

**Item 9.2****1 WAHGOO ROAD, CARNEGIE  
HERITAGE ASSESSMENT****Enquiries: Rocky Camera  
Co-ordinator Strategic Planning****1. Community Plan**

Development and Planning

**2. Proposal**

At the Ordinary Council Meeting of 16 December 2014, a petition was tabled requesting a heritage survey of a building at 1 Wahgoo Road, Carnegie. Council resolved:

*"That the petition be received and noted and request Council's heritage advisor to reassess the heritage value of the property within 4 weeks for the council group to consider."*

**3. History of the Process and the Site****3.1 Independent Heritage Assessment of all Properties**

The *City of Glen Eira Heritage Management Plan* was produced in 1996. It arose from a review of the heritage significance of every property in the municipality, conducted by an independent heritage professional.

**Item 9.2 (cont'd)**

From time to time, permission is given to demolish or substantially alter a building within a heritage or Neighbourhood Character overlay. This is usually based on professional assessments of structural condition.

**3.4 "Frogmore", 1 Wahgoo Road: 1996 Assessment**

The 1996 heritage review assigned the building at 1 Wahgoo Road a 'C' grading.

A 'C' grading is a building of *"local significance, being representative of a period and/or house type and forming a supportive element in the heritage of the City. Preservation is important if a building of this quality is situated within an identified historic area"*.

The building is not within an identified historic area and was not recommended for inclusion in the heritage overlay.

The C grading was due to:

- The extensive 1960s and 1990s extensions surrounding the building
- The building being obscured from view from Wahgoo Road
- The non-original modifications made to the building.

All three factors are illustrated in the aerial photo below.



Council records have not disclosed any objections to the non-inclusion of the property in the heritage overlay during the 1996 – 2003 process.

**3.5 Proposed Redevelopment for Aged Care**

The property has recently changed ownership. The new owner is understood to want to continue the aged care use of the site, involving demolition and redevelopment.

**Item 9.2 (cont'd)**

The study identified both precincts and individually significant *'heritage places'* recommended for heritage protection. 'Significance' was based on a grading system:

- A - State Importance, possible National Significance*
- B - Regional Importance*
- C\* - Local Significance warranting protection*
- C - Local Significance representing a period style*
- D to F. Local Interest / defaced*
- N - Not Significant*

The Plan formed the basis of a series of planning scheme amendments between 1999 and 2003 with extensive public consultation and review by an independent panel.

Council's grading methodology and justification for the chosen precincts and individual sites for protection (C\* grading and higher) was supported by an independent panel, and ultimately received Ministerial approval.

The process ran for more than seven years, involving independent assessments, informal consultation, Statutory Notice, planning conferences, independent panels and Council Meetings. The process was quite polarising, involving the expression of very strong views both for and against additional controls over the use of property.

Today, 3,893 properties (approximately five percent of properties in Glen Eira) are protected by a Heritage Overlay control, including 130 individually significant heritage places. Some examples of individually significant properties include:

- 113 Jasper Road, Bentleigh – the Convent of Our Lady of the Sacred Heart
- 85 Seymour Road, Elsternwick – "Bellocourt" house
- 220 Orrong Road, Caulfield North – Grimwade House (Melbourne Grammar Junior School)

**3.2 Character, but not Heritage**

In the 1996 municipal-wide review of heritage, precincts were identified that displayed a cohesive 'period' character but were not significant enough to warrant the Heritage Overlay control. Following a further extensive process of assessment, consultation, planning scheme amendments and independent panel hearings, these precincts are now protected by a Neighbourhood Character Overlay control. They reflect the character of neighbouring properties, not merely the property itself. There are 1,520 properties protected by this overlay.

The Neighbourhood Character Overlay and the Heritage Overlay protect 5,413 properties in Glen Eira. One consequence is that planning permission needs to be obtained before a property can be demolished.

**3.3 Adding or Subtracting Properties**

From time to time, parties have argued that an individual property should be placed under heritage controls notwithstanding the assessment to the contrary in the 1996 study of all properties. Any party wishing to see a property given Heritage protection can prepare the requisite expert justification.

**Item 9.2 (cont'd)**

In considering purchase of the property, a due diligence process would have disclosed that:

- the site would probably be of a size that would be economically viable for residential care
- the site was not under a heritage or neighbourhood character overlay
- there were no planning controls to prevent demolition
- there was no impediment to an application for redevelopment.

**3.6 Heritage Assessment January 2015**

At the Ordinary Council Meeting of 16 December 2014, Council received a petition asking Council to consider the "historical importance" of the building and requesting a heritage survey of the building. Council resolved to request Council's heritage advisor to reassess the heritage value of the property within four weeks.

