

12 Chief Community Planner reports

12.1 Local Heritage List

Location	Town-wide
Reporting officer	Senior Planning Officer
Responsible officer	Manager Development Services
Voting requirement	Simple majority
Attachments	<ol style="list-style-type: none">1. Heritage List Recommendations [12.1.1 - 16 pages]2. Heritage List FINAL [RFGI] [12.1.2 - 24 pages]3. LPP 43 Heritage List 08 02 22 [12.1.3 - 14 pages]

Recommendation

That Council advertises the draft Local Heritage List at Attachment 2 and the draft Local Planning Policy 43 'Heritage List' at Attachment 3 for a minimum period of 30 days, and in accordance with the requirements of deemed clauses 4 and 8 of the *Planning and Development (Local Planning Schemes) Regulations 2015*.

Purpose

To seek approval to advertise the draft Local Heritage List and draft Local Planning Policy 43 'Heritage List'.

In brief

- At the June 2021 Ordinary Council Meeting, Council endorsed the Town of Victoria Park Local Heritage Survey (LHS) prepared by Stephen Carrick Architects.
- As per the relevant legislation, in addition to a LHS, local governments are required to establish and maintain a Heritage List which identify and include on the list those places of highest cultural significance which are afforded statutory protection.
- As identified in previous reports to Council regarding the Town's current heritage framework and the endorsement of the LHS, the Town does not currently have a Heritage List in operation.
- As part of the scope of works to review the Town's LHS, Stephen Carrick Architects were required to provide a recommendation of places to be included on a subsequent Heritage List which would then be progressed by Council Officers.
- Council is requested to consider the draft Heritage List and associated Local Planning Policy which will then undergo community consultation and review and is likely to be presented to the June 2022 Ordinary Council meeting for final endorsement.

Background

1. Following the introduction of the *Heritage Act 2018* and in addition to the Town's previous Municipal Heritage Inventory being in excess of 20 years old, Council prioritised the review of the Town's Heritage framework and in particular the lack of protection for places with significant cultural heritage value as part of the Town's Corporate Business Plan.

2. Cultural heritage places in Western Australia can be recorded under many different heritage listings. Some of these listings give statutory protection to heritage places (such as those included on the State Heritage List or a Local government Heritage List) and others are such as the Local Heritage Survey just identify local heritage places as a basis for cultural and historic information for the community and local authority.

Local Heritage Survey

3. The *Heritage Act 2018* requires each local government to identify places of cultural heritage significance in an LHS. Part 8, section 104 of the *Heritage Act 2018* states that the purposes of a LHS for a local government include:
 - a) identifying and recording places that are, or may become, of cultural heritage significance in its district and;
 - b) assisting the local government in making and implementing decisions that are in harmony with cultural heritage values; and
 - c) providing a cultural and historical record of places of cultural heritage significance to its district; and
 - d) providing an accessible public record of places of cultural heritage significance to its district; and
 - e) assisting the local government in preparing its heritage list or list of heritage areas under a local planning scheme.
4. As previously identified, the LHS is an important collation and identification of heritage places and is used, among other functions, to inform the preparation of a heritage list. However, the LHS itself has no specific planning or legal weight.
5. The Town engaged Stephen Carrick Architects to review the Town's previous Municipal Heritage Inventory and develop an LHS. The LHS was endorsed by Council at the June 2021 Ordinary Council Meeting.
6. Following adoption of the proposed LHS, Council was advised that the Town would commence the process of preparing a Heritage List, which will be the subject this report.

Heritage List

7. In contrast to the LHS, the Heritage List is an instrument that is afforded powers under the *Planning and Development Act 2005* and therefore carries statutory weight when determining planning outcomes for heritage places.
8. The deemed provisions of the *Planning and Development (Local Planning Schemes) Regulations 2015* (deemed provisions) requires local governments to establish and maintain a Heritage List which identify those places of highest and or most significant cultural significance and are worthy of built heritage conservation (clause 8(1)):

Clause 8 - Heritage List

 - (1) *The local government must establish and maintain a heritage list to identify places within the Scheme area that are of cultural heritage significance and worthy of built heritage conservation.*
9. Including a place on the heritage list gives the place recognition and protection under the local planning scheme. In a practical sense, a place which is included on a local government Heritage List is then afforded statutory protection under the Local Planning Scheme by way of the requirement for development approval to be obtained for works which may otherwise be exempt.

