Nicola Rooks

From: no-reply@harvestdp.com
Sent: Thursday, 5 August 2021 6:46 PM
To: Nicola Rooks
Subject: C119 Submission Form Form Submission

C119 Submission Form Form Submission

There has been a submission of the form C119 Submission Form through your Shaping Banyule website.

What is your position on the amendment?
I support the amendment

Submissions should clearly state the grounds on which the amendment is supported or opposed and indicate what changes (if any) the submitter wishes to make.
I support the permanent protection of the significant trees listed in amendment C119. I believe the character, heat resilience and ecosystem values of Banyule are enhanced through the protection of large, mature trees, as well as trees of historical, formal and/or local significance.

Name
[redacted]

Email
[redacted]

Postal Address
[redacted]

Phone number

[redacted]

I understand that the information provided will be used in accordance with relevant legislation and declare that this information is correct to the best of my knowledge.

Yes

To view all of this form's submissions, visit https://shaping.banyule.vic.gov.au/index.php/dashboard/reports/forms_new/data/384

This is not SPAM. You are receiving this message because you have submitted feedback or signed up to Shaping Banyule.

Nicola Rooks

From: no-reply@harvestdp.com
Sent: Friday, 6 August 2021 10:52 AM
To: Nicola Rooks
Subject: C119 Submission Form Form Submission

C119 Submission Form Form Submission

There has been a submission of the form C119 Submission Form through your Shaping Banyule website.

What is your position on the amendment?
I support the amendment

Submissions should clearly state the grounds on which the amendment is supported or opposed and indicate what changes (if any) the submitter wishes to make.
It is important that Banyule protect and enhance the natural environment within their council area. This includes protecting significant trees which are important for a range of reasons as presented in the amendment information. Too much key vegitation is removed through developments in the area and so I support Banyule putting greater protection around these significant trees and working to enhance our natural environment in the area more broadly.

Name
[redacted]

Email
[redacted]

Postal Address
[redacted]

Phone number

[redacted]

I understand that the information provided will be used in accordance with relevant legislation and declare that this information is correct to the best of my knowledge.

Yes

To view all of this form's submissions, visit https://shaping.banyule.vic.gov.au/index.php/dashboard/reports/forms_new/data/384

This is not SPAM. You are receiving this message because you have submitted feedback or signed up to Shaping Banyule.

Nicola Rooks

From: no-reply@harvestdp.com
Sent: Wednesday, 11 August 2021 5:27 PM
To: Nicola Rooks
Subject: C119 Submission Form Form Submission

C119 Submission Form Form Submission

There has been a submission of the form C119 Submission Form through your Shaping Banyule website.

What is your position on the amendment?
I support the amendment

Submissions should clearly state the grounds on which the amendment is supported or opposed and indicate what changes (if any) the submitter wishes to make.
I support the amendment as I regard strong protection of significant trees to be important. Banyule continue to loose tree coverage and this needs to be reversed to combat the rising temperatures due to global warming. Banyule needs a lot more trees planted along our roads and in our gardens and parks. I am happy that our large Illawara Flame tree is on the Significant Trees list.

Name
[redacted]

Email
[redacted]

Postal Address
[redacted]

Phone number

[redacted]

To view all of this form's submissions, visit
https://shaping.banyule.vic.gov.au/index.php/dashboard/reports/forms_new/data/384

This is not SPAM. You are receiving this message because you have submitted feedback or signed up to Shaping Banyule.

70 Jolimont Street
Jolimont VIC 3002
GPO Box 1614
Melbourne VIC 3001
t (03) 9280 8200
f (03) 9654 8168
hia.com.au

31 August 2021

Banyule City Council
By email

HIA Objection letter

Amendment C119bany Amendments to Environmental Significance Overlay – Schedule 4 (ESO4)

Thank you for the opportunity to comment on *Amendment C119bany* exhibited via the Department of Environment, Land, Water and Planning (DELWP) website.

Overview

HIA is Australia's peak residential building industry association. HIA members comprise a diversity of residential builders, including all Top 100 builders, all major building industry manufacturers and suppliers as well as developers, small to medium builder members, contractors and consultants to the industry. In total HIA members construct over 85% of the nation's new housing stock.

HIA exists to service the businesses it represents, lobby for the best possible business environment for the building industry and to encourage a responsible and quality driven, affordable residential building and development industry.

HIA submission

We have reviewed the proposed tracked changes to the ESO4 and object to the policy in principle. In particular:

- Where a permit is required under 3.0 to construct a building or carry out works within the critical root zone (calculated as extending for a distance of no less than five metres beyond the drip-line) of any significant tree specified in the table to this clause.

Where buildings and works only avoid a permit that are *"no less than five metres beyond the drip-line"* (i.e. outer edge of canopy) appears to an arbitrary requirement, excessive and without clear justification. We note the ESO4 table 1 updates to include 859 individual sites, which in turn may impose a permit requirement on some adjoining sites.

A single dwelling with associated works that could ordinarily be constructed as of right without a planning permit, may require a planning permit application due to part of the build being within 5 metres of the drip-line of a protected tree. This is an excessive requirement, particularly where works may not be occurring in the structural root zone of the tree.

If any significant trees are likely to be adversely impacted by construction works, an arborist report can determine the impact and appropriate tree protection requirements in accordance with *Australian Standard AS4970: 2009 – Protection of Trees on Development Sites*.

