

# URBAN PLANNING DELEGATED COMMITTEE



## MINUTES

(Open to the public)

**Monday 1 August 2022**

Online - Delivered via Webex Events.

**Commencement** 6.36pm

**Attendance**

- Councillor Jane Addis (Mayor)
- Councillor Jim Parke (Temporary Chair)
- Councillor Felicity Sinfield
- Councillor Victor Franco
- Councillor Wes Gault
- Councillor Di Gilles
- Councillor Lisa Hollingsworth
- Councillor Susan Biggar
- Councillor Cynthia Watson

**Apologies**

- Councillor Garry Thompson
- Councillor Nick Stavrou

<b><u>Officers</u></b>	Phillip Storer	Chief Executive Officer
	Scott Walker	Director Urban Living
	David Cowan	Manager Strategic and Statutory Planning
	Bryan Wee	Manager Governance and Legal
	Kirstin Ritchie	Coordinator Governance
	Kelly Caporaso	Principal Statutory Planner
	Mikaela Carter	Senior Strategic Planner
	Liam Merrifield	Senior Governance Officer
	Emil Dickson	Strategic Planner

## Table of contents

<b>1.</b>	<b>Adoption and confirmation of the minutes</b>	<b>3</b>
<b>2.</b>	<b>Declaration of conflict of interest of any councillor or council officer</b>	<b>3</b>
<b>3.</b>	<b>Presentation of officer reports</b>	<b>3</b>
3.1	Amendment C367boro - 57 & 60 Berkley Street Hawthorn - Outcomes of exhibition and request for Panel	3
3.2	Amendment C368boro - 32 Corby Street, Balwyn North - Outcomes of exhibitions and request for Panel	5
3.3	442-450 Auburn Road and 9 Bills Street, Hawthorn (Melbourne University Hawthorn Campus)	7
<b>4.</b>	<b>General business</b>	<b>10</b>
<b>5.</b>	<b>Urgent business</b>	<b>10</b>
<b>6.</b>	<b>Confidential business</b>	<b>10</b>

**Election of temporary chairperson**

The **Manager Governance and Legal** called for nominations for the position of temporary chairperson.

**Councillor Addis nominated Councillor Parke**

**Councillor Watson seconded the nomination**

**There being no further nominations, the Manager Governance and Legal declared Councillor Parke elected as temporary chairperson.**

**Councillor Parke assumed the chair at 6:37pm**

**1. Adoption and confirmation of the minutes**

**MOTION**

**Moved Councillor Sinfield**

**Seconded Councillor Addis**

**That the minutes of the Urban Planning Delegated Committee meeting held on 18 July 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 Amendment C367boro - 57 & 60 Berkley Street Hawthorn - Outcomes of exhibition and request for Panel**

**Purpose**

The purpose of this report is to inform the Urban Planning Delegated Committee (UPDC) of the outcomes of the exhibition of Amendment C367boro and the officers' response to the submissions. The report also seeks a resolution to request the Minister for Planning to appoint a Planning Panel, and to refer all submissions to the Panel for consideration.

**Background**

In response to community requests, heritage consultants Peter Barrett and Trethowan were engaged to re-investigate the heritage significance of 57 and 60 Berkeley Street, Hawthorn, respectively. Both properties had previously been assessed but were not considered to reach the threshold for inclusion in the Heritage Overlay.

Following completion of their assessments, the heritage consultants recommended 57 and 60 Berkeley Street, Hawthorn be included in the Heritage Overlay as individually significant heritage places. Preliminary consultation on the draft heritage citations was undertaken between May and June 2021.

On 4 October 2021, the UPDC resolved to adopt the heritage citations for 57 and 60 Berkeley Street Hawthorn, and to write to the Minister for Planning to request authorisation to prepare an amendment to introduce the Heritage Overlay (HO) on permanent basis to the subject properties.

Authorisation was granted to commence Amendment C367boro on 12 November 2021.

### Key Issues

Exhibition of Amendment C367boro commenced on 12 May 2022 and closed on 14 June 2022. Thirty-three (33) submissions were received, including two (2) objecting and thirty-one (31) supporting submissions.

