

**IN THE PLANNING PANELS VICTORIA
AMENDMENT C304**

Stonnington City Council

Planning Authority

AND

18 Spring Pty Ltd

Airlie Women's Clinic

Bill Papastergiadis

Mulberry's Australia Pty Ltd

Sass Development (Aust) Pty Ltd

Sohe Holdings Pty Ltd

James Lin

Submitters

COUNCIL PART A SUBMISSION

INTRODUCTION

1. This Part A submission is made on behalf of Stonnington City Council (**Council**) the Planning Authority for Amendment C304stonn to the Stonnington Planning Scheme (**Amendment**). Council has prepared and is the proponent of the Amendment.
2. This Part A submission is made in accordance with the Panel's Directions dated 10 August 2021 (**Directions**).
3. The submission addresses the following matters in accordance with direction 1 of the Directions:
 - a) Background to the Amendment including the chronology of events;
 - b) Strategic context and assessment;
 - c) Issues identified in submissions; and
 - d) Any suggested changes to the Amendment in response to submissions.
4. In addition to this submission, at the hearing to start on 12 October 2021, Council will:
 - a) present its Part B submission which will address, as appropriate, Council's responses to the matters raised in expert evidence and submissions; and

- b) call and rely on expert heritage advice from Ms Anita Brady from Anita Brady Heritage.

THE AMENDMENT

5. The Amendment proposes implementing the recommendations of various heritage studies by extending and revising four existing precincts, creating three new heritage precincts, and three new individual places of significance.
6. Statements of Significance are proposed to be incorporated into the Scheme for all affected Heritage Overlays.
7. As part of the application of the Heritage controls, the Amendment will make subsequent changes to the Activity Centre Zone, Neighbourhood Character Overlay, and Design and Development Overlay.
8. Revisions to the four existing precincts and changes proposed to the Stonnington Planning Scheme (**Planning Scheme**) can be specifically described as follows:

HO128 Palermo Estate Precinct, South Yarra
<i>Revised Precinct - Citation prepared Context, June 2020</i>
Summary of Changes
<ul style="list-style-type: none"> • Name changed from current Cunningham and Oxford Street Precinct. • Commercial properties removed and placed in new HO642 (see below). • Minor extension of precinct boundaries.
Heritage Values
<ul style="list-style-type: none"> • The Palermo Estate Precinct is of historical significance as tangible evidence of the influence of both public transport and employment centres on the construction of housing in South Yarra. • The precinct is significant for its illustration of popular residential architectural styles of the Victorian, Edwardian, and interwar periods with a relatively high intactness of buildings. • The modestly scaled dwellings, which comprise a high proportion of terrace rows and single-fronted houses and some semi-detached dwellings on smaller allotments, provide evidence of the more modest finances of the original occupiers.
Affected Properties

<ul style="list-style-type: none"> • Existing places within HO128. • New places to form extension: <ul style="list-style-type: none"> - 2-18A and 28-30 (even) Palermo Street, South Yarra.
Consequential Planning Scheme Changes
Ordinance
<p>Amend the Schedule to Clause 43.01 (Heritage Overlay) to:</p> <ul style="list-style-type: none"> • Change the name of HO128 from <i>Cunningham and Oxford Streets</i> to <i>Palermo Estate Precinct</i>. • Add reference to the Statement of Significance: <i>Palermo Estate Precinct, Statement of Significance, June 2020</i> <p>Amend the Schedule to Clause 72.04 (Documents Incorporated in the Planning Scheme) to add:</p> <p style="text-align: center;"><i>Palermo Estate Precinct, Statement of Significance, June 2020</i></p>
Maps
<p>Map HO1</p> <ul style="list-style-type: none"> • Delete HO128 from all properties fronting Chapel Street and Toorak Road. • Apply HO128 to 2-18A and 28-30 (even) Palermo Street, South Yarra.

HO150	Toorak Road, South Yarra
	<i>Revised Precinct - Citation prepared by Context, June 2020</i>
	Summary of Changes
	<ul style="list-style-type: none"> • Extension of existing precinct boundaries, including addition of the platform and canopies of South Yarra Station. • Changes to the Activity Centre Zone – Schedule 1 to reflect inclusion of new properties in the HO. • Removal of South Yarra Siding from HO. • Removal of Lee Terrace (6-18 Avoca St) from HO150 and into new HO641 (see below).
	Heritage Values

