



12.2 **FISHERMANS BEND - MONTAGUE COMMERCIAL PRECINCT
(PROPOSED INTERIM AND PERMANENT HERITAGE
CONTROLS)**

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

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1. PURPOSE

- 1.1 For Council to consider introducing additional heritage controls to the 'Montague Commercial Precinct' in Fishermans Bend through:
- Requesting Ministerial Authorisation to prepare and exhibit Amendment C186port to the Port Phillip Planning Scheme (permanent controls).
 - Requesting the Minister for Planning to extend the interim heritage controls applying to 157-163 Montague Street and 496-510 City Road, South Melbourne, and apply interim heritage protection to 153-157 Montague Street and 530-546 City Road, South Melbourne (Amendment C185port).

2. EXECUTIVE SUMMARY

- 2.1 As inputs into the strategic planning for Fishermans Bend, the *Fishermans Bend Heritage Study* (Biosis Pty Ltd, 2013) and *Fishermans Bend Additional Heritage Place Assessments* (Biosis Pty Ltd, 2015) were commissioned by Places Victoria and Council respectively. The purpose of that work was to identify places of heritage significance and make recommendations relating to the future preservation of those places.
- 2.2 Amendment C117 to the Port Phillip Planning Scheme was prepared to implement the recommendations of the Biosis studies. This included, among other recommendations, a proposal to extend Heritage Overlay HO442 (Albert Park Residential Precinct) to the properties at 157-163 Montague Street and 496-510 City Road, South Melbourne.
- 2.3 The Planning Panel appointed to hear submissions to Amendment C117 ultimately recommended the proposal to apply HO442 to 157-163 Montague Street and 496-510 City Road, South Melbourne be removed from the amendment, on the basis that the significance of the properties on the corner of Montague Street and City Road did not correlate with the significance of the Albert Park Residential Precinct that HO442 applies to.
- 2.4 The Panel also recommended a further study of *"the 'former Montague slum neighbourhood' for heritage significance as a potential precinct, a series of individual buildings/infrastructure items or serial listing"*.
- 2.5 On approval of the amendment, the Minister for Planning agreed with the Panel's recommendation, and removed 157-163 Montague Street and 496-510 City Road, South Melbourne from the amendment. The Minister recommended Council liaise with the Fishermans Bend Taskforce to undertake the additional work recommended by the Panel.
- 2.6 The need for additional heritage work in Fishermans Bend was foreshadowed in the *Fishermans Bend Framework* (October 2018), which identified a number of properties for further heritage investigation.

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- 2.7 Council officers have commissioned RBA Architects and Conservation Consultants to undertake a further heritage study in Fishermans Bend, that work is anticipated to be finalised in early 2020. The scope of this work included a peer review of the proposed 'Montague Commercial Precinct', prepared by Council's heritage advisor.
- 2.8 The proposed "Montague Commercial Precinct" comprises a group of late nineteenth century and early twentieth century buildings situated around the intersection of City Road and Montague Street in South Melbourne (including 157-163 Montague Street and 496-510 City Road, South Melbourne) (Attachment 2).
- 2.9 The *Fishermans Bend Heritage Review - Montague Commercial Precinct* (RBA Architects and Conservation Consultants, 2019) (Attachment 1) has been finalised as a separate report while the remainder of the heritage study in Fishermans Bend is finalised. The report which confirms that the proposed Precinct is considered of local historical (Criteria A and B), aesthetic (Criterion E) and representative (Criterion D) significance to Port Phillip.
- 2.10 Since 2015, interim heritage control HO442 has applied to properties along the corner of City Road and Montague Street in Fishermans Bend (157-163 Montague Street and 496-510 City Road, South Melbourne).
- 2.11 The interims were applied in Amendment C115 to the Port Phillip Planning Scheme and then extended via Amendments C152 and C157. The interims are set to expire on 31 January 2020.
- 2.12 On approving the most recent extension of interim controls in January 2019, the Minister's delegate advised that as it was the third extension, it would be unlikely that a further request would be supported unless notice of permanent controls is given under Section 19 of the *Planning and Environment Act 1987* (the Act).
- 2.13 To provide certainty to the landowners of 157-163 Montague Street and 496-510 City Road, South Melbourne regarding the heritage outcomes sought for their land and ensure the interim heritage controls applying to those properties remain in place, it is necessary to seek permanent heritage controls for the Montague Commercial Precinct while the remainder of the Fishermans Bend heritage study is finalised.
- 2.14 To progress permanent heritage controls for the proposed 'Montague Commercial Precinct', it is proposed that Council request Authorisation from the Minister of Planning to prepare Amendment C186port to the Port Phillip Planning Scheme. Draft amendment documentation is provided at [Attachment 3](#).
- 2.15 While permanent heritage controls are progressed, it is also proposed that Council request that the Minister of Planning extend the interim heritage applying to 496-510 City Road and 157-163 Montague Street, South Melbourne to include 151-155 Montague Street and 530-546 City Road, South Melbourne, and extend the expiry date of the control until 31 October 2020 (Amendment C185port).
- 2.16 A full amendment process would be followed for Amendment C186port (permanent heritage controls) which requires public exhibition.
- 2.17 If Amendment C185port (interim heritage controls) were approved through a Section 20(4) Ministerial Amendment, it would be exempt from notice requirements. Landowners would be notified in writing of the Minister's decision.



