

## 5.5 **BANYULE HERITAGE STUDY 2020 ADOPTION AND PLANNING SCHEME AMENDMENT FOR UPDATED HERITAGE OVERLAY**

Author: Nicola Rooks - Strategic Planner, City Development

---

### SUMMARY

1. The purpose of this report is to seek Council support for progressing heritage protections for 21 places (buildings and curtilages) identified in the *Banyule Heritage Study (2020)*.
2. All Victorian Councils are expected to identify and conserve places of heritage significance. Periodic heritage studies are an important part of these ongoing heritage expectations.
3. Heritage value is not determined by just the age of a building. Amongst eight criteria, heritage considers rarity, social or cultural associations, historical and aesthetic significance, all of which contribute to the fabric and evolution of the municipality.
4. A municipal-wide Heritage Study (2020) has been prepared by consultants on behalf of Council. It included community consultation that invited nominations of potentially significant properties (February & March 2020). It then considered preliminary assessments of 200 potential heritage places and, subsequently, a detailed assessment of the most significant (priority) individual places in 2021.
5. 21 individual places are identified for inclusion on the Heritage Overlay (HO) in the Banyule Planning Scheme. The Heritage Study is provided at **Attachment 1**. A planning scheme amendment (PSA) is required to implement the Study by applying the HO to the 21 recommended places.
6. It is acknowledged that heritage investigations can be a sensitive matter. It is typical that the identity of properties under detailed consideration are not revealed too early as it can result in changes to buildings or applications for demolition to potential heritage features before any protections can be put in place. This is not to say this is a common outcome at all, but it is this risk that requires Council to consider the timing of publishing the findings of any heritage study and its preferred course of action.
7. For these reasons it is considered that Council should support interim (short-term) heritage controls in conjunction with permanent controls. This is a usual approach adopted by Councils, provides clarity for all parties and establishes temporary but more immediate protections while the process for permanent controls is being followed (which can take 12 months or more).
8. Public exhibition of the PSA will provide property owners and the wider community a fair and transparent opportunity to comment on the proposed controls and heritage values identified in the Heritage Study. A PSA also provides an opportunity for an independent planning panel to consider submissions if there are matters raised that cannot be resolved by Council and any submitter.

**BANYULE HERITAGE STUDY 2020 ADOPTION AND PLANNING SCHEME AMENDMENT FOR UPDATED HERITAGE OVERLAY cont'd**

9. The study and proposed PSA includes the Mother of God Church at 56 Wilfred Road, Ivanhoe East for which interim heritage controls have already been sought under Amendment C163 on 10 June 2021, which was at risk of demolition.

**RECOMMENDATION**

That Council:

1. Adopts the Banyule Heritage Study 2020, shown in Attachment 1.
2. Request the Minister for Planning to authorise Council to prepare and exhibit an amendment under Section 8A and 19 of the *Planning and Environment Act 1987* to apply the Heritage Overlay permanently to the 21 places recommended in the Banyule Heritage Study 2020 and modify the mapping for Heritage Overlay HO82.
3. Following receipt of authorisation from the Minister for Planning, exhibit the amendment in accordance with directions issued by the Minister for Planning or his delegate.
4. Authorise the Director City Development to make changes to the amendment based on conditions imposed in the authorisation granted by the Minister for Planning and to make minor changes.
5. Request the Minister for Planning to prepare an amendment under Section 20(4) of the *Planning and Environment Act 1987* to apply an interim Heritage Overlay to places recommended in the Banyule Heritage Study 2020. This recommendation excludes the Mother of God Church at 56 Wilfred Road, Ivanhoe East which is already the subject of Amendment C163.

**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".

**BACKGROUND**

- The Banyule Heritage Study is an important part of Council's commitment to conserve places and precincts that contribute to Banyule's cultural heritage. Council also has an obligation under the *Planning and Environment Act 1987* and the Banyule Planning Scheme to identify and consider the protection of places of heritage significance.
- There are currently 190 places and precincts already protected by the HO in the Banyule Planning Scheme. The aim of the current study is to identify and assess additional places of heritage significance and provide recommendations for their protection as part of this ongoing obligation to consider heritage values.

