

Agenda Item 9.5**HERITAGE INCORPORATED PLAN PANEL REPORT AMENDMENT C147**

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PURPOSE

To present the Heritage Incorporated Plan Panel Report (Amendment C147), and recommend the Amendment be adopted and submitted to the Minister for Planning for approval.

ISSUES SUMMARY

- The Heritage Incorporated Plan (Amendment C147) seeks to introduce planning permit exemptions for minor buildings and works in heritage precincts identified in the Maribyrnong Planning Scheme.
- The Amendment was publically exhibited with seven submissions received relating to the exemptions and potential for unintended heritage, character and amenity impacts.
- The submissions and Amendment were referred to an Independent Planning Panel, appointed by the Minister for Planning, for consideration and a hearing was held in November 2018.
- The Panel report acknowledges Council's efforts in developing the Incorporated Plan, encouraging good heritage outcomes, providing a more efficient assessment process and removing straightforward applications from the planning system.
- The Panel considered the proposed permit exemptions provide a balanced approach to recognise and support appropriate heritage outcomes and avoid unintended heritage consequences.
- The Panel recommends Council adopt Amendment C147 subject to minor changes to the exhibited Heritage Incorporated Plan and supporting planning provisions.
- It is recommended that the Amendment be adopted and submitted to the Minister for Planning for approval.

ATTACHMENTS

1. Amendment C147 - Panel Report [↓](#)
2. Amendment C147 Documents for Adoption [↓](#)
3. Incorporated Plan - Permit Exemptions in Heritage Precincts October 2018 [↓](#)

OFFICER RECOMMENDATION

That Council:

1. Consider the Amendment C147 Panel Report (Attachment 1) and support all the changes as recommended by the Panel, pursuant to Section 27 of the *Planning and Environment Act 1987*.
 2. Adopt Amendment C147 and the Permit Exemptions in Heritage Precincts Incorporated Plan, October 2018 (Attachments 2 and 3) as recommended by the Panel, pursuant to Section 29 of the *Planning and Environment Act 1987*.
 3. Submit Amendment C147 to the Minister for Planning for approval, pursuant to Section 31 of the *Planning and Environment Act 1987*.
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Agenda Item 9.5**BACKGROUND****Purpose of the Amendment**

The purpose of the Amendment is to reduce the number of planning permit applications in Heritage Overlay (HO) precincts and provide guidance to land owners and developers.

Amendment C147 seeks achieve this by introducing an Incorporated Plan into the HO Schedule of the Maribymong Planning Scheme (Scheme) providing exemptions for minor buildings and works from the need for a planning permit.

The Incorporated Plan outlines six types of buildings and works that are suitable for permit exemptions, comprising:

- Minor modifications and alterations
- Additions to buildings
- Outbuildings
- Pergolas and verandahs
- Fences and roller doors
- Vehicle crossovers and driveways.

The Amendment proposes to change the Scheme by:

- Amending the Schedule to the HO, Clause 43.01, to insert an Incorporated Plan (titled 'Permit Exemptions in Heritage Precincts Incorporated Plan, October 2018') to the heritage precincts HO1 to HO5 and HO7 to HO15
- Amending the Schedule to Clause 72.04 Documents Incorporated in this Planning Scheme (previously known as Clause 81.01) to include reference to Permit Exemptions in Heritage Precincts Incorporated Plan (October 2018).

