

3.2 Community heritage nomination process

Executive summary

Purpose

The purpose of this report is to seek a resolution from the Urban Planning Delegated Committee to adopt the Community Heritage Nomination Process shown in Attachment 1.

Background

In recent years, Council has received increasing numbers of requests from community members and groups to assess and protect properties through the application of Heritage Overlays. Many of these requests relate to properties, streets or areas assessed in the last six years through the Municipal Wide Heritage Gap Study or tested through an independent Planning Panel process. These nominations are often prompted by the lodgement of a planning application or the sale of the property.

In the past, requests to assess or reassess properties have been responded to individually in an “ad hoc” manner. However, assessing these nominations individually and then potentially initiating a new planning scheme amendment process for each is not an efficient approach. The approach has limited the Strategic Planning Team’s ability to deliver other important planning projects. The Minister for Planning has also indicated he is less likely to support additions to the Heritage Overlay, if they have not been considered in a strategic manner.

Key Issues

The proposed Community Heritage Nomination Process (Attachment 1) will provide a more efficient, consistent and transparent approach to the assessment of heritage nominations. It will focus Council resources on those properties and precincts most likely to be successfully added to the Heritage Overlay. This process will also increase the likelihood of State support and recognises the range of stakeholders potentially impacted.

Under the proposed process, residents will be able to nominate potential heritage places using an online nomination form where this can be clearly supported and justified. Nominators will be required to provide certain information to support the request for heritage assessment of a place.

Community nominations will initially be assessed against key eligibility criteria to ensure they have sufficient merit for further investigation. The nominated place will not be considered eligible for further investigation where:

- The place has previously been subject of an assessment that found it did not meet the threshold for local significance for inclusion in the Heritage Overlay (either as an individually significant property or as part of a broader precinct); or
- The place has been subject to a previous planning scheme amendment process, panel recommendation, Council resolution or Minister for Planning decision that did not support its inclusion in the Heritage Overlay.

Notwithstanding the above criteria, a nominated place may still be eligible for further investigation, if the nominator provides substantial new information or documentary evidence relating to Criteria H only (i.e. association with a person of note) that has not been considered as part of the previous assessment.

Nominations lodged without supporting documentation or evidence will not be considered eligible for further investigation.

Eligible nominations will then be assessed through two main streams:

1. Places 'under threat' of demolition: Properties subject to an application for demolition under S29A of the *Building Act 1993* or a planning permit application implying demolition. These properties will require heritage advice to be obtained within a short timeframe (i.e. 15 business days). Once the heritage citation recommending protection has been prepared, the matter will proceed to UPDC (rather than preliminary consultation) to commence the formal amendment process. This will increase the chances of success for the interim Heritage Overlay request.
2. Places not 'under threat' of demolition: These properties will be added to a list of future investigation sites and each year these properties will be assessed collectively as part of a strategic and resource efficient approach. Council can then proceed with a single planning scheme amendment process for those properties considered to have heritage merit.

In addition, places under threat will be placed on the "Possible Heritage" layer on Council's GIS system. Property owners will be promptly notified of their status on the layer and the proposed heritage assessment.

Places identified for future review will be placed on the "Possible Heritage" layer at the same time the annual assessment process commences. Property owners will be notified prior to their property being added to the layer and the commencement of the annual assessment.

Next Steps

To support implementation of this process, Council will need to engage a panel of heritage consultants who can be called upon on short notice to undertake heritage assessments.

The proposed Community Heritage Nomination Process will be more efficient than assessing nominations individually in an 'ad hoc' manner, however it will still require more resources than not assessing community nominations at all. Officers therefore recommend an evaluation of the process 12 months from its inception to evaluate its efficacy and in consideration of the following issues:

- success in introducing heritage controls;
- cost of heritage consultants and Council resources involved in assessments;
- Impact on other strategic work that is unable to be completed;
- feedback from nominators; and
- feedback from property owners impacted by the nomination process.

Officers recommendation

Officers recommend that the Urban Planning Delegated Committee resolve to adopt the Community Heritage Nomination Process shown at Attachment 1.

Responsible director: Scott Walker, Director Urban Living

1. Purpose

The purpose of this report is to seek a resolution from the Urban Planning Delegated Committee (UPDC) to adopt the Community Heritage Nomination Process as shown in the diagram at **Attachment 1**.

