

YARRA CITY COUNCIL

Internal Development Approvals Committee

Agenda

**to be held on Wednesday 30 October 2019 at 6.30pm
in Meeting Rooms 1 & 2 at the Richmond Town Hall**

Rostered Councillor membership

Councillor Misha Coleman
Councillor Daniel Nguyen
Councillor Danae Bosler

- I. ATTENDANCE**
Danielle Connell (Senior Co-ordinator Statutory Planning)
Nish Goonetilleke (Senior Statutory Planner)
Cindi Johnston (Governance Officer)
- II. DECLARATIONS OF PECUNIARY INTEREST AND CONFLICT OF INTEREST**
- III. CONFIRMATION OF MINUTES**
- IV. COMMITTEE BUSINESS REPORTS**

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***"Welcome to the City of Yarra.
Yarra City Council acknowledges the
Wurundjeri Woi-wurrung as the
Traditional Owners of this country,
pays tribute to all Aboriginal and
Torres Strait Islander people in Yarra
and gives respect to the Elders past
and present."***

Internal Development Approvals Committee Submissions

“Prior to the consideration of any Committee Business Report at a meeting of the Internal Development Approvals Committee, members of the public shall be invited by the Chairperson to make a verbal submission. In determining the order of submissions, the Chairperson shall first invite the applicant or their representatives to submit, followed by formal objectors and finally any other interested persons.

All submitters accepting the invitation to address the meeting shall make submissions in accordance with these guidelines (or a variation of these guidelines as determined by the Chairperson at their sole discretion).

- Speak for a maximum of five minutes;
- Direct their submission to the Chairperson;
- Confine their submission to the planning permit under consideration;
- If possible, explain their preferred decision in relation to a permit application (refusing, granting or granting with conditions) and set out any requested permit conditions.
- Avoid repetition and restating previous submitters;
- Refrain from asking questions or seeking comments from the Councillors, applicants or other submitters;
- If speaking on behalf of a group, explain the nature of the group and how the submitter is able to speak on their behalf.

Following public submissions, the applicant or their representatives will be given a further opportunity of two minutes to exercise a right of reply in relation to matters raised by previous submitters. Applicants may not raise new matters during this right of reply.

Councillors will then have an opportunity to ask questions of submitters. Submitters may determine whether or not they wish to take these questions.

Once all submissions have been received, the formal debate may commence. Once the debate has commenced, no further submissions, questions or comments from submitters can be received.”

Extract from the Council Meeting Operations Policy, September 2019

1. Committee business reports

Item		Page	Rec. Page
1.1	PLN19/0303 - 3 Fairfield Park Drive Fairfield - Demolition of a shed, a gazebo structure and associated decking.	5	14
1.2	PLN18/0913 - 68-88 Green St Cremorne - Use and development of the land for the construction of two multi-storey, mixed use buildings (permit required for shop and food and drinks premises) and a reduction in car parking requirements. [CONFIDENTIAL ITEM - VCAT COMPULSORY CONFERENCE WITHOUT PREJUDICE POSITION]		

1.1 PLN19/0303 - 3 Fairfield Park Drive Fairfield - Demolition of a shed, a gazebo structure and associated decking.

Executive Summary

Purpose

1. This report provides Council with an assessment of planning application PLN19/0303, which is for demolition of a shed, a gazebo structure and associated decking at No. 3 Fairfield Park Drive and recommends approval subject to conditions.

Key Planning Considerations

2. Key planning considerations include:
 - (a) Clause 22.02 – Development Guidelines for Sites Subject to the Heritage Overlay
 - (b) Clause 43.01 – Heritage Overlay

Key Issues

3. The key issues for Council in considering the proposal relate to:
 - (a) Heritage; and
 - (b) Objector concerns.

Submissions Received

4. Nine objections were received to the application, these can be summarised as:
 - (a) Concerns regarding the demolition of the gazebo structure due to architectural significance of the gazebo structure and its host building.

Conclusion

5. Based on the following report, the proposal is considered to comply with the relevant planning policy and should therefore be supported.

