

PANEL HEARING SUBMISSION

MOONEE VALLEY PLANNING SCHEME

AMENDMENT C200moon

SUBMISSION ON BEHALF OF

Submitter 108

With respect to the property at 57 Vanberg Road, Essendon

**PANEL HEARING DATES 9th to 11th, 13th to 18th, 20th to 23rd
November 2020**

PLANNING PANELS VICTORIA

1 SPRING STREET, MELBOURNE

TABLE OF CONTENTS

1.	NAME AND EXPERIENCE	3
2.	QUALIFICATIONS AND AFFILIATIONS	3
3.	RELEVANT EXPERIENCE.....	3
4.	INVESTIGATIONS AND RESEARCH	3
5.	INTRODUCTION.....	4
6.	THE SITE	4
7.	INSTRUCTIONS	5
8.	CURRENT PLANNING CONTROLS	5
9	SUBMISSION	6
10.	SUMMARY OF OPINION.....	10
11	DECLARATION	10
12.	CONCLUSION	11

FIGURES

Figure 1 - Certificate of Title Vol 189 Fol 032

Figure 2 - Lot 76 House Site Plan

Figure 3 - Tree Response letter 2/11/2020

Peyton Waite

Town Planners, Land Surveyors

Location: Level 1, 240 Lower Heidelberg Road, East Ivanhoe, 3079

Post: PO Box 2245, East Ivanhoe VIC 3079

Phone: 03 9478 4933

Mob: 0407 557 786

E: martyn.thompson@peytonwaite.com.au

W: www.peytonwaite.com.au

1. Name and Experience

My name is Martyn Keith Thompson. I am a director of Peyton Waite Pty Ltd (Land Surveyors and Town Planners) and I practice as a Consulting Town Planner.

Peyton Waite is located at Level 1, 240 Lower Heidelberg Road, East Ivanhoe.

My experience has been essentially within the traditional area of Statutory and Strategic Planning in both local government and private practice since commencing in mid 1987.

1987 – 1994 – Town Planner at Melton Shire Council completing Statutory and Strategic planning role as well as Subdivision and Enforcement duties as required

1994 – 2000 – Senior Town Planning Consultant with Taylors (Surveyors, Engineers and Town Planners) working on a range developments including subdivisions in a range of sizes from small lot developments through to broad acre developments for private and government clients

2000 - Present Day – Consultant Town Planner with Peyton Waite Pty Ltd, responsible for all town planning matters for the firm

2. Qualifications and Affiliations

My educational qualifications and professional associations are as follows:

- Bachelor of Arts Urban Studies (FIT 1988)
- Graduate Diploma Urban Planning (VUT 1991)
- Registered Planner Planning institute of Australia
- Member of the Victorian Planning and Environmental Law Association

3. Relevant Experience

I am a Director of Peyton Waite and I have substantial experience and expertise in statutory town planning matters and particularly in the areas of planning assessment and a variety of subdivision applications of a residential, commercial industrial and rural nature. I have been involved in the assessment and preparation of a range of subdivision applications ranging from small lot subdivisions through to greenfield applications.

4. Investigations & Research

As part of the preparation for this evidence statement, I have:

- Inspected the site and surrounds.
- Considered the provisions of the Moonee Valley Planning Scheme
- Considered the Moonee Valley Garden Suburban 5 Character Statement

- Considered the Heritage Report prepared by Mr John Briggs
- Considered the Arborist Advice from Lachlan Williams Tree Response
- Considered the Heritage Council Guidelines for Subdivision and Consolidation
- Reviewed the following relevant documents:
 - Considered the Subdivision concept prepared by JB Architects
 - Historic Certificates of Title applicable to the Subject Site and adjoining land

5. Introduction

5.1 This submission is prepared at the request of Submitter 108 with respect to the property at 57 Vanberg Road, Essendon and the recommendation to be permanently included into the Heritage Overlay by reference HO 509.

5.2 As part of Amendment C200moon it is intended to impose the Heritage Overlay HO509 permanently onto the property at 57 Vanberg Road incorporating the house known as “The Pines” (former Tower House) and with reference to specific vegetation identified around the premises. The heritage citation is proposed on this site in isolation and includes vegetation controls specifically relating to the Norfolk Pine and the Monterey Cypress, but also inadvertently includes the Peppercorn (*Schinus mole*), in the North-East corner of the site

6. The Site

6.1 ‘The Pines’ (Former Tower House) is a single storey, double fronted Federation/Italianate dwelling constructed in the 1880’s and extended and renovated from that time. The dwelling today sits on a site 2002m² in area located on the North-West corner of Vanberg Road and Lawson Street, Essendon. The property has a frontage of 39.62metres to Vanberg Road and an abuttal being 56.39metres to Lawson Street,

6.2 The Certificate of Title for the subject site today is described as Consolidation Plan CP 156504. The Certificate of Title was created in 1983

and is the consolidation of the original Lot 76, the adjacent Lot 77 and part of Lot 75 from the original Plan of Subdivision Number 1291 as shown in Figure 1

7. Instructions

7.1 I received instructions verbally to investigate the statutory town planning controls that apply to the subject site currently, notwithstanding the proposed heritage overlay under consideration for the site.