As referenced on the Banyule City Council web site, AS4970: 2009 gives guidance to industry practitioners involved in the management of individual trees and development. Quoted from the publication: "*Successful long term retention of trees on development sites depends on an acceptance and acknowledgment of the constraints and benefits that existing trees generate."*

"This Standard provides guidance on the principles for protecting trees on land subject to development. It follows, in sequence, the stages of development from planning to implementation."

"This Standard aims to assist those concerned with trees in relation to development. Where development is to occur, the Standard provides guidance on how to decide which trees are appropriate for retention, and on the means of protecting those trees during construction work".[1]

Notwithstanding that *"no less than five metres beyond the drip-line"* is written in the existing clause, HIA's view is the clause should be made redundant in favor of a State level policy and/or Planning Provision for "significant" trees with one clear set of principles for all sites providing certainty for industry.

Having reviewed the existing planning controls on a number of properties in the ESO4 table 1, we note multiple properties are also affected by the Vegetation Protection Overlay (VPO), which also has a permit requirement "to remove destroy or lop any native vegetation". Scenarios are possible where a native tree could require a permit to be lopped or removed in the ESO, VPO and Clause 52.17 Native vegetation. This imposes a substantial set of varying application requirements, which is confusing and difficult for applicants.

- The reference to a "tree surgeon or botanist" under part. 4.0 Application requirements

'Tree surgeon' and 'botanist' are not terms commonly referred to in Victorian Planning Schemes. Further information with appropriate justification is sought by industry why these terms and not an Australian Qualifications Framework Level 5 or higher Arborist, which is commonly referred to in Schemes is not referred to.

HIA submits that tree and vegetation policies should not undermine the ultimate goal of Government to plan for the growth of Metropolitan Melbourne to facilitate an estimated 9 million people by 2056[2]. Planning policy should prioritise the supply of diverse and affordable housing in Metropolitan Melbourne with reasonable consideration to minimising tree impact within the Australian Standard for *Protection of Trees on Development Sites*.

HIA further considers it appropriate that tree removal exemptions should be applied to the ESO4 as follows:

- "Remove, destroy or lop any vegetation which is dead or dying to the satisfaction of the responsible authority"
- Ensure that the general exemptions at Clause 62.02-2 (Buildings and works not requiring a permit unless specifically required by the planning scheme) are referred to and consistent for simplicity of interpretation. This ensures that all works that may impact on tree protection are captured under the ESO4 and are clear for the applicant.

HIA will watch with interest the progress of this proposed Planning Scheme Amendment and would welcome the opportunity for further consultation should the matter go before a Council meeting and or a Planning Panel be convened.

Please do not hesitate to contact [redacted] on ([redacted] or [redacted] should you require anything further.

Yours sincerely
HOUSING INDUSTRY ASSOCIATION LIMITED

[redacted]

[redacted]

[1]https://www.banyule.vic.gov.au/files/assets/public/planning/reference-documents/protection-of-trees-on-development-sites.pdf
[2]https://www.planning.vic.gov.au/policy-and-strategy/planning-for-melbourne/plan-melbourne/cooling-greening-melbourne

Nicola Rooks

From: no-reply@harvestdp.com
Sent: Saturday, 4 September 2021 6:51 AM
To: Nicola Rooks
Subject: C119 Form Submission

C119 Form Submission

There has been a submission of the form C119 through your Shaping Banyule website.

What is your position on the amendment?
I do not support the amendment

Submissions should clearly state the grounds on which the amendment is supported or opposed and indicate what changes (if any) the submitter wishes to make.
Hi
I am the owner of [redacted] Banyule code 721 , bunya bunya pine has been listed by you as a significant tree.
I appreciate the history of the tree but I have on numerous occasions over the past 10yrs and again only just recently spoken to council in regards to the danger of this tree on private property.
Each year the tree drops seeds from the height of 25metres into my and our neighbour at 18 brooke street backyard. The seeds can weigh up to 8kg. We have had a couple of occasions where they have almost hit a child. In addition to the seeds the branches break off often and are sharp and heavy and fall from a height like a spear.
Over the past 2 yrs I have now become unable to find an aborist willing to climb and maintain the tree. It has become a danger to have my children play in their own backyard for many months of the year
We have also noticed in the past 12 months the top half of the tree has begun to

lean towards 18 brooke street. The base is in good health but we are concerned as to why the top has begun moving towards 18 brooke street
I appreciate trees of this age and size are of significance but in a suburban backyard it is dangerous.
Please let me know what Is required for my objection to this tree being listed as significant tree
Regards
[redacted]

Name
[redacted]

Email
[redacted]

Postal Address
[redacted]

Phone number
[redacted]

I understand that the information provided will be used in accordance with relevant legislation and declare that this information is correct to the best of my knowledge.
Yes

To view all of this form's submissions, visit
https://shaping.banyule.vic.gov.au/index.php/dashboard/reports/forms_new/data/384

This is not SPAM. You are receiving this message because you have submitted feedback or signed up to Shaping Banyule.

Department of
Premier and Cabinet

1 Treasury Place
Melbourne, Victoria 3002 Australia
Telephone: 03 9651 5111
dpc.vic.gov.au

07 September 2021

Nicola Rooks
Strategic Planner
Banyule City Council
1 Flintoff Street
Greensborough VIC 3088
Australia

Dear Nicola,

Re: Banyule Planning Scheme Amendment C119 – Protection of Significant Trees

Thank you for the invitation to comment on the proposed Planning Scheme Amendment to apply Schedule 4 of the Environmental Significance Overlay (ESO4) on a permanent basis to trees and/or tree groups that have been assessed as significant. First Peoples – State Relations understands that the amendment applies to 97 trees/tree groups across the municipality, including one tree identified as being of Aboriginal cultural heritage significance (tree #703).

