

4.11 PLANNING SCHEME AMENDMENT C94 - PANEL REPORT

Author: Anne North - Senior Strategic Planner, City Development

File: F2013/1386

4.11

EXECUTIVE SUMMARY

Amendment C94 proposed the introduction of a Heritage Overlay over two residential precincts and two individual places. The amendment was placed on public exhibition between 5 December 2013 and 13 February 2014.

Six submissions were received as follows:

- Two supported the Amendment;
- One sought reduction of the extent of HO197;
- Two opposing from the owner and potential owner of HO197;
- One sought variation of the Amendment for 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; and
- Part 2 comprised one precinct (Kenilworth Parade Precinct HO195) and one site (Saxam Homestead HO197) that were the subject of submissions, and were referred to a Panel.

The report from the Panel recommends that Amendment C94 Part 2 should be adopted as exhibited with some minor modifications. Council is now positioned to consider adopting the Panel's report and recommendation and seek the Minister for Planning's approval for planning scheme changes.

OFFICER DECLARATION OF CONFLICT OF INTEREST

Section 80C of the *Local Government Act 1989* 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.

CITY PLAN

This report is in line with Council's City Plan key direction to "*maintain and improve Banyule as a great place to live*".

PLANNING SCHEME AMENDMENT C94 - PANEL REPORT cont'd

BACKGROUND

As part of the Ivanhoe structure planning process Council commissioned an expert heritage assessment of key residential areas and individual places in the Activity Area to find out whether they had heritage value and warranted the application of a Heritage Overlay (HO). The study found that one place and two precincts were worthy of inclusion in a Heritage Overlay:

- Interwar shop, former post office, at 1041-1041a Heidelberg Road;
- Kenilworth Parade Precinct;
- Toora Street Precinct.

A planning scheme amendment was prepared to implement and give statutory effect to the recommendations of the expert heritage assessment, known as the *Ivanhoe Activity Centre Heritage Items and Precincts*. These recommendations were for line items to be included in the Planning Scheme's HO schedule at Clause 43.01 for Kenilworth Parade Precinct, Toora Street Precinct and 1041 Heidelberg Road.

The amendment is required to ensure that the heritage places are coupled with a planning permit trigger to help protect from inappropriate demolition, alterations or additions that may threaten the identified significance. This is particularly important given that the Ivanhoe Activity Area is a designated Activity Centre in the Government's new metropolitan planning strategy, Plan Melbourne.

Council sought interim heritage controls for the two proposed heritage precincts and one place through Planning Scheme Amendment C92. These interim controls are due to expire on 31 October 2014.

One additional property located outside of Ivanhoe has also been included in the request for permanent heritage controls. Saxam Homestead is at 108 -130 Diamond Creek Road (St Helena), Greensborough. A heritage assessment found that the property has local heritage significance and warrants the application of a heritage overlay. Saxam Homestead has been included in this amendment as it was not identified in Banyule's previous heritage review and subsequent planning scheme amendment.

Amendment C94 was placed on public exhibition between 5 December 2013 and 13 February 2014. Six submissions were received as follows:

- Two supported the Amendment;
- One sought reduction of the extent of HO197;
- Two opposing from the owner and potential owner of HO197;
- One sought 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 were referred to a Panel.

PLANNING SCHEME AMENDMENT C94 - PANEL REPORT cont'd

Amendment C94 Part 1 was referred to the Minister for Planning for approval on Monday 17 March 2014. Council received approval from the Minister for Planning for Part 1 of the Amendment on 20 June 2014. The Amendment was approved without any changes.

A Directions Hearing for Amendment C94 (Part 2) was held on 9 May 2014. No submitters attended the Directions Hearing or lodged a request to be heard. The panel resolved to prepare its report 'on the papers' after an inspection of relevant sites had been undertaken.

The plan below shows the location and extent of the Heritage Overlay in relation to the Kenilworth Parade heritage precinct.



Figure 1: Kenilworth Parade Proposed Heritage Overlay

The plan below shows the location and extent of the Heritage Overlay in relation to Saxam Homestead.

