

URBAN PLANNING DELEGATED COMMITTEE



MINUTES

(Open to the public)

Monday 6 September 2021

Online - Delivered via Webex Events.

Commencement 6.31pm

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

Officers

Phillip Storer	Chief Executive Officer
Nick Lund	Acting Director Urban Living
Simon Mitchell	Manager Statutory & Strategic Planning
David Thompson	Manager Governance & Legal
Kirstin Ritchie	Coordinator Governance
Christian Wilmsen	Team Leader Strategic Planning
Elizabeth Manou	Senior Governance Officer
Robert Costello	Senior Project Planner
Alannah O'Brien	Acting Senior Strategic Planner
Nick Brennan	Senior Strategic Planner

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1. Adoption and confirmation of the minutes**MOTION****Moved Councillor Thompson****Seconded Councillor Hollingsworth****That the minutes of the Urban Planning Delegated Committee meeting held on 16 August 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 Amendment C337boro - Ashburton Heritage Gap Study - Exhibition outcomes and request for Panel

3. Presentation of officer reports**3.1 Amendment C333boro - Glen Iris Heritage Gap Study - Exhibition outcomes and request for panel**

The purpose of this report is to inform the Urban Planning Delegated Committee (UPDC) of the outcomes of exhibition of Amendment C333boro (Glen Iris Heritage Gap Study) and seek a decision of the UPDC to request the Minister for Planning appoint an independent Planning Panel to consider submissions received during exhibition of the amendment.

Amendment C333boro proposes to implement the recommendations of the Glen Iris Heritage Gap Study to include 15 individual heritage places and four heritage precincts in the Heritage Overlay on a permanent basis.

Exhibition of the Amendment commenced 12 February 2021 and closed 12 March 2021, in accordance with Section 19 of the *Planning and Environment Act 1987* (the Act). Council received a total of 160 submissions during exhibition, including 40 supporting submissions, 9 partially supporting submissions, 111 opposing submissions and two submissions neither supporting or opposing the amendment.

The key issues raised in the submissions include:

- the detrimental impact the proposed heritage controls will have on property value and loss of prospective buyers;
- unfair limitation on future redevelopment plans;
- concerns about the structural condition of the building and the prohibitive nature of heritage controls for demolition or repair;
- the cost of maintenance and repairs of heritage places;
- the proposed Heritage Overlay is being introduced too late; and
- opposition to 'blanket' controls.

Council officers and Council's heritage consultant have reviewed each submission and are recommending a number of changes to the Study as a result of the feedback received. The following substantial changes are recommended:

Mont Iris Estate and Environs Precinct

- Regrade 33 Fuller Street from 'contributory' to Significant in the precinct;
- Downgrade 12 Dent Street from 'contributory' to 'non-contributory';
- Downgrade 1 Sherwood Street from 'contributory' to 'non-contributory'; and
- Downgrade 7 Hilltop Street from 'contributory' to 'non-contributory'.

Summerhill Estate Precinct

- Downgrade 38 Brandon Street from 'contributory' to 'non-contributory';
- Downgrade 69 Florizel Street from 'contributory' to 'non-contributory';
- Downgrade 23 Montana Street from 'contributory' to 'non-contributory';
- Remove 2 and 4 Prosper Parade from the precinct; and
- Remove Criterion H from the precinct Statement of Significance and address Thomas Burke's involvement as part of Criterion A.

Violet Farm Estate

- Downgrade 21 Parkin Street from 'contributory' to 'non-contributory'.

Councillor Biggar left the Urban Planning Delegated Committee meeting at 6.45pm

Councillor Biggar re-entered the Urban Planning Delegated Committee meeting at 6.47pm

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

Procedural motion - Closure of meeting to the public**MOTION**

Moved Councillor Sinfield

Seconded Councillor Addis

That the Urban Planning Delegated Committee resolve:

- 1. That in accordance with section 66(1) and 66(2)(a) of the Local Government Act 2020, the Urban Planning Delegated Committee be closed to members of the public to enable the Committee to hear from a submitter who's submission contains personal information, being information which if released would result in the unreasonable disclosure of information about the person or their personal affairs.**
- 2. That in accordance with section 3(1)(f) of the Local Government Act 2020 the ground for determining to close the meeting to the public is consider personal information, being information which if released would result in the unreasonable disclosure of information about any person or their personal affairs.**

CARRIED

The Urban Planning Delegated Committee meeting was closed to the public at 7:36pm

Procedural motion - Reopen meeting to the public**MOTION****Moved Councillor Thompson****Seconded Councillor Gault****That the Council meeting be re-opened to the public.****CARRIED**

The Urban Planning Delegated Committee meeting was re-opened to the public at 7:56pm with all councillors present.

