement demonstrate strategic support for a mandatory contribution, as did information provided by Council on the growing population, reducing provision of private open space and increasing density of development.

The Panel recommended a number of minor changes to the amendment.



## **Amendment C111 - Panel Report: Review of the SBO (September 2015)**

This amendment updated the maps that identify land subject to the Special Building Overlay, removing some properties from the overlay and adding others. The SBO identifies land in urban areas liable to inundation by overland flows from the drainage system.

The Panel found that, overall, the Amendment implements relevant sections of State and Local Planning Policy Framework, and has been prepared in accordance with the relevant Planning Practice Notes and Ministerial Directions'. The Panel considered the methodology that produced the overlay maps was sufficiently accurate to apply the SBO.

Regarding submissions that queried why climate change had not been considered, or factored into the models the Panel found:

*'It would be premature to include the effects of sea level rise in the current Amendment and it is accepted that a Coastal Hazard Vulnerability Assessment for the central region (encompassing Port Phillip Bay) is a necessary precursor to the development of a planning tool to deal with coastal hazards and inundation associated with sea level rise'*

*In regards to submissions raising issues that the SBO would affect the value of their land, the Panel found that 'there is a long held view in case law that property devaluation is not a valid planning consideration' and 'the impact on insurance is not a matter that should affect the imposition of the SBO through the planning scheme'.*

## **C103 Panel Report: Bay Street Structure Plan implementation (June 2014)**

The amendment implemented the Bay Street Structure Plan. The Panel's overall recommendation was that Amendment C103 to the Port Phillip Planning Scheme be adopted, subject to minor modifications and that Council take the Panel's views on the proposed local planning policy into account.

The exhibited amendment sought to introduce Clause 22.11 South Melbourne Central Policy into the MSS. The view of the Panel is that the policy is essentially a strategy and not a policy in the contexts of new format schemes, nothing that the content would fit in the MSS and a modified DDO.

*The "Policy Basis" is really just "strategy" which the Panel believes should be collapsed into the MSS. The initial "Policy Objectives" at Clause 22.11 are the overarching objectives for the area. The Panel believes that their place is also within the MSS (and some in the DDO) under the heading "Objectives". The actual "Policy" which then follows at Clause 22.11 is not so much a policy but a strategy based on ensuring that new development in the area will implement the SMSP.*

For simplicity, transparency and greater certainty, the Panel believes that the objectives, detail and decision guidelines in the exhibited local policy should be redistributed into the MSS and the DDO.

# Audit Report

## Appendix 5 - VCAT analysis

The purpose of the Victorian Civil and Administrative Tribunal (VCAT) analysis is to examine how the Tribunal has interpreted Council's local policies, with a view to identifying where policies may or may not be working well, and whether there are any significant gaps in the Port Phillip Planning Scheme.

VCAT reviewed Council decisions on planning permit applications, but also reviewed cases that weren't decided in time, applications to amend permit and requests to extend the expiry date of planning permits.

### Overview of VCAT decisions

This analysis has chosen a sample review period from the 1 January 2013 to 7 September 2017 (nearly 5 years) which follows the gazettal of Amendment C62<sup>47</sup> which introduced Council's last Planning Scheme Review. During this period there were 224 review proceedings conducted at the Tribunal. Of those cases:

- Council's decision was affirmed on 59 occasions (or 26% of all instances), set aside on 87 occasions (or 39% of all instances) and varied on 69 occasions (30% of all instances).
- The largest portion (34%) were for an appeal by objectors (section 82 of the Act), followed by an appeal against a failure to decide within the prescribed timeframe (30%, section 79 of the Act), an appeal against a refusal (24%, and section 77 of the Act) and an appeal against conditions (9%, and section 80 of the Act).
- The majority (68%) involved land within the Residential 1 Zone (or General Residential Zone 1 following July 2014), the majority of which are covered by the Heritage Overlay.

The key issues to appear in decisions reviewed by VCAT, in order of frequency of appearance, are:

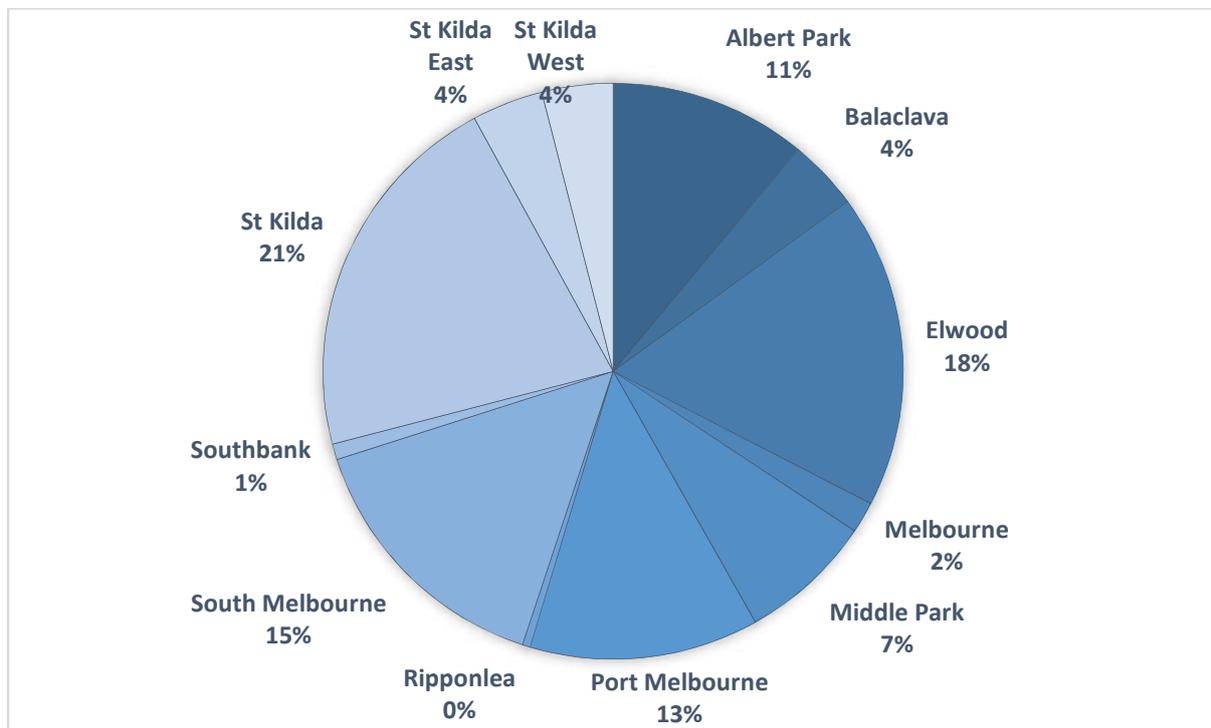
- Off-site amenity impacts (164 cases)
- Neighbourhood character (86 cases)
- Parking (79 cases)
- Heritage (71 cases)
- Built form – height (59 cases)
- Built form – scale, bulk, overdevelopment (57 cases)
- Internal amenity (37 cases)
- Building design (20 cases)
- Traffic and Transport (19 cases)
- Streetscape - fences, landscaping, street trees (15 cases)

---

<sup>47</sup> Amendment C62 to the Port Phillip Planning Scheme – Gazetted 27 June 2011



**Figure 1: Proportion of VCAT cases by suburb**



The key policy issues to emerge from the analysis are discussed below.

## Analysis of VCAT decisions by theme

### Housing

The Tribunal regularly made reference to Council’s Housing Local Policy (Clause 21.04-1) to provide direction for decisions on new housing. The Policy identifies five residential growth categories for the municipality – substantial, moderate, incremental, limited and minimal. Categories are defined on descriptions of character and proximity to services. In a large number of cases, the definitions and distinction of the growth areas was the subject of debate noting that, in practice, the classification of a site will influence the level of development that is supported.

### Extent of housing growth areas

Council’s broader application of the Policy’s housing growth areas across the municipality was challenged on a number of occasions, in part due to the lack of a map in the scheme identifying where the areas apply.

The gazettal of Amendment C62<sup>48</sup> by the Minister was approved without the accompanying map (Framework Plan) proposed by Council. The Tribunal noted that this created uncertainty. The Tribunal commented on the implications of the Minister’s decision in *Palladian Investments & Anor v Port Phillip CC*<sup>49</sup>:

“It is significant that the Housing Opportunities Framework Plan has not been included in the gazetted Amendment... *These decisions have taken the view that as a*

<sup>48</sup> Amendment C62 to the Port Phillip Planning Scheme – Gazetted 27 June 2011

<sup>49</sup> *Palladian Investments & Anor v Port Phillip CC* [2011] VCAT 1680

# Audit Report

*consequence of the removal of the Framework Plan, a site's inclusion in one or the other growth areas is a matter about which a judgement needs to be made, based on the criteria included in the planning scheme."*

The lack of an accompanying map in the Scheme has placed more emphasis on the wording contained within the policy definitions and provisions to provide clarity. Given the wording of the housing growth areas weren't drafted to be read without the Framework Plan, they have created some confusion.

