

INDEPENDENT PLANNING PANEL
APPOINTED BY THE MINISTER FOR PLANNING
PLANNING PANELS VICTORIA

IN THE MATTER of Amendment C304 to the Stonnington Planning Scheme

BETWEEN:

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**

PART B SUBMISSIONS OF THE PLANNING AUTHORITY

INTRODUCTION

1. The City of Stonnington (**Council**) is the Planning Authority for Amendment C304 (the **Amendment**) to the Stonnington Planning Scheme (the **Scheme**).
2. This Part B submission is made in accordance with the Panel's Directions dated 10 August 2021 and is to be read in conjunction with the Part A submission and the expert evidence filed from the expert witness Anita Brady.
3. This submission addresses key aspects of the Amendment and responds to issues arising from the various submissions made in response to exhibition and to the evidence tabled.

PANEL DIRECTIONS OF 10 AUGUST 2021

4. On 10 August 2021 the Panel made the following direction with regard to this Part B submission:

Council's Part B submission

8. *At the Hearing, Council must provide a Part B submission that includes:*
 - (a) *its response to submissions and evidence, grouped by:*

(i) common issues raised in multiple submissions including property value, ability to maintain the property, and building condition

(ii) precincts

(iii) individual properties

(b) its final position on the Amendment.

5. Accordingly, this Part B submission:

- Provides the Council's response in the form of direction 8(a);
- sets out the Council's final position on the Amendment at this stage of the hearing.

COUNCIL'S RESPONSE TO ISSUES RAISED IN SUBMISSIONS AND EVIDENCE
Direction 8(a)(i) Response - Common issues raised in multiple submissions including property value, ability to maintain the property, and building condition

6. Paragraph 46-47 of the Part A reflects the summary of submissions described in Attachment 3 of the 1 March 2021¹ Council report. Of that summary, common issues raised in multiple submissions that are not addressed separately in response to directions 8(a)(ii)&(iii) are set out below together with Council's response to each item:

(a) Proposed Heritage Overlay effects the future redevelopment of land.

Council response: Council acknowledges that the application of the Heritage Overlay to a property or precinct adds a layer of control over the redevelopment of land. But the application of a Heritage Overlay is only done with strategic justification in pursuit of the protection and sensitive redevelopment of heritage assets and heritage precincts.

The Heritage Overlay does not prohibit redevelopment but requires any redevelopment to respond appropriately to heritage policy and the particular significance of the relevant place.

Future redevelopment proposals are property the subject of future planning permit applications. At this stage of the planning process, it is submitted that the proper consideration is whether the particular property/precinct ought to be the subject of the heritage control.

The application of a heritage overlay may add a layer of control over a property/precinct and may also restrict the redevelopment potential of a property/precinct, but this is not a justification for recommending against the application of the Heritage Overlay.

¹ Paragraph 46 of the Part A incorrectly describes this date as 1 March 2020.

These submissions are consistent with the approach adopted by various other Planning Panels².

- (b) Assessment fails to consider the urban context, and urban renewal opportunities given other planning controls applying to land, such as zoning;

Council response: The amendment has been put forward in the mix of relevant planning considerations for properties/precincts. Matters relating to urban context, urban renewal opportunities and other planning controls, including zoning, will properly be taken into account at the permit stage as part of the requirement for Integrated decision making³ under clause 71.02-3 of the Planning Scheme which states:

Society has various needs and expectations such as land for settlement, protection of the environment, economic wellbeing, various social needs, proper management of resources and infrastructure. Planning aims to meet these needs and expectations by addressing aspects of economic, environmental and social wellbeing affected by land use and development.

Planning and responsible authorities should endeavour to integrate the range of planning policies relevant to the issues to be determined and balance conflicting objectives in favour of net community benefit and sustainable development for the benefit of present and future generations. However, in bushfire affected areas, planning and responsible authorities must prioritise the protection of human life over all other policy considerations.

Planning authorities should identify the potential for regional impacts in their decision making and coordinate strategic planning with their neighbours and other public bodies to achieve sustainable development and effective and efficient use of resources.

- (c) Assessment fails to consider the impact of COVID on shopping strips;

Council response: the council is sensitive to the ongoing impacts of the COVID pandemic in particular on shopping strips and the various traders and businesses that have been affected by the pandemic. The value of heritage fabric to the community is a matter however that will continue beyond the current difficulties associated with the pandemic. It is respectfully submitted and with due sensitivity that this topic of submission is not a proper basis to recommend against the advancement of the amendment.

² See for example *Port Phillip C161port Part 2 (PSA)* [2021] PPV 14 at pages 43-44, *Boroondara C294 (PSA)* [2020] PPV 6 at page 20, *Boroondara C274 Part 2 (PSA)* [2018] PPV 99 at page 85.

³ See *Boroondara City Council v 1045 Burke Road Pty Ltd & Ors* [2015] VSCA 27

- (d) Heritage controls may result in buildings continuing to deteriorate, rather than being upgraded

Council response: there are limited abilities for a private landowner to be directed to maintain a particular property but the Council submits that if a particular landowner allow their property to deteriorate over time that may be an unfortunate outcome but is not a consideration that ought lead to a recommendation from the Panel not to advance the amendment. The Council is also hopeful that property owners will recognize the ongoing value of their properties and seek to maintain them.

- (e) The Amendment will result in an increase in the number of permit applications and costs to owners

Council response: as set out in the Explanatory Report for the amendment, the inclusion of additional places in the Heritage Overlay is not expected to result in a significant increase in the number of planning permit applications, and any additional work can be resourced with current staff levels.