CONTACT OFFICER: Chris Stathis
TITLE: Senior Statutory Planner
TEL: 9205 5352

1.1 PLN19/0303 - 3 Fairfield Park Drive Fairfield - Demolition of a shed, a gazebo structure and associated decking.

Reference: D19/186745
 Authoriser: Senior Coordinator Statutory Planning

Proposal: Demolition of a shed, a gazebo structure and associated decking.
Existing use: Recreation / Storage
Applicant: Council
Zoning / Overlays: Public Park and Recreation Zone
 Heritage Overlay (Schedule 147)
 Land Subject to Inundation Overlay
 Significant Landscape Overlay (Schedule 1)
Date of Application: 14 May 2019
Application Number: PLN19/0303

Planning History

1. Planning Permit PL04/0472 was issued on 13 July 2004 for part demolition, buildings and works (construction of amenities block). These works did not involve the buildings that are associated with the subject application.

Background

Aboriginal Cultural Heritage Significance

2. The subject site is located within an area of Aboriginal Cultural Heritage Sensitivity. Pursuant to part 16 of the Aboriginal Heritage Regulations 2018, *the demolition or removal of a building is an exempt activity*. Thus, a Cultural Heritage Management Plan is not required for the proposed works

Error on the plans

3. The application plans have shown the north orientation incorrectly, however it is clear where the works are located. A condition is recommended to address this.

The Proposal

4. The application proposes to demolish the following buildings:
 - (a) a small shed structure located approximately 50m southwest of the Fairfield Amphitheatre, and;
 - (b) a gazebo structure and associated decking which is located on top of (and forms part of) a double-storey recreational building (canoe club).

Existing Conditions

Subject Site

5. The subject site is an irregular-shaped lot on the southern side of Heidelberg Road in Fairfield and west of Panther Place. The south-eastern section of the lot runs along the Yarra River. The subject site largely comprises parkland and associated recreational facilities including the Fairfield Park Boathouse, the Fairfield Amphitheatre and the Ivanhoe Northcote Canoe Club. The Main Yarra Trail runs through the subject site and connects on to the Fairfield Pipe Bridge which crosses the Yarra River.