## **Directing medium density housing**

Further, the Tribunal considered there to be conflict between State Policy and Council's Housing Policy in directing medium density housing. The State Planning Policy Framework (SPPF) at Clause 16.01-2 seeks to 'encourage higher density housing development on sites that are well located in relation to jobs, services and public transport'. However Council's Housing Policy identifies some sites with those characteristics as being contained within a 'Limited Growth Area', where medium density is expressly 'not encouraged'.

This was highlighted by the Tribunal in *U1 Dickens Street Pty Ltd v Port Phillip CC & Ors*<sup>50</sup> in which Council refused an application for a four storey residential building, relying on its submission that the site was within a Limited Residential Growth Area where medium density is not encouraged. The Tribunal disagreed with Council, finding that 170m from Brighton Road cannot reasonably be limited proximity to the PPTN, establishing that the property was within an Incremental Residential Growth Area. The member also had regard to the objectives of State Policy for housing to be located close to activity centres and, being 200m from the edge of the centre, the site was considered suitable for the type of development proposed.

In another decision<sup>51</sup>, the Tribunal considered a proposal for three dwellings on a site in Prentice Street, St Kilda. Despite the site's designation as a Limited Residential Growth Area, the Tribunal found policy support for the proposed scale of development on the site given its proximity to the Carlisle Street Major Activity Centre, and mixture of residential building styles along the street (i.e. not intact streetscape) and the balancing of urban consolidation objectives. Although VCAT ultimately affirmed Council's decision to refuse the permit on amenity grounds, this interpretation suggests Council's housing policy is in need of review.

Overall, the Tribunal found that housing definitions were not to be read in isolation and should be considered in the context of the whole Local Planning Policy Framework (LPPF) - in particular having regard to neighbourhood character, built form and heritage objectives.

What these conclusions suggest is Council's housing policy, in particular the growth area definitions, are in need of review – see Section 10.6.2 of this report for discussion.

## **Strategic redevelopment sites**

The Tribunal considered the interpretation of 'strategic redevelopment sites' in the context of 'substantial residential growth areas', having regard to the SPPF and the LPPF.

In *Puerto Banus Holdings Pty Ltd v Port Phillip CC & Ors*<sup>52</sup> the Tribunal refused an application for a six storey mixed-use building in the Residential 1 Zone (General Residential

---

<sup>50</sup> *U1 Dickens Street Pty Ltd v Port Phillip CC & Ors* [2013] VCAT 1218 (16 July 2013)

<sup>51</sup> *Kaufman v Port Phillip CC* [2015] VCAT 1280 (13 August 2015)

<sup>52</sup> *Puerto Banus Holdings Pty Ltd v Port Phillip CC & Ors* [2013] VCAT 912 (6 June 2013)

# Audit Report

Zone) submitting that it was not a strategic redevelopment site, and the proposed height could not be justified. The Tribunal clarified:

“The term ‘strategic sites’ is intended to refer to broader areas and large scale redevelopment sites as identified by the use of the words ‘significant opportunities and ‘designated locations’, and by reference to.... Fishermans Bend area and ‘precincts’” *(included in the definition at Clause 21.04).*”

In *Drekoncile Pty Ltd v Port Phillip CC*<sup>53</sup>, the Tribunal set aside Council’s decision and issued a permit for two proposed mixed use towers, 26 storeys and 10 storeys, on a site at the St Kilda Road Junction. The Tribunal on that occasion determined that the site meets Clause 16.01-3 test as being a ‘strategic redevelopment site’ though not specifically identified as such in the planning scheme, and gave greater weight to urban consolidation principles having regard to the strategic context of the site.

What these conclusions suggest is that Council may wish to provide clarity around the definition of strategic redevelopment sites - see Section 10.6.2 of this report for discussion.

## Dwelling diversity

In *Mayas v Port Phillip CC and Ors*<sup>54</sup>, VCAT reviewed a proposal for an apartment building of 14 dwellings, with 6 x 1 bedroom and 8 x 2 bed units. In considering the matter of a lack of diversity in apartment types, VCAT concluded:

*“..these concerns do not provide grounds to reject the proposal. The yield and style of dwellings are not unacceptable given policies, at State and local level that seek a wider range of housing types to meet the changing needs of the population. As was discussed at the Hearing, the built form outcome rather than the yield per se is most relevant.”*

This decision indicates Council may want, in its review of housing policy, improve its housing diversity policy.

## Neighbourhood Character

Neighbourhood character is a consideration in most of the Tribunal cases with residential development in residential zones. In most cases, neighbourhood character is considered carefully by the Tribunal in determining the appropriate built form response.

Reference was regularly made to Clause 21.05 and Clause 21.06 that require consideration of neighbourhood character.

On a number of occasions, VCAT supported Council’s refusal of a permit for reasons of an inadequate response to neighbourhood character<sup>55</sup>.

The Tribunal was sometimes critical of the policy direction and guidance in the scheme on neighbourhood character, and its relevance for development proposals. In some cases the Tribunal considered there to be a lack of guidance on preferred character identified for certain areas<sup>56</sup>. In the absence of sufficient guidance (e.g. preferred neighbourhood

<sup>53</sup> *Drekoncile Pty Ltd v Port Phillip CC* [2016] VCAT 1396 (19 August 2016)

<sup>54</sup> *Mayas v Port Phillip CC and Ors* [2013] VCAT 615 (29 April 2013)

<sup>55</sup> *Karmar Investments Pty Ltd v Port Phillip CC* 2 February 2016, *Polydorou v Port Phillip CC* [2015] VCAT 1689 (26 October 2015)

<sup>56</sup> *Ioannidis v Port Phillip CC*, *Peter Wright & Associates v Port Phillip CC* 8 August 2013, *Justin v Port Phillip CC* 2013, *Cummins v Port Phillip CC* [2013] VCAT 1468 (22 August 2013)

# Audit Report

character statements), the Tribunal used their own observations of character, particularly at a more detailed streetscape level.

## Policy to protect streetscape characteristics

A number of VCAT decisions<sup>57</sup> have disregarded Strategy 7.5 of Clause 21.05-2 which encourages residential development to respect and be consistent with the prevailing streetscape scale, and looked at the broader context to establish the appropriate scale of development, particularly where the street has a more diverse building typologies and eras, sometimes finding that there was no prevailing pattern of siting or built form.

In *Sertic v Port Phillip CC*<sup>58</sup>, reviewing Council's decision to refuse to amend a permit on neighbourhood character grounds, and off-site amenity impacts, VCAT ultimately affirmed Council's decision to refuse a permit, however disagreed with the neighbourhood character references in local policy:

*"I appreciate that there are consistent references in local policy to the historic, low-rise character. That is the nature of Eastern Road to the north of the subject land and many other parts of South Melbourne. Nevertheless, I do not see this as an area with a consistent low-rise streetscape... there is a distinct juxtaposition of forms and a backdrop of very large buildings, including those in distant views.*

*...If the view from the street was the only issue, I may be prepared to support the inclusion of a further level. However, neighbourhood character is not just about the streetscape and it remains to be considered what impact the additional height will have on neighbouring properties."*

In *Peter Wright & Associates v Port Phillip CC*<sup>59</sup>, Council sought to refuse a planning application for a two attached double-storey dwellings on a small lot in St Kilda East as the proposal wouldn't be in keeping with the existing and preferred neighbourhood character. The decision of Council was set aside and a permit granted, with the Tribunal noting:

*"There was no single notable 'character' feature that was apparent to me on my inspection. While there is the run of the six attractive Edwardian cottages between Nos. 19 and 27 Prentice Street, this is diminished by refurbished flats, two storey infill, brick veneer homes and some rear roller door access points. It is an eclectic mix of building styles and eras... In a street and precinct with no heritage, character or built form controls, Council's planning scheme sends the clear message that it is content to assess each redevelopment proposal on its merits."*

Another case noted that, despite attempting to distinguish between consistent and diverse streetscapes, the policy outcome is the same in terms of the preferred height<sup>60</sup>.

Another decision<sup>61</sup> referred to this policy (Strategy 7.5 of Cl.21.05-2) when affirming Council's decision to refuse a four-storey building given its massing, however they noted a more appropriate fourth level was possible with a greater setback and recessive design.