	<ul style="list-style-type: none"> • Toorak Road is a highly representative commercial streetscape, illustrative of development in the inner ring of Melbourne’s suburbs, where the initial subdivision of large landholdings proceeds through to smaller subdivisions and the later provision of major transport infrastructure. • Toorak Road, formerly Gardiner’s Creek Road, is significant as one of the roads set out by the Prahran Roads District, following Robert Hoddle’s 1837 survey. • Toorak Road is significant as a traditional shopping street originally developed with some commercial buildings in the mid-nineteenth century, and added to in subsequent decades until it has become an eclectic mix of periods and styles within the one street. • South Yarra Railway Station has social significance for the strong community attachment developed through long-standing use and the prominent and continuous nature of the association.
	<p>Affected Properties</p>
	<ul style="list-style-type: none"> • Existing places within HO150. • Places to be removed from HO150: <ul style="list-style-type: none"> - South Yarra Siding; - 6-18 Avoca Street, South Yarra; • New places to form extension: <ul style="list-style-type: none"> - 1-63 Toorak Road; and - South Yarra Railway Station Platforms, South Yarra.
	<p>Consequential Planning Scheme Changes</p>
	<p>Ordinance</p>
	<p>Amend Schedule 1 to Clause 37.08 (Activity Centre Zone) to:</p> <ul style="list-style-type: none"> • Change the map at 5.2-3 to identify that the properties to be added to the HO will be subject to a preferred minimum setback above the streetwall on main streets of 10 metres. (Note: this applies to all properties in the HO that front Toorak Road). <p>Amend the Schedule to Clause 43.01 (Heritage Overlay) to:</p> <ul style="list-style-type: none"> • At HO150:

	<ul style="list-style-type: none"> - Delete the words <i>'west of William and Claremont Streets'</i> from the description; and - Add reference to the Statement of Significance: <i>Toorak Road Area Precinct Statement of Significance, June 2020.</i> <p>Amend the Schedule to Clause 72.04 (Documents Incorporated in the Planning Scheme) to add:</p> <p style="text-align: center;"><i>Toorak Road Area Precinct Statement of Significance, June 2020.</i></p>
	Maps
	<p>Map 1HO</p> <ul style="list-style-type: none"> • Delete HO150 from 6-18 Avoca Street. • Delete HO150 from South Yarra Siding noting that the explanatory report clearly stated that the siding was proposed to be removed as part of the amendment although this was not shown on the exhibited map.

HO178	Airlie Avenue, Prahran
	<i>Revised Precinct - Citation prepared by Landmark Heritage, June 2020</i>
	Summary of Changes
	<ul style="list-style-type: none"> • Extension to the existing precinct.
	Heritage Values
	<ul style="list-style-type: none"> • HO178 Airlie Avenue Precinct (including proposed extension), comprises an area of primarily residential development of the Victorian and Federation era, as well as adjacent groups of shops and houses along High Street. There is a smaller number of early interwar dwellings scattered across these two areas. • The precinct is of historical significance for its illustration of the ad hoc nature of late nineteenth century and early twentieth-century subdivisions of large estates into suburban streets and allotments, resulting in an irregular street pattern and a number of cul-de-sacs linked by pedestrian laneways.
	Affected Properties
	<ul style="list-style-type: none"> • Extended to include 546-574 High Street, 74-100 (even) Chomley Street, and 1-5 (odd) and 2-28 (even) Willis Street, Prahran.

	Consequential Planning Scheme Changes
	<p>Amend the Schedule to 43.01 (Heritage Overlay) to:</p> <ul style="list-style-type: none"> At HO178, add reference to the Statement of Significance: <i>Airlie Avenue Precinct Prahran, Statement of Significance, June 2020.</i> <p>Amend the Schedule to Clause 72.04 (Documents Incorporated in the Planning Scheme) to add:</p> <p style="text-align: center;"><i>Airlie Avenue Precinct Prahran, Statement of Significance, June 2020</i></p>
	Planning Scheme Map
	<p>Map 1</p> <ul style="list-style-type: none"> Apply HO178 to 546-574 High Street, 74-100 (even) Chomley Street, and 1-5 (odd) and 2-28 (even) Willis Street, Prahran.

HO386	Chomley Street, Prahran
	<i>Revised Precinct - Citation prepared by Landmark Heritage, June 2020</i>
	Summary of Changes
	<ul style="list-style-type: none"> Extension to existing precinct. NCO and DDO to be removed from properties fronting Packington Place that are proposed to be included in HO.
	Heritage Values
	<ul style="list-style-type: none"> Chomley Street Precinct is of historical significance as evidence of the major phase of suburban development which took place in the municipality in the first two decades of the twentieth century. The precinct also demonstrates a rare pattern of settlement in Prahran as a complete and uninterrupted Edwardian streetscape resulting from a 1910s subdivision. The precinct is of aesthetic significance for its remarkably intact and cohesive collection of Edwardian semi-detached and villa housing.
	Affected Properties

	<ul style="list-style-type: none"> Extended to include 73-95 (even) Chomley Street and 15-21 (odd) and 34-38 (even) Packington Place, Prahran.
Consequential Planning Scheme Changes	
Ordinance	
<p>Amend the Schedule to Clause 43.01 (Heritage Overlay) to:</p> <ul style="list-style-type: none"> Add reference to the Statement of Significance: <i>Chomley Street Precinct Prahran, Statement of Significance, June 2020</i> <p>Amend the Schedule to Clause 72.04 (Documents Incorporated in the Planning Scheme) to add:</p> <p><i>Chomley Street Precinct Prahran, Statement of Significance, June 2020</i></p>	
Maps	
	<p>Map 5HO</p> <ul style="list-style-type: none"> Apply HO386 to 73-95 (even) Chomley Street and 15-21 (odd) and 34-38 (even) Packington Place, Prahran. <p>Map 5NCO</p> <ul style="list-style-type: none"> Delete NCO4 from 15-21 (odd) and 34 – 38 (even) Packington Place, Prahran. <p>Map 5DDO</p> <ul style="list-style-type: none"> Delete DDO16 from 15-21 (odd) and 34 – 38 (even) Packington Place, Prahran.