**BANYULE HERITAGE STUDY 2020 ADOPTION AND PLANNING SCHEME  
AMENDMENT FOR UPDATED HERITAGE OVERLAY cont'd**

**Heritage Study**

- The Heritage Study was conducted in two stages:
  - Stage 1 included community engagement in February and March 2020 seeking nominations from the community for potential heritage places and the initial assessment of 200 potential heritage places to determine a priority list. Places considered in Stage 1 were a combination of community nominated places, places suggested by Council and places identified by the heritage consultants during the study.
  - Stage 2 involved detailed assessments of 22 individual priority places and was completed in July 2021.
- The Heritage Study (Stage 2) was prepared in accordance with Heritage Victoria guidelines, the Australia ICOMOS *Charter for Places of Cultural Heritage Significance* (the Burra Charter) and its guidelines. The study comprised of historical research, field work (site visits) and assessment of potential heritage places by comparing them to similar significant places in the City of Banyule.
- Of the 22 places assessed at Stage 2, 21 were found to be of local heritage significance and recommended for inclusion on the HO in the Banyule Planning Scheme. The majority of recommended places are post World War 2 and include a high proportion of modernist houses. Places include 16 residential properties, two churches, two community buildings and one commercial building as listed below.
  - St George’s Anglican Church, 47 Warncliffe Road, Ivanhoe East
  - Mother of God Church, 56 Wilfred Road, Ivanhoe East
  - Lobbs’ Tearooms (former) and Diamond Valley Learning Centre, 1 Diamond Creek Road, Greensborough
  - Stubleys’ Hay and Grain Store (former), 96-104 Main Street, Greensborough
  - 2nd Ivanhoe Scout Hall, 8A Wallace Street, Ivanhoe
  - 110 Maltravers Road, Eaglemont
  - 61-63 Mount Street, Eaglemont
  - 45 Bronte Street, Heidelberg
  - 4 Eton Court, Heidelberg
  - 38 Quinn Street, Heidelberg
  - 5 Crown Road, Ivanhoe
  - 10 Gruyere Crescent, Ivanhoe East
  - 17 Hartlands Road, Ivanhoe East
  - 21 Keam Street, Ivanhoe East
  - 30 Longstaff Street, Ivanhoe East
  - 6 Quandolan Close, Ivanhoe East
  - 66 Old Eltham Road, Lower Plenty
  - 149 Old Eltham Road, Lower Plenty
  - 46 Panorama Street, Lower Plenty
  - 50-52 Philip Street, Lower Plenty
  - 79 Buena Vista Drive, Montmorency

**BANYULE HERITAGE STUDY 2020 ADOPTION AND PLANNING SCHEME AMENDMENT FOR UPDATED HERITAGE OVERLAY cont'd**

- Tree controls have been recommended for eight places and limited internal controls have been recommended for nine places. The amount of internal control recommendations reflects the high number of architect-designed houses in the study group with bespoke detailing to the interior, including natural floor and wall finishes, as well as many specifically stained timber elements. These elements are integral to the overall design ethos employed in these houses. In most instances, with those sites not inspected internally, there has been a reliance upon recent real estate images and/or original documentation.
- Places recommended for the HO in the study include the Mother of God Church at 56 Wilfred Road, Ivanhoe East for which interim heritage controls were sought under Amendment C163. The request for interim controls was made on 10 June 2021 with further information was supplied on 16 August 2021. The Minister for Planning has yet to make a decision on the Amendment C163.

**KEY ISSUES**

**Planning Scheme Amendments**

- All Victorian Councils are expected to identify and conserve places of heritage significance. Banyule has completed its Heritage Study and is now required to consider the next steps for properties with identified heritage value.
- To implement the findings of the Banyule Heritage Study a planning scheme amendment is required. It is recommended the Minister for Planning be requested to authorise Council to prepare and exhibit a planning scheme amendment to apply the HO to the 21 places recommended in the Banyule Heritage Study 2020.
- Interim heritage protections are recommended. Interim (short-term) controls are consistent with current Victorian practice as a way to protect properties temporarily while permanent heritage protection is pursued.
- Public exhibition of the PSA will provide property owners and the wider community with an opportunity to make a submission about the amendment. This might, for example, result in revisions to citations (as appropriate) after feedback from owners is considered to ensure accuracy and appropriateness.
- Once in place, the HO triggers planning permit requirements for demolition, alterations, additions and new buildings, and ensures development does not adversely affect the heritage significance of the place.
- The Banyule Heritage Study 2020 supports and helps to implement Banyule's priority theme for a well-built city which includes to 'protect our local character and heritage'. Finalising the heritage study and progressing to a planning scheme amendment is included in the draft Council Plan 2021-2025 at action 3.6.2.

