



INDEPENDENT PLANNING PANEL

**APPOINTED BY THE MINISTER FOR PLANNING
PLANNING PANELS VICTORIA**

IN THE MATTER OF ***AMENDMENT C394*** TO THE MELBOURNE PLANNING SCHEME

FISHERMANS BEND IN-DEPTH HERITAGE REVIEW

PART A SUBMISSION OF THE PLANNING AUTHORITY

DATE: 23 NOVEMBER 2021

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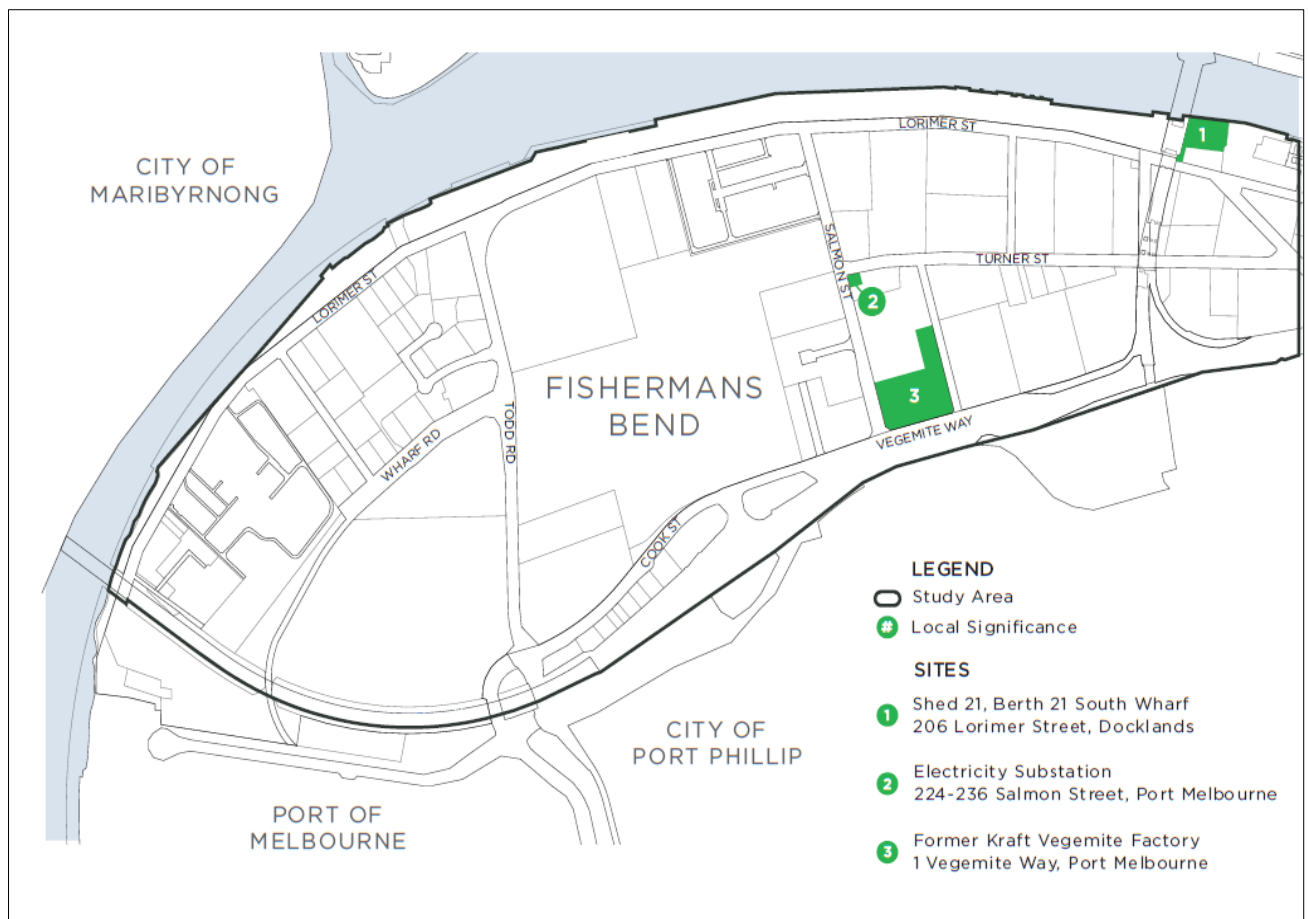
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Introduction

1. The City of Melbourne (**Council**) is the Planning Authority for Amendment C394 (**Amendment**) to the Melbourne Planning Scheme (**Scheme**).
2. Council has prepared and is the proponent of this Amendment.
3. These submissions are made in accordance with the Panel's Directions dated 26 October 2021 (**Directions**).
4. In addition to these Part A submissions, Council:
 - 4.1 circulates the expert evidence of its heritage expert, Helen Lardner, HLCD Pty Ltd;
 - 4.2 will table its Part B submission closer to the hearing, where it will address any other matters raised in expert evidence or material circulated by the parties prior to the Panel Hearing, and explore any further issues raised by the submissions;
 - 4.3 will on the first day of the hearing:
 - (a) call evidence from the following witness:
 - (i) Helen Lardner, HLCD Pty Ltd (heritage);
 - 4.4 at the close of its case table a Part C submission, if necessary.
5. The Panel has directed that Council provide its 'Part A' submission by noon on 23 November 2021. In accordance with Direction 2 of the Directions, this Part A submission includes:
 - (a) the background to the Amendment (including a chronology of events at Attachment 1);
 - (b) the strategic context and assessment;
 - (c) a summary of the submissions and the issues raised;
 - (d) any suggested changes to the Amendment in response to submissions.
6. Council's Part A submission will be taken as read by the Panel at the Hearing.

Overview of Amendment

7. The Amendment applies to three (3) places within the study area of the Fishermans Bend In-Depth Heritage Review 2021, prepared by HLCD Pty Ltd and Dr Peter Mills (**Fishermans Bend In-Depth Heritage Review**) as follows:
- 7.1 1 Vegemite Way, Port Melbourne (Former Kraft Vegemite Factory site);
- 7.2 224- 236 Salmon Street, Port Melbourne (Electricity Substation site);
- 7.3 206 Lorimer Street, Docklands (Shed 21 site).
8. The land affected by the Amendment (**Amendment Land**) is shown on the map below:



9. The following planning controls currently apply to the Amendment Land:

- 9.1 The Former Kraft Vegemite Factory site is within the Industrial 1 (IN1Z) and is affected by a Design and Development Overlay Schedule 74 that relates to the Fishermans Bend Employment Precinct (DDO74).
- 9.2 The Electricity Substation site is located within the Public Use Zone Schedule 1 (PUZ1). No overlays apply.
- 9.3 Shed 21 site is within the Docklands Zone (DZ) and is affected by five overlays, including: the City Link Project Overlay (CLPO); Design and Development Overlay Schedule 12 - Noise Attenuation Area (DDO12); Design and Development Overlay Schedule 49 - Yarra's Edge Precinct Area (DDO49); Development Plan Overlay Schedule 2 – Yarra's Edge Precinct (DPO2); and Parking Overlay Schedule 11 (PO11).
10. The Amendment proposes to implement some of the findings of the *Fishermans Bend In-Depth Heritage Review* as it relates to the Amendment Land by applying the Heritage Overlay to the Amendment Land.
11. Specifically the Amendment:
 - 11.1 Amends the schedule to Clause 43.01 (Heritage Overlay) to include three (3) new individual Heritage Overlays on a permanent basis;
 - 11.2 Amends the policy at Clause 22.04 (Heritage Places in the Capital City Zone) to apply to land at 206 Lorimer Street, Docklands and to include the *Fishermans Bend In-Depth Heritage Review* as a policy reference giving it background document status under the Scheme;
 - 11.3 Amends planning scheme map 7HO to reflect the changes described above;
 - 11.4 Amends the schedule to clause 72.04 (Incorporated documents) by adding Statements of Significance for the 3 new individual heritage overlays to reflect the addition of these overlays in the schedule to clause 43.01;
 - 11.5 Amends the incorporated document titled Heritage Places Inventory 2020 Part A to reflect the amendments to the schedule to clause 43.01 by adding 3 new places with individual Heritage Overlays;

- 11.6 Amends the schedule to clause 72.08 Background Documents by adding the *Fishermans Bend In-Depth Heritage Review* as a background document in the Scheme.

Background to the Amendment

Heritage Studies & Recent Relevant Amendments

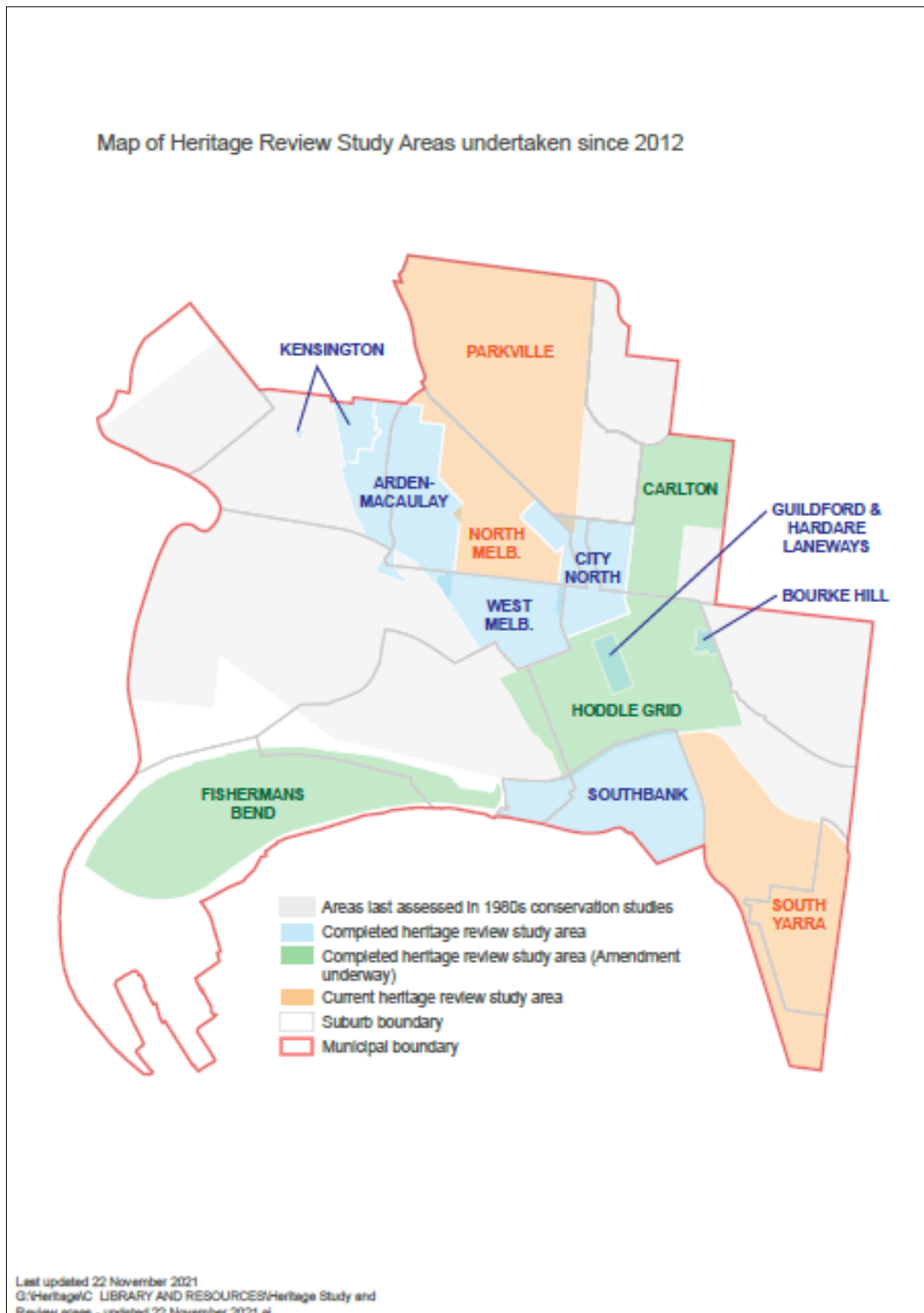
12. The City of Melbourne has been engaged in progressive and forward looking heritage planning since the 1980s. More than 30 studies have been undertaken to document the municipality's heritage since the first heritage controls were introduced into planning schemes in Victoria.
13. By the mid-1980s, the City of Melbourne had comprehensively assessed heritage across residential areas and the central city. Urban Conservation Studies were prepared and progressively translated into planning controls in the Melbourne Metropolitan Planning Scheme.
14. The City of Melbourne undertook a strategic review of its heritage program and released its Heritage Strategy in 2013, including a 15 year framework to ensure the continued protection and enhancement of all elements of Melbourne's heritage.
15. The Heritage Strategy 2013 contains 38 actions, including the first priority actions described as being to:

Progressively undertake a review of heritage in the high-growth and urban renewal areas and in the mixed use areas in the city;

16. The Heritage Strategy 2013 has resulted in a program of heritage reviews being undertaken by the City of Melbourne:
- 16.1 Heritage reviews have been completed and translated into planning controls for Arden Macaulay (2012), City North (2013), Kensington (2013), West Melbourne (2020) and Southbank (2021).
- 16.2 The Hoddle Grid Heritage Review is currently the subject of Planning Scheme Amendment C387.

16.3 Heritage reviews are currently underway for North Melbourne and South Yarra, and an Amendment process for Carlton is in early stages.

17. The below map illustrates where heritage reviews have been previously undertaken and areas in which recent and upcoming heritage reviews are progressing.