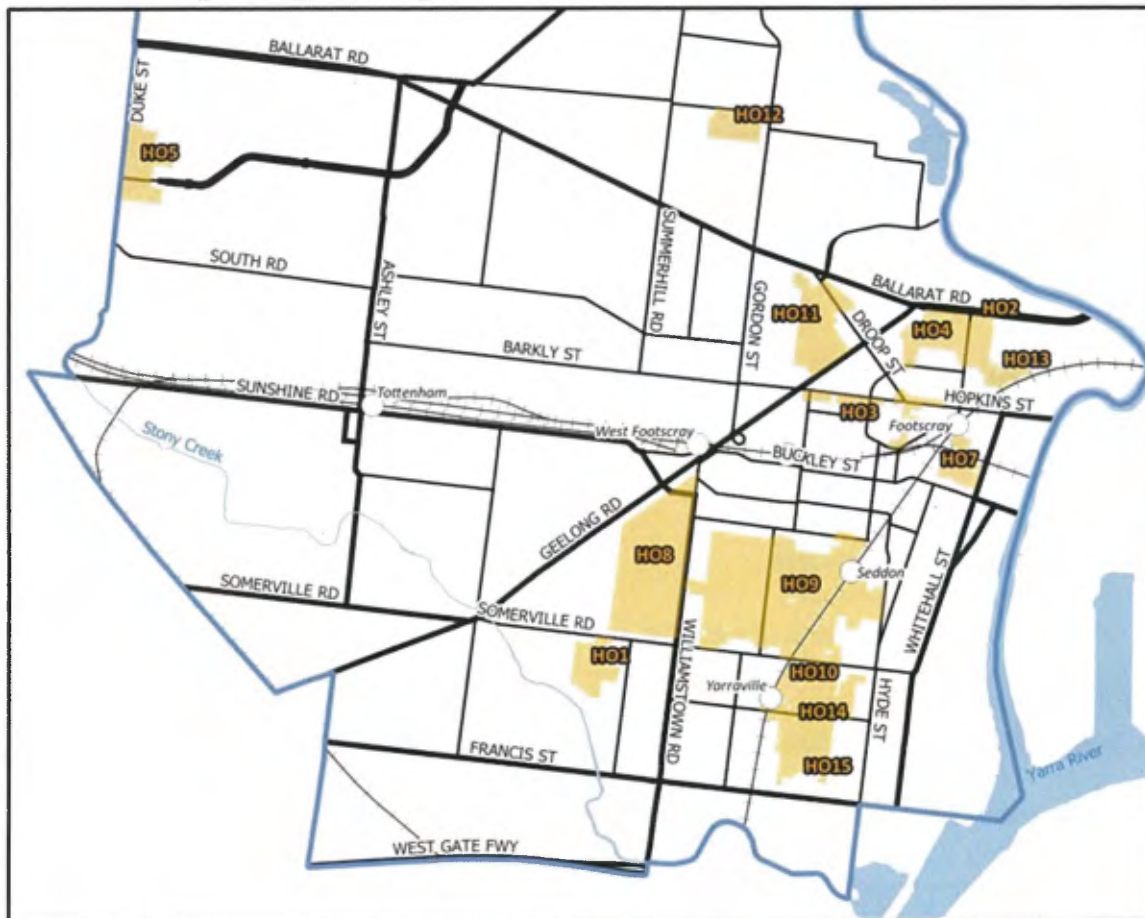
The Amendment applies to land within fourteen HO precincts located in Yarraville, Footscray, Braybrook, Kingsville, Seddon, Maidstone and Maribymong (refer to map below).

The planning permit exemptions do not apply to places:

- included in the Victorian Heritage Register
- identified as 'individually significant' places, properties or buildings in precincts in Clause 22.01 (Cultural Heritage Policy)
- included in the HO Schedule as individual places or located in HO precincts which are not identified in Table 1 to the Incorporated Plan.

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Maribyrnong Heritage Precincts



Amendment Process and Timelines

Council, at its Ordinary Council Meeting on 27 June 2017, resolved to seek authorisation from the Minister for Planning to prepare and exhibit Amendment C147.

Authorisation was received (with conditions) from the Minister for Planning on 12 January 2018. The conditions related to minor changes to improve the clarity and interpretation of the Incorporated Plan and removal of duplication introduced through Smart Planning Reforms Planning Scheme Amendment VC142.

Public exhibition of the Amendment occurred between 14 June 2018 and 20 July 2018. Notice of the Amendment provided in accordance with the *Planning and Environment Act 1987*, as detailed in Section 4 of this report.

Seven submissions, including one late submission, were received following public exhibition of the Amendment. Council's Delegate considered all submissions on 27 August 2018, and resolved to request the Minister for Planning to appoint an Independent Panel. The Panel hearing was held on the 30 October 2018 at the Footscray Town Hall.

Agenda Item 9.5**DISCUSSION/KEY ISSUES****1. Panel Report**

The Panel delivered its report to Council on 10 December 2018 concluding that:

- The Incorporated Plan was developed through a rigorous assessment of current applications, the heritage precincts and similar heritage permit exemption tools used in other municipalities.
- The Incorporated Plan is structured in a manner that provides clear, informative guidance using text and diagrams that will assist with its interpretation and application.
- The Amendment provides a balanced approach to recognising and supporting appropriate heritage outcomes and avoiding unintended heritage consequences.
- Council's efforts in developing the Incorporated Plan will assist in encouraging good heritage outcomes, provide a more efficient assessment process and remove straightforward applications from the planning system.
- The Amendment be adopted subject to minor changes to the exhibited Incorporated Plan and supporting schedules.

The key matters considered in the report are discussed below (for further details refer to Attachment 1):

Planning Context

The Panel reviewed the policy context and considered the Amendment supports and implements the Planning Policy Framework and Local Planning Policy Framework. It is also consistent with the relevant Ministerial Directions and Practice Notes. The Panel considered the Amendment is well founded and strategically justified.

Heritage Impacts

The Panel was satisfied that the concerns raised by the National Trust are managed appropriately through the Incorporated Plan. The use of explanatory text and diagrams are clear, unambiguous and easily interpreted by landowners, developers, heritage experts and Council officers.

The Panel considers the exemptions identified in the Incorporated Plan are well founded, they were critically examined to ensure no unintended heritage consequences.

Neighbourhood character and amenity impacts

The Panel concludes that the proposed permit exemptions will have minimal neighbourhood character impacts, and matters relating to potential amenity impacts are beyond the scope of this Amendment.

Rail corridor

The Panel notes the intent behind Transport for Victoria's (TfV) submission for additional planning permit exemptions for buildings and works within the rail corridor. However, they were of the view it would be best achieved through a state-wide approach initiated by TfV.