7.2 My investigations were required to determine the likely parameters and constraints applicable to the potential further development (specifically subdivision), of the site under the current Moonee Valley Planning Scheme controls applicable and the likely adverse impact the heritage overlay (if applied) to the whole of the site would have on the sites future development potential.

8. Current Planning Controls

8.1 The subject land is zoned General Residential 1 Zone and has an Environmental Significance Overlay (Schedule 2) for a twelve (12) metre radius around the environs of the Peppercorn Tree (*Schinus mole*) located in the sites North-East corner adjacent to Lawson Street. The property also holds the interim Heritage Overlay HO509.

8.2 As an observation, the property and wider locality also falls also under the influence of the Area of Aboriginal Cultural Heritage Sensitivity by virtue of the localities proximity to the Moonee Ponds Creek.

8.3 Under Clause 32.08-3 of the Moonee Valley Planning Scheme, a planning permit is required for the subdivision of the land. The Heritage Overlay also triggers a planning permit for subdivision under Clause 43.01-1. The Environmental Significance Overlay (Schedule 2) does not require a permit for subdivision.

8.4 Under the provisions of the General Residential Zone the purposes are as follows:

- *To implement the Municipal Planning Strategy and the Planning Policy Framework.*
- *To encourage development that respects the neighbourhood character of the area.*
- *To encourage a diversity of housing types and housing growth particularly in locations offering good access to services and transport. To allow educational, recreational, religious, community and a limited range of other non-residential uses to serve local community needs in appropriate locations.*

8.5 The purposes of the Heritage Overlay are as follows:

- *To implement the Municipal Planning Strategy and the Planning Policy Framework.*
- *To conserve and enhance heritage places of natural or cultural significance.*
- *To conserve and enhance those elements which contribute to the significance of heritage places.*
- *To ensure that development does not adversely affect the significance of heritage places.*
- *To conserve specifically identified heritage places by allowing a use that would otherwise be prohibited if this will demonstrably assist with the conservation of the significance of the heritage place.*

9. Submission

9.1 The subject site has a General Residential 1 Zoning over it and beyond the Environmental Significance Overlay (Schedule 2) that applies to the tree in the North-East corner of the site, the land is not impacted by other development controls, not withstanding the interim and proposed permanent Heritage Overlay.

9.2 The Heritage Overlay is to be imposed on the basis of the dwellings architectural merit, its significance in local history, combined with the landscape setting that the dwelling has enjoyed since construction in the late 1880's

9.3 A concept subdivision has been prepared for the site by JB Architects and it is this subdivision design that I have been asked to comment on from a town planning perspective and how the imposition of the Heritage Overlay may impact the development potential of the site.

9.4 The subdivision as proposed has identified the land to the North and West of the dwelling as having the potential to accommodate a dwelling. At 392.5m² (North) and 479.9m² (West) respectively, neither is considered a potential medium density housing site

9.5 There are currently no local planning policies associated with subdivision within the Moonee Valley Planning Scheme.

9.10 The Heritage Council Guidelines for Subdivision and Consolidation state the following objectives for Subdivision:

- *To ensure that the subdivision or consolidation **complements and supports the significance** of the Heritage Place*
- *To ensure that an **appropriate setting and context** for the Heritage Place is maintained or enhanced*
- *To ensure that development that might result from a subdivision or consolidation **does not adversely affect the significance, character or appearance of the Heritage Place***
(Bold my emphasis)

9.11 The rationale to the guidelines goes on to state (in part):

“The significance of a Heritage Place sometimes relies on it being seen in its original setting and context, with all the related elements such as gardens, outbuildings, fences, paths or interrelated buildings. Consequently, in some cases, if a part of a Heritage Place is isolated from its setting, its significance may be diminished or even lost.