9. The three new precincts, two of which have been created from the revised precincts, and changes proposed to the Planning Scheme can be described as follows:

HO640	Brocklesby Precinct, Armadale
	<i>New Precinct - Citation prepared by Ray Tonkin, June 2019</i>
	Summary of Changes
	<ul style="list-style-type: none"> New precinct, replacing three individual HOs and incorporating surrounding properties.
	Heritage Values

	<ul style="list-style-type: none"> • The Brocklesby Precinct is of historical significance as a largely intact product of the subdivision of the former Brocklesby Estate in 1886. The area survives as an historical record of local development of a large estate within the City of Stonnington. • The Brocklesby Precinct consists of a remarkably consistent collection of finely detailed and intact late Victorian/Edwardian villa residences.
	Affected Properties
	<ul style="list-style-type: none"> • Precinct to be applied to 116-134 (even) Kooyong Road, 1002-1012 (even) Malvern Road and 2B Erskine Street Armadale.
	Consequential Planning Scheme Changes
	Ordinance
	<p>Amend the Schedule to Clause 43.01 (Heritage Overlay) to:</p> <ul style="list-style-type: none"> • Add HO640 Brocklesby Precinct, Armadale, with reference to the Statement of Significance: <i>Brocklesby Precinct Armadale Statement of Significance, December 2019</i> • Delete HO533 Wykeham Lodge, 2B Erskine Street; • Delete HO602 Chesit Dene 120 Kooyong Road; and • Delete HO240 116 Kooyong Road. <p>Amend the Schedule to Clause 72.04 (Documents Incorporated in the Planning Scheme) to add:</p> <p><i>Brocklesby Precinct Armadale Statement of Significance, December 2019</i></p>
	Planning Scheme Map
	<p>Map 5HO</p> <ul style="list-style-type: none"> • Delete HO533, HO602 and HO240. • Apply HO640 to 116-134 (even) Kooyong Road, 1002-1012 (even) Malvern Road and 2B Erskine Street, Armadale.

HO641	Lee Terrace, South Yarra
	<i>New Precinct - Citation prepared by Context Pty Ltd, June 2020.</i>
	Summary of Changes
	<ul style="list-style-type: none"> • New HO to be applied to residential terraces to be removed from HO150. • External paint controls proposed to be applied.
	Heritage Values
	<ul style="list-style-type: none"> • Lee Terrace Precinct is of historic significance for the evidence it provides of the middle-class suburban development of South Yarra in the 1880s prior to the economic depression of the 1890s. • The precinct is a fine example of a substantial Victorian Italianate terrace row built in 1889 to a design by Wilkinson and Permewan architects. The group of seven two-and three-storey terraces displays key design elements representative of the style. • The precinct is distinguished by its form, size and retention of a high level of ornamental detail of the Victorian Italianate style
	Affected Properties
	<ul style="list-style-type: none"> • 6-18 (even) Avoca Street, South Yarra.
	Consequential Planning Scheme Changes
	Ordinance
	<p>Amend the Schedule to Clause 43.01 (Heritage Overlay) to:</p> <ul style="list-style-type: none"> • Add HO641 Lee Terrace Precinct, Armadale, with reference to the Statement of Significance: <i>Lee Terrace Precinct, South Yarra Statement of Significance, June 2020.</i> • Apply external paint controls for HO641. <p>Amend the Schedule to Clause 72.04 (Documents Incorporated in the Planning Scheme) to add:</p> <p><i>Lee Terrace Precinct, South Yarra Statement of Significance, June 2020.</i></p>
	Maps
	Map 1HO

	<ul style="list-style-type: none"> Apply HO641 to 6-18 Avoca, South Yarra.
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HO642	Chapel Street North, South Yarra
	<i>New Precinct - Citation prepared by Context Pty Ltd, June 2020</i>
	Summary of Changes
	<ul style="list-style-type: none"> New commercial precinct created from properties to be removed from HO128, with an additional extension to west of Chapel Street. Capitol Grand building, located at 243 Toorak Road, South Yarra, to be removed from HO.
	Heritage Values
	<ul style="list-style-type: none"> The Chapel Street North Precinct is of historical significance for its ability to demonstrate a major development phase of commercial/retail centres in South Yarra. The precinct is significant for its illustration of popular commercial architectural styles of the Victorian, Edwardian, and interwar periods, with a relatively high intactness of buildings, particularly at first floor level. The precinct is enhanced by the many groups of shops designed as an ensemble, most of them two-storey in height. Most of the buildings in the precinct have been designed as rows of identical shops massed as a single building giving them greater visual prominence and landmark value. This landmark quality is strengthened by the use of corner sites giving a three dimensionality to the facades.
	Affected Properties
	<ul style="list-style-type: none"> To be applied to 248-268 (even) Toorak Road and 564-592 (even) and 575-593 (odd) Chapel Street, South Yarra.
	Consequential Planning Scheme Changes
	Ordinance
	<p>Amend the Schedule to Clause 43.01 (Heritage Overlay) to:</p> <ul style="list-style-type: none"> Add HO642 Chapel Street North Precinct, South Yarra, with reference to the Statement of Significance:

	<p><i>Chapel Street North Precinct Statement of Significance, June 2020.</i></p> <p>Amend the Schedule to Clause 72.04 (Documents Incorporated in the Planning Scheme) to add:</p> <p><i>Chapel Street North Precinct Statement of Significance, June 2020.</i></p>
	Maps
	<p>Map 1HO</p> <ul style="list-style-type: none"> • Apply HO642 to 248-268 (even) Toorak Road and 564-592 (even) and 575-593 (odd) Chapel Street, South Yarra.

HO 643	151 Finch Street, Glen Iris
	<i>New Individual Place - Citation prepared by Built Heritage Pty Ltd, July 2020</i>
	Summary of Changes
	<ul style="list-style-type: none"> • Application of HO to place of individual significance, also known as Crossman House. • Exhibition documents also propose application of internal controls.
	Heritage Values
	<ul style="list-style-type: none"> • 151 Finch Street is architecturally significant as an excellent and notably intact example of the work of eminent Melbourne architect Kevin Borland. • The house is aesthetically significant as an example of the highly distinctive style that defined Borland's mature work, particularly in the residential sphere, in the 1970s. This style was broadly characterised by bold angular geometry in plan form and elevation, and the frank expression of unadorned materials.
	Consequential Planning Scheme Changes
	Ordinance
	<p>Amend the Schedule to Clause 43.01 (Heritage Overlay) to:</p> <ul style="list-style-type: none"> • Add HO643 Crossman House (former) 151 Finch Street, Glen Iris, with reference to the Statement of Significance:

	<p><i>“Crossman House (former)” 151 Finch Street, Glen Iris, Statement of Significance, July 2020.</i></p> <ul style="list-style-type: none"> • Apply Internal alteration controls for HO643. <p>Amend the Schedule to Clause 72.04 (Documents Incorporated in the Planning Scheme) to add:</p> <p><i>“Crossman House (former)” 151 Finch Street, Glen Iris, Statement of Significance, July 2020.</i></p>
	Planning Scheme Map
	<p>Amend Map 6HO to:</p> <ul style="list-style-type: none"> • Apply HO643 to 151 Finch Street, Glen Iris.

HO644	546 Orrong Road, Armadale
	<i>New Individual Place</i> - Citation prepared by Raworth, 2020.
	Summary of Changes
	<ul style="list-style-type: none"> • New HO to be applied to a place of individual significance.
	Heritage Values
	<ul style="list-style-type: none"> • The single-storey Spanish Mission style house at 546 Orrong Road was built in 1928 on a lot formed through the subdivision of the nineteenth century Elgin mansion estate. • Elements that contribute to the significance of the place include (but are not limited to): <ul style="list-style-type: none"> - The original external form, materials and detailing of the building. - The concrete driveway and original garage, the front fence and pedestrian and driveway gates. - The domestic garden setting (but not the fabric of the garden). • The house is architecturally significant as a finely designed, thoroughly detailed and virtually intact example of the interwar Spanish Mission style.
	Affected Properties
	<ul style="list-style-type: none"> • 546 Orrong Road, Armadale

	Consequential Planning Scheme Changes
	Ordinance
	<p>Amend the Schedule to Clause 43.01 (Heritage Overlay) to:</p> <ul style="list-style-type: none"> • Add HO644 546 Orrong Road, Armadale, with reference to the Statement of Significance: <i>546 Orrong Road, Armadale Statement of Significance, June 2020.</i> <p>Amend the Schedule to Clause 72.04 (Documents Incorporated in the Planning Scheme) to add:</p> <p><i>546 Orrong Road, Armadale Statement of Significance, June 2020.</i></p>
	Planning Scheme Map
	<p>Map 5HO</p> <ul style="list-style-type: none"> • Apply HO644 to 546 Orrong Road, Armadale.

HO645	35 Larnook Street, Prahran
	<i>New Individual Place - Citation prepared by Raworth, June 2020</i>
	Summary of Changes
	<ul style="list-style-type: none"> • New HO to be applied to a place of individual significance.
	Heritage Values
	<ul style="list-style-type: none"> • The house at 35 Larnook Street, Prahran, is a double-storey post war modernist house with the front elevated on columns (or pilotis) to form an open undercroft carpark. • Elements that contribute to the significance of the place include (but are not limited to): <ul style="list-style-type: none"> a. The external form, materials and detailing of the building as originally built in 1959. The generally high level of integrity of the street façade. The domestic garden setting (but not the fabric of the garden). b. The house is architecturally significant as a fine and largely intact example of a post war modernist residence designed by noted architect Bernard Slawik.

