



# URBAN PLANNING SPECIAL COMMITTEE

## MINUTES

(Open to the public)

**Monday 3 August 2020**

Online - Delivered via Webex Events.

**Commencement** 6.33pm

**Attendance**

- Councillor Garry Thompson (Chairperson)
- Councillor Cynthia Watson (Mayor)
- Councillor Jane Addis
- Councillor Phillip Healey
- Councillor Lisa Hollingsworth
- Councillor Steve Hurd
- Councillor Jim Parke
- Councillor Coral Ross
- Councillor Felicity Sinfield
- Councillor Jack Wegman

**Apologies** Nil

**Officers**

Shiran Wickramasinghe	Director City Planning
Daniel Freer	Director Environment and Infrastructure
Simon Mitchell	Manager Statutory Planning
Shiranthi Widan	Acting Manager Strategic Planning
David Thompson	Manager Governance
Christian Wilmsen	Team Leader Strategic Planning
Celia Robinson	Coordinator Governance
Mikaela Carter	Strategic Planner
Cassandra Rea	Coordinator Statutory Planning
Julia Smith	Senior Planner
Helen Pavlidis	Governance Projects Officer
Elizabeth Manou	Governance Projects Officer

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## 1. Adoption and confirmation of the minutes

### MOTION

Moved Councillor Healey

Seconded Councillor Hurd

That the minutes of the Urban Planning Special Committee meeting held on 20 July 2020 be adopted and confirmed.

### CARRIED

## 2. Declaration of conflict of interest of any councillor or council officer

Nil

## 3. Presentation of officer reports

### 3.1 Amendment C284 - Hawthorn Heritage Gap Study - Consideration of Panel Report

The purpose of this report is to inform the Urban Planning Special Committee (UPSC) of the outcomes of the independent Planning Panel hearing for Amendment C284 to the Boroondara Planning Scheme and to seek a decision of the UPSC to split the amendment into two parts. Officers recommend the UPSC endorse and refer C284 (Part 1) to an Ordinary meeting of Council for adoption, and to defer a decision on C284 (Part 2) until the VCAT proceedings have concluded.

Amendment C284 proposes to implement the recommendations of the *City of Boroondara Municipal Wide Heritage Gap Study: Volume 3 Hawthorn* (the Study) prepared by Context Pty Ltd by:

- applying the Heritage Overlay to 14 individually significant heritage places and seven heritage precincts; and
- extending the existing Central Gardens Precinct (HO146), Glenferrie Hill Precinct (HO149), Leslie Street Precinct (HO164) and West Hawthorn Precinct (HO220) to include additional properties.

Exhibition of the amendment and the Study was undertaken from 7 February to 12 March 2019 in accordance with Section 19 of the *Planning and Environment Act 1987* (the Act). Council received a total of 59 submissions during exhibition, including nine supporting submissions, 19 partially supporting submissions, 30 objections and one submission in objection which was later withdrawn. In addition, four late objecting submissions were received in May and June 2019.

The UPSC considered a report on the outcomes of the exhibition process on 17 June 2019 and resolved to request appointment of an independent Planning Panel to consider submission to the amendment.

A Panel hearing was held on 14, 15, 19 and 21 August 2019 to consider the submissions received to Amendment C284. Fourteen of the submitters presented at the Panel Hearing. The Panel had regard to the exhibited amendment and the post-exhibition changes recommended by Council as part of its submission.

On 4 October 2019 officers received the Panel's report for Amendment C284 (Attachment 1). The report was publicly released on 31 October 2019 in accordance with the requirements of the Act.

The Panel considered all submissions to Amendment C284 whether or not a submitter chose to present at the Panel hearing. The Panel generally supports Amendment C284 and the majority of recommendations made by Council through its submissions during the Panel hearing.

The Panel recommends the amendment be adopted as exhibited subject to the following key changes:

1. Abandon applying the Heritage Overlay to:
  - a. 19 and 23 Robinson Road, Hawthorn (as submitted by Council)
  - b. 141 and 147 Riversdale Road, Hawthorn (as submitted by Council)
  - c. 4, 6-10, 12, 26, 28, 30, 32, 34 and 40 Lennox Street, Hawthorn (as submitted by Council)
  - d. 328, 330, 1/332, 2/332, 334, 336 and 340 Barkers Road, Hawthorn (as submitted by Council)
  - e. 1A and 2A Rae Street, Hawthorn (as submitted by Council)
  - f. 4 Marian Street, Hawthorn
  - g. 1A-15 Malmsbury Street, Hawthorn (as submitted by Council)
  - h. the portion of land at 36 Kooyongkoot Road, Hawthorn which has the existing tennis court
  - i. 823-825 Glenferrie Road, Hawthorn (as submitted by Council, correction of mapping error)

A number of other recommendations are contained within the Panel report (**Attachment 1**) that relate to recommended changes to the heritage citations or referencing within the Schedule to the Heritage Overlay at Clause 43.01 of the Boroondara Planning Scheme.