- (f) The Amendment may devalue property prices will result in economic impacts to owners

Council response: ta large number of Panel Panels, informed by judicial input have determined that individual or personal economic effects are not a matter for consideration by the Panel⁴. In the subject amendment, there has been no evidence put forward by any submitters to suggest that any economic effects are beyond individual or personal economic effects. In this context, it is submitted that the submissions which suggest that the Amendment may devalue property prices/values do not provide a justification to recommend against the advancement of the Amendment.

Panel Direction 8((a)(ii) – Council response to submissions and evidence grouped by Precinct

7. There have not been any submissions or evidence presented to the Panel on a Precinct basis.
8. So as to respond to the Panel direction however, the Panel is referred to Summary of Submissions which is attached to the meeting of the Council on 1 March 2021.

⁴ See for example *Dustday Investments Pty Ltd v Minister for Planning* [2015] VSC 101, *Boroondara C274 Part 2 (PSA)* [2018] PPV 99 at page 85 at page 84, *Boroondara Amendments C284, C306, C308, C318, Bayside C174, Stonnington C282, C270.*

9. That document provides a response to submissions grouped by Precinct.
10. It further includes the attached table setting out the number of submissions (supporting and objecting) by Precinct.

Schedule	Supporting	Opposing	Total
HO128 - Palermo Estate		1	1
HO150 - Toorak Rd Precinct		5	5
HO178 - Airlie Avenue Precinct		2	2
HO386 - Chomley St Precinct		1	1
HO640 - Brocklesby Precinct	39		39
HO641 - Lee Terrace			0
HO642 - Chapel Street North		2	2
HO 643 - 151 Finch St		1	1
HO644 - 546 Orrong Rd	1	1	2
HO645 - 35 Larnook St			0
Total	40	13	53

Panel Direction 8((a)(ii) – Council response to submissions and evidence grouped by Individual Properties

Submission 25 – Mulberry's Australia P/L – 566 Chapel Street

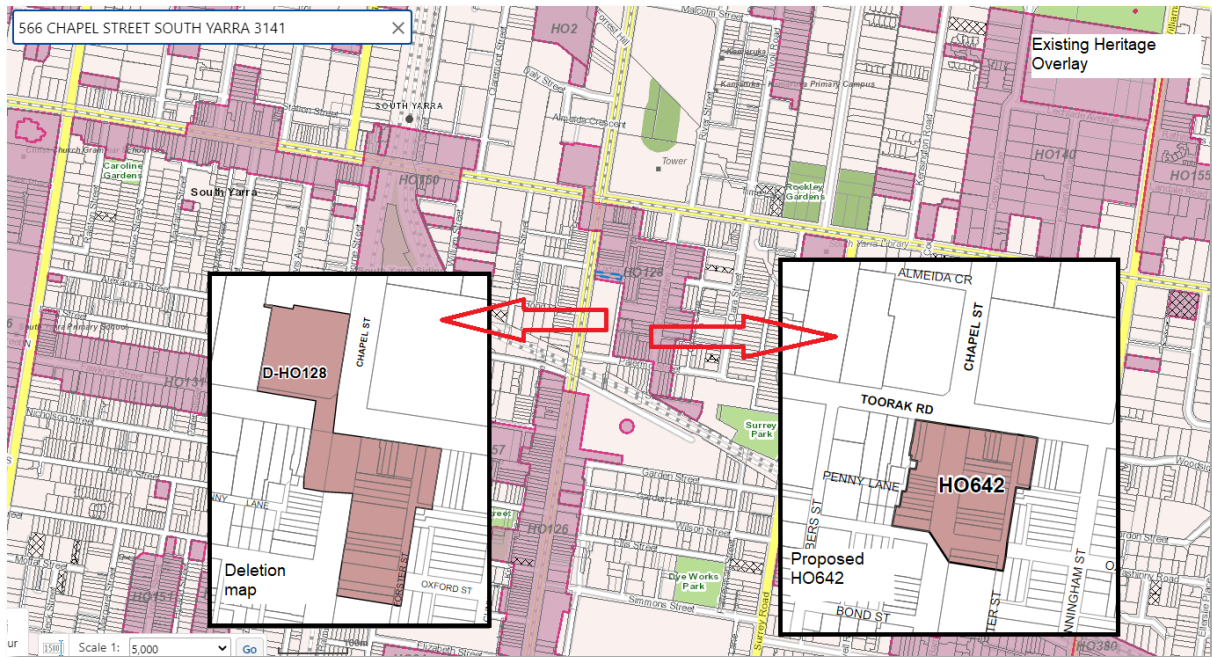
11. This submission relates to the property depicted in the photograph below⁵.



