

URBAN PLANNING DELEGATED COMMITTEE



MINUTES

(Open to the public)

Monday 19 February 2024

Council Chamber, 8 Inglesby Road, Camberwell.

Commencement 6:34pm

Attendance

- Councillor Wes Gault (Chairperson)
- 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 Nick Stavrou

Apologies

- Councillor Jim Parke
- Councillor Garry Thompson

<u>Officers</u>	Phillip Storer	Chief Executive Officer
	Scott Walker	Director Urban Living
	David Cowan	Manager City Futures
	Joel Elbourne	Manager Urban Planning
	Bryan Wee	Manager Governance & Legal
	Christian Wilmsen	Coordinator Strategic Planning
	Kelly Caporaso	Principal Urban Planner
	Marie Sheriff	Principal Heritage Planner
	Liam Merrifield	Senior Governance Officer

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

That the minutes of the Urban Planning Delegated Committee meeting held on 5 February 2024 be adopted and confirmed subject to an amendment to Page 19, noting that Councillor Biggar and Councillor Franco abstained from voting on Item 3.3.

CARRIED**2. Declaration of conflict of interest of any councillor or council officer**

Nil.

3. Presentation of officer reports**3.1 Balwyn and Balwyn North Heritage Study Peer Review Stage 3 - Outcomes of public exhibition and request for panel - Amendment C398boro**Purpose

The purpose of this report is to inform the Urban Planning Delegated Committee (UPDC) of the outcomes of public exhibition of Amendment C398boro relating to the Balwyn and Balwyn North Heritage Peer Review Stage 3. The report also seeks a resolution to request the Minister for Planning to appoint an independent Planning Panel, and to refer all submissions to an independent planning panel for consideration.

Amendment C398boro seeks to implement the recommendations of the Balwyn and Balwyn North Heritage Peer Review Stage 3 report prepared by GML Heritage (March 2023), and the place citation for Sanders House (former), 25 Burroughs Road, Balwyn prepared by Built Heritage (July 2023), by including eighteen individual heritage places in the Heritage Overlay on a permanent basis.

Background

Officers engaged heritage consultants GML Heritage (formerly Context) to investigate the heritage significance of 18 post-war properties within Balwyn and Balwyn North. Following completion of a detailed assessment, GML Heritage found that 17 properties warranted inclusion in the Heritage Overlay.

Preliminary consultation on the draft heritage citations was undertaken from 4 November to 5 December 2022. Owners and occupiers of affected and adjoining properties, as well as community and historical societies were notified in writing of the consultation period and invited to provide feedback.

Fourteen (14) submissions were received, including ten (10) objecting and four (4) supporting submissions.

On 3 April 2023, the UPDC resolved to adopt the Balwyn and Balwyn North Heritage Peer Review Stage 3 report and seek authorisation to prepare a planning scheme amendment to include the recommended properties in the Heritage Overlay on a permanent basis. On 24 August 2023, authorisation was granted to prepare and exhibit Amendment C398boro by officers of the Department of Transport and Planning (DTP) under delegation from the Minister for Planning.

25 Burroughs Road, Balwyn

On 3 July 2023, the UPDC resolved to adopt the place citation for Sanders House (former), 25 Burroughs Road, Balwyn (Built Heritage, July 2023), and submit an updated request for authorisation to the Minister for Planning to prepare Amendment C398boro to include 25 Burroughs Road, Balwyn in the Heritage Overlay, on a permanent basis. The revised amendment, including the 17 properties identified by GML Heritage plus the additional property identified by Built Heritage, was authorised by officers of DTP under delegation from the Minister for Planning on 24 August 2023.

Key Issues

Amendment C398boro was publicly exhibited from 9 October to 14 November 2023. Twelve (12) submissions were received including five (5) supporting submissions and seven (7) opposing submissions. The following key issues were raised:

- Private financial and property impacts
- Lack of justification for the Peer Review and Heritage Study
- The value of post-war architecture in Boroondara
- Strategic justification for the recommendations

All submissions have been considered by Council officers, and input provided by Council's heritage consultant where required. A summary of all submissions received, and the officers' response is provided at **Attachment 1**. No changes are recommended to the amendment from the submissions.

Next Steps

In accordance with Section 23 of the *Planning and Environment Act 1987*, Council as the planning authority must consider whether to change the amendment in response to submissions, refer the amendment to an independent Planning Panel, or abandon the amendment in full or part.