Amendment C258: City of Melbourne Heritage Policies Review and heritage gradings conversion

18. An action item identified in the Heritage Strategy 2013 was to undertake a review of the City of Melbourne's heritage places grading system.
19. The Heritage Policies Review and heritage gradings conversion was undertaken in order to provide a modernised heritage protection regime and in accordance with *Planning Practice Note 1 – Applying the Heritage Overlay*, August 2018 (**PPN01**).
20. The outcomes of this review were implemented through Amendment C258, gazetted on 10 July 2020.
21. Amendment C258 introduced a number of key changes to heritage policy within the City of Melbourne:
 - 21.1 The incorporated document, 'Heritage Places Inventory June 2016' which graded heritage places using the A to D heritage grading system and did not include Central City heritage places, was revised so that the A to D grading system was converted into a significant / contributory / non-contributory grading system and places in the Central City were included.
 - 21.2 Updating the two Heritage policies in the Scheme and new Statements of Significance for the existing large heritage precincts in the Heritage Overlay.
22. The definitions of significant, contributory and non-contributory are contained in the form of Clause 22.04, Clause 22.05 and also in the incorporated documents Melbourne Planning Scheme, Heritage Places Inventory, February 2020 Part A and Part B as follows:
 - 22.1 'Significant' heritage place:

A 'significant' heritage place is individually important at state or local level, and a heritage place in its own right. It is of historic, aesthetic, scientific, social or spiritual significance to the municipality. A 'significant' heritage place may be highly valued by the community; is typically externally intact; and/or has notable features associated with the place type, use, period, method of construction, siting or setting. When located in a

heritage precinct a 'significant' heritage place can make an important contribution to the precinct.

22.2 'Contributory' heritage place:

A 'contributory' heritage place is important for its contribution to a heritage precinct. It is of historic, aesthetic, scientific, social or spiritual significance to the precinct. A 'contributory' heritage place may be valued by the community; a representative example of a place type, period or style; and/or combines with other visually or stylistically related places to demonstrate the historic development of a precinct. 'Contributory' places are typically externally intact, but may have visible changes which do not detract from the contribution to the heritage precinct.

22.3 'Non-contributory' place:

A 'non-contributory' place does not make a contribution to the cultural significance or historic character of the precinct.

Amendment C305: Southbank Heritage & Southbank and Fishermans Bend Heritage Study

23. The Southbank and Fishermans Bend Heritage Study was conducted in 2017 by Biosis Pty Ltd and Graeme Butler Heritage Consultants (**Southbank and Fishermans Bend Heritage Study**).
24. The *Southbank and Fishermans Bend Heritage Study* sets the foundation for the Amendment. This was a heritage assessment carried out not only of Fishermans Bend properties, but nearby South Wharf and Southbank, and was the strategic basis for Amendment C305 which introduced the heritage overlay across a number of Southbank properties.
25. The Executive Summary of the *Southbank and Fishermans Bend Heritage Study* states:¹

The City of Melbourne commissioned the Southbank and Fishermans Bend Heritage Review as part of its heritage strategy. The aims of the study are to identify places of heritage significance, prepare a thematic history and make recommendations for

¹ At p. ii of the *Southbank and Fishermans Bend Heritage Study*

heritage protection of suitable places by way of new heritage overlays in the Melbourne Planning Scheme.

Southbank and Fishermans Bend are priority areas in the City of Melbourne Heritage Strategy. Understanding the city's heritage is key to protecting heritage places and values. The Southbank and Fishermans Bend area covers a geographically small part of the city, but this area has played an important role historically in the development of the city, and contributed to its social, cultural and economic development. The distinctive historical urban character of Southbank and Fishermans Bend is undergoing rapid change. The heritage fabric is an important resource that can add community value and maintains a link to the area's history during this process of change.

26. Section 2.3 Historical themes suggests further background to the *Southbank and Fishermans Bend Heritage Study* is founded in Thematic History: A History of Melbourne's Urban Environment, 2012, Context Pty Ltd, while Section 4.2 Summary Timeline provides a detailed timeline of representative events in the history of Fishermans Bend.²

27. Section 4.12 Utility services speaks to the provision of electricity supply. The report notes:³

A large installation on the corner of Salmon and Turner streets was erected specifically to provide power to the new Holden factory.

28. The *Southbank and Fishermans Bend Heritage Study* provides a comprehensive exploration of the historic significance of the Southbank and Fishermans Bend areas encapsulating extensive research cumulating in five substantial recommendations including:

...

...

5. Introduction of 35 new heritage overlays, including two thematic group listings. Citations and statements of significance for these places are included in Appendix 1 and Appendix 3. ...

² From p.41.

³ At p. 85.

29. It recommended the following level of heritage controls in respect of the Former Kraft Factory Site and Substation Site:⁴

Name	Address	Date	Existing grading		Recommended grading using existing system		Recommended grading using new system (c258)		Recommendation
			Building	Streetscape	Building	Streetscape	Building	Streetscape	
Castlemaine Brewery complex, adjoining brewing tower and bottling stores	107-127, 129-131, & 133 Queens Bridge Street, Southbank	1888, 1892	A	1	A	2	Significant	-	Add to Heritage Places Inventory, HO Map and 43.01s. Proposed HO1201 as Castlemaine Brewery complex, 107-127, 129-131 & 133 Queens Bridge Street, Southbank. Priority assessment, now part of amendment C276 interim HO and c280 permanent HO.
Kraft factory	162 Salmon Street, Port Melbourne	1945, 1957	No existing grading	No existing grading	A	3	Significant	-	Add to Heritage Places Inventory, HO Map and 43.01s. Proposed HO as Kraft factory, 158-222 Salmon Street & 91 Cook Street, Port Melbourne.
SEC electricity substation	224 Salmon Street, Port Melbourne	1936	No existing grading	No existing grading	C	3	Significant	-	Add to Heritage Places Inventory, HO Map and 43.01s. Proposed HO as SEC electricity substation, 224 Salmon Street, Port Melbourne.

30. The Shed 21 Site was also recommended for heritage protection ⁵.

Name	Address	Date	Recommended Grading	Recommended Streetscape Level	Contributory
21 South Wharf, steel sheds and cranes	208 Lorimer Street, Docklands	1950	C	3	Yes
27 South Wharf, Shed 27	641-713 Lorimer Street, Port Melbourne	1946	C	3	Yes
30 South Wharf, Shed 30	Rear, 593-629 Lorimer Street, Port Melbourne	1953	C	3	Yes
31 South Wharf, Shed 31	593-611 Lorimer Street, Port Melbourne	1953	C	3	Yes

31. Following a decision by the Future Melbourne Committee (**FMC**) on 19 September 2017, it was considered appropriate to undertake further research of the complex industrial sites in Fishermans Bend to allow for internal inspections and landowner meetings thus providing a more in-depth consideration of the heritage value. Hence, the genesis of the *Fishermans Bend Heritage In-Depth Review*.
32. Therefore, Amendment C305, as exhibited, did not include specific recommendations for the Fishermans Bend places. But, the Fishermans Bend places were still retained in the *Southbank and Fishermans Bend Heritage Study*.

