

Whitehorse Planning Scheme Amendment C164

Panel Submission

12-13 November 2014



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SUMMARY

Amendment C164 proposes to introduce three new heritage overlays to two individual places and one precinct.

Council is both the proponent for the Amendment and the planning authority responsible for preparation and exhibition of the Amendment. Thirty four submissions were received in response to exhibition. As a result of the submissions, Council resolved to remove one property from the Am C164 and refer all other submissions to Panel. Council believes it has given proper consideration to the matters raised in submissions and believes that the Amendment:

- Is strategically justified;
- Is consistent with *Plan Melbourne*,
- Gives due consideration to the matters raised in submissions; and
- Was exhibited in accordance with the Planning and Environment Act 1987.

Council is requesting that the independent Planning Panel consider the matters discussed in this submission and recommends that the Amendment be adopted.

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1.0 INTRODUCTION

Ms Pamela Neivandt, Senior Strategic Planner, represents Whitehorse City Council at the panel hearing to consider submissions received in relation to Amendment C164 to the Whitehorse Planning Scheme.

Whitehorse City Council is both the planning authority and proponent for this Amendment. The Amendment was exhibited in accordance with the Planning and Environment Act 1987 and a total of thirty four submissions were received.

Council requested an independent planning panel on 26 August 2014 and a Panel was subsequently appointed on 3 September 2014.

This submission sets out the details of the Amendment, including its background, context and the proposed planning controls. The submission also outlines Council's response to the submissions received and evaluates the Amendment against the Strategic Assessment Guidelines. Council submits to Panel that the Amendment be recommended for approval.

The exhibited Amendment applied to three places (2 individual places and 1 precinct):

- 15 Hopetoun Parade Box Hill
- 127 Whitehorse Road Blackburn
- Blue Flame Precinct Vermont South (comprising Shalimar Court, Parkleigh Court and two properties in Fortescue Street).

However after considering a submission from the owners of the 15 Hopetoun Parade, that place was deleted from the amendment and included in amendment C157 instead. This submission and proposed heritage place has not been referred to this panel for consideration. The Panel has only been requested to consider submissions in response to 127 Whitehorse Road and the proposed Blue Flame Precinct.

2.0 BACKGROUND

The 2012 Whitehorse Heritage Review recommended heritage overlays for 32 new heritage places, including the property at 15 Hopetoun Parade Box Hill.

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The draft 2013 Whitehorse Post 1945 Heritage Study recommended a heritage overlay for thirty identified heritage places; including 127 Whitehorse Rd Blackburn and the Blue Flame precinct in Vermont South.

The current amendment (C164) was prompted by three different events which put three proposed heritage places at risk:

- (i) A s29A application under the Building Control Act 1993 was received for consent to demolish the house at 15 Hopetoun Parade Box Hill,
- (ii) A planning application was received which included demolition of the existing building at 127 Whitehorse Rd Blackburn, and
- (iii) A new planning application was received for 3 dwellings at 11 Shalimar Court Vermont South (part of the proposed Blue Flame precinct). A previous application for three dwellings on this site was refused at VCAT in 2013.

Heritage Significance - 127 Whitehorse Road Blackburn: This former factory is currently occupied by a Sikh temple. It was originally constructed in 1947-49 and the Statement of Significance provided in attachment 1 states:

‘The former E G Greenway factory is a large cream brick factory, comprising a sawtooth-roofed production area and a flat-roofed front office block with a façade that incorporates a narrow colonnaded porch and canted bays with toothed brickwork. The building was designed by specialist industrial architect Arnold Bridge.’

The Statement also advocates that the factory has both historic and aesthetic significance to the municipality. It ‘provides rare evidence of the earliest phase of post-war industrial development along Whitehorse Road.’ The 1950s and ‘60s saw a proliferation of new factories along Whitehorse Road, transforming the thoroughfare from essentially a rural road lined with poultry farms and a little housing, to a busy highway and major industrial precinct in the eastern suburbs. ‘Many of the factories have now been demolished and now there is little evidence remaining of this significant phase in local history.’

