

Planning and Environment Act 1987

Panel Report

Banyule Planning Scheme
Amendment C94 Part 2

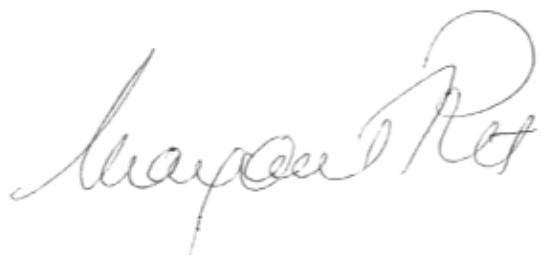
10 June 2014



Planning and Environment Act 1987

Panel Report pursuant to Section 25 of the Act

Banyule Planning Scheme Amendment C94 Part 2

A handwritten signature in black ink, appearing to read 'Margaret Pitt'. The signature is written in a cursive, flowing style with a large, prominent initial 'M'.

Margaret Pitt, Chair

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1 Introduction

Banyule Planning Scheme Amendment C94 Part 2 was prepared by the Banyule Council as Planning Authority. As exhibited, the Amendment proposed to introduce the Heritage Overlay (HO) over two residential precincts and two individual places. Council's request for interim protection for the two precincts and one of the individual places was approved as Amendment C92.

Amendment C94 was authorised by the Department of Transport, Planning and Local Infrastructure (DTPLI) on 27 June 2013, and placed on public exhibition between 5 December 2013 and 13 February 2014. Six submissions were received as follows:

- Two submissions supporting the Amendment
- One submission seeking reduction of the extent of HO197
- Two opposing submissions from the owner and potential owner of HO197
- One submission seeking variation of the Amendment in relation to HO195.

At its meeting on 3 March 2014, Council resolved to split the Amendment into two parts:

- Part 1 comprised places in respect of which no submissions were received, and was adopted by Council.
- Part 2 comprised one precinct (Kenilworth Parade Precinct HO195) and one site (Saxam Homestead HO197) that were the subject of submissions, and was referred to a Panel.

On 25 March 2014 Margaret Pitt was appointed under delegation from the Minister for Planning as a Panel to consider Amendment C94 Part 2 ('the Amendment'). A Directions Hearing was held on 9 May 2014. No submitters attended the Directions Hearing or lodged a request to be heard. After discussion with Council's representative at the hearing (Anne North, Senior Strategic Planner) the Panel resolved to prepare its report 'on the papers' after an inspection of the relevant sites had been undertaken. The inspections took place on 16 May 2014. The Panel also asked Council to provide a brief response to each submission, which was forwarded on 27 May 2014.

The issues raised in submissions can be summarised as follows:

- The place does not meet the threshold for heritage significance
- The place is in very poor condition
- The proposed HO encroaches on an area subject to a Public Acquisition Overlay for future road works
- The areas adjoining the HO should be subject to height and design controls.

In reaching its conclusions and recommendations, the Panel has read and considered all submissions, expert opinions and other material referred to it. The following chapter of this report discusses the strategic basis for the Amendment and the issues raised in submissions relating to the two subject sites. The Panel's recommendations are provided in Chapter 3.

2 Issues

2.1 Strategic issues

(i) Strategic justification

The Panel accepts Council's response to the Strategic Assessment Guidelines as set out in the Explanatory Report.

The Panel has reviewed the policy context of the Amendment (including the State and Local Planning Policy Frameworks) and made a brief assessment of the relevant zone and overlay controls and other relevant planning strategies and policies.

The Panel is satisfied that Amendment C94 Part 2 is fully consistent with, and implements, the relevant sections of the strategic planning framework, particularly those relating to protection of heritage places.

(ii) Supporting Heritage Studies

There are two separate heritage studies supporting the Amendment.

a. Ivanhoe Activity Centre Heritage Items and Precincts Final Report (Context, June 2013)

The Context study applied the HERCON criteria in its assessment of heritage places. The methodology includes initial fieldwork to establish potential heritage places, research including the identification of historic themes, detailed fieldwork providing an assessment of each property including photographs and definition of precinct boundaries, comparative analysis and preparation of a comprehensive Heritage Citation and Statement of Significance for each site and precinct.

