

7.3 Amendment C274 (Part 1) - Camberwell Heritage Gap Study - Decision to Abandon Amendment

Abstract

The purpose of this report is to recommend that Council abandons Amendment C274 (Part 1) to the Boroondara Planning Scheme. Amendment C274 sought to implement the recommendations of the Camberwell Heritage Gap Study (the Study) by applying the Heritage Overlay to twenty-one (21) individual heritage places, eleven (11) heritage precincts and two (2) precinct extensions.

At the Urban Planning Special Committee (UPSC) meeting of 3 April 2018, the UPSC considered the outcomes of the public exhibition process undertaken in relation to Amendment C274 and resolved to split the amendment into two (2) parts. Part 1 of the amendment relates to properties no longer recommended for inclusion in the Heritage Overlay, specifically the deletion of the Sunnyside and Rowell Avenues precinct, with the exception of 30 and 32 Sunnyside Avenue, Camberwell. Part 2 of the amendment relates to all other properties identified in the Camberwell Heritage Gap Study that are still recommended for inclusion in the Heritage Overlay. The UPSC resolved to refer Amendment C274 (Part 1) to an Ordinary Meeting of Council recommending that it be abandoned. A copy of the minutes of the UPSC meeting of 3 April 2018 is provided at **Attachment 1**. The properties proposed to be abandoned by Amendment C274 (Part 1) are detailed at **Attachment 2** and **3**.

In addition to recommending that Council abandon Amendment C274 (Part 1), officers also seek a resolution of Council to request that the Minister for Planning prepare, adopt and approve an amendment to the Boroondara Planning using the provisions of s.20(4) of the *Planning and Environment Act 1987* to remove the interim heritage controls which currently apply to properties in Amendment C274 (Part 1). The interim controls are no longer warranted if Council resolved to abandon the introduction of permanent heritage controls to the associated properties in Sunnyside and Rowell Avenues.

Officers' recommendation

That Council resolve to:

1. Abandon Amendment C274 (Part 1) in accordance with Section 23(1)(c) of the *Planning and Environment Act 1987* are detailed at Attachment 2 and 3.
2. Write to the Minister for Planning in accordance with Section 28 of the *Planning and Environment Act 1987* advising of Council's abandonment of Amendment C274 (Part 1).
3. Write to the Minister for Planning to request that he prepare, adopt and approve an amendment to the Boroondara Planning Scheme under section 20(4) of the *Planning and Environment Act 1987* to remove the interim Heritage Overlay applying to all recommended properties in the Sunnyside and Rowell Avenues Precinct in accordance with Amendment C274 (Part 1).

**Responsible director: Shiran Wickramasinghe
City Planning**

1. Purpose

The purpose of this report is to:

- Recommend that Council abandon Amendment C274 (Part 1) consistent with the resolution of 3 April 2018 by the Urban Planning Special Committee (UPSC).
- Recommend that Council resolves to write to the Minister for Planning to delete the interim heritage control applying to the Sunnyside and Rowell Avenues Precinct consistent with Amendment C274 (Part 1).

2. Policy implications and relevance to community plan and council plan

Council Plan 2017-2021

The amendment is consistent with the strategic objective to 'Facilitate the process of urban renewal throughout the City to enhance amenity by efficient and effective permit issuing administration' under Theme 3 - Enhanced amenity.

Specifically, the amendment implements Council's commitment to '*engage with our community in striving for protection and enhancement of the natural and built environment*' (Strategy 10).

The project will further assist Council in fulfilling its major initiative commitment to 'protect the City's heritage by continuing a municipal wide heritage assessment of all areas not currently subject to a heritage overlay in the Boroondara Planning Scheme'.

Boroondara Community Plan 2017-27

The Boroondara Community Plan 2017-27 sets out the 10 year vision for Boroondara's future based on values, aspirations and priorities important to the community.

The amendment implements Strategic Objective 4 of the Plan: *Protect the heritage and respect the character of the City to maintain amenity and liveability while recognising the need for appropriate, well-designed development for future generations.*

Specifically, the amendment implements the following strategies:

- **Strategy 4.3** - Preserve the City's history and protect heritage properties and precincts by undertaking a municipal-wide heritage review and introduce heritage overlays in the Boroondara Planning Scheme.
- **Strategy 4.6** - Engage with owners and developers to achieve a balance between development and protection of neighbourhood character, heritage and amenity.