On 14 July 2020, Council received notice of an application which has been made with VCAT under Section 39 of the *Planning and Environment Act 1987* (Defects in procedure) in relation to 36 Kooyongkoot Road, Hawthorn. The respondents in this case are Planning Panels Victoria and the Minister for Planning, with Council a party to the proceedings by virtue of its role as the Planning Authority. Given the nature of the proceedings, officers consider it appropriate to split Amendment C284 to defer a decision on this property (which will comprise Part 2) until the proceedings and any required actions have been finalised.

Regarding the balance of the Amendment (Part 1), the Panel supported a number of grading changes and changes to heritage citations and relevant Statements of Significance as recommended by Council and Council's heritage expert.

Strategic Planning Officers and Council's heritage experts have carefully reviewed and considered these recommendations. Officers support these Panel recommendations.

A summary of the Panel's findings, officers' responses and officer recommended changes as they relate to the Amendment (Part 1) are provided in **Attachment 2**.

The UPSC must decide whether to accept the officers' recommendation to split Amendment C284, and whether to accept the officers' response to the Panel's recommendations and/or endorse the amendment with changes that differ to those recommended by the Panel.

Should the UPSC resolve to split the amendment and endorse Amendment C284 (Part 1), officers will prepare a report for consideration by Council at a future Ordinary Meeting of Council to adopt Amendment C284 (Part 1) and request approval from the Minister for Planning. Officers will present a report on Amendment C284 (Part 2) following the completion of VCAT proceedings and any actions that may arise from those proceedings.

*4 speakers opposed to the officers' recommendation addressed the meeting.*

## **MOTION**

**Moved Councillor Ross**

**Seconded Councillor Hurd**

**That the Urban Planning Special Committee resolve to:**

- 1. Receive and acknowledge the Panel's report and recommendations, as shown at Attachment 1, in accordance with Section 27(1) of the *Planning and Environment Act 1987*.**
- 2. Split Amendment C284 into two parts:**
  - Part 1 - Relating to all properties affected by Amendment C284 as exhibited and considered by the Panel, with the exception of 36 Kooyongkoot Road, Hawthorn.**
  - Part 2 - Relating to 36 Kooyongkoot Road, Hawthorn.**
- 3. Endorse the officers' response to the Panel's recommendations and recommended changes to Amendment C284 (Part 1) to the Boroondara Planning Scheme, as shown at Attachment 2.**
- 4. Adopt the revised *Hawthorn Heritage Gap Study (Part 1)* as shown at Attachment 3 and annexed to the minutes.**
- 5. Refer the revised Amendment C284 (Part 1) to a Council Meeting to be adopted in accordance with Section 29(1) of the *Planning and Environment Act 1987*.**
- 6. Defer consideration of Amendment C284 (Part 2) until the VCAT proceedings pertaining to 36 Kooyongkoot Road, Hawthorn and any required actions arising have concluded.**

7. **Write to the Minister for Planning pursuant to Section 30 of the *Planning and Environment Act 1987* to request that the Minister allow a longer period of time for the adoption of Amendment C284 (Part 2) to ensure that it does not lapse while the VCAT proceedings progress.**
8. **Authorise the Director City Planning to undertake administrative changes to Amendment C284 (Part 1) and associated planning controls that do not change the intent of the controls.**

## **CARRIED**

### **3.2 55 Wandsworth Road Surrey Hills**

#### Proposal

The proposal seeks to construct two double storey side-by-side dwellings on a lot.

#### Issues

The following are key issues in respect of this application:

- Neighbourhood Character (pages 24 - 32).
- Side by side presentation and garage design (pages 26-32).
- Off-site amenity impacts (pages 39 - 48).
- Objections received (pages 8-11 and 56-60).

