



7.3 EXTENSION OF INTERIM HERITAGE OVERLAY – TIUNA GROVE, ELWOOD

EXECUTIVE MEMBER: LILI ROSIC, GENERAL MANAGER, CITY STRATEGY AND SUSTAINABLE DEVELOPMENT

PREPARED BY: KELLY WHITE, HEAD OF CITY POLICY

1. PURPOSE

- 1.1 To consider requesting the Minister for Planning extend the expiry date of the interim heritage controls applying to 3, 5, 7 and 15 Tiuna Grove, Elwood. The extension is required until Amendment C174port to the Port Phillip Planning Scheme is finalised

2. EXECUTIVE SUMMARY

- 2.1 Amendment C174port proposes to implement the recommendations of the *Tiuna Grove Heritage Assessment* (Barrett, 2019) by:
- Providing permanent heritage protection for the houses at 3, 5, 7 and 15 Tiuna Grove, Elwood, further to the interim heritage controls introduced on 4 July 2019;
 - Removing contemporary development at the southwest end of Tiuna Grove (21-23, 25, 27, 29 and 31) which are of no appreciable heritage value to the precinct, from HO8
 - Updating the Citation for HO8 Elwood: Glen Huntly and Ormond Roads precincts so that it is consistent with recognised standards of practice as outlined in the *Planning Practice Note 1: Applying the Heritage Overlay*.
- 2.2 Public exhibition took place from 12 September to 25 October 2019 and a total of 25 submissions were received: 17 in support, six (6) in partial support and two (2) opposing submissions.
- 2.3 On 11 December 2019, Council referred the amendment and submissions to an independent Planning Panel for its consideration.
- 2.4 The 2-day Panel Hearing was scheduled to commence on 23 March 2020. Due to concerns around the spread of COVID-19, the Panel Hearing took place 'on the papers', without the attendance of parties. The result was a 'Panel Hearing' that took place over a period of 3.5 weeks, ending on 22 April 2020.
- 2.5 Council received the Panel report and its recommendations on 5 May 2020. In accordance with the *Planning and Environment Act 1987* and *COVID-19 Omnibus (Emergency Measures) Act 2020*, the Panel report will be made available online for public inspection from Tuesday 2 June 2020.
- 2.6 The next step is for Council to consider the Panel's recommendations and decide whether to adopt the amendment (with or without changes) and request final approval from the Minister for Planning. This is scheduled for Council's Meeting on 1 July 2020.



- 2.7 Interim heritage controls apply to 3, 5, 7 and 15 Tiuna Grove, Elwood and expire on 30 June 2020. Accordingly, an extension of the interim heritage controls is required to ensure the heritage values of the properties remain protected while Amendment C174port is finalised.

3. RECOMMENDATION

That Planning Committee:

- 3.1 Requests the Minister for Planning to prepare and approve Amendment C191port to the Port Phillip Planning Scheme pursuant to Section 20A of the *Planning and Environment Act 1987* to extend the expiry date of interim Heritage Overlay 8 (Elwood-Glenhuntly Rd, Ormond Rd) to 31 December 2020.
- 3.2 Authorises the Chief Executive Officer (or delegate) to finalise the amendment documentation and Ministerial request for Amendment C191port.

4. KEY POINTS/ISSUES

Background

- 4.1 On 28 September 2018, Planning Application P778/2018 was lodged to demolish the buildings at 1, 3 and 5 Tiuna Grove and construct a new three (3) storey building comprising twenty-two (22) apartments across the consolidated site.
- 4.2 While these properties are located adjacent to Heritage Overlay 8 (HO8) (Elwood: Glen Huntly Rd, Ormond Rd) precinct area, they were not included in the Heritage Overlay.
- 4.3 On 29 May 2019, a request for demolition of the buildings at 1, 3 and 5 Tiuna Grove was received pursuant to section 29A of the Building Act 1993. As there was no Heritage Overlay applied to 1-5 Tiuna Grove, no planning permit was required for demolition.
- 4.4 Following advice from Council's heritage advisor that the houses at 3 and 5 Tiuna Grove were of heritage interest, and in response to the immediate risk of demolition, Council sought advice from heritage consultant, Peter Barrett.
- 4.5 The *Tiuna Grove Heritage Assessment* (Barrett, 2019) (the Assessment) was finalised and considers the houses at 3, 5, 7 and 15 Tiuna Grove as "early and fine examples of mid 1910s and 1920s bungalow styles... consistent with the aesthetic and historic values of the HO8 Elwood: Glen Huntly and Ormond Roads precinct" and recommended that they be added to the Heritage Overlay.
- 4.6 Specifically, the Assessment recommended that Council:
- Realign the boundaries of HO8 to include the properties at 3 ('significant' grading), 5 ('significant grading'), 7 ('contributory grading') and 15 ('significant grading') Tiuna Grove.
 - Remove the contemporary development at the southwest end of Tiuna Grove (21-23, 25, 27, 29 and 31 Tiuna Grove) which are of no appreciable heritage value to the precinct from HO8.