Heritage Action Plan 2016

The Heritage Action Plan was adopted by Council on 2 May 2016 and establishes the framework to guide Council's heritage work program as it relates to the identification, protection, management and promotion of Boroondara's heritage assets.

The amendment is consistent with the following 'Very High' priority action of the Heritage Action Plan 2016:

"Prepare and implement a heritage study of Camberwell as part of the municipal wide heritage gap study."

Boroondara Planning Scheme

The amendment is consistent with the objectives of the State Planning Policy Framework (SPPF) and Local Planning Policy Framework (LPPF). In particular it addresses the following Clauses:

- Clause 15.03-1 *Heritage Conservation* which seeks to 'ensure the conservation of places of heritage significance' by identifying, retaining and protecting places with identified heritage significance;
- Clause 21.04-5 - *Heritage, Landscapes and Urban Character* of the Municipal Strategic Statement which includes the objective 'to identify and protect all individual places, objects and precincts of cultural, aboriginal, urban and landscape significance'; and
- Clause 22.03-2 *Heritage Policy* which seeks to 'preserve 'significant' heritage places, protecting all significant heritage fabric including elements that cannot be seen from the public realm'.

Both the SPPF and LPPF seek to ensure the HO is applied to protect places of heritage significance in the City of Boroondara.

Plan Melbourne 2017-2050

The identification, assessment and protection of places of local heritage significance are supported by Outcome 4 of *Plan Melbourne* which seeks to ensure that 'Melbourne is a distinctive and liveable city with quality design and amenity'. Direction 4.4 recognises the contribution heritage makes to Melbourne's distinctiveness and liveability and advocates for the protection of Melbourne's heritage places.

In particular, Policy 4.4.1 recognises the need for 'continuous identification and review of currently unprotected heritage sites and targeted assessments of heritage sites in areas identified as likely to be subject to substantial change'.

The amendment is consistent with these *Plan Melbourne* directions and initiatives.

Planning and Environment Act 1987

The amendment is consistent with the objectives of planning in Victoria, in particular the objective detailed in Section 4(1)(d) of the *Planning and Environment Act 1987*, being:

To conserve and enhance those buildings, areas or other places which are of scientific, aesthetic, architectural or historical interest, or otherwise of special cultural value.

This means that Council has a statutory obligation to continuously identify and protect places of heritage significance through the Heritage Overlay.

3. Background

On 25 July 2016, Council engaged heritage consultants, Context Pty Ltd, to commence the Municipal Wide Heritage Gap Study. The Camberwell Heritage Gap Study, the subject of Amendment C274, was the second suburb assessment to be undertaken as part of the wider Municipal Wide Heritage Gap Study.

As part of Amendment C274, twenty-one (21) individual heritage places, eleven (11) heritage precincts and two (2) precinct extensions were proposed for inclusion in the Heritage Overlay to the Boroondara Planning Scheme. The heritage precincts include a mix of significant, contributory and non-contributory properties.

The draft Camberwell Heritage Gap Study underwent preliminary consultation from 28 April to 29 May 2017. One hundred and six (106) submissions were received in response to Council's call for feedback, comprising forty (40) submissions of support, forty-eight (48) objections, and eighteen (18) partially supporting submissions.

Key issues raised included concerns about financial and development impacts, objections to properties and precincts being included, and questions surrounding the details contained in the draft citations.

Following the preliminary consultation process, Council's heritage consultant reviewed the feedback received and recommended a small number of changes to the content of citations, regraded the property at 984 Toorak Road from contributory to non-contributory and added the Allan Shalless Memorial Scout Hall to the list of Council-owned places of potential heritage significance.

These changes were presented at the UPSC meeting on 21 August 2017 for consideration. The UPSC resolved to adopt the revised Study and to seek authorisation from the Minister for Planning to prepare and exhibit Amendment C274. The UPSC also resolved to submit a request to the Minister for Planning to introduce interim heritage protection to the individual properties and precincts. The request for the interim heritage controls was subsequently supported by the Minister and gazetted in the Boroondara Planning Scheme on 8 February 2018.

Public exhibition of Amendment C274 was undertaken from 9 November 2017 to 11 December 2017. All affected and adjoining property owners and occupiers were notified of the exhibition, as well as submitters to preliminary consultation.