A consultant was engaged to carry out a reassessment. By comparison with the 1996 review, the reassessment placed emphasis on the historical associations of the property, linked to early land developers of the City, a former Councillor and the son of the architect of the Caulfield Town Hall. It concluded that Frogmore house should be included in the heritage overlay clause 43.01 in the Glen Eira Planning Scheme. The report is attached in full.

**3.7 Interim Protection Order, 19 January 2015**

Representations were also made to the Executive Director, Heritage in the State Government. On 19 January 2015 the Executive Director issued an Interim Protection Order on the property. The Order prohibits demolition, removal, damage or excavation while the Order is in place.

The Interim Order will allow time in which the Heritage Council can determine whether it will provide permanent protection or not. Consideration is usually given to whether the property in question is of State significance.

If the Executive Director imposes permanent controls, no further action would be required by Council. If the property is not considered to be of State significance, the matter may be referred to Council to consider whether to initiate a planning scheme amendment to place a local heritage overlay over the site.

**4. Issues**

The above sequence of events poses issues of

- the original heritage assessment
- the proposed redevelopment of the site for aged care consistent with current planning controls and
- the recent heritage reassessment.

It is desirable for Council to resolve these issues as soon as possible.

**Item 9.2 (cont'd)****5. Options**

Two alternatives with their supporting arguments are set out below.

***Option A: initiate a heritage protection process***

One option would be to act on the recent reassessment and initiate a planning scheme amendment process to include the property in the heritage overlay.

Council would need to ask the Minister for Planning to place interim protection over the site. Given the previous assessment that heritage was not appropriate, no objections being raised for many years and that a newowner has acted in good faith on the basis of existing controls, there is no assurance that the Minister would grant such an interim control.

If interim controls were approved, the Council would need to exhibit an amendment to apply a heritage overlay. Submissions could be made for or against. The matter would go to an independent panel which could consider all submissions. Again, given the original process and that the owner has acted in good faith on Council's decision not to place a heritage overlay, there is no assurance that the panel would support the amendment. Any amendment would need to be approved by the Minister. The process would take approximately 18 months.

***Option B: Not re-open the heritage issue at a municipal level but abide by whatever decision is made by the Heritage Council.***

The heritage process of 1996 – 2003 considered all properties in Glen Eira. It placed 3,893 properties under heritage controls. It was a very public process with many stages of consultation. It provided opportunities for views to be put for or against heritage classification of any property in the municipality. The views being expressed now might more appropriately have been expressed during the seven year process and been taken into account and determined then or in the eleven years since then.

It is reasonable for prospective purchasers to act on the basis of the Council's planning scheme, especially given that the heritage status of every property in the municipality had been considered and had been decided. It would be unreasonable to change the rules after the purchaser had acted in good faith and committed significant funds.

**6. Decision**

If Council favours option A, the terms of a possible decision would be:

*That Council request the Minister for Planning to impose interim heritage controls over 1 Wahgoo Road, Carnegie and authorise the exhibition of a planning scheme amendment to place heritage controls over the property.*

If Council favours option B, the terms of a possible decision would be:

**Item 9.2 (cont'd)**

*That Council*

- a. note the heritage process over the period 1996 to 2003 which provided the appropriate opportunity to put views for or against the heritage status of 1 Wahgoo Road, Carnegie;*
- b. note that the current owner of the property has acted in good faith and committed significant funds on the basis of Council's planning scheme; and*
- c. forwards the attached consultant report to the Heritage Council and agrees to abide by the Heritage Council's decision in this matter.*

**7. Recommendation**

That Council determine the matter.

**Crs Pilling/Lipshutz**

**That Council**

- (a) note the heritage process over the period 1996 to 2003 which provided the appropriate opportunity to put views for or against the heritage status of 1 Wahgoo Road, Carnegie;**
- (b) note that the current owner of the property has acted in good faith and committed significant funds on the basis of Council's planning scheme; and**
- (c) forwards the attached consultant report to the Heritage Council and agrees to abide by the Heritage Council's decision in this matter.**

**The MOTION was put and LOST.**

**Crs Souness/Okotel**

**That Council request the Minister for Planning to impose interim heritage controls over 1 Wahgoo Road, Carnegie and authorise the exhibition of a planning scheme amendment to place heritage controls over the property.**

**DIVISION**

**Cr Lobo called for a DIVISION on the voting of the MOTION.**

<b>FOR</b>	<b>AGAINST</b>
<b>Cr Souness</b>	<b>Cr Pilling</b>
<b>Cr Lobo</b>	<b>Cr Lipshutz</b>
<b>Cr Okotel</b>	<b>Cr Hyams</b>
<b>Cr Delahunty</b>	
<b>Cr Esakoff</b>	
<b>Cr Magee</b>	

**On the basis of the DIVISION the Chairperson declared the Motion CARRIED.**