

10.3.2 Spotswood Heritage Review Amendment C137 and Interim Heritage Overlay

Directorate:	Sustainable Communities
Responsible Officer:	Team Leader Strategic Planning
Reviewer:	Director Sustainable Communities
Attachments:	<ol style="list-style-type: none">1. Spotswood Activity Centre Structure Plan Heritage Review - RBA Architects [10.3.2.1 - 245 pages]2. C137 Draft Amendment Documentation [10.3.2.2 - 113 pages]3. C137 Draft Amendment Maps [10.3.2.3 - 4 pages]4. Map of Properties Proposed to be Included in Interim HO [10.3.2.4 - 1 page]

Purpose

To seek endorsement of the Spotswood Heritage Review and to recommend that Council request authorisation from the Minister for Planning to exhibit Amendment C137 and to prepare an amendment to introduce an interim heritage overlay.

Motion

Moved Cr Peter Hemphill, seconded Cr Pamela Sutton-Legaud:

That Council:

1. **Endorses the Spotswood Heritage Review for the purpose of public exhibition and as the basis for Amendment C137.**
2. **Requests that the Minister for Planning grant authorisation under section 8A of the *Planning and Environment Act 1987* to prepare and exhibit Amendment C137 to the Hobsons Bay Planning Scheme to implement the Spotswood Heritage Review as per Attachment 2.**
3. **Requests that the Minister for Planning prepare and approve an amendment to the Hobsons Bay Planning Scheme pursuant to Section 20(4) of the *Planning and Environment Act 1987* to apply interim heritage overlays to properties identified as “significant” or “contributory” heritage places in accordance with the recommendations of the Spotswood Heritage Review and as shown in Attachment 4.**
4. **Notes the delegation of the Chief Executive Officer to make any necessary minor changes in seeking authorisation to prepare and exhibit Amendment C137 to the Hobsons Bay Planning Scheme to implement the Spotswood Heritage Review.**

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5. Notes the delegation of the Chief Executive Officer to consider any submissions received about Amendment C137 in accordance with section 22 of the *Planning and Environment Act 1987* and refer any submissions that cannot be resolved to an independent panel appointed by the Minister for Planning in accordance with section 23 of the *Planning and Environment Act 1987*.
6. Notes that Amendment C137 will go on public exhibition, with the opportunity for community members to provide feedback and make a submission and to be heard at any future planning panel.

Carried unanimously

Recommendation

That Council:

1. Endorses the Spotswood Heritage Review for the purpose of public exhibition and as the basis for Amendment C137.
2. Requests that the Minister for Planning grant authorisation under section 8A of the *Planning and Environment Act 1987* to prepare and exhibit Amendment C137 to the Hobsons Bay Planning Scheme to implement the Spotswood Heritage Review as per Attachment 2.
3. Requests that the Minister for Planning prepare and approve an amendment to the Hobsons Bay Planning Scheme pursuant to Section 20(4) of the *Planning and Environment Act 1987* to apply interim heritage overlays to properties identified as “significant” or “contributory” heritage places in accordance with the recommendations of the Spotswood Heritage Review and as shown in Attachment 4.
4. Notes the delegation of the Chief Executive Officer to make any necessary minor changes in seeking authorisation to prepare and exhibit Amendment C137 to the Hobsons Bay Planning Scheme to implement the Spotswood Heritage Review.
5. Notes the delegation of the Chief Executive Officer to consider any submissions received about Amendment C137 in accordance with section 22 of the *Planning and Environment Act 1987* and refer any submissions that cannot be resolved to an independent panel appointed by the Minister for Planning in accordance with section 23 of the *Planning and Environment Act 1987*.
6. Notes that Amendment C137 will go on public exhibition, with the opportunity for community members to provide feedback and make a submission and to be heard at any future planning panel.

Summary

The Spotswood Heritage Review has been undertaken to identify sites of local heritage significance that should be protected within a heritage overlay. The recommendations of the review are proposed to be implemented into the Hobsons Bay Planning Scheme (the scheme) via Amendment C137.

