

**BAYSIDE PLANNING SCHEME
AMENDMENTS C37 AND C38
HERITAGE OVERLAY**

PANEL REPORT

DECEMBER 2004

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.....
MICHAEL READ, CHAIRMAN



.....
PETER FINN, MEMBER



.....
HELEN MARTIN, MEMBER

DECEMBER 2004

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1. SUMMARY

1.1 OVERVIEW

Amendments C37 and C38 to the Bayside Planning Scheme represent the outcome of a long process of heritage studies by the City and its predecessors, the Cities of Brighton and Sandringham. These studies have resulted in a large number of individual properties being placed in the Heritage Overlay and the establishment of a number of heritage precincts. Some of these individual properties and all of the precincts were placed in an Interim Heritage Overlay. These amendments are designed to replace the interim Heritage Overlay with a permanent heritage overlay. Amendment C37 deals with the individual properties, Amendment C38 deals with the heritage precincts.

In addition, in each amendment, a number of individual properties are to be removed from either the individual heritage overlays or the heritage precincts.

As part of Amendment C38, a new policy, in Clause 22.06, is to be introduced. This policy would include a statement of significance for each of the heritage precincts, together with a list of buildings that contribute to that precinct's heritage value.

1.2 SUBMISSIONS

There were a number of submissions in support of the amendments, in particular the Bayside Alliance, and a large number opposing their different aspects, including the Bayside Ratepayers Association.

1.3 THE PANEL'S RECOMMENDATIONS

The Panel identified four types of issue, each of which has been dealt with in a separate chapter:

- Chapter 6 deals with issues of principle –
 - The criteria used to assess the heritage significance of places and threshold levels of significance, where the Panel concluded that, in future, Council should adopt the AHC criteria and should redraft any statements of significance not in this form to reflect these criteria
 - The adequacy of the rigour that underlies the amendment which, in some cases the Panel considered less than adequate, leading the Panel to recommend that Council consider adopting the recommendations of the Ballarat C58 Panel and withdraw the list of contributory buildings, substituting instead an incorporated plan excluded those buildings that were specifically non-contributory

- Drafting of the statements of significance, which the Panel considered did not comply with the guidance provided by the Burra Charter and should be redrafted for greater brevity and clarity
- Other issues such as economic costs and fairness, which were dealt with briefly, referring to other Panel conclusions on these matters
- The need for a strategic approach to heritage assessment that takes account of a wider range of choices as to how local heritage significance can be established.
- Chapter 7 discusses a number of issues relating to the proposed Clause 22.06 and makes some references to other recommendations in this report that would require a change to this policy's drafting, in part.
- Chapter 8 considers submissions in relation to Amendment C37 and supports many of Council's submissions but rejects a number.
A number of the individual buildings (i.e. buildings in single areas of overlay, rather than in precincts) proposed to be placed in the permanent Heritage Overlay were built during the inter-War period. Because the Panel concluded that Council had undertaken insufficient research in relation to development during the inter-War period, the Panel recommended that these buildings remain in the interim Heritage Overlay (the interim overlay has no sunset provision) until further research has been completed. This review of inter-War development should also include individual buildings of this period that are already in the permanent Heritage Overlay.
- Chapter 9 considers submissions in relation to Amendment C38 and generally supports Council's position, but with suggested changes to the definition of precinct boundaries in at least two cases
- Chapter 10 sets out the Panel's response to the Strategic Assessment Guidelines and concludes that the amendment and the related processes comply with these guidelines
- Chapter 11 sets out a comprehensive list of recommendations.

2. THE PANEL PROCESS

2.1 THE PANEL

This Panel was appointed under delegation on the 17 May 2004 pursuant to Sections 153 and 155 of the Planning and Environment Act 1987 to hear and consider submissions in respect of Amendments C37 and C38.

Amendment C37 proposes to apply the Heritage Overlay permanently to all individual properties and landscape elements currently shown as having 'interim' status in the Schedule to Clause 43.01 in the Bayside Planning Scheme. It also makes other corrections, modifications and amendments to the Overlay schedule and updates the Municipal Strategic Statement. Amendment C38 proposes to apply the Heritage Overlay permanently to Heritage Precincts currently shown as having 'interim' status, to modify the boundaries of several precincts and to introduce a Local Policy to apply to all properties covered by the Heritage Overlay.

The planning authority is Bayside City Council and the proponent is also the Council.

The Panel consisted of:

- Chairman: Michael Read
- Member: Peter Finn
- Member: Helen Martin

2.2 HEARINGS, DIRECTIONS AND INSPECTIONS

A Directions Hearing was held on 15 June 2004 at Brighton Town Hall to discuss matters of a preliminary nature and the proposed dates of and procedures to be followed at the Panel's hearings.

Those present at the Directions Hearing included:

- Mr James Lamour-Reid and Ms Natalie McNally of Bayside City Council
- Mr Egils Stokans, lawyer, of Russell Kennedy, on behalf of Council
- Mr George Reynolds, representing the Bayside Ratepayers' Association
- Ms. Kristin Stegley, representing the Bayside Alliance and Brighton Residents for Urban Protection Inc. and
- A number of other submitters and/or their representatives.

At the Directions Hearing, the Panel Chair advised those present that the Panel would deal with both Amendments together. He outlined the overall order in which submissions would be heard: information on the background to the amendments, submissions dealing with individual properties and then submissions dealing with precincts.

Mr David Whitney, representing his wife, Mrs A Whitney, said that she had recently received a letter from Bayside City Council advising that a comprehensive assessment of her property would be carried out. He queried whether this would occur before the hearings and whether the outcomes would be made available to submitters.

Council advised that it would be relying on the original studies, but had retained Ms Robyn Rivett, heritage consultant, to review those properties on which submissions had been made, in the light of the issues raised and the Australian Heritage Commission's criteria for determining heritage significance. Ms Riddett's assessments would be circulated to affected parties before the hearings.

Mr Reynolds raised various matters of process:

- The changes to the exhibited versions of Amendments C37 and C38 adopted by Council on 26 April 2004 were notified to owners of affected properties and other submitters. Mr Reynolds asked for additional advertising to advise the wider Bayside community of these proposed changes.
- He claimed that no list of the properties affected had been included in Amendment C37, since the street numbers of 'non-contributory' properties were not given in the proposed Local Policy (Clause 22.06). Non-contributory properties could only be identified from the map, which did not include street numbers. He asked that owners of non-contributory buildings should be notified and given a chance to respond.
- Some properties included within precincts that are part of Amendments C37 or C38 have already been discussed as individual places in Amendment C15. Mr Reynolds queried whether it was reasonable for the owners to be obliged to respond to these Amendments, when they had already made submissions on C15.
- Expert evidence supplied to parties over the six or seven year period during which the Bayside heritage controls had been under consideration had changed as the material was amended or added to. Mr Reynolds queried the adequacy and consistency of the evidence. He asked for printed copies of all the relevant heritage studies to be made available to the Ratepayers' Association.

After hearing from Council staff and Mr Stokans on these matters, the Panel determined that no further notice was required of the changes adopted by Council in April 2004, since all owners of affected properties and submitters had been advised and there had been considerable publicity in local papers that should have alerted interested members of the public.

The issue concerning identification of 'non-contributory' buildings was resolved by Council officers pointing out that all affected properties had been included in the mapping and had received notification of the Amendments.

The Panel noted that the current Amendments did not propose to change the heritage status of those properties already dealt with in Amendment C15. The inclusion of some of these properties in proposed heritage precincts did not apply any additional controls to these places and therefore no detriment was caused to their owners. Owners could, however, respond to the proposed Heritage Policy that would guide the exercise of discretion under the Heritage Overlay.

A number of directions were made, including arrangements for circulation of Ms Riddett's supplementary assessment of properties and the reports of expert witnesses, availability of expert witnesses during the hearings and supply of printed copies of the various heritage studies to the Bayside Ratepayers' Association. The Panel subsequently agreed to a slightly later date for circulation of Ms Riddett's expert witness report.

The Panel Hearings were held on 11-13 August, 18-20 August, 26-27 August, 1-3 September and 8-9 September 2004 at Bayside City Council's Council Chambers in Boxshall Street, Brighton.

The Panel members, severally and together, inspected the properties affected by this amendment on various occasions during and following the hearings.

2.3 SUBMISSIONS

A list of all persons who made written submissions to Amendments C37 and C38 is included in Appendix A.

The Panel has considered all written and oral submissions and all material presented to it in connection with this matter. The following parties attended the Panel's hearings and made submissions to the Panel.

Submitter	Represented By
Bayside City Council	Mr. Egils Stokans of Russell Kennedy, lawyers, assisted by Council officers Mr James Lamour-Reid and Ms Natalie McNally. Mr. Stokans called the following expert witnesses: <ul style="list-style-type: none"> – Ms Robyn Riddett, heritage expert, of Allom Lovell & Associates Pty Ltd – Mr Bryce Raworth, heritage expert, of Bryce Raworth Pty Ltd – Mr John Patrick, landscape architect, of John Patrick Pty Ltd
Mr K Andersson	Himself
Mrs S Andersson	Herself
Anglican Diocese of Melbourne	Mr. Dominic Scally. He called Mr David Bick, architectural historian & conservation architect.
Bayside Alliance (BA)	Ms Kristin Stegley
Bayside Residents' Association (BRA)	Mr George Reynolds
Bayside Residents for Urban Protection (BRUP)	Mr Barrie Sheppard
Mr G Brearley & Ms D Sharpe	Mr Roger Gillard, QC, instructed by Mr Geoffrey Brearley. He called: <ul style="list-style-type: none"> – Mr Roger Beaston, heritage architect, of RBA Architects & Conservation Consultants Pty Ltd – Mr John Briggs, conservation architect, of John Briggs Architects Pty Ltd.
Mrs J Byrne	Herself

Submitter	Represented By
Mr K & Mrs L Caporn	Mr Keith Caporn. He called Mr David Bick, architectural historian & conservation architect.
Mr Richard Clevers	Himself
Ms Lyn Cunningham	Herself
Ms Jocylean Dean	Herself
Mr J & S Duggan	Mr Jonathan Duggan. He called Mr Bruce Trethowan, heritage architect, as expert witness
Mr A & Mrs G Ensabella	Mr John Blanch, lawyer, with Mr. Ensabella
Mr B Felsenthal	Himself
Ms Geraldine de Fina	Mr David O'Brien, barrister, instructed by Ms de Fina. He called Mr David Bick, architectural historian & conservation architect, as expert witness.
Mr Rod Gibson	Himself
Mr D & Ms J Grace	Ms Jill Grace
Mr J & Mrs V Grant	Mr John Grant
Mr Peter Gustavsen	Himself
Haileybury College	N Dwyer
Mrs P & Mr R Holden	Mrs Pamela Holden
Ms Jane Horten-Zimmer	Herself
Ms Patricia Hunter	Herself. She called Mr Bruce Trethowan, heritage architect, as expert witness.
Mr Bryan Jemmeson & Mrs Val Jemmeson	Themselves
Ms M Johnstone	Ms Mary Johnstone
Ms R Kailis	Mr Nicolas Zervos, solicitor. He called Mr Bruce Trethowan, heritage architect as expert witness.
D & P Kyrios	Mr Frank Tisher, barrister, instructed by Ms Kyrios. He called Mr Bruce Trethowan, heritage architect, as expert witness.
Mr A Maclean	Himself
Mr R Malone	Mr Ray Malone. He called Mr David Bick, architectural historian & conservation architect, as expert witness.
Mr RJ Mullens & Ms M Wedgwood	Ms Melanie Wedgwood
Mr D & B Munro	Mr George Reynolds, Bayside Residents' Association
Mr B Neal	Himself
Mr A & Mrs S Palomba	Mr Angelo Palomba
Mr C Parsons	Mr Clifford Parsons attended the Panel hearing but did not present his submission to the Panel.
Mr T & Mrs A Portelli	Themselves
Ms M Reeves	Ms Margaret Reeves. Ms. Reeves called Mr John Briggs, conservation architect, of John Briggs Architects Pty Lt, as expert witness.

Submitter	Represented By
Mr H & Mrs A Rogelberg	Mr H Rogelberg
Mr J Scott	Himself
Ms Caroline Shepard	Herself
Mr P Shepard	Mr P Shepard
Mr J & Mrs M Sinclair	Mrs Margaret Sinclair
Thalma Pty Ltd & Mr H Thodos	Mr John Cicero, lawyer
Mrs Shirley Upton	Herself
Mr A & Mrs S Valente	Mr Angelo Valente & Ms Silvana Valente. They called Dr Peter Yau, arboricultural consultant, of PSY Pty. Ltd. as expert witness.
Mr M & Mrs M Walsh	Themselves
Mrs A Whitney	Herself, with Mr. David Whitney
Mr A & Mrs S Wildbore	Mr A Wildbore
Ms E Wilkins	Mr. Philip Wilkins
Mr T & Ms K Wilmot	Mr Tim Wilmot

3. WHAT IS PROPOSED?

We have adopted Mr. Stokans' description of the effect of the proposed two amendments, as follows.

Amendment C37 proposes to change the Bayside Planning Scheme by:

- amending the Municipal Strategic Statement at clause 21.09 - Heritage;
- amending the Schedule at clause 43.01;
- amending planning scheme maps.
- including the former Boyd family house at 5 Edward Street, Sandringham in the Schedule following a recommendation from Heritage Victoria that the property is of local significance and warrants protection.
- correcting a number of errors and anomalies identified in the City of Bayside Heritage Review by Allom Lovell & Associates 1999 (the 1999 Bayside Heritage Review) (a reference document), the Schedule, and planning scheme maps; These changes are contained in the Bayside Heritage Review (Revision 1) 2003, which was placed on exhibition as part of Amendment C37.
- removing paint controls where the application of paint controls is considered onerous;
- deleting six landscape elements from the Schedule HO 706, 707, 709, 717, 719 and 720;
- correcting the location of significant trees and accurately defining the extent of critical root zones.

Amendment C38 proposes to change the Bayside Planning Scheme by:

- amending the Municipal Strategic Statement at clause 21.09 - Heritage;
- adding an heritage policy at clause 22.06;
- amending the Schedule at clause 43.01;
- amending the heritage overlay maps.

Amendment C38 proposes to modify existing precincts by:

- extending the North Road precinct (HO 662) boundary by:
 - including the former St Stephen's Church at 72-74 Cochrane Street, Brighton, which was included in the precinct on a temporary basis as a result of an application to demolish the place and the Minister for Planning extending the interim North Road Heritage Precinct HO 662 to cover the subject site that was part of Amendment C34;
 - including the northern portion of John Knox Presbyterian Church and Manse.
- reducing the Orlando Street precinct by deleting properties from the west side of Orlando Street and properties in Small Street;
- introducing a new Asling Street (previously, partially within the Elm Grove precinct);
- splitting the Grosvenor/Normanby precinct into two.

The effect of the two Amendments would be to remove the 'interim' notation in the Schedule to the Heritage Overlay from over 200 individual properties, 35 landscape elements and 15 heritage precincts as identified on the Heritage Overlay maps.

Amendments C37 and C38 were exhibited from 13 November 2003 to 15 December 2003. All affected property owners and submitters to previous heritage amendments (C6, C17 & C18) were notified by letter, as were relevant referral authorities and Ministers. Notices were published in the 'Bayside Leader' and 'The Age' on 10 November 2003 and the Government Gazette on 13 November 2003.

