

URBAN PLANNING DELEGATED COMMITTEE



MINUTES

(Open to the public)

Monday 5 September 2022

Council Chamber, 8 Inglesby Road, Camberwell.

Commencement 6:34pm

Attendance

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

Apologies Nil

<u>Officers</u>	Phillip Storer	Chief Executive Officer
	Daniel Freer	Director Places and Spaces
	Scott Walker	Director Urban Living
	David Cowan	Manager Strategic and Statutory Planning
	Bryan Wee	Manager Governance and Legal
	Christian Wilmsen	Coordinator Strategic Planning
	Kirstin Ritchie	Coordinator Governance
	Liam Merrifield	Senior Governance Officer
	Aileen Chin	Principal Planner
	Jordan Schonberg	Statutory Planner

A handwritten signature in the bottom right corner 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	Balwyn Interwar Heritage Assessment	3
3.2	21 Royal Crescent, Camberwell - Planning Application PP22/0045 for partial demolition, alterations and additions to a dwelling	5
4.	General business	13
5.	Urgent business	13
6.	Confidential business	13

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

That the minutes of the Urban Planning Delegated Committee meeting held on 15 August 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 Balwyn Interwar Heritage Assessment**Purpose

The purpose of this report is to inform the Urban Planning Delegated Committee (UPDC) of the outcomes of the preliminary consultation process for the Balwyn Interwar Heritage Assessment and the officers' response to the feedback. The report also seeks a resolution to commence a planning scheme amendment to apply a permanent Heritage Overlay to the identified properties.

Background

Following community nominations in late 2020, GML Heritage (formerly Context) were engaged in February 2021 to undertake a review of the following areas to identify properties of local heritage significance:

- Balwyn Park Estate (Tramway Heights Estate)
- Deepdene Township Estate (including 5 Creswick Street, Deepdene)
- 221 Whitehorse Road, Balwyn (as an individual property)

Following the detailed assessment, Council's heritage consultant identified the following properties as having local heritage significance:

- 133, 133a, 135, 135a, 137, 139 and 141 Gordon Street, Balwyn (Gordon Street Precinct)
- 41 Austin Street, Balwyn
- 221 Whitehorse Road, Balwyn
- 5 Creswick Street, Deepdene
- 6 Creswick Street, Deepdene

Key Issues

Preliminary consultation on the draft citations was undertaken from 20 May until 17 June 2022. Owners and occupiers of the affected properties, as well as owners of adjoining and adjacent properties and relevant community and historical groups were notified in writing of the consultation period and invited to provide feedback.

Thirteen (13) submissions were received, including seven (7) opposing submissions, five (5) supporting submissions and one (1) partially supporting submission.

The key issues raised in the feedback include:

- Detrimental impact on property value.
- Concerns regarding the management of trees under potential heritage overlays.
- Disagreement that certain homes meet the criteria for inclusion under the Heritage Overlay.
- Concerns regarding the liveability of historic homes that may not be practical by today's standard.
- Concerns that streetscapes have already changed to the degree that the inclusion of certain homes under the Heritage Overlay is redundant.
- Maintenance and repairs of heritage places.
- Request for additional properties to be included in the Heritage Overlay.

Officers and Council's heritage consultant have reviewed the feedback received and have provided a summary of and response to each submitter in the table at **Attachment 1**. No changes are proposed to the draft heritage citations in response to any of the feedback.

It is considered that the heritage citations at **Attachments 2, 3, 4, 5 and 6** should be adopted and it should be resolved to write to the Minister for Planning to request authorisation to prepare and exhibit a planning scheme amendment to implement the Heritage Overlay on a permanent basis in accordance with the adopted citations.

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

MOTION

Moved Councillor Watson

Seconded Councillor Sinfield

That the Urban Planning Delegated Committee resolve to:

1. **Receive and note the feedback received and outcomes of the preliminary consultation process undertaken on the draft Balwyn Interwar Heritage Assessment.**
2. **Endorse the officers' response to the preliminary feedback received as outlined in Attachment 1.**
3. **Adopt the citations comprising the Balwyn Interwar Heritage Assessment contained in Attachments 2 to 6, as annexed to the minutes.**
4. **Write to the Minister for Planning to request authorisation to prepare an amendment to the Boroondara Planning Scheme in accordance with Section 4B and 8A(4) of the *Planning and Environment Act 1987* to include properties identified in the Balwyn Interwar Heritage Assessment in the Heritage Overlay.**

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.