It is recommended that Council request authorisation from the Minister for Planning to exhibit Amendment C137 (the amendment). It is recommended that Council also request that the Minister for Planning introduce interim heritage overlays into the scheme to protect heritage places while the amendment progresses.

Background

The Spotswood Heritage Review

Overview

Council commissioned heritage consultants to prepare the Spotswood Activity Centre Structure Plan Heritage Review (the Spotswood Heritage Review 2022) to identify sites of local heritage significance that should be protected within a Heritage Overlay (HO). This review was focused on assessing properties within the boundary of the Spotswood Activity Centre to inform where growth and change should occur and informed the Draft Spotswood Activity Centre Structure Plan (2022).

The Spotswood Heritage Review and draft citations are included at Attachment 1.

Methodology

The review assessed the heritage significance of places in accordance with the requirements of the Victorian Government's Planning Practice Note No.1 (PPN1) *Applying the Heritage Overlay*.

The first stage of the review involved an assessment of existing HO30 (Spotswood Residential Heritage Precinct) and adjacent residential and commercial areas to determine if any updates were required to existing heritage controls or overlay boundaries. The second stage of the review was undertaken to address potential gaps in the protection of built heritage fabric in the wider Spotswood Activity Centre Structure Plan Area.

As part of the review each heritage place was assessed to determine whether it was contributory, or non-contributory. Contributory heritage places are places that contribute to the heritage significance of a precinct. Non-contributory places have no identifiable heritage significance, but their redevelopment may impact on the significance of the heritage precinct or adjacent contributory heritage places and so they are included in the overlay.

Recommendations

In summary the Heritage Review recommends:

- 120 additional properties to be added to the existing HO30 Spotswood Residential Heritage Precinct
- changes to be made to existing HO46 AGM Factory Complex (former), now referred to as Melbourne Glass Bottle Works, and HO153 Hugh Lennon Agricultural Implement Works to accurately reflect the extent of historic built fabric at the site
- six new heritage overlays to be introduced:
 - HO323 War Service Homes Commission Precinct
 - HO324 Alloa Park Estate Precinct
 - HO325 Australian Glass Manufacturers Housing Heritage Precinct
 - HO326 Spotswood State School
 - HO327 Shops at Hudsons Road
 - HO328 Baco Food Products Factory

The Heritage Review includes draft citations for the revised and new HOs at Appendix 1 of the review (refer Attachment 1).

Discussion

Previous consultation on heritage work

Community consultation on the Draft Spotswood Structure Plan was undertaken between 21 April and 2 June 2022. The draft structure plan included the proposed new and revised heritage overlays from the Spotswood Heritage Review. Draft heritage citations were also provided for community feedback and comment during the consultation phase.

Council received four submissions during this consultation process that related to the proposed HOs. The submitters raised concern with the potential for new or expanded heritage controls to restrict demolition or alterations and additions to heritage properties. The properties identified in the submissions were reviewed and considered again and found to still warrant inclusion in the HO.

Submitters were advised that they would have an opportunity to make a further submission during the exhibition of the amendment. It was also noted that if a HO is introduced, some alterations such as rear extensions are still permitted to heritage dwellings subject to meeting Council's *Guidelines for Alterations and Additions to Dwellings in Heritage Areas in Hobsons Bay* (2006). The guidelines direct that rear extensions can be acceptable provided they are subservient to the heritage building and are not visible from the street.

Amendment C137

Amendment C137 proposes to make changes to heritage controls within the Hobsons Bay Planning Scheme to give statutory effect to the recommendations of the Spotswood Heritage Review. The amendment is summarised below, with full draft amendment documents and maps included at Attachment 2 and 3.

New heritage overlays

The amendment proposes to introduce six new HOs to protect a mix of historic industrial, commercial and civic buildings as well as residential precincts as outlined in the table below and as per maps at Attachment 3.