On 3 April 2018, the UPSC resolved to split the amendment and refer Part 1 (this report) to an Ordinary meeting of Council for abandonment. The UPSC resolved to refer Part 2 of the amendment to an independent Planning Panel for consideration (refer to **Attachment 1**).

This report recommends formally abandoning Part 1 of Amendment C274.

Amendment C274 (Part 2)

In accordance with the UPSC's resolution of 3 April 2018, officers requested that the Minister for Planning appoint an independent Planning Panel to consider Amendment C274 (Part 2). Since then, the Minister for Planning has appointed a Planning Panel. A Directions Hearing has been scheduled for 15 June 2018. The Panel Hearing is tentatively scheduled to begin in the week commencing 27 August 2018.

4. Outline of key issues/options

A total of ninety-three (94) submissions were received during the exhibition of Amendment C274, which can be categorised as follows:

- Fourteen (14) supported the amendment and the proposed Heritage Overlay.
- Eleven (11) partially supporting submissions, with three of those submissions mostly objecting.
- Sixty-nine (69) objected to the amendment and the inclusion of their properties, or a precinct in the Heritage Overlay.

Issues raised by submitters included the impact on property values, impact on future development, disagreement with the heritage value of properties and precincts, objections to specific properties being included in a Heritage Overlay, objections to the Heritage Overlay boundary, and concerns over the accuracy of the citations. The submissions have been considered by Council officers and Council's heritage consultant.

Sunnyside and Rowell Avenues heritage precinct

As noted at the UPSC meeting on 3 April 2018, 38 submissions were received during public exhibition of Amendment C274 in relation to the Sunnyside and Rowell Avenues precinct, including new information relating to several properties recommended for heritage protection. In response to submissions, all properties within the precinct were re-assessed in light of demolition which has occurred in Sunnyside and Rowell Avenues, new information provided through submissions, and the heritage consultant and officers' inspections of properties from the street.

Properties which have previously been demolished or downgraded since preliminary consultation of the draft Camberwell Heritage Gap Study include:

- 6, 11, 26, 35 and 37 Sunnyside Avenue, Camberwell

Council's heritage consultant also recommended that the following properties be downgraded to non-contributory based on submissions and further review of alterations and additions to properties within the precinct:

- 4, 7, 14, 21, 29, 33, and 42 Sunnyside Avenue, Camberwell; and
- 23, 25, 26, and 40 Rowell Avenue, Camberwell.

This equates to 30 properties (or 43%) that would now be graded non-contributory out of an overall number of 69. Council's heritage consultant also determined that the property at 24 Sunnyside Avenue no longer meets the threshold for individual significance. On that basis, application of the Heritage Overlay to the precinct and 24 Sunnyside Avenue cannot be justified.

Officers recommend that the individually significant properties at 30 and 32 Sunnyside Avenue be retained in the amendment. A joint citation for both properties has been prepared and included in the updated study and referred to an independent Planning Panel for consideration.

The officers' recommendation in relation to the Sunnyside and Rowell Avenues precinct was endorsed by the UPSC at its meeting of 3 April 2018.

It is worth noting that a site specific heritage control already applies to 23 Sunnyside Avenue (HO187) on a permanent basis. Abandonment of the Sunnyside and Rowell Avenues precinct will not affect this Heritage Overlay.

Removal of interim controls for affected properties

An interim Heritage Overlay currently applies to the precinct which should be removed from the properties should Council resolve to abandon the introduction of permanent heritage controls to the precinct. Should Council resolve to abandon this component of the amendment, officers will write to the Minister for Planning and make a request to remove the interim Heritage Overlay applying to the precinct (except for 30 and 32 Sunnyside Avenue). This change has been reflected in a revised Schedule to Clause 43.01 (Heritage Overlay) at **Attachment 3**.

The interim Heritage Overlay will be retained on the properties at 30 and 32 Sunnyside Avenue until such time as Part 2 of the amendment has been resolved at gazettal of the amendment.

5. Consultation/communication

Public exhibition of Amendment C274 was carried out from 9 November 2017 to 11 December 2017. Notices of the amendment were sent to owners and occupiers of the affected and adjoining properties, prescribed Ministers and preliminary consultation submitters. The notice was also published in the Progress Leader on 7 November 2017 and the Government Gazette on 9 November 2017. The heritage citations were made available on Council's website and at Council's planning counter.

