

Item 9.6**1 WAHGOO ROAD, CARNEGIE
AMENDMENT C137****Enquiries: Ron Torres
Director Planning and Transport****1. Community Plan**

Town Planning and Development

2. Proposal

The amendment proposes to apply a Heritage Overlay (HO154) over the property at 1 Wahgoo Road, Carnegie.

3. Recommendation

That Council:

- a. abandons Planning Scheme Amendment C137 and advises the Minister for Planning; and,
- b. writes to the Minister for Planning withdrawing the request for interim heritage controls over the land (Amendment C136).

Item 9.6 (cont'd)**4. Background**

At the Ordinary Council Meeting of 3 February 2015, it was resolved:

"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".

On the 4th February 2015, Planning Scheme Amendment C136 which seeks interim heritage controls over the land at 1 Wahgoo Road, Carnegie was lodged with the Minister for Planning. To date, Council has not received any response from the Minister for Planning about this request.

On the 27th February 2015, the Department of Environment, Land, Water & Planning gave authorisation for Council to prepare Planning Scheme Amendment C137. This Amendment, which is the subject of this report, sought permanent heritage protection over the site.

Interim Protection Order (Heritage Victoria)

On 19 January 2015, the Executive Director of Heritage Victoria applied an Interim Protection Order (IPO) on the property. The IPO prohibited demolition, removal, damage or excavation while the order was in place. The Executive Director of Heritage Victoria wrote to Council on the 14th May 2015 advising that the IPO would not be extended. The IPO expired at 5pm on the 19 May 2015.

Nominations to the Victorian Heritage Register (Heritage Victoria)

On the 21st January 2015, the Executive Director of Heritage Victoria wrote to Council to advise that two nominations were received for 1 Wahgoo Road Carnegie to be included in the Victorian Heritage Register.

On 11 March 2015, the Executive Director of Heritage Victoria wrote to Council to advise of his recommendation not to include 1 Wahgoo Road Carnegie in the Victorian Heritage Register. This recommendation will be heard by the Heritage Council at its 4 June 2015 meeting. The Heritage Council will ultimately decide whether 1 Wahgoo Road, Carnegie is included in the Victorian Heritage Register or not.

The Executive Director's recommendation is attached.

5. Previous Heritage AssessmentsHeritage Protection in Glen Eira

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.

The process, which ultimately resulted in Glen Eira's heritage controls, 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 private property.

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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.

The building at 1 Wahgoo Road has 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. Council records have not disclosed any objections to the non-inclusion of the property in the heritage overlay during the planning scheme amendment and independent panel process.

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.



Item 9.6 (cont'd)Heritage Assessment January 2015

A consultant (Graeme Butler and Associates) 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 the building should be included in the heritage overlay for these historical associations.

Executive Director of Heritage Victoria Assessment March 2015

An assessment of the cultural heritage significance of 1 Wahgoo Road, Carnegie was completed by the Executive Director of Heritage Victoria in March 2015 (Attachment 1).

The Executive Director recommends that it should not be included in the Victorian Heritage Register. Eight criteria are used to assess whether permanent protection at a State level is warranted:

Criterion A - Importance to the course, or pattern, of Victoria's cultural history

Criterion B - Possession of uncommon, rare or endangered aspects of Victoria's cultural history.

Criterion C - Potential to yield information that will contribute to an understanding of Victoria's cultural history.

Criterion D - Importance in demonstrating the principal characteristics of a class of cultural places or objects.

Criterion E - Importance in exhibiting particular aesthetic characteristics.

Criterion F - Importance in demonstrating a high degree of creative or technical achievement at a particular period.

Criterion G - Strong or special association with a particular community or cultural group for social, cultural or spiritual reasons. This includes the significance of a place to Indigenous peoples as part of their continuing and developing cultural traditions.

Criterion H - Special association with the life or works of a person, or group of persons, of importance in Victoria's history.

The nomination from a third party was made on the basis that 1 Wahgoo Road, Carnegie satisfies Criteria A, B, C, F, G and H.