3. RECOMMENDATION

That Council:

- 3.1 Resolves to prepare Amendment C186port to the Port Phillip Planning Scheme to introduce new permanent heritage controls to properties within the 'Montague Commercial Precinct' in Fishermans Bend (generally in accordance with Attachment 3) by:
- 3.1.3 Updating the Schedule to the Heritage Overlay (Clause 43.01) and corresponding Heritage Overlay Maps to:
- Apply Heritage Overlay HO513 (Montague Commercial Precinct) to land including 496-546 City Road and 151-163 Montague Street, South Melbourne, on a permanent basis.
 - Remove 512-512A, 516, 518, 522 and 524-528 City Road, South Melbourne from HO442 as the properties will now be included in HO513 on a permanent basis.
 - Remove 157-163 Montague Street and 496-510 City Road, South Melbourne from interim HO442 as the properties will now be included in HO513 on a permanent basis.
- 3.1.4 List the Statement of Significance for the Montague Commercial Precinct in the Schedule to Clause 72.04 (Documents incorporated in this scheme).
- 3.1.5 Amend the *Port Phillip Heritage Review Volumes 1-6* to:
- Include a new precinct Citation for the Montague Commercial Precinct (HO513).
 - Revise existing Citation 2371 relating to the house at 506 City Road, South Melbourne.
 - Remove the Citations 2370 (496-498 City Road, South Melbourne) and 2372 (159-163 Montague Street, South Melbourne) as these places contribute to the significance of the Montague Commercial Precinct but are not of individual significance.
- 3.1.6 Amend the *City of Port Phillip Heritage Policy Map* to apply 'Significant Heritage Place', 'Contributory Heritage Place' and 'Nil / Non-Contributory' heritage gradings to properties in proposed to be included in HO513, in accordance with the heritage gradings detailed in 4.22.
- 3.1.7 Amend the *City of Port Phillip Neighbourhood Character Map* to remove the 'Contributory outside of the Heritage Overlay' grading from 151 Montague Street, South Melbourne (as it is proposed to be included in the heritage overlay).
- 3.1.8 Include the *Fishermans Bend Heritage Review: Montague Commercial Precinct (2019) (RBA Architects and Conservation Consultants, October 2019)* as a background document in Clause 22.04 (Heritage Policy).
- 3.1.9 Make other consequential changes to Clauses 21.07 (Incorporated Documents), Clause 22.04 (Heritage Policy) and the Schedule to Clause 72.04 (Documents incorporated to this Scheme) to update the version number and date of the incorporated documents listed above.



- 3.2 Requests the Minister for Planning to authorise the preparation and exhibition of Amendment C186port to the Port Phillip Planning Scheme, pursuant to Section 8A of the *Planning and Environment Act 1987*.
- 3.3 Requests the Minister for Planning to prepare and approve Amendment C185port to the Port Phillip Planning Scheme, pursuant to Section 20(4) of the *Planning and Environment Act 1987* to:
 - Modify the extent of interim Heritage Overlay 442 (HO442) to also include 151-155 Montague Street and 530-546 City Road, South Melbourne.
 - Extend the expiry date of interim Heritage Overlay 442 (HO442) to 31 October 2020.
 - Make changes to the *Port Phillip Heritage Review, City of Port Phillip Heritage Policy Map* and the *City of Port Phillip Neighbourhood Character Map* corresponding to these properties, consistent with the changes proposed in Amendment C186port.
- 3.4 Endorses the *Fishermans Bend Heritage Review: Montague Commercial Precinct 2019 (RBA Architects and Conservation Consultants, 2019) (Attachment 1)* report as the strategic basis for the additional and modified heritage controls proposed in Amendments C186port and C185port.
- 3.5 Authorises the Chief Executive Officer (or delegate) to finalise the amendment documentation for Amendment C186port and the request for Amendment C185port.
- 3.6 Places Amendment C186port to the Port Phillip Planning Scheme on exhibition, in accordance with Section 19 of the *Planning and Environment Act 1987*, subject to Ministerial Authorisation.