4. ISSUES RAISED IN SUBMISSIONS

Submissions were received from a wide range of individuals and organisations, including statutory authorities, community groups and individuals.

Issues raised in submissions on Amendment C37 included:

- Support for the Amendment in the light of the need to preserve and conserve Bayside's rich heritage.
- Support for the application of permanent heritage controls to particular places, plus suggestions for additional properties that should be added in future.
- Support for the proposed removal of Heritage Overlay controls from particular properties currently under interim controls.
- Concerns re the long and confusing process involved in the application of Heritage Overlay controls to the properties that are the subject of the Overlay, especially in the light of the extent of opposition to proposed heritage controls in the past.
- Claims re inadequate notification and other failures of process [Mr Reynolds made a point in his original submission regarding the failure of the exhibited material to mention Amendment C19 and the date of its approval in the schedule of amendments to the Scheme. He claimed that this made the documents defective and therefore the Amendments should be withdrawn]
- Concerns re a perceived lack of transparency in the process of identification and assessment of heritage places and a lack of rigour in the studies on which the Amendments are based, including failure to substantiate the significance of individual places against recognised heritage criteria.
- Claims of a lack of equity in the selection of places to which heritage controls were applied, when properties of similar age and apparent integrity in close proximity to listed places were not proposed for inclusion under the Overlay.
- Opposition to the application of heritage controls to private property, without compensation to owners, often accompanied by the suggestion that heritage listing should be voluntary.
- Concerns about the potential of heritage controls to reduce property values and impose additional costs on owners, including fees and other compliance costs and the additional expense of carrying out repairs with original materials.
- Concerns over the cost to Council and therefore to ratepayers of the heritage studies and the preparation and presentation of the Amendments, as well as the likely future costs of administration and enforcement.
- Fears about the impact of heritage controls on properties of individual significance, where these were not part of a precinct and where unsympathetic development could occur around them, whilst sterilising their own development potential.
- Concerns that the application of the Overlay would restrict the ability of owners to modify or redevelop their properties to meet changing family needs and in accordance with personal preferences.

- Corrections or challenges to information contained in the citations for individual places.
- Challenges to the assessment of individual places on the basis of inadequate justification of significance, failure to recognise the degree of modification or loss of integrity, lack of conformity with a defined architectural style, state of repair of the building, inclusion (in mapping) of parts of a property that are acknowledged to have no heritage significance, or a confusion between the identified property and the one that was intended to be listed.
- Opposition to proposed tree controls, including those applying to adjoining properties.

Issues raised in submissions on Amendment C38 (in addition to the matters of general application listed for Amendment C37) included:

- Support for the concept of precincts and their contribution to ensuring that the historical character of areas is maintained and that inappropriate development does not compromise the significance of identified heritage areas or reduce the amenity of neighbourhoods.
- Concerns that some of the precincts identified in the Bayside heritage studies do not have interim heritage protection and have not been included in the Amendment.
- Support for and opposition to redefined boundaries for some precincts, as included in the Amendment, particularly for the Orlando Street precinct.
- Questions as to whether particular precincts meet the criteria set out in the heritage studies.
- Concerns about the whether the proportion of contributory buildings is sufficient to justify a precinct.
- Claims that unsympathetic development within proposed precincts has already altered their character to such an extent that the significance of the area has been lost.
- Suggestions for amendments to the boundaries of particular precincts.
- Requests for houses to be added to the list of contributory buildings in particular precincts.
- Requests for houses to be removed from the list of contributory buildings in particular precincts, on the grounds that: they do not reflect the era or character described in the Statement of Significance; no reference is made to them in the citation; they lack a defined style or are of poor quality construction; they have undergone significant alterations that have reduced their heritage value; they are in a poor state of repair; or that the building originally on the site has been replaced recently.
- Views that planning should embrace new design of high quality, rather than requiring the preservation of redundant old buildings, particularly timber buildings that have reached the end of their effective life.

A number of submissions referred specifically to the proposed Heritage Policy (Clause 22.06). The major issues raised were:

- Support for the objective in the Policy to encourage retention and conservation of all significant and contributory heritage places and to ensure that new

development within these areas is respectful and sympathetic to the existing built form.

- The policy guidelines are too restrictive and onerous, as well as vague and ambiguous in places.
- Tests relating to demolition are unreasonable.
- The policy does not include recognition of the need for increased environmental sustainability and will inhibit owners from adapting their properties for greater energy and water conservation.
- Concerns about the interpretation of policy provisions, particularly what is worthy of retention and what is seen as a 'compatible' or 'sympathetic' replacement.
- Confusion about the stress on not replicating historical detail whilst respecting the style of the original building.
- Concerns about restrictions on second storey developments leading to loss of private open space and increasing encroachment on neighbours.
- Strong opposition to provisions re car parking, that is likely to restrict some owners from being able to build any covered parking space.

All Referral Authorities indicated that they had no objection to either Amendment.

The Panel identified a number of in-principle issues that underlay the assessment that had to be made of many individually listed heritage places or precincts. It is therefore useful to discuss these in-principle issues separately, in order to establish how they should be assessed. It then becomes possible to apply them to the various individual circumstances affecting the assessment of the heritage value of places proposed for inclusion in the Heritage Overlay.

These issues are discussed in Chapter 6, while the Panel's consideration of and recommendations in relation to individual places are set out in Chapters 8 and 9.

5. STRATEGIC CONTEXT

5.1 STRATEGIC PLANNING FRAMEWORK

This Section identifies the strategic context within which issues associated with Amendments C37 and C38 to the Bayside Planning Scheme must be considered.

The relevant documents that provide the strategic context for considering Amendments C37 and C38 are as follows:

- Planning & Environment Act 1987
- Relevant Ministerial Directions
- VPP Planning Practice Note on Applying the Heritage Overlay
- The Metropolitan Strategy – Melbourne 2030
- Bayside Planning Scheme – State Planning Policy Framework (SPPF) and Local Planning Policy Framework (LPPF)
- City of Brighton Urban Character and Conservation Study 1986, City of Sandringham Heritage and Conservation Study, 1989, Bayside Heritage Review 1999 and the Bayside Heritage Review (Revision 1) 2003.

PLANNING & ENVIRONMENT ACT 1987

The Panel notes that the objectives of planning in Victoria, as laid down in the Planning & Environment Act 1987 include [at 4(1) (b)]:

To conserve and enhance those buildings, areas and other places which are of scientific, aesthetic, architectural or historical interest, or otherwise of special cultural value.

This objective places an obligation on Councils to take a proactive approach to protection and enhancement of places identified as being of heritage significance.

5.2 MINISTERIAL DIRECTIONS

The following Ministerial Directions have been identified as being relevant to the Panel's considerations:

- Ministerial Direction under Section 7(5) of the Planning & Environment Act 1987, on the form and content of Planning Schemes
- Ministerial Direction No. 9 on the Metropolitan Strategy
- Ministerial Direction No. 11 on strategic assessment

Ministerial Direction on the Form & Content of Planning Schemes

This direction sets out the way in which the Victoria Planning Provisions should be used to construct new format planning schemes. It includes instructions on the form and content of schemes, as well as style sheets and other information that must be complied with. It also applies to Amendments to planning schemes.

The Panel has concluded that Amendments C37 and C38 are consistent with the requirements of this Direction.

Ministerial Direction No. 9 – Metropolitan Strategy

Ministerial Direction applies to all metropolitan planning schemes. It requires a planning authority, in preparing a planning scheme amendment, to have regard to Melbourne 2030 and to include in the explanatory report discussion on:

- What aspects, if any, of Melbourne 2030 are relevant?
- How does Melbourne 2030 affect the amendment?
- Is the amendment consistent with any directions and policies in Melbourne 2030
- Does the amendment support, give effect to or assist the implementation of Melbourne 2030 or can it be reasonably modified to do so?
- Will the amendment compromise the implementation of Melbourne 2030?

The Department of Infrastructure has advised that the formal status of Melbourne 2030 is a 'seriously entertained strategic plan and policy statement'. Planning authorities should consider how an amendment affects and is affected by Melbourne 2030. This requirement also applies to Panels dealing with exhibited amendments.

The relevance of the provisions of Melbourne 2030 to Amendments C37 and C38 to the Bayside Planning Scheme is discussed in Section 5.5 below.

Ministerial Direction No. 11 - Strategic Assessment

The Ministerial Direction on Strategic Assessment makes it mandatory for planning authorities to address the questions raised in the General Planning Practice Note on Strategic Assessment Guidelines for Planning Scheme Amendments in the Explanatory Report that accompanies an exhibited amendment to a planning scheme. The obligation to address the guidelines applies also to Panels in their evaluation of proposed amendments.

This Panel notes that Amendments C37 and C38 were exhibited prior to the publication of Ministerial Direction No. 11, so that the Explanatory Reports were not required to address the matters raised in the practice note.

The Panel's assessment of Amendments C37 and C38 against the Guidelines is given in Chapter 10.

PLANNING PRACTICE NOTE

The Panel has identified that the *VPP Practice Note: Applying the Heritage Overlay* is relevant to its consideration of Amendments C37 and C38.

The Practice Note gives advice on what places should be included in the heritage overlay. This includes: places on the Register of the National Estate; places recommended for protection by the Heritage Council; places on the National Trust Register:

..... provided they can be shown to justify the application of the overlay'; (and) places identified in a local heritage study, provided the significance of the place can be shown to justify the application of the overlay.

The Practice Note goes on to say:

All places that are proposed for planning scheme protection, including places identified in a heritage study, should be documented in a manner that clearly substantiates their scientific, aesthetic, architectural or historical interest or other special cultural or natural values.

....

The heritage process leading to the identification of the place should be undertaken with rigour. The documentation for each place should include a statement of significance that clearly establishes the importance of the place.

The key question of the rigour of the studies on which Amendments C37 and C38 are based and the issue of how to determine the threshold for local significance are discussed in detail in Chapter 6, below.

5.3 METROPOLITAN STRATEGY - MELBOURNE 2030

The key directions of Melbourne 2030 that are of most direct relevance to this matter include:

Policy 5.4 which reaffirms the need 'Protect heritage places and values'. Initiatives listed under this policy include:

- Promote a consistent framework for assessment of heritage places and refine guidelines for the assessment of development proposals under the Heritage Overlay (5.4.2)
- Provide guidance to local government and other agencies on preparing statements of significance (5.4.3)
- Ensure that planning schemes reflect the full extent of heritage values in each municipality (5.4.4)

The Panel concludes that Amendments C37 and C38 are consistent with the directions and policies of Melbourne 2030.

5.4 STATE PLANNING POLICY FRAMEWORK (SPPF)

The provisions of the State Planning Policy Framework (SPPF) clearly encourage the introduction of heritage controls in the local sections of planning schemes.

The Goal of the SPPF is to ensure that the objectives of planning in Victoria, as set out in the Act (see above), are fostered. This includes heritage conservation.

The Panel considers the following SPPF policies to be relevant to its consideration of the Amendments.

Clause 15.11 considers heritage. It includes an objective:

To assist the conservation of places that have natural, environmental, aesthetic, historic, cultural, scientific or social significance or other special value important for scientific or research purposes, as a means of understanding our past, as well as maintaining and enhancing Victoria's image and making a contribution to the economic and cultural growth of the State.

This clause is central to the evaluation of Amendments C37 and C38. It implies a need for Councils to identify heritage places in their local government areas and to determine their significance on a systematic basis.

Under 'General implementation' it requires that:

Planning and responsible authorities should identify, conserve and protect places of natural or cultural value from inappropriate development. These include:

- Places of botanical, zoological or other scientific importance ...
- Places and sites of geological ... or other scientific importance ...
- Places of Aboriginal cultural heritage significance ...
- Sites associated with the European discovery, exploration and settlement of Victoria.
- Important buildings, structures, parks, gardens, sites, areas, landscapes, towns and other places associated with the historic and cultural development of Victoria, including places associated with pastoral expansion, gold mining, industrial development and the economic expansion and growth of Victoria.

The Clause also requires planning authorities to 'have regard to' the Local Government Heritage Guidelines (Department of Planning and Housing 1991) 'when preparing planning schemes or amendments to assist in the conservation and enhancement of places, sites and objects of non-Aboriginal cultural heritage value'.

The Panel concludes that the intentions of Amendments C37 and C38 are consistent with the State Planning Policy Framework. Issues concerning the Local Government Heritage Guidelines are discussed in detail in Chapter 6.

5.5 LOCAL PLANNING POLICY FRAMEWORK (LPPF)

Many of the issues and objectives of the LPPF reflect those of the SPPF and the Metropolitan Strategy. There are various elements of the Bayside Planning Scheme LPPF that are relevant to Amendments C37 and C38. The following clauses are of particular relevance.

21.04 VISION AND OVERARCHING GOALS

21.04-1 Vision

The community of the City of Bayside will:

- Enjoy the beauty of its environment and particularly the coast.
- Celebrate its heritage and culture.
- Develop and enrich a 'locality' or 'village' focus.

Furthermore:

...

There will be recognition of the cultural significance of important 'heritage' buildings, sites and precincts

...

To realise this vision, the Bayside Corporate Plan identifies five principles to be applied in its approach to the community.

These principles emphasise a commitment to:

- Engagement and inclusion of residents and community members.
-
-
- Preservation and enhancement of heritage, natural features and areas.
-

Clause 21.04-2, under 'Overarching Goals' includes the following:

Design and image

To achieve quality design and continuously improve the image of land use and development in Bayside which:

-
- Respects valued elements of the arts, character and heritage.
- ...

21.08 TOURISM

21.08-1 Overview

...

Key resources for tourism in Bayside include:

- ...
- Heritage buildings and gardens suitable for tours, recreation, seminars and education.
- ...
- Arts, culture, theatre, cinema, galleries, local artists and history (for example the Heidelberg School artists).
- ...

21.08-3 Objectives, strategies and implementation

Objective 1

To maximise the social and economic benefits of tourism for Bayside.

Strategies

Strategies to achieve this objective include:

...

- Develop a linked approach to the promotion of related tourism e.g. the development of theme packages for antiques and heritage, bayside dining, historical walks and interpretation, art themes (eg. scenes painted by the artists of the Heidelberg school).

...

Objective 3

To minimise the impact of tourism on the natural environment and inherent character of an area.

Strategies

Strategies to achieve this objective include:

- Facilitate tourism that respects the residential, heritage, leisure and environmental goals for the municipality.
- ...
- Applying the Heritage Overlay to preserve buildings, structures and natural features of cultural significance.

21.09 HERITAGE

21.09-1 Overview

Bayside has a rich and varied heritage from the period prior to and following European settlement through to the twenty first century.

Heritage studies undertaken by the former Brighton and Sandringham Councils identified and graded a number of individual sites and two residential precincts. At that time, there was only limited support for the implementation of planning controls because they were seen as an infringement on people's property rights. As a result, heritage controls were limited to approximately 80 significant buildings and works.

A number of buildings identified in the studies have since been demolished and there is now increasing concern that the City's heritage is under serious threat.

Heritage assets of State and Regional significance range from buildings such as Billilla, Kamesburgh, Black Rock House and the Brighton bathing boxes to significant trees, artworks, artefacts, HMVS Cerberus and the Beaumaris cliffs' fossil site.

21.09-2 Key issues

- The protection of heritage buildings for present and future generations requires the implementation of effective planning controls.
- There need to be clear design guidelines for new development adjacent to heritage buildings or within heritage precincts.
- Restrictions on the use of some heritage buildings are undermining their cultural significance.