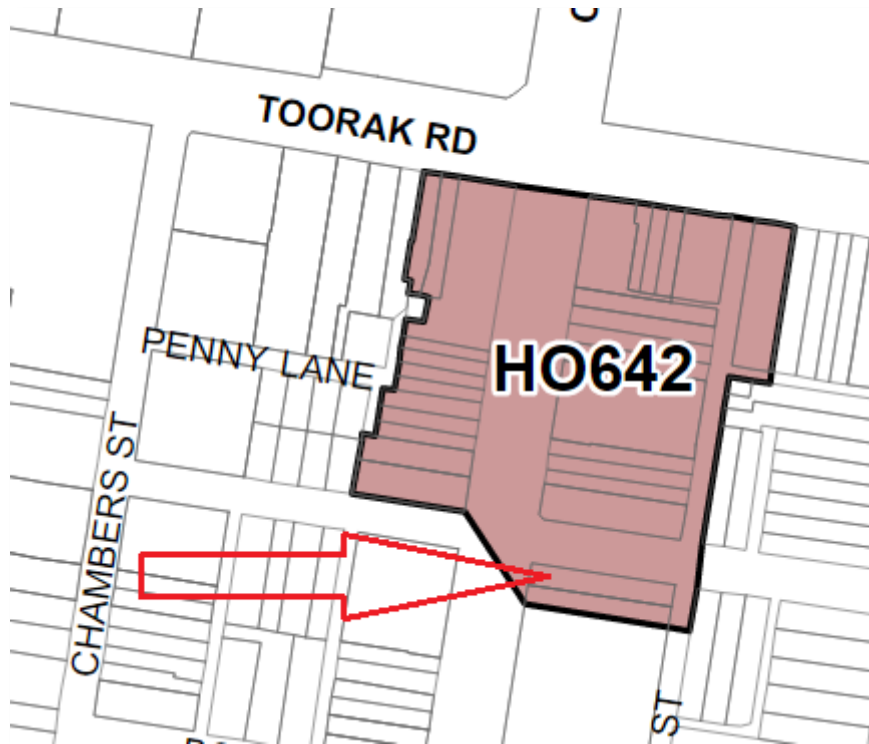
Figure 6 566 Chapel Street (at right of intersection), with 568-70 Chapel Street at left

⁵ Extracted from Ms Brady's evidence, page 19.

12. The plan below illustrates the existing HO128 (Palermo Estate Precinct) within which 566 Chapel Street is located. Also shown is the exhibited deletion plan and the proposed new HO642 which would contain 566 Chapel Street.



13. An enlarged plan of the exhibited proposed HO642 illustrates that 566 Chapel Street is proposed to be included in HO642 which is a new commercial precinct to be described as Chapel Street North.



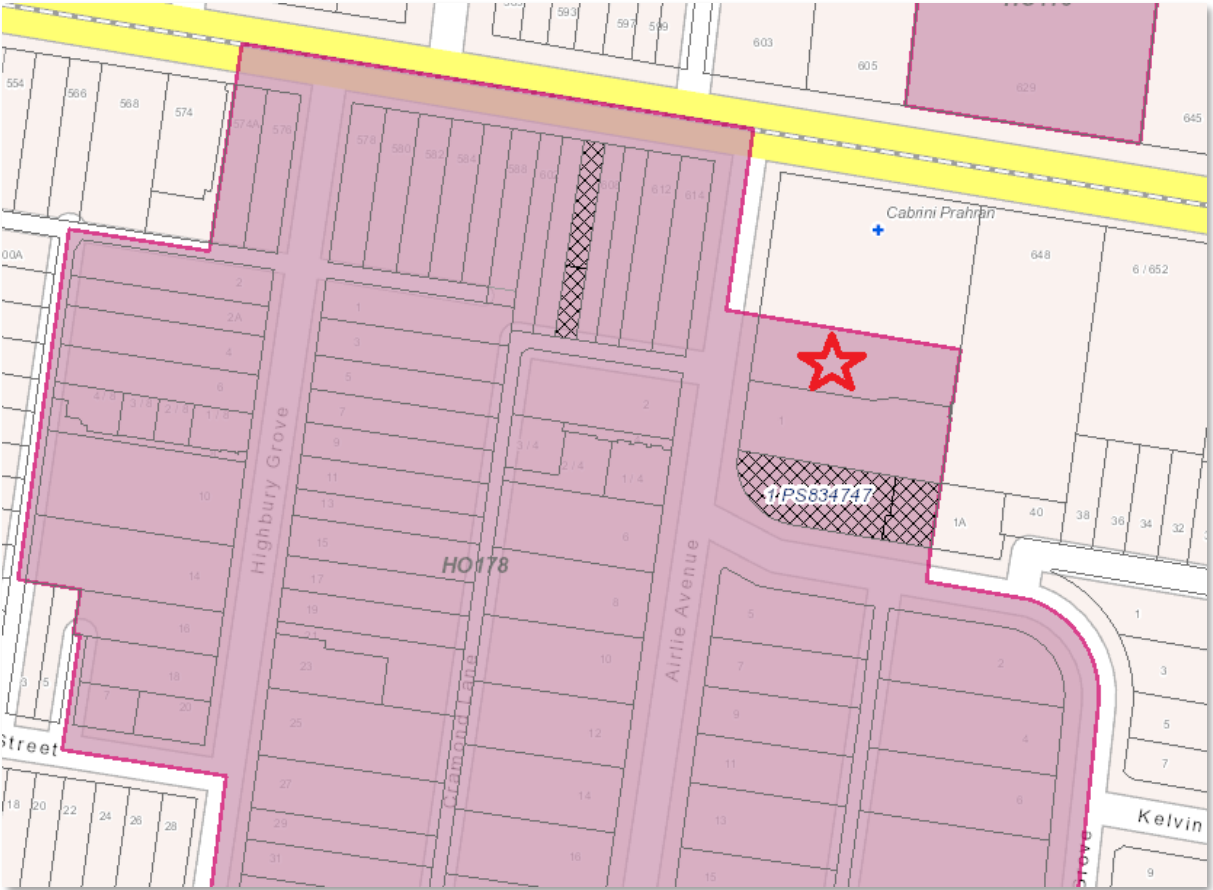
14. The amendment also results in the property being downgraded from Significant within the HO128 Palermo Estate Precinct (currently identified as A2 significant) to contributory under the proposed amendment.
15. The table below is extracted from the report to Council on 1 March 2021. It summarises the Council's response to the submission.