- Amend the Citation for HO8 in the Port Phillip Heritage Review to be consistent with recognised standards of practice and to outline what, how and why the HO8 precinct is significant.
- 4.7 On 19 June 2019, at its Ordinary Council Meeting and in response to a petition from the community opposing the proposed development at 1- 5 Tiuna Grove, Elwood, Council resolved to request the Minister for Planning:
- Authorise the preparation of Amendment C174port (Extension of Heritage Overlay 8 -Tiuna Grove, Elwood) to give effect to the recommendations of the Assessment on a permanent basis.
 - Urgently approve Amendment C173port (Tiuna Grove, Elwood - Interim Heritage Overlay) to the Port Phillip Planning Scheme, pursuant to section 20(4) of the *Planning and Environment Act 1987* (the Act) to apply interim heritage controls to 3, 5, 7 and 15 Tiuna Grove, Elwood.
- 4.8 Council also endorsed the *Tiuna Grove Heritage Assessment* (Barrett, 2019) (the Assessment) as the strategic basis for Amendment C174port.

Interim heritage controls

- 4.9 On 20 June 2019, Council lodged a request with the Minister for approval of Amendment C173port to apply interim heritage protection to 3, 5, 7 and 15 Tiuna Grove. The request enabled Council's Municipal Building Surveyor to suspend the request for demolition of 3 and 5 Tiuna Grove on 20 June 2019.
- 4.10 The interim heritage controls were approved by the Minister and came into effect on 4 July 2019. The controls are set to expire on 30 June 2020.

Planning permit – 1, 3 and 5 Tiuna Grove, Elwood (P778/2018)

- 4.11 Council's delegate refused the planning permit application for 1, 3 and 5 Tiuna Grove, Elwood on 7 February 2019. On 8 February 2019 the permit applicant lodged an Application for Review with VCAT.
- 4.12 On 4 July 2019, the VCAT hearing which was scheduled to commence on 8 July 2019 was adjourned to allow parties to respond to the recently approved interim heritage controls applying to 3 and 5 Tiuna Grove.
- 4.13 On 30 August 2019, Council received an amendment to the plans which sought to retain the front portions of 3 and 5 Tiuna Grove, Elwood.
- 4.14 On 23 October 2019, Council's Planning Committee resolved to support the grant of a permit for the amended plans, subject to conditions.
- 4.15 On 11 February 2020, VCAT determined to grant a permit and directed it be issued for 1, 3 & 5 Tiuna Grove, Elwood in accordance with the amended plans, subject to conditions.
- 4.16 On 17 February 2020, Council officers issued Planning Permit No. 772/2018 in accordance with the VCAT directions. The permit allows the construction of 12 dwellings and partial demolition and external alteration of two buildings (3 and 5 Tiuna Grove).

Amendment C174port – Permanent heritage controls



- 4.17 On 22 July 2019, the Minister for Planning authorised the preparation and exhibition of Amendment C174port.
- 4.18 Amendment C174port proposes to implement the recommendations of the *Tiuna Grove Heritage Assessment* (Barrett, 2019) by:
- Providing permanent heritage protection for the houses at 3, 5, 7 and 15 Tiuna Grove, Elwood, further to the interim heritage controls introduced on 4 July 2019;
 - Removing contemporary development at the southwest end of Tiuna Grove (21-23, 25, 27, 29 and 31) which are of no appreciable heritage value to the precinct, from HO8
 - Updating the Citation for HO8 Elwood: Glen Huntly and Ormond Roads precincts so that it is consistent with recognised standards of practice as outlined in the *Planning Practice Note 1: Applying the Heritage Overlay*.
- 4.19 Public exhibition took place from 12 September to 25 October 2019 and a total of 25 submissions were received: 17 in support, six (6) in partial support and two (2) opposing submissions.
- 4.20 Despite the issuing of planning permit P778/2018, it is noted that the landowners of 1, 3 and 5 Tiuna Grove remain an objecting submitter to Amendment C174port and have objected to the application of the heritage overlay to those properties.
- 4.21 On 11 December 2019, Council referred the amendment and submissions to an independent Planning Panel for its consideration.
- 4.22 The 2-day Panel Hearing was scheduled to commence on 23 March 2020. Due to concerns around the spread of COVID-19, the Panel Hearing took place 'on the papers', without the attendance of parties. The result was a 'Panel Hearing' that took place over a period of 3.5 weeks, ending on 22 April 2020.
- 4.23 Council received the Panel report and its recommendations on 5 May 2020. In accordance with the *Planning and Environment Act 1987* and *COVID-19 Omnibus (Emergency Measures) Act 2020*, the Panel report will be made available online for public inspection from Tuesday 2 June 2020.
- 4.24 The next step is for Council to consider the Panel report and decide whether to adopt the amendment (with or without changes) and request final approval from the Minister for Planning. This is scheduled for Council's Meeting on 1 July 2020.
- 4.25 Accordingly, there is a need to extend the expiry date of the interim heritage controls to ensure the heritage values of 3, 5, 7 and 15 Tiuna Grove are protected while Amendment C174port is finalised.