The Cultural Heritage Significance of a Heritage Place may also be derived from its visual prominence, and in such cases the setting and views to the Heritage Place are of particular importance.”
(Bold my emphasis)

9.12 The consideration in this instance is, *how much of The Pines existing setting could be reasonably lost to development and still maintain the setting and context of the dwelling from a heritage perspective?*

9.13 The matters for consideration within the guidelines state the following:

. the location of any new lot boundary includes all Contributory Elements of the Heritage Place on the one title, and utilises significant original boundaries where appropriate;

The dwelling was constructed on Lot 76 and its siting at that time recognised and respected the boundaries of that lot as shown in Figure 2. Notwithstanding the original intention to construct this dwelling to accord with the boundaries of that lot at that time, the dwelling has historically enjoyed a greater space by virtue of the adjacent lots remaining in the same ownership for decades after the construction of the estate and the creation of these lots.

To respect this space, the concept subdivision has been designed to ensure a generous space to the Western side of 'The Pines' to accommodate the identified Norfolk Pine, but still provide a lot suitable to accommodate a detached dwelling utilising the indicative 10metre x 15metre building footprint and a frontage setback in the order of Eight (8) metres which is typical in the street. The Pines itself enjoys a fifteen (15) metre setback to Vanberg Road

• the proposal respects the patterns and proportions of lots in the immediate area;

The concept subdivision suggests rectangular lots that are respectful of the subdivision pattern of the wider area. The lots proposed have the capacity to each accommodate a dwelling utilising setbacks that would ensure any development would be recessive in the streetscape and the visual context of 57 Vanberg Road from either street perspective.

• buildings (including fences) that might result from the subdivision or consolidation will relate to the rhythm and spacing of buildings in the streetscape;

The lots as proposed within the concept subdivision can both provide substantial street setbacks to ensure any proposed dwellings are recessive in the streetscape from both Vanberg Road and Lawson Street. Further to this, the Garden Suburban 5 Character Statement for this location sets out the key characteristics for development in this area, which recognises the following as issues or threats for the character of the area:

- Loss of mature trees and vegetation
- Loss of garden space around dwellings
- High. Solid front fencing that restricts views
- Inconsistent setbacks
- Development that breaks the general rhythm of built form
- Garages, carports and crossovers that dominate frontages

• the visual setting of, and any interrelationship between, the Contributory Elements on the site or at an adjoining Heritage Place will be retained;

The proposed heritage overlay seeks to retain a suitable space around the dwelling and to accommodate identified vegetation that is deemed to form part of the dwelling heritage significance. The subdivision proposed has recognised and protects these elements on site

• there are any historically important views; and

The important views in this instance are the views from the South and South-East towards the dwelling itself. The dwelling has been constructed overtime to present its façade in these directions and the original Lot 76 it is noted was larger than the adjacent lots, most likely to accommodate a more prominent building in this location.

• there are any associations or historical links that are essential in maintaining the significance and understanding of the place.

The historical associations The Pines has with the local area has been documented in the Statement of Significance prepared for the property.

10 Summary of Opinion

10.1 The property has been held in various land parcels since the dwelling was initially constructed

10.2 The siting of the dwelling itself confirms the original intention to respect the property boundaries imposed by the original subdivision and Lot 76 specifically

10.3 The two (2) areas specified in the subdivision adjacent to “The Pines” have the capacity to be further developed without adversely impacting the integrity of the heritage and architectural significance of The Pines (Former Tower House) itself

10.4 The merit of the Norfolk Pine for inclusion into the heritage overlay is unclear beyond the view that it is an established tree and helps to form part of the environs of the dwelling today

10.5 The imposition of the heritage overlay to the rear of the dwelling is unnecessary as it does not protect any relevant element of the house or garden

10.6 The large Peppercorn Tree on site is protected by the Environmental Significance Overlay and does not require a Heritage Overlay

11. Declaration

I have made all the inquiries that I believe are desirable and appropriate and no matters of significance which I regard as relevant have to my knowledge been withheld from the Panel.’

12. Conclusion

Based on the above considerations, I am of the opinion that:

- The imposition of the Heritage Overlay HO509 is appropriate for the protection of the Pines and its immediate environs
- The site has the capacity to be subdivided along the lines of the concept plan of subdivision prepared by JB Architects and still retain the historical context and garden setting of The Pines
- The imposition of the heritage overlay to the rear and West of the dwelling is unnecessary as it does not protect any relevant element of the house or its environs

In giving my evidence, I confirm I:

- *will be alone in the room from which I am giving evidence and will not make or receive any communication with another person while giving my evidence except with the express leave of the Panel;*
- *I will inform the Panel immediately should another person enter the room from which I am giving evidence;*
- *during breaks in evidence, when under cross-examination, I will not discuss my evidence with any other person, except with the leave of the Panel; and*
- *I will not have before me any document, other than my expert witness statement and documents referred to therein, or any other document which the Panel expressly permits me to view.*

MARTYN THOMPSON TOWN PLANNER
BA (Urban Studies), Grad Dip (Urban Planning), RPIA

PEYTON WAITE PTY LTD

LAND SURVEYORS TOWN PLANNERS

Certified Quality Management System – ISO 9001: 2019
Member of the Association of Consulting Surveyors Australia
Member of the Planning Institute of Australia



Cancelled

Entered in the Register Book

Vol. 1891 Fol. 378032



VICTORIA.

