

URBAN PLANNING DELEGATED COMMITTEE



MINUTES

(Open to the public)

Monday 16 May 2022

Council Chamber, 8 Inglesby Road, Camberwell.

Commencement 6.43pm

Attendance

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

Apologies

Nil

Officers

Phillip Storer	Chief Executive Officer
Scott Walker	Director Urban Living
Daniel Freer	Director Places and Spaces
Bryan Wee	Manager Governance & Legal
Kirstin Ritchie	Coordinator Governance
Christian Wilmsen	Coordinator Strategic Planning
Elizabeth Manou	Senior Governance Officer
Nick Brennan	Senior Strategic Planner

A handwritten signature in black ink, located at the bottom right of the page.

Table of contents

1.	Adoption and confirmation of the minutes	3
2.	Declaration of conflict of interest of any councillor or council officer	3
3.	Presentation of officer reports	3
3.1	Environmentally Sustainable Design Planning Policy - Resolution to commence a planning scheme amendment	3
3.2	Community heritage nomination process	6
4.	General business	9
4.1	Possible heritage layer	9
5.	Urgent business	9
5.1	Reduced funding for the Victorian Government Architect	9
6.	Confidential business	10



1. Adoption and confirmation of the minutes**MOTION****Moved Councillor Sinfield****Seconded Councillor Gillies**

That the minutes of the Urban Planning Delegated Committee meeting held on 2 May 2022 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 Environmentally Sustainable Design Planning Policy - Resolution to commence a planning scheme amendment**Purpose

The purpose of this report is to seek a resolution from the Urban Planning Delegated Committee to formally join Stage 2 of the Elevating ESD Targets planning policy project and to seek authorisation from the Minister for Planning to introduce a new Environmentally Sustainable Design (ESD) Particular Provision into the Boroondara Planning Scheme.

Background

In the last 12 months Council has become a member of the Council Alliance for a Sustainable Built Environment (CASBE) and the Strategic and Statutory Planning Department has recruited a designated ESD Officer to assist with the assessment of planning permit applications.

However, there is still no dedicated planning policy within the Boroondara Planning Scheme to require an ESD assessment as part of a planning application or require developments to incorporate specific sustainability measures. While more than 20 Victorian Councils already have a dedicated ESD policy within their planning schemes, this remains a key policy gap within the Boroondara Planning Scheme.

To address this policy gap, Council signed a Memorandum of Understanding with CASBE to join the Elevating ESD Targets Planning Policy project together with 30 other councils in June 2021.

Stage 1 of this collaborative research project aims to provide the justification for introducing stronger policy direction within planning schemes to elevate Environmentally Sustainable Development (ESD) targets for new developments.

Stage 1 of the project has now concluded with the production of a draft Particular Provision for Planning Schemes and supporting technical reports.

Stage 2 will encompass a planning scheme amendment to implement the Particular Provision developed in Stage 1.

Key Issues

The project group appointed three consultancy firms to produce technical reports to determine the proposed policy approach for Stage 2, and to provide an evidence basis to support the draft planning policy. The three technical reports are:

- Planning Advice (prepared by Hansen Partnership)
- Technical ESD and Development Feasibility (prepared by Hip V Hype)
- Cost Benefit Analysis (prepared by Frontier Economics)

These reports will also provide the required strategic evidence and analysis to support the planning scheme amendment process.

It is proposed that the new ESD policy will be included in relevant planning schemes as a Particular Provision rather than a local planning policy as has been the case with previous Councils. This will allow the policy to include mandatory provisions (which can no longer be included in a local planning policy) and will apply the same policy to all municipalities across Victoria. A copy of the draft Particular Provision is included at **Attachment 1**.

Council officers have provided feedback through the drafting of the Particular Provision. The working group have adopted this version of the Particular Provision as the form to be used in the group planning scheme amendment. For this reason, Council is not able to make any further changes to the Particular Provision at this stage of the process.

While the Particular Provision does not include any planning permit triggers, assessment against the provision would be required for many applications to construct a building, or construct or carry out works, including multi-dwelling and commercial developments.

The draft Particular Provisions sets out objectives and standards for the assessment of new development proposals as part of planning permit applications in the following areas:

- Energy.
- Integrated Water Management.
- Indoor Environment Quality.
- Circular Economy.
- Transport.
- Urban Ecology.
- Climate Resilience.

Joining Stage 2 will allow for all member Councils to share costs associated with the planning scheme amendment process, including panel costs, legal representation and expert witnesses.

A joint amendment process between many Councils will also ensure a consistent process and policy outcome for each council and their customers. It will demonstrate to the Minister for Planning that there is significant support for this ESD policy, increasing the likelihood of success in implementing metropolitan or State-wide ESD provisions.