It is recommended the amendment be referred to an independent Planning Panel to consider all submissions.

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

One speaker in support of 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 submissions to Amendment C398boro (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 C398boro 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 C398boro.**
- 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 minor administrative changes to Amendment C398boro and associated planning controls that do not change the intent of the controls.**

CARRIED

3.2 Mont Iris Estate and Environs Heritage Review - Consideration of Panel Report - Amendment C394boro

Purpose

The purpose of this report is to inform the Urban Planning Delegated Committee (UPDC) of the recommendations of the independent Planning Panel appointed to consider submissions to Amendment C394boro (Mont Iris Estate and Environs Precinct), and to consider the officers' recommendation to refer the amendment to an Meeting of Council for adoption.

Background

On 2 May 2022, the UPDC resolved to undertake a peer review of the Mont Iris Estate and Environs Precinct. This was in response to a recommendation by the independent Planning Panel which considered Amendment C333boro - Glen Iris Heritage Gap Study. The Planning Panel found the Mont Iris Estate and Environs Precinct could not be justified in the form recommended through Amendment C333boro and recommended further review.

In May 2022, GJM Heritage was commissioned to carry out a peer review of the Mont Iris Estate and Environs Precinct. GJM Heritage recommended three (3) smaller precincts and two (2) individually significant properties within the Mont Iris Estate and Environs Precinct be included in the Heritage Overlay.

Following completion of the peer review, Council wrote to the Minister for Planning to request authorisation to prepare an amendment to the Boroondara Planning Scheme to implement the recommendations of the Mont Iris Estate & Environs Precinct peer review. Authorisation was granted to prepare and exhibit Amendment C394boro on 27 April 2023.

Amendment C394boro was publicly exhibited from 15 June to 27 July 2023. Twenty-four (24) submissions were received including nine (9) supporting submissions, four (4) partially supporting submissions, and eleven (11) opposing submissions. On 16 October 2023, the UPDC resolved to request appointment of an independent planning panel and refer all submissions received to the panel for consideration.

Key Issues

A planning panel hearing was held on 11 December 2023 to consider all submissions to the amendment. Two (2) opposing submitters addressed the Panel.

The Panel Report was received on 21 December 2023 and is provided at **Attachment 1**. The panel report was publically released on 9 January 2024.

The Panel recommended the amendment be adopted, including the changes endorsed by the UPDC on 16 October 2023. The Panel recommended correcting the exhibited Heritage Overlay maps to include 33 Tower Hill Road, Ashburton in the Tower Hill Estate Precinct, as well as updates to the schedule to the Heritage Overlay in relation to fence and outbuilding controls. The Panel also supported the changes endorsed by the UPDC to the Dent Street Precinct, Glen Iris Statement of Significance and the Tower Hill Estate Precinct, Glen Iris and Ashburton Statement of Significance.

Next Steps

Officers recommend the UPDC resolve to receive and acknowledge the Panel's Report for Amendment C394boro and refer the Amendment to an Meeting of Council to be adopted and submitted to the Minister for Planning for final approval.

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

MOTION

Moved Councillor Franco

Seconded Councillor Watson

That the Urban Planning Delegated Committee resolve to:

- 1. Receive and acknowledge the Panel's report and recommendations, as shown at Attachment 1, in accordance with Section 27(1) of the *Planning and Environment Act 1987*.**
- 2. Endorse the officers' response to the Panel's recommendations and recommended changes to Amendment C394boro to the Boroondara Planning Scheme, as shown at Attachment 2.**
- 3. Adopt the revised *Independent Review: Mont Iris Estate and Environs Precinct* (GJM Heritage) as shown at Attachment 3.**
- 4. Refer the updated Amendment C394boro to an Meeting of Council to be adopted in accordance with Section 29(1) of the *Planning and Environment Act 1987*.**
- 5. Authorise the Director Urban Living to undertake administrative changes to the amendment and associated planning controls that do not change the intent of the controls.**

CARRIED

3.3 12 Hawthorn Grove, Hawthorn - Dwelling extension in a Heritage Overlay - PP23/0325

It is proposed to extend the existing dwelling at 12 Hawthorn Grove, Hawthorn. This will include demolition of non-contributory additions and a two storey addition over a basement rumpus room. The dwelling is graded as being 'Significant' within the Grace Park and Hawthorn Grove Heritage Precinct (HO152).

The application was advertised in October 2023 and 13 objections were received.