#### Officer's response

Overall, the design achieves a high level of compliance with the requirements of the Neighbourhood Residential Zone and Clause 55 (ResCode) of the Boroondara Planning Scheme. Furthermore, the proposal is fully compliant with the statutory car parking requirements at Clause 52.06.

The proposal is also generally compliant with regard to Council's Residential Design Policy with the exception of minor east and west boundary setbacks in addition to site coverage and permeability.

The proposal is broadly consistent with the objectives as outlined in Clause 22.05 (Neighbourhood Character) with the exception that the proposal seeks a side by side typology in contrast to the preferred one unit set behind the other.

The proposed building heights, setbacks and window treatment ensure off-site amenity impacts, such as overshadowing, overlooking and visual bulk are minimised. While architecturally modern in style, the design and materials are respectful of neighbourhood character.

Details of the proposal, discussion of all objections and assessment against relevant controls and policies are contained in the attachment to this report.

*There were no speakers wishing to make submissions to Council for this item.*

**MOTION****Moved Councillor Addis****Seconded Councillor Hollingsworth**

**That the Urban Planning Special Committee resolve that a Notice of Decision to Grant a Planning Permit No. PP19/00565 for the construction of two (2) dwellings on a lot at 55 Wandsworth Road, Surrey Hills be issued under the Boroondara Planning Scheme subject to the following conditions:**

**Amended plans required**

- 1. Before the development starts, amended plans to the satisfaction of the responsible authority must be submitted to and approved by the Responsible Authority. The plans must be drawn to scale with dimensions and three (3) copies provided. When the plans are endorsed they will then form part of the permit. The plans must be substantially in accordance with the development plans received 30 March 2020 and Landscape plans received 14 October 2019 but modified to show:**
  - a) A section view to demonstrate the fixed louvre pergola screens views from the first floor Suite 3 bedroom windows of each dwelling into the proposed adjacent SPOS or provision of fixed screening or obscure glazing to a height of 1.7m from finished floor level for these windows in accordance with Standard B22 of ResCode;**
  - b) Driveway ramp grades provided in accordance with the requirements of Clause 52.06 of the Boroondara Planning Scheme;**
  - c) Notation that landscaping and any structures (e.g. fence/letterboxes) within pedestrian sight triangles are restricted to a height of no more than 900mm or made to be 50% permeable to maintain visibility to pedestrians;**
  - d) The minimum width of the crossover is to be increased to 5.5m at the juncture of the footpath and the road. The middle of the crossover must have a minimum width of no less than 4.5m, with no greater than 10% encroachment into the Tree Protection Zone of the street tree adjacent to the subject site.;**
  - e) A notation on all site and floor plans stating the section of the proposed driveway located between the front property boundary and the front fence/vehicle gates will be created as common property or carriageway easement held between each future lot, in accordance with Condition 9;**
  - f) The central garden bed currently located forward of the vehicle access gates (dividing the two driveways) to be shortened back to the north by 1m and situated behind the fence to provide a larger common property or carriageway easement area for vehicle movements;**
  - g) Plans to show proposed vehicle crossover to have no greater than 10% encroachment into the TPZ of the existing street tree to the satisfaction of the Responsible Authority;**
  - h) Proposed hedging to the western boundary to be shown on landscape plan as an evergreen species with a mature height no greater than 3m where adjacent to existing wall on boundary;**
  - i) The ground floor front façade materials in accordance with discussion plans dated 15 July 2020.**

- j) The Tree Protection Zone of Tree 1 and 2 drawn on all site and floor plans;**
- k) Notation on all site and floor plans that Tree 1 and 2 are to be protected in accordance with the endorsed Tree Management Plan required by Condition 6 of this permit;**
- l) A Tree Management Plan in accordance with Condition 6 of this permit; and**
- m) A Landscape Plan in accordance with Condition 3 of this permit.**

#### **Layout not to be altered**

- 2. The layout of the site and the size, levels, design and location of buildings and works shown on the endorsed plans must not be modified for any reason without the prior written consent of the Responsible Authority.**

#### **Landscape plan**

- 3. A landscape plan to the satisfaction of the responsible authority must be submitted to and approved by the Responsible Authority. The plan must be drawn to scale with dimensions and three (3) copies provided. When endorsed, the plan will form part of the permit.**

**The landscape plan must be generally in accordance with the landscape concept plan dated October 2019 prepared by John Patrick Landscape Architects except that the plan must show:**