Sub No.	HO Precinct	Subject Address	Supporting or Opposing Summary	Officer response and recommendation
25		566 Chapel St	<p>Opposing</p> <ol style="list-style-type: none"> Property should be removed from the HO as it has no heritage value. 'Lot 1', at the front of the site has a modified double storey Victorian retail building, while the rear on Lots 2 – 7 is a three storey mixed use building constructed in 2000. As the property has no heritage value, 'contributory' grading should not be applied. Heritage protection is not warranted for buildings to the south of Oxford Street, however is warranted for buildings to the north of Oxford Street. 	<ol style="list-style-type: none"> The site is already affected by the Heritage Overlay. This is not proposed to be changed by the Amendment. It is currently in HO128, and is proposed to be transferred to the new commercial precinct HO642 Chapel Street North. The Statement of Significance identifies is as having a grading of 'contributory'. Redevelopment of this property in 2000 did not include full demolition, with the site's frontage retaining key heritage features, including the corner treatment. The contributory grading of the building will assist in ensuring that these valued heritage features are preserved. The site makes a valuable contribution to the heritage precinct as it addresses the corner and the heritage buildings to the north. <p>Recommended position: No change in Council position to exhibited amendment.</p>

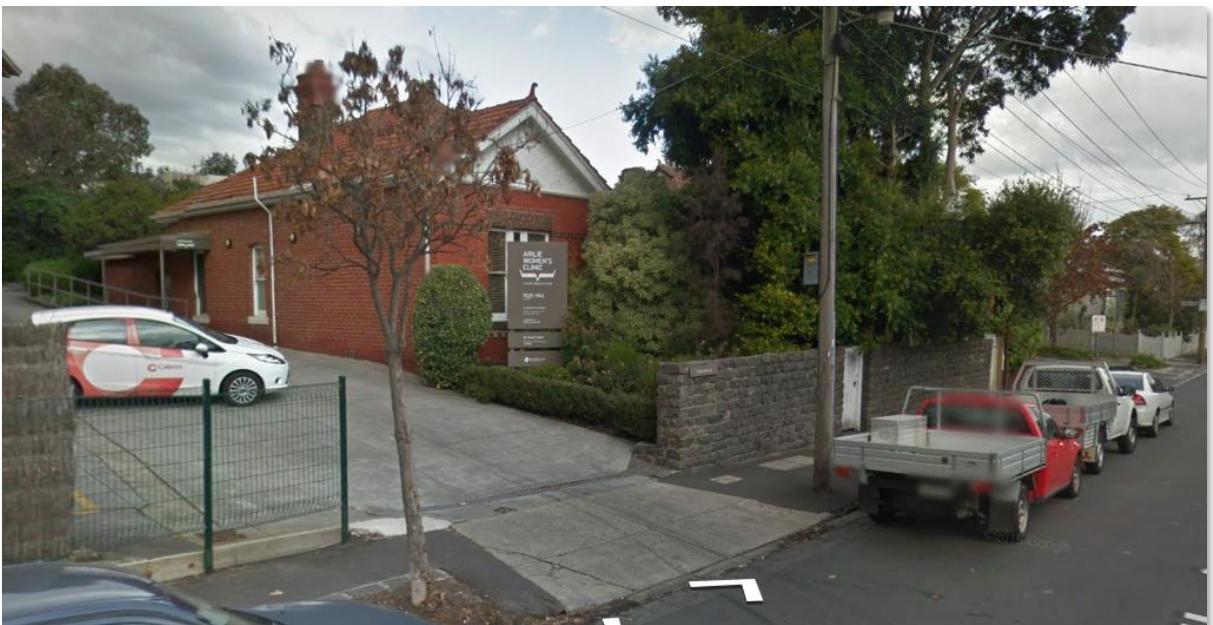
16. Ms Brady's evidence on this property is on her pages 19-20.
17. The Council adopts the evidence of Ms Brady in response to this submission and her reasoning. As she states at paragraph 51:
- the precinct citation could be amended as described in the submission, to correctly denote the address of the property currently listed as 566 as Lot 1, 566 Chapel Street.*
18. The mapping would contain the whole of 566 (as it was originally). The result would be that the whole of 566 (in its original form) would be mapped within the HO642 but only 1/566 Chapel will be listed in the '*What is significant*' part of the Statement of Significance.

Submission 55 – Airlie Women's Clinic – 1-1a Airlie Avenue, Prahran

19. This submission resulted from the further notice period. It was considered by the Council at its meeting on 19 July 2021.
20. The submitter seeks to challenge the proposed 'Significant' grading and seeks a 'Contributory' grading.
21. As illustrated in the plan below, this site is currently located with HO178 – Airlie Avenue Precinct.



22. The image below shows the property. As stated in the evidence of Ms Brady, the property is already included within the Heritage Overlay. The Amendment proposes to grade the property and to grade the property as Significant (B).



23. The building gradings for Stonnington are described at page 36 of the City of Stonnington Heritage Design Guidelines⁶. The grading descriptions are extracted below:

A1 buildings

Buildings of national or state significance or extraordinarily high local significance which are either individually significant or form part of a heritage precinct.

A2 buildings

Buildings of high local significance which are either individually significant or which gain their significance from their location within a largely intact heritage precinct of comparable buildings.

B buildings

Buildings which are substantially intact representatives of particular periods or styles which either gain their significance from their location within a largely intact heritage precinct or would otherwise have been graded A1 or A2 if they had not been significantly altered.

C buildings

Buildings which are representative examples of particular periods or styles of buildings in largely intact heritage precincts which have been substantially altered.

Ungraded buildings

Buildings which contain no built form which contributes to the character or significance of a heritage precinct.