4. KEY POINTS/ISSUES

Recent Heritage Assessments – Fishermans Bend

- 4.1 In 2013, the *Fishermans Bend Heritage Study* (the Study), commissioned by Places Victoria and prepared by Biosis Pty Ltd was finalised as an input to the 'Strategic Framework Plan' for Fishermans Bend.
- 4.2 The Study identified a number of sites of potential heritage significance that were not included in a Heritage Overlay and recommended further investigation to determine their level of significance.
- 4.3 In early 2014, Council commissioned Biosis Pty Ltd to undertake this further investigation, and to recommend where identified places required additional heritage protection.
- 4.4 The *Fishermans Bend Additional Heritage Place Assessments* (September 2015) recommended introducing three new individual heritage overlays, updating an existing Citation and nominating three sites for inclusion on the Victorian Heritage Register. Additionally, it was proposed to extend the existing precinct based Heritage Overlay 442 to include:
 - Shops at 157-163 Montague Street, South Melbourne;
 - Two storey shops at 496-498 City Road, South Melbourne; and



- The house at 506 City Road, South Melbourne.

These sites (and intervening properties at 508-510 City Road and 500-502 City Road) would be included in a Heritage Overlay for the first time.

- 4.5 Amendment C117 was prepared by Council to implement the recommendations of the Biosis work. The Amendment was placed on public exhibition for one month commencing 25 February 2016.
- 4.6 Ten written submissions were received for Amendment C117, including six opposing the Amendment. This included objecting submissions from the owners of 157-163 Montague Street and the owners at 506 City Road, South Melbourne.
- 4.7 The submissions were referred to an independent Planning Panel with a three-day public Panel hearing held in mid-August 2016.
- 4.8 The Panel ultimately recommended the Amendment be adopted subject to a list of recommended changes. Regarding the properties on the City Road / Montague Street corner, the Panel raised three key issues:

- Issue 1: Whether the places warrant inclusion in the heritage overlay

Based on the evidence presented, the Panel considered that 157-163 Montague Street did not warrant a 'Significant Heritage Place' grading and was "*contributory at best*" based on further assessment of its intactness and integrity. The Panel noted that 506 City Road is largely intact and potentially Significant subject to further research of the Montague Precinct.

- Issue 2: Whether the properties should be included in HO442

The inclusion of the properties at 496-510 City Road and 157-163 Montague Street in HO442 (Albert Park Residential Precinct) was not supported, as the heritage significance of those places was found to have no historical connection with the Albert Park area to which HO442 applies.

In making this recommendation, the Panel recognised the heritage significance of the properties but recommended a separate heritage overlay may be more appropriate. Consequently, the Panel recommended the removal of 496-510 City Road and 157-163 Montague Street from the Amendment.

- Issue 3: Whether the Montague neighbourhood slum precinct should be further considered

The Panel noted that there were other places within the Montague Precinct that were potentially of heritage significance. The Panel recommended assessing "*the former Montague slum neighbourhood*" for heritage significance as a potential precinct, a series of individual buildings/infrastructure items or serial listing".

- 4.9 Council adopted Amendment C117 with changes. As part of its adoption, Council did not accept the recommendations to 157-163 Montague Street and 496-510 City Road, South Melbourne. Council stated that 'there are only fragments of this history left within



the broader precinct and accordingly they are important to retain. The Montague Street / City Road corner is an important representation of this’.

