

AGENDA - ORDINARY MEETING OF COUNCIL – 21 JUNE 2017



8.6

AMENDMENT C132 - 26 STOKES STREET HERITAGE OVERLAY - CONSIDERATION OF PANEL REPORT AND ADOPTION OF AMENDMENT

WARD:

GATEWAY

GENERAL MANAGER:

**CLAIRE FERRES MILES, PLACE STRATEGY &
DEVELOPMENT**

PREPARED BY:

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PLANNER**

TRIM FILE NO:

66/02/257-02

ATTACHMENTS:

- 1. Background to heritage assessments**
- 2. Amendment process**
- 3. Port Phillip C132 Panel Report**
- 4. Amendment C132 documentation for adoption**

PURPOSE

- To consider the report and recommendations of the independent Planning Panel appointed by the Minister for Planning to review Amendment C132 (26 Stokes Street, Port Melbourne – Permanent Heritage Controls).
- To determine whether to adopt Amendment C132 with changes to the individual citation (Citation No 2382) in the *Port Phillip Heritage Review* (incorporated document in the Planning Scheme) and request Ministerial approval.

I. RECOMMENDATION

That Council:

- 1.1 Adopts Amendment C132 to the Port Phillip Planning Scheme, pursuant to Section 29 of the *Planning and Environment Act 1987* (the Act), with the changes detailed in Attachment 4.
- 1.2 Authorises the Chief Executive Officer (or delegate) to finalise the amendment documentation for Ministerial approval.
- 1.3 Submits the adopted Amendment C132, together with prescribed information, to the Minister for Planning for approval pursuant to Section 31 of the Act.
- 1.4 Advises the Minister for Planning that Council accepts all of the Panel's recommendations with changes to Amendment C132 reflected in documents submitted for approval.

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- 1.5 Requests the Minister for Planning extend the interim heritage control applying to 26 Stokes Street, Port Melbourne until Amendment C132 is finalised (if necessary).
- 1.6 Writes to all submitters advising of Council's decision, and thanks them for their comments and interest in Amendment C132.

2. BACKGROUND

Background to planning permit application

- 2.1 A planning permit application was lodged for the construction of a new dwelling at 26 Stokes Street in November 2015. The proposed redevelopment of the site would involve the demolition of the existing single-storey house.
- 2.2 At the time the permit application was lodged, there was no Heritage Overlay on the site, and accordingly no planning permit was required for demolition. Attachment 1 provides background to heritage assessments of the site and broader area over time.
- 2.3 Thirty-one (31) objections were received to the planning permit application, including one from the Port Phillip Historical and Preservation Society. Objections raised the heritage value of the building, in addition to concerns over proposed building scale and amenity impacts.
- 2.4 As part of assessment of the planning permit application, the proposal was referred to Council's Urban Design and Heritage Advisor for comment in February 2016 who found that the building is of local heritage significance and recommended its inclusion in an individual Heritage Overlay.
- 2.5 As a result of the heritage assessment Council resolved, at its Ordinary Council Meeting on 24 May 2016, to request that the Minister for Planning apply interim heritage controls to the site (Amendment C127). At the same meeting, Council also resolved to prepare an amendment to the Port Phillip Planning Scheme to apply permanent heritage controls to the site (Amendment C132, the subject of this report).
- 2.6 The permit applicant lodged failure to determine the application within the prescribed time to the Victorian Civil and Administrative Tribunal (VCAT). Prior to VCAT hearing this matter, the Minister for Planning gazetted interim controls (Amendment C127). The applicant subsequently withdrew the appeal application in December 2016.
- 2.7 The interim heritage controls are due to expire on 30 September 2017. While it is expected that Ministerial approval of the Amendment will be decided in advance of this date, it would be prudent for Council to resolve for Council to request an extension of the interim controls should the Amendment remain unresolved by 21 August 2017.

Amendment C132 – Content and Effect

- 2.8 The Amendment proposes to apply permanent heritage controls to 26 Stokes Street to ensure heritage matters are considered in any future planning application.
- 2.9 Specifically, the amendment proposes to make the following changes to the Port Phillip Planning Scheme:

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- Apply an individual Heritage Overlay (HO 497) to 26 Stokes Street, Port Melbourne on a permanent basis, including updating the planning scheme maps and schedule to the Heritage Overlay.
- Include a new individual citation (Citation No 2382) for 26 Stokes Street in the *Port Phillip Heritage Review* (Incorporated Document in the Planning Scheme).
- Remove the 'Contributory outside of the HO' grading on the 'Neighbourhood Character Map' and apply a 'Significant Heritage Place' grading to the 'Heritage Policy Map'.