24. The evidence of Mr Brigg's in relation to the property would not seek to dispute that the property should be graded at least contributory⁷. The area of dispute relates to whether the property ought be graded as Significant B.
25. Ms Brady's evidence on the property is as follows⁸:

Regarding the re-grading of the property to significant, this is agreed with. The HO178 precinct citation refers to the property at several points, with references which support the higher grading. In a precinct where many Federation houses are single-fronted semi-detached pairs, the subject building is (as per the citation) one of the 'largest examples' of Federation houses and one of the double-fronted villas in the precinct with complex, Marseilles-tiled roofs above red brick walls and ornate, timber verandahs. It is also one of the 'notable examples' with a diagonal building plan including a three-sided front verandah which addresses the corner of the building. No. 1 Airlie Avenue is also described

⁶ A reference document at clause 21.09, a relevant heritage design guideline and reference document to 22.04 of the Scheme.

⁷ Paragraph 7.

⁸ Paragraph 139.

as being 'distinguished by its retention of a high level of timber and cast-iron verandah ornament as well as leadlight windows'.

26. The Council adopts Ms Brady's evidence in relation to this property.
27. It is apparent that Mr Brigg's has adopted the approach of applying heritage policy to a hypothetical future permit application in terms of the implications of Significant versus Contributory graded – with respect, that is not the correct approach. The level of significance is the important consideration at this stage of the planning process. Application of policy in response to the assessed level of significance is dealt with at the planning permit stage – not the other way around.
28. Mr Briggs is critical of the use of letter gradings and that 'Amendment C304 persists with the use of gradings⁹.' The Council is conscious of the movement towards the use of the 3 tiers (Significant, Contributory, Non Contributory) and the Council has identified the need to transition to the new model as part of the Stonnington Heritage Strategy Action Plan 2018-2019 where the Council has identified the following actions:
 - *We will 'transition' out of the old letter gradings¹⁰.*
 - *Develop a model for translating the gradings of heritage places to conform with the Planning Practice Note¹¹.*
29. But these actions do not form part of this amendment. In this respect, the discussion within Mr Brigg's evidence in relation to the 3 Tier grading system is at best only of marginal assistance in this matter.
30. At paragraph 48, Mr Brigg's states:

The distinction between 'Significant' and 'Contributory' buildings is that the former are of heritage importance as stand-alone entities whilst a contributory building is not considered to have heritage importance unless it is a part or a group of related places and that heritage group is the entity having heritage importance. The heritage value of the group amplifies the value of the individual property that contributes to the group.

⁹ Paragraph 38.

¹⁰ Page 19 – Stonnington *Heritage Strategy Action Plan* 2018-2029.

¹¹ *Ibid*, page 20.

31. With respect, it is submitted that Mr Brigg's is not correct in the context of the Stonnington grading system - it is submitted that the significance of the building readily meets the status of Significant B which are '*Buildings which are substantially intact representatives of particular periods or styles which either gain their significance from their location within a largely intact heritage precinct or would otherwise have been graded A1 or A2 if they had not been significantly altered.*'

Submission 43 – Sohe Holdings Pty Ltd – 9 Toorak Road, South Yarra

32. The photograph below illustrates 9 Toorak Road, South Yarra¹².

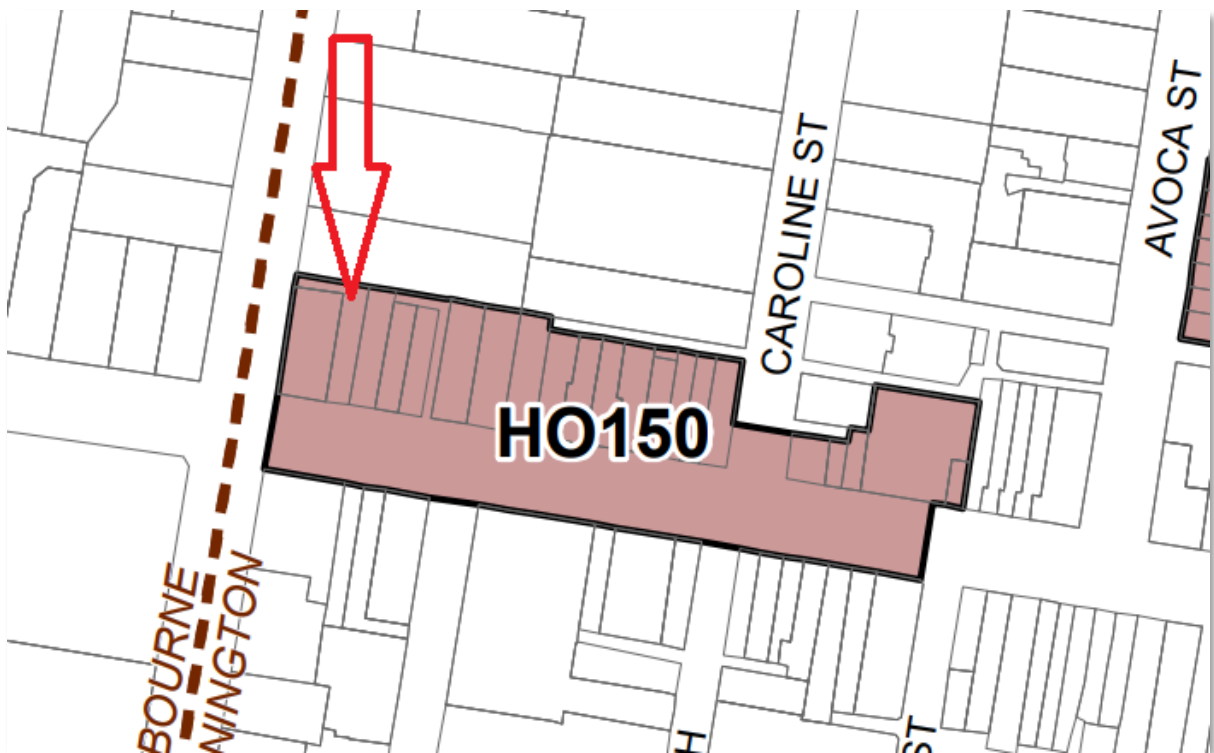


33. The table below is extracted from the report to Council on 1 March 2021. It summarises the Council's response to the submission.

