

# URBAN PLANNING DELEGATED COMMITTEE



## MINUTES

(Open to the public)

**Monday 5 February 2024**

Council Chamber, 8 Inglesby Road, Camberwell.

**Commencement** 6:37pm

**Attendance**

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

**Apologies** Nil

<b><u>Officers</u></b>	Phillip Storer	Chief Executive Officer
	Scott Walker	Director Urban Living
	David Cowan	Manager City Futures
	Bryan Wee	Manager Governance & Legal
	Jon Harper	Coordinator Urban Planning
	Erin McCarthy	Coordinator Urban Planning
	Aileen Chin	Principal Urban Planner
	Marie Sheriff	Principal Heritage Planner
	Nikhil Shah	Urban Planner
	Liam Merrifield	Senior Governance Officer

## 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	336 & 338 Riversdale Road and 2 Clive Road, Hawthorn East - Four storey apartment building - PP23/0472	3
3.2	7 Mangarra Road, Canterbury - Fire damaged heritage building - Proposed Specific Control Overlay	16
3.3	10 Markham Avenue, Ashburton (Markham Estate) - Review of Planning Approval and development process - Amendment C321boro18	
<b>4.</b>	<b>General business</b>	<b>20</b>
4.1	Councillor Gillies - Mary Drost OAM	20
4.2	Councillor Thompson - Neville Lee OAM	20
4.3	Councillor Thompson - Neglected Heritage Homes Register	21
4.3	Councillor Stavrou - Kew Post Office	21
4.4	Councillor Franco - Neville Lee	21
4.4	Councillor Franco - Markham Estate	21
4.5	Councillor Sinfield - Heritage Advisory Committee	21
4.6	Councillor Gault - Mark Cubit	21
<b>5.</b>	<b>Urgent business</b>	<b>21</b>
<b>6.</b>	<b>Confidential business</b>	<b>21</b>

## 1. Adoption and confirmation of the minutes

### MOTION

**Moved Councillor Stavrou**

**Seconded Councillor Addis**

**That the minutes of the Urban Planning Delegated Committee meeting held on 4 December 2023 be adopted and confirmed.**

### CARRIED

## 2. Declaration of conflict of interest of any councillor or council officer

**Councillor Thompson** noted that he did not have a conflict at this time but should Homes Victoria be discussed at item 3.3 he would declare a conflict and absent himself from the meeting.

## 3. Presentation of officer reports

### 3.1 336 & 338 Riversdale Road and 2 Clive Road, Hawthorn East - Four storey apartment building - PP23/0472

#### Proposal

The proposal seeks to construct a four-storey apartment building comprising of twenty-four (24) dwellings over basement parking in a Residential Growth Zone. The site is located within the Residential Growth Zone - Schedule 1 'Main Road Apartment Precincts'. The Purpose of Clause 32.07 includes to provide housing such as apartment buildings up to four storeys. The site is not affected by any Overlays.

The key details of the proposal are summarised as follows:

- Site area: 1,619sqm
- Apartments: 24 (2x1bed, 12x2bed & 10x3bed)
- Car parking spaces: 41 (36 spaces required)
- Bicycle parking spaces: 16 (6 spaces required)
- Site coverage: 60.79%
- Permeability: 30%
- Building height: 4 storeys and 14.1 metres

The proposed building adopts a contemporary form and appearance, presenting a 3-storey façade to Riversdale Road with a recessive fourth floor. The building has been lowered towards the rear of the site to respond to the sloping topography. Vehicular access is via a central crossover on Clive Road.

This is a 'repeat application' on the site. A previous application sought a permit for the construction of an apartment building comprising of twenty-six (26) dwellings over two levels of basement, and construction of a front fence higher than 2 metres on a Transport Zone 2 (Planning Application No. PP22/0151). The previous application

was refused on 24 October 2022 under delegation, with the decision upheld by the Victorian Civil and Administrative Tribunal.

Changes have been introduced to the proposal from the previous decision plans, notably by way of improvements to the overall built form including an increase in front setbacks to Riversdale Road, 'stepping' of the built form in the south-east to provide a transition to the NRZ3, and further recession of the fourth level from the south. The landscaping outcome has been improved with further canopy tree planting opportunities.

Twenty (20) objections have been received on the application.