2. Policy implications and relevance to community plan and council plan

Council Plan 2021-2025 and Boroondara Community Plan 2017-27

The Boroondara Community Plan 2017-27 sets out the 10-year vision for Boroondara's future based on values, aspirations and priorities important to the community. Together with the Council Plan 2021-2025 the Plan identifies the identification and protection of identified heritage places as a key direction for planning in the municipality.

The Community Heritage Nomination Process implements Strategic Objective 4 of the Plan: *Protect the heritage and respect the character of the City to maintain amenity and liveability while recognising the need for appropriate, well-designed development for future generations.*

Specifically, the process will implement the following strategy:

- **Strategy 4.6** - Engage with owners and developers to achieve a balance between development and protection of neighbourhood character, heritage and amenity.

Planning and Environment Act 1987

The Community Heritage Nomination Process is consistent with the objectives of planning in Victoria, in particular the objective detailed in Section 4(1)(d) of the *Planning and Environment Act 1987* (the Act), being:

To conserve and enhance those buildings, areas or other places which are of scientific, aesthetic, architectural or historical interest, or otherwise of special cultural value.

This means Council has a statutory obligation to continuously identify and protect places of heritage significance through the Heritage Overlay.

Plan Melbourne 2017-2050

The identification, assessment and protection of places of local heritage significance are supported by Outcome 4 of *Plan Melbourne* which seeks to ensure *'Melbourne is a distinctive and liveable city with quality design and amenity'*. Direction 4.4 recognises the contribution heritage makes to Melbourne's distinctiveness and liveability and advocates for the protection of Melbourne's heritage places.

In particular, Policy 4.4.1 recognises the need for *'continuous identification and review of currently unprotected heritage sites and targeted assessments of heritage sites in areas identified as likely to be subject to substantial change'*.

Establishing a formal Community Heritage Nomination Process would ensure a transparent process for the identification of places of potential heritage significance consistent with Plan Melbourne policy directions.

Heritage Action Plan 2016

Adopted on 2 May 2016 the Heritage Action Plan (HAP) establishes the framework to guide Council's heritage work program as it relates to the identification, protection, management and promotion of Boroondara's heritage assets.

Adopting a formal Community Heritage Nomination Process would be consistent with the following aim of the Heritage Action Plan 2016:

- *Ensure the identification, protection and management of the City's heritage assets re-enforces the identity of the City and community and reflects the municipality's history and pattern of development.*

The current HAP is scheduled to be reviewed and re-adopted in the 2022/23 financial year. The new HAP will identify Council's heritage priorities for the next five years subject to resourcing. Actions which may be identified include new heritage studies, engagement strategies and heritage promotion activities.

3. Background

Municipal Wide Heritage Gap Study

On 2 May 2016, the Urban Planning Special Committee (UPSC) resolved to commence the preparation and implementation of the Municipal Wide Heritage Gap Study (MWHGS) to provide a more strategic, coordinated and less resource intensive approach to the identification and protection of places of heritage value in Boroondara.

Until that point assessment and protection of potential heritage places has been undertaken through discrete heritage studies and implementation of its S29A Demolition Application Decision Making process (2012). However, this approach is highly resource intensive and means resources are diverted from other projects on short notice resulting in delays in other project deliverables. Project and resource planning is significantly impacted by the demands placed on staff. Further, the success rate in obtaining interim heritage protection from the Minister for Planning for has been low due to a lack of a current heritage study or planning scheme amendment to protect properties on a permanent basis.

The preparation of a municipal-wide heritage study was intended to address these main concerns and allow Council to focus resources on a comprehensive, coordinated and proactive heritage study a more effective and efficient approach.

After 6 years, the MWHGS is nearing completion with the adoption of Amendment C333boro - Glen Iris Heritage Gap Study the last outstanding amendment scheduled soon. As a result of the MWHGS more than 5,000 additional properties will have been included in the Heritage Overlay, in addition to the ~10,000 properties already protected prior to the study. Only the Cities of Yarra and Port Phillip have more properties included in Heritage Overlays.

Community requests for increased heritage protection

Over the past two years, Council has received increasing numbers of ad hoc requests from community members and community groups to assess and protect properties through the application of Heritage Overlays. Many of these requests relate to properties already assessed through the MWHGS (Wattle Road, Hawthorn; Roseberry Street, Hawthorn East; 57 Berkeley Street, Hawthorn) or have already been tested through an amendment process (14 Sevenoaks Street, Balwyn North and 49 Mangarra Road, Canterbury).