- 4.10 Amendment C117 was approved by the Minister for Planning on 26 March 2017, with changes. The Minister supported the Panel’s recommendations to remove the properties at 157-163 Montague Street and 496-510 City Road from the Amendment.
- 4.11 Further, the Minister recommended that Council liaise with the Fishermans Bend Taskforce to undertake further strategic work in the form of a heritage study of the Montague Precinct to establish the significance of the properties. Amendment C117 was gazetted on 4 May 2017.
- 4.12 In October 2017, the Taskforce published *Life on the Bend – A Social History of Fishermans Bend, Melbourne*. While the study explored the thematic social history of Fishermans Bend, including Montague, its scope did not extend to identifying specific fabric that may be worthy of formal heritage protection.
- 4.13 On 5 October 2018, the *Fishermans Bend Framework (2018)*(the Framework) was finalised by the Fishermans Bend Taskforce. The Framework acknowledges the role of the area’s remaining heritage places in strengthening the sense of place and identity (Objective 3.9 of the Framework) and identifies additional sites in Fishermans Bend as ‘Recommended for heritage investigation (subject to heritage assessment)’.
- 4.14 Accordingly, a more detailed heritage assessment of places in Fishermans Bend is required to further investigate the potential heritage significance of these sites (including the properties at 496-510 City Road and 157-163 Montague Street, South Melbourne).
- 4.15 Council officers have appointed RBA Architects and Conservation Consultants to undertake this work, which is nearing completion and anticipated to be finalised in early-2020. The findings would inform a future amendment to the Port Phillip Planning Scheme (possibly as part of the implementation of precinct plans for Fishermans Bend).
- 4.16 Given the upcoming expiry date of the interim heritage controls applying to 157-163 Montague Street and 496-510 City Road, South Melbourne and the on-going nature of the remaining Fishermans Bend heritage study, Council officers propose to process a separate amendment for the proposed ‘Montague Commercial Precinct’.

‘Montague Commercial Precinct’ 2019

- 4.17 The ‘Montague Commercial Precinct’ (the Precinct) includes a group of surviving commercial and residential buildings dating from the late nineteenth century and early twentieth century. The Precinct is situated around the intersection of City Road and Montague Street in South Melbourne (see Attachment 2).
- 4.18 A draft Citation for the Precinct was prepared by Council’s heritage advisor in response to the recommendations of the Amendment C117 Panel.



- 4.19 RBA Architects and Conservation Consultants undertook a peer review of the draft Citation and confirmed that it has strong potential to meet the threshold for local significance, with some recommended changes to the Citation.
- 4.20 The *Fishermans Bend Heritage Review: Montague Commercial Precinct* (RBA Architects and Conservation Consultants, 2019) (the Report) (Attachment 1) has been prepared. The Report advises that the Precinct is of historical (Criterion A and B), representative (Criterion D) and aesthetic (Criterion E) significance at a local level.
- 4.21 The following is an extract of the Statement of Significance included within the individual Citation prepared for the Precinct. The full Citation is included in the Report at Attachment 1:

“Why is it significant?”

The Montague Commercial Precinct is historically significant as a remnant of the former Montague neighbourhood, home to a tight knit working class community since the 1860s/70s, which was designated a slum by authorities and otherwise almost entirely demolished and replaced with industrial and commercial buildings from the early 20th century onwards. It is reflective of the earlier finer subdivision pattern in Montague, which has changed due to the redevelopment of land for industry during the mid-20th century. The precinct also includes a house dating to 1914, one of few surviving in the Montague area. As such, the precinct is associated with a now disappeared aspect of South Melbourne’s history. (Criteria A & B)

The precinct is significant as a representative and largely intact example of a typical small local commercial centre surrounding an intersection and on a former tram route. The precinct is defined by two prominent corner buildings, the former Hotel Nelson at 520-522 City Road and the shops and residences at 524-528 City Road. It is also distinctive within the Montague area as a remnant group of late nineteenth and early twentieth century buildings, encompassing the late Victorian, Federation and Interwar periods, in an area that has otherwise been redeveloped. In addition, several early 20th century shopfronts survive. (Criteria D & E)”

- 4.22 The Report recommends that the Montague Commercial Precinct be included in the heritage overlay, and that places within the Precinct are afforded the following gradings:
- ‘Significant heritage place’ gradings – 151 and 163 Montague Street and 496 & 498, 506, 512 & 514, 516 & 518, 520-522, 524-528, 532, 534, 536, 538 and 544-546 City Road, South Melbourne.
 - ‘Contributory heritage places’ – 153, 155, 157-161 Montague Street and 540-542 City Road, South Melbourne.
 - ‘Non-Contributory’ – 500-502, 508-510, 530 City Road, South Melbourne.
- 4.23 The Report also recommended an update to the Citation for 506 City Road, which is considered to be of individual significance to Port Phillip as one of few remaining examples of an early 20th century house associated with the former Montague neighbourhood (Criterion A) and as a good and largely intact example of a Federation



period residence (Criterion E). A copy of the updated Citation for 506 City Road is included in the Report at Attachment 1.