Amendment C132 – Process

- 2.10 The Amendment was placed on public exhibition in between 3 October and 7 November 2016 – with affected owners and occupiers directly notified of the proposal. Seven (7) submissions were received, with one (1) objection from the owner of the property and six (6) submissions in support of the amendment.
- 2.11 Council considered written submissions and heard from submitters at its Ordinary Council Meeting on 13 December 2016. It referred the amendment and all submissions to an independent planning panel for consideration.
- 2.12 The Planning Panel was appointed on 22 December 2016.
- 2.13 A panel hearing was held on 31 March 2017 where submitters and Council had an opportunity to present their views. The landowner made a submission to Panel objecting to the Amendment, along with one submitter in support of the Amendment.
- 2.14 Council provided an independent expert witness statement to support its submission, by heritage consultant Peter Andrew Barrett. Mr Barrett was of the view that the house at 26 Stokes Street is consistent with three heritage criteria (Criterion A, D & E) and was worthy of a heritage overlay.
- 2.15 Another expert witness statement was presented to the Panel by heritage consultant Bryce Raworth (in support of the landowner's submission). Mr Raworth was of the view that the house is not of sufficient historic or architectural significance to warrant a heritage overlay.
- 2.16 The written report of the Panel was received on 21 April 2017 and is included at Attachment 3. The Panel Report was made available on the Council's website on 17 May 2017, within 28 days of Council's receipt of the report as required by Section 26(1) of the Act.
- 2.17 A detailed overview of the amendment process is provided at Attachment 2.

3. KEY INFORMATION

Panel recommendations

- 3.1 The Panel found that sufficient justification exists to permanently apply the Heritage Overlay to 26 Stokes Street, Port Melbourne. The Panel recommends approving the amendment as exhibited, subject to changes to the citation:
 - Delete the reference to Criterion A (historical significance)

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- More definitively describe why the dwelling meets Criterion D (representative significance)
 - Add that the dwelling meets Criterion E (aesthetic significance) and describe elements on the dwelling which contribute to its Italianate character that should be conserved.
- 3.2 The Act requires Council to formally consider the Panel's report and recommendations, and determine whether to adopt (with or without changes) or abandon the Amendment.
- 3.3 The recommended changes to exhibited Amendment C132 are confined to the individual citation proposed to be included in the *Port Phillip Heritage Review* (Incorporated Document in the Planning Scheme).
- 3.4 The following is a table outlining the officer's recommended position for Council in response to the Panel's recommended detailed changes to the citation.

REC	PANEL RECOMMENDATIONS	OFFICER RECOMMENDATIONS
I	Amend Citation 2382 for 26 Stokes Street, Port Melbourne, in the revised incorporated document, <i>Port Phillip Heritage Review</i> , under 'Significance' to:	
I.A	Delete the reference to Criterion A (historical significance)	<p>Accept the Panel's recommendation</p> <p>Officers accept the Panel's finding of an unclear association with the course or pattern of Port Phillip's cultural or natural heritage and recommend Criterion A be removed from the citation.</p>
I.B	More definitively describe why the dwelling meets Criterion D (representative significance)	<p>Accept the Panel's recommendation</p> <p>It is recommended that the citation be amended to elaborate on the architectural and representative qualities of the dwelling, drawing upon the findings of Mr Barrett's expert evidence.</p>
I.C	Add that the dwelling meets Criterion E (aesthetic significance) and describe elements on the dwelling which contribute to its Italianate character that should be conserved.	<p>Accept the Panel's recommendation</p> <p>It is recommended that the citation be amended to add that the dwelling meets the threshold for Criterion E (aesthetic significance), drawing upon the findings of Mr Barrett's expert evidence.</p>

- 3.5 In its assessment of Amendment C132, the Panel made a number of 'conclusions' in the report. The following conclusion is worth noting, as it relates to the drafting of the citation (however it does not comprise a formal recommendation):

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REF	PANEL CONCLUSION	OFFICER RESPONSE
3.4	The Port Phillip municipality is a reasonable study area for a comparative analysis.	<p>The comparative analysis is part of the methodology used to determine if the property meets the threshold of heritage significance for a locality.</p> <p>The Panel's conclusion – that the locality should be the municipality – contrasts with Council and Mr Barrett's conclusion that the narrower locality of Port Melbourne is appropriate for comparative purposes.</p> <p>The Panel was of the view that business owners of Port Melbourne likely resided in grander housing in neighbouring suburbs, making a wider study area reasonable.</p> <p>Officers consider that the overriding theme of Port Melbourne, during the 1860's, was the working class nature of the precinct with its preponderance of workers' cottages with minimal architectural decoration. The dwelling at 26 Stokes Street is a comparatively rare example within Port Melbourne due to it being double-fronted, elaborately detailed with an asymmetrical Italianate character.</p> <p>It is also worth noting that, even when compared against other comparable properties within the wider area of Port Phillip, the Panel found the dwelling to meet the threshold of local significance.</p> <p>It is therefore recommended that the Citation is not altered in this regard.</p>

Recommended changes to Amendment C132

- 3.6 It is recommended that the citation applying to 26 Stokes Street in the Incorporated Document *Port Phillip Heritage Review* be amended (track changes shown in citation in amendment documentation at Attachment 4) to:
- elaborate on the architectural and representative qualities of the dwelling, drawing upon the findings of the Peter Barrett study.
 - add that the dwelling meets the threshold for Criterion E (aesthetic significance), drawing upon the findings of the Peter Barrett study.



