

## Report to the Future Melbourne Committee

Agenda item 6.2

### Amendment GC187 Port of Melbourne Planning Scheme Boundary

23 April 2024

**Presenter:** Evan Counsel - General Manager Strategy, Planning and Climate Change

#### Purpose and background

1. The purpose of this report is to seek approval for the City of Melbourne's response to Planning Scheme Amendment GC187, which has been prepared by the Minister for Planning.
2. The primary purpose of Amendment GC187 is to align the boundary of the Port of Melbourne Planning Scheme with the boundary of the declared port area (which was gazetted 28 October 2021). This change, in turn, requires changes to the planning scheme boundaries of the City of Melbourne, Hobsons Bay, Maribyrnong and Port Phillip. Within the City of Melbourne, the amendment affects the parcels of land shown in Attachment 2 of report from management.
3. Notice of GC187 was received from the Department of Transport and Planning (DTP) on 15 November 2023 who are seeking the following from Council:
  - 3.1. Consent for the Port of Melbourne Planning Scheme to operate within City of Melbourne's municipal boundary; under Section 6(6)(d) of the *Planning & Environment Act 1987* (Act)
  - 3.2. Any comments on the planning scheme changes proposed in GC187 under a section 20(5) of the Act.

#### Key issues

4. It is considered that the proposed planning scheme amendment is administrative in nature and does not raise planning related issues, for the reasons outlined in the proposed response at Attachment 3 of report from management.
5. Notwithstanding the administrative nature of the amendment, there are broader concerns relating to land within the lower reaches of the Moonee Ponds Creek corridor, which is partially subject to this amendment. These include:
  - 5.1. The appropriate boundary with the Port of Melbourne, and whether this should align with the eastern extent of the Moonee Ponds Creek corridor.
  - 5.2. Implications for projects identified in the southern reaches of the Council endorsed Moonee Ponds Creek Strategic Opportunities Plan 2019.
  - 5.3. The Port of Melbourne's plans for the affected land, such as any future proposals for the Webb Dock Freight Link as identified in the Port of Melbourne's 2050 Development Strategy.
  - 5.4. Implications for the re-instatement of the Moonee Ponds Creek Trail in Docklands by Development Victoria.
6. The Port of Melbourne's 2050 Port Development Strategy released in 2020 identifies the land subject to this amendment as 'open space'. The Strategy also indicates that the alignment of the future Webb Dock Freight Link will go over this site.
7. Notwithstanding this, any future proposal for the Webb Dock Freight Link would be subject to its own planning assessment and approval process, which would include public engagement.
8. Representatives from the Port of Melbourne have indicated support to work with Development Victoria and City of Melbourne for the re-instatement of the Moonee Ponds Creek Trail in Docklands.

## **Recommendation from management**

9. That the Future Melbourne Committee:
  - 9.1. Approves the response to Amendment GC187 provided in Attachment 3 of report from management.
  - 9.2. Provides consent under Section 6(6)(d) of the Planning & Environment Act 1987 for the Port of Melbourne Planning Scheme to operate within the City of Melbourne municipal boundary for the relevant sites proposed through planning scheme amendment GC187.

## **Attachments:**

1. Supporting Attachment (page 3 of 11)
2. Affected sites with City of Melbourne (page 4 of 11)
3. GC187 Port of Melbourne Planning Scheme Boundary City of Melbourne Response (page 6 of 11)

## **Supporting Attachment**

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### **Legal**

1. The report accurately identifies the relevant statutory provisions.

### **Finance**

2. There are no financial implication associated with this recommendation.

### **Conflict of interest**

3. No member of Council staff, or other person engaged under a contract, involved in advising on or preparing this report has declared a material or general conflict of interest in relation to the matter of the report.

### **Health and Safety**

4. In developing this recommendation, no Occupational Health and Safety issues or opportunities have been identified.

### **Stakeholder consultation**

5. It is understood that public consultation on this planning scheme amendment has not been undertaken by the Minister for Planning. Council has been consulted under 20(5) of the Act, which allows the Minister to consult with the Responsible Authority.
6. Council was not consulted on the earlier statutory processes that led to this planning scheme amendment, including an earlier planning scheme amendment (GC54) that facilitated the port lease agreement (2016) and the declaration of the port area (2021).