Residential Character Study Area Planning Framework Changes

10. It is important that Council understands and distinguishes the difference between the preparation of the Town's LHS (the subject of the report) and the separate project being undertaken to review the planning framework within the Residential Character Study Area, which includes Amendment 88 to Town Planning Scheme No. 1.
11. The distinction relates to the difference between the issues of heritage and character. This report and project relate to the issue of heritage and the identification of individual properties that have some form of underlying aesthetic, social or cultural significance. Conversely, the Residential Character Study Area project relates to the identification of an area that has identifiable distinctiveness and character, not because of the contribution of any individual building, but rather the collective contribution of all buildings in the area.
12. The Residential Character Study Area proposals underwent advertising for public comments and closed on 18 January 2022 if approved, the planning controls for the Residential Character Study Area will function independently to those for properties on the Heritage List.

Proposal

13. Stephen Carrick Architects have submitted a recommendation of places to be considered for inclusion in the Heritage List, those identified in the LHS being under the following categories:
 - Management Category 1 (Place of Exceptional Significance) - 10 places; and
 - Management Category 2 (Places of Considerable Significance) - 43 places
 - Total Places: 53 places
14. In accordance with deemed clause 8(2)(a) of the Regulations, a Heritage List must set out a description of each place and the reasons as to why the place is on the list. In addition to this, the list includes the physical address for each place, the reference number in the Town's LHS, the management category and link to the places inherit record (State Government heritage database). The draft list is included in Attachment 3 for Council to consider.
15. A draft Local Planning Policy is also proposed as part of the Town's proposed Heritage List to ensure consistency with the Regulations. In addition to this, an LPP ensures that there is a transparent and consistent approach to the places that are included as well as amended on the Town's Heritage List.
16. The objectives of the draft Local Planning Policy to accompany the Heritage List are to:
 - Achieve transparency and consistency in the designation of places on the heritage list
 - provide clear guidance on how objections to a proposed inclusion on the heritage list will be assessed
 - ensure that the heritage list is maintained in a manner and form that is consistent with the local planning scheme
 - provide clear guidance on the criteria for including and excluding a place from the heritage list.

Relevant planning framework

Legislation	<ul style="list-style-type: none"> • <i>Heritage Act 2018</i> • <i>Planning and Development Act 2005</i> • <i>Planning and Development (Local Planning Schemes) Regulations 2015</i> • Town of Victoria Park Town Planning Scheme No. 1
State Government policies, bulletins or guidelines	<p>The preparation of the draft Heritage List has been undertaken in accordance with the recommendation from Stephen Carrick Architects</p> <p>Department of Planning Heritage, Guideline for Establishing a Heritage List, and Lands March 2021</p> <p>Department of Planning, Lands and Heritage, Basic Principles for Local Government Inventories, March 2012.</p> <p>Department of Planning, Lands and Heritage, Local Planning Policies Practice Notes and Examples, March 2012.</p>
Local planning policies	N/A
Other	N/A

Strategic alignment

Civic Leadership	
Strategic outcome	Intended public value outcome or impact
CL02 - A community that is authentically engaged and informed in a timely manner.	Community consultation on the draft Heritage List is planned, as described in this report and will help inform the Council on the decision making process around the Heritage List.
CL10 - Legislative responsibilities are resourced and managed appropriately, diligently, and equitably.	The <i>Planning and Development (Local Planning Schemes) Regulations 2015</i> requires local governments to establish and maintain a Heritage List which identifies places to be protected under the Local Planning Scheme. The Town of Victoria Park does not currently have a Heritage List in operation

Environment	
Strategic outcome	Intended public value outcome or impact
EN01 - Land use planning that puts people first in urban design, allows for different housing options for people with different housing needs and enhances the Town's character.	The development of a Heritage List will provide a level of protection to places as well as empowering owners of heritage buildings in maintaining and preserving the subject places and therefore Town's heritage and character.