	Affected Properties
	<ul style="list-style-type: none"> • 35 Larnook Street, Prahran
	Consequential Planning Scheme Changes
	Ordinance
	<p>Amend the Schedule to Clause 43.01 (Heritage Overlay) to:</p> <ul style="list-style-type: none"> • Add HO645 35 Larnook Street, Prahran, with reference to the Statement of Significance: <i>35 Larnook Street, Prahran Statement of Significance, June 2020</i> <p>Amend the Schedule to Clause 72.04 (Documents Incorporated in the Planning Scheme) to add:</p> <p><i>35 Larnook Street, Prahran Statement of Significance, June 2020.</i></p>
	Planning Scheme Map
	<p>Map 5HO</p> <ul style="list-style-type: none"> • Apply HO645 to 35 Larnook Street, Prahran.

BACKGROUND TO THE AMENDMENT

10. The Stonnington Thematic Environmental History (**STEH**) was adopted by Council in 2006. An update was adopted in 2009.
11. The STEH provides a detailed explanation of the key historic themes and activities that have been important in shaping the present day City of Stonnington.
12. The historic themes in the STEH reflect the influences on Stonnington and provide a critical framework for future heritage assessment and the strategic justification for the inclusion of further heritage places in the Heritage Overlay.
13. On 3 December 2018, the Stonnington Heritage Strategy and Action Plan 2018-2029 (**Action Plan**) was adopted by Council.
14. The strategy provides an approach for the next decade to ensure the continued protection and enhancement of the municipality's built heritage.
15. The Action Plan provides a framework for reviewing existing places and heritage citations and assessing new places not currently protected under the Heritage Overlay. A key action of the

Strategy is to investigate places of potential heritage significance and protect precinct gaps within the municipality.

16. A proactive approach to the protection of heritage places through a suburb by suburb review, known as the Stonnington Heritage Review, is currently underway¹. The comprehensive nature of this work will take some time, and so, as part of its ongoing program of protecting heritage places of aesthetic and cultural significance, a collection of heritage investigations have been grouped to progress through the amendment process as C304ston.

Ministerial authorisation and proposed interim controls

17. The following resolution was made by Council at its ordinary meeting on 1 June 2020:
 1. *APPLIES to the Minister for Planning requesting authorisation to prepare Amendment C304ston (permanent heritage controls) to the Stonnington Planning Scheme in accordance with Section 9(3) of the Planning and Environment Act 1987 to the identified properties.*
 2. *APPLIES to the Minister under section 20(1) of the Planning and Environment Act 1987 for an exemption from the requirement to give notice in a local newspaper under Section 19(2) of the Planning and Environment Act 1987 for Amendment C304ston.*
 3. *APPLIES to the Minister for Planning requesting to prepare and approve Amendment C303ston (interim heritage controls to the same identified properties) to the Stonnington Planning Scheme in accordance with Section 8(1) (b) and 20(4) of the Planning and Environment Act 1987.*
 4. *Upon Council resolution, NOTIFY the owners of affected properties of the proposed controls in advance of seeking authorisation.*
 5. *AUTHORISES Council offers to prepare amendment documents for advance notice, authorisation and exhibition of Amendment C304ston.*
 6. *Once authorisation for Amendment C304ston is received, NOTIFIES all prescribed authorities, owners, occupiers and adjoining property owners of the properties affected.*
 7. *If Interim controls (Amendment C303ston) are applied by the Minister for Planning, NOTIFY all prescribed authorities, owners, occupiers and adjoining property owners of the properties affected.*
18. In correspondence dated 24 July 2020, authorisation to prepare the amendment was provided. The authorisation letter requested that during the amendment process, Council:
 - a) provide justification that South Yarra Station is of individual significance rather than being contributory to the Toorak Road precinct; and

¹ The Stonnington Heritage Review is informed by the priorities set out in the Heritage Strategy Action Plan 2018-20129 adopted by Council in December 2018.

- b) formally endorse the supporting heritage documentation²
19. The Interim Heritage controls proposed by Council as Amendment C303ston were refused under delegation from the Minister, as it was not considered that they were warranted (Correspondence dated 6 October 2020).

Exhibition and submissions received

20. Shortly after the receipt of authorisation, Melbourne entered Stage 4 COVID-19 restrictions. Council officers did not consider it was appropriate to exhibit during this period, as parties would have limited opportunities to undertake site visits and obtain expert advice.
21. An exemption was granted from the Ministerial Direction that exhibition commence within 40 days of authorisation.
22. Exhibition commenced as soon as practical after the lifting of restrictions and Council's caretaker period associated with the local government elections. The Amendment was exhibited between 29 October to 9 December 2020 in the form of:
- a) sending letters to owners of affected properties, prescribed authorities and stakeholders;
 - b) notice published in *The Age*;
 - c) notice of the Amendment in the *Government Gazette*; and
 - d) publishing the Amendment documentation on Council's and the Department's websites.
23. A total of 54 submissions were received in response to exhibition, including 41 supporting submissions and 13 opposing submissions.
24. Supporting submissions were primarily from residents within and around the proposed Brocklesby Precinct, with two additional supporting submissions for individual heritage overlays; one for each 151 Finch Street, and 546 Orrong Road.