The Panel is satisfied that the Context study was carried out rigorously and in accordance with current standards.

b. Saxam Homestead (Nadia Gasparetto and Claire Levi, October 2011)

This site lies outside the Ivanhoe Activity Centre and was therefore not included in the Context study. The site (located at 108 Diamond Creek Road, Greensborough) was drawn to Council's attention as a potential heritage site, and a separate Heritage Assessment was commissioned and undertaken by Nadia Gasparetto (Heritage Architect) and Claire Levi (History Smiths P/L).

A Heritage Citation and Statement of Significance were subsequently prepared based on the information in the study.

The Panel is satisfied that the study by Nadia Gasparetto and Claire Levi was carried out rigorously and in accordance with current standards.

(iii) Status of Heritage Citations

The Panel was initially concerned that the Amendment made no provision for inclusion of the Heritage Citations as either Reference or Incorporated Documents in the Banyule Planning Scheme. However, it has since come to the Panel's attention Amendment C93

(Ivanhoe Structure Plan) lists the *Ivanhoe Activity Centre Heritage Items and Precincts Final Report* (Context, June 2013) as a Reference Document in Clause 21.09.

In view of the proposed HO over Saxam Homestead, it would be appropriate to add the Heritage Citation for this site in the same clause (21.09) as part of Amendment C94 Part 2.

Recommendation

- 1. The Panel recommends that the Heritage Citation for Saxam Homestead be included as a Reference Document in Clause 21.09 of the Banyule Planning Scheme.**

2.2 Kenilworth Parade Precinct HO195

This relatively small precinct is located close to the Ivanhoe Village and is one of the earlier subdivisions in the area. It comprises late Victorian and Edwardian/Federation brick and timber houses.

(i) Submission

The submission from M Collier does not dispute the heritage significance of the precinct. However, it does oppose the precinct on the grounds that it may prevent subdivision, that height, design and colour controls should be applied to adjoining areas so that adjacent unsympathetic development does not 'destroy the ambience of heritage blocks', and that residents should receive rebates for the extra cost of 'heritage' elements such as windows. The submission included a plan showing specific areas where additional controls should be applied.

Council responded to these issues as follows:

- A planning permit for subdivision of the submitter's land would be required regardless of whether there is a Heritage Overlay on the property.
- The Heritage Overlay has been applied to areas demonstrating historic and aesthetic significance. The adjoining areas have been redeveloped with strata units and townhouses, which have no heritage significance. A Design and Development Overlay (Schedule 12) is proposed for these areas and should address the submitter's concerns about future development.
- The planning system in Victoria does not provide for rebates or compensation for changes to a planning scheme.

(ii) Discussion

As well as C94 Part 2, there are two additional amendments affecting the Kenilworth Parade precinct that are currently under consideration:

- C93 (Ivanhoe Structure Plan) - applies Design and Development Overlay Schedule 12
- C100 - applies General Residential Zone Schedule 2.

The Kenilworth Parade Precinct and the adjoining areas identified by the submitter will be subject to a range of policies and controls (including subdivision, height, setback and design) under Amendments C93 and C100 when approved. These amendments should not be confused with C94 Part 2, which deals solely with the protection of heritage places.

Under C94 Part 2, external paint controls will apply to all properties within the Kenilworth Parade Precinct. The Victorian Planning Provisions only allow paint controls to be applied in areas covered by the HO.

(iii) Conclusions

The Panel commends the submitter's concern about protection of heritage areas, but notes that Amendments C93 and C100 will provide the height and design controls sought by the submitter in adjoining areas. External paint controls can only be applied in heritage areas. The Panel also endorses the Council's responses in relation to subdivision of the submitter's land and that there is no provision in the Victorian planning system for rebates such as those mentioned by the submitter.

2.3 Saxam Homestead HO197

Saxam Homestead is a distinctive and substantial timber homestead built in the late 1880s as one of the notable rural properties in the St Helena area. It is adjoined to the north and west by a number of 1960s and 1970s institutional buildings, with a semi-rural outlook to the east and south. The building has been unused for some years and is in poor condition.

(i) Submissions

Three submissions were received in relation to this site.

a. VicRoads

The submission sought modification of the HO boundary to remove an area at the western part of the site affected by a Public Acquisition Overlay (PAO) for the purposes of a proposed road.

b. St John of God Health Care

The submission by Joanne Hartsias of JHTP (town planning consultants) on behalf of the site's owners opposed the imposition of the HO on the grounds that:

- Approval has been granted to subdivide the land and redevelop one of the lots as a community facility, and an application has been lodged to redevelop the remaining lot for residential purposes.
- The historical past of the Saxam Homestead is confined to the building itself, and the requirement for permit approvals for all buildings and works across the whole site would be onerous.
- The building is in significant disrepair, which affects its heritage significance.
- The proposal has no planning merit.