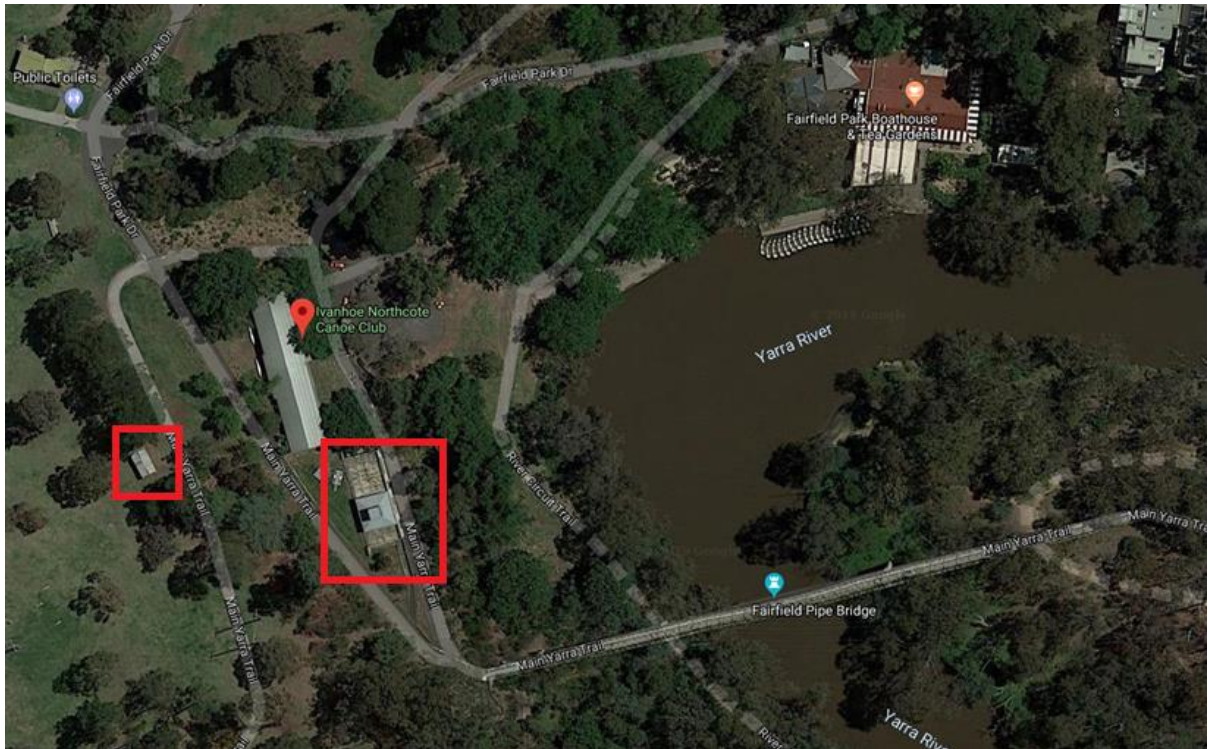


Figure 1: The buildings associated with the subject application shown in context with the Yarra River, the Fairfield Amphitheatre, Fairfield Park Boathouse and Fairfield Pipe Bridge

6. The application relates only to two buildings within the larger subject site:
 - (a) A small shed structure located approximately 50m southwest of the Fairfield Amphitheatre
 - (b) A double-storey storage building which features concrete, metal and timber cladding. The building includes a gazebo-like structure located on the roof (see below image). The building is currently used for change rooms, toilet and shower facilities, a performance storage area (for shows at the nearby amphitheatre) and a kayak storage area. Given the slope of the land, the scale of the overall building is not appreciable when viewed from the west, as shown at figure 3 below.



Figure 2: The double-storey recreational building, as viewed from the southeast (Planning Officer Photo, September 2019)



Figure 3: The gazebo structure located on top of the double-storey recreational building, as viewed from the west (Planning Officer Photo, September 2019)



Figure 4: The small shed structure to be demolished as part of the application (Planning Officer Photo, October 2019)



Figure 5: Aerial image of the shed (left) and double-storey recreational building (right)
(Council GIS image, June 2019)

Surrounding Land

7. The surrounding land is largely defined by public open space associated with the Fairfield segment of the Yarra River as well as nearby residential development. The subject site is located in the Public Park and Recreation Zone (PPRZ) as is land to the southeast and southwest. To the east and north of the site, the land is zoned residentially – Neighbourhood Residential Zone and General Residential Zone respectively. These areas include single and double storey dwellings set on medium to large allotments. A section of land to the west of the subject site is zoned Commercial 1 and includes a number of warehouse buildings along the southern side of Heidelberg Road.



Figure 5: The subject site (shaded pink) and the surrounding area. (Council GIS image, June 2019)

Planning Scheme Provisions

Zoning

8. The subject site is located in the Public Park and Recreation Zone (PPRZ), which, pursuant to Clause 36.02-2, does not have any permit requirements for the demolition or removal of a building.

Overlays

9. The overall site is affected by Schedules 146 and 147 to the Heritage Overlay. Schedule 146 relates to the Fairfield Boathouse. However, the proposed works affect sections of the site which are only under Schedule 147. Pursuant to Clause 43.01-1, a planning permit is required to demolish or remove a building.
10. The subject site is affected by the Land Subject to Inundation Overlay. Pursuant to Clause 44.04-2, a planning permit is not required to demolish or remove a building.
11. The subject site is affected by Schedule 1 to the Significant Landscape Overlay. Pursuant to Clause 42.03-2, a planning permit is not required to demolish or remove a building.

General Provisions

Clause 65 – Decision Guidelines

12. The decision guidelines outlined at Clause 65 of the Scheme are relevant to all applications. Because a permit can be granted does not imply that a permit should or will be granted. Before deciding on an application, the Responsible Authority must consider a number of matters. Amongst other things, the Responsible Authority must consider the relevant Municipal Planning Strategy and the Planning Policy Framework., as well as the purpose of the zone, overlay or any other provision. An assessment of the application against the relevant sections of the Scheme is offered in further in this report.

Clause 67 – Applications under Section 96 of the Act

13. The application has been made by Yarra City Council and therefore must be considered under Section 96 of the *Planning and Environment Act 1987* (the Act). Section 96 (1) of the Act states:

A responsible authority must obtain a permit from the Minister before carrying out any use or development for which a permit is required under the planning scheme for which it is the responsible authority unless the planning scheme exempts the land, use or development from this sub-section.