Further Notice

25. Following appointment of a Panel, officers identified that further notice was required to meet the obligations of the *Planning and Environment Act 1987*.
26. Specifically, notice needed to be given to all affected occupiers, as it appeared some occupants of affected properties had not been given notice.

² Council endorsed all incorporated documents (Statements of Significance) on 1 March 2020 in accordance with Practice Note 1 Applying the Heritage Overlay to be incorporated in the Scheme by this Amendment.

27. Further notice was provided to occupiers and some landowners in the week beginning 17 May 2021. Publication of further notice was placed in the Government Gazette.
28. As a result of the further notice period, one additional objecting submission was received. Submission 55 relates to changes proposed to HO178 (Airlie Avenue Precinct), specifically, the regrading of a property already included in the Heritage Overlay.
29. No change was proposed to the Amendment as a result of Submission 55.
30. A report was brought to Council on 19 July 2021 for the consideration of the additional submission, with Council resolving to refer the additional submission to the Panel.

STRATEGIC CONTEXT AND ASSESSMENT

31. This section provides an overview of the Amendment's strategic basis, supplementing the detail set out in the exhibition explanatory report.
32. Council submits the key matters for the consideration by the Panel with respect to this Amendment (and in response to the submissions received) relate to the requirements of the Heritage Overlay and Planning Practice Note 1 (Applying the Heritage Overlay) (PPN1).
33. PPN1 states the following places should be included in a Heritage Overlay:

Places identified in a local heritage study, provided the significance of the place can be shown to justify the application of the overlay.
34. Importantly, PPN1 describes the threshold for determining 'local significance' (and, as a result being identified in a local heritage study) as:

...those places that are important to a particular community or locality.
35. The *Advisory Committee Report on the Review of Heritage Provisions in Planning Schemes* (August 2007) (**Advisory Committee Report**) expressed the threshold differently but connoted similar sentiments. It framed the question to be asked as:

... is the place of sufficient import that its cultural values should be recognized in the planning scheme and taken into account in decision making?³
36. Later in the report, the Committee noted:

...the issue for planning purposes is simply whether a place is of sufficient heritage note in the local context to warrant planning controls being put in place to ensure that its heritage value is taken into account when development proposals are being considered.
37. In terms of process, the PPN1 goes on to say:

³ Advisory Committee Report, pxviii.
Advisory Committee Report, pp39-40

The heritage process leading to the identification of the place needs to clearly justify the significance of the place as a basis for its inclusion in the Heritage Overlay. The documentation for each place shall include a statement of significance that clearly establishes the importance of the place and addresses the heritage criteria.

38. Council submits these are the key matters a Panel should consider in assessing the Amendment. Furthermore, that the Citations prepared for each of the heritage places establishes the importance of each place – addressing the heritage criteria and providing a Statement of Significance.
39. Council also submits the following policy forms the framework for the Panel’s determination in this hearing:
- a) The ‘overarching objective’ relating to heritage conservation set out as section 4(1)(d) of the Act:

...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.
 - b) Direction 4.4 of Plan Melbourne (2017-2050) to ‘respect our heritage as we build for the future’ and Policy 4.4.1 recognising the need for ‘continuous identification and review of currently unprotected heritage sites...’
 - c) The Planning Policy Framework at clause 15.03-1S of the Scheme, in particular the overarching objective of ensuring ‘the conservation of places of heritage significance’ sought to be achieved through strategies including to:

Identify, assess and document places of natural and cultural heritage significance as a basis for the inclusion in the planning scheme.

...

Provide for the conservation and enhancement of those places which are of aesthetic, archaeological, architectural, cultural, scientific, or social significance, or otherwise of special cultural value.

...

Ensure an appropriate setting and context for heritage places is maintained or enhanced.
 - d) the focus of the Local Planning Policy Framework in the Scheme on the importance of heritage in the City of Stonnington, including:
 - i. clause 21.02-3 Key influences and challenges, includes ‘Built environment and heritage’ and ‘Protecting the City’s assets, its heritage buildings, key landmarks, important vistas and riverside environs’;

- ii. Clause 21.03-2 Strategic vision, includes ‘All places of at least local heritage significance to the City are identified and protected’;
- iii. the objective of 21.06-10 Heritage, being ‘*to protect and enhance all significant and contributory heritage places within the City of Stonnington*’. Some relevant strategies include:
 - 1.1 Identify additional places which meet the threshold of at least local significance, to ensure representation of all the historic themes relevant to the City.
 - 1.2 Ensure that the consideration of cultural significance of places and their ongoing management is guided by the principles of the Burra Charter.
 - 1.3 Ensure the retention of the key attributes that underpin the significance of the heritage place.
 - 1.4 Encourage the conservation of elements that contribute to the significance of heritage places.
 - 1.5 Ensure that new development within the Heritage Overlay respects the significance of the place.
 - 1.6 Promote design excellence that clearly and positively supports the ongoing significance of heritage places.
 - 1.7 Ensure that the design process and the consideration of applications respond to the heritage citation (including any statement of significance), the relevant historic themes and the ascribed level of significance of the heritage place.
 - 1.8 Ensure that heritage values are recognised and given appropriate weight when competing policies apply.
- iv. Clause 21.06-10 identifies ‘*continuing the implementation of Council’s Heritage Strategy*’ as future strategic work.
- v. Clause 22.04 Heritage Policy, which applies to all land within the municipality with a Heritage Overlay. The following objectives are set out at clause 22.04-3:
 - To retain all significant and contributory heritage places*
 - To conserve, and re-use significant and contributory heritage places.*
 - To ensure that new development respects the significance of heritage places.*
 - To maintain views of and vistas to significant heritage places.*