Submitters to the amendment, as well as owners and occupiers of the affected and adjoining properties were invited to attend and speak at the UPSC meeting on 3 April 2018.

Affected and adjoining property owners and occupiers and submitters to Part 1 of Amendment C274 have been invited to this meeting.

6. Financial and resource implications

Resources to progress the planning scheme amendment will be sourced from the Strategic Planning Department 2017/18 and 2018/19 operating budget.

7. Governance issues

The officers responsible for this report have no direct or indirect interests requiring disclosure.

The implications of this report have been assessed and are not considered likely to breach or infringe upon, the human rights contained in the *Victorian Charter of Human Rights and Responsibilities Act 2006*.

8. Social and environmental issues

The inclusion of the precincts and individually significant properties in the Heritage Overlay recommended by the Study would have positive social and environmental effects by contributing to the continual protection and management of the City's heritage.

The exclusion of the Sunnyside and Rowell Avenue Precinct from Amendment C274 (Part 1) (not including 30 and 32 Sunnyside Avenue) will not compromise Council's broader objectives of implementing the Municipal Wide Heritage Gap Study.

Manager: Zoran Jovanovski, Strategic Planning

Report officer: Robert Costello, Senior Project Planner, Strategic Planning

3.2 Amendment C274 - Camberwell Heritage Gap Study - Exhibition outcomes and decision to split amendment

The purpose of this report is to inform the Urban Planning Special Committee (UPSC) of the exhibition outcomes of Amendment C274 to the Boroondara Planning Scheme. The amendment seeks to implement the recommendations of the Camberwell Heritage Gap Study (the Study) by applying the Heritage Overlay to twenty-one (21) individual heritage places, eleven (11) heritage precincts and two (2) precinct extensions. These places and precincts have been identified as being of local cultural heritage significance to the City of Boroondara.

Exhibition of the amendment and the Study was undertaken between 9 November 2017 and 11 December 2017. A total of ninety-four (94) submissions were received. Of these, fourteen (14) supported the amendment, eleven (11) partially supported the amendment and sixty-nine (69) objected to the amendment and the inclusion of their properties, or a precinct, in the Heritage Overlay.

Issues that were raised by submitters included the impact on property values, impact on future development, disagreement with the heritage significance of properties and precincts, objections to specific properties being included in a Heritage Overlay, objections to the Heritage Overlay boundaries, and concerns over the accuracy of the citations.

The submissions have been considered by Council officers and Council's heritage consultant. A summary of all submissions received, the officers' response, and recommended changes made to the exhibited citations is provided in Attachment 1. A map showing from where submissions were lodged is provided at Attachment 2. A number of changes are proposed to the exhibited Study, which is provided in Attachment 3.

The key change recommended is the removal of the Sunnyside and Rowell Avenues Precinct from the amendment. Officers and Council's heritage consultant carried out a review of the precinct following the exhibition period based on the information presented in the submissions. Council's heritage consultant has formed the view that the precinct has been too altered and is no longer intact. Officers are recommending that the precinct recommendation be deleted from the amendment prior to the Panel hearing, whilst retaining the two individually significant properties at 30 and 32 Sunnyside Avenue in the amendment. The Study has been revised to reflect the change in recommendation and a citation included for the properties at 30 and 32 Sunnyside Avenue.

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 a submission(s), refer the amendment to an independent Planning Panel or abandon the amendment in full or part. It is recommended that the amendment be referred to an independent Planning Panel to consider all unresolved submissions.

Councillor Healey declared a conflicting personal interest in Item 3.2 Amendment C274- Camberwell Heritage Gap Study- Exhibition outcomes and decision split amendment in accordance with Section 79B of the Local Government Act 1989.

Councillor Healey advised that the nature of the personal interest was "that one of the presenters- acting on behalf of a client was involved in my election campaign as the authoriser of my brochure.

Councillor Healey indicated that he would be seeking leave of Council to abstain from voting in the matter at the appropriate time.

Councillor Healey then sought leave of Council of Council to abstain from voting on this item having previously declared a conflicting personal interest in accordance with Section 79B of the Local Government Act 1989.

MOTION

Moved Councillor Parke

Seconded Councillor Hurd

That Council resolve that Councillor Healey be granted leave to be excused from voting on this item.