- a) A survey (including botanical names) of all existing trees to be retained and of those to be removed. The intended status of the trees shown on the landscape plan must be consistent with that depicted on the development layout plan;**
- b) All hard surfaces proposed within the tree protection zone of Tree 2 must be constructed of permeable materials in accordance with industry best practices; be constructed above current grade; be constructed on foundations suitable for the soil type so as to maintain appropriate permeability for each tree; and note that all works must be supervised and documented by a qualified project arborist.**
- c) Detailed construction specifications for all permeable surfaces that include cross-section diagrams.**
- d) One (1) canopy tree (minimum two metres tall when planted and must achieve a minimum mature height of 12 metres and canopy spread of 7 metres) in the secluded private open space of each dwelling;**
- e) One (1) small tree (minimum two metres tall when planted and must achieve a minimum mature height of 7 metres and canopy spread of 5 metres) in the front setback of dwelling two;**
- f) Each canopy tree must be provided a minimum of 50 m<sup>2</sup> of deep soil, with the available soil area clearly shown on the landscape plan.**
- g) Each small tree must be provided a minimum of 30 m<sup>2</sup> of deep soil, with the available soil area clearly shown on the landscape plan.**
- h) All trees must comply with Australian Standard AS2303:2015 - Tree Stock for Landscape Use.**
- i) All trees must be planted by an AQF Level 3 Qualified Arborist, Landscape Gardener or Horticulturist.**
- j) All canopy trees must be planted more than 2 metres away from any structures, property boundaries, easements, existing trees or shrubs.**
- k) All small trees must be planted more than 1 metre away from any structures, property boundaries, easements, existing trees or shrubs.**

**Completion of landscaping works**

4. Landscaping as shown on the endorsed landscape plan/s must be carried out and completed to the satisfaction of the Responsible Authority prior to the occupation of the development.

**Landscaping maintenance**

5. All landscaping works shown on the endorsed landscape plan/s must be maintained and any dead, diseased or damaged plants replaced, all to the satisfaction of the Responsible Authority.

**Tree management plan**

6. Prior to the endorsement of the plans referred to in Condition 1 of this permit, a Tree Management Plan must be submitted by a suitably qualified and experienced Arborist in relation to the management and maintenance of Tree 1 and 2. The Tree Management Plan must be approved by the Responsible Authority prior to the commencement of any works including demolition and levelling of the site. The Tree Management Plan must make specific recommendations in accordance with the Australian Standard AS4970: 2009 - Protection of Trees on Development Sites and detail the following to the satisfaction of the responsible authority ensuring that the tree remains healthy and viable during construction.
  - a) A tree protection plan to scale is to be submitted along with the tree management plan that is to show:
    - I. Tree protection zones and structural root zones of all trees to be retained,
    - II. All tree protection fenced off areas and areas where ground protection systems will be used
    - III. The type of foundations within the tree protection zone
    - IV. All services to be located within the tree protection zone and a notation to state that all services will either be located outside of the tree protection zone, bored under the tree protection zone, or installed using hydro excavation under the supervision of the project arborist; and
    - V. A notation to refer to the tree management plan for specific detail on what actions are required within the tree protection zone.
  - b) Details of how the root system of any tree to be retained will be managed. This must detail any initial non-destructive trenching and pruning of any roots required to be undertaken by the project arborist; and details of how any permeable surfaces within the Tree Protection Zone of retained trees will be constructed.
  - c) Supervision timetable and certification of tree management activities required by the Project Arborist to the satisfaction of the responsible authority;
  - d) All remedial pruning works that are required to be performed on the tree development of the site. The pruning comments must reference Australian Standards 4373:2007, Pruning of Amenity Trees and a detailed photographic diagram specifying what pruning will occur.
  - e) The recommendations contained in the approved tree management plan must be implemented to the satisfaction of the Responsible Authority.

**Contractors to be advised of trees to be retained and protected**

7. The owner and occupier of the site must ensure that, prior to the commencement of buildings and works, all contractors and tradespersons operating on the site are advised of the status of trees to be retained and protected as detailed in the endorsed Tree Management Plan and are advised of any obligations in relation to the protection of those trees.

**Regulation of activities in Tree Protection Area**

8. No vehicular or pedestrian access, trenching or soil excavation is to occur within the Tree Protection Area as detailed in the endorsed Tree Management Plan without the prior written consent of the Responsible Authority. No storage or dumping of tools, equipment or waste is to occur within the Tree Protection Zone.