**Other matters**

**Modification to Heritage Overlay #82 (HO82)**

- HO82 'Taruna House' currently applies to 579 and 581 Upper Heidelberg Road, Heidelberg Heights. The land at 581 Upper Heidelberg Road, Heidelberg Heights was formerly a tennis court and gardens associated with the heritage building 'Taruna' at 579 Upper Heidelberg Road, Heidelberg Heights. In 2017, 581 Upper Heidelberg Road was subdivided and developed into four new townhouses under planning permit P493/2014. Council's heritage advisor has confirmed there is no

**BANYULE HERITAGE STUDY 2020 ADOPTION AND PLANNING SCHEME  
AMENDMENT FOR UPDATED HERITAGE OVERLAY cont'd**

ongoing need for HO82 to include the land at 581 Upper Heidelberg Road. It is recommended 581 Upper Heidelberg Road be removed from the curtilage for HO82 as part of the proposed planning scheme amendment.

**Future Work**

- The level of work and resourcing required to assess heritage nominations is significant and not all properties or precincts recommended for detailed assessment could be accommodated within the study. Recommendations for future work will be considered as part of the Heritage Strategy review planned and budgeted for within the current financial year. A key consideration for the strategy will be to incentivise heritage as a positive outcome for the municipality.

**SUPPORTING REPORT DETAILS**

**Legal Consideration**

- The *Planning and Environment Act 1987* (the Act) establishes the framework for planning in Victoria. The Heritage Study and proposed amendment is consistent with the objectives of planning in Victoria, in particular the objective detailed in Section 4(1)(d) of the Act, 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.*
- Part 3 of the Act governs the planning scheme amendment process that must be followed. The recommendations in this report are in line with the above legislation.

**Human Rights Charter**

- In developing this report to Council, the subject matter has been considered in accordance with the requirements of the *Charter of Human Rights and Responsibilities Act 2006*.
- It is considered that the subject matter does not raise any human rights issues.

**Sustainable Procurement Outcomes**

- There are no sustainable procurement activities arising from the recommendation contained in this report.

**Financial Implications**

- A planning scheme amendment may have additional costs associated to it, subject to the number of submissions received and whether it results in a planning panel. Costs for the independent Panel will be determined by the scale, duration and number of submissions. Further, Council may incur costs for expert witnesses on heritage and planning – depending on the range of matters that need to be considered. An allowance for this work has been made in Councils 2021/2022 budget.

**BANYULE HERITAGE STUDY 2020 ADOPTION AND PLANNING SCHEME  
AMENDMENT FOR UPDATED HERITAGE OVERLAY cont'd**

**Community Engagement**

***Nomination Phase***

- Community engagement occurred from 3 February to 27 March 2020 seeking nominations from the community for potential heritage places.
- Consultation included:
  - Article published in the February 2020 edition of the Banyule Banner
  - Promotional postcards and posters were distributed to:
    - Council customers services centres at Greensborough, Ivanhoe & Rosanna
    - Rosanna, Ivanhoe & Watsonia Libraries
    - Eltham, Greensborough and Heidelberg Historical Societies
  - Letters/emails sent to:
    - 78 individuals and community organisations who had been involved in previous heritage studies
    - Local historical societies
    - Wurundjeri woi wurrung Cultural Heritage Aboriginal Corporation
    - Heritage Victoria
  - Social media posts on Banyule Council Facebook page, Banyule Arts & Culture Facebook page and Yarra Plenty Regional Library Service Blog
  - Two community information sessions were planned, one in Ivanhoe on 14 March 2020 and the one planned in Greensborough on 17 March was cancelled due to Covid 19 restrictions
- A total of 188 nominations were received from 22 individuals and organisation within the community.

***Consultation with Owners***

- All property owners of places recommended for the HO in Stage 2 were notified in writing in August 2021 about the Heritage Study. It is acknowledged that this can sometimes be a sensitive matter to property owners in terms of when they are been made aware that the process (Study) has been considering their property. It is usual for a Council not to reveal the results of any heritage study until it has identified properties of significance and also taken the opportunity to indicate its preferred course of action. This provides clarity and establishes a process for all parties to participate in. It also minimises the potential risk to heritage properties (of change or demolition) by limiting the time period if details are released in advance of the consideration of any heritage protections.
- If Council proceeds with a planning scheme amendment to implement the recommendations of the study, residents will be able to make submissions as part of the formal amendment exhibition process. A further opportunity to make a submission will be available if the proposal proceeds to an independent planning panel and Council would receive a report (with recommendations) from the Panel about the preferred next steps.