### Issues

The following key considerations are addressed in the Planning Assessment Report (**Attachment 1**):

- Built form, scale, siting and massing
- Side and rear setbacks
- Transition in scale towards the Neighbourhood Residential Zone - Schedule 3
- Daylight to new windows
- Landscaping

### Officer's response

The proposal is considered to be appropriate and acceptable, for the following reasons:

- The proposal has strategic support, and the Planning Scheme directs an increase in residential density within accessible and strategically appropriate locations. This is reflected in Council's Housing Framework Plan which identifies the site for 'increased diversity and density' and categorises the land as a 'main road apartment precinct'. The subject site is located within an established residential area along a commercial corridor, and is well located in relation to jobs, services and public transport.
- The proposal is well conceived from an architectural and urban design perspective, resulting in a high quality and contextual development which will sit comfortably within its context. Further, the development provides for an appropriate transition to the surrounding Neighbourhood Residential Zoned land.
- The development provides for considerable landscaping opportunities and will achieve the planting of 26 canopy trees including 2 large trees, 2 medium trees, and 22 small trees.
- The development accommodates the retention of a high amenity value mature lemon scented gum tree within the Clive Road setback.
- The development achieves appropriate standards of onsite amenity, including outdoor space.
- The development will not result in undue offsite amenity impacts.
- The development complies with all Clause 55 (ResCode & Apartment Development) objectives and most standards.
- The development provides sufficient car parking and bicycle spaces. Traffic movements will not unduly impact the surrounding network.
- The development achieves 'best practice' in term of sustainable design with a BESS score of 56%.

Conditions are required to address site coverage and overlooking. The proposal is deemed to have responded to policy as well as issues raised in the previous application by the Tribunal.

Details of the proposal, discussion of all objections and assessment against relevant controls and policies are contained in the attachment to this report.

*Four 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 Addis**

**That the Urban Planning Delegate Committee resolve that a Notice of Decision to Grant Planning Permit No. PP23/0472 for the construction of a four-storey apartment building comprising of twenty-four (24) dwellings over basement parking in a Residential Growth Zone generally in accordance with the amended plans prepared by Embrace Architects, dated 8 November 2023, Revision C, at 336 & 338 Riversdale Road and 2 Clive Road, Hawthorn East be issued under the Boroondara Planning Scheme subject to the following conditions:**

### **Stormwater Drainage Plan Prerequisite Requirements**

- 1. Prior to the submission of Amended Plans pursuant to Condition 2, Development Stormwater Drainage Plans must be submitted to and approved by Council's Asset and Capital Planning team (Drainage), the Responsible Authority. The plans must be prepared by a Registered Professional Civil Engineer with endorsement as a building engineer and must include:**
  - a. The use of an On-site Stormwater Detention (OSD) system;**
  - b. The connection to the Council nominated Legal Point of Discharge;**
  - c. The outfall drainage works necessary to connect the subject site to the Council nominated Legal Point of Discharge;**
  - d. The integration, details and connections of all Water Sensitive Urban Design (WSUD) features in accordance with the Environmentally Sustainable Design (ESD) and STORM report and include drainage details as a result of landscaping;**
  - e. A suitably prepared design with computations for the internal drainage and method of disposal of stormwater from all roofed areas and sealed areas;**
  - f. All drainage plans must show the Trees to be retained and include the Tree Number; The Structural Root Zone (SRZ) radius; and the Tree Protection Zone (TPZ) radius, as detailed in accordance with the arborist report submitted with the application.**
  - g. All drainage plans must show proposed trees to be planted in accordance with the landscape plan submitted with the application.**

**Amended plans required**

- 2. Before the development starts, amended plans to the satisfaction of the responsible authority must be submitted to and approved by the Responsible Authority. The plans must be drawn to scale with dimensions and three (3) copies provided. When the plans are endorsed, they will then form part of the permit. The plans must be substantially in accordance with the amended plans prepared by Embrace Architects, dated 8 November 2023, Revision C, but modified to show:**
  - a. Relocation of the two southern rows of roof top air-conditioner condenser units from the southern boundary.**
  - b. Acoustic screening provided for roof top air-conditioner condenser units on all sides.**
  - c. Increased setbacks to comply with Clause 55 Standard B17 (side and rear setbacks), to the balcony, balustrades and planter boxes belonging to Apartment 204, 302 and 303, from the western boundary. Setbacks must be accommodated within the building envelope and without the reduction of any other setback.**
  - d. The south-facing balcony of Apartment 202 and habitable room windows of Apartment 201 on Level 2 to be screened to comply with Standard B22 (Overlooking).**
  - e. Height of balustrade and width of planter boxes on the balcony of Apartment 301 on Level 3 dimensioned from Finished Floor Level on the South Elevation or demonstration that compliance with Standard B22 (Overlooking) has been achieved.**
  - f. The south-facing balconies of Apartments 101 and 201 screened to comply with Standard B22 (Overlooking).**
  - g. Planter boxes provided within west-facing balconies of Apt 102, 202 and 203.**
  - h. Deletion of Material MT-02 'Metallic Finish Black' from materials and finishes schedule.**
  - i. A physical sample and schedule of construction materials, external finishes and colours (including swatch samples);**
  - j. Pedestrian sight triangles to either side of the accessway for 2.5 metres demonstrating works (including retaining walls, ramps and fences) and landscaping no higher than 900mm in accordance with Clause 52.06 of the Boroondara Planning Scheme;**
  - k. Allocation of all tandem car parking spaces to dwellings;**
  - l. A reduction in areas covered by buildings within the south-western corner of the site to achieve compliance with Standard B8 (Site Coverage);**
  - m. The Tree Protection Zone and Structural Root Zone of Tree Nos. 1, 2, 18, 24 and 28 (as identified in the Arborist Report submitted with the application prepared by John Patrick Landscape Architects (dated 21st June 2022 and amended 05/06/2023) drawn on all site and floor plans;**
  - n. Notation on all site and floor plans that Tree Nos. 1, 2, 18, 24 and 28 are to be retained and protected in accordance with the endorsed Tree Management Plan required by this Permit;**
  - o. Any modifications to the location or layout of buildings and/or works recommended in the endorsed Tree Management Plan required by this Permit;**