Amendment C119 cites tree #703 as being located at 229 Rosanna Road, Rosanna. According to the Victorian Aboriginal Heritage Register (VAHR), there are approximately 30 culturally modified trees within the City of Banyule. All Aboriginal cultural heritage is protected under the Aboriginal Heritage Act 2006, however, we have no record of Aboriginal cultural heritage occurring at 229 Rosanna Road.

It is understood that the methodology undertaken as part of Amendment C119 relied on public submissions which were then independently assessed by a qualified arborist. It is not clear as to whether community consultation extended to engaging with the Registered Aboriginal Party (RAP) for the area, the Wurundjeri Woi Wurrung Cultural Heritage Aboriginal Corporation (WWCHAC). Nor is it clear as to whether the significant tree assessment involved a background study of trees of known Aboriginal cultural heritage significance.

S.148(fd) of the *Aboriginal Heritage Act 2006* (the Act) makes it a function of a RAP to advise on proposed planning scheme amendments that affect Aboriginal cultural heritage. First Peoples – State Relations therefore recommended that prior to adoption of Amendment C119 Banyule City Council undertake consultation with the RAP.

This consultation should include:

- A formal assessment of the tree located at 229 Rosanna Road;
- An assessment of the significance of the tree if it is confirmed as being culturally modified; and
- A broader discussion on the inclusion of Aboriginal cultural heritage within the Banyule Planning Scheme with a focus on previously identified culturally modified trees within the City of Banyule.

If you require any additional information or wish to discuss the above please contact me on the details below.

Yours sincerely,



[redacted]

8 September 2021

Banyule City Council

Strategic Planning

strategicplanning@banyule.vic.gov.au

Re: C119 Protection of Significant Trees

The National Trust of Australia (Victoria) supports Amendment C119 prepared by the Banyule City Council, which proposes to implement permanent protection for 95 trees or tree groups that have been assessed as being significant and are proposed to be added to Banyule's Significant Tree and Vegetation Register.

The National Trust acknowledges that Amendment C119 is consistent with the following objectives under Section 4 of the *Planning and Environment Act 1987*:

> *(b) To provide for the protection of natural and man-made resources and the maintenance of ecological processes and genetic diversity.*
>
> *(d) 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.*
>
> *(g) To balance present and future interests of all Victorians.*

We also recognise that the Amendment supports the National Trust's vision that 'our diverse heritage is protected and respected, contributing to strong, vibrant and prosperous communities.'

We support well considered policies that protect the longevity of Victoria's urban forest, in particular the protection of significant trees on public and private land; the provision of additional canopy cover to mitigate the heat island effect and provide health benefits to the community; the creation of healthier ecosystems with a greater diversity of species; the wise use and reuse of water; the multi-tiered sign off process for tree removals; the recognition that trees contribute economically and socially as well as environmentally to cities and suburbs; and the promotion of community engagement and participation.

We strongly support the statutory protection of trees in the both public and private realms via a Significant Tree Register. This is particularly important given the urban development pressures on the Banyule municipality. While we recognise that trees on public land will not be included in this Register, we would expect that the regulation, planning, and management of trees in the public realm of Banyule is assessed in line with council policies and any proposed Register. Any proposed removals or significant changes to trees on public land should be subject to community consultation, recognising the role of these trees in community and civic life.

The National Trusts of Australia Register of Significant Trees includes over 20,000 trees in 1,200 locations in Victoria (https://trusttrees.org.au/). Currently, there are twenty trees on the Register located in the Banyule municipality (see attached spreadsheet).

We strongly support Amendment C119, which will provide protection for significant individual and groups of trees on private land in the Banyule City Council municipality, recognising the important role of these trees for their cultural, historical, aesthetic and ecological values. The National Trust commends Council for its commitment to protecting and enhancing the landscape quality of the municipality, ensuring that these significant natural assets are preserved and protected for current and future generations.

If you have any questions regarding the above, please contact [redacted], on [redacted], or at [redacted]

Yours faithfully,



[redacted]
[redacted]
National Trust of Australia (Victoria)

Department of Environment, Land, Water & Planning

Our Ref: SP477002
Your Ref: C119

Port Phillip Region
PO Box 137
Heidelberg Victoria 3084
DX211902
Telephone: 136 186
ppr.planning@depi.vic.gov.au

2 September 2021

Nicola Rooks
Strategic
Banyule City Council

Email: nicola.rooks@banyule.vic.gov.au

Dear Ms Rooks

Notice of the preparation of Banyule Planning Scheme Amendment C119

Thank you for your email on 3 August 2021 notifying the Minister for Energy, Environment and Climate Change regarding the preparation of above Planning Scheme Amendment (the amendment) under Section 19(1)(c) of the *Planning and Environment Act 1987*.

The amendment proposes to apply the Schedule 4 to the Environmental Significance Overlay (ESO4) on a permanent basis on several native trees, removes the ESO4 from two properties and updates ESO4 to meet current form and content requirements.

DELWP notes Section 3 of draft ESO4 averts permit requirement "to construct a building or carry out works outside the critical root zone (calculated as extending for a distance of no less than five meters beyond the drip-line) of any significant tree specified in the table to this clause".

Principally, DELWP does not oppose the provision. However, it recommends the section of draft ESO 4 be revised to reflect the Australian Standard *AS 4970 – 2009 Protection of trees on development sites*, which specify Tree Protection Zones as a distance of 12 x Diameter at Breast Height (DBH). This is also consistent with the requirements of the *Guidelines for the removal, destruction or lopping of native vegetation* (DELWP 2017) for assessing the retention of trees.

