

## **5.2 HERITAGE OVERLAY FOR 22 ARDEN CRESCENT ROSANNA - AMENDMENT C151 AND C152**

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### **EXECUTIVE SUMMARY**

Council has received approval for an interim Heritage Overlay (Amendment C151) for 22 Arden Crescent, Rosanna. The interim Overlay applies until 1 November 2019.

Planning Scheme Amendment C152 proposes to apply the Heritage Overlay to 22 Arden Crescent, Rosanna in the Banyule Planning Scheme on a permanent basis.

Public exhibition for Amendment C152 commenced on 29 November 2018 and concluded on 15 January 2019. Council received a total of thirteen (13) submissions, eleven (11) in support and two (2) objecting to the amendment.

In line with the *Planning and Environment Act 1987* Council is required to review submissions and consider its response to those which request a change to the amendment. Given that the opposing submissions cannot be resolved, referral to an Independent Planning Panel is appropriate.

### **RECOMMENDATION**

That Council:

1. Note the approval of Banyule Planning Scheme Amendment C151 to apply an interim Heritage Overlay to 22 Arden Crescent, Rosanna.
2. Receive and note the submissions to Amendment C152 to the Banyule Planning Scheme in accordance with Section 22 of the *Planning and Environment Act 1987* as shown in the table at Attachment 1.
3. Refer submissions to Planning Scheme Amendment C152 to an Independent Planning Panel in accordance with Section 23 of the *Planning and Environment Act 1987*.

### **COUNCIL PLAN**

This report is in line with Banyule's Council Plan key direction to "Preserve and improve Banyule as a great place to live, work and play".

## **HERITAGE OVERLAY FOR 22 ARDEN CRESCENT ROSANNA - AMENDMENT C151 AND C152 cont'd**

### **BACKGROUND**

A planning permit application to develop 22 Arden Crescent, Rosanna was received by Council in August 2017. An application under Section 29A of the Building Act 1993 for full demolition of the dwelling at the subject site was received on 6 September 2018.

The dwelling had previously been nominated for heritage protection by a member of the public and included on Council's internal register of buildings and places to be further considered as part of Council's next heritage study, which is due to commence this year.

As a result of the building demolition consent request, the building was considered to be under imminent threat. On this basis, Council engaged a heritage consultant to prepare a heritage assessment of the property. The assessment identified the place as significant to Banyule and recommended it be included in the Heritage Overlay.

An application under delegation was made to the Minister for Planning requesting that an interim Heritage Overlay be applied to the property (Amendment C151) whilst Council exhibits a planning scheme amendment (Amendment C152) to apply the Heritage Overlay on a permanent basis. On the basis of the application for the interim overlay the Section 29A building demolition consent request was refused.

### **Planning Permit Outcome**

A planning permit application was received in 2017 (P851/2017) for the construction of seven dwellings and associated tree removal on the site. The existing dwelling on the site requires removal to accommodate the proposed development. The application proceeded to VCAT and a planning permit for the site was issued on 28 November 2018. The owner now has approved plans to develop the site however is unable to demolish the existing dwelling due to the refusal of the demolition consent.

### **Amendment C151 - Interim Heritage Overlay**

Council applied to the Minister for Planning on 24 September 2018, requesting that an interim Heritage Overlay be applied to 22 Arden Crescent, Rosanna. Amendment C151 utilised section 20(4) of the Planning and Environment Act (1987) which allows the Minister for Planning to amend the planning scheme without public exhibition. The interim Heritage Overlay enables protection of the existing dwelling while Council exhibits a planning scheme amendment for a permanent Heritage Overlay.

### **Amendment C152 – Permanent Heritage Overlay**

Under delegation, Council applied for authorisation of Amendment C152 at the same time as the application for Amendment C151. The Minister for Planning authorised Council to commence exhibition of Amendment C152 to include the property in the Heritage Overlay on a permanent basis on 31 October 2018. Exhibition enables full consideration of the heritage significance of the property through a public consultation process and an independent Panel, if required.

### **LEGAL CONSIDERATION**

The *Planning and Environment Act 1987 (Act)* needs to be considered with regard to Heritage and to Planning Scheme Amendments.

## HERITAGE OVERLAY FOR 22 ARDEN CRESCENT ROSANNA - AMENDMENT C151 AND C152 cont'd

- Section 4(1)(d) relates to the objectives of planning in Victoria which includes:  
*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.*
- Part 3 governs the Planning Scheme Amendment process.

With regard to C151 and C152 the objective of the Amendments and the Amendment process followed are in compliance with the Act.

### HUMAN RIGHTS CHARTER

In developing this report to Council, the subject matter has been considered in accordance with the requirements of the Victorian Charter of Human Rights and Responsibilities.

It is considered that the subject matter does not raise any human rights issues.