- p. A notation on plans stating the siting of any necessary stormwater detention pit, underground services and pits, and/or rainwater harvesting tank to be located outside any area set aside for deep-soil planting and outside the Tree Protection Zone of any trees to be retained/protected;**
- q. Notation on all site and floor plans that all excavations within the Tree Protection Zone of Tree 1, 2, 18 and 28 must be undertaken with hand tools or hydro-vacuum to a minimum depth of 1 metre, and that all excavation works must be supervised, document and certified by the Project Arborist;**
- r. Permanent fencing within the Tree Protection Zone of Tree 1, 2 and 28 constructed on pier foundations with any required plinths constructed above existing grade;**
- s. The location and capacity of the rainwater/stormwater tank and the water treatment plant;**
- t. Electric vehicle (EV) charging infrastructure for all carparking spaces in accordance with the National Construction Code 2022 (e.g., EV distribution boards);**
- u. A Landscape Plan including any changes required in accordance with condition 4 of this permit;**
- v. A Tree Management Plan in accordance with condition 7 of this permit;**
- w. A Water Sensitive Urban Design Response in accordance with condition 12 of this permit;**
- x. A Sustainability Management Plan in accordance with condition 13 of this permit; and**
- y. A Waste Management Plan in accordance with condition 30 of this permit.**

#### **Layout not to be altered**

- 3. 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 without the prior written consent of the Responsible Authority.**

#### **Landscape plan**

- 4. A landscape plan to the satisfaction of the responsible authority must be submitted to and approved by the Responsible Authority. The plan must be drawn to scale with dimensions and three (3) copies provided. When endorsed, the plan will form part of the permit. The landscape plan must be generally in accordance with the landscape plan dated 16 June 2023, Revision B, prepared by John Patrick Landscape Architects Pty Ltd, except that the plan must show:**
  - a) A survey (including botanical names) of all existing trees to be retained and of those to be removed. The intended status of the trees shown on the landscape plan must be consistent with that depicted on the development layout plan;**
  - b) All hard surfaces proposed within the Tree Protection Zone of Tree Nos. 1, 2 and 28 (as identified in the Arborist Report submitted with the application John Patrick Landscape Architects ((dated 21st June 2022 and amended 05/06/2023) must be constructed of permeable materials; be constructed above current grade; and be constructed on foundations**

**that maintain appropriate permeability for each tree, to the satisfaction of the Responsible Authority;**

- c) Detailed construction specifications for all permeable surfaces that include cross-section diagrams;**
- d) Three (3) canopy trees (minimum 2 metres tall when planted and must achieve a minimum mature height of 13 metres and canopy spread of 7 metres) in the front setback of the property;**
- e) Three (3) small trees (minimum 2 metres tall when planted and must achieve a minimum mature height of 7 metres and canopy spread of 5 metres) in the secluded private open space areas within the western setback of the property;**
- f) Three (3) small trees (minimum 2 metres tall when planted and must achieve a minimum mature height of 7 metres and canopy spread of 5 metres) in the secluded private open space areas within the southern set-back of the property**
- g) Each canopy tree must be provided a minimum of 49sqm of deep soil, with the available soil area clearly shown on the landscape plan;**
- h) Each small tree must be provided a minimum of 12sqm of deep soil, with the available soil area clearly shown on the landscape plan;**
- i) All trees must comply with Australian Standard AS2303:2015 - Tree Stock for Landscape Use;**
- j) All canopy trees must be planted by an AQF Level 3 Qualified Arborist, Landscape Gardener or Horticulturist;**
- k) All canopy trees must be planted more than 2 metres away from any structures, paving, decking, property boundaries, easements, existing trees or shrubs;**
- l) All small trees must be planted more than 1 metre away from any structures, paving, decking, property boundaries, easements, existing trees or shrubs; and**
- m) All canopy trees adequately setback from common boundaries to avoid mature canopy overhang of neighbouring and public spaces.**

#### **Completion of landscaping works**

- 5. Landscaping as shown on the endorsed landscape plan/s must be carried out and completed to the satisfaction of the Responsible Authority prior to the occupation of the development.**