CARRIED

Councillor Healey left the Chamber at 8.16pm prior to consideration and vote on this matter.

Councillor Hurd left the Chamber at 8.36pm and resumed his seat at 8.39pm.

Ten speakers opposed to the officers' recommendation addressed the meeting. Seven speakers in support of the officers' recommendation addressed the meeting. Two speakers neither opposed nor in support of the officers recommendation addressed the meeting.

MOTION

Moved Councillor Hollingsworth

Seconded Councillor Hurd

That the Urban Planning Special Committee resolve to:

- 1. Receive and note the submissions to Amendment C274 (Attachment 1) to the Boroondara Planning Scheme and the Camberwell Heritage Gap Study in accordance with Section 22 of the *Planning and Environment Act 1987*.**
- 2. Endorse the officers' response to submissions and recommended changes to Amendment C274.**
- 3. Split Amendment C274 into two parts:**
 - Part 1 - Relating to properties no longer recommended for inclusion in the Heritage Overlay, specifically the deletion of the Sunnyside and Rowell Avenues Precinct from the amendment.**

- **Part 2 - Endorse the revised draft Camberwell Heritage Gap Study relating to proposed heritage places still recommended for inclusion in the Heritage Overlay including unresolved submissions as detailed in Attachment 1, and retention of the properties at 30 and 32 Sunnyside Avenue as individually significant properties.**
4. **Refer Amendment C274 Part 1 to an Ordinary Meeting of Council recommending that it be abandoned in accordance with Sections 23(1)(c) of the *Planning and Environment Act 1987*.**
 5. **Request that the Minister for Planning appoint a Planning Panel under Section 153 of the *Planning and Environment Act 1987* to consider unresolved submissions to Amendment C274 Part 2.**
 6. **Refer Amendment C274 Part 2 and related submissions to a Planning Panel in accordance with Section 23(1) of the *Planning and Environment Act 1987*.**
 7. **Authorise the Director City Planning to undertake administrative changes to Amendment C274 that do not change the intent of the amendment prior to a Panel Hearing.**

CARRIED**4. General business****4.1 Parking in the vicinity of Glen Street, Berkeley Street and Callantina Road, Hawthorn**

Councillor Ross noted concerns that were raised with respect to parking in the context of Item 3.1 37-41 Glen Street, Hawthorn.

Councillor Ross requested officers' conduct a review of parking within the vicinity of Glen Street, Berkeley Street and Callantina Road, Hawthorn and take the appropriate action.