Proposed new HO	Properties proposed for inclusion in new HO
HO323 War Service Homes Commission Precinct	<ul style="list-style-type: none"> 605-609 and 613-631 Melbourne Road (odds only) 154-160 and 153-155 Hudsons Road 28-36 Reed Street (evens only) and 25-33 Reed Street (odds only)
HO324 Alloa Park Estate Precinct	<ul style="list-style-type: none"> 154-170 Hall Street (even only)
HO325 Australian Glass Manufacturers Housing Heritage Precinct	<ul style="list-style-type: none"> 1-21 Bernard Street (odd only) 36 Craig Street 2-4, 18-26 Robb Street (even only)
HO326 Spotswood State School	<ul style="list-style-type: none"> 598 Melbourne Road, Spotswood
HO327 Shops at Hudsons Road	<ul style="list-style-type: none"> 87-89 Hudsons Road (odd only)
HO328 Baco Food Products Factory	<ul style="list-style-type: none"> 121-129 Craig Street Spotswood 3015

Amend existing heritage overlays

The amendment proposes changes to existing HOs as per the table below and the maps included at Attachment 3.

Existing HO	Properties proposed for inclusion or deletion in existing HO
HO30 Spotswood Residential Heritage Precinct	<ul style="list-style-type: none"> 120 additional properties to be added to HO30 24, 26 and 28 George Street to be removed from HO30 due to permits issued for demolition and construction of new dwellings or dwelling that does not have identifiable heritage significance remove properties at 1-3 Hope Street from the statement of significance as they are already included in and protected by individual HOs (HO152 and HO151) and are not currently mapped in HO30
HO46 AGM Factory Complex (former)	<ul style="list-style-type: none"> add 1 (part), 8 (part) and 21 (part) Simcock Avenue, Spotswood remove 1 (part) and 8 (part) Simcock Avenue to reflect correct extent of heritage building remove 21 (part) and 71 (part) Simcock Avenue to reflect planning permits PA1634912, PA1738468 and PA1634912 that allowed for demolition due to the buildings' poor structural integrity that meant they could no longer serve their intended purpose

Existing HO	Properties proposed for inclusion or deletion in existing HO
HO153 Hugh Lennon Agricultural Implement Works (part)	<ul style="list-style-type: none"> remove 71 (part) Simcock Avenue as building has been demolished pursuant to planning permit PA1634912 due to its poor structural integrity and the fact that it could no longer serve its intended purpose

Ordinance changes

Amendment C137 proposes the following planning scheme ordinance changes to implement the findings of the Spotswood Heritage Review:

- update the Schedule to Clause 43.01 Heritage Overlay to reflect the proposed heritage overlay changes identified above
- amend planning overlay maps 4HO and 5HO to reflect new and revised heritage overlays identified above
- amend Schedule to Clause 72.04 (Incorporated Documents) to include Statements of Significance for new and revised heritage overlays
- amend Schedule to Clause 72.08 (Background Documents) to include reference to “Spotswood Activity Centre Structure Plan Heritage Review 2022”

Ordinance corrections

In addition to the Newport heritage planning controls this amendment seeks to correct an administrative error that led to the heritage design guidelines not being listed as a reference in the Schedule to Clause 43.01 Heritage Overlays. This error is purely administrative and occurred as part of Amendment C131 (new residential zones and PPF translation) it does not introduce any additional planning requirements but will ensure all documentation is correctly referenced in the planning scheme

The amendment proposes to correct this administrative error by updating the Schedule to Clause 43.01 to include reference to the following incorporated heritage guidelines:

- Cox’s Garden Heritage Precinct Heritage Design Guidelines 2020
- Ferguson Street Civic and Commercial Heritage Precinct Heritage Design Guidelines 2020
- Government Survey Heritage Precinct Heritage Design Guidelines 2020
- Hannan’s Farm (Ramsgate Estate) and Williamstown Beach Heritage Precincts Heritage Design Guidelines 2020
- Housing Commission of Victoria Estates Heritage Precincts Heritage Design Guidelines 2020
- Nelson Place Heritage Precinct Heritage Design Guidelines 2020
- Newport and Spotswood Residential Heritage Precincts Heritage Design Guidelines 2020
- Private Survey Heritage Precinct Heritage Design Guidelines 2020