⁴ Using Amendment C258 grading at p. 161 of the *Southbank and Fishermans Bend Heritage Study*

⁵ At p. 135 of the *Southbank and Fishermans Bend Heritage Study*

33. In response to submissions and as part of the panel process for Amendment C305, reference to Fishermans Bend properties was removed from the *Southbank and Fishermans Bend Heritage Study* and any associated statements of significance. This was in response to a position advanced by a number of submitters, supported by Council and reflected in the Panel's recommendations. Reflecting the removal of the Fishermans Bend properties, the Study is referenced in the Scheme as the *Southbank Heritage Review (Biosis and Graeme Butler, 2017, updated November 2020)*.
34. Amendment C305 was subsequently approved by the Minister for Planning on 23 April 2021 introducing 15 new heritage overlays, deleting the heritage overlay from 13 places and amending the heritage overlay for 16 existing places as they relate to properties in Southbank and South Wharf.

Fishermans Bend In-Depth Heritage Review

35. In early 2018, and following its decision at FMC on 19 September 2017, Council commissioned HCLD Pty Ltd and historian Dr Peter Mills to indepthly assess the heritage significance of land within Fishermans Bend.
36. The *Fishermans Bend In-Depth Heritage Review* provides an assessment of the cultural heritage significance of 12 potential heritage sites in Fishermans Bend⁶, including the Amendment Land. Some of the sites were selected following the earlier work undertaken in the *Southbank and Fishermans Bend Heritage Study*. The 12 sites reviewed for their heritage significance include the following places:

Former General Motors Holden Factory – 241 (part), 251-259 and 261 Salmon street; Part of Bayside Avenue and part of Central Boulevard, Port Melbourne

Former Government Aircraft Factory – 226 Lorimer Street, Port Melbourne

Former Kraft Vegemite Factory – 1 Vegemite Way, Port Melbourne

Shed 21 – 206 Lorimer Street, Docklands

Electricity Substation – 224-236 Salmon Street, Port Melbourne

West Gate Service Stations (North and South)

Stewarts and Lloyds - 704-744 Lorimer St, Port Melbourne

⁶ HLCD Pty Ltd was originally briefed to examine 13 places. The additional place, the Bolte Bridge, was removed from the study in early stages and does not form part of the final review.

International Harvester Factory – 748-766 Lorimer St, Port Melbourne

SEC Workshops/SP Ausnet – 90 Turner St, Port Melbourne

SEC Electricity Switching Yard/SP Ausnet – 108-130 Turner St, Port Melbourne

Former Commonwealth Aircraft Factory – 1 and 2 West Gate Freeway

West Gate Bridge – 1 and 2 West Gate Freeway, Port Melbourne

37. The *Fishermans Bend In-Depth Heritage Review* explains the extensive methodology employed and ultimately contains a number of recommendations for heritage protection.
38. Section 4.1 provides the overall recommendations and Section 4.2 illustrates the extent of the recommended curtilages.
39. Section 5 Appendix of the *Fishermans Bend In-Depth Heritage Review* comprises the proposed Heritage Place Citations⁷ and forms the strategic basis of the Amendment. These are reproduced in the Expert Evidence of Ms Lardner at Appendix 8 of her statement of expert evidence. Ms Lardner provides an overview of the *Fishermans Bend In-Depth Heritage Review* at section 3 of her evidence statement.

Next steps

40. The findings of the *Fishermans Bend In-Depth Heritage Review* were reported to the 20 April 2021 FMC meeting.
41. Having confirmed the Amendment Land has cultural heritage significance following the more in-depth assessment, Council commenced the preparation of the Amendment.
42. At the 20 April 2021 meeting, FMC resolved to:

Notes the Fishermans Bend In-Depth Heritage Review at Attachment 2 of the report from management and management's recommendations for interim and permanent heritage controls under Planning Scheme Amendments C393 (Attachment 7) and C394 at (Attachment 8).

Requests that the Minister for Planning approve Planning Scheme Amendment C393 (Attachment 7) pursuant to section 20(4) of the Planning and Environment Act 1987 to

⁷ From p 14 of the Heritage Review.

include three individual heritage places identified in the Review within interim heritage overlays.

Seeks authorisation from the Minister for Planning to prepare and exhibit Planning Scheme Amendment C394 (Attachment 8) in accordance with the Planning and Environment Act 1987 to include three individual places identified in the Review within permanent heritage overlays.

Authorises management to prepare and submit nominations for the West Gate Bridge and the Government Aircraft Factory (226 Lorimer Street, Port Melbourne) to the Victorian Heritage Register, including any additional guidance prepared and committed to by both parties relating to permit exemptions or ongoing management.

Notes the alternate recommendation proposed by management for Shed 21 at 206 Lorimer Street, Docklands (Attachment 6) to align the heritage recommendation with the endorsed Bolte Precinct West – Yarra’s Edge Addendum (Hayball, 2019).

Authorises management to commission a qualified heritage consultant to undertake a peer review of the HLCD citation for the West Gate Service Stations (North and South).

Authorises the General Manager Strategy, Planning and Climate Change to make any further minor editorial changes to Planning Scheme Amendment C393 and C394 as required.

Request for Interim Controls - Amendment C393

43. In order to progress interim protection for the Amendment Land, and in line with Council’s resolution of 20 April 2021, officers requested on 21 April 2021 that the Minister for Planning prepare, adopt and approve Amendment C393 to the Melbourne Planning Scheme under section 20(4) of the *Planning and Environment Act 1987*.
44. On 17 September 2021, Council was advised its request for interim protection had been refused under delegation on the grounds that no request for consent to demolish or a planning permit application applying demolition had been received by Council.