### **Relation to Council policy**

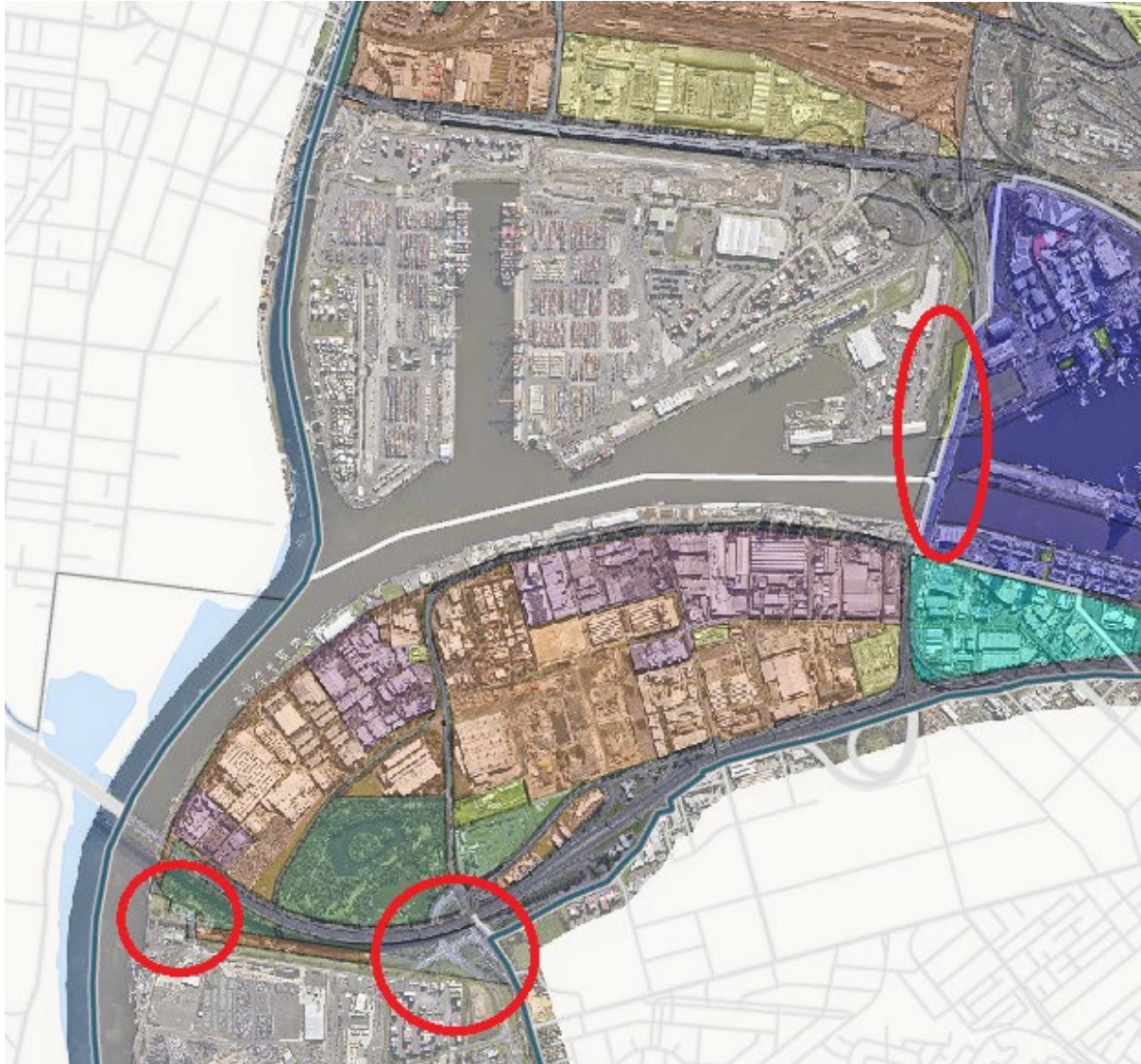
7. This recommendation is consistent with the Moonee Ponds Creek Strategic Opportunities Plan, endorsed by Council in 2019 and Major Initiative 19, advocating for investment in City of Melbourne waterways of the Council Plan 2021-25.

### **Environmental sustainability**

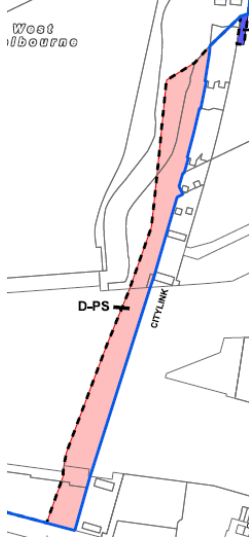
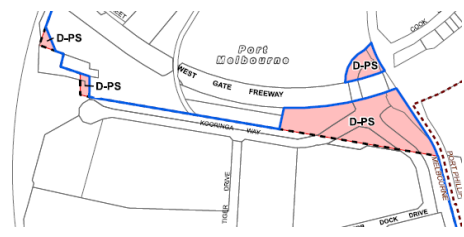
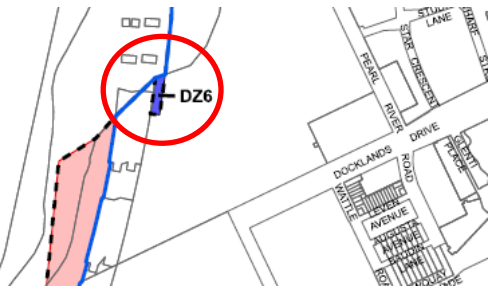
8. The Moonee Ponds Creek is a natural asset that is highly regarded by the community, and plays a critical role in the environmental and economic value to our city.