14. Clause 67.01 of the Scheme identifies that in accordance with Section 6(2)(a) of the Act, the following classes of use and development are exempt from Section 96(1) and 96(2) of the Act:

CLASS 1

Use of land for -

Car park, camping and caravan park, community facility (including child care centre, maternal and infant welfare centre, neighbourhood house, place of assembly and toilet block), dwelling, extractive industry, hospital, industry, leisure and recreation, office, residential village, retail premises or service station.

CLASS 2

Development of land for -

A Class 1 use, demolition of a building or works, lighting and floodlighting of a recreation facility or building, sign or advertisement or subdivision.

CLASS 3

Any other use or development.

15. As the application is for the demolition of a building or works, the application falls under Class 2. As such, the application is exempt from Section 96(1) and 96(2) of the Act. However, pursuant to clause 67.02 notice must be given to owners and occupiers of adjoining land.

Planning Policy Framework (PPF)

Clause 15.01 (Built Environment and Heritage)

16. This clause outlines the following relevant guideline:

- (a) *Planning should ensure all land use and development appropriately responds to its surrounding landscape and character, valued built form and cultural context.*

Clause 15.03 (Heritage)

Clause 15.03-1S (Heritage conservation)

17. The objective is:

- (a) *To ensure the conservation of places of heritage significance.*

18. Strategies include:

- (a) *Encourage appropriate development that respects places with identified heritage values.*
(b) *Retain those elements that contribute to the importance of the heritage place.*

- (c) *Encourage the conservation and restoration of contributory elements of a heritage place.*
- (d) *Ensure an appropriate setting and context for heritage places is maintained or enhanced.*
- (e) *Support adaptive reuse of heritage buildings where their use has become redundant.*

Local Planning Policy Framework (LPPF)

19. The following LPPF provisions are relevant:

Clause 21.05-1 (Heritage)

20. A relevant objective includes:

- (a) *Objective 14 To protect and enhance Yarra's heritage places.*

Clause 21.08-6 – Neighbourhoods (Fairfield – Alphington)

21. This policy describes the Fairfield-Alphington area as follows:

- (a) *To the east of Yarra Bend Park is a green, leafy, residential area, comprising late Victorian, Edwardian and interwar dwellings. Dwellings have generous front and side setbacks and allotments are double fronted and deep allowing for large spacious gardens and substantial backyards. The neighbourhood also has a significant amount of open space. The Northern Metropolitan Institute of TAFE and the Victorian Institute of Forensic Mental Health lie within the parkland.*

Relevant Local Policies

Clause 22.02 (Development Guidelines for sites subject to the Heritage Overlay)

22. The relevant part of this clause is Clause 22.02-5.1 (Demolition), which has the following relevant policy:

- (a) *Generally encourage the retention of a building in a heritage place, unless:*
 - (i) *The building is identified as being not-contributory.*
 - (ii) *The building is identified as a contributory building, and*
 - new evidence has become available to demonstrate that the building does not possess the level of heritage significance attributed to it in the incorporated document, City of Yarra Review of Heritage Areas 2007 Appendix 8 (as updated from time to time) and*
 - the building does not form part of a group of similar buildings.*

Advertising

23. The application was advertised under the provisions of Section 52 of the *Planning and Environment Act (1987)* by 112 letters sent to surrounding owners and occupiers and by two signs displayed on site. Council received 9 objections, the grounds of which are summarised as follows:

- (a) Concerns regarding the demolition of the gazebo structure due to architectural significance of the gazebo structure and its host building.

24. A planning consultation meeting was held on 03 September 2019 and attended by two objectors, the applicant and Council Planning Officers. The applicant did not make any commitments to make changes, therefore the proposal as originally submitted to Council remains the basis of assessment and decision.

Referrals

25. The referral comments are based on the decision plans.

External Referrals

26. The application was not required to be referred externally under the Yarra Planning Scheme.

Internal Referrals

27. The application was referred to the following units within Council:
- (a) Council's Heritage Advisor. Advice was sought from a different advisor to the one who provided advice to the applicant. Further, advice on the shed structure and the gazebo structure were received separately.
28. Referral comments have been included as attachments to this report.