#### **Landscaping maintenance**

- 6. All landscaping works shown on the endorsed landscape plan/s must be maintained and any dead, diseased or damaged plants replaced, all to the satisfaction of the Responsible Authority.**

#### **Tree management plan**

- 7. Concurrent with the submission of amended plans required by Condition 2 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, 2, 18, 24 and 28 (as identified in the Arborist Report submitted with the application prepared by John Patrick Landscape Architects (dated 21st June 2022 and amended 05/06/2023). 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. **Specification that all excavations within the Tree Protection Zone of Tree 1, 2, 18 and 28 must be undertaken with hand tools or hydro-vacuum to a minimum depth of 1 metre, and that all excavation works must be supervised, document and certified by the Project Arborist.**
- d. **Supervision timetable and certification of tree management activities required by the Project Arborist to the satisfaction of the Responsible Authority;**
- e. **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 provide a detailed photographic diagram specifying what pruning will occur. *Note: Only Council or Authorised Council Contractors can prune Trees Nos. 1, 2, 18 and 24. Any request for the pruning of trees on public land must be made through Council's Environmental Sustainability and Open Spaces Department.***
- f. **All demolition outside the footprint of the existing building within the TPZ of Tree 28 e.g., along the front of 2 Clive St must be undertaken by hand under the supervision of the Project Arborist;**
- g. **Any trees approved for removal within the TPZ of Tree 28 must be removed by hand and stumps ground out. They must not be pulled out by excavator;**
- h. **Roots located in the non-destructive root investigation trench must be cut cleanly when the tree is dormant, May - October;**
- i. **The proposed open space around Tree 28 must be isolated with Tree Protection Fencing;**
- j. **Tree 28 must be deep watered and fertilised during the growing season November – April;**

- k. If access is required for pedestrians / trades persons into the Tree Protection Area to allow for construction a raised boardwalk around the tree must be temporarily installed during construction;**
- l. No vehicles are to access the front of 2 Clive St within the TPZ of Tree 28, other than within the footprint of the basement; and**
- m. 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**

- 8. 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 Zone**

- 9. No vehicular or pedestrian access, trenching or soil excavation is to occur within the Tree Protection Zone as detailed in the endorsed arborist report 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**

- 10. 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](mailto:boroondara@boroondara.vic.gov.au)) not less than seven (7) days before the commencement of works on site.**

- 11. Prior to the commencement of any site works, including demolition and excavation, a timetable for the supervision and certification of tree management activities which is to the satisfaction of the Responsible Authority must be prepared by the project arborist and submitted to the Responsible Authority for approval. A signed and dated copy of each stage of the supervision timetable certified by the project arborist (quoting the Planning Permit number and site address, emailed to [boroondara@boroondara.vic.gov.au](mailto:boroondara@boroondara.vic.gov.au)) must be submitted to the Responsible Authority not more than seven (7) days following the completion of each stage.**

**Water Sensitive Urban Design**

- 12. Concurrent with the endorsement of plans, the applicant must provide a Water Sensitive Urban Design Response addressing the Application**

**Requirements of Clause 53.18 'Stormwater Management in Urban Development' to the satisfaction of the Responsible Authority. The response must include:**

- a. A site plan showing the location of proposed stormwater treatment measures and the location and area (square metres) of impermeable surfaces that drain to each treatment measure.
- b. A written statement outlining how the application achieves current best practice performance objectives for stormwater quality as contained in the Urban Stormwater - Best Practice Environmental Management Guidelines (1999). Please note that for the modelling requirement you can use the following free program to demonstrate best practice, which is equivalent to a score of 100% or more:  
<http://storm.melbournewater.com.au>
- c. If any water tank is proposed, the plans must indicate the tank's capacity in litres and what the tank is connected to (e.g. toilets).

#### **Sustainability Management Plan**

- 13. Prior to the endorsement of plans, a Sustainability Management Plan (SMP) must be submitted to and approved to the satisfaction by the Responsible Authority. The Sustainability Management Plan must demonstrate a best practice standard of environmentally sustainable design and be generally in accordance with the report by Frater Consulting dated 16 June 2023, but modified to include the following changes:**
- a. The SMP must be updated to reflect any changes incorporated in the amended plans prepared by Embrace Architects, dated 8 November 2023, Revision C;
  - b. Preliminary energy rating for all thermally unique apartments showing that the maximum cooling load as specified in table B4 of clause 55.07 has not been exceeded and that the development will achieve a minimum 7 Star average energy rating. The SMP and BESS reports must be amended to include the updated heating and cooling loads and star rating.

Where alternative ESD initiatives are proposed to those specified in conditions above (including condition 1), the Responsible Authority may vary the requirements of this condition at its discretion, subject to the development achieving equivalent (or greater) ESD outcomes in association with the development.