CARRIED

3.2 21 Royal Crescent, Camberwell - Planning Application PP22/0045 for partial demolition, alterations and additions to a dwelling

Proposal

The proposal seeks to partially demolish the existing dwelling and construct alterations and additions predominantly to the rear of the site. A front fence and pedestrian path are also proposed.

In summary the works consist of:

- partial demolition to the rear of an existing 'Contributory' graded dwelling;
- rear extension, finished with metal sheet pitched roofing and render exterior walls;
- rear alfresco area with pitched roof;
- rear setback reduced from existing 11.1m to 4m;
- bluestone pedestrian path at front of dwelling; and
- proposed 1.5m tall front picket fence.

Issues

Key issues with this application include amenity impacts and ResCode matters, specifically regarding overlooking from the proposed works. Other issues addressed in the Statutory Planning Delegate Report (**Attachment 1**) include:

- Neighbourhood Character
- Heritage Policy
- Loss of rear open space
- Loss of Views
- Overshadowing
- Overlooking
- Built form
- Drainage concerns

Officer's response

The demolition and works proposed at the site are considered appropriate to the preferred character of the area, the works will retain the existing northern side boundary setback and seek a minor reduction of 450mm to the existing southern boundary setback. While the rear extension is 6.5m tall at the ridgeline of the pitched metal roof, the height is considered acceptable due to the slope in the site and the built form being in full compliance with Clause 54.03-2 Building Height Objective (Standard A4) and Clause 54.04-1 Side and Rear Setbacks Objective (Standard A10).

The proposed materials for the works are supported as the exterior walls are finished in a light render and metal clad roofing which is considered respectful to the existing render and metal roofing present at the site.

The proposal utilises a rear alfresco area which is setback 4m from the rear boundary. An open space area of 35m² with a minimum dimension of 4m is provided to the rear of the site, which is considered to comply with the Neighbourhood Character Precinct and provide an open area to allow for the planting of large trees. The proposal is supported by Council's Arborists subject to standard conditions.

The proposal is assessed to fully comply with the ResCode requirements, except for Clause 54.04-6 Overlooking Objective (Standard A15). However, conditions can be placed on the permit seeking full compliance with the requirements of this standard.

The proposal has been assessed by Council's Heritage Advisor. The works are supported as they are predominantly located to the rear of the 'Contributory' Heritage Place and comply with the heritage strategies as outlined within clause 15.03-1L of the Boroondara Planning Scheme. It is noted that a Condition can be placed on the permit to ensure the front picket fence utilises a gap of 25-30mm between the pickets to allow for visual permeability subject to the Heritage Advisors assessment.

It is considered that the rear extension provides an appropriate response to the site context and will not present unreasonable impacts on the amenity of neighbouring properties, subject to conditions within the permit. As stated above, the proposal complies with Clause 54.02-1 Neighbourhood Character Objective, Clause 15.03-1L Heritage in Boroondara and will fully comply with the requirements of Clause 54 ResCode once overlooking conditions have been addressed.

Details of the proposal, discussion of all objections and assessment against relevant controls and policies are contained in the attached planning assessment report (**Attachment 1**).

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

MOTION

Moved Councillor Gillies

Seconded Councillor Watson

That the Urban Planning Delegated Committee resolve to:

That the Urban Planning Delegated Committee resolve that a Notice of Decision to Grant a Planning Permit No. PP22/0045 is issued for the partial demolition and construction of alterations and additions associated with a dwelling in a Heritage Overlay and on a lot under 500 square metres at 21 Royal Crescent, Camberwell under the Boroondara Planning Scheme and subject to the following conditions:

Amended plans required

- 1. Before the development starts, amended plans must be submitted to the satisfaction of the Responsible Authority. When the plans are to the satisfaction of the Responsible Authority they will be endorsed and will then form part of the Permit. The plans must be drawn to scale with**

dimensions and electronic copies provided, substantially in accordance with the advertised plans but modified to show:

- a. A notation included on the plans that there will be a spacing of 25mm to 30mm provided between the pickets of the front fence.
- b. Boundary fence adjacent to 21 and 23 Royal Crescent retained with no increase to height (1.8m high timber paling fence with 400mm lattice above Natural Ground Level).
- c. Screening to the north facing habitable room windows at the family, kitchen and meals area and alfresco area to 1.7m from FFL in accordance with Standard A15 Overlooking.
- d. Extend the 'selected fixed slat screen' to the south at the alfresco stairs west to comply with Standard A15 Overlooking.
- e. Demonstration of compliance from the rear (west) of the alfresco area with Standard A15 Overlooking or alternative screening as required to achieve compliance.
- f. Delete all references to solar panels on the plans.
- g. The Tree Protection Zone and Structural Root Zone of Tree Nos. 1 and 2 (as identified in the Arborist Report submitted with the application prepared by Arborist Reports Australia (dated 16th March 2022) drawn on all site and floor plans;
- h. Notation on all site and floor plans that Tree Nos. 1 and 2 are to be retained and protected in accordance with the endorsed Tree Management Plan required by this Permit;
- i. Any modifications to the location or layout of buildings and/or works recommended in the endorsed Tree Management Plan required by this Permit;
- j. Notation on all site and floor plans that all excavations within the Tree Protection Zone of Tree Nos. 1 and 2 must be undertaken with hand tools or hydro-vacuum and that all excavation works must be supervised, document and certified by the Project Arborist.
- k. Permanent fencing within the Tree Protection Zone of Tree No 2 constructed on pier foundations with any required plinths constructed above existing grade.
- l. Notation on all site and floor plans that no strip footing is permitted within the Tree Protection Zone of Tree Nos. 1 and 2.
- m. All building foundations within the Tree Protection Zone of Tree Nos. 1 and 2 to be constructed using root sensitive techniques (e.g. pier and beam, waffle slab, suspended slab or cantilevered foundations).
- n. A Tree Management Plan in accordance with Condition 3 of this permit.

Layout not to be altered

2. The layout of the site and the size, levels, design and location of buildings and works shown on the endorsed plans must not be modified for any reason (unless the Boroondara Planning Scheme specifies that a permit is not required) without the prior written consent of the Responsible Authority.

Tree Management Plan

3. Concurrent with the submission of amended plans required by Condition 1 of this Permit and prior to any demolition or site works, a Tree Management Plan to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. The Tree Management Plan must be prepared by a minimum AQF Level 5 qualified and experienced Arborist in relation to the management and maintenance of Tree Nos. 1 and 2 (as identified in the Arborist Report submitted with the application prepared by Arborist Reports Australia (dated 16th March

2022). The Tree Management Plan must make specific recommendations in accordance with the Australian Standard AS4970: 2009 - Protection of Trees on Development Sites and detail the following to ensure that all retained trees remain healthy and viable during construction:

- a. **A Tree Protection Plan drawn to scale that shows:**
 - i. **Tree Protection Zones and Structural Root Zones of all trees to be retained;**
 - ii. **All tree protection fenced off areas and areas where ground protection systems will be used;**
 - iii. **The type of foundations (illustration or notation) within each Tree Protection Zone;**
 - iv. **Any services to be located within the Tree Protection Zone and a notation to state that all services will either be located outside of the Tree Protection Zone, bored under the tree protection zone, or installed using hydro excavation under the supervision of the project arborist; and**
 - v. **A notation to refer to the Tree Management Plan for specific detail on what actions are required within the Tree Protection Zone.**
- b. **Details of how the root system of any tree to be retained will be managed. This must detail any initial non-destructive trenching and pruning of any roots required to be undertaken by the project arborist; and details of how any permeable surfaces within the Tree Protection Zone of retained trees will be constructed;**
- c. **Supervision timetable and certification of tree management activities required by the Project Arborist to the satisfaction of the Responsible Authority;**
- d. **All remedial pruning works that are required to be performed on trees during demolition and development of the site. The pruning comments must reference Australian Standards 4373:2007, Pruning of Amenity Trees and a detailed photographic diagram specifying what pruning will occur. Note: Only Council or Authorised Council Contractors can prune Trees Nos. 2. Any request for the pruning of trees on public land must be made through Council's Environmental Sustainability and Open Spaces Department.**
- e. **The recommendations contained in the approved Tree Management Plan must be implemented to the satisfaction of the Responsible Authority and any changes to the endorsed Tree Management Plan will require written authorisation from the Responsible Authority.**

Contractors to be advised of trees to be retained and protected

4. **The owner and occupier of the site must ensure that, prior to the commencement of buildings and works, all contractors and tradespersons operating on the site are advised of the status of trees to be retained and protected as detailed in the endorsed Tree Management Plan and are advised of any obligations in relation to the protection of those trees.**

Regulation of activities in Tree Protection Area

5. **No vehicular or pedestrian access, trenching or soil excavation is to occur within the Tree Protection Area as detailed in the endorsed Tree Management Plan without the prior written consent of the Responsible Authority. No storage or dumping of tools, equipment or waste is to occur within the Tree Protection Zone.**

Documentation and Certification by Project Arborist

6. Prior to the commencement of any site works, including demolition and excavation, the Responsible Authority must be provided with evidence that a project arborist has been engaged as part of the ongoing consultant team to oversee the design and construction, and to ensure the development does not have a detrimental impact on the ongoing health and stability of the trees to be retained. The project arborist must hold suitable qualifications and experience to the satisfaction of the Responsible Authority. Evidence of the appointment of the project arborist must be submitted to the satisfaction of the Responsible Authority (quoting the Planning Permit number and site address, emailed to Boroondara@boroondara.vic.gov.au) not less than seven (7) days before the commencement of works on site.

