

URBAN PLANNING DELEGATED COMMITTEE MINUTES



(Open to the public)

Monday 1 May 2023

Council Chamber - 8 Inglesby Road, Camberwell.

Commencement 6:34pm

Attendance

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

Apologies

Nil

Officers

Scott Walker	Director Urban Living
Daniel Freer	Director Places and Spaces
Kate McCaughey	Director Community Support
David Cowan	Manager Planning and Placemaking
Bryan Wee	Manager Governance and Legal
Christian Wilmsen	Coordinator Strategic Planning
Kirstin Ritchie	Coordinator Governance
Mikaela Carter	Senior Strategic Planner
Rachel Brien	Strategic Planner
Liam Merrifield	Senior Governance Officer

Table of Contents

1 Adoption and confirmation of the minutes of the Urban Planning Delegated Committee meeting held on 3 April 2023.....	3
2 Declaration of conflict of interest of any councillor or council officer	3
3 Presentation of officer reports	3
3.1 Amendment C388boro - Smythesdale Estate Precinct Heritage Overlay - Exhibition outcomes	3
3.2 9 Seattle Street, Balwyn North - Outcome of Exhibition - Amendment C381boro.....	5
3.3 Community Heritage Nomination Process - Consideration of revised process.....	6
4 General business	8
5 Urgent business.....	9
6 Confidential business.....	9

1 Adoption and confirmation of the minutes of the Urban Planning Delegated Committee meeting held on 3 April 2023

MOTION

Moved Councillor Gillies

Seconded Councillor Sinfield

That the minutes of the Urban Planning Delegated Committee meeting held on 3 April 2023 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 C388boro - Smythesdale Estate Precinct Heritage Overlay - Exhibition outcomes

Purpose

Amendment C388boro proposes to apply the Heritage Overlay to the Smythesdale Estate Precinct including 8, 10, 12, 14, 16 and 18 Carlyle Street, Hawthorn East and 81, 83, 85, 85A, 87 and 89 Harcourt Street, Hawthorn East.

The purpose of this report is to inform the Urban Planning Delegated Committee (UPDC) of the outcomes of the exhibition of Amendment C388boro and the officer response to the submissions. 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 3 October 2022 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 C388boro was granted on 27 October 2022.

Key Issues

Exhibition of Amendment C388boro was carried out between 9 February and 3 April 2023. A total of 24 submissions have been received. Of these, 21 are in support of the proposed Heritage Overlay, 2 are opposed and one is partially supporting.

Officers have reviewed all submissions received and provide a response in **Attachment 1**.

The key concerns raised in the opposing submissions include:

- Social and economic issues including cost of living pressures, housing shortages and demographic changes.
- Personal impacts including on property value, and the time and cost of the planning process.
- No heritage merit to the proposal.
- Disagreement with the inclusion of a non-contributory property.

It is noted that the two opposing submitters raised concerns about social and economic issues, including cost of living pressures, housing shortages and demographic changes. These broader matters of planning policy and private economic impacts are not a relevant consideration when determining whether a property should be included in the Heritage Overlay or not. This position has been repeatedly confirmed by Planning Panels in considering similar amendments. Other matters are addressed in the detailed response to submitters.

No changes to the heritage citation are recommended in response to the submissions.

Next Steps

The UPDC must now decide whether to accept the officer response to the submissions, to 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

One speaker in support of the officers' recommendation addressed the meeting.

MOTION

Moved Councillor Sinfield

Seconded Councillor Hollingsworth

That the Urban Planning Delegated Committee resolve to:

- 1. Receive and note the submissions to Amendment C388boro (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 to Amendment C388boro as shown at Attachment 1.**
- 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 C388boro.**
- 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 C388boro that do not change the intent of the amendment prior to a Panel Hearing.**

CARRIED

3.2 9 Seattle Street, Balwyn North - Outcome of Exhibition - Amendment C381boro

Purpose

The purpose of this report is to inform the Urban Planning Delegated Committee (UPDC) of the outcomes of the public exhibition of Amendment C381boro. The amendment proposes to include 9 Seattle Street, Balwyn North in the Heritage Overlay as an individually significant property. The report also seeks a resolution to request the Minister for Planning to appoint a Planning Panel, and to refer all submissions to an independent planning panel for consideration.

Background

The property at 9 Seattle Street, Balwyn North was identified for a detailed heritage assessment as part of the Balwyn Stage 3 Peer Review. Following lodgement of a planning permit application that implied complete demolition of the house, a priority heritage assessment was carried out in May/June 2022. On 18 July 2022, the UPDC resolved to adopt the heritage citation, proceed to a planning scheme amendment for a permanent Heritage Overlay without preliminary consultation and request introduction of an interim Heritage Overlay.

Council wrote to the Minister for Planning to request authorisation to prepare an amendment to the Boroondara Planning Scheme to include 9 Seattle Street, Balwyn North in the Heritage Overlay. Authorisation was granted to prepare and exhibit Amendment C381boro on 31 October 2022.

