

# URBAN PLANNING DELEGATED COMMITTEE

## MINUTES

(Open to the public)

**Monday 12 April 2021**

Council Chamber, 8 Inglesby Road, Camberwell and Delivered Online.

**Commencement** 6.33pm

**Attendance**

Councillor Jim Parke (Chairperson)  
Councillor Garry Thompson (Mayor)  
Councillor Felicity Sinfield  
Councillor Victor Franco  
Councillor Wes Gault  
Councillor Di Gillies  
Councillor Lisa Hollingsworth  
Councillor Jane Addis  
Councillor Cynthia Watson  
Councillor Susan Biggar  
Councillor Nick Stavrou

**Apologies** Nil

<b><u>Officers</u></b>	Phillip Storer	Chief Executive Officer
	Shiran Wickramasinghe	Director Urban Living
	Daniel Freer	Director Places and Spaces
	Simon Mitchell	Manager Statutory & Strategic Planning
	David Thompson	Manager Governance & Legal
	Kirstin Ritchie	Coordinator Governance
	Craig Murphy	Planning Appeals Coordinator
	Helen Pavlidis	Senior Governance Officer
	Nick Brennan	Senior Strategic Planner

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## 1. Adoption and confirmation of the minutes

### MOTION

Moved Councillor Thompson

Seconded Councillor Watson

**That the minutes of the Urban Planning Delegated Committee meeting held on 22 March 2021 be adopted and confirmed.**

### CARRIED

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

The Mayor, Councillor Thompson - Refer to Item 3.2 - 10 Markham Avenue, Ashburton

## 3. Presentation of officer reports

### 3.1 Amendment C341boro - 12-14 Tannock Street, Balwyn North Heritage Overlay - Outcomes of Exhibition

On 17 August 2020, the Urban Planning Special Committee (UPSC) resolved to commence a planning scheme amendment to introduce a Heritage Overlay over the property at 12-14 Tannock Street, Balwyn North.

This resolution was made following a petition circulated within the community advocating for protection of the property.

On 7 September 2020 the Minister for Planning granted authorisation for Council to prepare and exhibit Amendment C341boro to the Boroondara Planning Scheme, subject to conditions which included updating the citation to be in accordance with new formatting guidelines. A copy of the heritage citation can be viewed in **Attachment 2**.

The amendment underwent public exhibition between 3 December 2020 and 1 February 2021. Through the exhibition period, a total of 35 submissions were received by Council.

Key issues raised in submissions include:

1. Concern about future development of the site.
2. General support for the Heritage Overlay.
3. General opposition to the Heritage Overlay.
4. Opposition to revisiting the 2015 decision to not proceed with the Balwyn and Balwyn North Heritage Study.
5. There are already enough Heritage Overlays in the area, so this is not required or justified.

Officers have reviewed all submissions received, and have provided a response to the points raised in **Attachment 1**. Officers are not recommending any changes be made to the amendment or heritage citation in response to the submissions received.

It is recommended the UPDC resolve to refer all submissions received to an independent Planning Panel appointed by the Minister for Planning for further consideration.

*3 speakers in support of the officers' recommendation addressed the meeting.*

*1 submitter in support of the officers' recommendation had their written submission/presentation read out at the meeting*

*2 submitters in support of the officers' recommendation chose not to address the meeting.*

## **MOTION**

**Moved Councillor Thompson**

**Seconded Councillor Watson**

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

- 1. Receive and note the submissions to Amendment C341boro (Attachment 1) to the Boroondara Planning Scheme in accordance with Section 22 of the *Planning and Environment Act 1987*.**
- 2. Endorse the officers' response to submissions and recommended changes to Amendment C341boro as shown at Attachment 1.**
- 3. Request the Minister for Planning appoint a Planning Panel under Section 153 of the *Planning and Environment Act 1987* to consider all submissions to Amendment C341boro.**
- 4. Refer the amendment and all submissions to a Planning Panel in accordance with Section 23(1) of the *Planning and Environment Act 1987*.**
- 5. Authorise the Director Urban Living to undertake administrative changes to Amendment C341boro that do not change the intent of the amendment prior to the Panel Hearing.**

## **CARRIED**

### **3.2 10 Markham Avenue, Ashburton**

Planning Scheme Amendment C321boro was approved by the Minister for Planning on 24 September 2020. The Amendment inserted the *Markham Housing Estate Incorporated Document, May 2020* into the Schedule of Clause 72.04 of the Boroondara Planning Scheme. The Incorporated Document facilitates redevelopment of the former Markham Estate for 178 dwellings, including 111 public housing dwellings, in accordance with conditions set out in the document.