OFFICER ASSESSMENT

29. The primary considerations for this application are as follows:
- (a) Heritage; and
 - (b) Objector concerns.

Heritage

30. Heritage considerations are based upon the decision guidelines of the Heritage Overlay at Clause 43.01-8, which includes (as relevant):
- (a) *The Municipal Planning Strategy and the Planning Policy Framework.*
 - (b) *The significance of the heritage place and whether the proposal will adversely affect the natural or cultural significance of the place.*
 - (c) *Any applicable statement of significance (whether or not specified in the schedule to this overlay), heritage study and any applicable conservation policy*
 - (d) *Whether the demolition, removal or external alteration will adversely affect the significance of the heritage place.*
 - (e) *Whether the proposed works will adversely affect the significance, character or appearance of the heritage place.*
31. Heritage considerations are also based upon local heritage policy at Clause 22.02. The Statement of Significance for Schedule 147 to the Heritage Overlay is also relevant to this assessment.
32. The entire subject site is listed as individually significant to the heritage overlay, which covers Fairfield Park. The Statement of Significance, however, does not stipulate heritage gradings to individual buildings within Fairfield Park. Instead, the Statement provides the following information:
- (a) *Fairfield Park was levelled and fenced in 1912. Mr. Brown of the Heidelberg Shire Parks and Gardens Committee laid out the paths and planting. The Chief Engineer of the Public Works Department designed the rockeries on the hillside facing the river, completed by 1914. 400 trees from the Mt Macedon Nursery were planted, a picket fence built and an iron portal placed at the entry. The park, covering 15 acres, was officially reserved for public purposes at this time*
 - (b) *Fairfield Park is locally significant as a major recreational facility representing early and diverse recreational uses along the Yarra, as well as extensive plantings and landscaping typical of the Edwardian period.*
33. It can thus be extracted that the heritage significance of Fairfield Park relates to its development as a park during the Edwardian-era since 1912. The Statement of Significance also outlines the following as remnant man-made fabric:

- (a) *The water main and associated bridge is prominent within the park. The terracing established by 1914 appears to be largely intact, and has been augmented by a recent amphitheatre complex immediately to the east of the Swimming Clubhouse.*
34. The Statement of Significance does not mention the shed or the gazebo structure associated with the double-storey recreational building which are proposed for demolition by the subject application. Further, the Statement of Significance does not give buildings constructed in the post-war or late 20th century-eras any level of significance. With regards to the gazebo structure, the applicant's heritage advice concurred with this position, stating that the gazebo structure *has no heritage value and can be demolished*. With regards to the shed, Council's heritage advisor estimated that it was constructed in the 1960s/70s and has no heritage value to the wider Fairfield Park precinct.
35. In light of the above considerations, the buildings proposed for demolition are not considered to have any heritage value to the broader Fairfield Park, which is identified as an Edwardian-era recreational area. The buildings to be demolished, whilst covered by a broad, individually significant heritage grading, are not considered to be individually significant or even contributory to the heritage place. For this reason, their demolition is considered to be in accordance with local heritage policy at Clause 22.02-5.1, which allows for the demolition of not-contributory buildings.
36. Furthermore, the demolition of these buildings will not result in any significant interruption to the layout or appearance of Fairfield Park and is therefore considered to be in accordance with local heritage policy at Clause 22.02 which encourages development to respect the pattern and heritage character of the heritage place.
37. During the application process, objector submissions identified that the double-storey recreational building (including the gazebo structure atop) was constructed by Paul Couch, a prominent architect during the late 20th century and as such should not be demolished. As stated by the objector submissions, the gazebo structure, *whose pyramid roof form and tall ventilating 'chimney' makes abstract reference to historic pavilion and rural buildings but without kitsch reproduction of period forms and styles.*
38. This information was provided to Council's Heritage Advisor (i.e. a separate advisor to that who advised the applicant) who agreed that the building has social and architectural significance, and made the following recommendation:
- (a) *that the application to demolish the bbq shelter be refused on the basis that:*
- (i) *In conjunction with the bluestone amphitheatre, the pavilion structure and workshop/change rooms (subject site) have contributory **social significance** to HO147. They are, as defined by the Burra Charter, related objects to the heritage place.*
 - (ii) *New evidence has been produced which demonstrates that the pavilion structure and workshop/change rooms (subject site) have local **architectural significance** in and of themselves.*
 - (iii) *New evidence has been produced which demonstrates that the pavilion structure and workshop/change rooms (subject site) may have state **architectural significance** in and of themselves.*
39. However, this advice cannot be supported as the building is not identified in the Statement of Significance and the gazebo structure is not from the Edwardian-era and therefore does not contribute to the Edwardian heritage context of Fairfield Park. The Statement of Significance to the heritage overlay was last updated in January of 2008, at which time neither the shed or the gazebo structure were identified as being of heritage significance.
40. The demolition of the gazebo structure is in accordance with local heritage policy at Clause 22.02 which allows for the demolition of not-contributory buildings. Whilst the gazebo