Social	
Strategic outcome	Intended public value outcome or impact
S04 - A place where all people have an awareness and appreciation of arts, culture, education and heritage.	The preservation and retention of the Town's built environment is highly valued by the community, as reflected by submissions received as well as consultation that has occurred as part of the review of the LHS. The proposed Heritage List will recognise and provide statutory protection for those places of highest cultural heritage significance.

Engagement

Other engagement	
Stakeholder	Comments
Department of Planning, Lands & Heritage	Feedback and advice were sought from the Department of Planning, Lands and Heritage, Heritage team with respect to developing the draft Heritage List and associated draft Local Planning Policy.

Risk management consideration

Risk impact category	Risk event description	Consequence rating	Likelihood rating	Overall risk level score	Council's risk appetite	Risk treatment option and rationale for actions
Financial	Not Applicable					
Environmental	Not Applicable					
Health and safety	Not Applicable					

Infrastructure/ ICT systems/ utilities	Not Applicable					
Legislative compliance	<p>The <i>Planning and Development (Local Planning Schemes) Regulations 2015</i> requires local governments to establish and maintain a Heritage List which identifies places to be protected under the Local Planning Scheme. The Town of Victoria Park does not currently have a Heritage List in operation.</p>	Moderate	Likely	High	Low	TREAT risk by progressing the the draft Heritage List as recommended.
Reputation	<p>If Council does not progress with the establishment of a Heritage List with recommended places as part of this project then the possible erosion of the Town's Heritage places</p>	Moderate	Likely	High	Low	TREAT risk by progressing the the draft Heritage List as recommended.

	<p>may occur. This may lead to loss of character and identify that is valued by the community and elected members.</p>
Service delivery	Not Applicable

Financial implications

Current budget impact	Sufficient funds exist within the annual budget to address this recommendation.
Future budget impact	N/A

Analysis

17. As discussed, the planning framework allows for special provisions to be applied to places of cultural heritage significance, which can ensure that consideration is given to the cultural heritage significance of the place or area when making a planning decision.
18. Including a place on the heritage list gives the place recognition and protection under the local planning scheme. Including a place in the heritage list does not limit or restrict the ability of the Town to determine a development application in a particular way or prohibit building works or other development from occurring.
19. Rather, it requires the local government to give due regard to the heritage significance of the listed place when determining a related development application. It also means that owners must submit development applications for works that would otherwise be exempt from the requirement for development approval under the Regulations. This includes demolition, applications for internal building works, single dwellings, ancillary buildings, and outbuildings and other external structures.
20. For example, inclusion in the heritage list requires an application for development approval to be submitted for works which may otherwise be exempt from development approval, and in turn enables the Town to consider the merits of the proposal.
21. Including a place on the heritage list may also assist in defending a subsequent appeal to the State Administrative Tribunal for a refused development application or a condition of approval imposed on heritage grounds.