Proposed permanent heritage controls – Amendment C186port

- 4.24 Implementing the recommendations of the *Fishermans Bend Heritage Review: Montague Commercial Precinct* (RBA Architects and Conservation Consultants, 2019) to update the heritage controls on a permanent basis will require an amendment to the Port Phillip Planning Scheme to:
1. Amend the Schedule to Clause 43.01 (Heritage Overlay) and Planning Scheme Map 3HO to:
 - a. Apply Heritage Overlay HO513 (Montague Commercial Precinct) to land immediately surrounding and including 496-546 City Road and 151-163 Montague Street, South Melbourne.
 - b. Remove 512-512A, 516, 518, 522 and 524-528 City Road, South Melbourne from HO442 as the properties will now be included in HO513 on a permanent basis.
 - c. Remove 157-163 Montague Street and 496-510 City Road, South Melbourne from interim HO442 as the properties will now be included in HO513 on a permanent basis.
 2. List the Statement of Significance for the new HO513 Montague Commercial Precinct in the Schedule to Clause 72.04 (Documents incorporated in this scheme).
 3. Amend the incorporated *Port Phillip Heritage Review Volumes 1-6* to:
 - a. Add a new precinct citation for HO513 (Montague Commercial Precinct).
 - b. Amend existing Citation 2371 relating to 506 City Road, South Melbourne.
 - c. Remove Citations 2370 (496-498 City Road, South Melbourne) and 2372 (159-163 Montague Street, South Melbourne) as these places contribute to the significance of the Montague Commercial Precinct, but are not of individual significance.
 4. Amend the incorporated *City of Port Phillip Heritage Policy Map* to apply 'Significant Heritage Place', 'Contributory Heritage Place' and 'Nil / Non-contributory Place' gradings to properties in HO513 as detailed in 4.22.
 5. Remove the 'Contributory Outside HO' grading applying to 151 Montague Street, South Melbourne in the incorporated *City of Port Phillip Neighbourhood Character Map*.
 6. Add the *Fishermans Bend Heritage Review: Montague Commercial Precinct (2019)* (RBA Architects and Conservation Consultants, October 2019) as a background document in Clause 22.04 (Heritage Policy).
 7. Make other consequential changes to Clauses 21.07 (Incorporated Documents), Clause 22.04 (Heritage Policy) and the Schedule to Clause 72.04 (Documents incorporated in this scheme) to update the version number and date of the incorporated documents listed above.



- 4.25 Amendment C186port would be required to undergo a full exhibition process in accordance with the Act.

Extent of Request for Interim Heritage Controls

- 4.26 Interim heritage controls are typically applied to protect places of significance whilst permanent controls are being processed through a full-exhibition amendment. This manages the risk of a building being demolished, without heritage issues being considered during the planning permit process. An interim control does not prevent demolition outright, but rather triggers a planning permit for demolition to ensure heritage matters are considered.
- 4.27 Interim heritage overlay HO442 was approved for 157-163 Montague Street and 496-510 City Road via Amendment C115, and continue to apply. The current expiry date is 30 January 2020.
- 4.28 There are no interim heritage controls applying to 151-155 Montague Street and 530-546 City Road, South Melbourne.
- 4.29 The expiry date of interim HO442 has previously been extended through Amendments C146, C152 and C157. The extensions have been granted to enable Council to undertake the further strategic work required to justify a request for permanent controls.
- 4.30 On approval of Amendment C157 in January 2019, the Minister for Planning's delegate noted that given it was the third extension of interim heritage controls, it was unlikely that a further request to extend the expiry date of the interims would be supported unless notice (via exhibition) of permanent heritage controls for 157-163 Montague Street and 496-510 City Road, South Melbourne is given under Section 19 of the Act.
- 4.31 To ensure these important buildings are provided with interim heritage protection while Council finalises the permanent heritage controls, Council needs to request that the Minister for Planning exercise his powers pursuant to section 20(4) of the Act to undertake a planning scheme amendment.
- 4.32 Practice Note 29 'Ministerial Powers of Intervention' refer to circumstances when the Minister may undertake a section 20(4) amendment. This includes that:
- "The matter will be the introduction of an interim provision or requirement and substantially the same provision or requirement is also subject to a separate process of review (such as the introduction of permanent controls in a planning scheme)."*
- The Minister is not obligated to approve Council's request.
- 4.33 By undertaking a section 20(4) amendment process, the Minister would be exempt from the statutory notification requirements set out in the Act.
- 4.34 To provide the Montague Commercial Precinct with interim heritage protection, Amendment C185port proposes to make the following specific changes to the Port Phillip Planning Scheme:



1. Apply interim HO442 to 151, 153, 155 Montague Street and 530, 532, 534, 536, 538, 540-542, 544-546 City Road, South Melbourne through amending the Schedule to Clause 43.01 (Heritage Overlay) and Planning Scheme Map 3HO.
2. Extend the expiry date of interim HO442 by 10 months (to expire on 31 October 2020) by amending the Schedule to Clause 43.01 (Heritage Overlay).
3. Update the incorporated *Port Phillip Heritage Review Volumes 1-6* to:
 - a. Update existing HO442 with an updated citation, which includes sub-precinct 'Montague Commercial Precinct'
 - b. Update the existing Citation 2371 applying to 506 City Road, South Melbourne
4. Update the incorporated *City of Port Phillip Heritage Policy Map* to show added 'Significant Heritage Place', 'Contributory Heritage Place' and 'Nil / Non-contributory Place' gradings in accordance with the gradings detailed in 4.22 above, on an interim basis.
5. Remove the 'Contributory Outside HO' grading applying to 151 Montague Street, South Melbourne in the incorporated *City of Port Phillip Neighbourhood Character Map*.
6. Include the *Fishermans Bend Heritage Review: Montague Commercial Precinct* (2019) (RBA Architects and Conservation Consultants, October 2019) as a background document in Clause 22.04 (Heritage Policy), and
7. Make other consequential changes to Clauses 21.07 (Incorporated Documents), Clause 22.04 (Heritage Policy) and the Schedule to Clause 72.304 (Documents incorporated in this scheme) to update the version number and date of the *Port Phillip Heritage Review* (including the *City of Port Phillip Heritage Policy Map* and the *City of Port Phillip Neighbourhood Character Map*).

5. CONSULTATION AND STAKEHOLDERS

- 5.1 Officers have liaised with officers the Department of Environment, Land, Water and Planning (DELWP) and Fishermans Bend Taskforce who have raised no concerns with officer's approach to seeking additional heritage controls for sites within the Montague Commercial Precinct.
- 5.2 The owners of the properties affected by the HO442 interim heritage controls (496-510 City Road and 157-163 Montague Street, South Melbourne) have previously been advised of Council's intention to undertake a further heritage assessment of the shops and houses to establish heritage significance.
- 5.3 The owners of all properties impacted by proposed Amendments C185port and C186port will be invited to attend the Planning Committee Meeting on 4 December 2019.
- 5.4 If authorised by the Minister for Planning, Amendment C186port would undergo a formal public exhibition process in accordance with the requirements of the Act. This would provide an opportunity for all affected landowners and any interested persons to make a submission and have their views considered by Council and any Planning Panel that may be appointed to consider the amendment.



- 5.5 If approved by the Minister for Planning through a Section 20(4) Ministerial Amendment, Amendment C185port would be exempt from notice requirements. All affected owners will be notified in writing of the Minister's decision in relation to this amendment.
- 5.6 Council's website will be updated with information on both Amendment C186port and C185port.

6. LEGAL AND RISK IMPLICATIONS

- 6.1 The Minister of Planning advised on 29 January 2019 that as it was the third extension of interim heritage controls, it would be unlikely that a further request would be supported unless notice of permanent controls is given under Section 19 of the Act. As such, it is necessary to have Amendment C186port (Permanent controls) on exhibition to request authorisation for Amendment C185port (Extension of heritage controls). Should this not occur, there is a risk that Amendment C185port would not be supported and the interim controls would lapse. This would leave this important heritage fabric at risk of demolition proposals.
- 6.2 No other significant risk implications have been identified in relation to the processing of the amendments to seek interim and permanent heritage controls. The amendments will be processed in accordance with the requirements of the Act.