Recommendations to be implemented via future planning scheme amendment

The Spotswood Heritage Review recommends that the Former Shell Newport Terminal and the Commonwealth Oil Refineries Co. Buildings at 39-81 (part) Burleigh Street Spotswood are of local significance and should be included in a HO. The review also recommends that the existing HO49 Commonwealth Oil Refinery Company Tank Farm at 39-81 (part) Burleigh Street is removed from the HO given the tanks have been demolished.

In preparing the amendment Council officers sought the views of DELWP who act on behalf of the Minister for Planning in relation to planning scheme amendments. DELWP officers advised that further heritage work was required to confirm whether the above buildings should be included in a new overlay or absorbed within the existing HO47 Shell Oil Complex. Council officers are proposing to pursue the protection of these buildings as part of a future planning scheme amendment to allow for the majority of the recommendations of the Spotswood Heritage Review to be implemented and progress to an amendment.

Proposed Interim Heritage Overlay

Properties within the amendment area have been subject to development pressure over the last five years in the form of applications lodged for demolition and alterations. If this development pressure continues this has the potential to undermine the integrity and intactness of proposed heritage precincts.

There is a concern that due to the time that it will take to progress permanent heritage controls through Amendment C137, more heritage places identified in the review could be at risk of demolition or unsympathetic alterations. A typical amendment process would take at least 12 months to complete. If heritage places are allowed to be demolished or significantly altered this could undermine the amendment and important heritage precincts.

To ensure that heritage values are protected in Spotswood it is recommended that Council request that interim heritage controls are introduced by the Minister for Planning until the amendment is exhibited and assessed.

The Minister for Planning can exercise their powers under the *Planning and Environment Act* 1987 and introduce interim heritage overlays into the scheme. This will ensure that the significance of heritage places can be considered in the assessment of building and planning permits. An interim overlay would not prevent demolition or works outright, but rather trigger the requirement for a planning permit for demolition of works that change the appearance of the place to ensure heritage matters are considered.

The interim overlays would apply to properties of heritage significance which are those properties identified as “significant” and “contributory” in the relevant draft Statements of Significance (refer Attachment 2). The interim overlays would exclude “non-contributory” properties and those properties with active planning or building permits in place for demolition or alterations. Please refer to the map at Attachment 4 that identifies properties proposed to be included in an interim HO.

The proposed interim heritage controls would be requested via a separate planning scheme amendment process (Amendment C138) that would be introduced by the Minister for Planning. The amendment would be pursuant to section 20(4) of the Planning and Environment Act which would remove any requirement for further notification. This would mean the interim controls could be effective immediately once approved and gazetted. It is proposed that the interim controls would be in place for 12 months to allow progression of Amendment C137.

In addition, pursuant to section 29B of the *Building Act* 1993, once the request is made Council can ensure that heritage values are considered when assessing building permit applications for demolition.

Next steps

If supported by Council, the amendment documentation will be submitted to the Minister for Planning to seek authorisation to publicly exhibit the amendment.

Community and key stakeholders will have the opportunity to comment on the proposed heritage overlay changes during a six-week public exhibition process. There may be further refinements required to the proposed amendment documents and supporting information in response to matters raised during the authorisation and exhibition process.

At the same time as requesting authorisation from the Minister for Planning for Amendment C137, it is recommended that Council request that the Minister for Planning introduce interim HOs via an amendment to the planning scheme (Amendment C138) pursuant to section 20(4) of the Planning and Environment Act.

The interim heritage controls would be effective immediately if approved by the Minister and approval appears in the Victorian Government Gazette. The interim HO would assist in the conservation of local heritage sites pending the completion of the amendment process.