Threshold for Inclusion in the Heritage List

22. The 'Guidelines for Establishing a Heritage List (Department of Planning Lands and Heritage, March 2021)' advise that each local government should determine the threshold of significance that will be applied when considering whether a place should be included in their heritage list.
23. All places in the Town's LHS have been assessed as having cultural heritage significance as part of the preparation of this document. However, the further threshold for inclusion in the heritage list is whether a place is 'worthy of built heritage conservation'. As a minimum the guidelines recommendation is also reflected in the recommendation by the Town's Heritage Consultant that all places in the State Register of Heritage Places, and those identified in the LHS as having Category 1 'Exceptional' or Category 2 'Considerable' significance should be considered worthy of conservation and therefore warrant inclusion in the heritage list.
24. For Council's reference, the number of places per management category within the LHS are as follows:
- Management Category 1 Exceptional Significance – 10 places
 - Management Category 2 Considerable Significance – 43 places
 - Management Category 3 Some/Moderate Significance - 22 places
 - Management Category 4 Little Significance – 3 places.
25. As identified, the recommendation of places to be considered for inclusion in the draft heritage list are as follows:
- Management Category 1 (Place of Exceptional Significance) - 10 places; and
 - Management Category 2 (Places of Considerable Significance) - 43 places
 - Total Places: 53 places.
26. It is acknowledged that the properties recommended for inclusion on the draft heritage list forms a large proportion of the total number of places on the Town's LHS however the proposed approach is consistent with the State Governments guidelines regarding heritage lists and the recommendation from Stephen Carrick Architects. Furthermore, this follows similar approaches taken by other local governments such as the City of Swan who have included category 1 and category 2 places in their lists. Other local governments have taken alternative approaches with respect to inclusion of places in their heritage lists such as City of Albany who have also included places in management category 3 and in the case of the City of Fremantle all places on their LHS, including category 4 (little significance), in order to ensure the statutory protection to all places of cultural heritage significance.

Draft Local Planning Policy – Heritage List

27. The draft Local Planning Policy 'Heritage List' includes the following details around the creation, maintenance and amendment of the heritage list and places included on it:
- Format of the heritage list;
 - Threshold for inclusion in the heritage list;
 - Specifying the requirement for development approval;
 - Changes to the heritage list.
 - Exemptions from development approval for works to a place on the list.
 - Submission of Heritage Impact Statements.
28. An application form for changes to the heritage list is also included detailing: a proposal for entry of place in the heritage list, proposal to modify heritage list information and remove a place from the list.

Consultation

29. Minimum consultation requirements to enter a place on the heritage list are set out in deemed clause 8(3) of the Regulations and include notification to the owner and occupier of each property to be included on the list, and a minimum 21 day submission period. However, given that this is the creation of Town's first heritage list rather than a modification or amendment to an existing one, it is considered appropriate that consultation occur for a minimum period of 30 days.
30. It is recommended that Council resolve to support and advertise the draft Local Heritage List and associated draft Local Planning Policy 43 'Heritage List' for public comments.

Relevant documents

[Town of Victoria Park Local Heritage Survey](#)

[Town of Victoria Park Town Planning Scheme No. 1](#)

[Heritage Act 2018](#)

[Minutes of the Ordinary Council Meeting 16 February 2021](#)

[Minutes of the Ordinary Council Meeting 15 June 2021](#)

Further consideration

31. The following information was requested at the Agenda Briefing Forum held 1 February 2022.
32. Provide information on whether Kensington Bushland should be the Jirdarup Bushland Precinct to ensure the Kensington Bushland, George St Reserve and Kent St Sandpit site are all included.

Response from the Town's heritage consultant - Suggest that this is taken as a new nomination. Further assessment (historical and physical) will be required on these additional places to be included in the proposed precinct place record form. It is recommended that a period of community advertisement/consultation then occur for this place.

33. Provide information on whether there is a reason that 105 Berwick St is not also classified as category 1 same as the Devenish House.

Response from the Town's heritage consultant - We suggest that this place is further researched regarding Robert McMaster and also the plans from the 1990s works to be reviewed to more clearly understand the extent of change. This research would require further historian input.

34. Provide information on why Burswood Canal should be in category 2 and not category 1.

Response from the Town's heritage consultant - Worthy of consideration as a Management Category 1 and next steps will be to consult with the property owners (as part of consultation on the draft Heritage List).

35. Provide information on why Kent St Senior High School should be in category 2 and not category 1.

Response from the Town's heritage consultant - Worthy of consideration as a Management Category 1 and next steps will be to consult with the property owners (as part of consultation on the draft Heritage List).

36. Provide information on the rationale for not including the Victoria Park Hotel and the Balmoral Hotel in the Heritage List as category 2, and whether there is a basis for including one of those hotels in category 2 instead of category 3.

Response from the Town's heritage consultant - Consultation will be required with the property owners (as part of consultation on the draft Heritage List).