**Common Property or Carriageway Easement**

9. The section of the proposed driveway located between the front property boundary and the proposed front fence/vehicle gates must be created as common property or carriageway easement as part of any subdivision of the land.

**Drainage**

10. The site must be drained to the satisfaction of the Responsible Authority.

**Vehicle crossovers**

11. Any new vehicle crossover or modification to an existing vehicle crossover must be constructed to the satisfaction of the Responsible Authority.

**Removal of redundant vehicle crossovers**

12. All disused or redundant vehicle crossovers must be removed and the area reinstated with footpath, naturestrip, kerb and channel to the satisfaction of the Responsible Authority.

**Permit to expire:**

13. This permit will expire if:

- a) The development does not start within two (2) years of the issue date of this permit; or
- b) The development is not completed within four (4) years of the issue date of this permit.

The Responsible Authority may extend the times referred to if a request is made in writing before the permit expires or:

- (i) within six (6) months afterwards if the development has not commenced; or
- (ii) within twelve (12) months afterwards if the development has not been completed.

Council and the Victorian Civil and Administrative Tribunal are unable to approve requests outside of the relevant time frame.

**Notes:**

***Headings are for ease of reference only and do not affect the interpretation of permit conditions.***

***This is not a Building Permit. A Building Permit may be required prior to the commencement of any works associated with the proposed development.***

***Prior to the commencement of any works on the site, the owner/developer must submit drainage plans for assessment and approval by the Responsible Authority (Asset Management).***

***Stormwater drains are to be connected to a legal point of discharge approved by Council. Drainage Connections within a road reserve, right-of-way, parkland, within an easement or to a Health Act drain must be to Council's standards. A Council Supervision Permit is required for this work. All fees and charges associated with the connection are to be borne by the applicant.***

***Prior to the commencement of any works on the site, the owner / developer must submit any new vehicular crossover or modification or alteration to an existing crossover proposal for assessment and approval by the Responsible Authority (Asset Management).***

***The Tree Protection Local Law requires that a Local Law Tree Permit be sought from Council for the removal and/or lopping of a 'Significant Tree' and/or excavation within the critical root zone of a Significant Tree. A list of Significant Trees is available at <http://www.boroondara.vic.gov.au/our-city/trees/significant-trees>. A Local Law Tree Permit is also required to remove, damage kill or destroy any identified 'Canopy Tree' which may include any excavation within the tree protection zone of a 'canopy tree'. The Tree Protection Local Law identifies a 'Canopy tree' as any tree with a single trunk circumference of 110cm or a combined circumference of a multi stemmed tree of 110cm or greater measured at 1.5m above ground level. A Planning Permit does not constitute a Local Law Tree Permit or permission to remove, damage kill or destroy a significant or canopy tree. The Tree Protection Local Law is available to download at <http://www.boroondara.vic.gov.au/our-city/trees/tree-works-permits> alternatively please contact Council's Arborist – Statutory Planning (telephone 9278 4888) should a Local Law Tree Permit be required.***

***An Asset Protection Permit is required prior to the commencement of site works in accordance with Council's Protection of Council Assets and Control of Building Sites Local Law 2011.***

***Prior consent from Council and any and all public authorities is required to be obtained for alteration or reinstatement of assets or services affected as a result of the development.***

***The full cost of reinstatement of any Council assets damaged as a result of demolition, building or construction works, must be met by the permit applicant or any other person responsible for such damage, to the satisfaction of the Responsible Authority.***

***Discharge to the legal point of discharge will be allowed subject to the flow being limited to a rate equivalent to pre-development levels or less. Any additional discharge and / or runoff above the pre-development level is to be detained on site, via an approved storm water detention system. This matter should be discussed with Council's Asset Management Department***

## **CARRIED**

### **3.3 78 Durham Road Surrey Hills**

#### Proposal

The proposal seeks to partially demolish the rear of an existing dwelling in a Heritage Overlay to construct a ground and first floor extension. The proposed development also includes the construction of a carport on a lot less than 500 square metres comprising part of the subject site.

#### Issues

The following are key issues in respect of this application:

- Whether the proposed alterations and additions will have a negative impact on the heritage significance of the subject site, having regard to the requirements of the Heritage Overlay and Council's Heritage Policy (Pages 13-19); and
- The matters raised by objectors (Pages 27-29).