### Locality Plan



*Figure 1: Aerial view of site and surrounding area*

### CURRENT SITUATION

Council has received approval for an Interim Heritage Overlay (Amendment C151) for 22 Arden Crescent, Rosanna. The interim overlay is included in the Banyule Planning Scheme and applies until 1 November 2019. The Amendment came into effect when it was gazetted on 31 January 2019.

### CONSULTATION FOR AMENDMENT C152

Amendment C152 was publicly exhibited for six weeks from 29 November 2018 to 15 January 2019. Consultation included:

- Direct notice to neighbouring landowners and occupiers
- Direct notice to parties to the Planning Permit P851/2017

**HERITAGE OVERLAY FOR 22 ARDEN CRESCENT ROSANNA - AMENDMENT C151 AND C152 cont'd**

- Direct notice to public authorities, prescribed Ministers, State and Federal Members of Parliament
- Information on Council's website and on Shaping Banyule including an online submission form
- Notice in the Heidelberg Leader and Government Gazette
- Information at Council's Greensborough office

**SUBMISSIONS FOR AMENDMENT C152**

Council received a total of thirteen (13) submissions, eleven (11) in support and two (2) objecting to the amendment. A detailed summary of submissions and Council's response is provided at **Attachment 1**. The following is a general summary of comments made:

In **support** of the amendment:

- Support for the protection of the house and gardens with a Heritage Overlay
- The house and garden are a pivotal landmark that defines the appearance of the street
- It is the house from which Arden Crescent derives its name
- It is a rare surviving farmhouse with links to the development of the area
- The building has interesting architectural features including a tower and has been well maintained.
- The generous garden setting of the building is significant
- Opposed to the demolition of the house and any reduction in the associated gardens
- It is important to preserve the historic property and generous garden setting for future generations
- Allowing a subdivision to take place and allowing townhouses overlooking such a house will destroy its character
- Thanks Council for effort to protect property

**Opposing** the amendment:

- Considers that the building has changed significantly since the original was built.
- The heritage assessment mischaracterise the intactness and significance of the site.
- The heritage assessment contains substantive factual errors.
- The site fails to meet the requisite threshold of either historical or architectural significance to support the Amendment.

**DISCUSSION**

In accordance with Section 23(1) of the *Planning and Environment Act 1987*, Council is required to review submissions and consider whether to:

- change the amendment in the manner requested; or
- refer the submission to a panel appointed under Part 8; or
- abandon the amendment or part of the amendment.

**HERITAGE OVERLAY FOR 22 ARDEN CRESCENT ROSANNA - AMENDMENT C151 AND C152 cont'd**

The comments made in support of the amendment are noted and do not require any change to the amendment.

The comments opposing the amendment relate to the heritage assessment that has been prepared by qualified heritage consultants Context. The opposing submissions argue the site is not of heritage significance to warrant a Heritage Overlay. The heritage assessment prepared for the site recommends its inclusion in the Heritage Overlay of the Banyule Planning Scheme.

Given that the opposing comments cannot be resolved by Council the amendment requires consideration by an Independent Planning Panel.

**OFFICER DECLARATION OF CONFLICT OF INTEREST**

Section 80C of the *Local Government Act 1989* (Act) requires members of Council staff, and persons engaged under contract to provide advice to Council, to disclose any direct or indirect interest in a matter to which the advice relates.

Council officers involved in the preparation of this report have no conflict of interest in this matter.

**CONCLUSION**

Planning Scheme Amendment C151 has been approved which applies the Heritage Overlay to 22 Arden Crescent, Rosanna on an interim basis until 1 November 2019.

Public exhibition of Planning Scheme Amendment C152 has provided all parties with an opportunity to make a submission. Two opposing submissions and eleven supporting submissions were received.

Given that the opposing submissions cannot be resolved the amendment requires consideration by an Independent Planning Panel in accordance with section 23 of the Planning and Environment Act.

**ATTACHMENTS**

<b>No.</b>	<b>Title</b>	<b>Page</b>
1	Summary of Submissions C152	

## Summary of Submissions to Amendment C152 – Heritage Overlay for 22 Arden Crescent Rosanna

Submission No.	Support/ Oppose	Summary of Submission	Response
1	Support	As one of the very few Edwardian-era houses in the Rosanna district, we support the application of a Heritage Overlay to 22 Arden Crescent. We are strongly in favour in the retention of distinctive buildings of historic interest, especially in the face of subdivision and development in the area.	Support noted
2	Support	It is of local historical and aesthetic significance to the City of Banyule. It is a rare surviving farmhouse with links to the development of the area. It is on a prominent rise in the broader landscape in a garden setting with interesting architectural features including a tower and has been well maintained.	Support noted
3	Support	History needs to be preserved. This is the property that Arden Crescent was named after and the property also has a connection with the naming of Rosanna. For its age alone it is worth preserving. With so many townhouses and apartments popping up everywhere and it is nice to have a property to remind us of the history of the area. A property that is as attractive as this one needs to be protected. The house is on a descent size block of land and the previous owners maintained a native garden which looked stunning. If this house is to be protected then the whole property including the garden should be protected as is what makes the property stand the way it does. Allowing a subdivision to taken place and allowing townhouses overlooking such a house will destroy its character.	Support noted
4	Support	The generous garden setting of the building is significant as noted in Explanatory report. The building requires an appropriate setting, subdivision would detract from its visual significance. Reducing block size would also detract from current suitability to be a large family residence.	Support noted
5	Support	Similar to Submission 4	Support noted