The former E G Greenway factory commenced construction in late 1947 and is the earliest surviving post-war factory along Whitehorse Road. The building also has historic

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significance due its association with E G Greenway Pty Ltd - a leading producer of art pottery in Melbourne in the mid-twentieth century.

‘Architecturally and aesthetically, the former factory is significant as an outstanding industrial building erected in the municipality after the war. It was conceived and built to be attractive and modern in every respect. This was not only evident in its external form, which exhibits a level of architectural finesse rarely seen in the early post-war period, but also in its cutting-edge appointments (in regard to staff amenities, natural lighting and ventilation, etc) and the proposed (if only partially realised) parkland setting. Although the tall tower, included in an early design, was omitted, the factory remains as a striking example of modern industrial architecture, distinguished by its stark volumetric massing, its light porch with slender columns and highly unusual canted bays with toothed brickwork.’

‘Architecturally, the E G Greenway factory is in a distinctive hybrid style typical of the late 1940s and early 1950s where the influence of the pre-war Moderne idiom was freely combined with the emerging modernist movement. The use of predominantly cream brickwork, rendered trim and porches with narrow white-painted columns, creates a stark and almost Neo-Classical sensibility.’

Heritage Significance – The Blue Flame precinct. The Statement of Significance (attachment 2) states that the precinct comprises a group of twenty houses built 1970-71 as a display village known as the Blue Flame Project, (also known as The Age Small Homes Project). It was sponsored by the Gas & Fuel Corporation and the Royal Australian Institute of Architects. Robin Boyd was the first director of the scheme. The project aimed to provide well designed, low-cost housing to the general public, by selling affordable plans prepared by leading architects of the day.

The 1969 decision to build a small display village of the projects homes in Vermont South attracted a lot of attention. A small entry fee was to be charged for visitors and donated to charity. A competition was launched, open to both architects and architectural students. Participants were given only four weeks to prepare their entries, which would be judged by a panel comprising leading residential architects.

Twenty entries were chosen for inclusion in the display village which was named the Blue Flame Project. Designs represented a mix of established architects and the new generation of up and coming designers. The design brief specified "a four bedroom house of around

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15½ squares, suitable for a small sized suburban block and capable of adaptation to suit a variety of site conditions". Common themes to emerge included private outdoor areas "all suitably screened from neighbours and located to capture sun and view", screened service areas, and double carports positioned close to the street to maximum open space. Notably none of the plans followed the traditional suburban approach of placing the house in the middle of the site, creating a front and back garden with an alleyway down each side.

The display village opened in April 1971. It was described as "possibly the largest display village erected in Melbourne, and built purely for exhibition purposes". The individual house designs were available for public purchase.

The Blue Flame Project is unique in the City of Whitehorse and is also rare in a broader metropolitan context. There is nothing comparable to it. Twenty houses were built in the original village and nineteen still survive today. Display housing is a significant theme in Whitehorse's post-war development (especially in the former City of Nunawading). However most surviving examples exist as isolated specimens or as considerably smaller groups.

The Blue Flame Project has both historical and architectural significance. The project is also architecturally significant, 'as a tangible expression of the important theme of design competitions, which was very strong in post-war Australian architecture.' Examples include competitions for the Sydney Opera House (1957), Reserve Bank of Australia (1962), Nunawading Civic Centre (1965), National Art Gallery (1968) and Melbourne City Square (1969). The Blue Flame Project had the exceptional outcome of multiple prize winners. Architecturally, the competition was notable for the diversity of its entrants.

Architecturally, the precinct is also significant as an expression of the prevailing trends in contemporary residential architecture of the late 1960s. Although one of the original houses has been demolished (2 Parkleigh Court), and others have been altered in minor ways, the precinct remains substantially intact as a notable time-capsule of fine architect-designed houses of the period.

Historically, the precinct is significant for associations with suburban expansion into what is now known as Vermont South. Still largely unsubdivided in the late 1960s, the area developed rapidly during the 1970's.