MOTION**Moved Councillor Thompson****Seconded Councillor Franco****That the Urban Planning Delegated Committee resolve to:**

- 1. Receive and note the submissions to Amendment C333boro (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 C333boro and the Glen Iris Heritage Gap Study as shown at Attachment 1 subject to the following change:**
 - a. Remove 12 Dent Street, Glen Iris from the Mont Iris Estate Precinct.**
- 3. Request the Minister for Planning appoint a Planning Panel under Section 153 of the *Planning and Environment Act 1987* to consider submissions to Amendment C333boro.**
- 4. Refer Amendment C333boro 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 C333boro that do not change the intent of the amendment prior to a Panel Hearing.**

CARRIED

3.2 Amendment C337boro - Ashburton Heritage Gap Study - Exhibition outcomes and request for Panel

The purpose of this report is to inform the Urban Planning Delegated Committee (UPDC) of the exhibition outcomes of Amendment C337boro to the Boroondara Planning Scheme. The amendment seeks to implement the recommendations of the Ashburton Heritage Gap Study (the Study) by applying the Heritage Overlay to nine (9) individual heritage places and one (1) heritage precinct. The individual places and the Home Farm Estate and Environs Precinct have been assessed as being of local cultural heritage significance to the City of Boroondara.

Exhibition of the amendment and the Study was undertaken between 6 May and 7 June 2021. All affected and adjoining property owners and occupiers were notified of the exhibition, as well as key stakeholders and submitters to preliminary consultation. A total of fourteen (14) submissions were received. Of these, six (6) supported the amendment, two (2) partially supported the amendment and six (6) objected to the amendment.

Issues raised by submitters include the impact on property values, impact on future development, structural integrity of buildings, disagreement with the heritage significance of properties, and objections to specific properties being included in a Heritage Overlay. Several properties were nominated for consideration for inclusion in the Heritage Overlay.

The submissions have been considered by Council officers and Council's heritage consultant. A summary of all submissions received, the officers' response and recommended changes made to the exhibited Study and heritage citations is provided in **Attachment 1**. A number of changes are proposed to the exhibited Study, which is provided in **Attachment 2**.

In accordance with Section 23 of the *Planning and Environment Act 1987*, Council as the planning authority must consider whether to change the amendment in response to a submission(s), refer the amendment to an independent Planning Panel, or abandon the amendment in full or part. It is recommended the amendment be referred to an independent Planning Panel to consider all submissions.

Councillor Addis left the Urban Planning Delegated Committee meeting at 8.43pm

The Mayor, Councillor Thompson declared a Material Conflict of Interest in Item 3.2 Amendment C337boro - Ashburton Heritage Gap Study - Exhibition outcomes and request for Panel in accordance with section 128 of the Local Government Act 2020 and the Governance Rules.

Councillor Thompson advised the nature of the interest was "I am a Director of a Company, where my Company is the architect to St Michael's Catholic Primary School. The item under consideration relates to the application of a Heritage Overlay over a portion of the school site considered through Architectural Master Plan to be demolished. Both the school and my Company has an interest in the outcome."

The Mayor, Councillor Thompson left the Council Chamber at 8.44pm prior to the consideration and vote on this item.

Councillor Addis re-entered the Urban Planning Delegated Committee meeting at 8.44pm

2 speakers opposed to the officers' recommendation addressed the meeting.

MOTION

Moved Councillor Hollingsworth

Seconded Councillor Franco

That the Urban Planning Delegated Committee resolve to:

- 1. Receive and note the submissions to Amendment C337boro (Attachment 1) to the Boroondara Planning Scheme and the Ashburton Heritage Gap Study in accordance with Section 22 of the *Planning and Environment Act 1987*.**
- 2. Endorse the officers' response to submissions and recommended changes to Amendment C337boro and the Ashburton Heritage Gap Study as shown at Attachment 2.**
- 3. Request that the Minister for Planning appoint a Planning Panel under Section 153 of the *Planning and Environment Act 1987* to consider unresolved submissions to Amendment C337boro.**
- 4. Refer the amendment and 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 C337boro that do not change the intent of the amendment prior to a Panel Hearing.**

CARRIED

The Mayor, Councillor Thompson re-entered the meeting at 8:59pm

3.3 Amendment C341boro - 12-14 Tannock Street Heritage - Panel Report Recommendations

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 followed a community petition 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. 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.