7. FINANCIAL IMPACT

- 7.1 The financial costs associated with Amendment C186port (permanent controls) relate to the costs of processing the amendment (such as panel hearing costs, expert evidence and/or legal representation if required) and payment of the statutory fee for Ministerial approval. Provision for these costs is made within the annual budget allocation for Planning Scheme Amendments.
- 7.2 For Amendment C185port, Council will be required to pay a statutory fee to request the Minister to extend the interim heritage controls through a Section 20(4) amendment to the Port Phillip Planning Scheme. Provision for these costs is made within the annual budget allocation for Planning Scheme Amendments.

8. ENVIRONMENTAL IMPACT

- 8.1 The proposed Amendments C185port and C186port would have a positive environmental impact by protecting places of historic significance and facilitating the reuse and recycling of existing building stock.
- 8.2 The Victorian heritage strategy, *Victoria's Heritage: Strengthening our Community* details the environmental benefits of conservation:

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



9. COMMUNITY IMPACT

- 9.1 The proposed Amendments C185port and C186port would have a positive social effect through the preservation of historically significant places for the benefit of current and future generations.
- 9.2 The proposed Amendments C185port and C186port are not expected to have a significant economic impact on the community, although it is likely to have a direct cost impact on the owners of affected properties included in the heritage overlay for the first time through additional permit requirements.
- 9.3 The matter of negative economic impacts, such as on property values and development potential, have been considered repeatedly by planning panels considering the introduction of heritage controls. The findings have been summarised in the Panel Report for Latrobe Planning Scheme Amendment C14, as follows:
- “Panels have repeatedly ruled that such issues are not material to this stage of the planning progress – a position supported by Practice Notes and numerous VCAT decisions. This view maintains that although it is appropriate for the responsible authority to consider all the objective of the Planning and Environment Act 1987 including, inter alia, ‘fair, orderly, economic and sustainable use, and development of the land’ (s.4(1)(a))... and... ‘to balance the present and future interests of all Victorians’ (s.4(1)(g)) – the question of personal economic impact or potential constraint on development are matters for the next stage of the planning process i.e. at the time a permit is applied for. This approach has the merit of separating two distinct issues: assessment of the significance of the place, and the question of its conservation, adaptation, alteration or demolition. This conforms with proper heritage conservation practice and mirrors the processes of the Victorian Heritage Act 1985. It reflects the desirability of considering long term matters (if we accept that heritage significance is likely to be somewhat enduring, if not immutable) at one point in time; and, shorter term matters (personal desire, financial considerations and economic circumstances) when they are most relevant.”*
- 9.4 Furthermore, Planning Panels Victoria has established the principle that social and economic effects relevant at the amendment stage are of a broad community nature rather than those of a personal kind (see Panel Report - Amendment C207 to the Melbourne Planning Scheme).

10. ALIGNMENT TO COUNCIL PLAN AND COUNCIL POLICY

- 10.1 The application of heritage controls is consistent with the *‘We are Port Phillip’ Council Plan 2017-2027* commitment to ‘protecting heritage places’ and ‘ensuring new development integrates with, respects and contributes to the unique heritage, character and beauty of our neighbourhoods’.

11. IMPLEMENTATION STRATEGY

TIMELINE

- 11.1 If Council decides to proceed with Amendment C186port (permanent controls), a request for Ministerial Authorisation to exhibit will be made within 5 working days, following this meeting.

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- 11.2 If Council resolves to request interim heritage controls through Amendment C185port, this request will also be made within 5 working days following this meeting.
- 11.3 The Minister has 10 business days to decide on the request for authorisation, or the amendment is deemed to be authorised. However, the Minister could notify Council that further review of the amendment is required, and this would 'stop the clock'.
- 11.4 Subject to receiving authorisation, public exhibition of Amendment C186port is scheduled to commence in mid-January 2020 for a one month period. This could be extended to account for the consultation falling within the school holiday period and close to the holiday season.
- 11.5 Submissions received are required to be formally considered by Council and any objecting submissions must be referred to an independent Planning Panel.

COMMUNICATION

- 11.6 A Council decision to proceed with Amendment C186port will result in formal public exhibition process in accordance with the Act. This will ensure awareness of the amendment by affected property owners and occupiers, key interest groups and the wider community.
- 11.7 The owners of the affected properties will be advised in writing of Council's decision following this meeting.

12. OFFICER DIRECT OR INDIRECT INTEREST

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

TRIM FILE NO:

66/02/285

ATTACHMENTS

- 1. Montague Commercial Precinct Report (RBA Architects and Conservation Consultants, 2019)**
- 2. Proposed Montague Commercial Precinct**
- 3. C186port Amendment Documentation**