- 14. All works must be undertaken in accordance with the endorsed Sustainability Management Plan to the satisfaction of the Responsible Authority. No alterations to these plans may occur without the written consent of the Responsible Authority.**
- 15. Prior to the commencement of occupation or issue of a Statement of Compliance, whichever comes first, of any part approved under this permit, a report from the author of the Sustainability Management Plan (SMP) approved pursuant to this permit, or similarly qualified person or company, must be submitted to the Responsible Authority. The report must be to the satisfaction of the Responsible Authority and must confirm through**

**supporting evidence that all measures specified in the endorsed SMP have been implemented in accordance with the approved plan.**

#### **Drainage**

- 16. The site must be drained to the satisfaction of the relevant building surveyor.**
- 17. No polluted and/or sediment laden runoff is to be discharged directly or indirectly into Council's drains or watercourses during and after development, to the satisfaction of the Responsible Authority.**
- 18. The owner must make an arrangement with Council for the provision of drainage and the acceptance of surface and stormwater from the subject land directly or indirectly into Council's drainage system and a final inspection shall be carried out to determine the completion of drainage in accordance with the approved plans, to the satisfaction of the Responsible Authority.**

#### **Use of car parking spaces**

- 19. Car parking spaces shown on the endorsed plans must not be used for any purpose other than the parking of vehicles, to the satisfaction of the Responsible Authority.**

#### **Use of car parking spaces and driveways**

- 20. Car spaces, access lanes and driveways shown on the endorsed plans must not be used for any other purpose, to the satisfaction of the Responsible Authority.**

#### **Carpark control equipment**

- 21. Before the use starts or any building is occupied, details of any car park control equipment (controlling access to and egress from the internal/basement car park/s) must be submitted to and approved in writing by the Responsible Authority.**

#### **Access to basement car park controlled**

- 22. Before the use starts or any building is occupied:**
- a. Traffic signals must be installed on or near the basement access ramp. Such traffic control measures must include appropriate hold points and detector loops; and**
  - b. A convex mirror must be installed at the top of the access ramp**

**to the satisfaction of the Responsible Authority.**

#### **Lighting of carpark and accessways**

- 23. Low intensity lighting must be provided to ensure that car park areas and pedestrian accessways are adequately illuminated without any unreasonable loss of amenity to the surrounding area, to the satisfaction of the Responsible Authority.**

**Vehicle crossovers**

**24. Any new vehicle crossover or modification to an existing vehicle crossover must be constructed to the satisfaction of the Responsible Authority.**

**Removal of redundant vehicle crossovers**

**25. All disused or redundant vehicle crossovers must be removed and the area reinstated with footpath, nature strip, kerb and channel to the satisfaction of the Responsible Authority.**

**External lighting**

**26. All external lighting must be designed, baffled and located so as to prevent light from the site causing any unreasonable impacts on the locality, to the satisfaction of the Responsible Authority.**

**Security alarms**

**27. All security alarms or similar devices installed on the land must be of a silent type in accordance with any current standards published by Standards Australia International Ltd and must be connected to a registered security service, to the satisfaction of the Responsible Authority.**

**Maintenance of waste storage area**

**28. All bins and receptacles used for the collection and storage of solid waste, recyclables and other wastes must be kept in a designated area, to the satisfaction of the Responsible Authority. This storage area must be:**

- a. Properly paved and drained to a legal point of discharge;**
- b. Screened from view with a suitably designed enclosure;**
- c. Supplied with adequate hot and cold water; and**
- d. Maintained in a clean and tidy condition free from offensive odours**

**to the satisfaction of the Responsible Authority.**

**Hours for waste collection**

**29. Collection of waste must be conducted so as not to cause any unreasonable disturbance to nearby residential properties and may only take place during the following times:**

<b>Monday to Friday:</b>	<b>7:00am to 6:00pm</b>
<b>Saturday &amp; Public Holidays:</b>	<b>9:00am to 6:00pm</b>
<b>Sunday:</b>	<b>No collection allowed</b>

**to the satisfaction of the Responsible Authority.**

**Waste management plan**

**30. A waste management plan to the satisfaction of the responsible authority must be submitted to and approved by the Responsible Authority. Once satisfactory, such plan will be endorsed and must be implemented to the satisfaction of the Responsible Authority. The plan must provide the following details of a regular private waste (including recyclables) collection service for the subject land including:**

- a. the type/s and number of waste bins;**
- b. screening of bins;**

- c. **type/size of trucks;**
- d. **frequency of waste collection;**
- e. **plan showing the layout of the bins at collection time including sufficient clearances from all street services, features and infrastructure; and**
- f. **location of collection points within basement**

to the satisfaction of the Responsible Authority.