The following officer's report undertakes an assessment of documents prepared on behalf of Homes Victoria in accordance with conditions set out in the *Markham Housing Estate Incorporated Document, May 2020*. These documents have been submitted to the Minister for Planning (via DELWP) for endorsement.

Once endorsed, Homes Victoria will be entitled to commence redevelopment of the Markham Estate at 10 Markham Avenue, Ashburton.

The Incorporated Document does not set out a formal process inviting or entitling Council to provide feedback on the issue of compliance. However, DELWP officers have indicated they will consider Council's views as part of the preparation of their advice for the Minister.

### Issues

The following are key issues in respect of this application:

- A number of conditions and requirements set out in the Incorporated Document have not been satisfied;
- Insufficient detail is provided in the documents to demonstrate compliance with some conditions and requirements set out in the Incorporated Document;
- The design of the main north-south accessway has not implemented 'woonerf' principles;
- The traffic engineering analysis relied on by Homes Victoria to justify not widening Markham Avenue contains a fundamental error. The failure to plan for and undertake localised widening of Markham Avenue will lead to unreasonable traffic congestion and unsafe road conditions adjacent to the site;
- The development is required to meet the objectives of Clause 55, however it fails to comply with the following Standards:
  - B13 Landscaping - Insufficient information is provided;
  - B14 Access - Functional Layout Plans required;
  - B22 Overlooking - Apartment AC.01;
  - B29 Solar Access to Open Space - Apartment Type 8;
  - B41 Functional Layout - Living areas of Apartment Types 2C, 3 DDA, 3A DDA, 1C, 3, 5, 7, 1A-G, 3-G and 2C-G;
  - B48 Windows - Insufficient daylight to the kitchens of Apartment Types 3 and 3-G, and insufficient daylight to the second bedroom of Apartment Type 8.

### Officer's response

It is proposed to write to DELWP, Homes Victoria and the Minister for Planning to inform them of the shortcomings of the documents for endorsement.

*The Mayor, Councillor Thompson declared a Material Conflict of Interest in Item 3.2 - 10 Markham Avenue, Ashburton in accordance with section 128 of the Local Government Act 2020 and the Governance Rules. Councillor Thompson advised the nature of the interest was "Markham Estate is a project by Homes Vic (DHHS). The company to which I am a director is a panel consultant to Homes Vic (DHHS)".*

*The Mayor, Councillor Thompson left the Council Chamber at 7.03pm prior to the consideration and vote on this item.*

*2 speakers in support of the officers' recommendation addressed the meeting.  
1 submitter in support of the officers' recommendation chose not to address the meeting.*

### **MOTION**

**Moved Councillor Addis**

**Seconded Councillor Watson**

**That the Urban Planning Delegated Committee resolve to authorise officers to prepare and send letters to Homes Victoria, the Department of Environment, Land, Water and Planning and the Minister for Planning advising that:**

**1. The documents for endorsement fail to address all of the conditions and requirements set out in the *Markham Housing Estate Incorporated Document, May 2020*, as follows:**