Historically, the connection between the Blue Flame Project and the Gas & Fuel Corporation

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is also of interest, in that natural gas had only recently been extended into the area and the display village showcased the latest in gas-fired appliances.

3.0 EXISTING PLANNING CONTROLS

Existing zoning and overlays:

- 15 Hopetoun parade Box Hill – Residential Growth Zone, no overlay
- 127 Whitehorse Road Blackburn – Mixed Use Zone, Environmental Audit Overlay
- Blue Flame precinct Vermont South – Neighbourhood Residential Zone, no overlays

Relevant Practice and Advisory Notes:

- Planning Practice Note 1: Applying the Heritage Overlay
- Planning Practice Note 46: Strategic Assessment Guidelines
- Advisory Note 48: Ministerial Direction No. 15 – The planning scheme amendment process

4.0 THE AMENDMENT

The purpose of the Amendment is to conserve and enhance buildings of identified local heritage significance and ensure that future development does not adversely affect this heritage significance.

Specifically the Amendment as exhibited proposed to:

Apply the Heritage Overlay (HO268, HO273 and HO274) to three places,

- Modify the Schedule to Clause 43.01 – Heritage Overlay.
- Modify Clause 22.01 – Heritage Buildings and Precincts to include specific reference to the Blue Flame heritage precinct and include the relevant citations as reference documents.
- Amend the planning scheme heritage overlay maps to include the new overlays.

Attachment 3 includes exhibited Amendment documentation.

5.0 STRATEGIC CONTEXT

The strategic context is provided by Plan Melbourne and the Whitehorse Planning Scheme; both State and local sections.

Plan Melbourne outlines the government's vision for metropolitan growth until the year 2050. The Plan recognises the importance of Melbourne's heritage, referring to the city's 'strong and distinctive modern character', and the contribution heritage makes to liveability of the city and sense of identity (p. 115). Direction 4.7 of the Plan provides initiatives to ensure the protection of heritage places.

Relevant parts of The Whitehorse Planning Scheme to this amendment will be discussed in Section 6 below. This includes clause 11 (Settlement), clause 15 (Built Environment and Heritage), and clause 17 (Economic Development).

6.0 STRATEGIC ASSESSMENT

The amendment was subject to a strategic assessment as required by Planning Practice Note no 46. This assessment requires consideration of the following issues:

- **Why is the amendment required?**

The amendment is required to provide heritage protection to the subject properties.

(The amendment is guided by the Whitehorse Heritage Review 2012 (draft) and the Post-1945 Heritage Study (Preliminary Draft), which recommend application of the Heritage Overlay and provides Statements of Significance for the affected places.

- **How does the amendment implement the objectives of planning in Victoria?**

The amendment implements the objectives of planning in Victoria, as set out in the Planning and Environment Act 1987 by seeking to conserve and enhance buildings of aesthetic, architectural and historical interest and otherwise special cultural value.

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The amendment gives effect to with the following objectives of the Planning and Environment Act 1987.

- To provide for the fair, orderly, economic and sustainable use and development of land.
 - To provide for the protection of natural and man-made resources and the maintenance of ecological processes and genetic diversity.
 - To secure a pleasant, efficient and safe working, living and recreational environment for all Victorians and visitors to Victoria.
- **How does the amendment address relevant environmental, social and economic effects?**

The amendment is anticipated to provide a positive contribution to the environment by assisting in the conservation of local heritage places. The amendment will make a significant contribution to the built environment of the City of Whitehorse.

The amendment is likely to have positive social impacts by providing protection for sites that demonstrate the historical development of the locality and add to the cultural identity of the City of Whitehorse.

The amendment is not expected to have significant economic effects. It is possible however that the amendment may impose additional costs on the owners or developers of the affected properties with the introduction of a requirement for a planning permit for most buildings and works (repairs, maintenance and internal alterations will not require a permit).