#### **Construction management plan**

**31. Prior to the commencement of any site works, including demolition and excavation, a Construction Management Plan must be submitted to and endorsed by the Responsible Authority. No works are permitted to occur until the Plan has been endorsed by the Responsible Authority. Once endorsed, the construction management plan will form part of the permit and must be implemented to the satisfaction of the Responsible Authority. The plan must be prepared in accordance with Council's Construction Management Plan Template and provide details of the following:**

- a. **Hours for construction activity in accordance with any other condition of this permit;**
- b. **Measures to control noise, dust, water and sediment laden runoff;**
- c. **Measures relating to removal of hazardous or dangerous material from the site, where applicable;**
- d. **A plan showing the location of parking areas for construction and sub-contractors' vehicles on and surrounding the site, to ensure that vehicles associated with construction activity cause minimum disruption to surrounding premises. Any basement car park on the land must be made available for use by sub-constructors/tradespersons upon completion of such areas, without delay;**
- e. **A Traffic Management Plan showing truck routes to and from the site;**
- f. **Swept path analysis demonstrating the ability for trucks to enter and exit the site in a safe manner for the largest anticipated truck associated with the construction;**
- g. **A plan showing the location and design of a vehicle wash-down bay for construction vehicles on the site;**
- h. **Measures to ensure that sub-contractors/tradespersons operating on the site are aware of the contents of the construction management plan;**
- i. **Contact details of key construction site staff;**
- j. **A site plan showing the location of any site sheds, on-site amenities, building waste storage and the like, noting that Council does not support site sheds on Council road reserves; and**
- k. **The Construction Management Plan must be in accordance with the endorsed Tree Management Plan and Tree Protection Plan under Condition 7 of the permit.**

#### **Hours for demolition and construction**

**32. All works including earthworks, demolition and construction activity associated with the approved development must take place only during the following hours, except with the prior written consent of the Responsible Authority:**

**Monday to Thursday: 7:00am to 6:30pm**  
**Friday: 7:00am to 5:00pm**  
**Saturday: 9:00am to 5:00pm**  
**Sunday & Public Holidays: No construction**

**Provision of letter boxes**

**33. Provision must be made on the site for letter boxes and receptacles for papers to the satisfaction of the Responsible Authority.**

**Permit to expire:**

**34. 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.**

**CARRIED**

### **3.2 7 Mangarra Road, Canterbury - Fire damaged heritage building - Proposed Specific Control Overlay**

#### Purpose

The purpose of this report is to inform the Urban Planning Delegated Committee (UPDC) of the ongoing strategic and heritage planning response to the disrepair and recent destruction by arson of the individually significant heritage dwelling ‘*Shenley Croft*’ (HO391) at 7 Mangarra Road, Canterbury.

UPDC endorsement is also sought to request the Minister for Planning to amend the Boroondara Planning Scheme to apply the Specific Control Overlay (SCO) to the land at 7 Mangarra Road, Canterbury in response to the circumstances that lead to the destruction of the dwelling. The SCO will seek to ensure any future development of the property includes the reconstruction of the heritage building.

#### Background

In 2009, ‘*Shenley Croft*’ was included in the Heritage Overlay as an individually significant heritage place.

Since 30 November 2020, when the property was purchased by the current owner, the heritage dwelling has remained vacant and fallen into disrepair.

On Saturday 9 December 2023, the heritage dwelling sustained significant fire damage, and was mostly destroyed. The Victoria Police has advised that the fire is being treated as a confirmed arson case.

#### Key Issues

The unlawful demolition of ‘*Shenley Croft*’ raises concern about the Heritage Overlay and its ability to protect places of heritage significance. There is a need to prevent or mitigate neglect and unlawful demolition, and potential development gains that could arise from such action.

Section 6B of the *Planning and Environment Act 1987* (the Act) was introduced to address this issue. It enables a planning scheme to be amended to regulate or prohibit development on land where a heritage building has been unlawfully demolished. Section 6B also provides that a planning permit must not be granted for the redevelopment of land on which there is or was a heritage building other than the reconstruction and reinstatement, or repair of a heritage building.

The most appropriate planning control to be implemented in this case is the Specific Controls Overlay (SCO) through a planning scheme amendment. This would be supported by an incorporated document which sets out the planning permit arrangements for the land.

On 10 January 2024, officers wrote a letter of intent to the Department of Transport and Planning (DTP) seeking Ministerial intervention to amend the Boroondara Planning Scheme pursuant to Section 20(4) of the Act to apply the SCO on a permanent basis.

Officers are also preparing an associated incorporated document for the Planning Scheme to accompany the amendment which would prevent the development of the property other than for the reconstruction of the heritage building.



### Next Steps

This report seeks a resolution from the UPDC to confirm the request of the Minister for Planning to exercise ministerial discretion pursuant to Section 20(4) of the Act to amend the Boroondara Planning Scheme to apply the SCO (and associated incorporated document) on a permanent basis to the land at 7 Mangarra Road, Canterbury.