The key concerns raised in the submission include:

- perceived intactness of the properties
- the findings of earlier heritage studies in the area
- the heritage value of the properties and their ability to meet the requisite criteria for inclusion under the Heritage Overlay.

Council officers have reviewed the submissions and provided a response to each submission in the table at Attachment 1. It is recommended that only a minor change to the citation for 57 Berkeley Street, Hawthorn is required to clearly identify the non-contributory 1995 additions in the Statement of Significance (Attachments 2 and 3).

### Next Steps

Sections 22 and 23 of the *Planning and Environment Act 1987* state that Council must consider submissions received during an amendment exhibition period and sets out Council's options for action in response to submissions.

These options are to:

- Change the amendment in the manner requested; or
- Refer the submission to an independent panel; or
- Abandon the amendment or part of the amendment.

It is recommended that the UPDC resolve to refer all submissions received to an independent planning panel for consideration.

*One speaker opposed to the officers' recommendation addressed the meeting.  
Eight speakers in support of the officers' recommendation addressed the meeting.*

**MOTION****Moved Councillor Biggar****Seconded Councillor Sinfield****That the Urban Planning Delegated Committee resolve to:**

- 1. Receive and note the submissions to Amendment C367boro (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 (in Attachment 1) and recommended change to Amendment C367boro as shown in Attachments 2 and 3.**
- 3. Request that the Minister for Planning appoint a Planning Panel under Section 153 of the *Planning and Environment Act 1987* to consider all submissions to Amendment C367boro.**
- 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 C367boro that do not change the intent of the amendment prior to a Panel Hearing.**

**CARRIED****3.2 Amendment C368boro - 32 Corby Street, Balwyn North - Outcomes of exhibitions and request for Panel**Purpose

The purpose of this report is to inform the Urban Planning Delegated Committee (UPDC) of the outcomes of the exhibition of Amendment C368boro, the officers' response to the submissions and recommended change to the citation. The report seeks a resolution to request the appointment of an independent Panel from the Minister for Planning and to refer all submissions to the Panel for consideration.

Background

On 18 October 2021 the UPDC resolved to adopt a heritage citation for the site and to write to the Minister for Planning seeking authorisation to prepare and exhibit a planning scheme amendment to introduce the Heritage Overlay on a permanent basis.

Authorisation for Amendment C368boro was granted on 22 March 2022.

On 8 April 2022, an interim Heritage Overlay was applied to the site by Amendment C357boro, until 12 January 2023.

A planning application was submitted to Council on 18 January 2022 seeking full demolition of the existing dwelling on the site and construction of a new dwelling. This application is still being assessed and public notification will be commencing in the near future.

### Key Issues

Exhibition of Amendment C368boro was carried out between 5 May 2022 and 6 June 2022. A total of nine submissions were received. Of these, five were in support of the proposed Heritage Overlay and four were opposed.

The key concerns raised in opposing submissions were:

- Issues with the existing building, including liveability and the structural condition.
- Limitations on the future redevelopment of the site.
- Negative personal impacts, including financial and emotional costs.
- Disagreement with the assessment against Criterion E, arguing that the house is unremarkable and not of aesthetic significance.
- Disagreement with the assessment against Criterion H, arguing the dwelling is not representative of architect Alistair Knox's style, and disputing the importance of Knox to the municipality.

Officers have reviewed all submissions received and have provided a response in **Attachment 1** based on advice from Council's heritage consultant. Only minor changes to the heritage citation are recommended in response to the submissions received, following the discovery of plans of outbuildings from 1963 and 1964. Changes are highlighted yellow at **Attachment 2**.

### Next Steps

The UPDC must now decide whether to accept the officers' response to the submissions and the changes to the citation, request the appointment of a Panel and refer all submissions to the Panel. If so, the Panel will hold a public hearing at which all submitters can make further presentations in support of their submission. The Panel will then prepare a report with recommendations on how to proceed with the amendment. Officers will consider the Panel's recommendations and prepare a report for consideration by the UPDC in due course.

