

PROPOSED AMENDMENTS TO SEEK INTERIM AND PERMANENT HERITAGE OVERLAY CONTROLS IN LIYDALE

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Ward(s) affected: Billanook; Melba;

The author(s) of this report and the Responsible Officer consider that the report complies with the overarching governance principles and supporting principles set out in the Local Government Act 2020.

CONFIDENTIALITY

This item is to be considered at a Council meeting that is open to the public.

SUMMARY

Through early work on preparing a new Lilydale Structure Plan, it was identified that there are a number of properties in Lilydale with potential heritage significance that are not protected by a Heritage Overlay (HO) in the Planning Scheme.

Council engaged qualified heritage consultants to identify gaps in heritage protection in Lilydale's Main Street and surrounding areas and to assess which places meet the threshold for local heritage protection in the planning scheme. This work has recommended the protection of 13 new sites and updates to the existing heritage statements of significance or mapping for 7 places that are already protected by the HO.

It is proposed that the schedule to the HO in the Planning Scheme be amended to include the 13 new places through a planning scheme amendment that will be publicly exhibited.

Concurrently, it is proposed that the HO be applied to the new places on an interim basis, to ensure the heritage values of the places are protected while the planning scheme amendment for permanent heritage protection is exhibited.

In order to apply interim controls, Council must request the Minister for Planning to use his powers of intervention under Section 20(4) of the Planning and Environment Act 1987 to prepare, adopt and approve an amendment to the Yarra Ranges Planning Scheme (Amendment C206).

In order to commence the amendment process for a permanent control, Council must seek authorisation from the Minister for Planning to prepare and exhibit an amendment (Amendment C207).

RECOMMENDATION

That Council:

- 1. Request the Minister for Planning to prepare, adopt and approve Amendment C206 to the Yarra Ranges Planning Scheme under section 20(4) of the Planning and Environment Act 1987 to apply the Heritage Overlay to 13 places, on an interim basis until 31 December 2023, generally in accordance with the attachments to this report.**
- 2. Request the Minister for Planning to authorise the preparation and exhibition of Amendment C207 to apply the Heritage Overlay on a permanent basis to 13 places, make changes to seven (7) places already protected by a Heritage Overlay, and consequential changes, generally in accordance with the attachments to this report.**
- 3. Subject to the Ministers authorisation, exhibit Amendment C207 to the Yarra Ranges Planning Scheme.**

RELATED COUNCIL DECISIONS

At the Council Meeting of 24 September 2019 Council resolved that:

- Council adopt the Lilydale Place Plan to guide decision making for Lilydale’s future liveability. The adopted Place Plan included an Action 4.1 to ‘Create Inviting Streets and Public Spaces’, which included advocacy for restoration of streetscapes and heritage.
- At the Council meeting of 14 December 2021 for the draft Lilydale Structure Plan, Council also noted an update on the Lilydale Heritage Review.

DISCUSSION

Purpose

Amendments C206 and C207 propose to amend the Yarra Ranges Planning Scheme to apply the Heritage Overlay on an interim and permanent basis to the following places:

Table 1

Description of Place	Address
Olinda Hotel	161 Main Street, Lilydale
Former Hutchinson’s Store	251 Main Street, Lilydale
Crown Hotel	267 Main Street, Lilydale
Beresford Buildings	279-281 Main Street, Lilydale
Artis Building	284 Main Street, Lilydale
Single storey shop	295 Main Street, Lilydale

Description of Place	Address
Former Deschamps Wine Store Olive Tree	2-4 Albert Hill Road, Lilydale, and small section of Cave Hill Road adjoining
Lilydale First World War Memorial	Main Street, Lilydale
Willowbank	16 Crestway, Lilydale
Towri	1/33-61 Edinburgh Road, Lilydale
Heatherlie	57 Warburton Highway, Lilydale
Lilydale Primary School No.876	63-65 Castella Street, Lilydale
Lilydale Heritage Railway Station Goods Shed	Maroondah Highway, Lilydale

Amendment C207 also proposes to amend the existing Heritage Overlay for the below places:

Table 2

Description of Place	Address	Proposed Amendment to the HO
Queen Victoria Jubilee Street Trees (HO77)	Main Street, Lilydale	Reduction in mapped curtilage area within Main Street (to be replaced by HO401 – Lilydale Historic Street Trees)
Former W Johnson Bootmakers Shop/Residence (HO203)	335 Main Street, Lilydale	Removal of allowance for prohibited uses in the Schedule to the Heritage Overlay
Former Poon Kee's Store (HO213)	172 Main Street, Lilydale	Removal of allowance for prohibited uses in the Schedule to the Heritage Overlay
Lilydale-Warburton Railway (HO214)	Lilydale-Warburton Railway (former)	Reduction in mapped curtilage area near the Historic Lilydale Railway Station (to exclude the rail stabling yard)
Lilydale Historic Street Trees (HO401)	Anderson Street, Castella Street, Clarke Street, Cave Hill Road (south), The Eyrie (part) and historic street trees along the western boundary of the Lilydale Recreation Reserve, Lilydale	Increase in mapped curtilage area within Main Street (to replace HO77 Queen Victoria Jubilee Street Trees)

Amendment C207 will also add both the new and updated Statements of Significance for 20 heritage places as Incorporated Documents in the Planning Scheme. This includes updated Statements for the below existing heritage protected places:

Table 3

Description of Place	Address
The White Dog Hotel (HO 64)	292 Main Street, Lilydale

Description of Place	Address
Former Oliver's Grocery Store/Lilydale Rural Supplies Shop (HO205)	148 Main Street, Lilydale

Further details of the heritage significance of the properties and the amendment proposals are outlined in the key issues section of this report and the attached Explanatory Reports (Attachments 1 and 2).