Certificate of Title,

UNDER THE "TRANSFER OF LAND STATUTE."

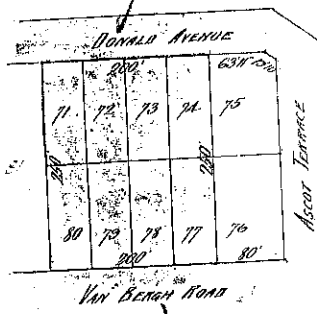
*Mary Penglase of Victoria Street Hobart the Wife of Walter Penglase
of the same place since is*

*now the proprietor of an Estate in Fee-simple, subject to the Encumbrances
notified hereunder in All that piece of Land, delineated and colored
red on the Map in the margin, containing one acre twenty three perches and
six tenths of a perch or thereabouts being lots seventy one, seventy two, seventy three,
seventy four, seventy seven, seventy eight, seventy nine and eighty on plan of sub-
-division Number 1291 lodged in the Office of Titles and being part of Crown
allotment one section five Parish of South Galla County of Bourke together with
a right of carriage way over the roads delineated and colored brown in the
said map*

*Dated the fourteenth day of February One thousand
eight hundred and eighty-seven*

[Signature]
[Seal of the Registrar of Titles]

Assistant Registrar of Titles.
ENCUMBRANCES REFERRED TO.