---

<sup>57</sup> *Padelas v Port Phillip CC (Correction)* [2015] VCAT 116 (10 February 2015), *UI Dickens Street Pty Ltd v Port Phillip CC & Ors* [2013] VCAT 1218 (16 July 2013)

<sup>58</sup> *Sertic v Port Phillip CC* [2015] VCAT 1072 (16 July 2015)

<sup>59</sup> *Peter Wright & Associates Pty Ltd v Port Phillip CC & Ors* [2013] VCAT 1396 (8 August 2013)

<sup>60</sup> *Wang v Port Phillip CC* [2016] VCAT 193 (16 February 2016)

<sup>61</sup> *Kaazam Developments Vic Pty Ltd v Port Phillip CC* [2013] VCAT 1565 (6 September 2013)



## Preferred character statements

In another decision reviewing Council's decision to grant the construction of two dwellings in Balaclava, VCAT noted the preferred character statement was unhelpful and inconsistent with the vision for an area earmarked for a higher intensity of growth in Carlisle Street Activity Centre Structure Plan (CSACSP):

*"I do not see within the Preferred Character Statement the method by which comprehensive residential development is to be encouraged which provides for increased housing densities, as the CSACSP so clearly seeks to achieve in this Residential Renewal Area. Instead I find references to the continuation of the existing mix of building styles and respect of the scale of adjoining areas. To me it appears as though the policy and the identification of the review site as a Residential Renewal Area within the CSACSP seeks a more intense future than that described in the Preferred Character Statement."*<sup>62</sup>

The above decision was referred to in *Sheek Pty Ltd v Port Phillip CC*<sup>63</sup> where VCAT reviewed Council's failure to grant a permit within the prescribed time in respect of a permit application for a four-storey building on Inkerman Street, Balaclava. In this case, VCAT set aside Council's decision, giving more weight to the strategic intent identified in the CSACSP than the Preferred Character Statement to support a more intensive form of development.

The above decisions suggest there is a lack of clear guidance in the Scheme for areas with more diverse neighbourhood character – see section 10.2.4 of this report for a discussion.

## Built Form

### Expression of building heights

In *Piccolo Developments v Port Phillip CC*<sup>64</sup>, the Tribunal considered a proposal for a 7-storey (23.5m) building in South Melbourne. For the site, DDO8 requires a discretionary maximum building height of 23.5m or 6 storeys, whichever is lesser. The Tribunal noted:

*"...for the purposes of appreciating building height and assessing its impacts, its height expressed in metres rather than storeys is more meaningful – a view also expressed by Senior Member Hewet in *Rush v Melbourne CC*."*<sup>65</sup>

In *244 Dorcas Street v Port Phillip CC*<sup>66</sup>, for a proposed 10 storey building in South Melbourne the Tribunal made note of the significant disparity in height limits expressed in DDO8. The DDO specified a discretionary height limit range (23.5m or 6 storeys, whichever is the lesser) specified in Design and Development Overlay 8 (DDO8).

*"No party could explain definitively why there is both a metre and storey measure for height and why the measures have potential for significant disparity in height. Council referred to allowing for flexibility in use through higher floor to ceiling heights and Mr Sheppard thought it was to achieve improved ESD outcomes relating to daylight access."*

<sup>62</sup> *Justin v Port Phillip CC* [2013] VCAT 2205 (17 May 2013)

<sup>63</sup> *Sheek Pty Ltd v Port Phillip CC* [2014] VCAT 963 (7 August 2014)

<sup>64</sup> *Piccolo Developments Pty Ltd v Port Phillip CC* [2015] VCAT 1860

<sup>65</sup> *Rush v Melbourne CC* [2009] VCAT 2211

<sup>66</sup> *244 Dorcas Street Pty Ltd v Port Phillip CC* [2013] VCAT 1487 (23 August 2013)

# Audit Report

Council should consider expressing reducing the height limit range, which provides for flexibility in floor-to-ceiling heights, to reduce confusion over the scale of development envisaged.

In *Eidelson v Port Phillip CC*<sup>67</sup>, the Tribunal expressed regret about not having the discretion to allow a wind turbine to exceed the maximum height limit in DDO18:

*“This circumstance highlights the fallacy of planning schemes imposing prescriptive, arbitrary controls that deprive authorities of the opportunity to consider proposals on their merits. It is surprising and disappointing that a prescriptive measure of this type has found its way into the planning scheme, notwithstanding the fact that DDO18 has been introduced into the planning scheme following a process which included a comprehensive assessment by an independent panel.”*

This findings above indicate Council should be careful in its use of mandatory controls to prevent issues as discussed above, and provide reasonable exemptions. These findings will be considered by Council in its drafting of new provisions and review of the Design and Development Overlays – see section 11.4.2 of this report.

## Design excellence

The Tribunal, on more than one occasion<sup>68</sup>, noted the lack of definition for ‘design excellence’ within the scheme. Without specific guidance, the term was open to interpretation by the Tribunal.

The concept of design excellence has been debated in a number of VCAT decisions, where a common view held that it was the ability of a design to take into account the statutory and contextual constraints of a site<sup>69</sup>.

See section 10.2.2 (design excellence) of this report for further discussion.

## Discretionary vs mandatory controls

### Considering mandatory controls

In *Ormond Road Pty Ltd v Port Phillip CC*<sup>70</sup> a four-storey apartment building in Elwood was refused by Council for not meeting the mandatory provision in DDO18 on visible upper level setbacks. Council’s decision was set aside by VCAT, which concluded:

*“This is a classic situation where the pursuit of certainty through a mandatory control eliminates any possibility of flexibility to permit a design which clearly meets the spirit of the control but fails to meet the letter of the law.”*

A number of VCAT decisions considered the mandatory side setbacks and tower separation distances proposed during the time of Council’s adoption of Amendment C107 (St Kilda Road North Framework – DDO26), which was not yet approved by the Minister for Planning.

---

<sup>67</sup> *Eidelson v Port Phillip CC* [2008] VCAT 1066 (19 June 2008)

<sup>68</sup> *Lumax Developments Pty Ltd v Port Phillip CC* [2016] VCAT 2184 (29 December 2016), *Montezuma Developments Pty Ltd v Port Phillip CC* [2016] VCAT 876 (6 June 2016), *Becton Corporation Ltd v Port Phillip CC* [2003] VCAT 1066 (22 August 2003)

<sup>69</sup> *Becton Corporation Ltd v Port Phillip CC* [2003] VCAT 1066 (22 August 2003) & *Montezuma Developments Pty Ltd v Port Phillip CC* [2016] VCAT 876 (6 June 2016)

<sup>70</sup> *170 Ormond Road Pty Ltd v Port Phillip CC & Ors (Correction)* [2013] VCAT 988 (18 June 2013)



In *Hocking v Port Phillip CC*<sup>71</sup>, the Tribunal considered a proposal for an 11-storey building on Park Street, South Melbourne. Council supported the building except for the zero side setback proposed, noting that a mandatory 4.5m setback was required by Amendment C107. The Tribunal considered the merits of the proposal, deciding it was an appropriate response to the site's features and context and provided a fair sharing of development opportunities. On the matter of a mandatory side setback requirement, VCAT concluded:

*"It would be a blunt application of a planning standard without regard to site circumstances and context, a wasted opportunity and an inefficient use of two sites well suited for change."*

In *Bowen Crescent Developments Pty Ltd v Port Phillip CC*<sup>72</sup> the Tribunal also considered Amendment C107's proposed mandatory side setbacks and tower separation for a proposal for a 20-storey building on Bowen Crescent. The Tribunal found that the variable setbacks proposed by the development made for a better outcome (than if following a strict mandatory setback) and the proposal represents a reasonable balance between protecting the amenity of future occupants and maintaining equitable development opportunities for the neighbouring property. Council's decision was set aside and a permit issued.

Similar VCAT commentary on mandatory tower separation proposed by Amendment C107 was made in *Lintime Pty Ltd v Port Phillip CC*<sup>73</sup> on a proposal for a 19-storey building on Albert Road, South Melbourne. The Tribunal found that reliance on mandatory, often arbitrary minimum standards, is unlikely to consistently produce building designs that respond to their context. They concluded a separation of less than 9m can be contemplated, but in this case, they were not persuaded that the design of the interface treatment was acceptable and Council's decision to refuse the application was affirmed.

Since this time, Amendment C107 was approved by the Minister for Planning (2 June 2016), who removed the proposed mandatory separation distance and side and rear setback controls from DDO26.

### Considering discretionary controls

The Tribunal has since considered the application of the discretionary controls, and in *65 Palmerston Crescent Pty Ltd v Port Phillip CC*<sup>74</sup>, set aside Council's refusal to issue a permit for a multi-level apartment building based on its non-compliance with the objectives of DDO26. The Tribunal found that given the site's context, a variation of the discretionary controls (namely separation distances, and side and rear setbacks) was an acceptable outcome in terms of preserving development opportunities for the adjacent site, and minimising amenity impacts on adjoining residents.