Drainage

7. The site must be drained to the satisfaction of the Responsible Authority.

Permit to expire:

8. This permit will expire if:
- The development does not start within two (2) years of the issue date of this permit; or
 - The development is not completed within four (4) years of the issue date of this permit.

The Responsible Authority may extend the times referred to if a request is made in writing before the permit expires or:

- within six (6) months afterwards if the development has not commenced; or
- within twelve (12) months afterwards if the development has not been completed.

Council and the Victorian Civil and Administrative Tribunal are unable to approve requests outside of the relevant time frame.

Procedural Motion - Adjournment

Moved Councillor Sinfield

Seconded Councillor Gault

That the Urban Planning Delegated Committee meeting be adjourned.

CARRIED

The Urban Planning Delegated Committee meeting adjourned at 8:32pm.



Procedural Motion - Resumption**Moved Councillor Sinfield****Seconded Councillor Hollingsworth****That the Urban Planning Delegated Committee meeting be resumed.****CARRIED**

The Urban Planning Delegated Committee meeting resumed at 8:40pm with all councillor's present

AMENDMENT**Moved Councillor Franco**

That the Urban Planning Delegated Committee resolve that a Notice of Decision to Grant a Planning Permit No. PP22/0045 is issued for the partial demolition and construction of alterations and additions associated with a dwelling in a Heritage Overlay and on a lot under 500 square metres at 21 Royal Crescent, Camberwell under the Boroondara Planning Scheme and subject to the following conditions:

Amended plans required

1. Before the development starts, amended plans must be submitted to the satisfaction of the Responsible Authority. When the plans are to the satisfaction of the Responsible Authority they will be endorsed and will then form part of the Permit. The plans must be drawn to scale with dimensions and electronic copies provided, substantially in accordance with the advertised plans but modified to show:
 - a. A notation included on the plans that there will be a spacing of 25mm to 30mm provided between the pickets of the front fence.
 - b. Boundary fence adjacent to 21 and 23 Royal Crescent retained with no increase to height (1.8m high timber paling fence with 400mm lattice above Natural Ground Level).
 - c. Screening to the north facing habitable room windows at the family, kitchen and meals area and alfresco area to 1.7m from FFL in accordance with Standard A15 Overlooking.
 - d. Extend the 'selected fixed slat screen' to the south at the alfresco stairs west to comply with Standard A15 Overlooking.
 - e. Demonstration of compliance from the rear (west) of the alfresco area with Standard A15 Overlooking or alternative screening as required to achieve compliance.
 - f. All cladding roofing materials and trim be coloured in muted tones
 - g. Delete all references to solar panels on the plans.
 - h. The Tree Protection Zone and Structural Root Zone of Tree Nos. 1 and 2 (as identified in the Arborist Report submitted with the application prepared by Arborist Reports Australia (dated 16th March 2022) drawn on all site and floor plans;
 - i. Notation on all site and floor plans that Tree Nos. 1 and 2 are to be retained and protected in accordance with the endorsed Tree Management Plan required by this Permit;

- j. Any modifications to the location or layout of buildings and/or works recommended in the endorsed Tree Management Plan required by this Permit;
- k. Notation on all site and floor plans that all excavations within the Tree Protection Zone of Tree Nos. 1 and 2 must be undertaken with hand tools or hydro-vacuum and that all excavation works must be supervised, document and certified by the Project Arborist.
- l. Permanent fencing within the Tree Protection Zone of Tree No 2 constructed on pier foundations with any required plinths constructed above existing grade.
- m. Notation on all site and floor plans that no strip footing is permitted within the Tree Protection Zone of Tree Nos. 1 and 2.
- n. All building foundations within the Tree Protection Zone of Tree Nos. 1 and 2 to be constructed using root sensitive techniques (e.g. pier and beam, waffle slab, suspended slab or cantilevered foundations).
- o. A Tree Management Plan in accordance with Condition 3 of this permit.

Layout not to be altered

- 2. The layout of the site and the size, levels, design and location of buildings and works shown on the endorsed plans must not be modified for any reason (unless the Boroondara Planning Scheme specifies that a permit is not required) without the prior written consent of the Responsible Authority.