## Summary of Submissions to Amendment C152 – Heritage Overlay for 22 Arden Crescent Rosanna

Submission No.	Support/ Oppose	Summary of Submission	Response
6	Support	The house and garden are a pivotal landmark that defines the appearance of our small street. It would be a tragedy if it's allowed to be demolished. The aspect and presence of the house relies strongly on the surrounding gardens. Strongly opposed to the demolition of the house and any reduction in the associated gardens.	Support noted
7	Support	Similar to Submission 4	Support noted
8	Oppose	<ol style="list-style-type: none"> <li>1. The dwelling on the Site has been substantially altered, it is not intact.</li> <li>2. The heritage assessment and accompanying Statement of Significance prepared by Context Pty Ltd substantially mischaracterise the intactness and significance of the Site.</li> <li>3. The heritage assessment underpinning the Amendment contains substantive factual errors.</li> <li>4. The Site fails to meet the requisite threshold of either historical or architectural significance to support the Amendment.</li> </ol> <p>Considers that the Site does not meet the requisite threshold for inclusion within the Heritage Overlay.</p> <p>Suggests Council abandon Amendment C152, and accordingly withdraw its request that the Minister apply an interim Heritage Overlay to the Site.</p>	<p>The heritage assessment was prepared by qualified heritage consultants.</p> <p>The assessment includes the integrity of the dwelling and notes which elements are significant. Non-original alterations and additions to the house are noted as not significant.</p> <p>With regard to intactness it is noted "<i>While some alterations to the fabric of the farmhouse have occurred, the building form appears substantially intact from as early as c.1924 and almost certainly from the original construction in 1905.</i>"</p> <p>The site is considered to be of local historical and aesthetic significance to Banyule and should be included in the Heritage Overlay.</p>

## Summary of Submissions to Amendment C152 – Heritage Overlay for 22 Arden Crescent Rosanna

Submission No.	Support/ Oppose	Summary of Submission	Response
9	Support	Pleased that Council will support local residents to protect this valuable and historic property. Need to ensure the home, with ties to the early establishment of the area, will remain in generous garden setting in which it stands.	Amendment C151 interim Heritage Overlay for 22 Arden Crescent, Rosanna has been approved and was gazetted on 31 January 2019.
10	Support	It is an important building to the local area and a building of its size and consequence needs to sit in appropriate setting. The home has ties to early establishment of the area. Would be detrimentally impacted by a reduction in the land area or being hemmed in by sub-division. Thanks Council for supporting efforts of local residents to protect heritage of local area.	Support noted
11	Support	Supports the protection of the property and gardens with Heritage Overlay. It is important to preserve this historic property and generous garden setting for future generations of Rosanna residents and Banyule area. Thanks Council for protecting local heritage.	Support noted
12	Support	Supports the protection of this valuable and historic property. Need to ensure the home and generous garden setting will be protected for future generations of Rosanna residents and Banyule area. Congratulates Council for effort to protect property.	Support noted
13	Oppose	The building has changed significantly since the original was built.	See response to Submission 8

- b. Continue to request further reimbursement to Council to cover its incurred resourcing expenses in 2018/19 for preparation of feedback in the development of the Environment Effects Statement
- c. Request the inclusions of the complementary projects
- d. Advocate for immediate improvements for pedestrian access across Rosanna Road and other safety improvements.

Moved: Cr Tom Melican  
Seconded: Cr Peter Castaldo

CARRIED

## **5.2 HERITAGE OVERLAY FOR 22 ARDEN CRESCENT ROSANNA - AMENDMENT C151 AND C152**

*Andrew Everett, Nick Sutton and Ross Spirou spoke on this item.*

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### **Resolution (CO2019/21)**

That Council:

1. Note the approval of Banyule Planning Scheme Amendment C151 to apply an interim Heritage Overlay to 22 Arden Crescent, Rosanna.
2. Receive and note the submissions to Amendment C152 to the Banyule Planning Scheme in accordance with Section 22 of the *Planning and Environment Act 1987* as shown in the table at Attachment 1.
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Moved: Cr Tom Melican  
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CARRIED