Next Steps

Officers recommend that the UPDC resolve to:

1. Join Stage 2 of the joint Elevating ESD Targets planning policy project.
2. Adopt the draft ESD Particular Provision.
3. Seek authorisation from the Minister for Planning to prepare and exhibit a planning scheme amendment to introduce the prepared draft ESD planning policy into the Boroondara Planning Scheme.

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

MOTION

Moved Councillor Gault

Seconded Councillor Parke

That the Urban Planning Delegated Committee resolve to:

1. **Authorise the Director Urban Living to sign the Memorandum of Understanding to enter into Stage 2 of the Elevating ESD Targets Planning Policy Project.**
2. **Adopt the draft Environmentally Sustainable Design Particular Provision contained in Attachment 1.**
3. **Note the Technical Reports as shown in Attachments 2, 3 and 4 as supporting documents to the Amendment.**
4. **Write to the Minister for Planning to request authorisation to prepare an amendment to the Boroondara Planning Scheme in accordance with Sections 4B, 8A(2) and 8A(4) of the *Planning and Environment Act 1987* to implement the draft Environmentally Sustainable Design Particular Provision into the Boroondara Planning Scheme.**
5. **Following receipt of authorisation from the Minister for Planning, exhibit the amendment in accordance with Section 19 of the *Planning and Environment Act 1987*.**
6. **Authorise the Director Urban Living to undertake administrative changes to the amendment that do not change the intent of the amendment or any changes required under the Minister for Planning's Authorisation prior to the commencement of exhibition.**
7. **Support the advocacy efforts of CASBE to the Victorian Government seeking support for the introduction of elevated ESD provisions within the Victorian Planning Provisions.**

CARRIED

3.2 Community heritage nomination process

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.

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

One speaker neither for nor against the officers' recommendation chose to address the meeting.

Two submitters opposed to the officers' recommendation chose not to address the meeting.

MOTION**Moved Councillor Parke****Seconded Councillor Stavrou****That the Urban Planning Delegated Committee meeting be adjourned.****CARRIED***The Urban Planning Delegated Committee adjourned at 8.25pm.***MOTION****Moved Councillor Parke****Seconded Councillor Sinfield****That the Urban Planning Delegated Committee meeting resume.****CARRIED***The Urban Planning Delegated Committee resumed at 8.45pm with all councillors present.***MOTION****Moved Councillor Sinfield****Seconded Councillor Biggar****That the Urban Planning Delegated Committee resolve to defer consideration of this item to a future meeting, in order for the Committee to consider the following:**

- a) Including a timeframe for re-consideration of properties.**
- b) Including eligibility criteria beyond Criterion H.**
- c) Allowing any exceptional circumstances to be considered by the Director Urban Living.**
- d) Receiving community feedback on the Community Heritage Nomination Process after the trial period.**
- e) Review the extent of information required as part of a Community Heritage Nomination.**
- f) Seeking clarity on how/when affected property owners are notified.**

CARRIED

4. General business

4.1 Possible Heritage Layer

Councillor Franco stated his intention to ask officers to investigate the merits and implications of making the possible heritage layer publicly accessible. Councillor Franco noted Item F in the motion adopted for Item 3.2 covered this matter and stated that no additional action is required.

5. Urgent business

5.1 Reduced funding for the Victorian Government Architect

MOTION

Moved Councillor Addis

Seconded Councillor Watson

That the Urban Planning Delegated Committee resolve to admit as an item of urgent business, the matter of reduced funding for the Office Victorian Government Architect because this item relates to or arises out of a matter which has arisen since the distribution of the agenda and it cannot be deferred until the next Urban Planning Delegated Committee meeting given pending consideration of MAV State Council Motions and other planning reform related advocacy.

CARRIED

MOTION

Moved Councillor Addis

Seconded Councillor Watson

That the Urban Planning Delegated Committee resolve to:

- 1. Note that the Victorian Government has reduced the \$1.3 million funding of the Office of the Victorian Government Architect by \$600,000 which will impact the OVGA's ability to provide meaningful independent input and expert advice to key State and other projects including those within the City of Boroondara.**
- 2. Strongly voice its concern that the OVGA funding cut is another measure to reduce scrutiny of State and other key projects in addition to the changes already taken place as part of Planning Reform within the Development Facilitation Program and State Project exemptions which have reduced community and Council review and input.**
- 3. Write to the Minister for Planning to advocate for the reinstatement of Victorian Government Architect funding.**

4. Prepare an MAV State Council Meeting motion for the Municipal Association of Victoria to at the State Council Meeting on 24 June 2022 which calls on the Victorian Government to reinstate the reduced Victorian Government Architect funding.

CARRIED

6. Confidential business

Nil

The meeting concluded at 9.57pm

Confirmed

Chairperson



Date

4.07.2022