Council officers are awaiting advice from the Minister for Planning and officers of DTP to the letter of intent regarding a proposed planning scheme amendment.

Council's Municipal Building Surveyor (MBS) is seeking legal advice regarding the powers of the MBS, under the *Building Act 1993*, to require the property owner to further protect the remnants of the heritage building from deterioration given the damaged building is exposed to weather conditions.

Officers are also considering how Council responds as a Responsible Authority to any future planning permit applications.

*Seven speakers in support of the officers' recommendation addressed the meeting.*

### **MOTION**

**Moved Councillor Sinfield**

**Seconded Councillor Addis**

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

- 1. Confirm and formally request the Minister for Planning to exercise powers pursuant to Section 20(4) of the *Planning & Environment Act 1987* to amend the Boroondara Planning Scheme to apply the Specific Controls Overlay (inclusive of an associated incorporated document) on a permanent basis to the land at 7 Mangarra Road, Canterbury (also known as 7-9 Mangarra Road, Canterbury).**
- 2. Authorise the Director Urban Living to take all necessary action to respond to the unlawful demolition of the heritage property at 7 Mangarra Road, Canterbury.**
- 3. Authorise the Director Urban Living to seek to ensure any future development of the property includes the reconstruction of the heritage building through appropriate planning controls which may include requesting the Minister for Planning for Authorisation to prepare a Planning Scheme Amendment if necessary.**
- 4. Upon preparation of a control document, a further report is to be presented to the Urban Planning Delegated Committee or Council.**

**CARRIED**

### **3.3 10 Markham Avenue, Ashburton (Markham Estate) - Review of Planning Approval and development process - Amendment C321boro**

#### Purpose

The purpose of this report is to brief the Urban Planning Delegated Committee on the process for approval and development of the Markham Estate housing project by the State Government as facilitated by Amendment C321boro to the Boroondara Planning Scheme and to highlight the issues with the process.

#### Background

Public Housing was first built on the Markham Estate in the 1950's, consisting of nine double storey prefabricated concrete buildings. Over time the buildings deteriorated with many of the units becoming uninhabitable. In 2015 the State Government announced that the site would be redeveloped for new public housing and the following year the old buildings on the site were demolished.

The State Government embarked on a process to establish a suitable planning framework to facilitate redevelopment of the site with the drafting of Planning Scheme Amendment C251 in 2016 for 252 dwellings (62 public and 190 private) and then in 2018 Amendment C298 for at least 200 dwellings including 62 public housing dwellings. Both Planning Scheme Amendments failed to receive support in parliament following concerns being expressed by Boroondara Council and the community about the proposed development including the lack of public and affordable housing being provided.

Planning Scheme Amendment C321boro was then ultimately approved by the Minister for Planning on 24 September 2020. The Amendment inserted the Markham Housing Estate Incorporated Document, May 2020 into the Planning Scheme to facilitate redevelopment for 178 dwellings, including 111 public housing dwellings. The project was subsequently completed by Homes Victoria in late 2023 and residents have now moved in.

#### Key Issues

There are a number of key issues with the process to establish a suitable planning framework to facilitate the redevelopment of the Markham Estate along with concerns about the delivery of the final project. In particular, the report addresses the following issues:

- The preparation of a planning framework to facilitate the redevelopment without formal opportunity for Council and community input or an independent panel review to evaluate the proposal;
- The Department of Environment, Land, Water and Planning (DELWP) on behalf of the Minister for Planning, as the responsible authority for approval of documentation in accordance with the established planning framework for the project, which did not have a transparent process involving formal consultation or external scrutiny over the final approvals;
- The Minister for Planning, as the responsible authority, has wide ranging power to agree to the proposal as put forward by Housing Victoria;
- There was no clear enforcement oversight of the project to ensure it meets with approvals and the approvals were changed throughout the process with limited scrutiny;
- The process that has been established is not streamlined, timely, did not lead to better outcomes and required significant resource effort on behalf of Council and community to influence improvements.

**Next Steps**

Council to note the process used to facilitate the redevelopment raises a number of concerns in terms of achieving the best planning and development outcome in a timely way and to highlight this example to demonstrate the short comings of similar processes being put forward by the State Government as part of planning reform advocacy and submissions.