21.09-3 Objectives, strategies and implementation

Objective 1

To protect and enhance the City's buildings, trees and structures of cultural significance for present and future generations.

Strategies

Strategies to achieve this objective include:

- Introduce demolition and development controls over sites and precincts identified as having heritage significance.
- Recognise the varying degrees to which individual buildings contribute to the significance of a heritage area.
- Encourage restoration of heritage buildings, sympathetic alterations and additions, contemporary infill development that is in harmony with characteristics of the area and appropriate street treatment/fencing.
- Investigate the potential for offering incentives to owners of heritage properties to undertake restoration works.

Objective 2

To facilitate a use that would otherwise be prohibited where the nature and built form of the heritage place requires a greater range of options.

Strategies

Strategies to achieve this objective include:

- Identify buildings of heritage significance that would benefit from allowing a use that is otherwise prohibited in the zone.
- Ensure that the non-conforming use of buildings of heritage significance does not adversely affect the amenity of the area.

Implementation

These strategies will be implemented by:

Policy and exercise of discretion

Zones and overlays

- Applying the Heritage Overlay to places listed in the Brighton Urban Character and Conservation Study, 1986 and the Sandringham Heritage and Conservation Study, 1989.

Further strategic work

- Preparing an amendment to implement the recommendations of the recent heritage review of past studies and survey of areas not previously studied.
- Developing a heritage policy to guide decisions on demolition and development of all buildings affected by heritage controls and the use of heritage buildings for a purpose that is prohibited under the zone provisions.
- Preparing design guidelines for restoration of and extensions to heritage buildings, new infill development, street treatment and fencing.
- Investigating the heritage significance of the remaining parts of the City of Bayside.

Other actions

- Developing an education program to identify the benefits of heritage listing in the planning scheme.

Reference documents:

City of Brighton Urban Character and Conservation Study, 1986

City of Sandringham Heritage and Conservation Study, 1989

Beaumaris Cliffs Fossil Site Nomination for inclusion on Register of National Estate, 1996

City of Bayside Heritage Review, February 1999.

It is apparent from the passages quoted above that the preservation of identified places of local heritage significance in the City of Bayside has substantial support within the Municipal Strategic Statement of the Bayside Planning Scheme.

Amendments C37 and C38 are, therefore, consistent from a policy perspective with the provisions of the Scheme.

Amendment C38 proposes to introduce a new Local Policy (Clause 22.06 - Heritage Policy) to the Local Planning Policy Framework. The exhibited policy is discussed in detail in the following sections.

5.6 OTHER DOCUMENTS

The other relevant documents include:

- Andrew Ward & Associates (1989), *City of Sandringham Heritage and Conservation Study*
- Perrott Lyon Mathieson Pty Ltd, in association with Andrew Ward (Architectural Historian), *City of Brighton: Urban Character and Conservation Study* 1986.
- Allom Lovell and Associates (1999) *City of Bayside Heritage Review, February 1999*; and
- Allom Lovell and Associates (2003), *City of Bayside Heritage Review (Revision 1)*.

These documents are referred to in detail in the following sections, which record the Panel's judgments about the approach Council has used to identify places of local heritage significance in the City of Bayside.

6. IN-PRINCIPAL ISSUES

6.1 INTRODUCTION

During the course of the submissions and evidence, we identified a number of in-principal issues that were relevant to many of its decisions about the heritage significance of places (both individual properties and precincts) that were referred to this Panel. These included:

- The appropriateness of the criteria that have been used to establish a place's heritage significance, together with a definition of the threshold level for establishing a place's heritage significance at the local level pursuant to any particular criterion
- The adequacy of the drafting of statements of significance of heritage value
- The adequacy of the rigour with which the assessments of heritage value had been undertaken (e.g. the research underpinning heritage assessments, the comparative assessment of buildings of particular eras)
- Consistency of any recommendations about this amendment in relation to previous heritage studies and amendments.

There is also the matter of terminology. Heritage experts use one or two common terms to convey quite specific and important views or conclusions about heritage values and assessments. This relates particularly to the use of the terms 'significance' and 'interest'. In this report we have used the following meanings:

- 'Of significance' (as shorthand for 'of local heritage significance') means that a place achieves the local level of heritage significance – which is the minimum justification for it to be included in the Heritage Overlay
- 'Of interest' (as shorthand for 'of local heritage interest') means that, while a place has some heritage value, this is not sufficient to justify its inclusion in the Heritage Overlay.

6.2 CONTEXT OF THESE AMENDMENTS

The studies that underlie these two amendments were undertaken in 1999 and, in turn, were in part based on earlier studies in 1986 and 1989 by the Cities of Brighton and Sandringham respectively. Consequently, the most recent research and methodology on which this amendment relies are now 5 years old and to some degree must be dated. Mr. Stokans made the point that the methodology of heritage studies has developed over time and that this should continue, a point with which we agree and this is reflected in the reports from a number of more recent panels that have considered heritage amendments to other municipalities' planning schemes.

However, these preceding studies in the City of Bayside have been the basis on which a large number of individual buildings or complexes of buildings are now

placed in permanent Heritage Overlays. Consequently, we have been faced with something of a dilemma. On the one hand, it is difficult for us to be critical of a study methodology or its outcomes when this study has been used to justify the application of the heritage overlay to many individual places in the now City of Bayside. On the other hand, we consider it appropriate that we should maintain some consistency with the views and concerns that have been expressed by more recent heritage panels.

As we have discussed in the following chapters, by drawing on submissions and evidence to this Panel, together with the conclusions and observations of a number of other Panels that considered heritage amendments over the last 5 or so years, we have concluded that there are now a number of areas in which the methodologies used for the heritage studies in the City of Bayside could be improved.

Consequently, bearing in mind our earlier comment above, we have sought to strike a balance between the heritage assessment methodologies used previously in the City of Bayside and the conclusions and recommendations of other heritage panels. In some cases, this has led us to conclude that some individual places and precincts are not of local heritage significance in the knowledge that, in previous circumstances, the opposite conclusion might have been drawn.

The reader of this Panel's report must therefore bear in mind that, making our observations, we are not seeking to undo Council's previous decisions. Rather, we are seeking to reflect changing understanding of appropriate methodologies, criteria and methods of assessment.

There is, of course, the risk that the evolution of methodologies for heritage studies will render some previous decisions questionable. These consequences are matters to be addressed in future reviews and studies.

6.3 ASSESSMENT CRITERIA AND THRESHOLD LEVELS

A study of the different criteria that have been used in heritage studies reveals three features:

- The geographic level of significance (e.g. state, local or less)
- Categories of significance (aesthetic, cultural value, rare or innovative, representative of a phase of development, etc.)
- Threshold requirements (e.g. what minimum features or qualities are required for a place to achieve a particular level of significance – state or local).

Most sets of criteria we have noted include one or two of the above, but rarely all. As an example Allom Lovell and Associates, in the *1999 Bayside Heritage Review*, used two criteria – one which indicates the level of significance (state, local) and the other for the threshold level of local heritage significance (based on a building's integrity).

The Australian Heritage Commission (AHC) has developed a set of 8 criteria, some of which include guidance as to appropriate thresholds of state significance. In fact, the type of criteria which is most often absent or poorly developed, and which caused us the greatest difficulty in our assessment of the places referred to this panel, is the definition of threshold levels of local heritage (or cultural) significance.

CRITERIA FOR ASSESSING HERITAGE SIGNIFICANCE IN AMENDMENTS C37 AND C38

For a place to be included in the Heritage Overlay of a planning scheme, it must be of local heritage significance (*Local Government Heritage Guidelines 1991*)

Two questions arise:

- Why a place might be of local heritage significant
- Whether a place has sufficient local importance to justify its inclusion in the Heritage Overlay of the planning scheme.

The *Planning Practice Note: Applying the Heritage Overlay* requires that “recognised heritage criteria” should be used for the assessment of heritage values, indicating the criteria developed by the Australian Heritage Commission (AHC) as appropriate. In practice, a number of types of criteria have been developed, applied and progressively refined over the last decades of practice relating to heritage studies.

The Burra Charter sets out definitions of terminology and a series of principles for the conservation of cultural values. It also includes supporting guidelines which set a basis for understanding cultural significance: aesthetic, historic, scientific and social values. As the *Guidelines for the Assessment of Heritage Planning Applications* (2000) state, “the (Burra Charter) provides the guiding philosophy (and) defines the basic principles and procedures to be observed in the conservation of important places.” Because of this document’s generality, however, it is necessary to turn to other sources for more practical guidance in the assessment of local heritage significance. It also focuses on place management and the conservation of fabric rather than the identification of significance.

The AHC criteria set out 8 specific categories of cultural significance (paraphrased) which are supported by descriptive elaborations:

- Criterion A: Importance in the course or pattern of cultural history
- Criterion B: Possession of uncommon, rare or endangered aspects of cultural history
- Criterion C: Potential for research into cultural history
- Criterion D: Demonstration of the principal characteristics of cultural places
- Criterion E: Demonstration of valued aesthetic characteristics
- Criterion F: Demonstration of a high degree of creativity or technical achievement
- Criterion G: Strong associations with a particular community or cultural group
- Criterion H: Special association with the life or works of a person or group of persons of importance in cultural history.

The Victorian Heritage Council has developed a somewhat similar set of criteria, but without any amplifying guidelines.

Many municipal heritage studies have used the AHC criteria (Stonnington L47(D) and C5/C6; Hobsons Bay C17 and C34; Monash C41. It also now appears to be accepted by such municipalities that it is appropriate that, where the AHC criteria are used, a place’s overall heritage significance should be tested against each criterion

separately, rather than using an overall accumulation of lesser values ascribed to several criteria).

The criteria that were used by Allom Lovell and Associates to assess places for their level of local or state heritage significance in the *1999 Bayside Heritage Review* are as follows:

- Grade “A” structures are places of individual cultural significance sufficient to be considered for inclusion on the Victorian Heritage Register and the Register of the National Estate
- Grade “B” structures are integral to the cultural significance of the City of Bayside as a whole through their architectural integrity and/or their historical associations. These are places, whilst essential to the heritage value of the City’s building stock and its streetscapes, would not warrant an individual listing on the Victorian Heritage Register, however, listing on the Register of the National Estate should be considered.
- Grade “C” structures contribute to the architectural or historical character and cohesiveness of Bayside and, as such, are either of local importance or interest. These structures that are close to grade “B” buildings, both in their physical location and their period and type, but have substantial alterations made to their original fabric which are, in large part, reversible and, if removed, their visual contribution would be enhanced. Buildings graded “C” were considered to be of importance within the municipality worthy of retention but were not considered to be of sufficient significance to warrant planning scheme protection.

The *1999 Bayside Heritage Review* also included a separate 3-level set of criteria for the assessment of landscapes, generally equivalent to and using the same notation as the criteria for buildings (‘A’ of state significance, ‘B’ of local significance and ‘C’ of local interest) but without any indication at all of what features were required to meet any of these levels of significance.

The *1999 Bayside Heritage Review* also included a separate and quite different set of criteria or guidelines for identifying significant precincts.

We understand, from statements by Ms. Riddett, that these criteria were established before the VPP Planning Practice Note was produced and have continued in use until recently, albeit with some refinements. We were also shown a table indicating that there are, or have been, a number of similar types of criteria which basically use an alphabetical lettering system, generally in a manner similar to the Allom Lovell and Associates’ criteria, but with a greater number of levels of significance.

Ms. Riddett referred to a number of other heritage studies undertaken by Allom Lovell and Associates and in which the same criteria as were used in the *1999 Bayside Heritage Review* have been applied, as well as heritage studies by other consultants.

In addition to indicating one of three grades for each place, the *1999 Bayside Heritage Review* provides a statement of significance that indicates why a place has heritage value (either for its “aesthetic significance” or “interest”, or its “historic significance” or “interest”, or a combination of both), together with information about the basis of this significance.

The earlier 1986 *Ward Study* provided a statement of the level of a place's significance by way of a recommendation for the level of protection: local planning scheme, State register.

In expressing its concerns about the use of the AHC at the local level of significance, the Stonnington L47 (D) Panel observed as follows.

We conclude that the AHC criteria, which are the criteria that form the basis for assessment of the local significance of buildings, are not readily suited to this purpose in their present form and elaboration. In our view, much difficulty is caused by the uncertainty of, and various interpretations of, the application of these criteria to the local level.

We recommend that Council should seek State Government support to a review of these criteria for use at the local level. Heritage Victoria is the obvious body with the appropriate responsibility. The AHC criteria provide the obvious basis for such criteria, but the elaboration and illustrative examples are the critical features that are required to assist Councils and the community in this matter.

We note that the Hobsons Bay C17 Panel referred to and supported the Stonnington L47 (D) Panel's conclusions.

However, having reviewed these and other comments, together with the AHC criteria with their supporting Explanatory Notes, we believe that the key words of the Stonnington L47 (D) Panel are "*their present form and elaboration*". These notes include examples of places that would or would not satisfy each criterion's threshold level for national significance. We believe that it is these Explanatory Notes, and in particular their 'Inclusion' and 'Exclusion' guidelines, that need to be redrafted to provide clarity and consistency in the assessment of local cultural values. This is an issue that we have discussed later in this chapter.

Mr. Stokans' submission set out various reasons why the Panel should be prepared to rely on the criteria that had been used in the 1999 *Bayside Heritage Review*, pointing out that the consultants that undertook this review had used the same criteria in a several other municipal heritage studies; also that the Bayside C29 Panel had accepted these criteria as an appropriate basis for its recommendations.

He further submitted (p18) that "the criteria used in the 1999 *Bayside Heritage Review* very closely resemble the content, if not the precise words, of the AHC criteria" and that the former "better responds to local conditions." He also submitted that "In recent times, Panels have moved away from using the AHC criteria in determining heritage significance at the local level", quoting the criticism of these criteria by the Stonnington L47 (D) Panel and concerns expressed by the Ballarat C58 Panel.

During the course of the Panel's hearing various submissions, together with responses to inquiries from the Panel and evidence, identified a number of issues in relation to the nature and application of the original Allom Lovell and Associates' criteria. Consequently, we consider that it is appropriate that the Panel should reconsider the adequacy of, or any limitations on, these criteria before it undertakes its assessment of places referred to it as part of this amendment.

We note that the various experts that gave evidence on behalf of submitters did not rely on either the Allom Lovell and Associates' criteria or the AHC criteria. We also

noted that, when the Heritage Council reviewed the submission in relation to 5 Edward Street, Sandringham for the Victorian Heritage Register and recommended it as being of local, not state, significance, it also made no reference to any specific criteria as a basis for its recommendation.

THRESHOLDS OF SIGNIFICANCE

In addition to the criteria for assessing the basis of a place's importance, there is the matter of defining the threshold of local significance for each criterion.

Unfortunately there has been very little discussion about how to define the threshold of local significance (i.e. the level of heritage value that a place should have to justify its inclusion in the Heritage Overlay in the municipal planning scheme). The 1999 *Bayside Heritage Review* uses the level of integrity of a building's fabric as the sole indicator of the difference between local heritage significance (i.e. justifying inclusion in the Heritage Overlay) and heritage interest. On the other hand, the AHC criteria's associated guidelines include some clear indicators of threshold levels (discussed later).

The *Local Government Heritage Guidelines* acknowledges the importance of the threshold level of local significance:

"It is, however, neither possible nor desirable to conserve every building, work place or object. Some measures must be applied to places, buildings and objects to which these standards apply in order to determine the degree of significance of a particular place. The degree to which a place is significant will determine the appropriate forms of management for the place".