**BANYULE HERITAGE STUDY 2020 ADOPTION AND PLANNING SCHEME  
AMENDMENT FOR UPDATED HERITAGE OVERLAY cont'd**

- As part of the consultation process, owners will have the opportunity to discuss the heritage citation for their property with Council's heritage consultant. Feedback on citations will be considered and changes can be made as appropriate.

**Officer Declaration of Conflict of Interest**

- The *Local Government Act 2020* 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.

**ATTACHMENTS**

<b>N</b>	<b>Title</b>	<b>Page</b>
o	.	
1	Banyule Heritage Study 2020 ( <i>Under Separate Cover</i> )	

## 5.5 BANYULE HERITAGE STUDY 2020 ADOPTION AND PLANNING SCHEME AMENDMENT FOR UPDATED HERITAGE OVERLAY

### SUMMARY

1. The purpose of this report is to seek Council support for progressing heritage protections for 21 places (buildings and curtilages) identified in the *Banyule Heritage Study (2020)*.
2. All Victorian Councils are expected to identify and conserve places of heritage significance. Periodic heritage studies are an important part of these ongoing heritage expectations.
3. Heritage value is not determined by just the age of a building. Amongst eight criteria, heritage considers rarity, social or cultural associations, historical and aesthetic significance, all of which contribute to the fabric and evolution of the municipality.
4. A municipal-wide Heritage Study (2020) has been prepared by consultants on behalf of Council. It included community consultation that invited nominations of potentially significant properties (February & March 2020). It then considered preliminary assessments of 200 potential heritage places and, subsequently, a detailed assessment of the most significant (priority) individual places in 2021.
5. 21 individual places are identified for inclusion on the Heritage Overlay (HO) in the Banyule Planning Scheme. The Heritage Study is provided at **Attachment 1**. A planning scheme amendment (PSA) is required to implement the Study by applying the HO to the 21 recommended places.
6. It is acknowledged that heritage investigations can be a sensitive matter. It is typical that the identity of properties under detailed consideration are not revealed too early as it can result in changes to buildings or applications for demolition to potential heritage features before any protections can be put in place. This is not to say this is a common outcome at all, but it is this risk that requires Council to consider the timing of publishing the findings of any heritage study and its preferred course of action.
7. For these reasons it is considered that Council should support interim (short-term) heritage controls in conjunction with permanent controls. This is a usual approach adopted by Councils, provides clarity for all parties and establishes temporary but more immediate protections while the process for permanent controls is being followed (which can take 12 months or more).
8. Public exhibition of the PSA will provide property owners and the wider community a fair and transparent opportunity to comment on the proposed controls and heritage values identified in the Heritage Study. A PSA also provides an opportunity for an independent planning panel to consider submissions if there are matters raised that cannot be resolved by Council and any submitter.
9. The study and proposed PSA includes the Mother of God Church at 56 Wilfred Road, Ivanhoe East for which interim heritage controls have already been sought under Amendment C163 on 10 June 2021, which was at risk of demolition.

### Resolution (CO2021/184)

That Council:

1. Adopts the Banyule Heritage Study 2020, shown in Attachment 1.
2. Request the Minister for Planning to authorise Council to prepare and exhibit an amendment under Section 8A and 19 of the *Planning and Environment Act 1987* to

apply the Heritage Overlay permanently to the 21 places recommended in the Banyule Heritage Study 2020 and modify the mapping for Heritage Overlay HO82.

3. Following receipt of authorisation from the Minister for Planning, exhibit the amendment in accordance with directions issued by the Minister for Planning or his delegate.
4. Authorise the Director City Development to make changes to the amendment based on conditions imposed in the authorisation granted by the Minister for Planning and to make minor changes.
5. Request the Minister for Planning to prepare an amendment under Section 20(4) of the *Planning and Environment Act 1987* to apply an interim Heritage Overlay to places recommended in the Banyule Heritage Study 2020. This recommendation excludes the Mother of God Church at 56 Wilfred Road, Ivanhoe East which is already the subject of Amendment C163.

Moved: Cr Peter Castaldo

Seconded: Cr Alison Champion

CARRIED