FURTHER SUPPORTING INFORMATION

4. ALIGNMENT TO COUNCIL PLAN AND COUNCIL POLICY

- 4.1 Implementation heritage controls supports delivery of the following objectives and key actions in the *Council Plan (2013-17)*:

Objective 4.2: ‘Ensure growth is well planned and managed for the future’

- Key action: ‘Lead, advocate for and regulate sustainable design and development for environmental, cultural and social benefits’.

5. CONSULTATION AND STAKEHOLDERS

- 5.1 Amendment C132 has undergone public exhibition in accordance with the requirements of the *Planning and Environment Act 1987* (the Act). This includes direct notification to the owners and occupiers of properties that may be affected by the amendment, and public notices in a local paper and Government Gazette.
- 5.2 An independent Planning Panel process has also been undertaken in accordance with the requirements of the Act, where submitters had the opportunity to be heard and make submissions.
- 5.3 Attachment 2 provides detail of the amendment notification and panel processes.

6. LEGAL AND RISK IMPLICATIONS

- 6.1 No significant risk implications have been identified. Amendment C132 has been exhibited and processed in accordance with the requirements of the *Planning and Environment Act 1987*.
- 6.2 Submitters were provided the opportunity to present to an independent Planning Panel who considered their submissions and made recommendations about the decision that should be made to Council. This provided a fair and transparent process.

7. SUSTAINABILITY – Triple Bottom Line

7.1 ENVIRONMENTAL IMPLICATIONS

- 7.1.1 The Amendment will have a positive environmental impact by protecting a place of historic significance and allowing the reuse and recycling of existing building stock.
- 7.1.2 The Victorian heritage strategy, Victoria’s Heritage: Strengthening our Community (DSE, 2006) details the environmental benefits of conservation in Chapter 2, specifically (at p21):

‘Heritage policies and programs can help achieve the broader goals of sustainability. Conserving heritage places and giving them new life supports sustainability. It recognises the embodied energy and life-cycle value of traditional materials, and reduces the waste associated with demolition and new buildings.’

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7.2 SOCIAL & CULTURAL IMPLICATIONS

- 7.2.1 The Amendment will have a positive social effect through the preservation of a significant heritage place, for the benefit of current and future generations.

7.3 ECONOMIC IMPLICATIONS

- 7.3.1 The Amendment is not expected to have a significant broad economic impact, although it is likely to have a direct financial impact on the owner of the affected property through imposition of additional permit requirements and potential limitations on the redevelopment of the site.
- 7.3.2 Planning Panels have long held the view that the social and economic effects relevant at the Amendment stage are those of a broad community nature rather than those of a personal kind (Panel Report - Amendment C207 to the Melbourne Planning Scheme).
- 7.3.3 The economic effects of requiring a planning permit may be reduced through the availability of advice from the City of Port Phillip's Urban Design and Heritage Advisor and planning officers free-of-charge at any time prior to, during, or following the planning permit application process.
- 7.3.4 On balance, the Amendment will result in a net community benefit by preserving an architecturally significant heritage place for the benefit of current and future generations.

7.4 FINANCIAL IMPLICATIONS

- 7.4.1 Council has incurred direct costs associated with notification during the public exhibition of Amendment C132, processing of the amendment and Panel hearing costs.
- 7.4.2 The remaining cost associated with this amendment is the payment of the statutory fee (for Ministerial approval).
- 7.4.3 The costs have been met within the annual budget allocation for Planning Scheme Amendments.

8. IMPLEMENTATION STRATEGY

8.1 TIMELINE

- 8.1.1 If Council decides to adopt Amendment C132, the amendment will be submitted to the Minister for Planning for approval within 10 business days.
- 8.1.2 The Minister is required to make a decision on the Amendment within 40 business days of receiving the adopted amendment.

8.2 COMMUNICATION

- 8.2.1 All submitters will be advised of Council's decision at this meeting and will continue to be informed of the progress of Amendment C132. If Amendment C132 is approved by the Minister, submitters will be directly advised.

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9. OFFICER DIRECT OR INDIRECT INTEREST

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