On 12 April 2021, the UPDC resolved to refer all submissions received to an independent Planning Panel for consideration.

A Planning Panel was held on 15 and 16 June 2021 to consider submissions to Amendment C341boro. The Panel's report and recommendations were received by Council on 8 July 2021.

The Panel supported Council's position on Amendment C341boro and did not recommend any changes be made to the amendment.

It is recommended that the UPDC resolve to refer Amendment C341boro to an Ordinary Meeting of Council for adoption.

2 speakers in support of the officers' recommendation addressed the meeting.

MOTION

Moved Councillor Thompson

Seconded Councillor Watson

That the Urban Planning Delegated 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. Endorse the planning scheme documentation as shown in Attachment 2.**
- 3. Refer Amendment C341boro to an Ordinary Meeting of Council to be adopted in accordance with Section 29(1) of the *Planning and Environment Act 1987*.**
- 4. Authorise the Director Urban Living to undertake administrative changes to the amendment and associated planning controls that do not change the intent of the controls.**

CARRIED

3.4 VCAT Decisions and Decisions under delegation May and June 2021

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

There were no speakers wishing to make submissions to the Committee for this item.

MOTION

Moved Councillor Hollingsworth

Seconded Councillor Gault

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

CARRIED

The Chair, Councillor Parke noted this was the last meeting for the Manager Statutory and Strategic Planning, Mr Simon Mitchel, as he was retiring. The Chair thanked Mr Mitchel on behalf of Council and the community for his 14 years of service.

4. General business

4.1 Passing of former Maling Ward Councillor Dick Menting

Councillor Addis acknowledged the passing of former Maling Ward Councillor and resident Dick Menting.

Councillor Addis stated she believed it was appropriate to celebrate his special life and on behalf of Council extended her condolences to his wife, Margaret, children and extended family.

Councillor Addis informed the Committee a formal condolence motion would be presented at the next Council meeting.

5. Urgent business

5.1 Planning Reform

MOTION

Moved Councillor Thompson

Seconded Councillor Gillies

That the Urban Planning Delegated Committee resolve to admit as an item of urgent the matter of Planning Reform because this item relates to or arises out of a matter which has arisen since the distribution of the agenda and it cannot safely or conveniently be deferred until the next Urban Planning Delegated Committee meeting.

CARRIED

MOTION**Moved Councillor Thompson****Seconded Councillor Addis****That the Urban Planning Delegated Committee resolve to:**

- 1. Note the Victorian Government has made a number of changes to the planning system in the last 18 months which have reduced the community's third party public notice and appeal rights and Council's role as responsible planning authority.**
- 2. Note the Victorian Government is currently considering further significant planning reform through the Planning Reform Program 2020-2024.**
- 3. Strongly voice its concern consultation to date has been limited to only selected councils on separate parts of the reform program and has required council officers to sign confidentiality agreements to be a part of this consultation.**
- 4. Note:**
 - a. Meaningful consultation with community and with local government on any reform proposals must occur before reforms are considered or introduced;**
 - b. community consultation must remain an integral consideration for planning decisions;**
 - c. community consultation must be a core part of major planning decisions;**
 - d. community voice is critical for ensuring a transparent planning system which strengthens local neighbourhoods and economies.**
- 5. Urge the Minister for Planning to:**
 - a. ensure full consultation with councils and community before any planning reform decisions are made;**
 - b. ensure appropriate time is provided for feedback, including consideration of council meeting cycles.**
- 6. Urgently write to the Minister for Planning and the shadow Minister for Planning to advocate Council's position with a copy of that letter sent to all local members of parliament whose electorates cover Boroondara.**
- 7. Use the Council communication channels including but not limited to letters, the Boroondara Bulletin, social media, and the Council website to inform the community regarding the planning reforms and to encourage them to provide feedback to the Victorian Government directly and to local members of parliament.**
- 8. Request the CEO or his delegate coordinate with other councils in regard to advocacy.**