If you have any queries regarding this matter, please contact me on telephone [redacted] or email to ppr.planning@delwp.vic.gov.au.

Yours Sincerely,

[redacted]

Privacy Statement
Any personal information about you or a third party in your correspondence will be protected under the provisions of the Privacy and Data Protection Act 2000. It will only be used or disclosed to appropriate Ministerial, Statutory Authority, or departmental staff in regard to the purpose for which it was provided, unless required or authorised by law. Enquiries about access to information about you held by the Department should be directed to the Privacy Coordinator, Department of Environment, Land, Water and Planning, PO Box 500, East Melbourne, Victoria 8002

VICTORIA State Government

Nicola Rooks

From: no-reply@harvestdp.com
Sent: Wednesday, 8 September 2021 10:27 PM
To: Nicola Rooks
Subject: C119 Form Submission

C119 Form Submission

There has been a submission of the form C119 through your Shaping Banyule website.

What is your position on the amendment?
I do not support the amendment

Submissions should clearly state the grounds on which the amendment is supported or opposed and indicate what changes (if any) the submitter wishes to make.
The amendment is not supported in regards to the tree located at 2 Somerset Drive, refer to the attached letter for detailed reasons

Please attach any supporting documentation

- C119_-_objection2.docx

Name
[redacted]

Email
[redacted]

Postal Address

[redacted]

Phone number

[redacted]

I understand that the information provided will be used in accordance with relevant legislation and declare that this information is correct to the best of my knowledge.

Yes

To view all of this form's submissions, visit https://shaping.banyule.vic.gov.au/index.php/dashboard/reports/forms_new/data/384

This is not SPAM. You are receiving this message because you have submitted feedback or signed up to Shaping Banyule.

As the owners of a property directly impacted by the tree located at 2 Somerset Drive Viewbank, we do not support the proposed amendment for the following reasons –

- It is not native and is already protected under the Significant Landscape Overlay.
- It poses a safety risk to our adjoining property and has previously caused damage to the foundations of our property.
- It is too large for the block it is located on and unsuitable to be in close proximity to building foundations due to the presence of reactive clay soil (confirmed on our property and potentially other adjoining properties). At some point this will need to be addressed and inclusion on the register will make it considerably more difficult for impacted property owners and future owners of 2 Somerset Drive to take necessary action to protect their properties from damage caused by the tree.
- It has become invasive due to lack of appropriate maintenance and now restricts the use of a large area of our property.
- Size alone is not a valid basis on which to include the tree without giving due consideration to the destructive impact it is having on adjoining property and houses specifically because of its size.

We appreciate the value of trees and native vegetation in a residential environment and this is one of the reasons we purchased our home in Viewbank. However, the tree proposed for inclusion is not native and we disagree that its size is a valid reason to apply further protection when it is already protected under the Significant Landscape Overlay.

The tree has become too large for the small suburban block it is located on and due to lack of appropriate maintenance, now poses a safety risk to our property. The tree drops limbs, has previously caused sub-surface damage to the foundations of our house and the spread of the canopy and root system continues to limit the use of a large area of our property.

The previous owner of 2 Somerset Drive had the tree regularly pruned to ensure it did not pose a safety risk and prevent it encroaching onto adjoining properties, however the tree has not been pruned since the property was sold in early 2009. Since this time and due to the current size of the tree we have been unable to undertake any pruning. The tree now overhangs our property by approximately 10m and is only 2m from the roofline of our house. Inevitably at some point pruning will be necessary to protect the roof of our property.

The size of the tree is particularly problematic because the soil on our property is classified as reactive clay soil. As you may be aware reactive clay soil and root systems of large trees in close proximity to a house cause significant drying out of the soil which in turn affects the foundations of our house.

The Victorian Building Authority publication *Minimising Foundation Movement and Damage* notes the risk of having such large trees in residential environments advising “Most modern allotments with clay-type soils are too small to safely grow large trees without special footings”. We do not have ‘special footings’ on our property (no doubt because the tree was not an issue at the time the property was built in 1973) and therefore the footings of our home are adversely impacted by the effect of the root system on the surrounding soil.

In 2015 extensive damage to the drainage system and foundations of our property was discovered due to invasive roots from the neighbouring tree and drying out of the soil. Rectification works were carried out by our insurer subject to replacement of damaged pipes and installation of a 600mm root barrier at our own expense to slow the incursion of further roots onto our property. Due to the

size of the tree and the impact it has on our property the insurer will no longer cover us for damage caused due to changing soil conditions or root damage.

The tree was only proposed for protection following a dispute with the owners, when problematic overhanging branches were trimmed consistent with Council requirements. To legislate additional protection of a problematic tree because **one** property owner has requested it, without considering the suitability of a tree of that size in such close proximity to houses and the damage and impact it is having on neighbouring properties is not fair.

We query the basis on which Council could prioritise the protection of a non-native tree over the safety and protection of an adjoining property owner's home. Whilst it is reasonable that property owners must consider the impact of future development on surrounding vegetation, due consideration must also be given to the impact a tree is having on existing structures and property, including whether its size renders it no longer suitable and safe for its current environment.

We understand that Council cannot mandate the removal of a tree on private property even where it is causing property damage or a nuisance, however applying additional protections to such trees is certainly not in the public interest and makes it much harder for impacted parties to take necessary action to prevent further damage to their property.

Nicola Rooks

From: no-reply@harvestdp.com
Sent: Thursday, 9 September 2021 2:37 PM
To: Nicola Rooks
Subject: C119 Form Submission

C119 Form Submission

There has been a submission of the form C119 through your Shaping Banyule website.