On the other hand, in another decision<sup>75</sup> in the context of DDO8 (South Melbourne), the Tribunal noted that meeting a discretionary maximum building height does not automatically mean a permit should issue, that it is one consideration of many within the scheme that must be considered.

---

<sup>71</sup> *Hocking v Port Phillip CC* [2015] VCAT 124 (12 February 2016)

<sup>72</sup> *7 Bowen Crescent Developments Pty Ltd v Port Phillip CC* [2016] VCAT 1576 (15 September 2016)

<sup>73</sup> *Lintime Pty Ltd v Port Phillip CC* [2015] VCAT 1244 (4 August 2015)

<sup>74</sup> *65 Palmerston Crescent Pty Ltd v Port Phillip CC (Corrected)* [2017] VCAT 887 (20 June 2017)

<sup>75</sup> *Piccolo Developments Pty Ltd v Port Phillip CC* [2015] VCAT 1860

# Audit Report

## Heritage

The Tribunal has frequently referred to and applied Council's heritage objectives at Clause 21.05-1 and the Heritage Local Planning Policy at Clause 22.04. This is largely due to the extent of Heritage Overlay across the municipality.

### Viewline performance measure

There were many cases before the Tribunal where applicants sought permits under the Heritage Overlay for additions and/or alterations to heritage places. VCAT considered Council's application of Clause 22.04-03 (additions and/or alterations to heritage places) that requires the siting of upper-storey additions to be concealed from the streetscape ('10 degree viewline' test).

In *Treloar v Port Phillip CC*<sup>76</sup>, Council imposed a condition requiring strict compliance with the 10 degree test (the proposed upper storey was sited at 11 degrees). VCAT removed the condition, finding:

*"What we are talking about is a policy provision (which is ultimately providing guidance) rather than a mandatory planning control. If Council wishes to always achieve strict compliance with this aspect of Clause 22.04, the sensible approach surely would be for Council to seek to elevate the '10 degree line' requirement into the actual planning controls..."*

*The extent of non-compliance is very modest and I consider that the views of the new built form will not unreasonably impact on the heritage values of this heritage place."*

On other occasions, Council has taken a more contextual approach. In *Fasso*<sup>77</sup> Council issued a permit for a second-storey addition to a significant heritage dwelling that exceeded the 10 degree viewline test. VCAT affirmed the decision, noting that:

*"any proposal that demonstrates an acceptable contextual design response that meets the objectives of the policy would also qualify for consideration of a variation from PM1 [performance measure 1]."*

In *Gray v Port Phillip CC*<sup>78</sup>, Council issued a permit for a proposal to construct an addition to a heritage place that did not meet the 10 degree viewline test. The proposal was considered to be an acceptable outcome having regard to a number of upper level additions within the streetscape that also exceeded the 10 degree viewline. VCAT agreed with Council's use of discretion.

### Demolition of heritage buildings

The Tribunal often considered the policy on demolition of significant heritage buildings (Clause 22.04-03 – Demolition). VCAT found the policy unclear when deciding whether to the tests that would allow for demolition of a significant or contributory building<sup>79</sup>.

Further, the Tribunal considered the policy objective to encourage the restoration and reconstruction of heritage places in all areas inconsistent with the provisions refusing the demolition of significant and contributory buildings<sup>80</sup>.

---

<sup>76</sup> *Treloar v Port Phillip CC* [2014] VCAT 1487 (3 December 2014)

<sup>77</sup> *Fasso v Port Phillip CC* [2017] VCAT 1438 (7 September 2017)

<sup>78</sup> *Fasso v Port Phillip CC* [2017] VCAT 1438 (7 September 2017)

<sup>79</sup> *Milgrom v Port Phillip CC* [2014] VCAT 439 (17 April 2014)

<sup>80</sup> *Wain v Port Phillip CC & Ors* [2013] VCAT 121 (11 February 2013)



In reviewing Council's failure to determine (and subsequent opposition to) an application to demolish two 'significant heritage places' within a heritage precinct in Middle Park<sup>81</sup>, VCAT considered that the current wording of the policy guidance on demolition, inappropriately narrows the scope of discretion provided in a local planning policy:

*"In the first place, the strict application of policy would prevent the demolition of any building unless it is structurally unsound. This would afford buildings subject to a Heritage Overlay far greater protection than they would have if on the register of buildings of State significance under the Heritage Act 1995. This would amount to a significant distortion of heritage controls.*

*Secondly, as mentioned by the Tribunal in *Beanland v Port Phillip CC*, the policy purports to significantly narrow the broad discretion given by the actual control set out in clause 43 to grant a permit to demolish or remove a building...*

*Where policy purports to remove or curtail a discretion conferred by the actual planning controls it must defer to the controls. The role of policy is to guide not supplant the exercise of discretion."<sup>82</sup>*

VCAT set aside Council's decision and issued a permit to demolish the two significant heritage places, reasoning that demolition would have a minimal impact on the heritage place, and is outweighed by the benefit of enhancing the garden curtilage of the adjacent significant heritage place.

Throughout the review period, a number of buildings graded 'significant' or 'contributory' within the heritage overlay were found to be structurally unsound, and able to be demolished in accordance with the provisions of the Heritage Policy.

In general, the objectives of the heritage policy were balanced with the wider state planning objectives when considering the demolition of buildings within a Heritage Overlay.

### **Contributory heritage place outside of a heritage overlay**

In *Kathopoulis v Port Phillip CC*<sup>83</sup>, an application was considered to develop land for a 3-storey apartment building that featured an existing dwelling designated with a 'Contributory heritage place outside of a heritage overlay'.

The Tribunal noted that, despite finding the 'Contributory outside a heritage overlay' properties had been given relevance by the MSS (Objective 2, Clause 21.05-2) and should be considered, that it had no specific bearing on its decision:

*"Even though these contributory buildings are given relevance through the Municipal Strategic Statement and should be considered, ultimately I do not consider the fact that these buildings are designated as contributory has a specific bearing on my decision. None are protected from demolition under the Planning Scheme. It is more relevant to my assessment that they are part of fairly diverse built form at this end of Albert Street outside HO1 that has a single storey scale and shares some of the character features of cottages in HO1."*

*See section 10.2.4 (neighbourhood character) for further discussion.*

---

<sup>81</sup> *Milgrom v Port Phillip CC* [2014] VCAT 439 (17 April 2014)

<sup>82</sup> *Milgrom v Port Phillip CC* [2014] VCAT 439 (17 April 2014)

<sup>83</sup> *Kathopoulis v Port Phillip CC* [2016] VCAT 911 (7 June 2016)

# Audit Report

## Design Guidelines

In *Maddy Investment Co Pty Ltd v Port Phillip CC*<sup>84</sup> Council sought to rely on the reference document *Fishermans Bend Estate Guidelines* to condition a permit for an addition to a heritage place, so that the first floor addition would not be visible from the street. The Tribunal varied Council's decision and removed the condition, finding that:

*"... the Guidelines are a reference document in the planning scheme, which is clearly stated at the end of the Heritage local planning policy, and this means it is effectively background material of limited weight in the heritage considerations....."*

*Given the extent of the Council's reliance upon the Guidelines, I encourage the Council to give serious consideration about how to elevate the weight that can be given to the Guidelines or its content in planning decision making."*

Overall, these findings suggest Council should review its heritage policy, including the 10 degree viewline and role of 'Contributory heritage place outside of the heritage overlay' policy. See section 10.2.5 of this report for further discussion.

## Parking

A significant number of applications proposed across different zones within the municipality, sought to waive or vary the minimum parking standards required by the planning scheme. In most cases, Council and the Tribunal have supported a waiver, noting that a reduction in car usage and shift to alternate modes is sought by Council as part of its sustainable development objectives. The constant varying of the minimum standards (Clause 52.06) suggests that the current standards may no longer be appropriate and should be reviewed.

A review of recent VCAT cases has also highlighted a tension between sustainable development policy objectives and on-street car parking demand. Despite policy that allows for a waiver in car parking for sites meeting the locational criteria of proximity to activity centres and public transport, Council has, on occasion, sought to request that on-site car parking be provided due to pressure within the area for on-street parking. In one case<sup>85</sup>, VCAT gave more weight to the sustainable development policy objectives despite Council's objections.