It then goes on (rather unhelpfully, in our view) to state (p6):

"Places of local significance are of particular importance to a local community or part of a community which is usually defined by a local government area."

Likewise, the Burra Charter Guidelines, in section 3.0 The Establishment of Cultural Significance, merely outlines the process for collecting and reporting information and drafting the Statement of Cultural Significance. It does not discuss the issue of defining an appropriate threshold of significance at any level.

The AHC criteria include a set of explanatory notes or guidelines and, within these, there are 'Inclusion guidelines' and the 'Exclusion guidelines', which provide examples of places that would or would not meet the particular criterion, e.g. with respect to Criterion A2: "A place is not eligible if the design concept or aesthetic ideals are not expressed in a way that is better than that of other places within its Type, i.e. if it is not outstanding"; or for Criterion D2, "A place may be entered in the Register if in can be regarded as a particularly good example of its Type, (or) it is one of a number of similar places which are all good examples of Type,"

DISCUSSION OF CRITERIA AND THRESHOLDS

The issues we now consider, in relation to the selection and use of criteria, are:

- The value the Panel should place on the *1999 Bayside Heritage Review* criteria for its assessment of this amendment
- The use of the AHC criteria as an alternative and, where used (as in the 2004 review by Allom Lovell and Associates), the question of how they (or their Explanatory Notes) should be used to assess local heritage significance
- Whether an assessment should be made by aggregating a place's standing against several criteria, or whether it should be assessed against each criterion separately and, finally
- How should the threshold level of a place's significance be defined in terms of any particular criterion?

Firstly, there are a few points that can usefully be set out or restated:

- The *VPP Planning Practice Note: Applying the Heritage Overlay* now identifies the AHC criteria as appropriate (it is the only example used to illustrate the concept)
- With respect to defining thresholds of significance, it was widely agreed by different experts appearing before this Panel that there is a substantial degree of value judgement required to assess a place's heritage value, so that there is always likely to be legitimate, differing professional views about the heritage value of some places.
- There is a wide range of matters that can be taken into account in making any assessment (e.g. a place's value in relation to historic, social, aesthetic, cultural factors, its fabric's integrity and so on), leading to further grounds for differences between judgements.
- The economic affects of heritage conservation for affected property owners and the community can in many cases be positive but, in many other cases, can be quite onerous.

We believe that any criteria for assessing the basis and level of a place's heritage significance should be clear and accountable. In other words, the criteria, together with their use through research and analysis, should be such as to ensure that:

- The basis of a place's heritage value is reasonably specific, and
- The assessment can be readily understood by lay persons and
- The assessment can be readily tested against the judgement of other experts.

These three requirements would seem to be necessary to satisfy the objective of the *Planning & Environment Act 1987* for fairness. Property owners or other objectors should, in our view, have a reasonable understanding of the basis on which a place has been judged to be of local heritage significance, not just the conclusion itself. Without this, both objectors and supporters have no firm basis on which to argue for or against an expert's conclusions.

If we compare the criteria used in the *1999 Bayside Heritage Review* to those of the AHC, we conclude that the latter are considerably superior to the former. The *1999 Bayside Heritage Review* criteria simply refer to "aesthetic", "historic" and "social" as the basis of the assessment, qualifying these with reference to "significance" or

"interest" but with no clear explanation as to the difference between these terms, and used "integrity" as the sole reason for placing places at or below the level of local significance.

On the other hand, the AHC's 8 criteria are quite specific and, in our view, much more open to being tested than those of the *1999 Bayside Heritage Review*. In the latter, "aesthetic" presumably relates to AHC Criterion E, while the vague terms "historic" and "social" deal with the other 7 AHC criteria.

We consider that the criteria used in the *1999 Bayside Heritage Review* create unreasonable difficulties for the various interested parties. Firstly, it is difficult for the original consultant to explain, in a clear manner, the basis on which a decision was reached. Likewise, it is impossible for anyone else to contest the assessment because they can never be entirely clear as to its basis. It is not feasible to disentangle and contest the different elements of the assessment.

We also do not consider that we should be bound by the Bayside C29 Panel's acceptance of the *1999 Bayside Heritage Review's* criteria. Amendment C29 was designed to remove a number of buildings from an Interim Heritage Overlay and the key criteria for concluding that they were not of local significance was the extent of alterations to the original fabric (i.e. simply involving an assessment between levels of significance "B" or "C"). The C29 Panel therefore faced a relatively narrow range of issues and was able to deal with these without having to question the limitations of the Allom Lovell criteria. We conclude that, in relation to Amendments C37 and C38, we are faced with much more complex assessments. In this context we consider that the Allom Lovell criteria used in the 1999 Study are not now the most appropriate.

For the reasons set out above, we also disagree with Mr. Stokans' submission that the Allom Lovell criteria "very closely resemble the content, if not the precise words, of the AHC criteria" and that they "better respond to local conditions". Also for the reasons set out above, we do not accept Mr. Stokans' submission that there is a move away from the use of the AHC criteria. We consider that these criteria are very useful in disaggregating the basis of a place's heritage value and probably the best available in this respect. We do, however, agree with other Panel's that there is a serious deficiency in defining appropriate thresholds of local heritage significance for these criteria – but that does not relate to the adequacy of the criteria. It is a separate matter which we have discussed further, below.

We therefore reject the suggestion that the AHC criteria are not appropriate. However, insofar as it has been possible, we have also had regard to the *1999 Bayside Heritage Review's* criteria which in the first place provided the basis for selecting places to include in these amendments.

Prior to the commencement of this Panel's hearings, Council officers directed Allom Lovell and Associates to undertake a further site inspection and review those matters referred to the Panel and to redraft the assessments using the AHC criteria. The redraft of the consultant's assessment in terms of the AHC criteria has been very helpful to us in our own review. However, we see Council's review as having only involved updating field records and rewriting the original assessment in terms of the AHC criteria, not as an independent appraisal with the possibility of overturning the original assessment on the basis of different criteria.

It seems to us that the *1999 Bayside Heritage Review* criteria and others like them (i.e. those which use the integrity of building fabric as a criterion of heritage significance) derive from a period when, as Ms. Riddett pointed out, heritage studies primarily focused on the architectural values of a building rather than its historical or social value. In the former case, the integrity of a building's fabric would be very important. However, in cases where a building's significance derives from other criteria, e.g. associations with groups or individuals (AHC Criteria G and H) or rarity (AHC Criterion B), the integrity of the fabric may be of much less importance. In this vein, we noted Ms. Riddett's observation, in discussing the significance of alterations to No. 12 Agnew Street, Brighton (which was rated as significant only in relation to AHC criterion A4 in the Allom Lovell and Associates 2004 review), that "if a building is (important for) historic reasons, rather than architectural, then the significance of any alterations is less".

However, this flexibility is not reflected in the criterion used in the *1999 Bayside Heritage Review*, which is the only criterion on which Ms. Riddett (and Council) has relied in assessing individual buildings.

Similarly, Ms. Riddett also appeared, from a number of statements, to have put aside the effects of many alterations where she defined them as "a normal consequence of maintenance", e.g. (and again in relation to 12 Agnew Street) "chimneys are often removed anyway, changes to (cladding) materials are often necessary". She also included in 'B' grade buildings ones that had "substantial alterations that were in large part reversible" (e.g. as with the property at 24 St Ninians Street, Brighton), even though the definition of a 'C' grade building specifically includes such type of alteration.

The third issue is whether the overall heritage value of a place should be assessed separately against each criterion, or whether an overall value of local significance can be achieved by a combination of criteria in circumstances where a place would not be of local significance in terms of any one (i.e. relying on a cumulative value across a range of criteria).

From statements by Ms. Riddett during cross-examination, together with reference to the statements of significance for various properties, as set out in the *1999 Bayside Heritage Review*, it is clear that assessments made using the latter's criteria relied on an accumulation of values against the different Burra Charter criteria of aesthetic, historic and social values (scientific values did not appear relevant to any places in this amendment). For example, in reference to the property at 65 Fernhill Road, Sandringham, Ms. Riddett observed during cross-examination that she had "looked at the aesthetic and historic aspects together and weighted the mix."¹ This clearly indicates that at least some of Allom Lovell's assessments have been based on summing heritage values across a number of the Burra Charter criteria.

We can see that an aggregation of values across several criteria appears to take a more holistic approach to the complexities of cultural value. The disadvantage is that it very difficult for anyone to contest conclusions that have such a lack of

¹ This Panel's members are also aware of separate evidence that Ms. Riddett gave in relation to the heritage value of the Glen Park homestead in the Shire of Yarra Ranges during hearings in relation to the Panel hearing for Amendment C16, Yarra Ranges Planning Scheme. In that case also, she had concluded, using similar criteria, that in respect to the subject property, "its historical and social significance is not sufficient to outweigh its lack of aesthetic/architectural significance"

transparency. Because the process of aggregation involves a number of factors that are already subjective in themselves, the conclusion builds subjective judgment on top of other subjective judgments. Furthermore, we believe that the AHC criteria have been defined in a way that allows each to stand independent of the others. It is certainly true that a place that meets one criteria may well meet several others [e.g. a place that meets Criterion E1 (aesthetic value) may also meet Criterion A4 (phase of development) and D2 (type of activity)], but each of these embodies a distinctly different aspect of cultural value.

On this basis, we support the conclusions of other panels that have supported the assessment of places against each criterion separately, rather than by aggregating its value across a range of criteria. This is how we have approached our own assessment of places on the basis of the submissions and evidence.

Following this discussion, and having indicated that we consider the AHC criteria preferable to those of the *1999 Bayside Heritage Review*, we now turn our mind to the application of the AHC criteria at the local level.

APPLYING THE AHC CRITERIA AT THE LOCAL LEVEL

As already noted, there are different views as to how the AHC criteria should be applied at the local level. We have already noted that the AHC's criteria are accompanied by explanatory guidelines which assist in their application and, in many respects, these can be used directly at the local level. However, it is clear that, even where heritage experts are using the AHC criteria to assess local significance, they are rarely using the associated guidelines but are applying their own, usually unstated, judgement or interpretations.

We have concerns in particular about the way the AHC criteria have been applied at the local level in the final Allom Lovell and Associates review. We have set out these concerns and our conclusions in the following sections of this report.

AHC Criterion A4 – Importance in the course or pattern of cultural history

Very many buildings were cited using AHC Criterion A4, with the greatest number being for those built during two periods during the 19th C or between 1900 and WWII (the "second land boom"). The problem we face is that it is not clear why some buildings are cited under this criterion while others, of apparently similar age, integrity and architectural quality, do not.

The *1999 Bayside Heritage Review, Volume 1: Thematic History* has been relied on to establish the relevance of Criterion A4. Such a thematic history is now required as part of heritage studies funded through Heritage Victoria. Ms. Riddett advised us that the *1999 Bayside Heritage Review* was one of the first examples of such a thematic history.

A number of submitters claimed that the thematic history did not substantiate those cases where Criterion A4 had been nominated as the basis of a place's heritage significance. For example, the section of the *Thematic History* dealing with '1900 To World War Two – The Second Land Boom', deals with this important period extending over almost 40 years in a mere 3 paragraphs on a half page. Submitters argued that this section of the *Thematic History* was quite inadequate to support the

importance placed on this period of Bayside's history or the individual citations of precincts and individual buildings on the basis of this criterion.

In reading this *Thematic History*, we had hoped to find a reasonably broad exposition of the sweep of development history across the municipality. For instance, in *Chapter 2.0 Survey and Settlement*, we found a description of many of the important subdivisions that had occurred in the City, together with detailed and colourful anecdotes of their development, often taken from real estate agents' marketing material of the time.

On the one hand, the descriptions that were provided gave a delightful insight into the cultural milieu of the times as it related to the process of land development. On the other hand, apart from a detailed description of the historic circumstances of the Dendy subdivision, we would have preferred a greater illustration of the spatial and demographic characteristics of the various phases of development and the relationship of that development with the types of buildings, the dispersion or concentration of building styles or types and so on. None of this is readily available and much of the thematic history reads more as a collection of historic anecdotes and interesting events. There is little spatial, demographic or social information to provide an appreciation of the City's development processes and outcomes, of which phases of historic development are important to us now, which are not.

A more spatially-based analysis or some kind of quantification of trends or mapping of spatial patterns would have provided a much clearer justification for any conclusions drawn about the importance or representativeness of individual buildings and precincts. It is not clear to us that the structure and content of this research document has been tailored to the kinds of conclusions that it is required to support.

We therefore found it difficult to understand why many buildings referred to the Panel had been cited in relation to Criterion A4 while others of generally similar quality had not. Or at least, there should be some explanation as to why some buildings are more suitable to demonstrate a particular era of development than are others. For example, 12 Agnew Street is identified only as significant pursuant to Criterion A4. There are 3 other buildings in this street (in either an interim or permanent overlay), but there are many others of the same general age and not dissimilar architectural quality and integrity that have not been identified. It is not obvious to us how a decision was made to select some only.

On reflection, it seems so much more appropriate, except in respect to buildings that represent particular institutional characteristics and would normally be found in isolated settings (e.g. schools, churches) or which have some other particular claim to be representative of their phase of development (e.g. as with some remnant pioneering-era buildings), that precincts provide a better demonstration of waves of development, particularly in relation to such generic types of building as dwellings.

Our conclusion is that all citations of individual dwellings based on the Criterion A4 should be set aside until some clear explanation is provided for the use of this criterion. The exception would be where there are some circumstances that set building aside as a clear exemplar of its period or wave of development.

AHC Criterion E1 – Aesthetic importance

AHC Criterion E1 refers to (our emphasis) “aesthetic characteristics held in **high esteem**” and for a building that “**fully reflects** the aesthetic qualities for which it is nominated”. The Exclusion guidelines indicate that a place is not eligible if the design ideals “are not expressed in a way that is **better than** that of other places within its Type; i.e. if it not outstanding.”

We sought to explore this issue by cross-examining the different experts that appeared before us.

We asked Ms Riddett how she selected buildings that met this criterion [e.g. what proportion of a particular type of building (Type) she would consider significant in relation to one or other AHC criteria – typically E1]. For example, we asked her, in considering buildings of a particular historic (i.e. aesthetic) style, would she consider that all buildings of that style and of reasonable integrity would be of local significance, or just the most outstanding of these, and how these would be determined? In response we were provided with a description of the process of assessment and the various matters to be weighed, but no indication of whether, or how important, she considered comparative judgements to be in this matter.

We sought to illustrate our dilemma in this matter by referring to the ‘bell curve’ of the distribution of statistical probability and, based on the relevant qualities that buildings might have, requested Ms Riddett to suggest where, in the bell-curve, she would place the threshold for local significance for any one of the AHC criteria². Whatever other limitations this approach might have, it does nicely illustrate the concept that there is, in practice, a choice as to where, in the spectrum of all examples of a Type, the threshold should be drawn for local heritage significance. That is, that even with the AHC guidelines, there must be some degree of comparison to establish a level of “high esteem” or which buildings “fully reflect” particular qualities.

As we said, we explored this issue with several heritage experts. It was not clear where Ms Riddett would place her cut-off point with respect to any criteria. Mr Trethowan indicated that he would select a cut-off point, in relation to aesthetic significance (AHC criterion E1) at about the 80th percentile point (e.g. that would include the best 20% of examples). Mr. Easton and Mr. Bick accepted the premise of our example and adopted a generally similar position on the scale of quality.