The Executive Director assessed 1 Wahgoo Road, Carnegie against these and included an assessment against Criterion D. The Executive Director concluded that:

- Criteria A, D, H is *likely to be satisfied*, but *not likely to be satisfied at the State level*.
- Criteria B, C, F, G is *not likely to be satisfied*

Criteria A, D and H coincide with the conclusions of the Graeme Butler and Associates report.

A final decision on State significance will be made by the Heritage Council at its June 2015 meeting.

Item 9.6 (cont'd)**6. Public Notice**

Council's amendment for permanent heritage protection was exhibited from 26th March to 27th April 2015.

The exhibition process involved posting notices to 60 affected property owners and occupiers, posting letters to prescribed Ministers and Referral Authorities, placing a notice in the local newspaper and a notice in the Government Gazette. Amendment documentation was also placed on Council's website.

A total of 305 submissions were received. Two submissions opposed the amendment. Of the remaining submissions supporting the amendment, four were unique, with the remaining 299 support letters using a template. The submissions can be summarised as follows:

Support:

- Support the application of the heritage overlay to preserve the historic house for the future;
- It is significant because of its past owner W Lyall, who was a successful farmer and the building was the work of renowned architect Joseph Reed;
- The house is rare, well preserved late 1800's former working farm and family residence;
- It is a rare example of an early Italianate House;
- It is important to Victoria's cultural history and its location in Carnegie demonstrates the pattern of land settlement as Victoria grew.
- It is the last remaining house of its size with a tower in the area;
- The house is architecturally, historically, and culturally significant; and
The amendment should include the significant, mature vegetation noted in the Heritage Advisor's Report.

Objections:

- The amendment is ad hoc, piecemeal and does not represent orderly planning.
- The amendment lacks strategic justification;
- Heritage Victoria found that the building is not worthy of being included in the State Heritage Register;
- The building is not visible from the street because of the large front setback;
- It is not feasible to retain the old building and develop an aged care facility that meets contemporary standards given the location of the original building; and
- The social and economic benefits of an aged care facility outweigh the importance of retaining it.

7. Planning Conference

The Conference, chaired by Cr Magee, covered the following points:

- Too many Victorian houses are being demolished in the Murrumbeena/Carnegie area;
- Request that 3 significant trees be included in the Heritage Overlay and a Significant Vegetation Overlay be applied;
- It is possible to retain the building and allow for sympathetic redevelopment of the site;

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- Old homes in Glen Eira are being demolished and being replaced with 'boxes';
- The National Trust supports the proposed amendment and request that Council consider applying internal controls;
- The brick work is in excellent condition and the interior is in good condition;
- If it is lost, there will be nothing to remember the original homesteads that once covered the land in the area; and
- The building is the only one of its kind left in the area with a tower.
- The use of the site is significant as it has a 60 year history with aged care;
- It is not possible to have a 120 bed modern aged care facility on the site that complies with current standards and keep the house;
- There is a net community benefit in a new aged care facility over the land as Glen Eira has lost a 60 bed aged care facility and is experiencing an ageing population;
- A new 120 bed aged care facility will allow for local people to stay close to family and 'age in place';
- It is difficult for aged care providers to find large suitable sites like this one in established municipalities; and
- Due diligence was conducted by the purchasers at the point of sale. The property was not affected by any Heritage Overlay (at the point of sale).

8. Basis for Recommendation

No additional heritage consultant assessments have been provided by any party since the amendment was exhibited.

The 2015 assessment (Graeme Butler report) found 1 Wahgoo Road, Carnegie should be included in the heritage overlay because of its link to early developers of the city, a former Councillor and the son of the architect of the Caulfield Town Hall.