With regard to the oversupply of parking, the Tribunal noted in *Coventry Pub Co Pty Ltd v Port Phillip CC*<sup>86</sup> that while the development proposed parking at rate which exceeded the standards of Clause 52.06, a permit is not required to it. This issue was discussed further in *Roundbay Pty Ltd v Port Phillip CC*<sup>87</sup> where the Tribunal, when considering an application for development that proposed an excess of 50 parking bays, stated:

*"We accept there is no parking overlay that limits car parking to a specified maximum, but we find strong support in policy for sustainable transport alternatives to the private car, encouraging a modal shift in private transport, promoting a reduced number of private motorised trips and limiting vehicle use to create a more sustainable city. We are not persuaded that providing significantly more car spaces for residents than required by the Planning Scheme accords with these policy directions."*

The findings above suggest that there is tension between the objectives of Council's sustainable policy objectives and the current parking requirements of the planning scheme.

---

<sup>84</sup> *Maddy Investment Co Pty Ltd v Port Phillip CC* [2016] VCAT 1178 (15 July 2016)

<sup>85</sup> *Yurtov v Port Phillip CC* [2015] VCAT 1514 (28 September 2015)

<sup>86</sup> *Coventry Pub Co Pty Ltd v Port Phillip CC* [2016] VCAT 491 (1 April 2017)

<sup>87</sup> *Roundbay Pty Ltd v Port Phillip CC* [2015] VCAT 1890 (30 November 2015)



# Audit Report

This may benefit from a more nuanced approach to car parking through use of a parking overlay.

## Licensed Premises

One of the key issues relating to licensed premises is that Council has been largely unsuccessful in arguing before VCAT that a proposal is contrary to Clause 52.57 (Licensed Premises) in terms of the appropriateness of a proposal's location, and its cumulative impact on the amenity of the surrounding area.

In *Morraine Nominees Pty Ltd v Port Phillip CC*<sup>88</sup>, Council submitted that the sale of liquor at a shop on Fitzroy Street would be inappropriately located having regard to its relative proximity to places inhabited or frequented by vulnerable community members. VCAT set aside Council's decision, deciding that its location in the St Kilda Major Activity Centre was appropriate. However in *Lahdo v Port Phillip CC*<sup>89</sup>, Council had its decision affirmed when it refused a proposal for a bottle shop due its more evident proximity (across the road) to a community crisis centre.

In *Pace Development Group Pty Ltd v Port Phillip CC*<sup>90</sup>, Council's refusal of a tavern use for Grey Street (proximate to Fitzroy Street) was overturned at VCAT. Council considered the proposed sale and consumption of alcohol in association with a tavern to be unacceptable as it would create an unreasonable cumulative impact on public amenity. This is related to the oversupply of licensed premises in the immediate area, and the proximity to various local services, with the Salvation Army Access Health service being indirectly opposite the review site. VCAT held that the venue type and proposal (with mitigating factors – food offerings, seating, mature clientele) was not considered to be high risk, and therefore the proposal was acceptable:

*“Relevant to the above, I identified at the Hearing that a list of venues no matter how long, does not in itself substantiate that there is an oversupply of venues in an area, and the cumulative impact criteria do seek consideration of venue types within a licenced venue cluster.”*

Council may benefit from a local planning policy for Licensed Premises providing specific locational criteria to provide clear and consistent decision-making. See section 10.4.6 of this report for further discussion on Licensed Premises.

Council has also been criticised by the Tribunal for providing insufficient evidence to support its assertions<sup>91</sup>. In that respect, further information requirements including a Social Impact Assessment that would provide social evidence regarding the impact of a proposal, including a balanced and detailed socio-economic assessment of all relevant positive and negative effects. See section 10.4.7 for further discussion on Social Impact Assessments.

## Backpacker's Lodges

Council has been largely unsuccessful at arguing before VCAT that a proposal to use land for a backpackers' lodging does not meet the policy objectives of Clause 22.02 (Backpackers' lodges).

---

<sup>88</sup> *Morraine Nominees Pty Ltd v Port Phillip CC* [17 May 2017] VCAT 698

<sup>89</sup> *Lahdo v Port Phillip CC* [2017] VCAT 868 (16 June 2017)

<sup>90</sup> *Pace Development Group Pty Ltd v Port Phillip CC* [2017] VCAT 1015

<sup>91</sup> *Morraine Nominees Pty Ltd v Port Phillip CC* [17 May 2017] VCAT 698

# Audit Report

In *McGuire v Port Phillip CC*<sup>92</sup>, Council refused a permit for a Backpackers' hostel on Punt Road, St Kilda (located within St Kilda junction), because it considered the location of the use is inappropriate and would generate unreasonable off-site amenity impacts.

VCAT found the proposed location, adjacent to a mixed-use building as appropriate given setback and height separation (the dwellings begin on level 5). It also considered the proposal to satisfy the location policy within Clause 22.02, being within a commercial zone on a main road (St Kilda Junction) and close to public transport. VCAT set aside Council's decision finding:

*"The fact that it may be in an area where there are residential uses does not mean the location is unacceptable."*

Secondly, VCAT did not support Council's concerns that the behaviour of backpackers returning from nearby licensed premises might cause noise, inappropriate behaviour and property damage:

*"I am not persuaded this proposal is unique in regard to this potential. Any licensed venue has the potential to have these impacts whether they are backpackers or not. There are a lot of licensed venues in the areas surrounding this site and they all have their own challenges, including residential areas within which patrons are likely to traverse. I am not persuaded this general concern is sufficient reason to refuse this proposal."*

In *Raff Holdings Pty Ltd v Port Phillip CC*<sup>93</sup>, Council refused a retrospective permit for a Backpackers' Hostel on Carlisle Street, St Kilda citing that the proposal was contrary to planning policy, provides inadequate car parking and would cause excessive amenity impacts. This particular site had a history of amenity complaints, and was the subject of an enforcement order due to amenity complaints at the time.

VCAT set aside Council's decision finding that the proposal enjoyed strategic planning support, met the policy requirement in terms of location and would not cause unreasonable amenity impacts on its immediate neighbours or in terms of parking.

See section 11.3 of this report for further discussion on the Backpackers' local planning policy.

---

<sup>92</sup> *McGuire v Port Phillip CC* [2017] VCAT 789 (31 May 2017)

<sup>93</sup> *Raff Holdings Pty Ltd v Port Phillip CC* [2014] VCAT 996 (14 August 2014)



## Appendix 6 – Key policies

### List of adopted Council policies

#### Built form:

- In Our Backyard – Growing Affordable Housing in Port Phillip 2015-2025
- City of Port Phillip Housing Strategy 2007-2017
- Sustainable Design Strategy 2013
- Port Phillip Design Manual 2000
- City of Port Phillip Activity Centre Strategy 2006
- Port Phillip Activity Centres Implementation Plan 2007
- Fishermans Bend Planning and Economic Development Strategy
- Port Phillip Heritage Review 2000
- Bay Street Activity Centre Structure Plan 2014
- South Melbourne Central Activity Centre Structure Plan 2007
- St Kilda Road North Precinct Review 2013 (updated 2015)
- St Kilda Road South Precinct Urban Design and Land Use Framework 2015
- Carlisle Street Activity Centre Structure Plan 2009

#### Transport:

- Bike Plan: Pedal Power 2011-2020
- Walk Plan 2011-2020
- Road Management Plan 2013
- Sustainable Transport Strategy: A Connected and Liveable City 2014
- Sustainable Transport Policy and Parking Rates 2007
- Car Share Policy 2016-2021

#### Sustainability:

- Climate Adaptation Plan 2010
- Open Space Water Management Plan
- Towards Zero – Sustainable Environment Strategy 2007
- Water Sensitive Urban Design Guidelines 2009
- Water Plan 2010
- Greenhouse Plan 2011
- Soil Contamination Management Policy

#### Public spaces and community:

- Sport and Recreation Strategy 2015-2024
- Reconciliation Action Plan 2017
- Access Plan 2013-2018
- Foreshore And Hinterland Vegetation Management Plan 2015
- Greening Port Phillip, An Urban Forest Approach 2010
- Activating Laneways Strategy 2011
- Foreshore Management Plan 2012
- Inner Melbourne Action Plan 2015-2025
- Open Space Strategy and Implementation Plan Framework 2009
- Playspace Strategy 2011
- Port Melbourne Waterfront Activation Plan
- Port Phillip Urban Iconography Study 2001
- Homelessness Action Strategy 2015-2020

# Audit Report

- Youth and Middle Years Commitment and Action Plan 2014-2019
- Aboriginal and Torres Strait Islander Arts Strategy 2014/2017

## Area-based policies:

- Draft Fishermans Bend Framework
- Carlisle Street Activity Centre Structure Plan
- Carlisle Street Urban Design Framework 2009
- Bay Street Activity Centre Structure Plan – Parts 1 and 2 2014
- South Melbourne Central Activity Centre Structure Plan
- South Melbourne Central Urban Design Framework 2007
- St Kilda Road North Precinct Plan 2013 (Updated 2015)
- St Kilda Road South Urban Design and Land Use Framework 2015
- Ormond Road Urban Design Guidelines 2007
- Beacon Cove Neighbourhood Character Guidelines 2010
- Design Guidelines 1-7 Waterfront Place, Port Melbourne 2014

## Other relevant reference documents:

- Sustainable Transport Framework 2009-2013 (updated 2010)
- Port Phillip Industry and Business Strategy (2003)
- Backpackers' Lodges in the City of Port Phillip (March 2000)
- Port Phillip Practice Notes Policy No. 15 – Caretaker's Dwellings
- Responsible Gambling Policy 2011
- City of Port Phillip Urban Art Strategy 2002
- City of Port Phillip Subdivision Guidelines 2000
- City of Port Phillip Outdoor Advertising Guidelines 1996 (revised 2007)
- Port Phillip Advertising Signs Policy Review 2007 (Hansen Partnership)

## Summary of key policies

### **In our Backyard – Growing Affordable Housing in Port Phillip 2015-2025**

In Our Backyard outlines strategies and actions, as well as expected outcomes, to ensure affordable housing remains an important component of the City's housing offer over the next decade. The Strategy includes specific Council commitments and also reflects a broader agenda to strengthen Council's partnerships with local community housing organisations, the Victorian and Commonwealth governments, and the private and community sectors, to effectively address together the significant affordable housing challenge.