- **Does the amendment comply with the requirements of relevant Ministerial Directions?**

The amendment has been prepared in accordance with:

Ministerial Direction No. 11 – Strategic Assessment of Amendments.

Ministerial Direction on the Form and Content of Planning Schemes.

Ministerial Direction No. 15 – The Planning Scheme Amendment Process

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- **How does the amendment support/ implement State Planning Policy Framework and any adopted State policy?**

The directions and strategies Plan Melbourne are implemented through Clause 11 of the SPPF:

The application of a Heritage Overlay to the subject properties will give effect to the objectives of Clause 11.02-2 by retaining and protecting the unique characteristics of an established area in the form of a heritage building.

The amendment is also supported by Clauses 15.01-5 and 15.03 of the SPPF which seek to recognise, protect and conserve places of heritage significance and places that add to cultural identity. This is to be achieved by ‘identify[ing], assess[ing] and document[ing] places of natural and cultural heritage significance as a basis for their inclusion in the planning scheme’. The amendment directly responds to this strategy.

- **How does the amendment support or implement the Local Planning Policy Framework, and specifically the Municipal Strategic Statement?**

Municipal Strategic Statement

Clause 21.05 Environment seeks to “protect and enhance areas with special ... cultural or historic significance for the future enjoyment of the community”. This is to be achieved through the identification of buildings of historical significance, and implemented by applying the Heritage Overlay to buildings and structures identified in heritage reviews. The amendment responds directly to and implements the objectives of this clause, by applying the Heritage Overlay to properties identified in a heritage review.

Local Planning Policies

Clause 22.01 Heritage Buildings and Precincts includes an objective “to ensure that all possible avenues are pursued to ensure the conservation of heritage sites and that demolition is allowed only where there are extenuating circumstances”. It is not considered that there are any extenuating circumstances warranting the demolition of any of the subject properties. The most appropriate option available to Council is to ensure conservation of the identified building / precinct is via heritage protection.

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Clause 22.01 specifically concedes that not all buildings of heritage significance within the municipality are identified in the Heritage Overlay as existing studies do not identify every heritage place. Clause 22.01 further notes that Council is endeavouring to identify places of heritage significance that are not already protected.

- **Does the amendment make proper use of the Victoria Planning Provisions?**

The amendment makes proper use of the Victoria Planning Provisions. The Heritage Overlay is the most appropriate tool to provide long term demolition protection to the subject places and planned redevelopment.

- **Does the amendment address relevant requirements of the Transport Integration Act 2010?**

The amendment is not expected to have any noticeable impact on the transport system. There are no applicable statements of policy principles.

7.0 CONSULTATION AND EXHIBITION

In accordance with the Act, the Amendment was formally exhibited for one month commencing on Thursday 19 June 2014 and finishing on Monday 21 June 2014. Approximately 140 letters were sent to owners and occupiers of heritage places, surrounding property owners and occupiers, relevant Ministers, and referral authorities. Notice was also published in the Government Gazette on 19 June 2014 and five times in the local paper (Whitehorse Leader – 16, 23, 30 June, 7 and 14 July).

As a result of formal exhibition, a total of thirty four (34) submissions were received. On 18 August 2014 Council considered the submissions and resolved to:

- Remove 15 Hopetoun Parade Box Hill from the amendment C164 and include it in amendment C157,
- Refer the thirty three remaining submissions to an independent Panel for consideration and advice. Refer Appendix 4

8.0 CHANGES TO THE AMENDMENT AFTER EXHIBITION

Two changes were made to the Amendment after exhibition and these are shown as track changes in Attachment 5 ie deletion of 15 Hopetoun Pde from schedule to clause 43.01

BREAK TO CALL EXPERT EVIDENCE FROM MR SIMON REEVES – HERITAGE CONSULTANT

9.0 SUBMISSIONS

SUMMARY

Thirty four submissions were received as a result of Exhibition. Thirty three of these have been referred to Panel for consideration (ie submissions for 127 Whitehorse Road and the Blue Flame precinct):

No objection (2 submissions): Dept. Environment and Primary Industry, Melbourne Water.