5. Urgent business

Nil

6. Confidential business

Nil

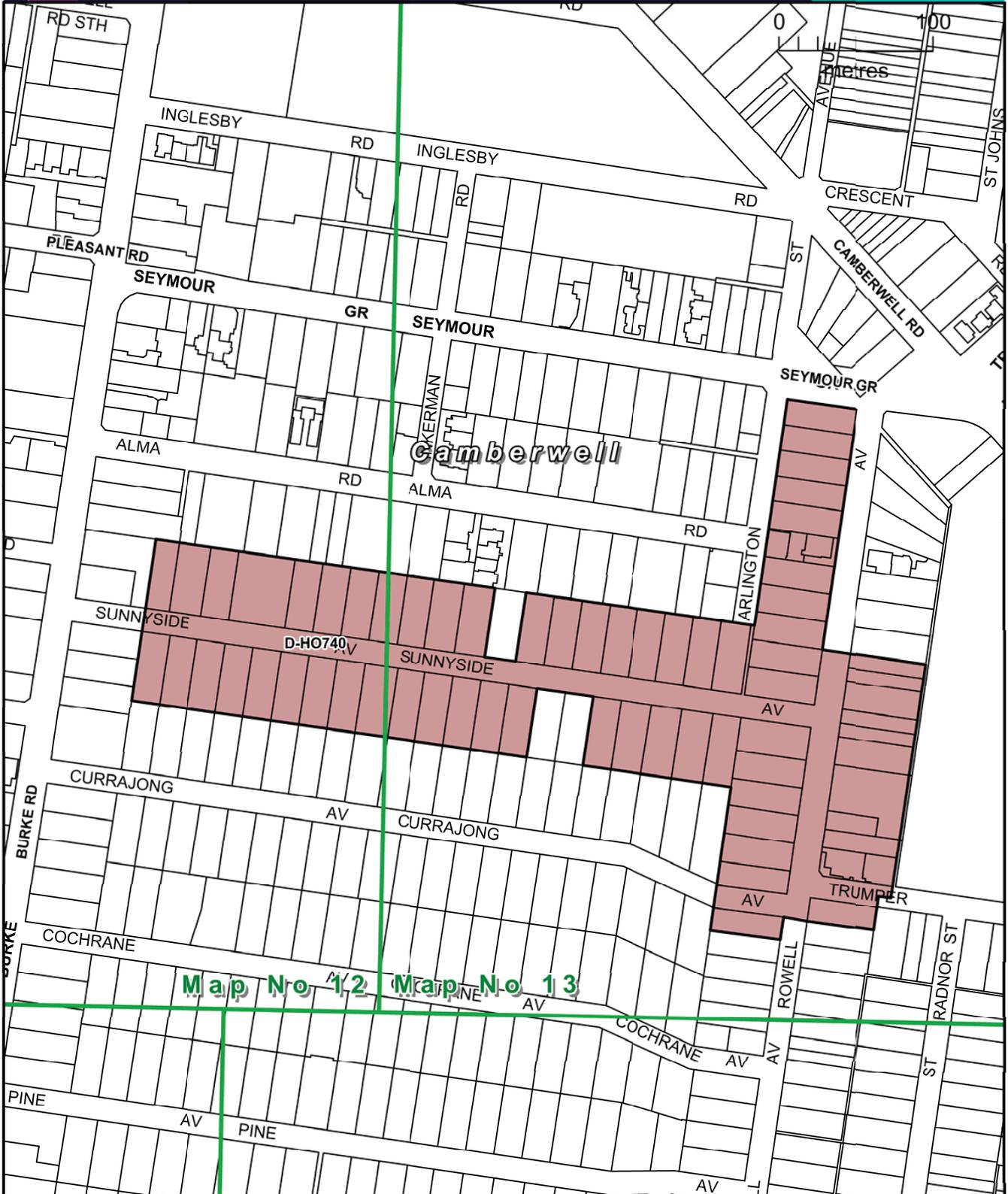
The meeting concluded at 10.05pm

Confirmed

Chairperson _____

Date _____

BOROONDARA PLANNING SCHEME



Map No 12 Map No 13

LEGEND

D-HO740 AREA TO BE DELETED FROM A HERITAGE OVERLAY

Part of Planning Scheme Map 12HO & 13HO

AMENDMENT C291

| Planning Mapping Services |
| Planning Information Services |
| Planning |



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BOROONDARA PLANNING SCHEME

OFFICER NOTE: ATTACHMENT 3 INCLUDES AN EXTRACT FROM CLAUSE 43.01 OF THE BOROONDARA PLANNING SCHEME AS IT RELATES TO HO740.

PS Map Ref	Heritage Place	External Paint Controls Apply?	Internal Alteration Controls Apply?	Tree Controls Apply?	Outbuildings or fences not exempt under Clause 43.01-3	Included on the Victorian Heritage Register under the Heritage Act 1995?	Prohibited uses permitted?	Name of Incorporated Plan under Clause 43.01-2	Aboriginal heritage place?
HO736 Interim control <i>Expiry Date:</i> 1/03/2019	<i>Lockhart Street Precinct</i> Includes Lockhart St and Riversdale Rd (part)	No	No	No	No	No	No	No	No
HO737 Interim control <i>Expiry Date:</i> 1/03/2019	<i>Milverton Street Precinct</i> Includes Milverton Street (part)	No	No	No	No	No	No	No	No
HO738 Interim control <i>Expiry Date:</i> 1/03/2019	<i>South Camberwell Commercial Precinct</i> Includes Toorak Rd (part)	No	No	No	No	No	No	No	No
HO739 Interim control <i>Expiry Date:</i> 1/03/2019	<i>St John's Wood & Sage's Paddock Precinct</i> Includes Avenue Rd (part) and St Johns Ave (part)	No	No	No	No	No	No	No	No
HO740 Interim control <i>Expiry Date:</i> 1/03/2019	<i>Sunnyside & Rowell Avenues Precinct</i> <i>Includes Sunnyside Ave and Rowell Ave (part)</i> <i>30 and 32 Sunnyside Avenue, Camberwell</i>	No	No	No	No	No	No	No	No