Key policies from this strategy include:

Strategy 1: Use Council property to deliver affordable housing

Policy 1: Provide a pipeline of Council property assets and supporting cash contributions for the purposes of delivering new community housing units in the City of Port Phillip

Policy 2: pursue inclusion of community housing as a component of private development on divested Council land

- Progressively identify surplus or underutilised Council properties
- Develop an expression of interest process for the divestment of identified Council properties

Strategy 2: Optimise benefits from existing affordable housing sites

Policy 3: Facilitate opportunities to increase affordable housing yield and diversity on existing social housing sites through transfer, redevelopment, or sale and reinvestment



# Audit Report

- Work with the Victorian Government to identify and facilitate opportunities to pilot new delivery models and increase the yield, diversity and/or quality of housing in existing public housing estates
- Advocate that the Victorian Government make social housing projects exempt from site density limits in the Neighbourhood Residential Zone

Policy 4: Facilitate PPHA to leverage existing PPHT property assets to deliver an increased supply of community housing

- In partnership with PPHA, as Trustee of the PPHT, identify existing property assets under the Port Phillip Housing Trust that can be effectively and viably leveraged

Strategy 3: Implement planning mechanisms

Policy 5: Apply planning mechanisms that encourage the private sector to deliver new affordable housing units

- Identify 'best practice' international and Australian planning mechanisms
- Partner with the Victorian Government to develop planning mechanisms that can deliver social housing and other perpetual affordable housing
- Apply planning mechanisms to require, facilitate or provide incentives to increase the supply of social and affordable housing supply
- Investigate the development of planning scheme provisions that incentivise the delivery of social and affordable housing
- Investigate the application of planning mechanisms in Fishermans Bend

Strategy 4: Continue to provide local government leadership

Policy 6: Facilitate the delivery of affordable housing projects by others

Policy 7: Foster innovative models to achieve a broader spectrum and diversity of affordable housing

The Strategy is a strategic priority for Council and is consistent with the Council Plan Direction 1 – We Embrace Difference and People Below, section 1.2 Increase in Affordable Housing. These strategies will need to be incorporated in a revised Municipal Strategic Statement (MSS).

## City of Port Phillip Housing Strategy 2007-2017

The Housing Strategy sets out a broad vision and makes recommendations for housing and residential development in Port Phillip. The strategy provides a locally relevant response to Melbourne 2030 and the Inner Regional Housing Statement by identifying areas suitable for new residential growth and providing strategic justification for new housing policies in the planning scheme. The strategy allows Council to proactively deal with housing and residential issues by providing certainty for both the community and developers. It sets out a framework to ensure that Port Phillip has a diverse range of housing but at the same time maintains the character and amenity of the city's residential areas. The eight objectives of the strategy are:

- To provide opportunities for new residential development in designated locations which have the capacity for change, and which offer highest accessibility to shops, public transport and services
- To encourage the provision of a diversity of dwelling types to meet the needs of all current and future residents of Port Phillip
- To ensure new residential development respects neighbourhood character and heritage values of established residential areas
- To expect environmentally sustainable residential development

# Audit Report

- To support housing designs that are adaptable and accessible
- To promote a range of affordable housing models and projects applicable to public, community and private housing that address the housing needs of low to moderate income residents and contribute to social diversity
- To expand the supply, distribution and type of social (public and community) housing available for the benefit of current and future residents of Port Phillip
- To promote a co-ordinated response that addresses the needs of people experiencing homelessness.

This policy is reflected in Clause 21.04 – Housing and Accommodation (MSS) of the Port Phillip Planning Scheme. See Section 9 of this report on Housing Strategy for an assessment of this policy.

## **Sustainable Design Strategy 2013**

Sustainable design within the City of Port Phillip aims to improve the outcomes of creating better and smarter buildings that are above minimum regulatory standards and are aiming to achieve a zero net environmental impact. The strategy has three sections:

- Provides an introduction to Sustainable Design within the City of Port Phillip covering significant occurrences to date, providing a vision for the municipality and outlining the strategies connection to other relevant Council policy.
- Defines how Council intends to influence development to achieve more sustainable outcomes by defining eligible development and how sustainable design criteria can be satisfied through the planning process.
- Outlines how Council will advocate by engaging with the development community and industry in achieving sustainable outcomes.

The strategy supports Council's Design Policy (2011) by providing the Sustainable Design Assessment in the Planning Process (SDAPP) a framework for achieving sustainable design outcomes within the municipality. This framework allows the inclusion of key environmental performance indicators into the planning permit approvals process.

Amendment C097 approved in 2015 requires the incorporation of environmentally sustainable design through the Planning Scheme through Clause 22.13. If an application is for a planning permit to construct two or more dwellings, or construct or extend larger non-residential buildings, the planning application will be required to submit a Sustainable Design Assessment or Sustainability Management Plan and will be assessed in relation to environmentally sustainable design as part of the permit application process.

## **Port Phillip Design Manual 2000**

The Port Phillip Design Manual is a reference document in the planning scheme, and contains six chapters for various design guidelines. These include:

1. Chapter 1 – Conservation details for various architectural Eras in Port Phillip
2. Chapter 2 – Garden City Estate Guidelines
3. Chapter 3 – Guidelines for Garage and/or Carport Structures
4. Chapter 4 – Neighbourhood Character Descriptions
5. Chapter 5 – Fishermans Bend Estate Guidelines
6. Chapter 6 – Dunstan Estate Guidelines.

Amendment C5 implements the manual as a reference document in the planning scheme.

## **City of Port Phillip Activity Centre Strategy 2006**

The Activity Centre Strategy provides a holistic understanding of the complex role and function of activity centres and the contribution that they can make to creating sustainable



# Audit Report

local communities. 11 principles have been identified to guide development in activity centres, including:

1. Foster activity centres as socially, culturally, environmentally and economically balanced places
2. Promote retail self sufficiency
3. Support local self-containment in personal services
4. Promote cultural tourism
5. Nurture the social sense of place
6. Nurture the aesthetic sense of place
7. Encourage walking, cycling and public transport as principle access modes
8. Sustain activity centres as places of work as well as retail services
9. Advance environmental sustainability for buildings and the life of the centre
10. Improve and actively support housing affordability
11. Ensure the 'public realm' embraces all community members

## Draft Fishermans Bend Framework

The Fishermans Bend Framework is being progressed by the State Government, in consultation with the City of Port Phillip.

At the time of writing, the Draft Fishermans Bend Framework was out for community consultation and may be subject to changes. The draft framework is a long term strategic plan for the development of Fishermans Bend to 2050.

The draft Framework is structured around eight sustainability goals:

1. A connected and liveable community
2. A prosperous community
3. An inclusive and healthy community
4. A climate adept community
5. A water sensitive community
6. A bio-diverse community
7. A low-carbon community
8. A low waste community

Sitting within each of the eight sustainability goals are objectives and strategies. The Review will need to reflect the broader vision for the FBURA in the MSS, once the Framework is finalised.

## Port Phillip Heritage Review

The Port Phillip Heritage Review addresses inconsistencies from previous studies within the municipality. The review provides a consistent approach to building grading and the recording of building significance across the municipality, for all architectural/ historical periods including the twentieth century. The review also identifies historically significant streetscapes, other public space, parks or elements within them worth of protection and provides the strategic basis for any future statutory heritage controls in the planning scheme using the her Heritage Place Control.