40. Also of relevance is Planning Practice Note 91 (Using the Residential Zones), which states:
- It is important to understand the difference between neighbourhood character and heritage.*
- While all areas of history or heritage, not all areas are historically significance. Heritage significance is determined by established criteria set by Commonwealth, state and local agencies with reference to the Burra Charter.*
- The Heritage Overlay (HO) should be used where the objective is to conserve the existing building or buildings.*
- ...
- The NCO and HO should not be applied to the same areas.*
- The application of the HO and underlying residential zoning should be consistent with the strategic intent outlined in the MPS and PPF.*
- For example, if an area is zoned for planning change, a planning authority must satisfy itself that this is compatible with the conservation of existing buildings otherwise a direct conflict between the purpose of the zone and the overlay will be created making it difficult to interpret and apply the controls.*
41. The recognised HERCON criteria for the assessment of heritage values of a heritage place, as set out in PPN1 are:
- a) Criterion A: Important of the course or pattern of our cultural or natural history (historical significance).
 - b) Criterion B: Possession of uncommon or endangered aspects of our cultural or natural history (rarity).
 - c) Criterion C: Potential to yield information that will contribute to an understanding of our cultural or natural history (research potential).
 - d) Criterion D: Important in demonstrating the principal characteristics of a class of cultural or natural places or environments (representativeness).
 - e) Criterion E: Importance in exhibiting particular aesthetic characteristics (aesthetic significance).
 - f) Criterion F: Importance in demonstrating a high degree of creative or technical achievement at a particular period (technical significance).
42. This is the recognised heritage criteria to adopt in the assessment of the heritage values of a heritage place, and has been criteria adopted in the assessment of the heritage places forming part of the Amendment.
43. Aside from these matters, the exhibited Explanatory Report for the Amendment details how the Amendment complies with, supports and/or implements the objectives of planning in

Victoria, relevant Ministerial Directions, Planning Practice Notes, Plan Melbourne and the Scheme.

KEY ISSUES RAISED IN SUBMISSIONS

44. At its Ordinary Council Meeting on 1 March 2021, Council considered (amongst other things) submissions 1 to 53 which included 40 submissions in support of the Amendment and 13 opposing the Amendment or requesting changes.

45. As outlined in the 1 March 2020 Council meeting:

*Opposing submissions primarily disputed the heritage values of the submitter's property and sought to ensure the Heritage Overlay was not applied, or that a lower heritage grading was applied. Officers have prepared a summary and proposed response to each submission in **Attachment 3**, along with maps of the relevant precinct or place to identify the location of submitters. In most cases, officers consider that the Amendment is appropriate as proposed. As detailed in the response table, however, there are two instances where changes to the Exhibited Responses are recommended in direct response to the submissions. These are:*

- *Support the preparation of an Incorporated Plan to present to the Planning Panel in regard to the dwelling at 151 Finch Street, Glen Iris. This will provide certainty and reduce administrative burden in the event that internal controls are applied to the dwelling; and*
- *Amend the Statement of Significance for HO178 – Airlie Avenue, Prabran, to change the grading of 554A High Street, Prabran, from 'contributory' to 'non-contributory'.*

46. Attachment 3 of the 1 March 2020 Council report, provides a summary of submissions.

47. The following main themes have been extracted:

- a) The assessment overstates the heritage significance of buildings and extent of overlays, failing to meet the threshold for heritage significance;
- b) Proposed Heritage Overlay effects the future redevelopment of land.
- c) Assessment fails to consider the urban context, and urban renewal opportunities given other planning controls applying to land, such as zoning;
- d) Assessment fails to consider the impact of COVID on shopping strips;
- e) Heritage controls may result in buildings continuing to deteriorate, rather than being upgraded;
- f) Internal controls should not be applied to 151 Finch Street, Glen Iris;
- g) Heritage listing compounds problem of subterranean burrowing as part of metro tunnel;

- h) The Amendment will result in an increase in the number of permit applications and costs to owners;
 - i) The Amendment may devalue property prices; and
 - j) The Amendment will result in economic impacts to owners.
48. Council received an additional supportive submission (Submission 54) to the Amendment. Consistent with the above resolution, this was referred to panel.
49. At its meeting on 19 July 2021, Council considered the submission that was received in response to the further notice given of the Amendment (Submission 55), together with the Council officers' response to the submission and resolved to:
- 1. NOTE a single submission was received in response to the further notice provided of Amendment C304ston;*
 - 2. REFER the submission and any late submissions to the Panel appointed to consider Amendment C304ston;*
 - 3. ADOPT a position pursuant to Section 23 of the Planning and Environment Act 1987 generally in accordance with the Officer response to submissions and other minor changes as outlined in Attachment 3; and*
 - 4. WRITE to all persons who made a submission to Amendment C304ston to advise them of the decision.*
50. The issues raised in submission 55 have generally been identified in the summary of issues raised by submissions above. An additional issue has been raised in relation to the zoning of 1 Airie Avenue, stating it would be more aptly zoned commercial. This issue falls outside the scope of this Amendment.