The submission also raised a number of questions as to how permit applications would be assessed, when the building has no architectural significance.

c. Far East Land and Housing Development Co P/L

The submission was lodged by Jeremy De Zylva of Resolution Property Group on behalf of the above company, which has entered into a conditional contract with the current owners to acquire 5.2 ha of the site, including the Saxam Homestead building. Grounds of the

submission were the condition of the building and its lack of architectural merit or significance.

The submission was supported by three reports commissioned by the submitter:

- Heritage assessment by Bryce Raworth
- Brief structural report by Tony Cesarello of Brown Consulting (Vic) Pty Ltd
- Termite report by Matthew Barr of Termite Reports Plus.

(ii) Council response

At the Directions Hearing on 9 May 2014, Council provided the Panel with a revised proposal for this site, which reduced the exhibited extent of HO197 to a significantly reduced area providing an appropriate curtilage for the homestead building and excluding the area of the future subdivision. Council submitted that the extent of the revised boundary was based on heritage advice from Context Pty Ltd and stated:

- *That it provides a suitable buffer zone around the homestead to give it some garden space and set it apart from the land parcels that will surround it.*
- *That it provides a suitable curtilage to make the homestead a saleable commodity as a residence.*
- *That it has consideration of view lines to and from the homestead to retain some aspect of its outlook and setting.*

Council indicated that the revised boundary satisfies the concerns raised by VicRoads and well as those of the existing and prospective landowners regarding application of the HO over a future subdivision. The only remaining issues are the heritage significance of the place and whether its poor condition impacts on its significance.

(iii) Discussion

The Citation for Saxam Homestead sets out the following Statement of Significance:

What is Significant?

Saxam Homestead, comprising the homestead, constructed between c.1886-1888 and its surrounds which formed part of the homestead, at 108 Diamond Creek Road, St Helena.

How is it Significant?

Saxam Homestead is of local historic significance to Banyule City Council.

Why is it significant?

Historically, it is significant as a tangible link with the area's rural past as it was a 'well known farm in the district' and as the oldest remaining homestead in St Helena. Saxam Homestead is one of only three 19C buildings remaining in the area.

Aesthetically, the homestead is significant as a Victorian style building associated with the cultural and historical significance of the place. Despite some intrusive elements dating from the 1950s/60s, the homestead retains many of its original elements including the main entry door as well as doors to the rear, bay and general double hung windows, the front wall ashlar cladding, the weatherboards,

round section downpipes, quad gutters, eaves details, the verandah and post details to the rear, the upper wall vents and the hip roof form.

The original heritage assessment by Nadia Gasparetto and Claire Levi concluded that the place should be individually listed in the Heritage Overlay given the site's 'high level of cultural and historical significance and the remaining built form/fabric'.

The heritage assessment prepared by Bryce Raworth on behalf of the Resolution Property Group reached the following conclusions:

Having inspected the site in detail and reviewed the material provided to me, I believe that there is a case to be made that the building is of local significance. It has a degree of substance to its scale and detailing, particularly in its breadth and the scale of the bay windows to either side, that enable it to stand out from typical suburban timber houses of its period and that lend it a notable homestead quality.

... While it is possible to argue with some details of the citation ... the general thrust of observations found within the document as to the historical and architectural interest of the building seem reasonable and appropriate.

... My experience with similar rural buildings on Melbourne's outskirts is such as to suggest to me that this is a building that warrants a heritage overlay. I do not believe I could provide a strong argument against listing under the heritage overlay.

Mr Raworth suggested three options for the site:

1. Design the future development of the site to incorporate this building
2. Relocate the building to a nearby appropriate location
3. Seek demolition subject to preparation of an archival quality photographic and historic record that enables future interpretation of the place.

Council's revised boundary successfully implements Option 1. Council stated that it does not support Options 2 or 3 on the grounds that the place's historic and architectural significance has been established and it should be retained in situ.

In relation to the building's condition, the Panel notes the report from Brown Consulting, which draws attention to damage to floors, walls and framing caused by rotted stumps, dry rot and/or borer damage. It concludes that the building could not be moved, and that restoration would be 'cost prohibitive'. The Panel also notes the report from Termite Reports Plus, which concluded that there was evidence of borer damage and dry rot, but no evidence of termites.