Tree Management Plan

- 3. Concurrent with the submission of amended plans required by Condition 1 of this Permit and prior to any demolition or site works, a Tree Management Plan to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. The Tree Management Plan must be prepared by a minimum AQF Level 5 qualified and experienced Arborist in relation to the management and maintenance of Tree Nos. 1 and 2 (as identified in the Arborist Report submitted with the application prepared by Arborist Reports Australia (dated 16th March 2022)). The Tree Management Plan must make specific recommendations in accordance with the Australian Standard AS4970: 2009 - Protection of Trees on Development Sites and detail the following to ensure that all retained trees remain healthy and viable during construction:
 - a. A Tree Protection Plan drawn to scale that shows:
 - i. Tree Protection Zones and Structural Root Zones of all trees to be retained;
 - ii. All tree protection fenced off areas and areas where ground protection systems will be used;
 - iii. The type of foundations (illustration or notation) within each Tree Protection Zone;
 - iv. Any services to be located within the Tree Protection Zone and a notation to state that all services will either be located outside of the Tree Protection Zone, bored under the tree protection zone, or installed using hydro excavation under the supervision of the project arborist; and
 - v. A notation to refer to the Tree Management Plan for specific detail on what actions are required within the Tree Protection Zone.
 - b. Details of how the root system of any tree to be retained will be managed. This must detail any initial non-destructive trenching and pruning of any roots required to be undertaken by the project arborist; and details of how any permeable surfaces within the Tree Protection Zone of retained trees will be constructed;

- c. Supervision timetable and certification of tree management activities required by the Project Arborist to the satisfaction of the Responsible Authority;
- d. All remedial pruning works that are required to be performed on trees during demolition and development of the site. The pruning comments must reference Australian Standards 4373:2007, Pruning of Amenity Trees and a detailed photographic diagram specifying what pruning will occur. Note: Only Council or Authorised Council Contractors can prune Trees Nos. 2. Any request for the pruning of trees on public land must be made through Council's Environmental Sustainability and Open Spaces Department.
- e. The recommendations contained in the approved Tree Management Plan must be implemented to the satisfaction of the Responsible Authority and any changes to the endorsed Tree Management Plan will require written authorisation from the Responsible Authority.

Contractors to be advised of trees to be retained and protected

- 4. The owner and occupier of the site must ensure that, prior to the commencement of buildings and works, all contractors and tradespersons operating on the site are advised of the status of trees to be retained and protected as detailed in the endorsed Tree Management Plan and are advised of any obligations in relation to the protection of those trees.

Regulation of activities in Tree Protection Area

- 5. No vehicular or pedestrian access, trenching or soil excavation is to occur within the Tree Protection Area as detailed in the endorsed Tree Management Plan without the prior written consent of the Responsible Authority. No storage or dumping of tools, equipment or waste is to occur within the Tree Protection Zone.

Documentation and Certification by Project Arborist

- 6. Prior to the commencement of any site works, including demolition and excavation, the Responsible Authority must be provided with evidence that a project arborist has been engaged as part of the ongoing consultant team to oversee the design and construction, and to ensure the development does not have a detrimental impact on the ongoing health and stability of the trees to be retained. The project arborist must hold suitable qualifications and experience to the satisfaction of the Responsible Authority. Evidence of the appointment of the project arborist must be submitted to the satisfaction of the Responsible Authority (quoting the Planning Permit number and site address, emailed to Boroondara@boroondara.vic.gov.au) not less than seven (7) days before the commencement of works on site.

Drainage

- 7. The site must be drained to the satisfaction of the Responsible Authority.

Permit to expire:

- 8. This permit will expire if:
 - a. The development does not start within two (2) years of the issue date of this permit; or
 - b. The development is not completed within four (4) years of the issue date of this permit.

The Responsible Authority may extend the times referred to if a request is made in writing before the permit expires or:

- i) within six (6) months afterwards if the development has not commenced; or

- ii) within twelve (12) months afterwards if the development has not been completed.

Council and the Victorian Civil and Administrative Tribunal are unable to approve requests outside of the relevant time frame.

The Amendment LAPSED for want of a seconder

The substantive motion was put and CARRIED

4. General business

Nil

5. Urgent business

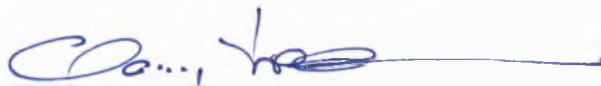
Nil.

6. Confidential business

Nil.

The meeting concluded at 8:50pm.

Confirmed



Chairperson

GARRY THOMPSON

Date

19/09/2022