Many of the nominations are prompted by the lodgement of a planning application or the sale of the property (e.g. 1 Coo loongatta Road, Camberwell, 57 Berkeley Street, Hawthorn and 1207 Burke Road, Kew). In most of these instances, residents did not nominate these properties as part of either the preliminary consultation or the formal exhibition process.

Council have commenced the re-assessment of several places which are subject of requests from community members for heritage protection. These are identified in Table 1 below.

Table 1: Summary of community nomination requests

Property/area	Recommendation	Status of assessment
1 Coo loongatta Road, Camberwell	Individually significant place	Minister for Planning has refused Council's requests for interim HO and authorisation to prepare and commence amendment for permanent HO.
57 & 60 Berkeley Street, Hawthorn	Individually significant places	Currently on exhibition.
1207 Burke Road, Kew	Individually significant place	Minister for Planning has refused Council's requests for interim HO and authorisation to prepare and commence amendment for permanent HO.
Harcourt Street, Hawthorn East	To be determined	Stage 1 preliminary assessment complete. Stage 2 detailed assessment of heritage significance of identified place underway.
Wattle Road, Hawthorn	To be determined	Stage 1 preliminary assessment complete. Stage 2 detailed assessment of heritage significance of identified place underway.
Roseberry Street, Hawthorn East	To be determined	Further investigation following UPDC resolution on 21 February 2022.
Balwyn heritage investigation areas - Creswick Street, Gordon Street, Austin Street etc.	To be determined	Draft heritage citations prepared. Preliminary consultation commencing soon.

In addition to the places listed above and the MWHGS, the Strategic Planning Team have progressed several other heritage assessments including the Balwyn Heritage Peer Review Stage 3 and 32 Corby Street, Balwyn.

4. Outline of key issues/options

A critical issue for Council is how to respond to community requests for further heritage protection on various properties while not unduly consuming staff time and resources needed on other planning projects. The previous ad-hoc approach to considering each community heritage nomination individually placed significant demands on staff resourcing and limited the Strategic Planning Team's capacity to progress other important strategic planning work (including centre structure planning and neighbourhood character provisions).

In addition to the time required to assess the heritage merits of each nomination, there is also a further 12-18 month planning scheme amendment processes that must be undertaken to include the properties within the heritage overlay. Ultimately, the Victorian Government may not support a significant portion of these nominations, regardless of Council's efforts.

Furthermore, there is a lack of clarity and transparency in the process for both those community members who submitted the nomination and for the owners and occupiers of the properties that are nominated.

Recommended nomination process

Officers therefore recommend establishing a formal Community Heritage Nomination Process as shown in the diagram in **Attachment 1**. Key steps in the process are discussed in more detail below.

Under the new process, the Strategic Planning Team will undertake an initial assessment of all nominations against key eligibility criteria (see below) to ensure they have sufficient merit to warrant further investigation.

Eligible heritage nominations would then be assessed through two streams depending on the threat of demolition:

1. Places 'under threat' of demolition due to a S29A demolition or planning permit application would be assessed as a priority
2. Places not under threat of demolition would be collated and assessed on an annual basis to ensure efficient use of Council resources.

The advantages of this process include:

- Ability to resource projects according to urgency for assessment and ensure adequate resources are available to progress other projects.
- Demonstrating to the community in support of heritage protection that Council will act to protect heritage places.
- Placing properties on Council's possible heritage GIS layer allows monitoring of S29A applications while the heritage study is progressed.

Nomination and initial review

It is considered that nominations can be lodged through an online form, with nominators being required to provide the following information:

- Personal contact details;
- Documentary evidence to support the application including information about which heritage criteria are considered to be met;

- Information about whether the place is under imminent threat (including evidence of such threat).

After the heritage nomination is lodged, Council would undertake an initial desktop review of the application to determine whether the property/precinct is eligible for a detailed assessment.

The nominated place will not be considered eligible for further investigation if:

- The place has previously been subject to an assessment that found it did not meet the threshold for local significance for inclusion in the Heritage Overlay; or
- The place has previously been subject of a planning scheme amendment process, panel recommendation, Council resolution or Minister for Planning decision that did not support its inclusion in the Heritage Overlay.

In addition to this there may be occasion where a nominated place was previously assessed by Council's heritage consultant, but the nomination provides substantial new information or documentary evidence relating to Criterion H only (i.e. association with a person of note) that has not been previously considered. In these circumstances relating to Criterion H, a nominated place may still be eligible for further investigation.