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

## **MOTION**

**Moved Councillor Sinfield**

**Seconded Councillor Addis**

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

1. **Receive and note the submissions to Amendment C368boro (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 C368boro as shown at Attachments 1 and 2.**
3. **Request that the Minister for Planning appoint a Planning Panel under Section 153 of the *Planning and Environment Act 1987* to consider all submissions to Amendment C368boro.**

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 C368boro that do not change the intent of the amendment prior to a Panel Hearing.**

**CARRIED**

### **3.3 442-450 Auburn Road and 9 Bills Street, Hawthorn (Melbourne University Hawthorn Campus)**

#### Proposal

The University of Melbourne and Hamton Property Group have made a joint request to the Minister for Planning for Amendment C376boro to the Boroondara Planning Scheme under 20(4) of the *Planning and Environment Act, 1987* (the Act).

The draft amendment facilitates redevelopment of the site for an apartment development via an amendment to the Boroondara Planning Scheme (C376boro). The Boroondara Planning Scheme is proposed to be amended by virtue of the following:

- Rezone the land from Public Use Zone, Schedule 2 (Education) to Residential Growth Zone.
- Introduce and apply a new Residential Growth Zone schedule (Schedule 2) to the land, applying a mandatory maximum building height requirement of 27m.
- Apply the Development Plan Overlay (DPO) - Schedule 4 to facilitate the development plan. The draft development plan includes the following features:
  - Construction of 320 new dwellings, which include 10% affordable dwellings.
  - Construction of seven new buildings. The building heights range from three to seven storeys (five buildings with a maximum of seven storeys and two buildings with a maximum of four storeys).
  - Two new public pedestrian and bicycle links through the site (one centrally through the site and one along the southern boundary).
- Apply the Environmental Audit Overlay to reflect the sensitive land use.
- Amend Clause 15.01-5L (Neighbourhood Character) to exempt the land from the policy.

#### Background

Council has been invited by the Department of Environment, Water, Land and Planning (DELWP) to comment on the 'draft' amendment by 8 August 2022. The full set of plans and documentation supporting the proposal were provided by DELWP for Council's review and comment on 11 July 2022.

DELWP is undertaking preliminary consultation in accordance with Section 20(5) of the Act, whereby the Minister may consult with the responsible authority (or any other person) before exercising the powers under Section 20(4). A Section 20(4) amendment is exempt from the standard public notice requirements for planning scheme amendments as specified by the Act. The process is also managed by DELWP on behalf of the Minister rather than by Council in what is often referred to as a "Ministerial Amendment".

DELWP has elected to hold community consultation and invite community submissions between 11 July 2022 to 8 August 2022. Council has written to local residents and landowners to inform them of the DELWP community consultation process and



encourage them to make submissions. Separately, Hamton Property Group has also erected signs on the property and is holding a number of community consultation sessions on the site.

#### Key Issues

Council officers have undertaken a thorough assessment of the proposal (Attachment 1), including the Development Plan provided by DELWP (Attachment 2).

The proposed development plan comprises a number of positive principles and attributes. These include that:

- The subject site is a large site in a desirable location, which is suitable for a residential redevelopment and provides an opportunity to supply a diversity of housing to the area which can be designed to meet the needs of the community.
- Sound urban design principles have been adopted, which include breaking the superblock into a series of smaller blocks to retain the fine-grain built form, ensuring pedestrian permeability through the site and interspersing building forms with landscaping.
- Large and established trees on the site have been shown to be retained.
- A commitment has been made to ensure new buildings score highly on Environmentally Sustainable Design measures.
- Affordable housing is to be provided on site, comprising 10% of all new dwellings.

However, the detail has yet to be provided which will demonstrate that the principles will be able to be achieved. There are also a number of concerns with the proposal, which are outlined below.

The use of the Section 20(4) of the Act to bypass the usual public notice (exhibition) and independent scrutiny (independent planning panel) is considered inappropriate and a denial of natural justice. This is a predominantly residential development undertaken by a private developer and there is no reasonable basis to bypass ordinary process to consider and facilitate this development through a typical planning scheme amendment.