Some of the questions that arise in our minds, in applying this criterion at the local level are:

- Should Criterion E1 be only applied to buildings of a style that is significant in the history of Bayside's development, i.e. one that was popular in some parts of Bayside, rather than rare, or should any moderately reasonable example of a style, no matter how rare, be accepted as significant?
- Should a lesser standard of admiration be accepted, so that instead of “high esteem” we could have “some regard”, and

² Mr. Reynolds pointed out that, in cases where there was scarcity of samples at one end of the spectrum, the bell curve would take a log-distribution form, with the peak value of the curve towards the scarcity-end of the spectrum. However, we do not have to delve into such details to illustrate the need for comparative assessment in reaching an overall conclusion.

- Should some reduction in aesthetic excellence be accepted, so that instead of “fully reflects” we could have “some recognisable elements of”?

Our concern about the application of this criterion in the *1999 Bayside Heritage Review* is that we were not always convinced that all types of buildings and styles of design were important in the history of Bayside. We suspect that some were, for whatever reason, not popular and therefore uncommon in the City. In some cases, we felt that the Criterion E1 was applied to vernacular buildings, which we put in a different class to those that were designed to a selected style and for conscious effect.

Part of our concern about lack of rigour (refer later discussion) in the assessment process also relates to the inconsistency we found in the application of the assessment criteria from the *1999 Bayside Heritage Review*. The key difference between a ‘B’ grade, which is of local heritage significance, and ‘C’ grade, which is only of local interest, lies in the nature of any alterations. To repeat the earlier quotation with reference to ‘C’ graded buildings (our emphasis):

“These are structures that are close to grade “B” buildings, both in their physical location and their period and type, but have **substantial alterations made to their original fabric which are, in large part, reversible** and, if removed, their visual contribution would be enhanced.

We note that, in this criterion, the question of reversibility is not the issue. Notwithstanding this, Ms Riddett nominated some buildings as ‘B’ graded on the basis that their alterations were reversible. We also disagreed with Ms Riddett’s assessment of what could feasibly be reversed (e.g. as for 24 St Ninians Road, Brighton, where removal of the attic windows would not seem feasible in practice, as it would require such a large loss of habitable space as well as substantial building costs).

We noted a number of buildings that were nominated initially as being ‘B’ graded and, on review, nominated as meeting AHC Criterion E1 which, in our view, did not meet either of these criteria. Examples included:

- 13 Hillcrest Avenue, Brighton – a Californian Bungalow style, single storeyed dwelling, with a large, two-storeyed addition to the rear which, from many viewpoints in street, dominates the original, fairly modest dwelling
- 24 St Ninians Road, Brighton, a Georgian-style, two storeyed dwelling, with an introduced large attic window which dominates the simple, hipped form of the roof (and which could not, as we discuss above, be readily or feasibly removed)
- 7/8 Manor Street, Brighton, a two-storeyed block of Interwar flats with a large, 1960s two-storeyed extension to one side of its front which alters the entire assemblage of the building, as well as occupying what would otherwise be a very spacious garden, typical of its era but not of today’s
- 95-7 Church Street, Brighton, a two-storeyed Edwardian shop with gross alterations to the front ground floor level, so that at its frontage only the first-floor level has any integrity.

We have concluded (refer later discussion for details) that none of these buildings meet the requirement that it should have “a high degree of integrity so that it fully reflects the aesthetic qualities for which it is nominated”. On the same basis, we concluded that they could not meet the requirements for ‘B’ grade buildings under the

relevant *1999 Bayside Heritage Review* criterion, even though this would accept something less than “a high degree of integrity.”

AHC Criterion H1 – Special association with

AHC Criterion H1 relates to “Special association with the life or works of a person or group of persons of importance in cultural history”. Two questions arise:

- What constitutes “special association”; and
- What constitutes “importance in cultural history (at the local, i.e. municipal, level)”?

The AHC’s Explanatory note refers to examples of places “which illustrate the person’s contribution (to public life)”. It also notes “the extent to which the association affected the fabric of the place, and the extent to which the place affected the person, can be important.” Further on, it suggests that the association should go beyond the merely incidental, observing “A place is not eligible simply because a prominent [person] worked there.”

The Stonnington L47(D) Panel (as have a number of later panels) referred to a quotation from Graham Davison in “What Makes a Place Historic (in Davison G. and McConville C, ed, 1991), where Davison notes “As Sir John Summerson, the British architectural historian, once remarked, ‘the objective fact that a certain man did live in a certain house is of purely subjective value’. The connection becomes more than sentimental only if the historic personage and the building somehow help to interpret each other.” While Davison’s proposition may be debatable, we are not aware of any academic or other discussion that argues an alternative point of view.

In translating the AHC criteria to the local level of heritage significance, how do we assess an individual’s importance and what constitutes an appropriate relationship between place and person? Is mayorship once, or several times, sufficient to make that person especially important within a municipality? And is mere domicile in a dwelling sufficient to establish a special rather than incidental or merely interesting relationship between person and place – at least, at the local level – or should we abandon the concept of a special association at the local level and accept any interesting or incidental association as sufficient?

We conclude that, in the absence of further public articulation of any alternative, we should adopt a position close to that set out in the AHC Criterion’s guidelines.

On this basis, for example, we would conclude that a dwelling is not important simply because a local councillor or senior municipal officer lived in it or designed it.

Examples from two places considered by this Panel are:

- No. 44 St Andrews Street, Brighton, important for its association with (as residence of) “the prominent Wilson family and Thomas Wilson, Councillor and thrice mayor of Brighton, in particular.”
- 47-49 Victoria Street, Sandringham, “it is also one of few known private commissions of W T Sunderland, once City Engineer of Sandringham.”

In the case of No. 44 St. Andrews Street, the claim of special association relates to the unstated importance of the Wilson family in Brighton and the importance of Thomas Wilson through his being three times elected mayor. We would surmise that

there would have been many mayors of Brighton, many mayors perhaps having held the office more than once. There is no explanation as to why this elevates Thomas Wilson to importance in local cultural history. There is no other explanation as to the basis of the Wilson family's local importance. We suspect that there are very many residents who are now aware of the existence of the historic Wilson family. The Wilsons may once have been a prominent local family (however that may have been judged) but the reasons are not provided. Furthermore, there is no explanation as to why the fact that this house was one of the Wilson family's places of residence constitutes a "special association".

If we apply the wording and guidelines of the AHC Criterion H1, we believe that there is rarely anything about a person's residence in a house that would meet the requirements of a "special" association unless there was something about that period of residence that, as Davison said, allows "the historic personage and the building somehow (to) help .. interpret each other".

In our view, 'special' should elevate the association of a person with their dwelling to something well above that which is enjoyed by virtually every citizen. Almost everyone lives in a house, often in a sequence of houses. Generally, the type of house a person lives in merely confirms other known features or social standing of that person but not anything about why or how they became famous. As the Stonnington L47(D) Panel observed:

Usually, we found that a person's ownership and/or occupancy of a dwelling was unrelated in any meaningful way with those activities for which their owners (or occupants) were famous, and contributed nothing much to our understanding of the person or their fame. In cases in which an important person had only owned a building (as a property investment), or had only lived in it for a period, it could be argued that the person's motor car, or suit of clothes, might be worthier of preservation."

Or to put it another way, it seems reasonable to us that, relying on the AHC criterion's Explanatory note and guidelines, there must be some nexus between a place and a person's importance for that place to have any heritage significance.

A further criticism of the application of the criterion H1 is that such designations have arisen as an incidental outcome of research into the buildings that, in the first instance, have been identified solely or largely on the basis of their fabric. Where the subsequent research has identified residents of some prominence, the building has then also been designated under criterion H1. There is no comparative assessment of the social significance of these inhabitants.

In our view, a more appropriate course of action, if criterion H1 is to be invoked, would be for Council to search its local history for important personages, to decide amongst them which were locally significant and to then decide what means is appropriate to preserve our understanding of these people. It may be that conservation of one or other of their places of residence, or places of work, is appropriate, or perhaps not. All this involves research and a public debate that has not, to our knowledge, occurred.

In the absence of such a debate, we are of the view that places should not be cited under Criterion H1 unless the persons associated with them are of quite unquestionable prominence and there is a clear nexus between place and the basis of a person's prominence. We suspect that persons of such prominence are also likely to be prominent at a state level.

APPLYING THE AHC CRITERIA TO PRECINCTS

While Ms Riddett presented us with a redrafting of the statements of significance for individual properties in the form of the AHC criteria, there is no reason why these criteria cannot be applied to heritage precincts and every reason why they should. The advantage of the AHC criteria, with their 8 sub-categories, is that they suite the classification of heritage precincts much better than any grounds that have been presented to us to date.

While it would be necessary for Council's heritage consultants to give some reasonable thought to this re-drafting, we make the following points:

- As discussed earlier, we consider AHC Criterion A4 (phases of development) is clearly suited to the citation of most residential precincts, including those developed during a single phase or era, and those that represent several phases
- There may be instances where AHC Criterion D2 is relevant to a precinct, where it demonstrates a particular standard of living, say
- Criterion E1 seems less applicable, unless a precinct has a high level of integrity overall, i.e. has minimal intrusions by non-heritage development
- Criterion F1 would be demonstrated by innovative patterns of development, e.g. subdivision layouts.

For this reason, where we recommend that the statements of significance should be redrafted to reflect the AHC criteria, we intend that this should include the statements of significance for the precincts, and that these redrafted statements should replace those in exhibited Clause 22.06.

CONCLUSION

The Panel considers that the assessment of local heritage significance should be based on criteria, and threshold levels that are readily understood and can be subject to detailed analysis and review.

The Panel concludes that the AHC criteria are appropriate in this respect and much improved on those of the *1999 Bayside Heritage Review*.

The Panel therefore considers that all of the statements of significance for places affected by this amendment should, for consistency and greater effectiveness in the application of heritage controls, be redrafted to reflect the AHC criteria, taking account in particular of our earlier comments and following recommendations.

The Panel also concludes that it is important that a set of Explanatory Notes, together with Inclusion and Exclusion guidelines, should be drafted to provide an agreed interpretation of places that are of local heritage significance. We see this as properly the responsibility of Heritage Victoria and the Department of Sustainability and Environment, though there is no reason why a municipality or group of municipalities could not commence a draft of such guidelines. We also consider it desirable that such guidelines be developed at the state level, rather than being formulated, with the inevitable variations, on a municipal by municipal basis.

We also concluded that we could not draw universally strong conclusions about the significance of places on the basis of the analysis provided in the *Thematic History*.

RECOMMENDATION

Re the use of appropriate criteria to assess local heritage significance:

- ▮ That the criteria that are most appropriate for assessing places of local heritage significance are those of the Australian Heritage Commission and should be the sole criteria used in future assessments and, in order to provide greater clarity, should be applied retrospectively to places in Council's Heritage Overlay (and in conjunction with the recommended review of the statements of significance).
- ▮ That Council should review the statements of significance for all places in heritage overlays, including heritage precincts and redraft these to reflect the AHC criteria, commencing with places in this amendment but extending to include those places already in the permanent heritage overlay.
- ▮ That the Department of Sustainability and Environment, together with the Heritage Council should, as a matter of urgency, develop a set of Explanatory Notes to accompany the AHC criteria, to provide suitable guidance to identifying appropriate thresholds for the local level of heritage significance.
- ▮ That, due to the lack of clarity in how AHC Criteria A4 and H1 should be interpreted at the local level, places should in general not be cited pursuant to these criteria (with exceptions, as discussed elsewhere in this Panel's recommendations) until a clear statement of their threshold levels for local significance has been developed.

6.4 THE APPLICATION OF RIGOUR

THE ISSUE

The adequacy of rigour is an issue that has been raised regularly in relation to heritage amendments to planning schemes. Mr Stokans made submissions to the effect that the studies which underlie these amendments satisfied the requirements for adequate rigour.

A number of issues were raised during this Panel's hearings – either as a direct result of submissions and expert evidence, in part through our own process of review and assessment – which we believe bear on this issue. These can be summarised as follows:

- Extent of historic research undertaken into particular individual properties
- Limitations of, and inconsistency in the use of, the various assessment criteria (discussed earlier)
- Inadequate comparative assessment of places
- The usefulness of the *Thematic History* in identifying places that are important to the history of the City of Bayside (also discussed earlier).

In commencing this discussion about the application of rigour to the assessment of places of heritage significance, we would like to acknowledge that the City of Bayside and its predecessors have over the years undertaken extensive studies and have engaged in extensive and what we understand has sometimes been vigorous public debate. We also acknowledge that the various heritage consultants,

particularly those engaged by Council in the most recent studies, have undertaken their research with every intention to apply rigour to their work.

Therefore, the comments that we make in this section relate more to the approach used in collecting and, more importantly, analysing data than the degree of effort that has been applied or the considerable professional experience of Council's consultants.

CONTEXT

Various submissions suggested or implied a lack of rigour in the assessment process – in some cases relating directly to the assessment, in some to reporting the outcome of the assessment.

The issue of whether adequate rigour has been applied to a heritage study is a matter that has been discussed at length by a number of Panels. Mr Stokans quoted lengthy observations from the Hobsons Bay C17 and Ballarat C58 Panels. We have reproduced below, at length, the observations and conclusions of the former in relation to this matter.

The Hobsons Bay C17 Panel considered the matter of rigour in relation to the question of research:

The VPP Practice Note *Applying the Heritage Overlay* observed, "*The most important thing is that the assessment of heritage places has been rigorous and that the heritage controls are applied judiciously and with justification.*" More importantly, the "*Local Government Heritage Guidelines*" (Department of Planning and Housing, April 1991), a reference document in the Hobsons Bay Planning Scheme, advises, with respect to the expectations of the Department in terms of Councils' preparation of a heritage amendment, "*The Department expects: that all places proposed for planning scheme protection are documented in a manner which clearly substantiates their scientific, aesthetic, architectural or historical interest, or other special cultural value. The Department may request further supporting information where it is considered that the approach taken to identifying heritage places for planning scheme protection lacks rigour.*" (Panel's underlining).

The *Altona, Laverton and Newport Districts Heritage Study* itself acknowledges these requirements. The Study's Project Objectives (Stage 2, Volume 1, p1) include "*to: rigorously assess and document the identified places of post-contact cultural significance;*". In a similar vein, the proposed rewording of the Clause 22.01 *Heritage Policy* contains the objective "*To ensure that the conservation of heritage places is based upon a clear understanding of the reasons for their significance.*" (Panel's underlining)

"Rigorous" means "*strictness in conduct or judgement; harsh but just treatment or action; harsh, strict or severe*" and "judicious" means "*having or proceeding from good judgement*" (Collins English Dictionary, 4th Edition). We interpret "*good judgement*" to mean, in part, that there is adequate information on which to make a judgement about the heritage values of a place or about the extent of the place which should be preserved and about the appropriate actions to achieve this. Appropriately, in this context, the VPP Practice Note advises, in respect to selecting places to include in the Heritage Overlay, that they should include "*Places identified in a local heritage study, provided the significance of the place can be shown to justify the application of the overlay.*" (Panel's emphasis).