Other Matters

Bolte Precinct West – Yarra’s Edge Addendum Development Plan 2019 (BPWDP)

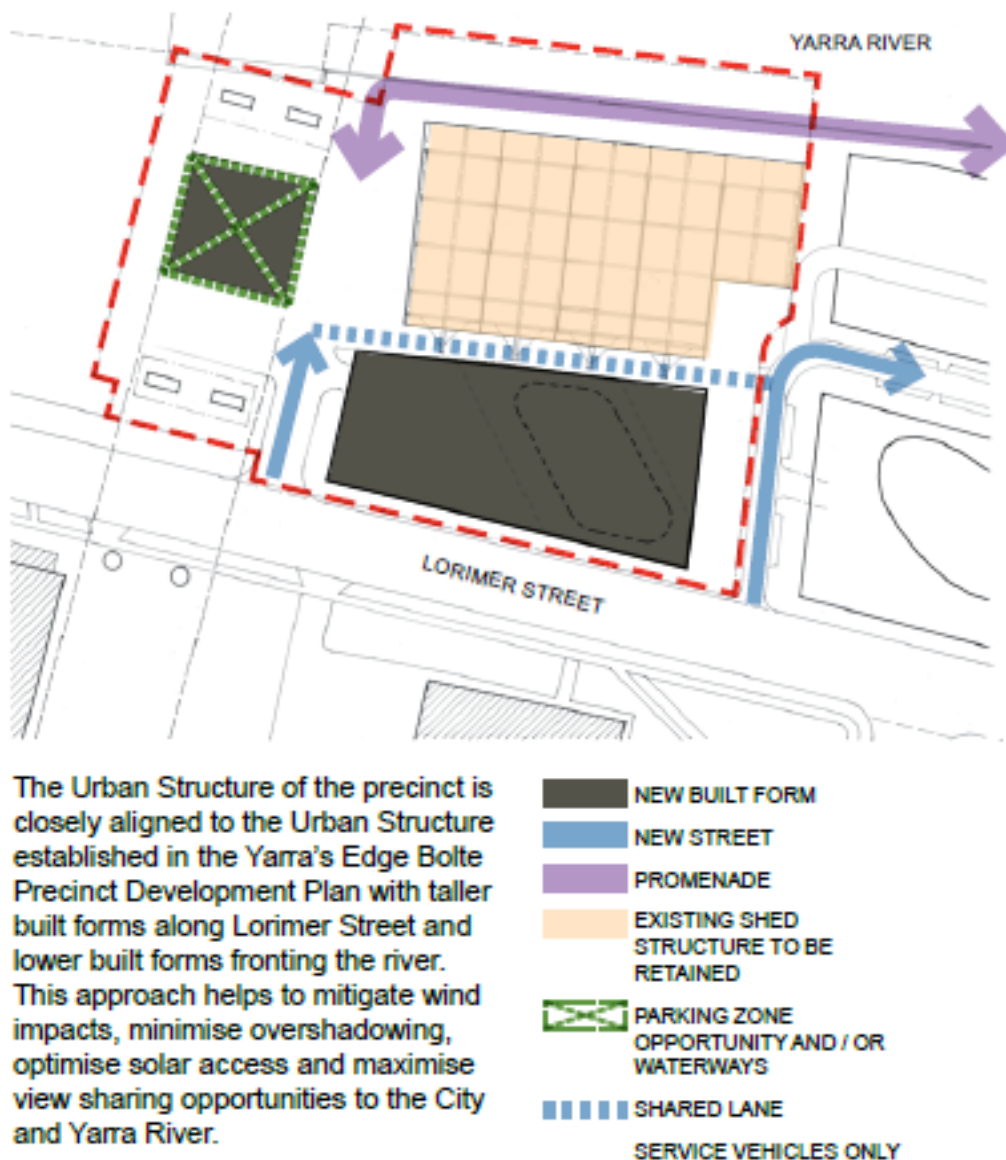
45. The 20 April 2021 FMC resolution refers to the BPWDP which was endorsed by the Minister for Planning on 24 June 2019. Prepared by Hayball Architects, it comprises a 35 page document which applies to the western end of the land affected by DPO2 under the Scheme. It forms an addendum to the original development plan approved on 6 November 2013 which takes in the entirety of the DPO2 land.
46. The BPWDP’s vision at section 3.1⁸ indicates the area affected by the BPWDP is to be a ‘mixed use precinct that incorporates a dynamic blend of commercial and residential uses, as well as community recreation and open space areas and the City of Melbourne waterways functions. It goes onto add:

The 4½ bay shed structure on the site will be retained and refurbished, thereby providing a unique and distinctive built form which speaks to both to the maritime history of Docklands and the evolving inner city character of the area.

47. The above refers to the Shed 21 site sought to be protected by HO1383 as part of the proposed Amendment.
48. Section 3.3 Urban Structure⁹ (over the page) illustrates the proposed relationship between the Shed 21 site (northern end) and the location of proposed built form immediately to its south. Refer to legend.

⁸ BPWDP at page 18 of 35.

⁹ BPWDP at page 21 of 35.



49. In respect of the land to the south of Shed 21, Section 3.6.3 Lorimer Street Mixed use site¹⁰ explains

'future development on the Lorimer Street site is expected to continue the podium-tower form that continues to the east of the site and has been approved as part of the Yarra's Edge Bolte Precinct Development Plan'.

50. Indicative heights proposed for the BPWDP area are shown on the plan over the page.

¹⁰ BPWDP at page 27 of 35.

Authorisation of the Amendment

53. On 21 April 2021, Council sought Ministerial authorisation to prepare and exhibit the Amendment.
54. On 5 May 2021, the Minister for Planning granted authorisation under delegation to prepare Amendment C394 subject to the following conditions:

Amend proposed planning scheme mapping to remove reference to HO1380 (West Gate Service Stations)

Notification must be given to any property in the Docklands Zone with an existing Heritage Overlay as the amendment proposes to apply the heritage policy at 22.04 to properties in the Docklands Zone with a Heritage Overlay.

55. Council complied with the conditions of authorisation.
56. While not a condition of authorisation, it is noted the Ministerial authorisation letter included the following:

Substantive Issue

The Fishermans Bend in Depth Heritage Review 2021 (Heritage Study) includes a significant amount of background information on sites that are not being pursued via Amendment C394melb. Having regard to Planning Practice Note 13, the Heritage Study, as a background document, should only include content which helps explain further context about properties subject to the Heritage Overlay and associated Statements of Significance. Including content about other sites that are not proposed to be included in a Heritage Overlay (or are being considered via other processes) may result in confusion and unnecessary delays in the planning permit application process. Your council should give consideration to removing these properties from the Heritage Study, or revising the structure of the Heritage Study, either prior to exhibition or prior to adoption by the council, should it progress to that stage.

57. Noting the above matter was not a condition of authorisation, Council progressed to exhibit the Amendment with the *Fishermans Bend In-Depth Heritage Review* as prepared by its authors, i.e. retaining reference to sites not forming part of the Amendment.

Exhibition of the Amendment

58. The Amendment was formally exhibited under section 19 of the *Planning & Environment Act 1987* for a period exceeding four weeks between 3 June 2021 – 8 July 2021.
59. Notice of the Amendment was:
 - 59.1 made available, including all exhibited documents, on Council’s ‘Participate Melbourne’ website and the Department of Environment, Land, Water and Planning’s (DELWP) website;
 - 59.2 sent to all affected property owners and occupiers consisting of 56 notices, including to referral authorities, etc., on 31 May 2021
 - 59.3 sent to prescribed Ministers and public authorities, including Heritage Victoria, on 31 May 2021;
 - 59.4 published in The Age on 3 June 2021;
 - 59.5 published in the Victorian Government Gazette on 3 June 2021.
60. The exhibited Amendment documentation comprised the following:
 - 60.1 the Explanatory Report;
 - 60.2 the Notice of Preparation of an Amendment;
 - 60.3 the Instruction Sheet;
 - 60.4 proposed Clause 22.04;
 - 60.5 proposed schedule to Clause 43.01 (Heritage Overlay);
 - 60.6 proposed Planning Scheme Map 7HO;
 - 60.7 proposed schedule to Clause 72.04 Documents incorporated in this Planning Scheme.
 - 60.8 proposed schedule to Clause 72.08 Background Documents;
 - 60.9 Incorporated Document – Heritage Places Inventory;

60.10 Proposed Statements of Significance;

60.11 the *Fishermans Bend In-Depth Heritage Review*.