PLANNING SCHEME AMENDMENT C94 - PANEL REPORT cont'd

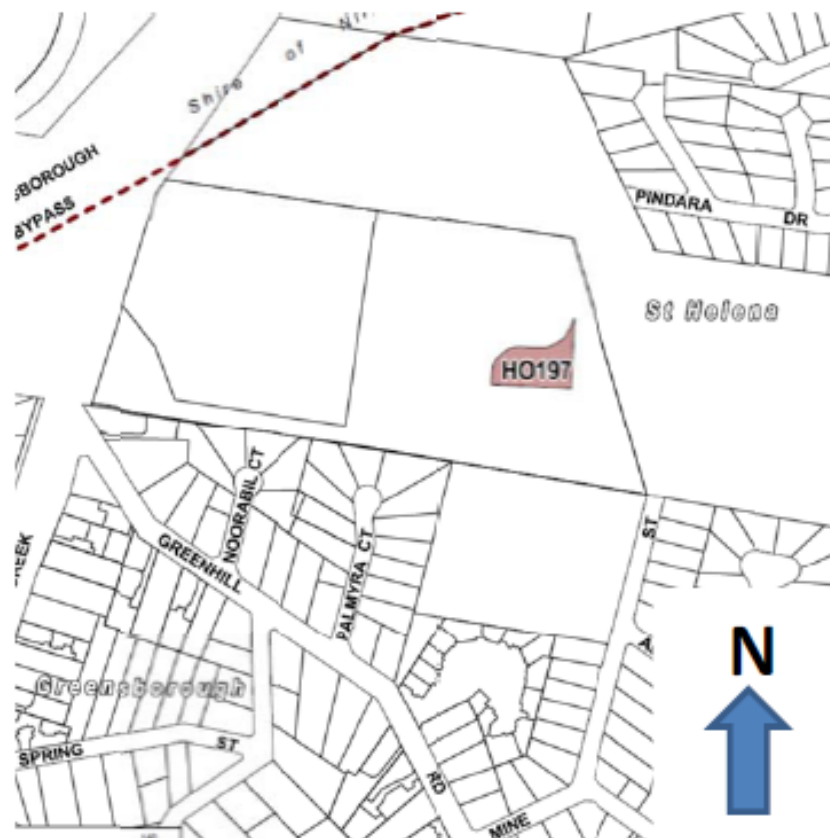


Figure 2: Saxam Homestead Proposed Heritage Overlay

4.11

DISCUSSION

The Panel recommends that Banyule Planning Scheme Amendment C94 Part 2 should be adopted, as exhibited, subject to the following modifications. The Panel Report is shown in **Attachment 1**.

Recommendation 1:

The Heritage Citation for Saxam Homestead is to be included as a Reference Document in Clause 21.09 of the Banyule Planning Scheme.

Response:

Recommendation 1 should be accepted. 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 as shown in **Attachment 2**.

Recommendation 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.

Response:

Recommendation 2 should be accepted. 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.

PLANNING SCHEME AMENDMENT C94 - PANEL REPORT cont'd

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;
- Provides a suitable curtilage to make the homestead a saleable commodity as a residence; and
- Has consideration of view lines to and from the homestead to retain some aspect of its outlook and setting.

The extent of the HO is shown in Figure 2 on the previous page of this report and in **Attachment 3**.

Recommendation 3:

The HO Schedule is to be amended to indicate 'prohibited uses may be permitted' for HO197.

Response:

Recommendation 3 should be accepted. It would be a poor outcome if the Saxam Homestead building was protected with a heritage overlay but left to deteriorate further. Conditions favourable to retention and restoration of the building need to be created. This could be assisted by including a 'prohibited uses may be permitted' provision for this property. These changes to the schedule to Clause 43.01 are shown in **Attachment 4**.

Although many elements of the interior remain intact, internal controls are not proposed and the Panel has indicated that it would not support internal controls as they may inhibit the achievement of the greater objective, which is to see the building restored and in appropriate use, whether residential, community or commercial.

Recommendation 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."

Response

Recommendation 4 should be accepted. Mr Raworth provided heritage advice to the potential purchaser of Saxam Homestead. Mr Raworth's assessment of the site provided some important comparative analysis that would be beneficial if incorporated into the heritage citation. The citation has been amended in accordance with the panel's recommendation and is attached at **Attachment 5**.

Additional Separate Recommendation

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 the Panel Report) and undertake any additional urgent works identified as necessary to secure the building, prior to the commencement of subdivision works.

PLANNING SCHEME AMENDMENT C94 - PANEL REPORT cont'd

Response

This recommendation should be accepted. As discussed previously in this report, it would be a poor outcome if the Saxam Homestead building was protected by a HO but left to deteriorate further as development takes place around it. This condition will place the onus on the developer of the land to ensure that works are undertaken to secure the Saxam Homestead building. An application is currently with Council to develop this site and is anticipated to be brought to Council for determination shortly.

4.11

WHERE TO NEXT

A Planning Panel has supported Council's C94 proposal for a permanent Heritage Overlay Schedule 195 and 197. This overlay will recognise the importance of these heritage places in the Banyule Planning Scheme.

Now that a favourable recommendation has been received from a Planning Panel, Council can consider adopting the final proposal which includes:

- Changes to the Reference Document at Clause 21.09 as shown in **Attachment 2**;
- Changes to the extent of the heritage overlay for Saxam Homestead as shown in **Attachment 3**; and
- Changes to the schedule to Clause 43.01 as shown in **Attachment 4**.

If C94 is adopted, the next step to progress towards permanent heritage controls is to request the Minister for Planning for final approval so it can be incorporated into the Banyule Planning Scheme before the temporary HO195 expires.

CONCLUSION

The Planning Panel has considered Amendment C94 and supports a permanent HO 195 and 197 for the Banyule Planning Scheme.

Council can now adopt the permanent HO 195 and 197 and request the Minister for approval. This request can seek a timely outcome before 31 October 2014, which is when the temporary HO195 is due to expire.

RECOMMENDATION

That Council:

1. Adopt Banyule Planning Scheme Amendment C94 as shown in Attachment 2 and 3.
2. Request the Minister for Planning approve Amendment C94 which introduces permanent planning controls for heritage into the Banyule Planning Scheme.
3. Request the Minister for Planning complete the process of gazetting Amendment C94 before the temporary schedule 195 to the Heritage Overlay expires on 31 October 2014.

PLANNING SCHEME AMENDMENT C94 - PANEL REPORT cont'd

4. Consider including a condition in any subdivision permit for the site and surrounding area requiring the owner 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.

ATTACHMENTS

No.	Title	Page
1	Panel Report - Banyule Planning Scheme Amendment C94 Part 2 10 June 2014	272
2	Amended Clause 21.09 - Reference Documents	284
3	Amended map showing the extent of HO for Saxam Homestead	287
4	Amended Schedule to Clause 43.01 - Heritage Overlay	288
5	Amended Saxam Homestead Citation	308

4.11