¹² Extracted from the evidence of Ms Brady page 25.

Sub No.	Subject Address	Supporting or Opposing Summary	Officer response and recommendation
43	9 Toorak Rd South Yarra	<p>Opposing</p> <ol style="list-style-type: none"> 1. Opposes application of HO150. 2. Property and adjoining properties are 'non-contributory', and on the periphery of the proposed HO, so should be removed. 3. Property does not make an aesthetic contribution, is separate from the heart of the precinct, and does not accord with description of the characteristics of the precinct in the Statement of Significance. 	<ol style="list-style-type: none"> 1. The property has been identified as part of the extension to the Toorak Road Precinct, with a grading of 'non-contributory'. The precinct is significant as a traditional shopping street, predominantly developed between the 1860s and 1940s. 2. The site is one of approximately 20 properties on the northern side of Toorak Rd which are proposed to be included in the HO, extending it to Punt Road. The majority of these properties are identified as 'contributory', and the inclusion of them broadly aligns with the extent of the HO on the southern side of Toorak Road. 3. The distinction between this property and the characteristics of the precinct is recognised by the proposed 'non-contributory' grading. With a non-contributory grading, demolition of the building will be supported in accordance with Council's local heritage policy subject to an appropriate replacement building. Although the building is not contributory, its location is significant as part of the precinct and it should be retained within the proposed extension to the precinct <p>Recommended position: Update the Statement of Significance to further emphasise the significance of the western end of Toorak Road, in which the properties are located. (As per response to submission 32).</p>

34. The plan below depicts the location the property in the context of the proposed HO150 precinct.



35. The image below depicts the site (see the flagpole on the right hand side) in the streetscape.



36. The Council adopts the evidence of Ms Brady in relation to this property and submits that it ought be included within the heritage overlay. The site is located at a strategically important western entrance to the precinct from the intersection of Punt Road and Toorak Road.

37. As set out in her section 3.3, Council also supports Ms Brady's suggestions at her section 3.3 in terms of enhancements to the statement of significance for this precinct¹³.

Submission 52 – 18 Spring Pty Ltd – 554A High Street, Prahran

38. This site is pictured below¹⁴.

¹³ See page 10 of Ms Brady's evidence.

¹⁴ Extracted from submission 52.



39. The plans below illustrate the existing HO178, the subject land in black and the proposed HO178 which runs through to Chomley Street in the west¹⁵.

¹⁵ Extracted from attachment to submission 52.



40. The property is proposed to be included within a proposed extension to HO178 – Airlie Avenue Precinct. The exhibited statement of significance proposed a Contributory grading for 554A High Street.
41. The table below extracted from the 1 March 2021 Council meeting describes the Council's position on this site.

Sub No.	Subject Address	Supporting or Opposing Summary	Officer response and recommendation
52	554A High St Pahran	<p>Opposing</p> <ol style="list-style-type: none"> 1. Oppose inclusion of property in HO, (supported by advice from heritage consultant Lovell Chen). 2. Notes that an earlier (1999) study for an expansion of the Airlie Avenue precinct did not consider site, or other commercial properties, for inclusion or further investigation. 3. Exhibited citation is incorrect in its assumptions about the intactness of the dwelling. The original dwelling was 	<ol style="list-style-type: none"> 1. The property is proposed to be included in the extension to HO178 – Airlie Avenue precinct, graded 'contributory'. 2. The absence of a property in a previous heritage study does not preclude its future inclusion in the Heritage Overlay provided a thorough assessment has been undertaken in accordance with the requirements of the Heritage Overlay and Planning Practice Note 1 (Applying the Heritage Overlay). 3. On review of the material accompanying the submission, including an image of the original dwelling provided and other information about the extent of change, Council's independent heritage consultant recommended the proposed grading of the property be changed to 'non-contributory'. 4. Refer to 3 above. <p>No change to the Amendment is proposed.</p>

42. Ms Brady's evidence supports the position of the Council – that is, that based upon the information provided in the submission, the exhibited contributory grading for 554A High is not supported and the property ought be graded as non-contributory but remain within HO17.

43. The site sits within a run of buildings including 568 (Grading Significant B), 566 (Contributory) and then a stretch of buildings starting with 552 through to 546 High Street on the Chomley Street corner which are all graded buildings. It is apparent that Mr Statham agrees that the buildings at 546-552 High Street warrant grading as he nominates that they ought be Significant/Contributory.
44. As to 568 High Street, the exhibited statement of significant describes it under the heading 'What is significant' as the brick villa 'Cathcart' the earliest house in the precinct of 1880. and 566 High Street. It is unknown why, by Mr Statham's witness statement says 'Not confirmed' in relation to the Significant grading of 568 High Street – perhaps this is because he notes that he has not been able to inspect the property¹⁶. Presumably he will explain his position on this property during the course of the hearing.
45. As to 566 High Street, Mr Statham's evidence is that buildings to the east of 554A High Street at 566-576 are not well-suited to the inclusion in an expanded Airlie Avenue Precinct. He suggests that a broader consideration of a High Street Precinct to consider the shops and residential rows that defined the early character of the High Street should take place¹⁷. Such a 'broader consideration' and a different scope of assessment is not proposed in this Amendment. The Amendment proposes an expansion of HO178 to include these properties. It is apparent that Mr Statham is silent as to the heritage significance of 566 High Street.
46. Whilst there may be occasional 'gaps' associated with non-contributory fabric, it is submitted that the expansion of this precinct sensibly recognised the significant of the heritage fabric and the sensitivities within a precinct context of ensuring that development of non-contributory sites is sufficiently respectful of heritage fabric of value.