Submissions

61. Council received 10 submissions in response to the exhibition of the Amendment.

62. Of the 10 submissions:

62.1 Five (5) submissions supported the Amendment and the protection of heritage in Fishermans Bend;

62.2 One (1) submission objected to the Amendment;

62.3 Two (2) submissions requested changes to the Amendment;

62.4 Two (2) submissions were unrelated to heritage in Fishermans Bend.

63. A detailed summary of the issues raised in submissions and the Council officer response was included at Attachment 2 to the FMC report considering the Amendment on 17 August 2021.

64. In accordance with the resolution of the 17 August 2021, all 10 submissions have been referred to the Planning Panel appointed to consider the Amendment. In full, the FMC resolved as follows:

Notes all submissions to Amendment C394 (Amendment) as listed in Attachment 2 and adopt management's position on all those submissions.

Refers all submissions to the Amendment as listed in Attachment 2 to an independent panel appointed by the Minister for Planning for consideration by the panel.

Notes that the form of the Amendment to be presented to the independent panel is as exhibited except those parts of the Amendment which include proposed revisions, following consideration of all submissions, as set out below.

Amends the exhibited Fishermans Bend In-Depth Heritage Review 2021 in the following manner:

Remove reference to the former General Motors Holden complex (incorporating 241 (part), 251-259 and 261 Salmon Street, Bayside Avenue (part) and Central Boulevard (part), Port Melbourne) in the summary recommendations table (Sections 1 and 4.1), recommended site extents (Section 4.2) and citation (Section 5.5).

Insert text into the executive summary (Section 1) to note that the Review was amended to remove references to the former GMH complex.

Revise the description section in the citation for 1 Vegemite Way, Port Melbourne (former Kraft Vegemite Factory) to acknowledge the distinctive smell of Vegemite that has been traditionally linked to the site.

Amends the exhibited Clause 22.04 (Heritage Places in the Capital City Zone) and the exhibited Schedule to Clause 72.08 (Background Documents) to change the title of the Review to reflect the date it was amended.

Authorises the General Manager Strategy, Planning and Climate Change to make any further minor or necessary changes to the Amendment.

65. A summary of the key issues and matters raised in the submissions, and Council's response is set out below and will be expanded upon, as relevant, in Council's Part B submission.

Panel Appointment

66. A Panel to consider the Amendment was appointed under delegation from the Minister for Planning on 10 September 2021.

Chronology of events

67. A chronology of events is set out at 'Attachment 1'.

Strategic context and assessment

68. This section provides an overview of the strategic basis of the Amendment. This includes regard to the relevant Ministerial directions, the relevant State policies, expressed through the Planning Policy Framework (PPF), and local planning policies. It also considers the relevant Planning Practice Note, which is in this case, Practice Note 1 – Applying the Heritage Overlay, August 2018 (PPN01).

Minister's Directions

Ministerial Direction on the Form and Content of Planning Schemes-Section 7(5) of the P&E Act

69. We submit that the Amendment is consistent with the Ministerial Direction on the Form and Content of Planning Schemes under section 7(5) of the P&E Act.

70. Council submits the proposed ordinance and map changes have been prepared in accordance with the relevant requirements of the 9 April 2017 Ministerial Direction. Furthermore, the statements of significance are proposed as an incorporated document consistent with PPN01.

Ministerial Direction No. 9 – Metropolitan Planning Strategy

71. The Amendment is consistent with Minister's Direction 9 – Metropolitan Planning Strategy under Section 12(2) of the P&E Act, by implementing the relevant aspects of Plan Melbourne 2017- 2050 objectives and outcomes at the municipal level.
72. In particular, the Amendment is consistent with the key principles and the accompanying directions and policies, in particular:
- *Outcome 4 - Melbourne is a distinctive and liveable city with quality design and amenity.*

Ministerial Direction No. 11 – Strategic Assessment of Amendments

73. Ministerial Direction No. 11 seeks to ensure a comprehensive strategic evaluation of a planning scheme amendment and the outcomes it produces.
74. Compliance with Ministerial Direction 11 forms part of the Explanatory Report that was prepared for the Amendment. This assessment is adopted for the purpose of Council's submissions.
75. We submit that the Amendment is consistent with Ministerial Direction 11 – Strategic Assessment of Amendments.

Planning Policy Framework (PPF)

76. It is submitted that the strategic justification for the Amendment is firmly grounded in the PPF.
77. Clause 15 (Built Environment and Heritage) provides that 'planning should protect places and sites with significant heritage, architectural, aesthetic, scientific and cultural value'.
78. Clause 15.03-1S (Heritage Conservation) provides the overarching objective to 'ensure the conservation of places of heritage significance'. Relevant strategies include:

- *Identify, assess and document places of natural and cultural heritage significance as a basis for their inclusion in the planning scheme.*
- *Provide for the conservation and enhancement of those places that are of aesthetic, archaeological, architectural, cultural, scientific or social significance.*
- *Retain those elements that contribute to the importance of the heritage place.*
- *Encourage the conservation and restoration of contributory elements of heritage place.*
- *Ensure an appropriate setting and context for heritage places is maintained or enhanced.*
- *Support adaptive reuse of heritage buildings where their use has become redundant.*
- *Consider whether it is appropriate to require the restoration or reconstruction of a heritage building in a Heritage Overlay that has been unlawfully or unintentionally demolished in order to retain or interpret the cultural heritage significance of the building, streetscape or area.*

[Emphasis added]

79. Relevant policy guidelines include *The Burra Charter: The Australia ICOMOS Charter for Places of Cultural Significance, 2013*.

Plan Melbourne 2017-2050

80. The Amendment is supported by the principles and outcomes of *Plan Melbourne 2017-2050: Metropolitan Planning Strategy* (**Plan Melbourne**).
81. Plan Melbourne 2017-2050: Metropolitan Planning Strategy outlines principles that underpin a long term vision for Melbourne, outcomes to drive Melbourne as a competitive, liveable and sustainable city, directions which set out how these outcomes can be achieved and policies which outline how each outcome will be approached, delivered and achieved.