Extension of expiry date of interim heritage controls

- 4.26 A planning scheme amendment (Amendment C191port) is required to extend the expiry date of the interim heritage controls for six-months while Amendment C174port is finalised.



- 4.27 Specifically, the amendment would update the schedule to the Heritage Overlay (clause 43.01) to extend the expiry date of interim Heritage Overlay 8 to 31 December 2020.
- 4.28 The amendment would be prepared under Section 20A of the *Planning and Environment Act 1987* (the Act) as a 'Prescribed amendment'. This section of the Act allows the Minister for Planning to prepare and approve certain classes of amendments without the need to notify affected properties.
- 4.29 The full list of classes is outlined in the Planning and Environment Regulations 2015 and includes:
- (p) *an amendment to extend the expiry of a clause in the Victoria Planning Provisions or a planning scheme for a period of 12 months or less, beginning on the day the amendment takes effect, if notice has been published in accordance with section 19(3) of the Act of the preparation of an amendment to introduce a clause that is similar or substantially the same; and*

5. CONSULTATION AND STAKEHOLDERS

- 5.1 Amendment C191port to extend the expiry date of the interim heritage controls is exempt from statutory notification requirements and no consultation will occur as part of this process.
- 5.2 Should the Minister approve the amendment, the affected landowners will be advised in writing of the Minister's decision.

6. LEGAL AND RISK IMPLICATIONS

- 6.1 If the interim heritage controls expire, the houses at 3, 5, 7 and 15 Tiuna Grove, Elwood would be vulnerable to further requests for demolition.
- 6.2 No significant risk implications have been identified in relation to the processing of Amendment C191port. The amendment will be processed in accordance with the requirements of the Act.

7. FINANCIAL IMPACT

- 7.1 Amendment C191port will incur a statutory fee of \$962.70. Provision for this cost is made in the Planning Scheme Amendments Program budget for 2019/20.

8. ENVIRONMENTAL IMPACT

- 8.1 The amendment will have a positive impact on the community, through protecting historically significant places within Port Phillip for the benefit of current and future generations.

9. COMMUNITY IMPACT

- 9.1 Amendment C191port will have a positive social impact through the preservation of historically significant places, for the benefit of current and future generations.
- 9.2 The amendment is not expected to have a broad economic impact on the community. Planning Panels Victoria has established the principle that social and economic effects relevant at the amendment stage are of a broad community nature rather than those of a personal kind.



10. ALIGNMENT TO COUNCIL PLAN AND COUNCIL POLICY

10.1 The protection of recognised heritage values is consistent with the 'We are Port Phillip' Council Plan 2017-2027 commitment to 'protecting heritage places' and 'ensuring new development integrates with, respects and contributes to the unique heritage, character and beauty of our neighbourhoods'.

11. IMPLEMENTATION STRATEGY

11.1 TIMELINE

11.1.1 If Planning Committee decide to seek an extension to the expiry date of interim HO8, a request will be made to the Minister for Planning within 5 business days.

11.1.2 On 1 July 2020, Council will consider the Panel's recommendations on Amendment C174port (Permanent heritage controls) and decide whether to adopt the amendment (with or without changes).

11.1.3 If Council decide to adopt Amendment C174port, the amendment documentation and prescribed information will be submitted to the Minister for Planning for final approval within 10 business days.

11.2 COMMUNICATION

11.2.1 Should the Minister approve Amendment C191port, the affected landowners will be advised in writing of the Minister's decision.

11.2.2 Information about the amendment will be made available on Council's website.

12. OFFICER DIRECT OR INDIRECT INTEREST

12.1 No officers involved in the preparation of this report have any direct or indirect interest in the matter.

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ATTACHMENTS Nil

8. URGENT BUSINESS

9. CONFIDENTIAL MATTERS

Nil