What is your position on the amendment?
I support the amendment

Submissions should clearly state the grounds on which the amendment is supported or opposed and indicate what changes (if any) the submitter wishes to make.
Warringal Conservation Society supports the Planning Scheme Amendment C119, and our views are set out in the attached document.

Please attach any supporting documentation

- WCS_Submission_for_Planning_Scheme_Amendment_C119.pdf

Name
[redacted]

Email
[redacted]

Postal Address

[redacted]

Phone number

[redacted]

I understand that the information provided will be used in accordance with relevant legislation and declare that this information is correct to the best of my knowledge.

Yes

To view all of this form's submissions, visit https://shaping.banyule.vic.gov.au/index.php/dashboard/reports/forms_new/data/384

This is not SPAM. You are receiving this message because you have submitted feedback or signed up to Shaping Banyule.

Warringal Conservation Society

Submission to Banyule Council
on Planning Scheme Amendment C119 – Protection of Significant Trees
from Warringal Conservation Society

Warringal Conservation Society (WCS) is pleased to endorse Amendment C119.

As Council is aware, WCS has been caring for the environment in the City of Banyule and beyond since 1970. Our goal is to enhance and protect the natural environment to provide habitat for native fauna and flora, and for the community to enjoy.

When WCS created the first Significant Tree Register for the City of Heidelberg in 1982, it was in the hope that it would be a means by which the wider community could nominate more trees and appreciate the beautiful trees that exist in Heidelberg.

WCS was delighted when Banyule Council adopted and enhanced the Significant Tree Register. It was a vindication of the early work of WCS members to highlight the wonderful trees of Banyule. The adoption also demonstrated that Council was committed to protecting our trees, and now this register is part of the Banyule Planning Scheme.

Banyule is renowned for its many reserves and green spaces, which are dominated by trees. As the current custodians of the local environment, we should cherish and protect our trees. and ensure that Banyule's tree canopy is enhanced and not allowed to recede. To this end, we encourage Banyule Council, through the Significant Tree Register and by other means, to arrest a documented decline in the tree canopy:

- **2014:** 2020 Vision estimated Banyule's Canopy to be **30%**
- **2015**: Banyule Urban Forest Strategy estimated it to be **37%**
- **2019**: Living Melbourne: Our Metropolitan Urban Forest estimated it to be **24%**

WCS acknowledges that this Register is not a static document: it is a "living" document, with sadly, some trees lost over time, but more importantly, with more trees being added every year. WCS understands that the Planning Scheme amendment C119 aims to:

- give permanent protection to an additional 96 trees on private land by applying an ESO4 protection, (including 3 nominations from WCS).
- apply permanent controls on 11 trees on public land.
- delete the ESO4 for two trees which have been legally removed.

The Society is grateful for Banyule Council's inspection assessment and recommendation. The continual update of the register is to be encouraged and it is hoped that the register will be accessible to the public in the near future.

Conclusion: **WCS is in favour of the acceptance of Amendment C119**.



[redacted]
Warringal Conservation Society

Nicola Rooks

From: no-reply@harvestdp.com
Sent: Thursday, 9 September 2021 3:35 PM
To: Nicola Rooks
Subject: C119 Form Submission

C119 Form Submission

There has been a submission of the form C119 through your Shaping Banyule website.

What is your position on the amendment?
I support the amendment

Submissions should clearly state the grounds on which the amendment is supported or opposed and indicate what changes (if any) the submitter wishes to make.
I support any moves by council to protect important trees as we are losing so much vegetation every year. The amount of tree loss that I've witnessed since I moved here in 2010 is shocking and very upsetting.
What has happened to 63 Albion Crescent, Greensborough? I thought that block had been protected as planned townhouse were rejected but the current owners have still removed most of the trees.

Name
[redacted]

Email
[redacted]

Postal Address
[redacted]

Phone number

[redacted]

I understand that the information provided will be used in accordance with relevant legislation and declare that this information is correct to the best of my knowledge.

Yes

To view all of this form's submissions, visit https://shaping.banyule.vic.gov.au/index.php/dashboard/reports/forms_new/data/384

This is not SPAM. You are receiving this message because you have submitted feedback or signed up to Shaping Banyule.

Nicola Rooks

From: no-reply@harvestdp.com
Sent: Thursday, 9 September 2021 3:53 PM
To: Nicola Rooks
Subject: C119 Form Submission

C119 Form Submission

There has been a submission of the form C119 through your Shaping Banyule website.

What is your position on the amendment?
I do not support the amendment

Submissions should clearly state the grounds on which the amendment is supported or opposed and indicate what changes (if any) the submitter wishes to make.
Property owners at [redacted] object to the common oak tree (699) on their property being listed as a significant tree under EOS4. Our reasons for this objection are outlined in the attached document.

Please attach any supporting documentation

- Objection_to_EOS4__696_tree__97_Hawdon_St_9_Sept_2021.pdf

Name
[redacted]

Email
[redacted]

Postal Address

[redacted]

Phone number

[redacted]

I understand that the information provided will be used in accordance with relevant legislation and declare that this information is correct to the best of my knowledge.

Yes

To view all of this form's submissions, visit https://shaping.banyule.vic.gov.au/index.php/dashboard/reports/forms_new/data/384

This is not SPAM. You are receiving this message because you have submitted feedback or signed up to Shaping Banyule.