82. Plan Melbourne comprises nine principles, seven outcomes, 32 directions and 90 policies to deliver on the vision for Melbourne as 'a global city of opportunity and choice'. The Amendment is supported by the following relevant principles and outcomes:

83. Principle 1, 'A distinctive Melbourne', notes:

*Melbourne has an enviable natural environment, important Aboriginal cultural heritage values, a rich inheritance of open space, and landmark buildings and streets created during the population booms of the Gold Rush and post-War period. **To ensure Melbourne remains distinctive, its strengths will be protected and heritage preserved while the next generation of growth is planning to complement existing communities and create attractive new neighbourhoods.***

[Emphasis added]

84. Outcome 4, 'Melbourne is a distinctive and liveable city with quality design and amenity', provides:

Melbourne has always been a place defined and designed by its people.

The challenge ahead of this generation is to design a version of the city and state that, while protecting the best aspects of the natural and built environment, supports social and cultural diversity and economic activity and creates a sense of place.

An identifiable sense of place emerges from a unique set of characteristics and quality – visual, cultural, environmental and social. Communities with a high level of attachment to their cities also tend to have a high rate of Gross Domestic Product growth.

85. This outcome is translated through to Direction 4.4, 'Respect Melbourne's heritage as we build for the future', which notes that:

Heritage will continue to be one of Melbourne's competitive strengths, contributing to its distinctiveness and liveability and attracting visitors, new

residents and investors. Heritage is an important component of Victoria's tourism industry and benefits the economy.

*In time, new development will add to Melbourne's rich legacy of heritage places. The process of building a new legacy is important, just as **it is vital that current assets are protected.***

Innovative approaches to the creative re-use of heritage places need to be adopted, ensuring good urban design both preserves and renews historic buildings and places. [Emphasis added]

86. Policies relating to Direction 4.4 relevant to this amendment are as follows:

4.4.1 Recognise the value of heritage when managing growth and change.

4.4.2 Respect and protect Melbourne's Aboriginal cultural heritage.

4.4.3 Stimulate economic growth through heritage conservation.

4.4.4 Protect Melbourne's heritage through telling its stories.

87. Policy 4.4.1 seeks to 'Recognise the value of heritage when managing growth and change. It states:

With all three levels of government sharing responsibility for protecting Melbourne's post-settlement cultural heritage, decision-making must be consistent and credible and be based on clear and widely accepted heritage conservation principles and practices.

Realising the community benefit of heritage will require careful management of the ongoing processes of change to the urban environment. Decisions must be based on an appreciation of Melbourne's past as well as an understanding of its future needs.

There will need to be a continuous identification and review of currently unprotected heritage sites and targeted assessments of heritage sites in areas identified as likely to be subject to substantial change.

[Emphasis added]

88. The Amendment seeks to advance the outcome, direction and policies as set out at Outcome 4 as it seeks to apply heritage protection to unprotected, culturally significant assets for the benefit of current and future generations in recognition of Victoria’s wartime industrialisation and postwar prosperity to be reflected upon and understood by Melburnians for years to come.

Local Planning Policy Framework (including MSS)

89. The Local Planning Policy Framework (**LPPF**) contains objectives and strategies that are relevant to the amendment. In particular, the amendment supports the following objectives:
90. Clause 21.06-2 (Heritage) of the Municipal Strategic Statement which seeks to conserve and enhance places and precincts of identified cultural heritage significance. The Amendment will contribute to achieving the objectives and strategies identified for the heritage of Melbourne to “conserve and enhance places and precincts of identified cultural heritage significance” by identifying and conserving places of heritage significance.
91. Council’s heritage policies at Clause 22.04 and Clause 22.05 of the LPPF seeks to conserve and enhance all heritage places as well as to promote the identification, protection and management of aboriginal cultural heritage values. The Amendment supports the objectives of both clauses by recognising and conserving additional places of heritage value.

Clause 43.01 – Heritage Overlay

92. The Panel will be familiar with the purposes of the Heritage Overlay, namely:
- *To implement the Municipal Planning Strategy and Planning Policy Framework.*
 - *To conserve and enhance heritage places of natural or cultural significance.*
 - *To conserve and enhance those elements which contribute to the significance of heritage places.*
 - *To ensure that development does not adversely affect the significance of heritage places.*
 - *To conserve specifically identified heritage places by allowing a use that would otherwise be prohibited if this will demonstrably assist with the conservation of the significance of the heritage place.*

93. Clause 43.01-2 sets out the requirements where a heritage place is included in the Victorian Heritage Register stating this is subject to the requirements of the Heritage Act 2017 (**Heritage Act**).
94. Clause 43.01-5 (Statements of significance) notes the schedule to the Heritage Overlay must specify a statement of significance for each heritage place included in the schedule after the commencement of Amendment VC148.
95. Clause 43.01-8 sets out the decision guidelines relevant to a responsible authority's consideration of an application.
96. The Amendment proposed is consistent with the operation of clause 43.01.

Clause 71.02 Operation of the Planning Policy Framework

97. Clause 71.02-1 sets out the purpose of the Planning Policy Framework as follows:

The Planning Policy Framework provides a context for spatial planning and decision making by planning and responsible authorities. The Planning Policy Framework is dynamic and will be built upon as planning policy is developed and refined, and changed as the needs of the community change. The Planning Policy Framework seeks to ensure that the objectives of planning in Victoria (as set out in section 4 of the Act) are fostered through appropriate land use and development planning policies and practices that integrate relevant environmental, social and economic factors in the interests of net community benefit and sustainable development.

98. The operation of the Planning Policy Framework is outlined at clause 71.02-2.
99. Clause 71.02-3 requires Council as the Planning Authority to take into account the PPF when it prepares an amendment to the Scheme.
100. Council has carefully considered the PPF in the preparation of the Amendment and it is Council's submission that the conservation of the Amendment Land recognising its cultural heritage significance will benefit present and future generations.

Planning Practice Note 1: Applying the Heritage Overlay (PPN01)

101. PPN01 was revised in August 2018 (following the gazettal of Amendment VC148) and states:

- 101.1 a statement of significance must be incorporated in the planning scheme for each heritage place included in the schedule to the Heritage Overlay after 31 July 2018; and
- 101.2 if the statement of significance is incorporated in the planning scheme, the name of the statement must be specified in the schedule to the overlay.
102. PPN01 states that the following places should be included in a Heritage Overlay:
- Places identified in a local heritage study, provided the significance of the place can be shown to justify the application of the overlay.*
103. PPN01 also provides:
- The heritage process leading to the identification of the place needs to clearly justify the significance of the place as a basis for its inclusion in the Heritage Overlay. The documentation for each place shall include a statement of significance that clearly establishes the importance of the place and addresses the heritage criteria.*
104. PPN01 outlines recognised heritage criteria to be used for the assessment of the heritage value of the heritage place [being the criteria also known as the HERCON Criteria established in the Victorian Heritage Register Criteria and Threshold Guidelines (2014)].
105. The criteria are:
- **Criterion A:** Importance to the course or pattern of our cultural or natural history (historical significance).
 - **Criterion B:** Possession of uncommon rare or endangered aspects of our cultural or natural history (rarity).
 - **Criterion C:** Potential to yield information that will contribute to an understanding of our cultural or natural history (research potential).
 - **Criterion D:** Importance in demonstrating the principal characteristics of a class of cultural or natural places or environments (representativeness).