127 Whitehorse Road Blackburn: (26 submissions)

25 submissions supporting the amendment (20 pro forma letters) and 1 submission objecting to the amendment

Blue Flame precinct: (5 submissions)

2 submissions expressing 'concern', 2 objecting and 1 supporting the amendment.

Map showing the location of submitters is provided in Attachment 6.

Submissions are reproduced in Attachment 4.

DISCUSSION

127 Whitehorse Road Blackburn

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The owners have objected to the proposed amendment. Twenty five submissions from nearby neighbours support the amendment. (Twenty of these submissions constituted a pro forma letter).

Submission No 29:

The owners have objected to the amendment on the grounds that:

- They have occupied the site since 1993 and the existing building is outdated for their purposes and needs redevelopment.
- Imposition of a heritage overlay has serious ramifications for redevelopment potential
- There is insufficient heritage justification for the overlay.
- The integrity of the original building has been severely compromised by numerous alterations.
- The amendment does not consider the 'net' community benefit resulting from the planned redevelopment of the site.

Council Response

The heritage significance of the property is explained and thoroughly justified in the citation prepared by Council's consultant – a renowned expert in heritage architecture, specialising in 20th century architecture. The citation was also reviewed by Council's Heritage Adviser (Mr Ian Coleman from Coleman Architects Pty Ltd) who concurs with the citation, its conclusion that the building is of historic and aesthetic significance and the recommendation that it be included in a heritage overlay.

The overlay will still allow alterations and modifications to the existing building. However it is not appropriate that 'net community development' be considered at this stage of the planning process. This issue should be considered later, when determining an application for redevelopment. The relevant issue now is whether or not the property has sufficient heritage significance to warrant inclusion in a heritage overlay. Council argues that heritage significance is warranted, as explained in the Statement of Significance and the evidence presented by Mr. Simon Reeves.

Submission Nos 4-28:

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Given the similarities between the submissions supporting the heritage overlay, it is not proposed to address them individually. The submissions supported the overlay on the grounds that the amendment:

- Recognises and protects the heritage significance, character and charm of Blackburn,
- Maintains the cultural identity of the area,
- Protects the current amenity, structure and natural features of the site,
- Sympathises with the immediate neighbourhood and ensures any new development respects existing buildings
- Supports concerns re traffic and road safety.

Council is not responding to these submissions, given that they support the amendment.

Blue Flame Precinct Vermont South

In summary, five submissions were received regarding this precinct. Two submissions were 'concerned', two opposed and one supported the overlay.

The issues of 'concern' are:

- Whether a heritage overlay is warranted,
- Adequacy of existing controls,
- Ability to renovate existing buildings and
- Maintenance Costs.

The grounds for opposing the overlay are:

- Heritage significance is not high enough to warrant a heritage overlay,
- The amendment will not prevent apartment developments or the resulting overlooking problems,
- Loss of property values,
- No. 4 Parkleigh Court is only two years old and has no heritage significance,
- Renovation options under a heritage overlay are limited which will affect the health and well being of property owners,
- Cost of repairs,

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- Demolition will be prohibited and therefore civil liberties are breached and
- Heritage citation is inaccurate

Summary of Council's Response:

- Development pressure in Vermont South is increasing and existing controls are insufficient to ensure new development is in keeping with existing houses.
- The overlay will still allow alterations to existing buildings and does not prevent the removal of existing asbestos.
- The citation explains and justifies heritage significance.
- Although some financial impost may be involved, it will be similar to other heritage overlays in the municipality.
- Non contributory buildings are common to heritage overlays.
- Any perceived inaccuracies in the citation are only be minor and easily addressed.
- The Amendment will ensure new development is in keeping with the character of the overlay area.
- Heritage significance is justified in the citation and the purpose of the overlay does not include protection from apartment development.