Options considered

Option 1 – seek interim and permanent heritage controls for the identified properties

Council has an obligation under the *Planning and Environment Act 1987* to conserve and enhance those buildings, areas or other places which are of scientific, aesthetic, architectural or historical interest, or otherwise of special cultural value. The Yarra Ranges Planning Scheme also contains objectives that seek to conserve places of heritage significance.

Council has also previously given a commitment through the adoption of the Lilydale Place Plan to further protect heritage places in Lilydale.

Heritage protection enables historically and culturally significant places to be protected for the benefit of current and future generations by adding to the understanding of Yarra Ranges' rich cultural history, providing a link to the past and giving a sense of place.

Option 2 – not proceed with heritage protection of the identified properties

If heritage protection of the identified properties was not pursued, Council would be failing in its obligations under the *Planning and Environment Act 1987* and the Yarra Ranges Planning Scheme.

The risk of permanently losing places that are of identified historic and cultural significance would significantly increase.

Recommended option and justification

It is recommended Option 1 be pursued. The application of an interim HO is an appropriate response to the identification of heritage values where they had not been previously recognised. Permanent application of the HO will be considered through an exhibited amendment process to provide all stakeholders with an opportunity to comment.

FINANCIAL ANALYSIS

The costs associated with Amendment C206 and Amendment C207 are covered by the recurring Planning Scheme Amendments operational budget for Strategic Planning.

APPLICABLE PLANS AND POLICIES

This report contributes to the following Council strategies and plans:

- Council Plan (2021-25) opening statement: “*We acknowledge that history shapes our identities, engages us as citizens, creates inclusive communities, is part of our economic well-being, teaches us to think critically and creatively, inspires leaders and is the foundation of our future generations.*”
- Council Plan (2021-25): Quality Infrastructure and Liveable Places.
- Yarra Ranges Planning Scheme:
 - Clause 15.03-1S Heritage Conservation: ensure the conservation of places of heritage significance.
 - Clause 21.06-1- Heritage Conservation Objectives and Strategies.

RELEVANT LAW

The proposed interim and permanent heritage overlay planning scheme amendment requests have been prepared in accordance with the legislative requirements of the *Planning and Environment Act 1987*.

SUSTAINABILITY IMPLICATIONS

Environmental Impacts

The amendment is not anticipated to have any adverse environmental impacts. Retaining heritage buildings for adaptive reuse can also lead to environmental and economic benefits through the substantial reduction in building, demolition and new construction waste, and the conservation of embodied energy in the existing building.

Social Impacts

The amendments will have a positive social and cultural effects through the preservation of historically and culturally significant places for the benefit of current and future generations. Protection of heritage places benefits the community by adding to the understanding of Yarra Ranges’ rich cultural history, providing a link to the past and giving a sense of place.

Economic Impacts

The amendments are not expected to have any adverse or significant economic effects. Inclusion of a site within the HO does not prohibit changes to that site or building, but rather requires an application process whereby heritage considerations can be properly addressed, along with other factors before any decision on an application is made.

This may limit development that is inconsistent with maintaining heritage values, which will improve the character of the building and the wider area. It is considered that economic impacts on future development will be offset by the contribution that the heritage place offers to the broader community.

COMMUNITY ENGAGEMENT

In preparation to commence a planning scheme amendment, Council officers have written to all affected landowners to advise them of the potential heritage significance for their property, and potential application of a Heritage Overlay.

Council officers have also met with the Lilydale and District Historical Society, in order to brief them on the expert work undertaken, and recommendations for a planning scheme amendment.

Amendment C206

If Council supports the application of an interim Heritage Overlay to the identified places, and resolves to seek a Ministerial Amendment under Section 20(4) of the Planning and Environment Act 1987, the Minister for Planning may exempt himself from the notice requirements of the Act and the amendment would be prepared, adopted and approved by the Minister without any public notice.

The effect of the exemption is that third parties will not receive notice of the amendment and will not have the opportunity to make a submission or be heard by an independent planning panel.

However, the exhibition of Amendment C207 to apply permanent heritage controls to the properties will provide the opportunity for the community and affected parties to make submissions on the proposal.

Amendment C207

If Council supports the amendment proposal to apply permanent heritage controls, and resolves to seek authorisation from the Minister for Planning to prepare and exhibit the amendment, and the Minister grants authorisation, the amendment will be subject to standard notification requirements for planning scheme amendments as required under the Planning and Environment Act 1987, including:

- Notification in a local newspaper;
- Letters to affected and nearby property owners and stakeholders including the Lilydale and District Historical Society;
- Information available on Council's website and Council offices; and
- Direct notification to relevant government agencies and departments.

A further report would be prepared for Council to consider all submissions received through the exhibition process.

COLLABORATION, INNOVATION AND CONTINUOUS IMPROVEMENT

No collaboration with other Councils, Governments or statutory bodies was sought.

RISK ASSESSMENT

Until the properties are protected with a Heritage Overlay, there is a risk of demolition, or works that may compromise the integrity of the heritage places.

CONFLICTS OF INTEREST

No officers and/or delegates acting on behalf of the Council through the Instrument of Delegation and involved in the preparation and/or authorisation of this report have any general or material conflict of interest as defined within the *Local Government Act 2020*.

ATTACHMENTS TO THE REPORT

1. Explanatory Report Amendment C206
2. Explanatory Report Amendment C207
3. Extent Heritage Gaps Study Stage 1A
4. Extent Heritage Gaps Study Part 1B
5. Poyner Shops