Any nominations lodged without supporting documentation or evidence will not be considered eligible for further investigation.

Threat of demolition

Once eligibility against the above criteria has been determined, Council will assess whether the building is under imminent threat of demolition based on the following criteria:

- A S29A Report and Consent application for demolition has been lodged; or
- A planning permit application implying either complete or partial demolition has been lodged and had not yet been determined.

If such an application exists, Council will instruct our heritage consultant to undertake a full assessment immediately to ensure Council can respond to the S29A application within the prescribed 15-day timeframe.

It is noted that a property being for sale will not be considered sufficient justification for immediate action.

Places not under threat of demolition - annual assessment process

Where a nominated place meets the eligibility criteria but is not under threat, it is proposed to include the property as part of an annual heritage assessment process. Assessing these places collectively each year, rather than on an individual ad-hoc basis, will significantly improve resource efficiency while improving the probability of Victorian Government support.

Once draft assessments have been prepared, Council will carry out preliminary consultation before presenting a report to the UPDC seeking a resolution to adopt the relevant heritage study/assessments and seek authorisation from the Minister for Planning to commence the planning scheme amendment process for permanent Heritage Overlays.

Properties not considered to be worthy of heritage protection based on the heritage consultant's assessment will not be pursued.

Inclusion on Possible Heritage Layer

It is recommended that nominated properties which are not under immediate threat of demolition be placed on Council's 'Possible Heritage' Layer at the same time that Council engages a heritage consultant to undertake the assessments as part of the annual review. Property owners will be notified prior to their properties inclusion on the layer and the commencement of the annual review process.

The purpose of the Possible Heritage Layer is to alert the Building Services Department, who receive Report and Consent applications for demolition under S29A of the *Building Act 1993*, to properties subject of a heritage assessment. Any report and consent application for a property on the Possible Heritage Layer will require referral to the Strategic Planning Team for consideration. Council can suspend a S29A application, if the extent of demolition is considered detrimental to the place's heritage significance. Any suspension will remain effective until the Minister for Planning determines Council's request. Following the Minister's decision consent for the demolition under S29B will either be refused (if the interim Heritage Overlay is introduced) or granted (if the request for interim Heritage Overlay is refused).

Adding places to the possible layer at the time of commencing the annual review process means that officers will not monitor for demolition applications and will not seek ad-hoc amendments for these places until the property owners have been notified and the annual review commences.

In addition to advising property owners of the status of their property on the Possible Heritage layer, owners will also be advised of opportunities to engage with Council as part of Council's consultation processes should the heritage assessment determine the property to be worthy of inclusion in a Heritage Overlay.

Owners of places assessed as part of the 'under threat' assessment process will have opportunities to engage with Council on the recommendation through the subsequent UPDC meeting where Council will determine whether to proceed with a planning scheme amendment to introduce the Heritage Overlay. Further opportunities also exist through the planning scheme amendment process (including exhibition and panel).

Owners of places assessed within the 'not under threat' assessment stream will have the opportunity to engage with Council through its usual engagement processes (i.e. engagement through preliminary consultation and exhibition as part of a future planning scheme amendment).

Any properties investigated as part of the annual review and not considered worthy of protection will be removed from the possible heritage layer.

Places under threat of demolition - priority assessment

If a nomination is accepted for a place considered to be under threat of demolition, Council will engage a heritage consultant to carry out a heritage assessment as a matter of urgency.

If the heritage assessment concludes the place is of heritage significance worthy of protection and the extent of demolition would be detrimental to the significance, Council will act in accordance with the adopted S29A Process. This will include suspending the S29A application (within 15 business days) and requesting introduction of an interim Heritage Overlay from the Minister for Planning.

Once the draft study/citation has been finalised, it is recommended to proceed directly to a UPDC meeting rather than undertaking preliminary consultation. The UPDC will need to decide whether to adopt the study/citation and request authorisation from the Minister for permanent HO.

This is due to the Minister or his delegates being unlikely to support the introduction of an interim Heritage Overlay without Council having committed to a planning scheme amendment process for permanent heritage protection and where Council has not demonstrated a property is under threat of demolition. The Minister for Planning does not consider a planning permit implying an inappropriate extent of demolition to present an immediate threat to the building warranting his intervention and introducing an interim Heritage Overlay.

Proceeding straight to UPDC will allow a decision to commence the amendment for permanent controls to be made without delay and increasing the chances of success for the interim Heritage Overlay.