#### Officer's response

The proposed development achieves compliance with the relevant objectives and guidelines of Council's Heritage Policy. Having regard to the extent of proposed demolition, conservation works and the scale and design details of the proposed addition, it is considered the development will appropriately respond to the heritage significance of the site and wider Heritage Precinct and meets the objectives of Council's Heritage Policy. Specifically, the proposed extension will be a secondary and recessive element in context with the existing dwelling and principal roof form. The majority of the existing dwelling is retained.

Proposed conditions of Permit have been recommended to address minor outstanding issues.

Details of the proposal, discussion of all objections and assessment against relevant controls and policies are contained in the attachment to this report.

*1 speaker opposed to the officers' recommendation addressed the meeting.  
1 speaker in support of the officers' recommendation addressed the meeting.*

**MOTION****Moved Councillor Addis****Seconded Councillor Ross**

**That the Urban Planning Special Committee resolve that a Notice of Decision to Grant a Planning Permit No. PP18/01306 for part demolition and construction of alterations and additions to existing dwelling in a Heritage Overlay and over part lots less than 500 square metres at 78 Durham Road, Surrey Hills be issued under the Boroondara Planning Scheme subject to the following conditions:**

**Amended plans required**

- 1. Before the *development* starts, amended plans to the satisfaction of the responsible authority must be submitted to and approved by the Responsible Authority. The plans must be drawn to scale with dimensions and three (3) copies provided. When the plans are endorsed they will then form part of the permit. The plans must be substantially in accordance with the Plans amended on 25 May 2020 (Revision C) but modified to show:**
  - a) Site Plan and all floor plans to be corrected to reflect the updated title boundaries in accordance with the Plans submitted to Council on 3 August 2020 (TP03 - Revision D) showing the width of Lot 8 (2.69 metres).**
  - b) Provision of a report to the satisfaction of the Responsible Authority by a suitably qualified heritage professional that documents the original side wall, gate and pedestrian gate, detailing a recommended method of removal and reconstruction to the original design, including appropriate replacement material and methods where necessary. The report must detail what materials will be re-used in the reconstruction;**
  - c) Elevations to illustrate the brick detailing above the chimney chute to be retained and unaltered;**
  - d) Driveway surface finish to be concrete or exposed aggregate.**

**Layout not to be altered**

- 2. The layout of the site and the size, levels, design and location of buildings and works shown on the endorsed plans must not be modified for any reason without the prior written consent of the Responsible Authority.**

**Drainage**

- 3. The site must be drained to the satisfaction of the Responsible Authority.**

**Permit to expire:****4. This permit will expire if:**

- a) The development does not start within two (2) years of the issue date of this permit; or
- b) The development is not completed within four (4) years of the issue date of this permit.

The Responsible Authority may extend the times referred to if a request is made in writing before the permit expires or:

- (i) within six (6) months afterwards if the development has not commenced; or
- (ii) within twelve (12) months afterwards if the development has not been completed.

Council and the Victorian Civil and Administrative Tribunal are unable to approve requests outside of the relevant time frame.

**Notes:**

*Headings are for ease of reference only and do not affect the interpretation of permit conditions.*

*This is not a Building Permit. A Building Permit may be required prior to the commencement of any works associated with the proposed development.*

*Prior to the commencement of any works on the site, the owner / developer must submit any new vehicular crossover or modification or alteration to an existing crossover proposal for assessment and approval by the Responsible Authority (Asset Management).*

*The Tree Protection Local Law requires that a Local Law Tree Permit be sought from Council for the removal and/or lopping of a 'Significant Tree' and/or excavation within the critical root zone of a Significant Tree. A list of Significant Trees is available at <http://www.boroondara.vic.gov.au/our-city/trees/significant-trees>. A Local Law Tree Permit is also required to remove, damage kill or destroy any identified 'Canopy Tree' which may include any excavation within the tree protection zone of a 'canopy tree'. The Tree Protection Local Law identifies a 'Canopy tree' as any tree with a single trunk circumference of 110cm or a combined circumference of a multi stemmed tree of 110cm or greater measured at 1.5m above ground level. A Planning Permit does not constitute a Local Law Tree Permit or permission to remove, damage kill or destroy a significant or canopy tree. The Tree Protection Local Law is available to download at <http://www.boroondara.vic.gov.au/our-city/trees/tree-works-permits> alternatively please contact Council's Arborist – Statutory Planning (telephone 9278 4888) should a Local Law Tree Permit be required.*