Email to: Nicola Rooks, Strategic Planner, Banyule Council
strategic.planning@banyule.vic.gov.au

From: [redacted]

Date: 9 September 2021

Re: Objection to Amendment C119 - listing the common oak tree 696 at 97 Hawdon St, Heidelberg as a Significant Tree under EOS4

Owners of the units at 97 Hawdon Street have been endeavouring to sell the block of land at 97 Hawdon Street for development for several years, replacing the existing old four units that currently accommodate 8-10 residents with up to 35 new apartments over four levels with a potential to accommodate up to 80 residents in the City of Banyule. We have had positive discussions in this regard with [redacted] Manager of Planning & Building at Council and a councillor.

We see this as a higher priority, taking into account Banyule's commitment to Heidelberg being a Major Activity Centre, providing greater housing opportunities for residents near train stations, rather than protecting a single tree and thus placing a major obstacle to any potential future development of this site.

To not allow development of the block due to the tree is inconsistent with the planning overlay that seeks to prevent properties becoming fragmented and non-uniform in their character. Potentially 97 Hawdon St could be the only undeveloped block in a residential growth zone with approval of up to four stories for surrounding properties.

At the time the temporary protection order was put in place the property was on the market for sale as a development site. To permanently protect the tree would permanently deprive all owners from realising the financial benefit of the sale of the property versus the significantly reduced financial gain of selling old units individually.

The reasons for not wanting this tree to not be protected by EOS4 as a Significant Tree are as follows. We hope Banyule Council will support our objection which we feel is based on several reasonable considerations, which include the following, which we elaborate on in the following pages:

- Excessive plumbing bills incurred to detect root invasions to the underground pipes and undertake the necessary plumbing works. Multiple call outs to plumbers since 2017 resulted in costly plumbing bills.
- Currently roots are visible under the rear building around the hot water units and presently appear to be causing a slow leak.
- owners have previously expressed this concern to council and formally requested permission to remove the tree for these reasons. This application was denied.
- It is a matter of time before the tree causes more damage and costly repairs to all owners. There are no reasonable steps owners can take or other measures to prevent such damage.

1. Future planned development of the site





97 Hawdon St was listed on the market for development in 2021

- the existing buildings are old and unattractive and do not warrant spending large amounts of money to renovate or beautify them. Listing this tree as a significant tree will result in the existing old building continuing for many years and falling into further states of disrepair.
- we want to replace the old buildings currently on the land with more attractive modern buildings, offering the Hawdon Street streetscape a much more attractive frontage.
- the property is in close walking proximity to Burgundy Street shopping strip, Heidelberg train station and the hospital/medical precinct, so we are keen to encourage more residents to live in this area.
- At present the tree poses a major obstacle for any future development and at this critical time when we are in discussions with potential developers, having the tree listed as a ‘significant tree’ under EOS4 would greatly deter potential developers from taking on any project to develop the land.
- also bear in the mind that the tree is largely hidden from the street by the front building, so it is not a tree that the community is able to fully enjoy and appreciate from the street.

2. Future building works to existing buildings will become a major obstacle



Under ESO4 a planning permit will be required simply to carry out ongoing building works as the buildings falls within 5 metres of the drip line of tree. This would make it extremely onerous for the Owners Corporation to undertake standard maintenance as the tree already impacts so close to the existing buildings.

As can be seen here, the tree's branches already reach the roofline, making repairs to roofs, gutters and downpipes difficult under EOS4 without a planning permit. We think this would be unfair for the owners to have to undertake planning permits each time any maintenance is required such as replacing roofing, eaves, gutters or downpipes

If this tree was listed as significant under EOS4, these works would become a major obstacle and would simply result in the buildings going into further states of disrepair in the future.

Being forced to undertake a planning permit simply to undertake urgent plumbing works that might be required and which are highly likely to occur in the future, would be unrealistic and extremely onerous for the owners. To have to wait each time for Council planning approval whilst the property was being further damaged, as can be seen by the toilet flooding caused by the tree's roots below would be most unfair for the owners.

3. Tree has already caused substantial damage to existing water and sewerage pipes



In the past few years, the tree's roots have causes severe damage impacting on the owners and residents. This is bound to continue and has been a factor in convincing the owners that the property would be best sold for development in the future:

The tree has caused the following damage:

- large invasive roots of this tree have blocked toilets and sewerage pipes.
- Resulting in significant unhygienic flooding of resident's toilets in bathrooms.



Tree roots have destroyed and broken communal water and sewerage pipes



- Flooded toilets have needed to be removed resulting in the need to dig up the property in order to unblock the sewerage pipes connected to these toilets.





- Extensive plumbing works have incurred excessive plumbing bills in order to detect root invasions to the underground pipes and undertake the necessary plumbing works to unblock these pipes. Multiple call outs to plumbers in 2017 & 2018 resulted in hefty costly plumbing bills.



- Further blockages from the tree's large roots is anticipated in the future. Access pits to underground pipes have been installed. However, there is no guarantee that a future blockage will occur in the same location, necessitating further CCTV pipe inspections and digging up of other areas throughout the property, resulting in greater plumbing expenses as a result of this tree.



- **PLEASE NOTE - if this tree is designated a significant tree, the owners may be placed in the position of having to claim compensation against the Council for any future damage caused by this tree whilst waiting for planning approval to undertake any urgent work that is required.**



Some may view this tree as attractive, although it is only really seen by residents in the rear units as the front unit obscures the tree from the rest of the street. We would argue that its impact on the immediate landscape is negligible, as not many people would view it on a daily basis. For much of the year the tree looks scraggly without its leaves, and it might not even last a long time as it is already quite old.