Submission 31 – Sass Development (Aust) Pty Ltd – 177 Toorak Road, South Yarra

47. The photographs below illustrate this property which is known as South Yarra Square.

¹⁶ As he stated on page 23.

¹⁷ Page 38.



48. The Amendment proposes to down grade the classification of the property from Significant B to contributory. The property is current included within HO150 – Toorak Road Precinct.
49. The table below is extracted from the report to Council on 1 March 2021. It summarises the Council's response to the submission.

Sub No.	Subject Address	Supporting or Opposing Summary	Officer response and recommendation
31	Lot 10, 177 Toorak Rd South Yarra	<p>Opposing</p> <ol style="list-style-type: none"> 1. Opposed to the grading and extent of Overlay. 2. Contributory grading does not take into account all development occupying 177 Toorak Rd. 3. Only development on the southern portion of the site dates from the Victorian Period, and it has been modified. 4. Lot 10, 177 Toorak Rd is located on second floor of 'clock tower' building and should not be graded contributory. 	<ol style="list-style-type: none"> 1. 177 Toorak Road is already affected by the Heritage Overlay. This is not proposed to be changed by the Amendment. The Statement of Significance identifies the site as 'contributory'. 2. The extent to which individual components of the site are considered contributory will be assessed at planning permit application stage. 3. Within an HO Precinct, it is typical to incorporate the full title boundary within the Heritage Overlay (rather than to adopt a polygon approach). This assists in avoiding confusion over what is identified in the precinct and what is not and ensures any planning permit application concerning the site responds appropriately to its heritage context. 4. (Refer to 2 above). <p>Recommended position: No change in Council position to exhibited amendment.</p>

50. Ms Brady's evidence addresses this property at paragraph 63-65. The key matter is dispute relates to whether the heritage overlay should include the whole of the title (which is consistent with the evidence of Ms Brady and the position of the Council) or whether the mapping should exclude the mid-twentieth century building towards the rear of the site.
51. The submission points out that the pair of former residences on the eastern side of the site have an address of 185-187 Toorak Road. The Council agrees that this address ought be included in the statement of significance in addition to 177 Toorak Road with the whole of the site identified as 'South Yarra Square'.
52. The Council otherwise does not support the use of the 'polygon' approach advocated by the submitter and submits that the whole of the site ought remain within the Heritage Overlay.

Submission 45 – 151 Finch Street, Glen Iris

53. It is understood that this submitter will not present before the Panel but will circulate a written submission before noon on 14 October 2021.
54. The subject of the submission is 151 Finch Street – pictured below¹⁸.

¹⁸ Extracted from the evidence of Ms Brady page 29.



55. The table below extracted from the 1 March 2021 Council meeting describes the Council's position on this site.

Sub No.	Subject Address	Supporting or Opposing Summary	Officer response and recommendation
45	151 Finch St Glen Iris	<p>Opposing</p> <ol style="list-style-type: none"> 1. While not opposing the application of the Heritage Overlay, the submission opposes the application of internal controls. 2. Property has also been nominated for inclusion on the Victorian Heritage Register (VHR). If that nomination is accepted, it will be subject to a separate process and does not need to be considered as part of C304. 3. If it is progressed as part of Amendment C304, inadequate justification has been provided for internal controls. 4. If internal controls are applied, it is requested that an incorporated document be prepared which identifies which works are exempt from a planning permit. 	<ol style="list-style-type: none"> 1. 151 Finch Street, also known as Former Crossman House, is proposed to be included in an individual heritage overlay for its architectural and aesthetic significance. Internal alterations controls are proposed to apply. While the controls were not initially proposed by Council, it was requested by State Government Department representatives that internal controls be applied prior to exhibition. 2. The Executive Director of Heritage Victoria has recently recommended that this property <u>not</u> be included on the Victorian Heritage Register, as it is not considered to be of State heritage significance. Therefore, its inclusion in Amendment C304 ensures its local significance is recognised. 3. The Citation that has been prepared for 151 Finch St, Glen Iris, notes that: <i>The significant fabric is defined as the entire exterior of the house, the original interior fabric (including built-in furniture, timber paneling, indoor garden bed, ramp, floor tiles, and kitchen and bathroom fitouts) as well as the original garden wall along the front property line.</i> (Emphasis added). 4. It is considered that an incorporated plan may be appropriate to provide certainty to the land owner and remove the need for unnecessary planning permit applications. <p>Recommended position: Support the preparation of an Incorporated Plan to be presented to the Planning Panel, and seek the Panel's advice as to whether this can be achieved as part of the current Amendment.</p>