CARRIED

Division**Councillor Thompson called for a division****Affirmative**

Councillor Parke
Councillor Addis
Councillor Hollingsworth
Councillor Sinfield
Councillor Stavrou
Councillor Thompson (Mayor)
Councillor Watson
Councillor Biggar
Councillor Gault
Councillor Gillies

Negative

Councillor Franco

The Chairperson, Councillor Parke declared the Motion **CARRIED**

5.2 Decriminalising Sex Work**MOTION**

Moved Councillor Thompson

Seconded Councillor Stavrou

That the Urban Planning Delegated Committee resolve to admit as an item of urgent the matter of Decriminalising Sex Work because this item relates to or arises out of a matter which has arisen since the distribution of the agenda and it cannot safely or conveniently be deferred until the next Urban Planning Delegated Committee meeting.

CARRIED

MOTION

Moved Councillor Thompson

Seconded Councillor Watson

That the Urban Planning Delegated Committee resolve to:

- 1. Note the Victorian Government has decided to decriminalise sex work in Victoria. The decriminalisation of sex work will:**
 - a. remove offences and criminal penalties for consensual sex work. This will include decriminalising street-based sex work in most locations and repealing public health offences;**
 - b. repeal the Sex Work Act 1994 and regulate the sex work industry through existing regulatory agencies; and**
 - c. introduce supporting reforms in areas such as planning, public health and anti-discrimination.**

2. **Oppose the proposed changes which will directly impact councils and their communities by:**
 - a. Decriminalising street-based sex work in most locations;
 - b. Dismantling the sex work licensing and registration system established by the Sex Work Act 1994 including the separation distance requirements between sex work businesses and particular land uses, including dwellings;
 - c. Allowing brothels to apply for a liquor licence subject to the standard liquor licensing framework established under the Liquor Control Reform Act 1998;
 - d. Shifting the enforcement of regulations relating to sex work to local councils under the Planning and Environment Act 1987;
 - e. Allowing commercial sex work businesses to operate in commercial and residential zones, subject to requirements;
 - f. Allowing sex workers to operate home-based businesses under the same planning controls as any other home-based businesses; and
 - g. Allowing signage and advertising for sex work businesses to be considered in the same manner as any other business (i.e. sign size, location and lighting) including in residential areas.
3. **Voice its concern that councils only received direct advice of this proposed change two days prior to the close of submissions which is grossly inadequate to allow elected representatives to engage with their communities and for meaningful feedback to be provided.**
4. **Note:**
 - a. Meaningful consultation with community and with local government on any proposals must occur before any changes are considered or introduced; and
 - b. community consultation must form an integral consideration for any changes to the sex work industry.
5. **Urge the Minister for Consumer Affairs to:**
 - a. ensure full consultation with councils and the community before any decisions are made;
 - b. ensure appropriate time is provided for feedback, including consideration of council meeting cycles;
 - c. consider the resource implications to councils to enforce new sex work provisions;
 - d. provide additional evidence including Health Impact Statement, Social Impact Statement, Economic Impact Statement, case studies, and criminology assessment in regard to the proposed changes.
6. **Urgently write to the Minister for Consumer Affairs and the shadow Minister for Consumer Affairs to advocate Council's position with a copy of that letter sent to all local members of parliament whose electorates covers Boroondara.**

- 7. Use the Council communication channels, including, but not limited to letters, theBoroondara Bulletin, social media, and the Council website to inform the community regarding the changes to the sex work businesses and to encourage them to provide feedback to the Victorian Government.
- 8. Request the CEO or his delegate coordinate with other councils in regard to advocacy.

CARRIED

Division

Councillor Thompson called for a division

Affirmative

- Councillor Parke
- Councillor Watson
- Councillor Sinfield
- Councillor Thompson (Mayor)
- Councillor Hollingsworth
- Councillor Stavrou
- Councillor Gillies
- Councillor Addis
- Councillor Biggar
- Councillor Gault

Negative

- Councillor Franco

The Chairperson, Councillor Parke declared the Motion **CARRIED**

6. Confidential business


Nil

The meeting concluded at 10.03pm

Confirmed

Chairperson

Date



20 SEPTEMBER 2021