The key issues that need to be considered relate to demolition, building height and setback as well as the design detail and materials proposed. The proposal is considered acceptable for the following reasons:

- The extent of demolition is appropriate and retains all parts of the building worthy of heritage protection.
- The proposed extension is setback approximately 30m from the street and entirely behind the original dwelling's principal roof form.
- Permit conditions can ensure that the addition interfaces appropriately with the heritage building so that it is easily distinguishable from the site's heritage fabric.
- The height of the proposed extension complies with Council's Heritage Policy sightline diagram and will have an acceptable level of visibility from the oblique views.
- Council's Heritage Advisor supports the proposal, subject to conditions. The conditions have been included within the Officer Recommendation.

Details of the proposal, discussion of objections and assessment against relevant planning controls and policies are contained in **Attachment 1 - Planning Assessment Report**.

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

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

Procedural Motion - Suspension of standing orders

MOTION

Moved Councillor Watson

Seconded Councillor Addis

CARRIED

Standing orders were suspended at 8:00pm

Procedural Motion - Resumption of standing orders**MOTION**

Moved Councillor Watson

Seconded Councillor Hollingsworth

CARRIED

Standing orders were resumed at 8:17pm

MOTION

Moved Councillor Gillies

Seconded Councillor Hollingsworth

That the Urban Planning Delegated Committee resolve that a Notice of Decision to Grant Planning Permit PP23/0325 be issued for the partial demolition and construction of buildings and works to the existing dwelling at 12 Hawthorn Grove, Hawthorn in accordance with the plans advertised on 24 October 2023 subject to the following conditions:

Amended plans required

1. 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 in an unlocked PDF. When the plans are endorsed they will then form part of the permit. The plans must be substantially in accordance with the plans advertised 24 October 2023 but modified to show:

- a. The ground floor of the linking structure reduced in height to maintain the original dwelling's eave line and external cornice mouldings.**
- b. The setback of the first floor 'linking structure' setback a minimum 0.5m from the outer eave line of the original dwelling without reducing any other boundary setback.**
- c. The elevations and material schedule amended to replace the 'white render' to a muted colour such as beige, cream, taupe or similar to a muted colour and to match the gable end and trim of the existing dwelling, to the satisfaction of the Responsible Authority.**
- d. The proposed side gates setback as follows:**
 - i. The western gate setback behind the front bedroom's WIR window.**
 - ii. The eastern gate setback behind the bay window associated with the lounge room.**

- e. The proposed concrete aggregate associated with the driveway finished in a light colour to the satisfaction of Council.**

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 without the prior written consent of the Responsible Authority.

Permit to expire

3. 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.

In accordance with Section 69 of the Planning and Environment Act 1987, the Responsible Authority may extend the times referred to if a request is made in writing before the permit expires or:

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

(2) 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 timeframe.

CARRIED

3.4 7 Mangarra Road, Canterbury - Presentation of Draft SCO Incorporated Document - Amendment C408boro

Purpose

The purpose of this report is to present the Urban Planning Delegated Committee (UPDC) with the prepared draft 'control document', being the incorporated document, for the planning scheme amendment which seeks to apply the Specific Controls Overlay (inclusive of the associated incorporated document) on a permanent basis to the land at 7 Mangarra Road, Canterbury (also known as 7-9 Mangarra Road Canterbury) (the land).

This report responds to UPDC Meeting resolution on 5 February 2024 for Item 3.2, which states at part 4 that "*upon preparation of a control document, a further report is to be presented to the Urban Planning Delegated Committee or Council.*"

This report also informs the UPDC that on Thursday 8 February 2024, a request was formally lodged for planning scheme amendment C408boro (Amendment) with the Department of Transport and Planning (DTP). The Amendment seeks Ministerial intervention to apply the Special Controls Overlay (SCO) to the land and to introduce an incorporated document in the Boroondara Planning Scheme titled '*7 Mangarra Road, Canterbury, Incorporated Document, January 2024*' (Incorporated Document) to prevent development, including demolition, of the land except for the reconstruction of the heritage building.

Background

On 5 February 2024, the UPDC considered a report regarding the disrepair and unlawful demolition by arson of the heritage building at 7 Mangarra Road, Canterbury, and the Council officer's Letter of Intent to the Minister for Planning requesting Ministerial intervention to apply the SCO to the land.

The UPDC resolved that, amongst other things;

4. Upon preparation of a control document, a further report is to be presented to the Urban Planning Delegated Committee or Council.