The following amendments have made or propose to make changes to the Port Phillip Heritage Review:

- Amendment C117 introduces permanent controls to Fishermans Bend
- Amendment C146 introduces an extension to interim controls for Fishermans Bend

# Audit Report

- Amendment C127 – 26 Stokes Street Interim Heritage Controls
- Amendment C103 – Implementation of the Bay Street Activity Centre Structure Plan
- Amendment C121&C122 – Implementation of the St Kilda Road South Precinct Urban Design and Land Use Framework
- Amendment C143 – 19 Salmon Street and 299 Williamstown Road, Port Melbourne – Permanent Controls

## **Bay Street Activity Centre Structure Plan, 2014**

The Bay Street Structure Plan directs growth and identifies potential opportunities for improvements in the Bay Street, Port Melbourne Area. The plan also proposes to improve public space, traffic and accessibility and strengthen community connections. The plan contains seven key strategic directions, each with a set of objectives, strategies, actions and framework plans, and provides detailed initiatives for selected precincts, including precincts where land use change and development is expected to occur. These include:

- Activity and business mix
- Housing opportunities
- Connecting the community
- Reinforcing urban character
- Sustainable access and movement
- An integrated public realm
- Sustainable precinct

Amendment C103 (gazetted 07/07/2016) implements the planning initiatives of the structure plan and changes the planning scheme to provide for the desired land use and development outcomes outlined in the plan. These changes included:

- Introducing new local policy to reflect the strategic intent of the Bay Street Structure Plan (Clause 22.14)
- Reflects local strategies in Clause 21.04 and Clause 21.06 of the MSS
- Updating the heritage overlay by replacing the precinct based heritage overlay with site-specific heritage overlays over 'significant' places
- Refining 'Design and Development Overlay 1' which applies to the 'Port Melbourne mixed use area'
- Rezoning discrete areas within the activity centre to reflect established land uses and to facilitate land use change in line with the structure plan
- Rezoning properties fronting Crockford Street from an Industrial zone to a Mixed use zone, to facilitate residential and commercial renewal.

## **South Melbourne Central Activity Centre Structure Plan, 2007**

The South Melbourne Central Structure Plan and Implementation Strategy provides the vision and strategies for South Melbourne Central and set out how Council would like to see both the South Melbourne Activity Centre and the larger South Melbourne Central area develop and grow over the next 10-15 years. The structure plan and urban design framework examines the area's precincts and sub-precincts in detail, including prominent streetscapes and several key development sites.

The vision for South Melbourne Central is "South Melbourne Central will be a sustainable mixed use precinct focussed on the South Melbourne Activity Centre. It will continue to provide a unique urban village character and street life, while the number of residents, workers and visitors continue to grow"

Amendment C052 (gazetted 24/04/2008) implements the planning initiatives of the structure plan and urban design framework. These two documents have become reference



documents in the planning scheme and will help to guide decision on planning applications in the South Melbourne Central area.

## **St Kilda Road North Precinct Review, 2013 (Updated 2015)**

The St Kilda Road North Precinct Plan 2013 provides a vision and strategy for the future development of St Kilda Road, north of St Kilda Junction, as a precinct integrated with its urban and landscape surrounds.

The plan establishes principles for integrated land use, built form, transport and access, open space, community infrastructure, and sustainable infrastructure. The plan also provides a framework for the revision of built form controls in St Kilda Road North Precinct.

The vision for the St Kilda Road North Precinct Plan is “St Kilda Road North Precinct is a dynamic inner urban locality. Highly connected and beautifully integrated, it is home to a community that is inclusive and full of vitality”. The St Kilda Road North Precinct will:

- Be a safe and inclusive place to live, work and visit
- Retain its highly valued urban character and established identity
- Continue to accommodate demand for residential and commercial floor space in a sustainable and sensitive manner
- Have convenient, safe and accessible sustainable modes of travel that allows residents, workers and visitors with the choice to live and travel car-free
- Have high quality green public places that support convenient access to nearby parks, services and sustainable transport modes.

Amendment C107 (gazetted 02/06/2016) was prepared to give statutory effect to the vision, strategic directions and built form outcomes of the St Kilda Road North Precinct Plan through:

- Updating the LPPG;
- Introducing a new Design and Development Overlay (DDO26), to replace the existing DDOs 3 and 4;
- DDO26 specifies ‘design objectives’ and ‘design requirements’ (including mandatory heights and setbacks) for the overall precinct, and for individual sub-precincts.

## **St Kilda Road South Precinct Urban Design and Land Use Framework, 2015**

The St Kilda Road South Precinct is focussed primarily on St Kilda Road South, Wellington Street and Carlisle Street. The framework establishes the strategic basis for new built form controls in the planning scheme, to guide better development outcomes. It also reviews land use directions for the precinct and identifies possible improvements to its streets, open spaces and transport connections. The framework aims to:

- Strengthen the identity of the Precinct, particularly along St Kilda Road and Wellington Street
- Improve the functioning of the Precinct – its activities, linkages and amenity for residents, workers and visitors
- Provide greater certainty and direction for the community and development industry
- Ensure new development and land use change within the Precinct is well managed.

The vision for the St Kilda Road South precinct is “Over the next 15+ years the St Kilda Road South Precinct will evolve as a vibrant and diverse series of neighbourhoods each with a strong sense of place, community and local identity.

- The precinct will consolidate its role as a ‘nice’ retail and creative business cluster

# Audit Report

- The liveability of the precinct will be enhanced with more places for people to enjoy community life. Small 'social spaces' along the streets or active uses at the ground level of buildings will provide opportunities for people to meet
- High quality, well designed housing will cater for the needs of a diverse community and a range of household types
- Well-designed contemporary buildings will enhance the character and image of each neighbourhood and will sit respectfully alongside heritage sites and adjoining residential areas
- Streets will be attractive, friendly, safe and easy to move around by all forms of transport, particularly by foot or bike. Traffic and car parking will be well managed as the Precinct grows
- The Precinct will be well-connected with the surrounding open spaces, community facilities, and nearby activity centres
- St Kilda Road South will be enhanced as one of Port Phillip's key boulevards and a gateway to the Southern suburbs of Melbourne
- The landscaping themes of St Kilda Road South will extend into Wellington and Carlisle Streets to form green links to adjoining neighbourhoods and a well-treed character throughout.

Amendment C122 proposes to implement the land use and built form directions and is with the Minister for Planning for decision, at the time of writing.

## **Carlisle Street Activity Centre Structure Plan 2009**

The Carlisle Street Activity Centre Structure Plan establishes the vision and strategies that reflect how we would like to see this area develop over the next 10-15 years. It includes seven 'strategic directions' which reflect the key priorities for the centre, and also defines strategies and actions relating to individual land use precincts.

The vision for Carlisle Street is "In the year 2020 the Carlisle Street Activity Centre will be enhanced as a focus for the local community, offering a diverse mix of shopping, business and community services, leisure and living opportunities. It will be a place where:

- The diverse 'activity mix' responds to local community needs, and supports the long term viability and vibrancy of the centre
- The 'authenticity' and the unique 'place identity' of Carlisle Street is reinforced. The centre will maintain its 'point of difference' from other strip centres and its strong connection with the local community
- 'Street-activity' and 'cultural opportunities' are maximised – day and night – to create a focus for cultural and community life
- The centre's role as a highly accessible civic and service 'hub' is reinforced, supporting a diverse and engaged community
- The built environment (public and private realms) has been enhanced, creating an activity centre that is attractive, functional and sustainable
- Changes in the built environment have been managed to:
  - a. Reinforce (and where necessary reinstate) the traditional urban form of 'streets and laneways' as connection between activities
  - b. Realise opportunities to create new, high quality public spaces
  - c. Retain the human scale and traditional, historic streetscape of the shopping strip
  - d. Concentrate new development within the defined activity centre
  - e. Respect and improve residential 'interfaces' and the character and amenity of surrounding residential areas



# Audit Report

- Accessibility to and through the centre via sustainable transport modes – public transport, cycling and particularly walking – is maximised
- A diversity of new residential opportunities are provided, predominantly within and directly adjacent the Activity Centre, whilst ensuring the heritage and character of established residential areas is retained
- The activity centre, and the established residential areas surrounding the centre, are enhanced as a place to live

Over the next decade, significant change will occur across the activity centre. Through carefully planning, managing and directing change in line with this vision, Carlisle Street will be enhanced as a place to shop, visit, work and live”.

Amendment C080 (gazetted 10/05/2012) introduced permanent planning controls for the Carlisle Street Major Activity Centre Structure Plan and Urban Design Framework.

## **Sustainable Transport Strategy, 2014**

The Sustainable Transport Strategy aims to meet the needs of residents, visitors and commuters while minimising the negative impacts that cars have on the community. The strategy aims to provide a strategic context for pursuing sustainable transport improvements through advocacy to other bodies, notably the State Government who has responsibility for the provision and servicing of public transport and declared roads that run through Port Phillip. Council is committed to making decision based on a hierarchy that prioritises walking, bike riding and public transport above private car use.