It may be helpful to provide a further understanding of the consequences of a decision to include a property in the Heritage Overlay, consequences which in our view underline the importance of applying rigour in undertaking heritage assessments. The Heritage Overlay has the effect of requiring Councils to take account, in any decision about the development of land, of a series of policies designed to protect that place's heritage values. In the case of properties included in the Heritage Overlay as a result of Amendment C17, Council's planning officers will be obliged, in recommending any such decision, to refer to the *Altona, Laverton & Newport Districts Heritage Study* (as an Incorporated Document in the planning scheme, its conclusions and Management Objectives will be accorded substantial weight). By using that report, the officers will seek to understand the heritage values of the relevant property by examining in particular the relevant Statement of Significance and, more importantly, the relevant Management Objectives that are, it is claimed, drawn from that Statement.

If the owner of a property in the Heritage Overlay seeks to have a Council decision reviewed by the Victorian and Civil Administrative Tribunal, then that Tribunal will start with the assumption that the heritage value of the property has been established and cannot be questioned.

In effect, the Tribunal is, in such cases, obliged to assume that the research and analysis underlying the Heritage Overlay has been sufficiently rigorous for the intended purpose.

The only matter the Tribunal will be able to consider, in brief, is the implication of any proposed buildings or works on a property's heritage value. Consequently, it is important in both the interests of heritage conservation and fairness to property owners (reflecting the public benefits and private costs respectively that flow from the use of the Heritage Overlay), that:

- Properties are not included in the Heritage Overlay unless this is fully justified
- The Statement of Significance for each property provides a reliable statement of a place's heritage significance
- The extent and nature of the controls applied to each property, including any heritage policy, are those most relevant to conserving its identified heritage values.

Clearly, the concept of rigour, involving as it does strictness, harshness with justice and severity, is an approach to historic research that must be taken seriously. The definition of "rigorous" means that the research that supports any statement that a place is of local or state heritage significance should, relative to any standard, be quite thorough. Given that a Heritage Overlay will impose quite onerous restrictions and obligations on arbitrarily selected property owners, often on a site-specific rather than class basis, and entirely for the public's benefit, this seems a reasonable requirement [refer S. 4(1)(a) of the *Planning & Environment Act 1987* relating to the objectives of planning including "to provide for the fair, orderly, economic and sustainable use, and development of land"]. (Our emphasis)

In turning our minds to some way of making the concept of a rigorous heritage assessment clearer, we suggest the following explanation is appropriate:

"rigorous assessment would be that level of assessment that is sufficiently thorough as to provide a high level of confidence that any further research or analysis would have only a low probability of providing further, verifiable information of direct relevance to the grounds on which a building's heritage significance would be established."

In our view, the issue of rigour in historic assessment relates to the thoroughness of the research and comparative analysis that is applied to that a particular building in order to ensure that a building is of sufficient cultural importance, at the relevant level of

significance, that it should be protected in the planning scheme under the provisions of the Heritage Overlay.

At this stage, no one has argued against the conclusions of the Hobsons Bay C17 Panel and we consider it appropriate to apply its test, i.e. that is to say:

"Rigorous assessment would be that level of assessment that is sufficiently thorough as to provide a high level of confidence that any further research or analysis would have only a low probability of providing further, verifiable information of direct relevance to the grounds on which a building's heritage significance would be established."

To this we would add the further rider that rigour must be emphasised as much in the analysis of data as in its collection, so that together these two elements provide a reliable foundation for any study's conclusions.

RESEARCH AND DATA COLLECTION FOR THIS AMENDMENT

There have been a number of heritage assessments undertaken by the City of Bayside and its predecessors, being:

- Perrott Lyon Mathieson Pty Ltd and Andrew Ward, 1986, *Urban Character and Conservation Study*, including its data sheets, which applied to the erstwhile City of Brighton (*Ward et al 1986*)
- Andrew Ward, 1989, *City of Sandringham Heritage and Conservation Study*, which applied only to that City (*Ward 1989*)
- The *1999 Bayside Heritage Review*, which reviewed the 1986 and 1989 work of Ward in the areas of the erstwhile Cities of Brighton and Sandringham, and undertook a comprehensive review of areas within the City of Bayside that were outside the ambit of the two previous studies (i.e. had been in other municipalities at the time), together with some limited review of areas within the ambit of Ward's original studies
- A further review by Bryce Raworth of contributory buildings in heritage Precincts (Amendment C38), together with a review of a number of other individual buildings referred by Council (Amendment C37)
- A further review by Allom Lovell and Associates of places referred to this Panel, but excluding those that Mr. Raworth recommended not be placed in the Heritage Overlay.

The *1986 Ward et al* study's data sheets set out the following:

- Various references and other citations or grading methods
- Date of construction
- Original and present use
- A short description of the place
- A description of the place's condition (usually very brief)
- A statement of the building's integrity (very brief)
- A short history of the place's development and events preceding it
- Level of heritage importance, which included a summary description of the significant features of a place (this comes closest to the statement of significance that is now expected)
- A recommendation as to appropriate level of protection (local planning scheme, state or national register).

We understand that these properties were assessed by external inspection.

The data sheets from the *1999 Bayside Heritage Review* had a somewhat similar level of information to those in the *1986 Ward* study. However, they also usually included a list of comparative examples.

The subsequent *Allom Lovell and Associates Review* in 2004 of places subject to objecting submissions generally included a redraft of the statement of significance to reflect the AHC criteria, together with a comment as to whether the original data sheet was still current, based on a further field inspection.

In many cases there was only limited research into the date of construction of individual buildings, its builder or any architect. Ms Riddett explained this as being the result of the fact that, in many cases, the appropriate municipal records were not kept or had been lost, or because of the unreasonable cost involved. Ms Riddett's view was that, at best, such further research could only enhance the grounds on which a building might be of heritage significance rather than the reverse; that it was not necessary to support the conclusions that had been reached.

Generally, we accept Ms Riddett's above point as realistic and reasonable.

COMPARATIVE ASSESSMENT OF HERITAGE VALUES

We had concerns in particular about the rigour that had been used in the comparative assessment of places, rather than the quality of the original research.

The process of comparative assessment is a recognised and essential part of the process of assessing a place's heritage significance (refer the Burra Charter and the AHC Criteria and their guidelines). In discussions with Ms Riddett and other heritage experts, it was clearly accepted that comparative assessment is a critical step in establishing a place's heritage value. It was also put to us, and we accept, that it is as important to include, in the comparison, places that are of both better and lesser worth than that which is the subject of the particular review.

However, there were a number of problems in the process illustrated in the *1986 Ward Study* and the *1999 Bayside Heritage Review*. Sometimes no comparisons were given, sometimes one, sometimes a large number (generally for Victorian-era dwellings). Where comparisons were given, there was no statement as to their condition, integrity or heritage value, just a list of addresses. Consequently, when we inspected some of these comparative examples we had no idea of their comparative standing. On the one hand, it may well be that the relevant consultants had a very clear idea of the comparative worth of the individual places under consideration; on the other, they have failed to communicate this to others, including this Panel.

The following table indicates the variation in references to comparative examples.

HO	Address	Building Type	AHC Criteria nominated	Comparable examples cited
518	13 Hillcrest Avenue, Brighton	Inter-War Californian Bungalow (dwelling)	A, E	0
534	7/8 Manor Street, Brighton	Inter-War flats with Moderne details (flats)	E	0
536	1 Martin Street	Inter-War English Revival (dwelling)	A, E	0
540	5 Menzies Street, Brighton	Inter-War Arts and Crafts Bungalow (dwelling)	A, E	4
543	10 Nepean Street, Hampton	Early 20C vernacular timber cottage (dwelling)	A, E	4
552	176 New Street, Brighton	Edwardian timber (dwelling)	A, E	20
566	135 Park Road, Cheltenham	Inter-War Spanish Mission (dwelling)	A, E	4
587	2 South Road, Brighton	Victorian Italianate (dwelling)	A, E	16
588	8 South Road, Brighton	Victorian Italianate villa (early 20C) (dwelling)	A, E	13
598	24 St Ninians Road, Brighton	Inter-War Georgian Revival (dwelling)	A, E	0
602	10 Sussex Street, Brighton	Inter-War Moderne style (flats)	A, E	0
620	47-49 Victoria Street, Sandringham	Inter-War (unspecified style) (dwelling)	E, H	3
633	59 Wilson Street, Brighton	Victorian Gothic style (school)	A, E, G, F	0
740	29 Dawson Street, Brighton	Inter-War English Revival (dwelling)	A, E	7
745	5 Edward Street, Sandringham	Inter-War: associated with a significant family of artists (dwelling)	H	0

Ms Riddett described how the team of Allom Lovell staff undertook its assessment of places referred from previous studies or identified in the course of the Allom Lovell and Associates' field research. This process included the initial nomination of a building, a group review which included setting out photographs of all equivalent places being reviewed, with the team members then undertaking an assessment, which clearly had some comparative element, and with Ms Riddett undertaking the final review of the overall conclusions. There may have been more than one field inspections by staff and/or Ms Riddett during this process and, for the precincts, sometimes accompanied by a council planning officer.

While this process allowed for constructive professional discussion and had all the advantages of a collective approach, it was also a closed approach in that (or so it appears to us, from our outside view) it was internal to the team members and does not appear to have been based on any more detailed documentation of the assessment – other than for the conclusions.

Our main concern is not so much the process that was undertaken, as far as it went, but its limitations. From Ms Riddett's description, the assessment appears to have been in its own way, quite thorough. However, our concerns relate to the following:

- Reliance on the criteria devised by Allom Lovell and Associates (refer previous discussion)
- The lack of documentation of the assessment process and the status of comparative examples (where provided)
- The justification for the variations that, from other evidence, have been applied to the criteria described in the *1999 Bayside Heritage Review* (refer also to our earlier discussion).

Other experts (Mr Beaston, Mr Trethowan, Mr Bick) provided and relied on numerous comparative examples that had not been referred to in the *1999 Bayside Heritage Review*. We had the advantage that these examples were presented to us with a brief outline of their qualities relative to the place under consideration.

In conclusion, we observed some inconsistencies between the way that the two sets of criteria (i.e. from the *1999 Bayside Heritage Review* and the AHC) have been documented and the way that they have been applied to the actual assessments. There is also no written description of, or justification for these variations. In relation to the AHC criteria, while Ms Riddett expressed the strong view that the guidelines that have been drafted for the criteria's use at the national level should be varied for their use at the local, Allom Lovell and Associates has not documented any alternative guidelines or statement to explain this. (Also, the assessments used the inadvertent reference 'Victoria', rather than 'Bayside', although the evaluation was clearly carried out at the local level).

From this, we have concluded that it is appropriate that we should determine the appropriate balance to be struck between the conclusion drawn by Allom Lovell and Associates, whether as set out in the *1999 Bayside Heritage Review* or subsequently using the AHC criteria, and the assessments by other heritage experts. In the absence of any stated rationale by Allom Lovell and Associates for departing from either set of guidelines as documented, we have when in doubt relied on the published AHC criteria and their guidelines. Where other experts appear to have applied different interpretations from the Notes attached to the AHC criteria, we have applied our own judgement to interpret the criteria in accordance with these guidelines.

We have also adopted the views of the Stonnington L47(D) Panel in responding to the submission by Mr. Wren, in that we consider it appropriate, in the interests of applying due rigour to our assessments, to err on the side of caution and not support inclusion of a place unless its local heritage significance is clear. (This is contrary to the view expressed by Mr. Raworth – though this comment was made in relation to contributory buildings – that if in doubt he would prefer to nominate a building rather than not).

RIGOUR IN THE ASSESSMENT OF INTER-WAR HOUSING

A number of submissions and statements by expert witnesses suggested that Council's investigation of buildings from the Inter-War period has been relatively limited. This situation was particularly evident in the relatively limited citation of comparative examples. In contrast, Mr Bick, Mr Trethowan and Mr Beaston provided a much more extensive list of examples, many of which appeared, prima

facie, to be superior examples of the style under consideration but had not been identified in any heritage study.

There appeared to be universal acceptance that Ward, in his two studies, had not only focussed on the architectural quality of buildings but also on buildings of or preceding the Edwardian era, reflecting contemporary heritage attitudes. There were also submissions and evidence indicating that the subsequent work of Allom Lovell and Associates had also not been as rigorous in relation to the assessment of Inter-War housing, as it had in relation to housing of earlier periods.

During the course of the hearing, and in response to the above opinions by submitters' experts, Mr Stokans submitted that the identified Inter-War buildings had been objectively assessed and should be accepted on their merits. Further research, he submitted, would simply increase the number of buildings identified as of local heritage significance but would not invalidate those included in the amendment.

We do not agree with this submission for the following reasons.

We have already indicated our view that the process of establishing a place's heritage significance depends, in many cases, on a comparative assessment of its particular qualities vis a vis other places with somewhat equivalent potential. This is quite clear from the guidelines for Criterion E1. We have also indicated how the different experts agreed that there was an inevitable process of comparative assessment in selecting appropriate examples of places of particular categories of heritage significance.

We are therefore not prepared to accept, particularly when it comes to identifying places as significant pursuant to Criterion E1, that judgements can be made in an entirely objective manner, independently of an understanding of the extent and quality of the related stock of places in the City of Bayside.

OTHER ISSUES RELATING TO RIGOUR IN ASSESSMENT

Another area where we had concerns about lack of rigour was the drafting of the statements of significance, with implications for these statements' clarity and usefulness in the later management of heritage places. These concerns are discussed in the following section.

RECOMMENDATION

Re the significance of Inter-War buildings

- ¶ **With the exception of a few identified examples, buildings of the inter-War period should remain in the Interim Heritage Overlay until Council has undertaken a more comprehensive study of buildings of this era (taking account also of our separate recommendations relating to the development and use of clearer and more appropriate statements of assessment criteria and threshold levels of local significance).**

6.5 STATEMENTS OF SIGNIFICANCE

We were concerned about a number matters relating to the statements of significance, in particular:

- Council's need to make corrections following the amendment's exhibition
- The failure of many statements of significance to encapsulate the key reasons why a place is significant
- Lack of clarity and consistency in wording.

ERRORS IN STATEMENTS OF SIGNIFICANCE

Council proposed that corrections be made to some statements of significance in response to critical submissions. In particular, submissions relating to the Grosvenor Street Precinct pointed out that the statement of significance did not include any reference to Inter-War housing, whilst there was in fact a good proportion of this housing within the precinct. The list of contributory buildings for this precinct, as listed in the new Clause 22, includes Inter-War housing, as did the original 1999 *Bayside Heritage Review*.

Relying on the exhibited statement of significance (rather than the list of contributory buildings in the exhibited new Clause 22.06) objecting submitters went to considerable effort to demonstrate (successfully, in our view) that this precinct did not satisfy the exhibited statement of significance. Mr. Raworth countered these submissions by referring to the list of contributory buildings and stating that the lack of reference to Inter-War housing in the statement of significance was simply "an error".

Both the statement of significance and the list of contributory buildings form part of the new Clause 22.06 policy. Both should therefore be given equal weight. However, as the former is more accessible and transparent, it is reasonably that readers should be able to rely on it for a general understanding of the significance of the precinct, rather than the list of contributory buildings. For a reader to interpret the list of contributory buildings requires that person to match the list against specific properties, to understand the style of building and to then accept that there is an error in the written statement. This seems, to us, unreasonable.

We consider that the need for the kind of subsequent correction proposed in this case is unreasonable in the circumstances and, at the very least, caused local resident objectors considerable and wasted effort.

CLARITY OF INTENT OF THE STATEMENT OF SIGNIFICANCE

Some submissions criticised the statements of significance for lack of clarity or more general types of inaccuracy in their description of the particular place referred to. The Panel questioned a number these statements from different points of view and, in particular:

- Their accuracy in describing the particular place
- Their lack of consistency of wording
- Their often limited assistance for later decisions relating to permit applications for buildings and works.