Submission 30:

This submission cited concern regarding the adequacy of existing controls, need for a heritage overlay, heritage significance, building lifespan, financial imposition for owners if the overlay is approved

Response – Existing controls do not include demolition controls and do not allow for Council to consider the heritage significance of the precinct or individual buildings when considering redevelopment proposals. This was clearly stated by VCAT in its decision for 11 Shalimar Court.

The overlay is needed to protect the heritage significance of the precinct and individual buildings therein. There is no other appropriate mechanism available to achieve this.

The building lifespan is not relevant to its heritage significance. Many timber buildings are included in heritage overlays, some of which are over 100 years old. The overlay also allows internal alterations, external maintenance and repairs to be carried out without a

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permit to allow the buildings to be kept in line with modern expectations. There may be some financial expense involved for homeowners if the overlay is approved, as per other heritage overlays. However property owners will also be able to apply for a grant under Council's Heritage Assistance Fund which is designed to assist homeowners maintain their heritage places.

Submission 31:

This submission objects to the overlay on the basis there is no need for the overlay, the proposed precinct has no heritage significance, the affected buildings have a limited lifespan, the overlay will prevent the removal of asbestos from affected buildings and financial imposition for home owners.

Response: The citation clearly establishes the heritage significance of the precinct. The proposed overlay is needed to protect the heritage places and control demolition. As stated in response to submission 30, a building's lifespan is not relevant to its heritage significance. Moreover, the overlay will not require a permit for repairs or internal alterations, and will not prevent the removal of dangerous asbestos.

Submission 32:

This submission objects to the overlay on the basis that the house is only 2 years old and has no heritage significance, property values will be reduced, renovation costs will be higher, homeowners will be forced to keep existing asbestos and information contained in the citation is inaccurate.

Response: The submitter's house is a 'non contributory' building in the precinct and such buildings are common to heritage overlays. This does not mean they should be excluded, since works on the property can potentially affect the heritage significance of adjoining buildings. As stated previously, the overlay will not prevent the removal of asbestos.

Although some financial impost may be involved, it will be similar to other heritage overlays in the municipality.

Submission 33:

This submission supports the amendment on the basis that it will prevent future serious overdevelopment of the site.

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Response: The amendment will ensure that new development is in keeping with the character of the precinct. The land is currently zoned Neighbourhood Residential which restricts any future development to two dwellings. (The current application for 3 dwellings at 11 Shalimar was lodged before the land was zoned Neighbourhood Residential).

Submission 34:

This submission cites concern regarding the precincts heritage significance and that it will not prevent apartment development.

Response: Heritage significance is clearly established in the Statement of Significance. The purpose of the overlay does not include protection from apartment development, although development will be required to be in keeping with the precinct's heritage character.

10.0 CONCLUSION

Amendment C164 sought to apply a heritage overlay to three places – two individual places and one precinct. Panel has been requested to consider submissions made in relation to two of those places.

Council is the planning authority, and has prepared and exhibited the amendment in accordance with the Planning and Environment Act 1987. Council is of the view that the amendment :

- Is strategically justified;
- Is consistent with the recently released *Plan Melbourne*,
- Gives due consideration to the matters raised in submissions; and
- Was exhibited in accordance with the Planning and Environment Act 1987.

In considering whether application of the heritage overlay, Council and Panel are only required to consider whether the proposed places have heritage significance. Effects on redevelopment potential, building lifespan, financial imposition is not relevant. These factors will come into effect when an application is lodged.

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The heritage significance of both 127 Whitehorse Road and the Blue Flame precinct have been well established. They have been well researched by a well known expert in the field of heritage architecture. The Statements of Significance are detailed and exhaustive. They have been peer reviewed by Council's Heritage Adviser – another well respected heritage architect with many years of experience. The Statement explains that both the buildings at 127 Whitehorse Road and the Blue Flame precinct have local historic and aesthetic significance.

Council therefore requests that Panel considers matters discussed in this submission and recommends that Amendment C164 be adopted for 127 Whitehorse Road Blackburn and the Blue Flame Precinct Vermont South.

Pamela Neivandt

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