CHANGES TO THE AMENDMENT DOCUMENTATION PROPOSED IN RESPONSE TO SUBMISSIONS

51. Council pursues the Amendment in accordance with the following 'post-exhibition' changes made in accordance with Council's resolution of 1 March 2021:
- a) correct the citation and Statement of Significance for HO128 Palermo Estate Precinct to refer to the correct construction date of 30 Palermo Street, South Yarra, being 1876 (in response to submission no. 53);

- b) update the citation and Statement of Significance for HO150 Toorak Road Precinct to further emphasise the significance of the western end of Toorak Road, in which the properties are located (in response to submissions no. 32 and 43);
 - c) amend the grading of 554A High Street, Prahran, as stated in the citation and Statement of Significance for HO1278 Airlie Avenue Precinct to ‘non-contributory’ (in response to submission no. 52);
 - d) amend the citation and Statement of Significance for HO642 Chapel Street North Precinct to include 268-270 Toorak Road and 16 Forster Street, South Yarra, as ‘contributory’.
52. Additionally, Council has observed that the exhibited Activity Centre Zone – Schedule 1 inadvertently applied the heritage overlay setback annotation to the properties at 551 – 557 Chapel Street, South Yarra, which are not included in the HO. It is proposed to correct the mapping by reverting to the current setback nomination for those properties. (Note: changes to the map at 5.2-3 are the only changes proposed to the ACZ1).

OTHER MATTERS

53. Submission no. 45 relates to the application of an individual Heritage Overlay to 151 Finch Street, Glen Iris. As part of HO643, the exhibited amendment included the application of internal controls. Council seeks the advice of the Panel as to whether an Incorporated Plan to limit the extent of internal controls, as proposed by the submission, can be achieved as part of the current amendment.
54. It is noted, on 16 July 2021 a Registration Hearing was held to consider the inclusion of 151 Finch Street as a place of State significance in the Victorian Heritage Register. It was determined by the Regulatory Committee, on behalf of the Heritage Council, that pursuant to section 49(1)(c)(i) of the *Heritage Act 2017*, the place is not to be included in the Heritage Register.
55. A consequential mapping change needs to be made to HO150 map to reflect the removal of South Yarra Siding and Lovers Walk.
56. Council also resolved on 1 March 2021 to seek the Panel’s advice on correcting inconsistencies that have been observed since exhibition. Namely:
- a) The property at 1A Yarra Street is currently included within HO150 Toorak Road Precinct, however was intentionally left out of the revised citation and Statement of Significance due to the demolition of the heritage building and construction of an apartment building on the site. Council seeks the Panel’s advice on removing the

property from HO150 by amending the relevant HO map as part of the current Amendment process.

- b) It is proposed to apply the HO178 Airlie Avenue Precinct to properties at 3-5 Willis Street (odd) and 2-28 Willis Street (even), Prahran. In preparing the Amendment, Council inadvertently did not specify the need to delete the Neighbourhood Character Overlay (NCO4) and Design and Development Overlay (DDO16) from these properties. This is inconsistent with Planning Practice Note 91 Using the Residential Zones, and the approach taken to properties on Packington Place which are proposed to be included in HO386 Chomley Street Precinct. Council seeks the Panel's advice on deleting the overlays as part of the current Amendment process.
 - c) The property at 564 Chapel Street, South Yarra, is currently within HO128 Palermo Estate, South Yarra, and is proposed to be transferred to HO642 Chapel Street North Precinct. It was inadvertently omitted from the Statement of Significance – accordingly, no grading was exhibited. Council seeks the Panel's advice on updating the Statement of Significance to identify the property as 'contributory'. Council acknowledges that as the proposed grading was omitted from the exhibited Statement of Significant, it will need to form part of a future amendment.
57. At the same Council meeting, an error was identified in relation to 551-557 Chapel Street, South Yarra, located within the ACZ1 (but not in the HO). The exhibited changes to the ACZ1 showed the setback above the streetwall increased from 4m to 5m, which intended to only apply to properties in the HO. This is a mapping error and Council resolves to correct the exhibited map within the ACZ1 to remove the increased setback. Officers note that indeed there are more properties that are not identified as having heritage significance from 559 to 573 Chapel Street. Council seeks the panels views on also including 559-573 Chapel Street.
58. This concludes Council's Part A submission.

Peter O'Farrell

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Instructed by Marcus Lane Group

4 October 2021