The proposed rezoning of the land to the Residential Growth Zone is not supported, and not considered consistent with the principles and rationale used by Council when assigning residential zones within Boroondara. Council has previously applied the Residential Growth Zone to sites that are proximate to the Principal Public Transport Network, major activity centres or have been identified locations for higher density housing through appropriate strategies. The subject site is not considered to have sufficient accessibility to public transport, employment and services within walking distance to justify the zone that has been selected.

There is also concern with the proposed application of the DPO because future planning permits under the DPO are exempt from public notice and third-party review rights.

The proposed Development Plan is not supported for the following reasons:

- The buildings that it will enable are too high, not responsive to the surrounding built environment and will have an unreasonable impact on the surrounding streetscapes.
- The proposal will unreasonably impact on the amenity of the surrounding area by virtue of its significant increase in traffic to surrounding local residential streets.



- The proposal will unreasonably overshadow and visually overwhelm the dwellings within the adjoining Bills Street Housing Estate.

The proposed use of the Residential Growth Zone and Development Plan Overlay with respective schedules appears to have been selected and crafted to support the outcome proposed rather than setting a framework for a development plan which responds to the site and surrounding area.

It is proposed to write to DELWP and the Minister of Planning to inform them of the shortcomings of the proposal and strongly request they engage with Council and the community to shape a development outcome that will contribute positively to the local area.

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

## **MOTION**

**Moved Councillor Biggar**

**Seconded Councillor Hollingsworth**

**That the Urban Planning Delegated Committee resolve to write to the Department of Environment, Land, Water and Planning (DELWP) and the Minister for Planning and inform them that:**

### ***Process matters:***

1. The use of section 20(4) of the *Planning and Environment Act 1987* (The Act) to bypass the usual public notice (exhibition) and independent scrutiny (independent planning panel) is inappropriate and a denial of natural justice. The project is not of state significance and does not meet any of the eligibility criteria under the Development Facilitation Program. There is no reasonable basis to bypass ordinary process to consider and facilitate this development through a standard planning scheme amendment.
2. Council strongly urges the Minister for Planning to appoint an Independent Advisory Panel to assess the proposed planning scheme amendment and all submissions received and facilitate input by Council to a positive and suitable outcome for the site.

### ***Strategic matters:***

3. The application of the Residential Growth Zone (RGZ) lacks strategic justification. The application of the RGZ does not align with Council's approach to applying the residential zones across Boroondara and is inconsistent with the purpose of the RGZ, given its lack of proximity to established public transport and activity centres and is not a strategically identified location for significant higher density housing.
4. The application of the Development Plan Overlay is being misused, as a vehicle to circumvent proper process and community involvement.
5. Development on the subject site should consider the existing and preferred neighbourhood character of the area given its residential context. Specific removal of the subject site from Clause 15.01-5L 'Neighbourhood Character in Boroondara' is not supported.

**Proposed Development Plan:**

6. The proposed building heights will unreasonably impact on the existing and preferred character of the surrounding streetscapes.
7. The proposed development will have an unreasonable impact on the adjoining Bills Street Housing redevelopment by virtue of unreasonable visual bulk and overshadowing to private and communal open spaces.
8. The proposal will result in substantial increases in traffic volumes to residential streets and will unreasonably impact on the amenity of the surrounding area. Further consideration should be given to providing vehicle access via Auburn Road.
9. The proposed building footprint appears to be positioned too close to existing trees to be retained and may unreasonably impact on their longevity.
10. The proposal lacks appropriate replacement planting of canopy trees and insufficient areas for their establishment.
11. The affordable housing should be integrated into all buildings, rather than separated into one building within Stage 2. Further consideration should be made to increase the number of affordable housing dwellings.

**Future process:**

12. Council requests further engagement with DELWP, Hamton and the Minister for Planning and a clear process that will enable Council and the community to inform and guide the development of this site to ensure it appropriately responds to the above concerns.

**CARRIED****4. General business**

Nil

**5. Urgent business**

Nil.

**6. Confidential business**

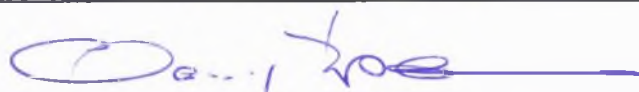
Nil.

The meeting concluded at 8.50pm.

Confirmed



Chairperson



Date

18.08.2022