The strategy sets out plans to achieve:

- An aspirational 50% reduction in community greenhouse gas emissions per person by 2020
- Reduced private vehicle travel by residents from 78% to 53% of total distance travelled
- Increased travel by residents using walking and bike riding from 9% to 20% of total distance travelled
- Increased travel by residents catching public transport from 13% to 28% of total distance travelled.

The MSS was updated in 2010 (amendment VC071, gazetted 20/09/2010) to reflect the Sustainable Transport Statement 1998 and other transport policies of Council.

## **Toward Zero – Sustainable Environment 2007-2020**

A sustainable environment, city, community and future has been raised as an important issue for the local community. The strategy aims to enable and create city and region with the smallest possible ecological footprint. In doing so, nine key challenges have been identified for Council and the community. These are:

- Reduce greenhouse gas emissions
- Minimise potable water use
- Minimise waste
- Maintain and increase the health and quality of the city’s natural assets
- Sustainable modes of transport
- Sustainable urban design and development
- Maintain and enhance natural heritage values, sites and habitats
- Sustainable purchasing and procurement
- Prevent further climate change

# Audit Report

This policy is reflected in Clause 21.03 and Clause 22.13 of the Port Phillip Planning Scheme (MSS) by Amendment C097 adopted in 2015 which introduced a new local planning policy that requires development to achieve environmentally sustainable design.

## **Climate Adaptation Plan 2010**

The Climate Adaptation Plan by the Victorian Government outlines five key actions for Council to begin to climate proof the city. It is about adjusting the way we live, build our homes and cities or live on the coast, in order to cope with increasingly unpredictable local climate conditions.

The vision for the plan is “A climate clever and adaptive city that maintains healthy and productive communities, neighbourhoods and ecosystems while enhancing our resilience within a changing world”.

The five key actions for the plan are:

- Climate proof buildings
- Flood management
- Beach protection
- City climate
- Access and safety

Amendment VC094 introduced new strategies in Clause 13.01 (Climate change impacts) related to sea level rise and changes Clause 18.03 (Ports) to strengthen the objective and strategies related to planning for ports and their environs.

## **Open Space Strategy and Implementation Plan Framework 2009**

The Open Space Strategy provides strategic direction for the supply and development of all public open space within the municipality. The objectives of the strategy are:

- To devise a strategy for effective planning, monitoring and evaluating open space across the city to ensure appropriate provision and development of open space
- To set a program of priority actions for each neighbourhood
- To respond to new or changed demands for open space provision and use
- To provide clarity and reasonable certainty for developers and land owners in relation to the requirements and expectations of planning authorities in respect of open space provision

A number of key recommendations have been delivered as part of the strategy, including:

- Address areas underserved by public open space by linking existing spaces, use of streetscapes or other public realm opportunities. Priority areas are South Melbourne and East St Kilda
- Promote the City of Port Phillip Open Space Principles across all council service areas
- Develop a Playground Strategy to provide strategic direction for play-spaces across the city
- Use the Guidelines for Developer contributions in this strategy as basis for collection and expenditure of contributions collected under section 18 of the Subdivision Act
- Establish integrated planning mechanisms for open space management, to include sporting facilities, urban planning, cultural services, urban design, environmental planning and maintenance service delivery
- Regularly collect data related to community demands and use of open space to inform open space planning



# Audit Report

- Implement key master plans such as Light Rail Reserves, Sandridge Beach, St Kilda's Edge and Elwood Foreshore Management Plan
- Enhance existing open spaces to deliver greater diversity of activity especially for youth and young adults
- Continue to manage conflicting uses in open space particularly at popular destinations such as foreshore
- Increase capacity of sporting reserves to provide for junior and female sport by upgrading facilities and grounds
- Provide opportunity for casual sport at more locations across the city

The last Planning Scheme Review (Amendment C062) updated the LPPF, local planning policies, and the Schedule to Clause 52.01 Public open space contribution and subdivision, to introduce a mandatory 5% public open space contribution requirement.

## Access Plan 2013-18

The Access Plan has incorporated extensive consultation with all City of Port Phillip departments to identify access achievements across Council, as well as barriers to access and inclusion for people with disabilities and other access challenges. It incorporates updated strategies to address access and inclusion issues and gaps, and provides a framework for community feedback.

The document:

- Provides an overview of actions Council has already taken to improve access and inclusion
- Identifies key strategies to address access barriers or access opportunities
- Identifies the areas responsible for ensuring actions are completed
- Outlines how monitoring, reviewing and evaluating of the Access Plan will occur.

One relevant action is to ensure accessibility is a guiding principle in the development of all major strategic planning projects. This can include streetscape planning, structure planning and urban design frameworks (Action 17.4.2).

## Sport and Recreation Strategy 2015-2024

The Sport and Recreation Strategy develops a shared vision for Council and the community to guide the provision of sport and recreation facilities and services to meet the needs of the Port Phillip community of the next ten years. It will:

- Provide a clear vision for sport and recreation in Port Phillip
- Define Council's role in facilitating sport and recreation opportunities to the Port Phillip community
- Identify ways Council can engage and support our local community to participate in sport and recreation
- Provide guidance to shape our local places and investment in Port Phillip's sport and recreation infrastructure
- Respond in a coordinated manner to the changing sport and recreation participation trends.

The strategy considers sport and recreation at a municipal level and has been designed to be a drive in the successful implementation of the Council Plan. The strategy acts as an enabler for Council to achieve its vision through successful implementation of the key actions and objectives within the strategy. It will also provide Council with the means to achieve goals as set out in other strategy's and plans.

# Audit Report

The strategy identifies an anticipated shortage of sport and recreation open space and facilities due to population growth, with current sporting facilities at or near capacity. It also identifies a rise in demand for informal open space and recreation opportunities.

Relevant strategies should inform any MSS policy relating to the provision of active and passive open space and community facilities to meet the needs of a growing and changing population. This will need to be consistent with the Public Space Strategy, currently in development.

## **Foreshore Management Plan 2012**

The Foreshore Management Plan provides guidance for the future use, development and management of the Port Phillip foreshore. It provides a long term strategic vision and direction for the foreshore by identifying coastal values that need protecting, maintaining and enhancing, whilst responding to current and future management issues. The plan will also help to inform Council's future management and budgeting for the foreshore.

The vision for the plan is "The Port Phillip foreshore is a vibrant, inspiring, accessible and connected open space destination that provides a wide range of experiences for local, national and international visitors. It is renowned for its unique local character, significant vegetation and its rich cultural history". It is implemented through 10 strategies including:

- Public access and positive community benefit
- Public open space, recreational activities and events
- Coastal sustainability, vegetation and heritage values
- Climate change and adaptation strategies
- Diversity of foreshore environments and character
- Safe and equitable use
- Community participation and support
- Connectivity to activity centres and public transport
- Buildings and car parking
- Economic sustainability

## **Reconciliation Action Plan 2017-19**

The Reconciliation Action Plan 2017-19 (RAP) represents Council's commitment to Protecting and promoting Aboriginal culture and heritage, and continuing reconciliation with our Indigenous community. Actions will enhance Council's capacity to work with the Traditional Owners and the local Aboriginal and Torres Strait Islander community.

Actions include:

- Develop and maintain mutually beneficial relationships with Traditional Owners, Aboriginal and Torres Strait Islander peoples, communities and organisations.
- Support the protection and recognition of the cultural and intellectual property of the Boon Wurrung people during the planning phase of the Fishermans Bend Urban Renewal Area.
- Update the Municipal Strategic Statement in the Port Phillip Planning Scheme to reinforce the importance of protecting places of Aboriginal cultural heritage.

## **Greening Port Phillip, an Urban Forest Approach 2010**

The Greening Port Phillip strategy provides the strategic framework and policy context for the development and management of trees in the City of Port Phillip. It recognises that trees cannot be managed in isolation from other elements of the urban environment such as buildings, roads, footpaths and bike paths, utilities, open spaces and activity centres.



# Audit Report

Protecting heritage values and enhancing neighbourhood character also need to be taken into consideration when planting and maintaining trees in parks and open spaces.

The vision for the plan is “The City of Port Phillip will have a healthy and diverse urban forest that uses innovative greening solutions to enhance the community’s daily experience, ensuring environmental, economic, cultural and social sustainability for future generations”

No amendment was made to the planning scheme as a result of this strategy. The MSS update, along with the preparation of future strategies for greenspace in the municipality, should aim to incorporate some of the outcomes of the Greening Port Phillip strategy.

# Audit Report

## **Appendix 7 – Planning scheme users survey report**

(next page)