**Amendment GC187 – sites affected within the City of Melbourne**

**Overview map**



Site Locations

Description	Map
<p><b>Land excised from the Melbourne Planning Scheme (moved into the Port of Melbourne Planning Scheme)</b></p>	
<p>Land and water abutting the western side of City Link / Bolte Bridge (land between City Link and Moonee Ponds Creek)</p>	
<p>Four sections of land in proximity of the West Gate Freeway and Westgate Park</p>	
<p><b>Land excised from the Port of Melbourne Planning Scheme (moved into the Melbourne Planning Scheme)</b></p>	
<p>A small area of land at 458-490 Docklands Drive, Docklands (Docklands Studios) Approximately 550sqm of a 6.8h site</p>	

## AMENDMENT GC187 PORT OF MELBOURNE PLANNING SCHEME BOUNDARY CITY OF MELBOURNE RESPONSE

May 2024

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## 2 Overview

The City of Melbourne welcomes the opportunity to provide feedback on planning scheme amendment GC187.

It is understood that GC187 represents one of several statutory processes following the 50-year port lease entered into by the Victorian government in 2016. The planning scheme amendment follows amendments to the declared port area which were gazetted in 2021. Council notes that GC187 is the first statutory process for which the City of Melbourne's views have been sought, and that feedback and consent is sought under two distinct sections of the *Planning and Environment Act 1987* (the Act).

Section 3 of this submission provides a response to the changes proposed through Amendment GC187, under section 20(5) of the Act.

The submission separately addresses in Section 4 the request for consent under Section 6(6)(d) of the Act for the Port of Melbourne planning scheme to operate within the City of Melbourne municipal area.

## 3 Comments on proposed planning scheme changes (under 20(5) of the *Planning and Environment Act 1987*)

The City of Melbourne is generally supportive of the planning scheme changes proposed through Amendment GC187.

Council notes that pursuant to Section 201 CA (2) (a) and (b) of the Act, the Minister for Planning is the Responsible Authority for land within the declared Port of Melbourne area. The amendment therefore makes no substantive change to the planning powers relevant to the affected land. By ensuring that all port land is within the Port of Melbourne Planning Scheme, Amendment GC187 will improve clarity and transparency.

An assessment and comments on each of the proposed changes follows.

### 3.1 Boundary changes - land to be excised from the Melbourne Planning Scheme

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#### 3.1.1 Land and water abutting the western side of City Link / Bolte Bridge (land between City Link and Moonee Ponds Creek)

##### Proposal

- A section of land and water situated between the Moonee Ponds Creek and the Bolte Bridge to be moved into the Port of Melbourne Planning Scheme.
- Existing Special Use Zone Schedule 4 (Port of Melbourne) to be retained.

##### City of Melbourne Response

Given that the land is already zoned for port purposes and the Minister is already the Responsible Authority, the change in planning scheme boundary in this location does not represent a substantive change from a statutory planning perspective. Council is therefore supportive of this change. Notwithstanding this, this submission raises broader issues relating to this land in Section 4 below.

*Note: reference to this change to the planning scheme has been omitted from the draft GC187 Explanatory Report in the relevant 'What the amendment does' section.*

#### 3.1.2 Land in proximity of the West Gate Freeway and Westgate Park



## Proposal

- Four parcels of land in proximity of the West Gate Freeway and Westgate Park to be moved into the Port of Melbourne Planning Scheme.
- Existing Port Zone to be retained.

## City of Melbourne Response

Given that the land is already zoned for port purposes and the Minister is already the Responsible Authority, the change in planning scheme boundary in this location does not represent a substantive change from a statutory planning perspective. Council is therefore supportive of this change.

## 3.2 Boundary changes - Land to be excised from the Port of Melbourne Planning Scheme

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### 3.2.1 Part of 458-490 Docklands Drive, Docklands (Docklands Studios)

#### Proposed changes

- A small area of the land at 458-490 Docklands Drive, Docklands (Docklands Studios) to be included in the Melbourne Planning Scheme (approximately 550sqm of a 6.8h site).
- Land be rezoned from Transport Zone Schedule 1 to Docklands Zone Schedule 6 in line with the balance of the site.
- Application of the City Link Project Overlay (CLPO) to the land in line with the balance western part of this site.