Affected property owner and other stakeholders will be able to lodge submissions through the formal planning scheme amendment process (including the panel hearing process as required).

Consideration of standalone 'contributory' heritage places

DELWP has recently advised they do not support Council's request to review the State Government's *Planning Practice Note 01: Applying the Heritage Overlay* (PPN1) to allow heritage protection for standalone contributory places. This advice follows the Minister's recent decisions with regards to the protection of 5 Trumper Street, Camberwell and 57 Berkeley Street, Hawthorn.

Given this, any heritage assessment undertaken as part of the nomination process will need to meet the current State Government guidelines. This means whilst 'new' information may be presented through a nomination process, any new heritage assessment may still apply a similar threshold for assessment and ultimately determine places fall short of the current thresholds for heritage protection.

Consistent with this advice and the directions contained in PPN1, it is not recommended to pursue heritage protection for places identified as standalone 'contributory'. Heritage protection for 'contributory' places will only progress if a viable precinct has been identified as part of the heritage consultant's assessment.

Pursuing heritage protection for standalone 'contributory' places would be ineffective use of resources and limit the capacity of the Strategic Planning Team to deliver its overall work program.

Engagement of heritage consultant to undertake assessments

Implementation of the Community Heritage Nomination Process for places under threat requires Council to engage heritage consultants to carry out the relevant assessments and provide supporting expert advice and services through the planning scheme amendment process.

Officers propose engagement of a panel of heritage consultants to undertake the heritage assessments through the nomination process. Ideally comprising three to five heritage consultants with various specialist areas of knowledge. The panel will not include the heritage consultants who undertook the MWHGS to ensure re-assessment of places is undertaken with a new perspective. The use of a new heritage consultant will also provide comfort to some nominators that their nomination will be considered independently of past heritage assessments.

Please refer to the discussion in Section 6 below.

5. Consultation/communication

Once adopted, the nomination process will be promoted on Council's website where an online nomination form will be made available. The webpage will also identify Council's process for assessing nominations and opportunities for the community and key stakeholders to engage in the process as heritage assessments are progressed.

Owners of properties subject to a nomination and accepted for assessment will be notified as detailed above and in **Attachment 1** at various stages of the process.

6. Financial and resource implications

Implementation of the Community Heritage Nomination Process will be resourced through the Strategic and Statutory Planning Department's Operating Budget for the 2022/23 financial year. Further budget allocations will be required for subsequent years.

Implementation of the process is expected to attract additional financial costs associated with the engagement of a panel of heritage consultants to undertake heritage assessments. Based on recent heritage assessments, an assessment which results in the preparation of a heritage citation for an individually significant place could cost approximately \$4,000-\$6,000. An assessment which results in a heritage citation for a precinct could cost approximately \$10,000-\$15,000.

Additionally, planning scheme amendment fees will be incurred for applications to the Minister for Planning for interim heritage protection of properties (approximately \$4,000 per application) and for the progression of amendments for permanent controls.

A procurement process will be needed to establish a panel of heritage consultant prior to implementing the nomination process. The scope of services would be to review heritage nominations for places under threat of demolition, provide a heritage assessment identifying places for protection in the Heritage Overlay against the heritage criteria specified in PPN1, or providing advice as to why a place does not meet the threshold. Additionally, the consultant will be required to review and respond to submissions received during any consultation process Council undertakes and will be required to prepare and give evidence at any associated planning panel hearing process.

Further to the above, the current 'ad hoc' process for considering community heritage nominations is resource intensive and results in an 'opportunity cost' to Council because insufficient team capacity remains to pursue other planning projects. Implementing the proposed community heritage nomination process is therefore anticipated to free up resources to pursue additional strategic planning projects in future.

7. Governance issues

The officers responsible for this report have no direct or indirect interests requiring disclosure.

The implications of this report have been assessed and are not considered likely to breach or infringe upon, the human rights contained in the Victorian Charter of Human Rights and Responsibilities Act 2006.

8. Social and environmental issues

The implementation of the Community Heritage Nomination Process will have positive social and environmental effects by contributing to the continual protection and management of the City's heritage.