A number of submitters believe that the former house is the work of Architect Joseph Reed. The Executive Director of Heritage Victoria report concludes that it is the work of Sydney W Smith. The report states that "*Frogmore is an early design by Melbourne architect Sydney W Smith. Smith's work is well-represented in the VHR. Frogmore is not an outstanding or notable example of Smith's work.*"

An assessment by the Executive Director of Heritage Victoria has established that it does not meet any of the criteria for inclusion in the Victorian Heritage Register. Heritage Victoria's Interim Protection Order over the land was not renewed and expired on the 19th May 2015.

The Minister for Planning has, to date, not responded to Council's request of 4 February 2015 to place an interim heritage control over the land.

The eight criteria (A to H) used to assess Heritage significance is the same for the State Government as it is for Local Government. The difference is in the context that they are applied. For State significance, a place or object is compared against others throughout Victoria, at the "State level".

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For this planning scheme amendment proposing permanent controls, 1 Wahgoo Road, Carnegie needs to be considered in the context of the municipality, at the local level.

The *City of Glen Eira Heritage Management Plan* assessed it at the local level; in the context of the municipality. It was assigned a 'C' grading. It did not recommend it for permanent heritage protection.

In the absence of any heritage controls, a planning permit will still be required to re-develop the site. This will involve a public notice process and the ability to lodge objections. Any decision of Council can also be challenged at the Victorian Civil and Administrative Tribunal.

9. The Planning Scheme Amendment Process

A planning scheme amendment must go through the following fixed statutory steps:

1. The Minister for Planning must firstly authorise preparation of the amendment before exhibition can occur. Following this, notice (exhibition) of the amendment will commence, inviting public submissions. If Council agrees to exhibit an amendment, it does not necessarily follow that Council supports the proposal. Placing an amendment on public exhibition has an element of "testing the water".
2. If there are no submissions Council can 'adopt' or 'abandon' the amendment and forward it to the Minister for certification or approval. It only becomes law when / if it is formally approved and gazetted.
3. If there are submissions opposed to the amendment, the Council has three options:
 - Abandon the amendment;
 - Change the amendment in accordance with the submitters' request; or
 - Request the Minister for Planning to appoint an Independent Panel to consider the submissions.
4. If a Panel is appointed, submissions are heard and the panel reports its findings in the form of a recommendation to Council.
5. The Panel may make a recommendation to:
 - Adopt the amendment;
 - Abandon the amendment; or
 - Modify the amendment.
6. Council then considers the Panel Report and makes its own decision. Council is not bound by the Panel's findings. Again Council's options are to either abandon or adopt the amendment (with or without modifications).
7. If Council adopts the amendment, it is then referred to the Minister for Planning for approval.

The process required to amend the Glen Eira Planning Scheme is lengthy and provides opportunities for public input. With regard to the current proposal, Council is at Step 3.

Item 9.6 (cont'd)**DECLARATIONS OF INTEREST**

Cr Delahunty declared a Conflict of Interest in this item under s78B(1)(a) of the Local Government Act as she is a Manager of a company that may have a direct interest in the matter.

8.26PM Cr Delahunty left the Chamber and Cr Pilling assumed the Chair.

DECLARATIONS OF INTEREST

Cr Esakoff made application under s79B of the Local Government Act, conflicting personal interest to be exempted from voting on this matter on the grounds that she has very close relatives who are currently looking for Aged Care places and felt that this site would not be out of the question. Cr Esakoff therefore requested to be exempted from voting.

8.27PM Cr Esakoff left the Chamber.

The Mayor asked for a show of hands of Councillors who wished to grant an exemption to Cr Esakoff. Councillors unanimously voted to grant Cr Esakoff an exemption from voting.

Crs Lipshutz/Hyams

That the recommendation in the report be adopted.

DIVISION

Cr Okotel called for a DIVISION on the voting of the MOTION.

FOR	AGAINST
Cr Lipshutz	Cr Sounness
Cr Hyams	Cr Lobo
Cr Pilling	Cr Okotel

The Chairperson declared the Motion CARRIED on the casting vote of the Chairperson.

8.51PM Cr Delahunty and Cr Esakoff returned to the Chamber and Cr Delahunty resumed the Chair.