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

*Three speakers in support of the officers' recommendation addressed the meeting.*

**MOTION**

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

- 1. Note that the State Government housing development project at 2-18 Markham Avenue, Ashburton (known as the Markham Estate) is now complete, and residents have moved in.**
- 2. Note that the process the Minister for Planning and the then Department of Environment, land, Water and Planning used to consider the approval of the development was uncertain, had no defined pathway, lacked transparency, forced Council and the community to advocate for improvements without any recovery of costs through application fees, has not resulted in a faster outcome to the delivery of housing and provided inadequate oversight of the project implementation with limited avenues for independent review to ensure compliance with approvals.**
- 3. Thank the residents for their commitment to work with Council to collectively achieve a better outcome for public housing in the local community.**
- 4. Write to the Minister for Planning and local State Members of Parliament expressing Council's concerns regarding the Planning Approval and development process at 10 Markham Avenue, Ashburton (Markham Estate), and recommend improvements for the future.**

**Division**

**Councillor Sinfield called for a division.**

**Affirmative**

Councillor Parke  
Councillor Sinfield  
Councillor Gault  
Councillor Gillies  
Councillor Hollingsworth  
Councillor Addis  
Councillor Watson  
Councillor Thompson  
Councillor Stavrou

**Abstained**

Councillor Biggar  
Councillor Franco

**Councillor Gault declared the Motion CARRIED**

## 4. General business

### 4.1 Councillor Gillies - Mary Drost OAM

**Councillor Gillies** acknowledged the recent passing of former Councillor of the City of Camberwell, Mary Drost, and made the following statement:

*“Some names are etched into the foundations of our municipality. Mary Drost, who passed away peacefully on January 4<sup>th</sup>, is surely one of them. Myself and the Mayor Cr Hollingsworth represented Council at her service.*

*Mary was a multi-faceted person, a gentle lady with a backbone of steel, who has been described as both a joyful, generous, animated woman of deep faith, and a fierce crusader of planning, environment and heritage causes.*

*She understood the importance of respecting and preserving heritage in both built form and social context. A message she took regularly to local and State Government officials for over 30 years.*

*Active into her 90s, she was convenor of Planning Backlash Inc, later renamed Planning Democracy, although most of our local community identified her with the Boroondara Residents Action Group established in 2004, and as a passionate pro-heritage advocate.*

*Mary was a Councillor for the City of Camberwell (as was at the time) for 3 years 1982-85 and on many occasions since, has presented to this chamber in support of heritage preservation. She would look us all in the eye and remind us that the baton was now in our hands and we needed to take heritage responsibilities very seriously.*

*So, hats off to a lady on a mission.*

*Mary Alma Josephine Drost OAM, may she rest in peace.”*

### 4.2 Councillor Thompson - Neville Lee OAM

**Councillor Thompson** acknowledged the recent passing of former Councillor and Mayor of the City of Camberwell, Neville Lee, and made the following statement:

*“Neville was an Ashburton resident for the majority of his life and became elected to Council in September 1956. He was a committed advocate for the neglected Ashburton area, highlighting inadequate childcare facilities which formed a key election promise. Upon his election the Council was able to oversee 15 to 20 kindergartens. He was also a founding member of the Camberwell Historical Society which operates to this day. Neville was Chair of the Ashburton District Senior Citizen Welfare Committee which has evolved into an aged care service which continues to support Ashburton residents. He also established the Ashburton Opp Shop. Neville has offered his deep knowledge of the municipality to past and current Councillors. He was a wonderful man. My heart goes out to all of his family and I will be attending his memorial service next week.”*

#### **4.3 Councillor Thompson - Neglected Heritage Homes Register**

**Councillor Thompson** raise the possibility of creating a neglected heritage homes ('at risk ledger') throughout the municipality.

The **Chief Executive Officer** noted that Council has limited powers to prevent people from allowing their properties to deteriorate unless the property is unsafe or unsightly. The CEO suggested that Council consider advocacy to the State Government to be granted more powers to prevent owners from purposefully allowing their property to deteriorate in order to circumvent heritage protection.

#### **4.3 Councillor Stavrou - Kew Post Office**

**Councillor Stavrou** noted the proposed closure of Kew Post Office and raised the potential of Council to assist with seeking clarification regarding options available to community members after its closure.

#### **4.4 Councillor Franco - Neville Lee**

**Councillor Franco** acknowledged the passing of former Councillor and Mayor of the City of Camberwell Neville Lee and noted his early support and keen advocacy of Camberwell Green.

#### **4.4 Councillor Franco - Markham Estate**

**Councillor Franco** requested that the submission made to the State Government in relation to Item 3.3 be circulated to Councillors.

#### **4.5 Councillor Sinfield - Heritage Advisory Committee**

**Councillor Sinfield** enquired whether the issue of a register in the manner mentioned by Councillor Thompson be listed as an Agenda item for the next Heritage Advisory Committee meeting in May.

#### **4.6 Councillor Gault - Mark Cubit**

**Councillor Gault** acknowledged the Chair of Electrify Boroondara, Mark Cubit, for his recognition in the Australia Day Honours for significant services to the community, particularly his work in the Charity Area. Mark is now a member of the Order of Australia AM.

### **5. Urgent business**

Nil.

### **6. Confidential business**

Nil

**The meeting concluded at 10:17pm**

**Confirmed**

**Chairperson**

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**Date**

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