Mr. Stokans submitted that the statements of significance:

..... are adequate for the purpose of identifying what it is about a place that is significant and why. They meet the requirements of the Local Government Heritage Guidelines 1991 in terms of articulating what is significant, how it is significant and at what level the heritage significance has been determined.

The Guidelines to the *Burra Charter: Cultural Significance*, 3.4 *Statement of Cultural Significance*, advise that the statement of cultural significance should be:

..... succinct (and) supported by, or cross referenced to, sufficient graphic material to help identify the fabric of cultural significance. It is essential that the statement be clear and pithy, expressing simply why the place is of value but not restating the physical or documentary evidence.

With respect to the clarity of the intent of the statement of significance, the Ballarat C58 Panel made the following point in discussing the importance of the statement of significance in guiding future decision-making about any proposals to demolish or alter a contributory building within a precinct.

It is with respect to the last point [in the preceding discussion] that the importance of the statement of significance is again emphasised. What is the significance of the precinct? How is that significance determined?

A statement of significance set out as a Clause 22.06 policy seems to us to effectively be a policy objective and, in that sense, not open to interpretation. The scope for interpretation of policy relates to decisions about the appropriateness of particular strategies or actions to implement that policy. That is, it is likely that at VCAT the heritage status of a place, and the objective of its conservation, would be beyond challenge. This places the onus on Council to ensure that statements of significance provide a clear understanding of why a place is of heritage significance. This status of the statement of significance is further reinforced by the Decision Guidelines of Clause 43.01, which state (our emphasis):

Before deciding on an application, in addition to the decision guidelines in Clause 65, the responsible authority must consider, as appropriate:

- the Local Planning Policy Framework, including the Municipal Strategic Statement and **local planning policies**.
- The **significance of the heritage place** and whether the proposal will adversely affect the natural or cultural significance of the place.
- Any applicable heritage study and any applicable conservation policy.

In general, we consider that the statements of significance for places in Amendments C37 and C38 do not achieve the above objectives and, in this respect, we disagree with this aspect of Mr Stokans' submission.

We also noted that, under cross-examination, Ms Riddett conceded that, in the drafting of the statement of significance, she had not considered the implications of the important role of such statements in guiding decision-making in reviews by the Victorian Civil and Administrative Tribunal. We consider this role for statement of significance is critical and should be reflected in the precision and care with which they are drafted.

With respect to brevity, consistency and clarity of expression (and we expressed this point during the hearing) we see the statement of significance as equivalent to a specification for building works, where any particular action or choice of material or quality of work is **always** expressed using the same words. The most appropriate phrase should be selected to convey a particular meaning and, if the same point is made in respect to other places, the same words should always be used. Many variations between places can then be dealt with by qualifying clauses or phrases. There should be the minimum of ambiguity. This is not a situation where authors should be searching for originality of expression or for phrases that motivate or beguile the reader.

With respect to lack of consistency in wording, Ms Riddett admitted under cross examination that she had on some occasions, when reviewing Ward's earlier studies, simply varied Ward's original statements of significance in order to demonstrate that some thought had been given to the matter and to avoid repetition.

Apart from the unnecessary variety and vagueness in expression, we had three other concerns with the statements of significance.

- Firstly, many of the statements of significance, e.g. those for precincts, had not been redrafted to reflect the AHC criteria and instead used such vague terms as "aesthetic" and "historic". (Of course, all of the statements of significance for places not referred to the Panel still use this vaguer terminology).
- Secondly, these statements typically included much material that was either irrelevant or of marginal relevance. In effect, the reasons why a place was deemed significant had, in many cases, to be inferred from the statements.
- Thirdly, some statements appeared to be in exaggerated, in error or at least carelessly drafted.

We have set out a limited number of examples of statement of significance together with our comments. Where reference is made to the AHC criteria, these were nominated in the *Allom Lovell 2004* review and are not the statements included in exhibited Clause 22.06. We emphasise here that we are not seeking to set ourselves up as the experts on drafting statements of significance (there would be a variety of ways these statement could be drafted to satisfy our concerns), but rather we are seeking to illustrate our concerns with the present drafting.

Statement of significance in Council's Policy – Westley Avenue Precinct	Panel's Comments
Of aesthetic significance	Desirably this should cite the relevant AHC criteria (e.g. in this case, presumably, "Criterion E1 – Aesthetic significance"). The citation could also include the note "at the local (or State) level". It would also be fitting for each particular criterion to be followed by an expression such as "because it is....." or "as an example of" or something equivalent.
Comprising almost entirely detached single storey Edwardian red brick, Queen Anne style villas,	This could, in our view, be better expressed in the form: "an excellent example of middle-class Edwardian-style housing of the period ** to **", perhaps adding "which was an important Type in the City's development."
..... the Westley Avenue Precinct displays a high level of integrity and cohesion of scale, materials and setbacks.	Presumably this comment is intended to provide an assurance of the Precinct's value. Such an assurance should not be required here, but should be included instead in the background material (e.g. data sheet, etc.). We do not consider that "cohesion of scale, materials and setbacks" is a factor that establishes the precinct's heritage value but rather is descriptive.

Statement of significance in Council's Policy – 172 Church St. Brighton	Panel's Comments
Criterion E1	Add the comment: "of local significance".
A substantial and intact villa, in the Italianate style generically similar to others in Brighton,	This could be rephrased as "an excellent representation of an Italianate villa", perhaps adding "a type important (or common, or) in Brighton's development." The reference "generically similar to others in Brighton," does not seem to provide any basis for the building's significance.
..... and which is demonstrative of the aspirations and means of early upper middle class settlers in the area.	This seems irrelevant to the statement of significance, but appropriate for the supporting material; or if relevant, it would be to AHC Criterion A4 or, more likely, D2.

Located in one of Brighton's main streets it makes a significant contribution to the streetscape along with others of its, and later, eras in Church Street. A street noted for its fine corpus of aesthetically significant buildings.	None of this seems relevant. The building is not located in an existing or proposed heritage streetscape or precinct, so these issues are entirely ones of a heritage-related neighbourhood character – a matter of local interest but not, in our view, relevant to the building's cultural value within its specific area of Heritage Overlay.
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We have discussed later (and accepted) some submitters' criticisms of the Asling Street Precinct's statement of significance. However, we set out below our concerns with the way this statement is drafted while putting aside questions about specific issues.

Statement of significance in Council's Policy – Asling Street Precinct (HO746)	Panel's Comments
The Asling Street Precinct comprises substantial houses befitting its status as a premier residential address.	<p>The initial sentence should set out the basis of the precinct's significance. "Substantial houses" and "premier address" do not seem to meet this requirement and, moreover, are unsubstantiated.</p> <p>A more appropriate wording would be: "AHC criterion A4 as representing the progressive phases of building activity over the period ... to ..., together with representations of the varied dwelling styles and varied social groups that inhabited the same area over this period"</p>
It contains remnant mansions from the mid-Victorian period, speculative subdivisions from the 1880s Boom period and representative examples of Edwardian villas and interwar bungalows.	This section is purely descriptive and, although it amplifies the statement in a useful way, it would be better included in the supporting material. We would also question whether the few large houses should be described as "mansions".
Although the variety of styles necessarily displays different characteristics, there is a cohesion in their comparable setbacks and scale.	Without further justification, we do not consider "cohesion" provides any heritage significance, though it may be aesthetically interesting. It does not seem to us to have much historic or cultural merit.

Other Statements of Significance	Panel's Comments
<p>Re 10 Sussex Street, Brighton:</p> <ul style="list-style-type: none"> A good example of an inter-War block of flats in the Moderne Style and <u>which is demonstrative of the aspirations but more modest means of residents in the area.</u> 	The reference "demonstrative of the aspirations but more modest means of residents in the area" has no relationship to Criterion E1; it would be more relevant to Criterion A4 or D2, if at all.
<p>Re 24 St Ninians Road, Brighton</p> <ul style="list-style-type: none"> A well-designed and substantial example of the popular inter-War Georgian revival style with Classical overtones. <u>It is also demonstrative of the lifestyle of the upwardly mobile middle classes. As part of a group of substantial inter-War houses it makes a significant contribution to the streetscape.</u> 	As above, the reference to the building's demonstration of the aspirations of a social group appears more relevant, if at all, to Criterion A4 or D2, not E1. The reference to the streetscape value, in the absence of any heritage overlay for the streetscape referred to, is not appropriate. Heritage values must, in our view, relate to the areas designated as having heritage value. Beyond that, reference can only be to streetscape values in the usual use of that term, which is not a basis for identifying heritage values.

If the statements of significance are merely to provide a useful summary of why a place is important, then it does not matter all that much if it is ambiguous or vague, though this is still undesirable. However, where the statement of significance is critical to resolving decision about the demolition of or alterations to buildings, with serious consequences either for the owner or the integrity of a heritage place, then we believe that it behoves Council to adopt a rigorous approach to explaining:

- Exactly why a place is of cultural value and
- What aspects of the place should be protected from change in order to conserve that value?

With respect to the latter, we are firmly of the view (and we agree with Ms Riddett in this matter) that different kinds and degrees of protection are justified by the different grounds on which a building is cited as being of significance.

Conclusion

On the whole, we conclude that most of the statements of significance are deficient, to varying degrees. They include extraneous material, they refer to matters that are irrelevant to the place's local significance, they use varying words to convey the same meaning, they appear (where the AHC criteria are invoked) to cite inappropriate criteria and they do not state specifically and clearly why a place is of local heritage significance.

In conclusion, we consider that the statements of significance for most or all of the places referred to the Panel should be redrafted to:

- Make more appropriate reference to the AHC criteria
- To provide a more appropriate combination of brevity and clarity of the reason for each place's significance
- To use clear and consistent wording.

Because the same approach has been adopted in the statements of significance for the places not referred to the Panel, our conclusion is that these statements will suffer from the same deficiencies. We conclude that all the statements of significance should be redrafted to accord with our comments above. Logically, this should be applied progressively to all places that are already place in the Heritage Overlay.

RECOMMENDATIONS

Re the drafting of statement of significance:

- ▣ **All the statements of significance of places included in Amendments C37 and C38, both those referred to the Panel and others, should be reviewed and, if necessary, redrafted to ensure that they meet the requirements for brevity, consistency of wording, clarity in identifying the basis of a place's local heritage significance**
- ▣ **Council should progressively amend the statements of significance for places already in the Heritage Overlay to accord with the above recommendation.**

6.6 HERITAGE PRECINCTS

THE CONCEPT OF PRECINCTS – 1999 HERITAGE REVIEW

Our interpretation of the principle that underlies the definition of precincts that constitute Amendment C38, as described in evidence by Ms Riddett and Mr. Raworth, is that precincts consist of groups or wider areas of buildings that are representative of earlier and important periods of the City's history. For Amendment C38, this importance appears to be represented by particular patterns of suburban housing stock or phases of building development.

Because precincts are primarily directed to the conservation of building fabric, it seems to us that this fact has focussed the purpose of precincts on defining and conserving the physical evidence of the suburban development process rather than other aspects of the City's history.

The *1999 Bayside Heritage Review* sets out the basis on which heritage precincts were selected, criteria that are very different to the three-level criteria used for individual buildings. Precincts of local heritage significance are those areas that have the following characteristics, as described in *1999 Bayside Heritage Review – Heritage Overlay Precincts: Volume 3* (pp 1, 2):

- Contain buildings which derive considerable cultural significance from their context and/or relationship with others in the area
- Have largely intact or visually cohesive streetscapes, creating precincts of historic and/or architecture integrity
- Contain a large number of substantially intact buildings
- May contain individually significant buildings which contribute to the historic or architectural significance of the area as a whole
- May reflect local historical themes or have particular historical associations or social value
- May contain historically or botanically significant gardens, reserves and specimens.

In the City of Bayside the Heritage Overlay precincts typically:

- Contain residential or commercial building stock predominantly from the mid 19th century to the early 20th century
- Retain historically important street layouts and subdivisions
- Display consistency of scale, height and materials
- Display a stylistic consistency and / or
- Contain historically or architecturally significant buildings which are substantially intact.
- May also contain private gardens or street plantings of local historical importance.

Ms Riddett introduced her evidence with a description of the approach that Allom Lovell and Associates had taken to its research. With respect to the assessment of precincts, this involved the survey or resurvey of 32 precincts, including 18 from previous studies. She described the process of survey and analysis as follows:

These areas were then resurveyed, often several times by different people in the consulting team as a means of quality control. In some instances Council officers undertook their own subsequent survey and another survey was undertaken by the consultants, on occasion in the company of a Council officer, so as opinions could be considered. In both categories, boundaries were determined so that there was a high concentration of the specified building type(s). Where the concentration did not meet an acceptable threshold either because of quantity or quality the precinct was deleted

One observation that we make, regrettably with the advantages of hindsight, is that it is not at all clear why any historic emphasis should be placed on "consistency of scale, height and materials" (refer the third dot-point in the second set of dot-points above). Clearly, such consistency will assist in identifying a heritage precinct, particularly if surrounding areas lack this consistency. However, we do not see that, of itself, it provides any historic differentiation from many other typical areas of suburban housing and, in many cases (refer later discussion) we question whether the claims for such consistency can be supported.

Mr. Stokans made a supporting submission in relation to the nature of the heritage precincts in Amendment C38 (our emphasis).

The proposed Heritage Policy identifies 15 heritage precincts and ascribes to each a statement of significance and lists all buildings which contribute to the heritage significance of the precinct as defined by the statement of significance. Council's consultants have gone through the exercise of identifying contributory and non-contributory places. Contributory heritage places referred to in the Heritage Policy are **representative places that contribute to the significance of the heritage precinct.**

Ms Riddett further quantified the criteria by which staff of Allom Lovell and Associates had defined heritage precincts. The principal basis was that a precinct should contain a reasonably high proportion of buildings relating to the precinct's significance, being a proportion of 75-80% of buildings deemed to be contributory.

There is obviously a degree of circularity in the relationship between the nominated time frame and the proportion of buildings from that time frame. Any suggestion that there is not a sufficient proportion of buildings from the nominated time frame can be addressed by extending the time frame to encompass buildings of earlier or later periods. In some cases, such a widening of the time frame may be appropriate though there is the risk that, in others, it may be spurious.

While the nature of much of the earlier development in Bayside did sometimes result in homogenous development of streets blocks or even localities, this was not always the case. Often suburban development proceeded at a slow and irregular pace, with development leapfrogging ahead and leaving behind many vacant allotments. These would then be developed later, so that the final, fully developed form of many areas would contain buildings from a range of eras.

In the case of areas that were either homogenous or heterogeneous, later redevelopment activities have often replaced some original buildings with newer buildings. While this produces an interesting layering of history, there has been no suggestion that this layering adds any historic interest to the affected areas. The general tenor of submissions and evidence supported the view that later redevelopment reduces much of the cultural value such places might otherwise have.

Even where the original development was comprehensive and is still all intact, the architectural styles of some periods, particularly the Inter-War period, were very mixed. So an area developed through a complete and comprehensive process may still contain a wide mix of styles, many of which had no aesthetic or other visual relationship with each other and therefore do not form homogenous patterns.

Because of the often irregular development process, many potential precincts peter out at their edges rather than being defined by some clear boundary. It is therefore often difficult to define a visually logical edge to a precinct. In such case there may be several choices and any final choice would be quite arbitrary. We do not consider that such arbitrary boundaries, with their obvious ambiguities and contradictions, would foster good community understanding of the purpose, basis or benefits of heritage conservation.