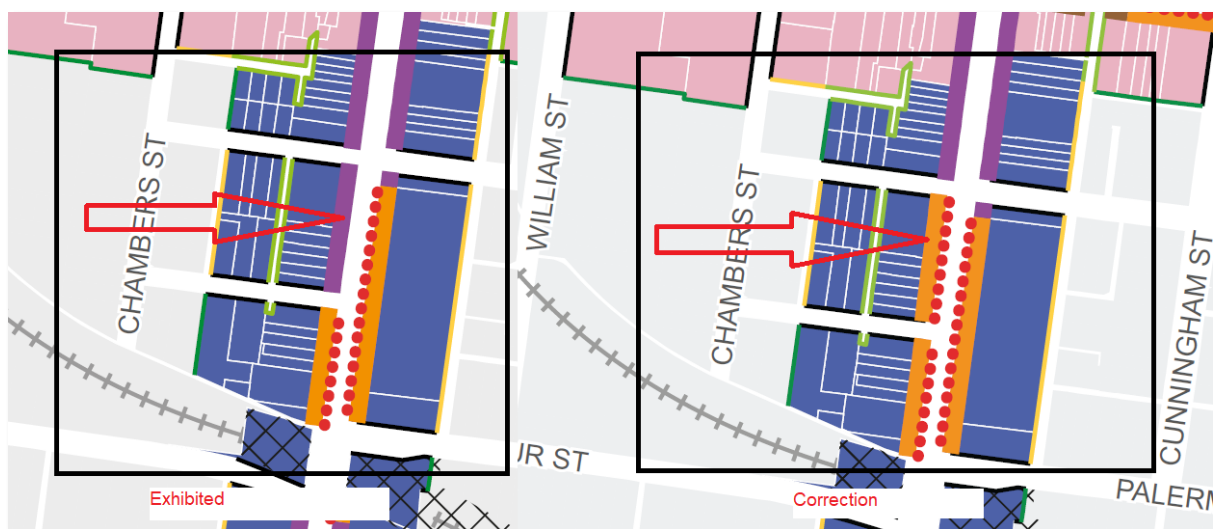
56. As stated in the Part A submission, on 16 July 2021 a Registration Hearing was held to consider the inclusion of 151 Finch Street as a place of State significance in the Victorian Heritage Register. It was determined by the Regulatory Committee, on behalf of the Heritage Council, that pursuant to section 49(1)(c)(i) of the *Heritage Act* 2017, the place is not to be included in the Heritage Register.

57. The Amendment proposes to include this property within a new HO643. The exhibited amendment said 'Yes' in the proposed schedule to HO643 in the table where it asks '*Internal alteration controls apply?*'
58. It is understood that inclusion of the property is supported by the submitter and that the submitter proposes to submit a proposed form of Incorporated Document as part of its submission in relation to proposed internal controls.
59. Council is likely to have further submissions in its reply once the submission and proposed Incorporated Document is provided by the submitter.
60. The Council's position is to seek the advice of the Panel in relation to this property.

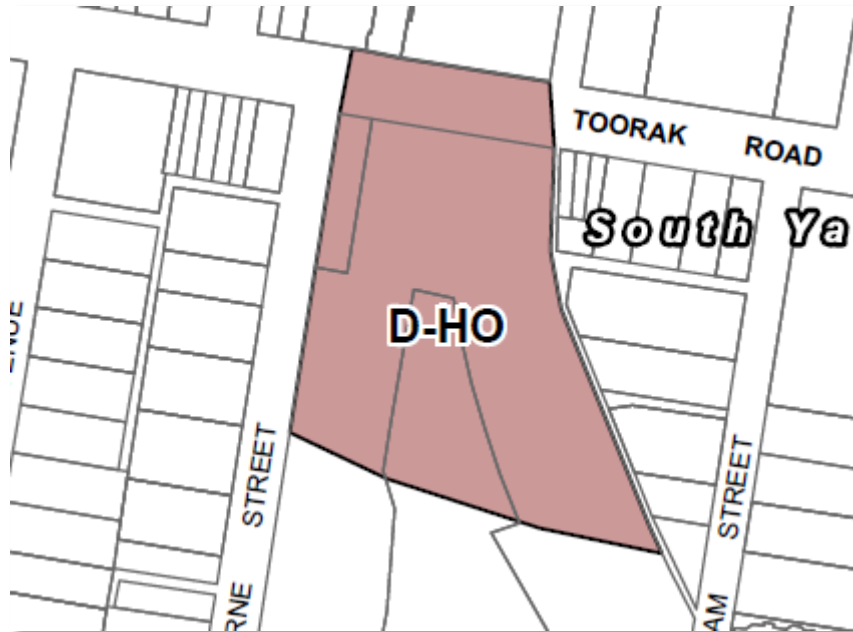
DIRECTION 8 – COUNCIL'S FINAL POSITION ON THE AMENDMENT

61. Council's Part A submission, at paragraph 51 the Council presented the changes that it proposes in response to the submissions.
62. At paragraph 52 of the Part A submission, it was stated:

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).
63. The maps below illustrate the proposed correction.



64. At paragraph 55 of the Part A submission the Council pointed out that a consequential mapping change needs to be made to the HO150 map to reflect the removal of the South Yarra Siding and Lovers Walk. A map to display this change was not exhibited – this was an oversight. Below is a map to demonstrate this proposed consequential change because the revised precinct no longer includes this location.



65. These submissions otherwise set out the Council's final position on the amendment at this stage of the hearing. It may be that upon hearing the submissions and evidence of other parties that the Council may make further submissions in its closing that alters its current position on certain aspects of the Amendment.

CONCLUSION

66. The Council submits that the Amendment has strategic justification and respectfully requests that the Panel support the Amendment.
67. The Council will seek to address any further issues which arise over the course of the Panel hearing in its reply.

Peter O'Farrell

Isaacs Chambers

Counsel for the Planning Authority

Instructed by Marcus Lane Group Lawyers

11 October 2021