- **Condition 4.2.4 - the design of the main north-south accessway has not adopted ‘woonerf’ principles of a street shared, with pedestrian priority over cars;**
- **Condition 4.2.5 - the development does not meet the objectives of Clause 55, as it fails to comply with the following Standards:**
  - **B13 Landscaping - Insufficient information is provided;**
  - **B14 Access - Functional Layout Plans required;**
  - **B22 Overlooking - Apartment AC.01;**
  - **B29 Solar Access to Open Space - Apartment Type 8;**
  - **B41 Functional Layout - Living areas of Apartment Types 2C, 3 DDA, 3A DDA, 1C, 3, 5, 7, 1A-G, 3-G and 2C-G;**
  - **B48 Windows - Insufficient daylight to the kitchens of Apartment Types 3 and 3-G and insufficient daylight to the second bedroom of Apartment Type 8;**
- **Condition 4.2.7 - Building A contains an elevated apartment terrace within 9.0m of the western boundary that does not incorporate privacy screening measures (Apartment AC.01);**
- **Condition 4.2.8 - Separate approval is required to be obtained from Council for planting proposed within the road reserve (nature strip);**
- **Condition 4.2.9 - the architectural plans must be amended to match the architect’s renders, by ensuring where recesses are shown in the building façade and floor plans, they are clear to the sky and that the floor slab edges will not be extruded or continuous;**
- **Condition 4.2.11 - The Access Report requires two accessible car spaces within the basement of Building C. The location of the car spaces must be shown on the basement plans and be located conveniently to the lift core;**
- **Condition 4.2.11 - the cross-section in Drawing TP2301 shows the entrance to the Building C car park has a maximum height clearance of 2.106m, which does not comply with the minimum standard (2.2m);**
- **Condition 4.2.13 - The eastern setback of Building E contains excessive paving which unreasonably inhibits the ability to achieve a ‘green edge’ buffer as required. Insufficient detail is provided in the submitted Landscape drawings to demonstrate compliance;**
- **Condition 4.2.14 - Insufficient detail is provided in the submitted Landscape drawings to demonstrate compliance;**
- **Condition 4.2.15(i)(i) - Car parking for Building A is supplied at a rate of 0.5937 car spaces per dwelling. The Incorporated Document states car spaces must be provide at a rate of “no less than 0.6 spaces”.**

**2. Insufficient information is provided to demonstrate all of the conditions and requirements set out in the *Markham Housing Estate Incorporated Document, May 2020* are met, as follows:**

- **Condition 4.2.11 - The plans must be amended to show the location of accessible car spaces within the basement of Building C;**

- **Condition 4.2.11 - Cross-sections must be provided which demonstrate a minimum height clearance of 2.5m is achieved above all accessible car spaces;**
- **Condition 4.2.11 - Cross-sections must be provided which demonstrate a minimum height clearance of 2.2m is achieved at the entrance to each basement car park;**
- **Condition 4.2.15(a) - Further details of proposed staging is required, to confirm vital components of the development will be delivered before occupancy (such as construction of internal accessways, communal open space and landscaping);**
- **Condition 4.2.15(b) - Ground levels to AHD are not shown on any site plans;**
- **Condition 4.2.15(c) - The design response does not meet all of the objectives of Clause 55;**
- **Condition 4.2.15(h) - Inconsistencies between the Architectural Schematic Design Report and the Landscape Drawings with regard to the percentage of deep soil area proposed should be corrected;**
- **Condition 4.2.15(i) - Functional Layout Plans of the internal road design are required, showing 'typical' cross-sections of the internal roadways and intersection layouts;**
- **Condition 4.2.15(i)(iii) - The architectural plans must be amended to show the proposed location of intercom facilities, to demonstrate they are conveniently located and will not interfere with ingress/egress;**
- **Condition 4.2.15(i)(iv) - The Traffic Report fails to consider or incorporate 'woonerf' principles in the design of the main north-south accessway;**
- **Condition 4.2.15(j) - It is unclear how car spaces are to be allocated/shared between residents of each building, noting that in every building except E, there are more apartments than car spaces. A Car Parking Management Plan should be prepared, setting out how the allocation of car and bicycle parking facilities are to be managed;**
- **Condition 4.2.15(m) - The ESD Report states 4 x 30,000L rainwater harvesting tanks are to be provided.**  
**The location of the tanks is not shown on the architectural plans. The plans must be amended to provide this detail, to demonstrate the location of the tanks will not affect any tree protection zones, will not reduce deep soil planting opportunities and will not affect the layout of parking or accessways;**
- **Condition 4.2.15(m) and Condition 4.2.15(q) - The ESD Report should be amended to set out a maintenance regime for the WSUD plant and equipment;**
- **Condition 4.2.15(m) - The ESD Report and Landscape Plans must be amended to clearly demonstrate any infrastructure/plant/equipment associated with a raingarden is fully contained within the title boundaries of the subject land;**
- **Condition 4.2.15(n)(iv) - A schedule of proposed tree planting is provided, however the schedule fails to identify the quantity of the tree species to be planted. Therefore Condition n(iv) has not been satisfied;**
- **Condition 4.2.15(n)(iv) - The proposed planting schedule on Drawing LD27 states, "TBC" in relation to shrubs, grasses & tufts, wildflowers, lillies & orchids, ground covers & small herbs, ferns and climbers. These details must be supplied, in accordance with Condition n(iv);**