## City of Melbourne Response

The application of the Docklands Zone and CLPO tidies up the planning controls that apply to the site, and is generally considered a good planning outcome.

The change in planning scheme boundary results in the land being subject to only one planning scheme. This represents a logical inclusion to the Melbourne Planning Scheme and is therefore supported by the City of Melbourne.

## 3.3 Consequential changes to the Melbourne Planning Scheme

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### 3.3.1 Incorporated Document - Port Capacity Project, Webb Dock Precinct Incorporated Document, October 2012

#### Proposed changes

- Amend the Incorporated Document to:
  - Delete reference to 37.09 Port Zone in the Melbourne Planning Scheme
  - Add the following note to the concept plan in the Incorporated Document:
    - *Amendment GC187 amended the boundary of the Port of Melbourne planning schemes. Refer to Amendment GC187 to confirm application of each planning scheme with respect to Figure 1: Port Capacity Project, Webb Dock Precinct, Concept Plan, October 2012.*
- Amend Clause 51.01 'Specific Sites and Inclusions' to insert the title of the amended Incorporated Document.
- Amend Clause 72.04 to insert title of the amended Incorporated Document.

## City of Melbourne Response

Council is supportive of the minor consequential changes outlined above.

In the interests of clarity and consistency, it would be preferable for the amended planning scheme boundaries to be shown on the Concept Plan in the incorporated document, rather than a note referring the reader to GC187. However, given the age of the Plan, it is understood that this may not be feasible.

### 3.3.2 Deletion of the Port Zone from the Melbourne Planning Scheme

#### Proposed change

- Delete 37.09 Port Zone from the Melbourne Planning Scheme

#### City of Melbourne Response

This change is administrative in nature and raises no concerns. In the interests of completeness, it may be appropriate for Schedule 4 of the Special Use Zone (SUZ4) to be deleted from the Melbourne Planning Scheme. The SUZ4 currently only applies to the land and water abutting the western side of City Link / Bolte Bridge, addressed in Section 3.1.1 above, which is proposed to be removed from the Melbourne Planning Scheme.

### 3.3.3 Responsible Authority

#### Proposed change

- Amend Clause 72.01 to remove the Minister for Planning as the responsible authority within the Port Zone.

#### City of Melbourne Response

This change is consistent with deletion of the Port Zone from the Melbourne Planning Scheme.

## 4 Consent under Section 6(6)(d) of the *Planning and Environment Act*

Section 6(6)(d) of the *Planning and Environment Act 1987* states that “A planning scheme may apply to...if the affected municipal councils consent, any part of a municipal district or any adjoining parts of two or more municipal districts.”

The Minister has requested the consent of the City of Melbourne under this section of the Act for the Port of Melbourne planning scheme to operate within the municipal boundary of the City of Melbourne. This is relevant for those sites outlined above that are proposed to be excised from the Melbourne Planning Scheme and moved into the Port of Melbourne Planning Scheme.

**The City of Melbourne provides its consent under Section 6(6)(d) of the Act for the Port of Melbourne planning scheme to operate within the City of Melbourne municipal boundary for the relevant sites proposed through planning scheme amendment GC187.** In doing so, Council wishes to raise concerns about the future use and development of the affected land within the lower reaches of the Moonee Ponds Creek corridor.

### 4.1 Moonee Ponds Creek Corridor

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Notwithstanding the consent provided above, there are broader concerns relating to land within the lower reaches of the Moonee Ponds Creek corridor, which is partially subject to this amendment. These concerns include:

- Implications for projects identified in the southern reaches of the Council endorsed *Moonee Ponds Creek Strategic Opportunities Plan 2019* (MPCSOP).

- The Port of Melbourne’s plans for the affected land, such as any future proposals for the Webb Dock Freight Link as identified in the Port of Melbourne’s *2050 Development Strategy*.
- Implications for the re-instatement of the Moonee Ponds Creek Trail in Docklands by Development Victoria.

The MPCSOP identifies the land between the Moonee Ponds Creek and Bolte Bridge as a potential “community meeting place with a boardwalk and recreational activities”. The Port of Melbourne’s *2050 Port Development Strategy* identifies the land subject to this amendment as ‘open space’.

The future use and development of the land between the Moonee Ponds Creek and Bolte Bridge should have regard to the significant strategic work undertaken by Council through the MPCSOP. Council encourages the Port of Melbourne to integrate this strategic work in to future plans for the site.