However, the Panel also notes that the role of a Panel in assessing a heritage amendment is to consider whether or not the site meets the threshold for heritage significance. Matters such as building condition and the feasibility and/or cost of restoration are taken into account if and when a permit to demolish is applied for. The Panel also notes that many heritage buildings in similar or even worse condition than Saxam Homestead have been successfully restored, and it is appropriate for heritage controls to provide an opportunity

for the site be preserved for its historic and aesthetic significance and made available for restoration.

(iv) Conclusions and recommendations

The Panel undertook a detailed inspection of Saxam Homestead (including the interior of the building) on Friday 16 May 2014. The inspection confirmed the homestead's historic, cultural and architectural significance as set out in both the heritage assessments and the citation. In particular, the Panel noted:

- the boundaries of the proposed curtilage
- the important view line to the homestead from the approach road
- the compromised setting of the homestead to the north and west
- the semi-rural outlook from the homestead to the east and south
- the scale of the building, both externally and internally
- the unusual arrangement of the façade
- the alterations to the front verandah and internally
- the neglected state of the building
- the potential for restoration.

The Panel concludes that Saxam Homestead meets the criteria for heritage protection and should be included in the Heritage Overlay. The revised HO boundary is appropriate and provides an adequate curtilage and setting for the building.

However, it would be a poor outcome if the building was protected but simply left to deteriorate further. Conditions favourable to retention and restoration of the building need to be created. For example, the 'prohibited uses may be permitted' provision should be included for this property. The Panel also believes that any subdivision permit should be subject to a requirement that, prior to commencing subdivision works, the developer is to clear the property of all debris and, as a minimum, secure the roof, guttering, downpipes and stormwater drains to prevent water damage. If additional urgent works are identified as necessary to secure the building, they should also be included. This view is supported by a letter to Council from Context Pty Ltd dated 30 April 2014 which suggests that, in view of the proposed subdivision, Council should *'push for an excellent heritage outcome in applying conditions relating to the repair and maintenance of this building'*.

The Panel also concludes that the building, despite its current condition, retains much of the original fabric and is well capable of restoration. The alterations to the front and rear verandahs are reversible and would make a significant improvement to the presentation of the building as a heritage asset. While many elements of the interior remain intact, internal controls are not proposed and would not be supported by the Panel as they may inhibit achievement of the greater objective, which is to see the building restored and in appropriate use, whether residential, community or commercial.

The Panel also concludes that Mr Raworth's assessment of the site provided some important comparative analysis that should be incorporated into the citation.

The Panel recommends that:

2. The boundary of HO197 is to be reduced to the area shown in Figure 4 (page 7) of Council's submission to the Panel.
3. The HO schedule is to be amended to indicate 'prohibited uses may be permitted' for HO197.
4. The citation for HO197 is to be revised to incorporate the following section of Mr Raworth's analysis of the site:

(The building) ...has a degree of substance to its scale and detailing, particularly in its breadth and the scale of the bay windows to either side, that enable it to stand out from typical suburban timber houses of the its period and that lend it a notable homestead quality.

The Panel also recommends that Council consider including a condition in any subdivision permit for the site and surrounding area requiring the developer to clear the Saxam Homestead and its site of debris, secure the building from water damage and undertake any additional urgent works identified as necessary to secure the building, prior to the commencement of subdivision works.

3 Recommendations

For the reasons outlined in this report, the Panel recommends that Banyule Planning Scheme Amendment C94 Part 2 should be adopted, as exhibited, subject to the following modifications:

1. The Heritage Citation for Saxam Homestead is to be included as a Reference Document in Clause 21.09 of the Banyule Planning Scheme.
2. The boundary of HO197 is to be reduced to the area shown in Figure 4 (page 7) of Council's submission to the Panel.
3. The HO Schedule is to be amended to indicate 'prohibited uses may be permitted' for HO197.
4. The citation for HO197 is to be revised to incorporate the following section of Mr Raworth's analysis of the site:

(The building) ... has a degree of substance to its scale and detailing, particularly in its breadth and the scale of the bay windows to either side, that enable it to stand out from typical suburban timber houses of the its period and that lend it a notable homestead quality.

The Panel makes a separate recommendation that Council consider including a condition in any subdivision permit for the site and surrounding area requiring the developer to clear the Saxam Homestead and its site of debris, secure the building from water damage (as outlined on page 8 of this report) and undertake any additional urgent works identified as necessary to secure the building, prior to the commencement of subdivision works.