

## **Inquiry into Planning and Heritage**

My submission concerns inadequate protection of heritage within Victoria under the current legislation and regulations.

Currently, the Minister for Planning and his department have publicly stated that Councils have been deficient in progressing heritage studies and that the absence of council-initiated heritage studies is responsible for the subsequent loss of Heritage Overlay protection leading to the loss of heritage worthy properties. The Minister has indicated that he is in no position to fast track the protection of properties at imminent risk of demolition where the local council has been inactive with heritage studies.

However, recently in my municipality of Glen Eira, this reasoning has been shown to be faulty.

Glen Eira Council Heritage Amendment **C204GLEN** – Elsternwick, Carnegie and Bentleigh was based on the recommendations of *Glen Eira Heritage Review of Elsternwick Structure Plan Area 2019 Stage 2 report* (last revised 20 march 2020), along with additional properties. Council undertook its heritage review of Elsternwick through the expert consultancy of RBA Architects and Conservation Consultants Pty Ltd.

The Minister approved C204 to exhibit 2 precincts and 12 individual properties. Importantly, the Minister DID NOT approve 4 precincts.

- Elsternwick Inter-war residential Precinct
- Elsternwick North Precinct
- Gladstone Parade and College Precinct
- Elsternwick South Precinct

Council has performed its due diligence in undertaking a 'local heritage study' and in providing justification for the nominations. The 4 precincts detailed above include Elsternwick's earliest surviving intact, often contiguous, Victorian, and later, era properties, furthermore, these properties were assessed as contributory and not in any way inferior to properties granted a heritage overlay.

The rationale for this refusal as provided by DWELP is contained within DWELP's justification: *'At this stage it is not considered appropriate to apply the heritage Overlay more extensively in Elsternwick given that the council has yet to seek authorization for a planning scheme amendment to implement the Elsternwick Structure Plan. Doing so could, by default, lead to heritage controls becoming the primary driver for development outcomes within the Elsternwick Activity Centre. Wider application of the Heritage Overlay in Elsternwick needs to be considered in the context of implementation of the Elsternwick Structure Plan. Council may consider seeking further heritage controls in conjunction with a*

*future request for authorisation to prepare and exhibit permanent controls to implement the Structure Plan'* (highlighting mine).

DWELP also stated that the denied properties were not under development pressure – however when they are under development pressure the Minister can refuse to act swiftly to preserve them.

The above quote makes it clear that the potential for future residential development in these precincts outweighed the desire for heritage protection and it is on this basis that permission was denied. This decision contravenes current practice and legislation.

DWELP's rationale is contradictory and in conflict with the defined content of practice Note 1 (2018); Plan Melbourne and Plan Melbourne refresh (pages 85 and 99 respectively).

The PE Act and planning policy obligates a planning authority to '*recognise identified heritage significance through statutory provisions such as the Heritage Overlay for the existing broader community and for future generations*'.

Three recent Planning Panel reports reiterate that the identification of heritage, ***precedes any determination of development*** (The Boroondara planning Scheme Amendment C308boro Hawthorn East Heritage Gap Study, 18 Nov 2020; Planning Panel for the City of Glen Eira's Post-War and Hidden Gems Heritage Review and the Planning Panel report for C204).

This example leads me to proffer the following recommendations to this review:

- No heritage recommended building be demolished without a current planning permit
- Where there is a refusal to grant a Heritage Overlay, the rationale to be published and that the reasoning for the refusal be capable of withstanding scrutiny.
- Heritage considerations be given their due weight and priority over the development potential of the site or immediate surrounds.
- An independent heritage assessment to be granted a heritage overlay unless found to be *seriously* flawed.
- Set up an independent body to assess heritage recommendations, as distinct from DWELP.
- A review be undertaken of currently denied heritage assessed properties to determine their HO potential.
- Recommend shadowing at the winter solstice be applied as the appropriate planning criteria in ***all*** applications, this includes surrounding heritage properties.