Balmoral Hotel = Integrity is High and authenticity is Medium. There is a basis for the management category to be Category 2. Whilst the authenticity is assessed as medium the place does have landmark significance and this should be included in the place record form.

Victoria Park Hotel = Integrity is High and authenticity is Medium. There is a basis for the management category to be Category 2. Strong social and historical significance.

37. Provide information on what the rationale is for not including the Somerset St Pool in the Heritage List as category 2, and whether there is a basis for including it in category 2 instead of category 3.

Response from the Town's heritage consultant - The place has historical and social significance. High degree of integrity (use) but low authenticity (fabric) Our recommendation is that place remains a category 3.

38. There are no car yards identified as in the Local Heritage Survey as having cultural heritage significance, and therefore there are no car yards recommended for inclusion on the Heritage List.

39. The property descriptions for 55 Gloucester Street and 319 Albany Highway have now been amended to 55A Gloucester Street and 319-321 Albany Highway respectively.

40. The definition of 'place' in the draft LPP (Attachment 3) has now been amended to refer to the heritage Act 2018, and the descriptions used in Table 1 have been amended to reflect the same descriptions used in the Local Heritage Survey.

AMENDMENT:

Moved: Mayor Karen Vernon

Seconded: Cr Vicki Potter

Amend the recommendation to read as follows:

That Council:

1. advertises the draft Local Heritage List at Attachment 2 and the draft Local Planning Policy 43 'Heritage List' at Attachment 3 for a minimum period of 30 days, and in accordance with the requirements of deemed clauses 4 and 8 of the *Planning and Development (Local Planning Schemes) Regulations 2015*;
2. requests the Chief Executive Officer to assess the Jirdarup Bushland Precinct as a new nomination for inclusion in the Heritage List;
3. requests the Chief Executive Officer to investigate, as part of the consultation on the draft Heritage List referred to in point 1 above, whether the following properties should be reconsidered for inclusion into the management categories listed below:
 - a. 105 Berwick Street, Victoria Park – Management Category 1;
 - b. Burswood Canal – Management Category 1;
 - c. Kent Street Senior High School – Management Category 1;
 - d. Victoria Park Hotel and Balmoral Hotel – Management Category 2;
 - e. Somerset Street Pool – Management Category 2.

Carried (9 - 0)

For: Mayor Karen Vernon, Deputy Mayor Claire Anderson, Cr Luana Lisandro, Cr Peter Devereux, Cr Jesvin Karimi, Cr Jesse Hamer, Cr Vicki Potter, Cr Wilfred Hendriks and Cr Bronwyn Ife

Against: Nil

Reason:

This amendment reflects the responses from the Town administration found in the Further Consideration section of the agenda report on item 12.1, ensures clear direction that these properties are the focus of the further investigation, and allows for any necessary investigations into the potential re-categorisation of the named properties to occur during the public consultation process. That should assist when the results of the public consultation come back to Council for final decision.

Moved: Mayor Karen Vernon**Seconded:** Cr Jesse Hamer

That Council:

1. advertises the draft Local Heritage List at Attachment 2 and the draft Local Planning Policy 43 'Heritage List' at Attachment 3 for a minimum period of 30 days, and in accordance with the requirements of deemed clauses 4 and 8 of the *Planning and Development (Local Planning Schemes) Regulations 2015*;
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 - a. 105 Berwick Street, Victoria Park – Management Category 1;
 - b. Burswood Canal – Management Category 1;
 - c. Kent Street Senior High School – Management Category 1;
 - d. Victoria Park Hotel and Balmoral Hotel – Management Category 2;
 - e. Somerset Street Pool – Management Category 2.

Carried (9 - 0)**For:** Mayor Karen Vernon, Deputy Mayor Claire Anderson, Cr Luana Lisandro, Cr Peter Devereux, Cr Jesvin Karimi, Cr Jesse Hamer, Cr Vicki Potter, Cr Wilfred Hendriks and Cr Bronwyn Ife**Against:** Nil