Key Issues

Exhibition of the amendment commenced on 9 February 2023 and closed on 9 March 2023. Three (3) objecting submissions were received which raised the following key issues:

- Disagreement that the property meets the criteria for inclusion under the Heritage Overlay;
- Concerns about design and layout of the building;
- Detrimental impact on land value;
- The inclusion of the property in the Heritage Overlay will limit housing supply in the area;
- The suburb/neighbourhood is just a general area with no history of the architecture.

Officers 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 recommended to the amendment (including the heritage citation).

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 request appointment of a planning panel and refer all submissions received for consideration.

MOTION

Moved Councillor Parke

Seconded Councillor Sinfield

That the Urban Planning Delegated Committee resolve to:

- 1. Receive and note the submissions to Amendment C381boro (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 to Amendment C381boro as shown at Attachment 1.**
- 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 C381boro.**
- 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 C381boro that do not change the intent of the amendment prior to a Panel Hearing.**

CARRIED

3.3 Community Heritage Nomination Process - Consideration of revised process

Purpose

This report presents a revised community heritage nomination process following further consideration of feedback received by the community and discussions with Council's Heritage Advisory Committee.

Background

In recent years, Council's Strategic Planning Team has received an increasing number of requests from community members and groups to assess and protect properties through inclusion in Heritage Overlays. Many of these requests relate to individual properties or precincts already assessed through the Municipal Wide Heritage Gap Study or tested through an independent Planning Panel process.

Often, nominations are triggered by a planning permit application or a property being listed for sale.

As there is no formally adopted process for community nominations, requests to assess or reassess properties have been responded to individually in an “ad hoc” manner. Assessing and processing these nominations individually is a resource intensive approach and has limited the Strategic Planning Team’s ability to deliver other important strategic planning projects. A core purpose of the Municipal Wide Heritage Gap Study was to take a strategic approach to the introduction of Heritage Overlays and reduce the need for inefficient assessments of individual properties.

The need for a formal nomination process is further based on advice received from the former Department of Environment, Land, Water and Planning (DELWP) (now Department of Transport and Planning (DTP)). Concerns raised by DTP include the lack of strategic approach to the nominations, identification of places outside of a formal nomination process, lack of transparency and the perception that Council may be ‘shopping for advice’ from different heritage consultants. These issues mean that Council is less likely to be granted authorisation to prepare an amendment for permanent controls or receive approval for interim heritage protection where there is not a transparent and formal nomination process.

Key Issues

At its meeting on 16 May 2022, the Urban Planning Delegated Committee considered a report recommending the adoption of a process for receiving, assessing eligibility for accepting and progressing community nominations to protect places of potential heritage significance.

Several speakers at the meeting opposed the proposed process and the UPDC resolved to defer adoption of the process so that it could be reconsidered before bringing a report back to the UPDC.

A revised nomination process responding to some of the concerns expressed was to be presented for consideration by the UPDC at its meeting on 19 September 2022.

However, the UPDC again resolved to defer consideration and asked officers to work with the Heritage Advisory Committee to review the process to respond to Councillor and community concerns.

Following several meetings and discussions, a revised process has been developed with the following key changes:

- The only criteria for acceptance of community heritage nominations is whether new information about the place’s potential heritage significance is available. New information can be for any of the accepted heritage criteria.
- Nominations will be progressed as soon as possible (rather than one annual review) to provide greater clarity to affected property owners.
- Acknowledging that significant resources will be required so that the revised process is able to be delivered.

The revised process is set out in the diagram at **Attachment 1** with a detailed explanation contained in the draft Process Explanatory Notes at **Attachment 2**.

The revised process devised in collaboration with the Heritage Advisory Committee has significant resource implications due to the more open entry point and the need

to process nominations individually. As a result, the proposed process can only be implemented with additional staff resourcing and budget allocation. Accordingly, a new budget allocation for \$790,000 over two years (\$397k in year 2023/24; \$393k in year 2024/25) to cover the anticipated cost of the revised process is being separately considered as part of the Councils annual budget process. This budget is expected to cover two additional staff members (dedicated heritage planners) and project funding to heritage experts and planning scheme amendment costs.

Next Steps

If adopted and subject to priority budget being allocated for the 2023/24 financial year, the Strategic Planning Team will implement the nomination process.

Following a 12-month period after process inception, an initial review of the process will be carried out to evaluate its efficacy. Two years after commencement a comprehensive review will be completed.

Two speakers in support of the officer's recommendation addressed the meeting.

One speaker opposed to the officer's recommendation addressed the meeting.

MOTION

Moved Councillor Hollingsworth

Seconded Councillor Gillies

That the Urban Planning Delegated Committee resolve to:

- 1. Adopt the Community Heritage Nomination Process as described in this report at Attachment 1 subject to budget allocation for the 2023/24 financial year.**
- 2. Commence implementation of the process upon appointment of a panel of heritage consultants.**
- 3. Undertake an interim review of the nomination process after 12 months and prepare a report for consideration by the UPDC on any recommended adjustments to the process where required.**
- 4. Undertake a full and comprehensive review of the process two years after its commencement and prepare a report for consideration by the UPDC.**

CARRIED

4 General business

Nil

5 Urgent business

Nil

6 Confidential business

Nil

The Urban Planning Delegated Committee meeting concluded at 8:22pm

Confirmed

Chairperson

Date