structure may have perceived architectural significance, this does not mean that it has heritage significance or heritage protection as provided by the current Yarra Planning Scheme.

Objector Concerns

41. Concerns raised by objectors relate only to the demolition of the gazebo structure. Objector submissions state that the gazebo structure (and the double-storey building below) has architectural significance and should be therefore be retained. This matter has been discussed at paragraphs 37-40.

Conclusion

42. Based on the above report, the proposal is considered to substantially comply with the relevant planning policy and therefore should be supported.

RECOMMENDATION

That having considered all objections and relevant planning policies, the Committee resolves to issue a Notice of Decision to Grant Planning Permit PLN19/0303 for the demolition of a shed, a gazebo structure and associated decking at 3 Fairfield Park Drive, Fairfield, subject to the following conditions:

1. Before the development commences, amended plans to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plans will be endorsed and will then form part of this permit. The plans must be generally in accordance with the decision plans but modified to show:
 - (a) Correct north orientation.
2. The development as shown on the endorsed plans must not be altered (unless the Yarra Planning Scheme specifies that a permit is not required) without the prior written consent of the Responsible Authority.
3. Except with the prior written consent of the Responsible Authority, demolition works must not be carried out:
 - (a) Monday-Friday (excluding public holidays) before 7 am or after 6 pm,;
 - (b) Saturdays and public holidays (other than ANZAC Day, Christmas Day and Good Friday) before 9 am or after 3 pm; or
 - (c) Sundays, ANZAC Day, Christmas Day and Good Friday at any time.
4. This permit will expire if:
 - (a) the development is not commenced within two years of the date of this permit; or
 - (b) the development is not completed within four years of the date of this permit.

The Responsible Authority may extend the periods referred to if a request is made in writing before the permit expires or within six months afterwards for commencement or within twelve months afterwards for completion.

NOTES:

A building permit may be required before development is commenced. Please contact Council's Building Services on 9205 5585 to confirm.

This site is subject to a Heritage Overlay. A planning permit may be required for any external works.

A local law permit (e.g. Asset Protection Permit, Road Occupation Permit) may be required before development is commenced. Please contact Council's Construction Management Branch on Ph. 9205 5585 to confirm.

CONTACT OFFICER: Chris Stathis
TITLE: Senior Statutory Planner
TEL: 9205 5352

Attachments

- 1 PLN19.0303 - 3 Fairfield Park Drive Fairfield - IDAC Attachment - Locality Plan
- 2 PLN19/0303 - 3 Fairfield Park Drive Fairfield - IDAC Attachment - Advertised Plans
- 3 PLN19/0303 - 3 Fairfield Park Drive Fairfield - IDAC Attachment - Heritage Report (Applicant)
- 4 PLN19/0303 - 3 Fairfield Park Drive Fairfield - IDAC Attachment - Letter from Architecture Professor (Objection Submission)
- 5 PLN19/0303 - 3 Fairfield Park Drive Fairfield - IDAC Attachment - Heritage Advice (Council - shed)
- 6 PLN19.0303 - 3 Fairfield Park Drive Fairfield - IDAC Attachment - Heritage Advice (Council - Gazebo Structure)
- 7 PLN19.0303 - 3 Fairfield Park Drive Fairfield - IDAC Attachment - Statement of Significance to the Heritage Overlay