As outlined above, the tree has now become a major problem for all the owners due to the plumbing issues mentioned above. The large invasive roots of this oak tree on the property at 97 Hawdon St, Heidelberg now pose a major concern for all the owners.

On top of that, the tree continues to attract many possums which have gotten into the building's roofs, causing further damage and costs to the owners for repairs as well as possum removalist callouts. The tree is also a fire hazard as it is very close to the buildings. Furthermore, the 5-metre limit applies, as its drip line now falls over both buildings, meaning the owners will not be able to do any work on their properties without councils' permission for a planning permit. This is untenable if urgent work is required immediately (i.e., a roof came off in a storm or a tree branch broke through one of the roofs).

We hope the Council will view our objections favourably and not list this tree as a Significant Tree thus limiting the owners from pursuing a future development site sale. Due to the many problems and costs the owners have already encountered by this tree, we hope that the Council will allow for its safe removal in the future. If this is not the case, then the whole site will simply go further into disrepair, as the owners will not want to spend too much money on maintaining the existing aged buildings or site in its present condition, especially if it is planned to be sold for development.

By Banyule Council placing EOS4 Significant Tree status on this tree, that will make it harder for the site to be developed and place an unnecessary burden on the owners who ultimately want to sell the site to a developer. We think the Council should be encouraging the kind of good development that our site can offer as it is very close to Heidelberg shops and train station, rather than placing an obstacle towards improving this site for the whole Heidelberg community through offering more living opportunities to future Heidelberg residents.

REASON FOR SIGNIFICANCE	CRITERIA
Landscape	A tree or group of trees with outstanding aesthetic value or which frame or screen views, or act as a landmark.
Size	Any tree of outstanding size in height, girth or canopy spread.
Age	Any tree of an age that makes it old or venerable for its species variant.
Botanical	A tree which is rarely found in the wild or in cultivation.
Horticultural	Any tree which is of outstanding horticultural or genetic value, and which could be an important stock for future propagation.
Historic	Any tree with a specific historic or commemorative association.
Form	Any tree with an outstanding, unusual, abnormal or curious growth form.
Remnant	Trees which survive from the pre-European era.
Habitat	A tree or group of trees with outstanding value as habitat or niche for native flora and fauna.
Aboriginal	A tree which has associations with aboriginal culture or heritage.

Tree 696 was only classified on 3 out of 10 reasons for significance. We agree the tree is old and large, but we do not consider it to have an 'outstanding aesthetic value'. As our photo on page 7 above shows, the tree looks very scraggly for much of the year without its leaves and this is the view we see from our units.

As this tree is a common oak and can be found commonly throughout Heidelberg's streets and parks, and as it failed to be listed under 7 out of the other 10 categories, we consider we have a case for this tree not to be registered as being significant.

Finally, we object to the overall condition and health status of this tree as being 'excellent' – as the tree has fungus and has been diseased in the past.

Significant Trees and Vegetation of the City of Banyule

Banyule Code	696
Botanical Name	Quercus robur
Common Name	Common or English Oak
Location	97 Hawdon St
Suburb	HEIDELBERG

Significance

Significance Level	Local			Significance Statement
Landscape	Yes	Historic	No	This tree is significant for its size and age as well as impact on immediate landscape. It is significant at the Local level.
Size	Yes	Form	No	
Age	Yes	Remnant	No	
Botanical	No	Habitat	No	
Horticulture	No	Aboriginal	No	

Details

No Of Trees	1
Estimated Age	110
Height(M)	20
Spread(M)	20
Circumference(M)	3.04
Overall Condition	Excellent
Health	Excellent
Form	Excellent
Structure	Excellent
Public Ownership	No



15/09/2020

Signed electronically by [redacted] *on 9 September 2021*









Nicola Rooks

From: [redacted]
Sent: Thursday, 9 September 2021 3:59 PM
To: Strategic Planning
Subject: Formal Submission To Amendment C119
Attachments: Submission To Amendemnt C119_Golden Elm 2 Somerset Drive Viewbank.pdf

Dear Nicola,

Please find attached submission to Amendment C119 opposing the amendment. Please advise if you require any further information.

Regards [redacted]

[redacted]

Nicola Rooks
Strategic Planner
Banyule City Council
PO Box 94
Greensborough VIC 3088
strategic.planning@banyule.vic.gov.au

Dear Nicola,

We are writing regarding Planning Scheme Amendment C119 – Exhibition of Permanent Tree Protection Controls, with specific reference to:

Banyule Code	423
Botanical Name	Ulmus glabra 'Lutescens'
Common Name	Golden Elm
Location	2 Somerset Drive
Suburb	Viewbank

As you aware the Golden Elm has been identified as significant for its size and for its aesthetic contribution to the immediate and local landscape.

Unfortunately, it is the size of the tree that is the cause for concern and the primary reason for our submission to object to Amendment C119. The tree has a significant root system that has made its way to our property causing damage to our sewerage pipes resulting in the sewerage spew up into our backyard. The root intrusion also threatens to impact the easement along our fence line. We are concerned that in time we will be faced with similar issues impacting the foundations of our house as it has our neighbour and at quite an expense to rectify.

The crown of the tree is not as per the image supplied as it now hangs well over our fence line thus encroaching upon our private land – please refer to images enclosed. This is due to the lack of maintenance and care taken by the owners of 2 Somerset Drive to responsibly preserve a tree of that size and form. It therefore also provides little to no aesthetic contribution to the immediate and local landscape but is rather an eyesore and a danger to anyone in our back yard.