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Extent of exemptions

The Panel considered submissions to expand the permit exemptions to include places of individual significance and for the construction of new dwellings on sites under 300sqm. The Panel concluded that these exemptions were outside the scope of the Amendment and would have a significant impact on individual places and potentially on the heritage character values of the precincts.

Form and content of the Amendment

The Panel sought additional information from Council at the directions hearing regarding:

- Clarification of post authorisation and pre-exhibition amendment changes as identified in the Department of Environment, Land , Water and Planning’s (DEWLP) correspondence in June 2017
- A simplified title for the Incorporated Plan
- A response to Planning Scheme Amendment VC148 as it relates to transitional provisions and the consequential impacts of the proposed HO changes.

A revised set of Amendment documentation and Incorporated Plan were prepared and presented to the Panel Hearing as part of Council’s submission. The changes entailed:

- A revised incorporated plan including a new title ‘Permit Exemptions in Heritage Precincts Incorporated Plan (October 2018)’ and redrafting to remove redundant text in response to State Government changes through Amendment VC148 and DELWP correspondence
- A revised Schedule to Clause 43.01 to accord State Government’s changes introduced through Amendment VC148 and reformatted list of heritage places
- A new Schedule to Clause 72.04 referring to the new Incorporated Plan title.

The Panel supported the proposed changes presented by Council and considered them to be sensible, logical and minor in nature. The Panel concluded that the changes are largely inconsequential, do not change the intent of the Amendment, the application of the Incorporated Plan and were not matters raised by submissions.

Panel recommended	Officer response
1. Modify the Incorporated Plan (including a new title and redundant text in response to State Government changes through Amendment VC148 and DELWP correspondence removed)	Supported
2. Modify the Schedule to Clause 43.01 Heritage Overlay (to accord State Government’s changes introduced through Amendment VC148 and reformatted list of heritage places) as presented in Council’s submission to Panel.	Supported
3. Replace the Schedule to Clause 81.01 with a new Schedule to Clause 72.04 referring to the new Incorporated Plan title as presented in Council’s submission to Panel.	Supported

Agenda Item 9.5**2. Council Policy/Legislation****Council Plan 2017-2021**

This report contributes to Council's strategic objectives contained in the Council Plan 2017-2021, by considering:

- Strategic Objectives:
 - Quality places and spaces - lead the development of integrated built and natural environments that are well maintained, accessible and respectful of the community and neighbourhoods.
 - Growth and prosperity - support diverse, well-planned neighbourhoods and a strong local economy.

Legislation

- *Planning and Environment Act 1987*
- Ministerial Direction on the Form and Content of Planning Schemes
- Ministerial Direction 9 – Metropolitan Planning Strategy
- Ministerial Direction No.11 – Strategic Assessment of Amendments
- Ministerial Direction No. 15 – The Planning Scheme Amendment Process

The Strategic Assessment of the Amendment is detailed in the Explanatory Report (Attachment 2).

Conflicts of Interest

No officer responsible for, or contributing to, this report has declared a direct or indirect interest in relation to this report.

Human Rights Consideration

This report complies with the rights listed in the Victorian *Charter of Human Rights and Responsibilities Act 2006*.

3. Engagement

The Amendment was publicly exhibited between 14 June 2018 and 20 July 2018. Key activities included:

- Notice of preparation of Amendment C147, letter and brochure sent to Heritage Victoria, Footscray Historical Society, Sunshine Historical Society, Inner West Branch of the National Trust, and the Living Museum of the West
- Amendment presented to the Maribyrnong Heritage Advisory Committee on the 26 June 2018
- Letters and notices sent to relevant Prescribed Ministers, relevant referral authorities and service agencies
- Notice of Preparation of the Amendment published in the Maribyrnong and Hobsons Bay Star Weekly newspaper and the Government Gazette
- Amendment material available at the Footscray Town Hall, Braybrook Library, Footscray Library, the Highpoint (Maribyrnong) Library, West Footscray Library and Yarraville Library

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- Information available on Council's website (Your City Your Voice) and the Department of Environment, Land, Water and Planning's website.

Notice of the Amendment to all landowners was not undertaken in this instance as:

- Heritage permit exemptions are generally for works that are not visible from the public realm and are already exempt from notice and review rights under Clause 43.01 HO of the Maribymong Planning Scheme
- The Amendment facilitates a more streamlined approach to planning in the City by removing planning permit requirements for certain buildings and works under the HO which are considered minor
- Over 1,300 properties in 14 different heritage precincts makes it impractical to notify them all individually.

Seven submissions were received, and one submitter presented at the Panel hearing.

4. Resources

The Amendment will have a positive impact on the resource and administration costs for Council as it will reduce the number of applications for minor works that require assessment.

5. Environment

The Amendment will not result in any adverse effects on the environment.

CONCLUSION

The Panel concluded that the Amendment is well founded and strategically justified. Subject to minor changes to the exhibited Incorporated Plan and supporting Schedules, the Panel recommends Council adopt the Amendment.

The Amendment will provide a more efficient assessment process and remove straightforward applications from the planning system. It is recommended that Amendment C147 be adopted in accordance with the Panel's recommendation, and be submitted to the Minister for Planning for approval.