- **Condition 4.2.15(n)(v) - The landscape plans fail to demonstrate any necessary on-site detention system tank/s and associated infrastructure are to be located outside the Tree Protection Zone (TPZ) of trees to be retained;**
  - **Condition 4.2.15(n)(vi) - The landscape plans fail to demonstrate all hard surfaces proposed within the TPZ of trees to be retained are permeable;**
  - **Condition 4.2.15(n)(vii) - Landscape Plan must be amended to show Silver Wattle trees supplied in 100L pots, to achieve compliance with the requirement that trees be supplied “as advanced species”;**
  - **Condition 4.2.15(n)(viii) - Insufficient detail is provided within the landscape plans to demonstrate canopy trees planted within the eastern boundary setback of Building E will be centrally located between the building and title boundary. The landscape plans must be amended to provide further detail of the species, number and distribution of proposed canopy tree planting;**
  - **Condition 4.2.15(p) - The Tree Management Plan must be amended to provide specific recommendations in regards to the proposed works, to demonstrate the works will not cause damage to the health and stability of the tree;**
  - **Condition 4.2.15(q)(v) - The architectural plans must be updated to ensure consistency with the ESD Report by detailing the location and capacity of any rainwater and stormwater detention tanks, the location of proposed electric vehicle charging facilities, notations that all windows are to be double-glazed, and show the location of rooftop solar panels;**
  - **Condition 4.2.30 - The Waste Management Plan (WMP) must be amended to ensure waste collection times exclude the AM and PM commuter peak hours. It is noted the Incorporated Document requires the WMP be submitted to, and approved by Boroondara City Council.**
- 3. The proposed layout of the western end of Building C misses an opportunity to address a key community concern by reducing its height with no net loss of floor area. The layout of Levels 2 and 3 in Building C should be amended in accordance with the layout set out in the officer’s report, to reduce visual bulk impacts to residents in Ashburn Grove.**
- 4. The traffic engineering analysis relied on by Homes Victoria to justify not widening Markham Avenue contains a fundamental error. The failure to plan for and undertake localised widening of Markham Avenue will lead to unreasonable traffic congestion and unsafe road conditions adjacent to the site.**
- 5. The proposed early civil works must be amended in a manner that facilitates retention of Tree No. 40.**
- 6. The Director Urban Living be provided with the authority to amend the submission to include any non-compliance within the incorporated document.**

## **CARRIED**

*The Mayor, Councillor Thompson returned to the Council Chamber at 7.39pm and resumed his seat.*



### **3.3 VCAT decisions and decisions under delegation November 2020**

This report sets out the delegated planning decisions made and VCAT decisions received during November 2020.

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

#### **MOTION**

**Moved Councillor Hollingsworth**

**Seconded Councillor Biggar**

**That the Urban Planning Delegated Committee resolve to receive and note the Delegated Planning Permit Decisions by Ward report and the VCAT Decisions by Ward report for November 2020.**

#### **CARRIED**

### **3.4 VCAT decisions and decisions under delegation December 2020**

This report sets out the delegated planning decisions made and VCAT decisions received during December 2020.

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

#### **MOTION**

**Moved Councillor Watson**

**Seconded Councillor Thompson**

**That the Urban Planning Delegated Committee resolve to receive and note the Delegated Planning Permit Decisions by Ward report and the VCAT Decisions by Ward report for December 2020**

#### **CARRIED**

### **3.5 VCAT decisions and decisions under delegation January 2021**

This report sets out the delegated planning decisions made and VCAT decisions received during January 2021

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

#### **MOTION**

**Moved Councillor Thompson**

**Seconded Councillor Biggar**

**That the Urban Planning Delegated Committee resolve to receive and note the Delegated Planning Permit Decisions by Ward report and the VCAT Decisions by Ward report for January 2021.**

**CARRIED**

### **3.6 VCAT decisions and decisions under delegation February 2021**

This report sets out the delegated planning decisions made and VCAT decisions received during February 2021.

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

### **MOTION**

**Moved Councillor Gault**

**Seconded Councillor Stavrou**

**That the Urban Planning Delegated Committee resolve to receive and note the Delegated Planning Permit Decisions by Ward report and the VCAT Decisions by Ward report for February 2021.**

**CARRIED**

### **4. General business**

Nil

### **5. Urgent business**

Nil

### **6. Confidential business**

Nil

**The meeting concluded at 7.53pm**

**Confirmed**

**Chairperson**

\_\_\_\_\_

**Date**

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