*Only Lots A & 8 have been assessed against the provisions of Clause 54 – One Dwelling on a Lot (ResCode) of the Boroondara Planning Scheme.*

***The buildings and works on Lot 1 have not been assessed against the provisions of Clause 54 – One Dwelling on a Lot (ResCode) of the Boroondara Planning Scheme. It is the responsibility of the applicant/owner to appoint a Registered Building Surveyor to determine compliance pursuant to the Building Regulations. Non-compliance with ResCode provisions will require dispensation from Council’s Building Services Department.***

## **CARRIED**

### **3.4 North East Link: Endorsement of Council’s submission to proposed planning amendment GC164 (Yarra East Main Sewer)**

This report seeks the Urban Planning Special Committee’s (UPSC) endorsement of a submission to the North East Link Project (NELP) in response to proposed Planning Scheme Amendment GC164. The proposed amendment seeks to extend the Specific Controls Overlay (SCO12) which currently applies to the North East Link (NEL) project area to also apply to a portion of the Freeway Golf Course (FGC) to facilitate the Yarra East Main Sewer (YEMS) works.

The proponent, North East Link Project (NELP) requested the Minister for Planning prepare, adopt and approve via a ‘fast track’ amendment process to facilitate the North East Link (NEL) early works on the Freeway Golf Course (FGC) to realign the Yarra East Main Sewer (YEMS).

The YEMS services thousands of homes in the north eastern suburbs and currently runs beneath Bulleen Road. It must be realigned in preparation for construction of the NEL tunnel. The YEMS works within the FGC will take approximately six months and are scheduled to start in February 2021.

A Specific Controls Overlay (SCO12) covers the NEL project area and enables NELP to use the land in the area for any works related to the Project until 2030. The land required for the YEMS Early Works on FGC is located outside of the NEL project area. The SCO12 was introduced through Amendment GC98.

To facilitate access to the land required for the YEMS, Council has been negotiating an Early Access Licence Agreement with NELP. Although almost finalised, NELP has been unwilling to sign the Agreement. Instead, NELP prepared a Planning Scheme Amendment GC164 (**Attachment 2**) which would see the land required for the YEMS incorporated into the existing SCO12.

Council officers received the proposed PSA GC164 documentation on the Friday 12 June 2020, with feedback sought by 17 July 2020. An officer submission (Attachment 1) was provided to NELP on Friday 17 July 2020. The submission states that:

- Council does not necessarily oppose the YEMS works on the FGC.
- Council’s preference is for the Early Access Licence Agreement to be used to facilitate access and use of the FGC for YEMS works.
- Council will agree to the amendment but on condition that a separate Specific Controls Overlay (SCO13) and the Incorporated Document (NEL Project Incorporated Document - December 2019) is applied to the land required for the YEMS.
- Council requests the Incorporated Document be amended to include an expiry date for SCO13, being two years from the approval date.

The use of the separate SCO13 and the inclusion of the specific expiry date in the Incorporated Document will give Council a level of comfort that land covered by SCO13 will only be used for YEMS works and not broader project related works.

There are several issues of concern with the YEMS works on the golf course and these have been discussed in the submission. The most critical of these is the impacts on golf course operations (business), management of flooding risks and management of contaminated material. Other issues raised include tree removal, flora and fauna impacts, and Aboriginal Cultural Heritage matters. These issues can and will be managed through discussions with NELP and their contractor.

*There were no speakers wishing to make submissions to Council for this item.*

## **MOTION**

**Moved Councillor Watson**

**Seconded Councillor Healey**

**That the Urban Planning Special Committee resolve to:**

- 1. Endorse the submission (Attachment 1) to the proposed Planning Scheme Amendment PSA GC164.**
- 2. Write to the following to advise of this resolution:**
  - a. The Hon. Richard Wynne, Minister for Planning.**
  - b. Mr Duncan Elliott, North East Link Project, CEO.**
  - c. Ms Katie Watt, North East Link Project, Director Land, Planning and Environment.**

## **CARRIED**

**4. General business**

Nil

**5. Urgent business**

Nil

**6. Confidential business**

Nil

**The meeting concluded at 7.47pm**

**Confirmed**

**Chairperson** \_\_\_\_\_

**Date** \_\_\_\_\_