In response to this resolution, Council officers have prepared this report and included the draft 'control document' being the Incorporated Document for 7 Mangarra Road, Canterbury at **Attachment 1**.

On Thursday 8 February 2024, the request was lodged with the DTP seeking Ministerial intervention, in accordance with Section 20(4) of the *Planning and Environment Act 1987* (Act), to apply the SCO to the land and to introduce the associated Incorporated Document in the Boroondara Planning Scheme.

The Amendment will apply the Specific Controls Overlay, Schedule 13 to the land and introduce an Incorporated Document in the Boroondara Planning Scheme titled '*7 Mangarra Road, Canterbury, Incorporated Document, January 2024*' (Incorporated Document)

The purpose of the Incorporated Document is to confine development, including demolition, to development authorised by and subject to the conditions contained in the Incorporated Document.

The Incorporated Document seeks to override any contrary or inconsistent provision in the Boroondara Planning Scheme to prevent demolition (including partial demolition) of the fire damaged heritage dwelling and require reconstruction of the heritage dwelling to 'its built form and habitable condition prior to 30 November 2020'.

Amendment C408 is now with the Minister for Planning.

Key Issues

Section 6B of the Act was introduced to address the issue of unlawful demolition and disrepair resulting in demolition of a heritage place. In accordance with Planning Practice Note 95 (*Local heritage protection provisions in the Planning and Environment Act 1987*), Section 6B enables a planning scheme to:

- *regulate or prohibit the development of land on which there is or was a heritage building that has:*
 - *been unlawfully demolished, in whole or in part; or*
 - *fallen into disrepair.*
- *require that a planning permit must not be granted for the development of land on which there is or was a heritage building that has been unlawfully demolished, in whole or in part, or fallen into disrepair, unless the development is for or includes:*
 - *the reconstruction or reinstatement of the building, in whole or in part; or*
 - *the repair of the building.*
- *require that a planning permit must not be granted for the development of land on which there is or was a heritage building that has been unlawfully demolished, in whole or in part, or fallen into disrepair, unless the development is for or includes:*
 - *the reconstruction or reinstatement of the building, in whole or in part; or*
 - *the repair of the building.*

The Incorporated Document has been drafted in accordance with the above legislative intent and the provisions of Section 6B, to restrict development, including demolition, and require reconstruction of the heritage building, known as 'Shenley Croft', on the land. Based on the draft Incorporated Document, the reconstruction works must commence within 12 months of the date of the Incorporated Document and be completed within 24 months of the commencement of the reconstruction works.

Amendment C408boro is now with the Minister for Planning to determine. It is possible that the Minister may amend the Incorporated Document. Should this be contemplated, Council officers will be required to advocate the Council position and negotiate with DTP to reach an appropriate outcome for the land.

Next Steps

This report addresses the UPDC resolution of Monday 5 February 2024 for Item 3.2 which states, '4. Upon preparation of a control document, a further report is to be presented to the Urban Planning Delegated Committee or Council.'

This report also seeks a resolution from the UPDC to authorise the Director Urban Living to advocate the Council position and negotiate with the DTP to append an incorporated document (generally consistent with the draft at Attachment 1) to the SCO for 7 Mangarra Road, Canterbury that seeks to regulate or prohibit the development of the land to achieve the following objectives:

- To require the reconstruction of the heritage building, in whole or in part;
- To avoid the demolition of the remaining heritage fabric that can feasibly be incorporated or reused in the reconstruction of the heritage building;
- To prevent the future development of the site in a form that would benefit from the unlawful demolition of the heritage building.

Council officers will continue to work with the DTP to deliver the SCO to the land to achieve the above objectives.

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

Three 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. Accept the draft incorporated document prepared for 7 Mangarra Road Canterbury at Attachment 1 as the site-specific control as part of Planning Scheme Amendment C408boro.**
- 2. Authorise the Director Urban Living to negotiate with the Department of Transport and Planning (DTP) a site-specific control that seeks to achieve the following outcomes:**
 - a) Require the reconstruction of the heritage building.**
 - b) Avoid the demolition of the remaining heritage fabric that can feasibly be incorporated or reused in the reconstruction of the heritage building.**
 - c) Prevent the future development of the site in a form that would benefit from the unlawful demolition of the heritage building**

CARRIED

4. General business

Nil.

5. Urgent business

Nil.

6. Confidential business

Nil

The meeting concluded at 8:49pm

Confirmed

Chairperson

Date