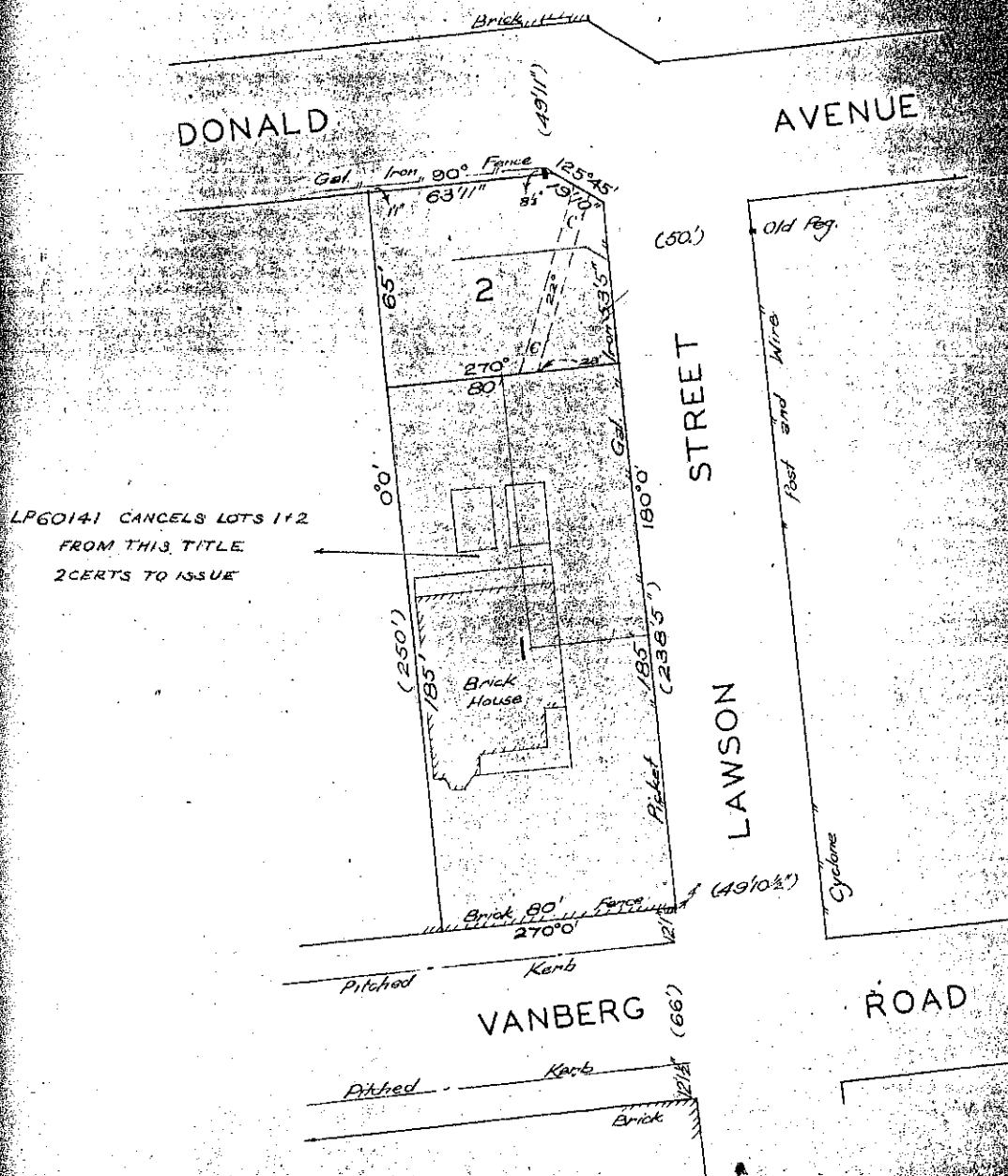


CANCELLED

13583



Figure 2



LP60141

Lachlan Williams
Tree Response Pty Ltd
lachlan@treeresponse.com.au
0419 883 912
2/11/2020

To whom it may concern,

Michael Pickering contacted Tree Response regarding one nominated tree at 57 Vanberg Rd, Essendon. The client requested estimations on the tree's; current age, maximum dimensions and root barrier considerations.

The nominated tree is a mature *Araucaria heterophylla* (Norfolk Island Pine), located between the western side of the dwelling and the driveway. It is a high quality specimen recommended for long-term retention. It is a substantial landscape element of the site, but is moderately obscured by other trees closer to the boundary. It has the following attributes:

- Good health and structure (no defects visible).
- Long Useful Life Expectancy (ULE) (e.g. 40+ years), high amenity value.
- Diameter @ Breast Height (DBH): 75cm, Basal Diameter: 107cm.
- Tree Protection Zone (TPZ): 9.00m radius, Structural Root Zone (SRZ): 3.40m radius.
- Proximity to dwelling: 3.4m.

The client's dwelling and some mature Monterey Cypress on the eastern boundary are approximately 130 years old (anecdotal evidence), but it is unlikely the Norfolk Island Pine is this old. This is because the tree has excellent vigour and site conditions are favourable for tree growth (fertile soils and long-term irrigation), but the DBH is still <100cm. Trees of this species and health should be much larger when 130 years old. Based on the tree's condition and typical species growth rates, it is more likely to be 60-80 years old.



Maximum dimensions for the species in ideal situations are 30-60m with a DBH of 2m+, but this is typically on coastal sites similar to its endemic range. Based on the maturity, condition, estimated age, plus typical mature size of Norfolk Island Pine in Melbourne, the tree's potential size in another 50 years may approach 30m and a DBH of 100cm.

Evidence of cracking externally (and internally based on anecdotal evidence) exists on the adjacent dwelling wall. The tree is likely to be causing/compounding this damage in two ways; directly (e.g. roots lifting/pressing on footings) and indirectly (influencing the moisture/volume of the reactive soil). Reactive soils, irrigation, inferior quality footings (shallow bluestone), and proximity to the SRZ are all influencing factors. It is probable significant root mass exists along the edge of the footings, some roots may extend through/under the footings also. This should be clarified via non-destructive root investigation (e.g. Air Spading).

Installing a root barrier may be achievable to mitigate damage to the dwelling, but should consider the following:

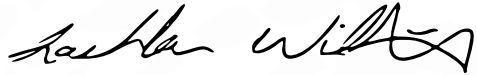
- Creating a trench between the dwelling and tree has potential to cause tree decline/death and even total tree failure.
- Confirm viable position for a root barrier prior to installation (to ensure the tree will not be compromised via excessive root damage). The most appropriate location for a root barrier is likely to be against the edge of the dwelling.
- Roots >75mm diameter must not be severed without consulting a qualified arborist (AQF Level 5+). Severing roots >50mm diameter must be minimised.
- Root barrier depth must be a minimum 1m, potentially 2m.
- Offset potential root severance required via mulching and irrigating the remainder of the TPZ area (install prior to works and retain for 24 months following).



The Norfolk Island Pine is estimated at 60-80 years old, it has reached common mature dimensions but should increase further in stature gradually with time. Mitigating the dwelling damage should be achievable without removing the tree or imposing excessive root damage.

For any queries regarding this letter, please don't hesitate to contact me.

Yours sincerely,



Lachlan Williams.