The size has also resulted in limiting our options for insurance coverage as several insurance companies denied our application because of the tree, citing the size and lack of maintenance as the reason why. Other insurance companies would insure us although at a premium price and if the tree was maintained to a maximum height of 10 metres and width of 12 metres. Any greater than that was considered too big and a significant risk to property and persons for an average sized housing block.

Whilst we appreciate the value that trees contribute to the diversity and health of our landscape and environment, we also believe that their presence should be balanced between their value and the rights of those on adjoining properties. We should be able to enjoy our property without being negatively impacted financially nor should we be concerned about the health and safety of our family and those visiting. We should not be restricted in the use of our property due to overhang and poor maintenance.

Finally, as the tree is not native to Australia, nor does it hold any historic, form, habitat, botanical, or Aboriginal significance, we do not believe it's landscape and size significance are worthy of protection controls. If anything, the amendment could expose the tree to greater neglect by providing protection for the owners to fail to undertake the appropriate care and maintenance.

We appreciate the opportunity for public consultation and respectfully request that the proposal for the Golden Elm at 2 Somerset Drive to be protected on a permanent basis is rejected.

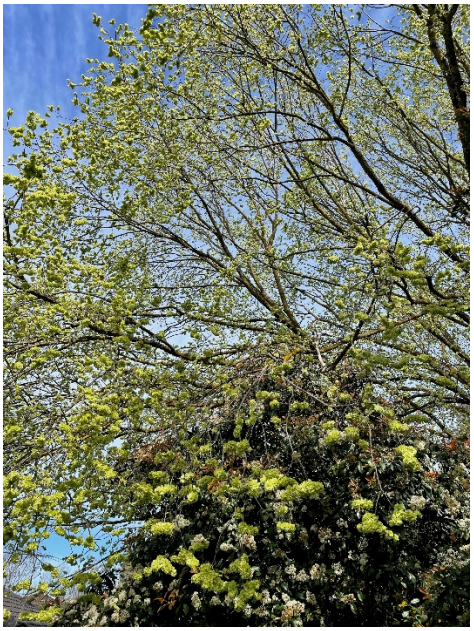
Regards,

[redacted]

[redacted]

Encl – Photos



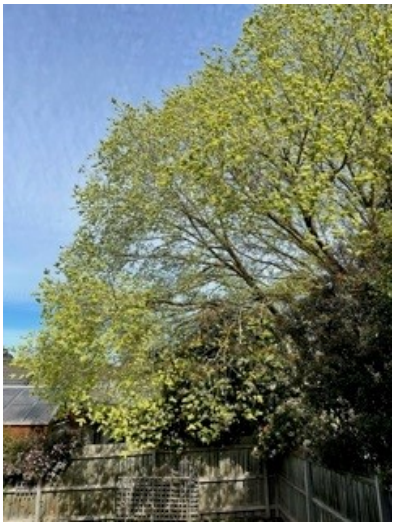


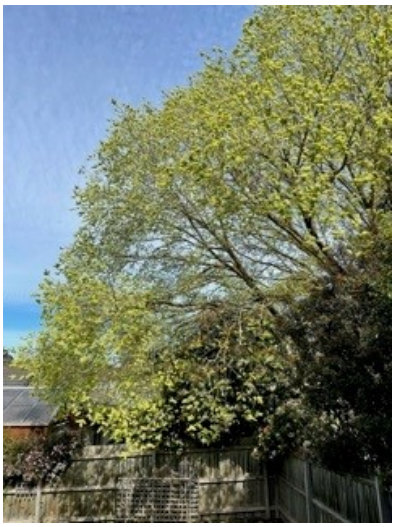


















Nicola Rooks

From: [redacted]
Sent: Friday, 8 October 2021 3:18 PM
To: Strategic Planning
Subject: Amendment C119

Subject: Amendment C119

Re Amendment C119
Strategic Planning.

I do not support the amendment C119 changes as is, because:
-The varied changes to the document SHEDULE 4 to CLAUSE 42.01 ESO are not ALL enhancing protection for our significant vegetation.

Reasons:
Putting a 25 page table between point 3 and 4 of schedule 4 to clause 42.01 is not user friendly for the public, who may not realise that 'Application Requirements' and 'Decision Guidelines' are on page 27 of the document.

I don't agree with the removal of the last sentence in the first paragraph in the Statement of Environmental Significance.

Removing the reference to the BBC Significant Trees Register and National Trusts Significant Tree Register, weakens this statement.
I think this sentence needs to be updated not removed.
The sentence could begin with 'Many', instead of 'All.
Naming the two Registers adds weight, alerts the public to the existence of the registers, and the possibility of adding to them.
This is in the public interest.
I therefore think these references(updated) need to be retained throughout the schedule, strengthening the intention for protection of significant vegetation.

The National Trusts Tree Register is:

trusttrees.org.au

The BCC should identify trees on the Significant/Vegetation Tree Register that are also on the National Trust Tree Register, by an asterisk or some other form in the table/list,

as this is important for the public to know, it imparts knowledge to the public as well as to decision makers. It encourages further protection of our significant vegetation.

The National Trust notifies the council when a tree is listed.

The National Trusts of Australia is a body committed to celebrating, promoting and protecting our natural heritage.

I think removal of the reference to the NTT Register and the BCC Significant Tree/Vegetation Register, appears to weaken rather than enhance protection for our significant vegetation in this schedule.

Also in the sentence under 'Permit Requirements not required':
'The pruning of vegetation to maintain its health or appearance',
could be changed to 'The minimum amount of pruning of vegetation to maintain its health or appearance', to encourage
care and respect for vegetation on the register.

Sincerely,

[redacted]