- **Criterion E:** Importance in exhibiting particular aesthetic characteristics (aesthetic significance).
- **Criterion F:** Importance in demonstrating a high degree of creative or technical achievement at a particular period (technical significance).
- **Criterion G:** Strong or special association with a particular community or cultural group for social, cultural or spiritual reasons. This includes the significance of a place to Indigenous peoples as part of their continuing and developing cultural traditions (social significance).
- **Criterion H:** Special association with the life or works of a person, or group of persons, of importance in our history (associative significance).

106. It is submitted by Council the Amendment meets the requirements of the PPN01 specifically:

106.1 A recognised criterion has been adopted for the assessment of the heritage values of each of the three (3) places.

106.2 A statement of significance has been prepared for the place using the three-part format of ‘What is significant?’; ‘How is it significant?’ and ‘Why is it significant?’

106.3 A threshold of significance has been applied to each of the proposed heritage places.

106.4 A comparative analysis formed the basis of the Amendment as outlined in detail in the *Fishermans Bend In-Depth Heritage Review*.

107. Ms Lardner’s evidence speaks to the Amendment’s consistency and compliance with PPN01 in her expert evidence at section 4.2.¹¹

Identification of the issues raised in submissions

108. The key matters raised in the submissions are summarised as follows:

108.1 opposition to applying the HO for the substation land at 224- 236 Salmon Street, Port Melbourne;

¹¹ From page 14 of the Statement of Evidence, Helen Lardner. See also citations at Section 8.

- 108.2 opposition to including reference to the former General Motors Holden site within the *Fishermans Bend In-Depth Heritage Review*;
- 108.3 request for local heritage protection to be pursued for the former General Motors Holden complex not afforded VHR protection;
- 108.4 support for the proposed curtilage as relating to the proposed heritage overlay for Shed 21 at 206 Lorimer Street;¹²
- 108.5 support for the proposed inclusion of the Kraft Vegemite Factory in the heritage overlay and appropriateness of amending its statement of significance to record the distinctive smell of the Vegemite manufacturing process;
- 108.6 support for future VHR listings based on the heritage work undertaken in the *Fishermans Bend In-Depth Heritage Review*.
109. A detailed officer response to each submission was provided in the FMC report dated 17 August 2021 and Council's response will be expanded upon as relevant in Council's Part B submission.
110. Ultimately, this Amendment is about whether there is a strategic basis and heritage merit to apply the Heritage Overlay over the Amendment Land, as exhibited. Council submits that there is clear strategic justification supporting the inclusion of the Amendment Land in the Heritage Overlay, and the Part A and Part B submissions along with the expert evidence for Council refute any submission which opposes the application of the heritage overlay of any part of the Amendment Land.

Suggested changes to the Amendment in response to submissions

111. As a result of the submissions received to the Amendment, and consistent with its resolution of 17 August 2021, Council submits that certain changes are appropriate to be made to the Amendment.
112. A summary of these changes is set out below:

¹² Which provides for the ability to realise future use and development as anticipated by the BPWDP.

- In respect of clause 22.04 and the schedule to clause 72.08 reflect the amended date of the Fishermans Bend In-Depth Heritage Review.
- In respect of the *Fishermans Bend In-Depth Heritage Review*:
 - Remove reference to the former GMH complex (incorporating 241 (part), 251-259 and 261 Salmon Street, Bayside Avenue (part) and Central Boulevard (part), Port Melbourne from the Fishermans Bend Heritage Review, specifically in the summary recommendations table of Sections 1 and 4.1, recommended site extents (Section 4.2) and Citation (Section 5.5).
 - Include in the Review's Executive Summary (Section 1) a note to indicate the Review was amended to remove reference to the former GMH complex.
 - Revise the description section in the citation for the former Kraft Vegemite site to acknowledge the distinctive Vegemite smell that has been traditionally linked to the site.

Conclusion

113. This completes the Part A submission for the Council.

Ann-Maree Drakos
Legal Counsel - Planning
City of Melbourne

23 November 2021

Attachment 1 - Chronology

2017	The <i>Southbank and Fishermans Bend Heritage Study</i> was conducted in 2017 by Biosis Pty Ltd and Graeme Butler Heritage Consultants
19 SEPTEMBER 2017	FMC resolves to undertake a separate in-depth review for Fishermans Bend places that were initially included in the <i>Southbank and Fishermans Bend Heritage Study</i>
14 FEBRUARY 2018	Council engages HLCD Pty Ltd and Dr Peter Mills to prepare the <i>Fishermans Bend In-Depth Heritage Review</i>
2 JULY 2019	A nomination is submitted to Heritage Victoria to include the land at the former General Motors Holden Factory at 223-261 Salmon Street, Port Melbourne in the Victorian Heritage Register.
FEBRUARY 2021	The <i>Fishermans Bend In-Depth Heritage Review</i> is finalised.
20 APRIL 2021	Future Melbourne Committee resolves to, among other things, seek authorisation from the Minister for Planning in relation to: <ul style="list-style-type: none"> • Amendment C393 • Amendment C394.
21 APRIL 2021	Council writes to the Minister seeking: <ul style="list-style-type: none"> • authorisation to prepare Amendment C394. • Council also writes to the Minister requesting that he prepare and approve Amendment C393 – interim heritage controls.
23 APRIL 2021	Amendment C305 Southbank heritage is gazetted. Fishermans Bend places are removed from the final report now referred to as the <i>Southbank Heritage Review 2017, updated November 2020</i> .
5 MAY 2021	Council is granted authorisation to prepare and exhibit Amendment C394 from the Minister for Planning.
3 JUNE 2021- 9 JULY 2021	Amendment C394 is formally exhibited. Ten (10) submissions are received to the Amendment.
17 AUGUST 2021	Future Melbourne Committee resolves, among other things, to: <ul style="list-style-type: none"> • Note all submissions received to the Amendment; • Refer all submissions to an Independent Panel in accordance with Section 23 of the Planning & Environment Act 1987.

1 SEPTEMBER 2021	The Minister gazettes part of the land known as the General Motors Holden site in the Victorian Heritage Register.
2 SEPTEMBER 2021	Council formally requested a Panel to be appointed and writes to submitters advising of request for Panel.
10 SEPTEMBER 2021	Minister for Planning appoints a two person Panel to hear and consider submissions.
17 SEPTEMBER 2021	Minister advises Amendment C393 (interim protection) is not supported as no request for consent to demolish any of the proposed heritage places has been received.
19 OCTOBER 2021	Directions hearing for the Amendment is held.