9. Evaluation and review

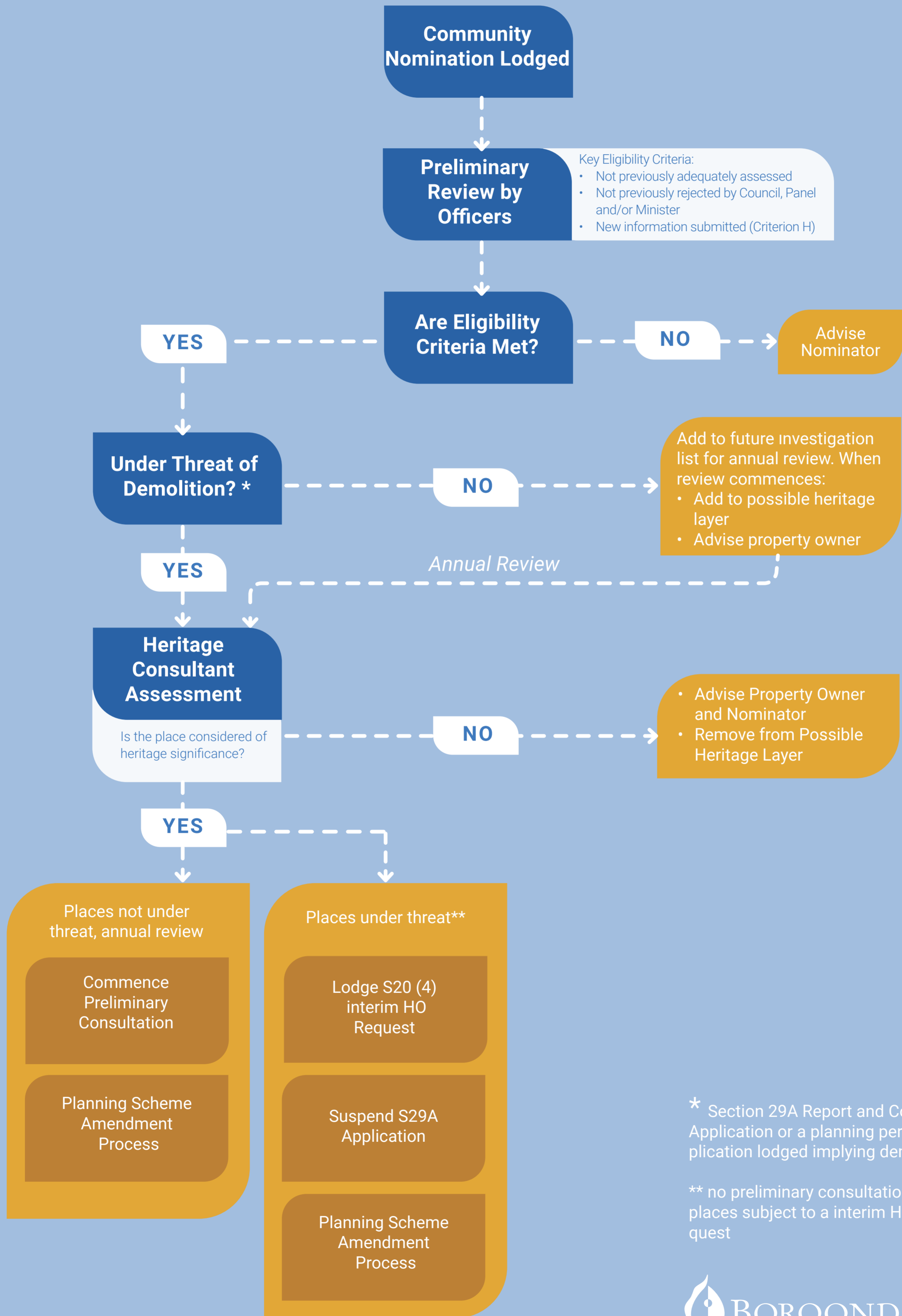
Given the implications to financial and officer resources in implementing the process, officers recommend an evaluation and review of the process 12 months after its implementation to assess the rate of success of the nomination process. Factors to be considered in the evaluation could include:

- success in introducing heritage controls;
- cost of heritage consultants and impact on Council resources involved in assessments;
- Impact on other strategic work that is unable to be completed due to the reallocation of resources;
- feedback from property owners materially impacted by the nomination process; and
- feedback from the nominator.

Manager: David Cowan, Manager Strategic and Statutory Planning

Report officer: Christian Wilmsen, Coordinator Strategic Planning

COMMUNITY HERITAGE NOMINATION PROCESS



* Section 29A Report and Consent Application or a planning permit application lodged implying demolition.

** no preliminary consultation for places subject to a interim HO request