It seems to us that one of the obvious requirements for a precinct, when defined on the basis of the reasoning set out in the *1999 Bayside Heritage Review*, is that observers should have no doubt when they are looking at a heritage precinct and what it relates to. That is, the boundaries of a precinct should be visually clear and the precinct should be clearly different to the adjoining areas. This approach was supported by the Ballarat C58 Panel.

In a number of precincts in Amendment C38, we believe that this requirement has not been met or, at best, met poorly. Likewise, when reviewing the precincts, we had the same problem in defining an appropriate boundary to better address this problem.

ALTERNATIVE CONCEPTS FOR DEFINING PRECINCTS

There are two alternative but related approaches to defining precincts, one drawn from the work of other councils and the related Panel comments (e.g. the recommendations of the Hobsons Bay C34 Panel), one identified for this Panel by Mr Trethowan.

Mr Trethowan proposed a much more sweeping definition of a precinct, where the visual logic of the boundaries would be less important, with the boundaries based on some important historic feature such as a subdivision (e.g. the original Dendy Special Survey in Brighton, or the 'Golf Links Estate' subdivision and its related development in Sandringham.

Mr Trethowan proposed that a heritage overlay should be placed over the whole of the area of the Dendy Special Survey. This approach would have the effect that a large proportion of buildings within this Overlay would not have any heritage value (or at least, not in relation to the early phases of development of the Dendy Special Survey). However, the existence and extent of the very important Dendy subdivision would be identified in a Heritage Overlay.

One consequence of this approach would be the need to differentiate between those buildings relevant to an understanding of the Dendy Special Survey and its early development and others (some of which, of course, might be significant in their own right). This would require further controls or policy statements to differentiate between these two groups of buildings or places. It is not difficult to identify a number of options for this latter purpose.

The general issue of defining buildings that did or did not contribute to the value of a heritage precinct, particularly in relation to broadly-defined precincts, was discussed by the Ballarat C58 Panel. That panel concluded that it would be preferable to exclude from the effects of a Heritage Overlay those buildings that clearly **did not** contribute to its values, rather than defining those that did. It concluded that the former approach involved less likelihood of errors or unfairness and would justify a much less rigorous approach than the latter. This exclusion could be managed by way of an incorporated plan pursuant to the provisions of Clause 43.01.

The Hobsons Bay C34 Panel was faced with that Council's desire to replace the widely drawn heritage overlays with overlays that would more precisely define areas with a high concentration of contributory buildings. The difficulty that Hobson Bay's heritage consultant faced was that the edges of the proposed smaller precincts were so lacking in visual logic that many apparently contributory buildings were close to but outside the new precincts while large numbers of non-contributory buildings were still within them.

That Panel recommended that the precincts should be drawn more widely, should include greater numbers of non-contributory buildings but should be based on visually logical boundaries. At the same time, it acknowledged (and suggested that the planning scheme MSS should also acknowledge) that this would result in precincts with lesser integrity and therefore likely to be subject to some greater degree of change than might be acceptable or achievable in precincts with a high degree of integrity.

We consider that both of these alternative approaches have merit. Unfortunately, neither has been canvassed as options in the *Bayside Heritage Review 1999*, so that it is difficult for us to explore their benefits in any depth as part of our review of submissions to Amendment C38.

However, in respect to Mr Trethowan's conclusion that the Golf Links Estate, Sandringham, we consider that, *prima facie*, Mr Trethowan's views have merit. We have therefore supported Mr Trethowan's proposal in relation to this estate and the property at 65 Fernhill Road as part of our overall conclusions about the need for Council to undertake further research into Inter-War housing in the City.

In conclusion we consider that, in the absence of any public discussion of alternatives, we should support the general approach taken by Allom Lovell and Associates to defining precincts as appropriate, in principle, for Amendment C38. It

is an approach that is based on widely adopted principles – well-practiced both by Allom Lovell and Associates and also found in a large number of other heritage studies.

However, we also consider that this approach has a number of limitations or deficiencies and, later in this chapter, we have discussed the need for the Department of Sustainability and Environment to encourage a broader and more strategic analysis of alternative ways of defining precincts.

DEFINING THE CONTRIBUTORY ELEMENTS OF A PRECINCT

Apart from precincts based on large tracts of land in single ownership (e.g. foreshore areas, the railway line) all the heritage precincts in the Bayside Planning Scheme are located in Interim Heritage Overlay and are the subject of Amendment C38.

The amendment deals with precincts by defining their boundaries on the Heritage Overlay map and, in proposed Clause 22.06, defining the contributory buildings by a list of addresses. There is no legal mapping of these contributory buildings, although Mr Lamour-Reid provided the panel with maps showing the contributory buildings in each precinct, which were of great assistance to our understanding of the nature and integrity of the different precincts.

A peculiarity of most of these precincts is that many of the buildings within them are already placed in individual areas of Heritage Overlay so that, if the precinct in which they are placed is approved, they would then be placed in two overlays: one a precinct, the other related solely to the building's site. We do not see a problem with this approach, in principal, though it does lead to difficulty in mapping the Heritage Overlays or, at least, interpreting the mapping. What it does mean is that Council would have to assess any proposal to demolish or alter a building against the purposes (and statements of significance) of two separate overlays – one specific to the building, one relating to its precinct. This type of complication has given rise to a different problem where there are a number of buildings situated on corner blocks that abut adjoining heritage precincts. In some of such cases, the buildings have been placed in only one overlay, leaving a gap in the other, even though they clearly contribute to both.

There were a number of objecting submissions in relation to the precincts. Some of these related to places that were already within an individual HO, where the submitter was arguing against the creation of a precinct overlay. In these cases, we have considered the merits of each overlay in a later chapter. In this immediate discussion, however, we are here interested in those other submissions that objected to the new designation of particular buildings as 'contributory' to a precinct when it has no other heritage designation. In these cases, the building is not within any other overlay, is representative to some degree of a precinct's period of original development but has also commonly been modified to some degree through either maintenance or extensions.

From our observations and the evidence presented, we noted that a substantial proportion of buildings in the precincts were quite modest by today's standards, often having been of relatively modest scale when first built, e.g. the Castlefield Estate Precinct; the Orlando Street Precinct. Particularly in these cases but also more widely, it seems commonplace that a large majority of older buildings had been

extended to provide larger (often **much** larger) dwellings more suited to current social aspirations.

We acknowledge Ms Riddett's point that, in many cases, the renovations associated with maintenance or extension, even where they have removed historic fabric or introduced inappropriate changes, have also often been essential to the retention of the original building. Ms Riddett also acknowledged the inevitability of changes occurring over time, due to the need to undertake maintenance and adaptation of dwellings to changing lifestyles. In fact, she saw these changes as so inevitable that she appeared to discount their conflictive nature in terms of the original building's heritage values.

The process of differentiating contributory and non-contributory buildings often involved decisions as to whether the original buildings had been so altered that they had lost their contributory value. In evidence from Mr Raworth, who reviewed the contributory status of buildings in the heritage precincts, it became clear that the assessment of this matter was (understandably) fairly subjective. This means, as we see it, that different experts could quite readily make different decisions as to which buildings were or were not contributory.

We note in particular Mr Raworth's comment, in response to cross-examination, that if in doubt he preferred to include a building in the contributory list, rather than exclude it. We consider that this statement is itself an acknowledgement of the difficulties in applying adequate rigour to the assessment.

Our concerns about the approach adopted in this respect are twofold. One is the fact that Council's consultants have not adopted any clearly stated criteria to identify the contributory buildings. The other is that, although contributory buildings are only designated as such in Clause 22 (which only provides Council with a type of discretionary guideline), this policy would fix their status for ever more. That is (and drawing on a number of VCAT decisions) it seems to us that decision-makers would be obliged to accept that the values of Contributory buildings had been established beyond doubt, while those buildings within the Precinct but designated as non-contributory could not be considered as having any heritage value.

The Ballarat C58 Panel discussed this issue at some length. Ballarat Amendment C58 proposed to include an incorporated document which would identify all buildings within heritage precincts as being either significant or not.

The Ballarat C58 Panel had four concerns about this proposal and we set out below the two that we consider relevant to Amendment C38:

- Whilst the distinction between significant and non-significant [equivalent to 'contributory and non-contributory' places in Bayside Amendment C38] places has the benefit of simplicity, there are no criteria specified for determining the distinction: i.e. it is not clear how their status [was] determined.
- If the designation is to be undertaken with the type of rigour that the Planning Practice Note on applying the Heritage Overlay implies would be required, it may be a complex and costly exercise. The question arises whether this is a good use of Council's resources.

The Panel then expressed the view that, rather than spend considerable resources to satisfy the requirement for rigour, Council would be better advised to leave this

investigation to a later stage when owners were considering whether or how to modify or demolish a building within a precinct.

The Ballarat C58 Panel, after weighing the choices, proposed that the dilemma be resolved by the use of an Incorporated Plan pursuant to Clause 43.01. This incorporated plan would define buildings that clearly did not contribute to the cultural values of a precinct. The presumption would then be that all other buildings did contribute to some greater or lesser degree. That degree would then be established only when it might become relevant to a permit application and, at that time, it would be feasible to apply the appropriate degree of rigour to the research.

In our view, both of the Ballarat C58 Panel's concerns apply to this situation in Bayside:

- No clearly documented criteria have been used to differentiate between Contributory and Non-contributory buildings and the decision has been, in our view, somewhat arbitrary
- As a consequence, in respect to many buildings where the question of contributory status related to their degree of alteration, we conclude that inadequate rigour has been applied to the assessment process.

We support the general conclusions of the Ballarat C58 Panel, in that we believe that there has not been adequate rigour to justify the differentiation between contributory and non-contributory buildings. We likewise conclude that a more desirable approach would be to use an incorporated plan to exclude from specified controls of the Heritage Overlay those buildings that indisputably do not contribute to the precinct's heritage values.

While the Ballarat C58 Panel recommended that buildings identified in the incorporated plan should be excluded from demolition control, we consider that such decisions are ones that should be considered further by Council, taking into account the views of the affected and wider communities.

In making the following recommendation, we are mindful that we have not been able to establish its effect on the processing of Amendment C38. We are, however, concerned that this is the first group of precincts of this type to be included in the Bayside Planning Scheme and we are concerned that the outcome should be as effectively implementable as possible.

Because we cannot foresee the practical effect of this recommendation we have dealt, in the later parts of this report, with submissions about contributory buildings, as if the following recommendation had not been made. If Council does adopt this recommendation, then clearly our later recommendations relating to contributory building have no effect.

RECOMMENDATION

Re the definition of Contributory buildings in Amendment C38:

- ▮ **That the list of contributory buildings be withdrawn from Clause 22**
- ▮ **That Council introduce an incorporate plan for each heritage precinct, pursuant to the schedule to Clause 43.01, such plans to identify those buildings that are not contributory in any sense, Council to also determine which controls of the Heritage Overlay should not apply to such identified buildings.**

6.7 OTHER ISSUES RAISED IN SUBMISSIONS

A number of other in-principle issues were raised in submissions, primarily relating to the consequent hardship to individual property owners. There were also submissions relating to unfairness of the assessment process and how some submitters felt that they had been treated in discussions and negotiations with both Council's officers and Council's heritage consultants.

The first matter has been dealt with extensively by a number of other panels. Suffice to say, the financial or economic consequences on individuals are not matters that panels can take into account when they assess the local heritage significance of places. Likewise, issue relating to communications between Council, its staff and consultants, are not matters that we can address. We are sure that Council and its officers are well aware that the success of any heritage policies will be strongly influenced by the level of community support and that the way that the community sees the administration of heritage planning controls will be a very important part of creating that support.

6.8 A STRATEGIC APPROACH TO ESTABLISHING LOCAL HERITAGE SIGNIFICANCE

In this section we comment on a broader issue that arises from a number of submissions and expert evidence and has been highlighted in particular by the evidence given by Mr Trethowan in respect to a number of properties.

Our concern is that the research studies that underlie this amendment appear to be based on a conceptually limited strategic approach to heritage planning. Alternative ways of defining places of local heritage significance, ways that might have produced quite different outcomes, appear not to have been canvassed.

The purposes of the Heritage Overlay are based on the assumption that places within the Heritage Overlay have been established as being of at least local heritage significance. The adequacy of any research is not a consideration once the overlay is in place. The assumption then is that the research has been adequate, that a place's heritage significance has been established beyond question.

The *VPP Planning Practice Note: Applying the Heritage Overlay* includes as one of four statement of places "that should be included in the 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.

This places the onus on the heritage study to justify a particular place (whether an individual building or a precinct of buildings) as being of local heritage significance. The VPP Planning Practice Note does not discuss how this is done and, while it indicates that the AHC criteria are a "recognised heritage criteria", it does not discuss the issue of thresholds of local significance for the different criteria.

The heritage objectives of Council's MSS (Clause 21.09) also assume that places of local heritage significance have already been defined by the Heritage Overlay and deal only with issues of protecting and enhancing them and managing them effectively, not with what makes a place locally significant.

Our concern is that a fundamental step has been omitted from the process of defining places of local significance. This step involves establishing an understanding of what makes a place of significant in terms the local heritage and how such a place should be identified. While we have discussed some of the related issues (e.g. threshold levels of local significance) there are further, broader issues we wish to discuss.

A process of strategic planning traditionally involves a sequence of steps:

- To define the broad objective(s) to be achieved
- To identify a number of strategies to achieve this objective
- To identify criteria with which to evaluate these strategic choices
- By using these criteria, to select the best strategy.

Nowhere in the hierarchy of strategies and guidelines relating to defining and conserving heritage places – whether state or local – is there any discussion of the process by which places of local heritage significance should be identified, other than a general reference to the need for appropriate studies and criteria.

However, it is possible to identify a set of implicit assumptions underlying the two Ward studies (Ward et al 1986, Ward 1989) and the *1999 Bayside Heritage Review*. While these studies are now historic and their methodologies would not, perhaps, be repeated in detail, we believe, on the basis of evidence from Ms Riddett, that further heritage studies in the City of Bayside and elsewhere could still adopt much of the general approach that underlies these earlier studies.

The assumptions that we have identified as of concern are as follows:

- There is a simple hierarchy of heritage significance, starting with individual buildings of state significance and then descending through levels of decreasing importance, including both individual buildings and precincts, to eventually reach the level of the most commonplace and least significant of places
- The task of the heritage expert is to nominate, using appropriate (though often not clearly stated) criteria and comparative assessments, those places which meet at least the local level of heritage significance.

This approach leads to the Heritage Overlay being applied, as it has in Bayside, to a combination of individual places and precincts of buildings, sometimes both coinciding. This approach also appears to have been developed at the time when, as Ms Riddett pointed out, heritage values were primarily directed towards the architectural aspects of a place rather than its broader historic or social aspects. Although the *Bayside Heritage Review 1999* sought to recognise a wider range of historic factors, the approach taken in choosing the criteria and defining heritage precincts still appears to reflect this historic bias.

We have already referred to two alternative ways of approaching the definition of heritage precincts. In discussing submissions in relation to individual properties (in the following section) we have supported Mr Trethowan's view that the Golf Links Estate, Sandringham, may justify a heritage precinct, even though it may not meet the precinct criteria used by Allom Lovell and Associates.

We do not wish to comment in any detail on why there has been so little analysis of the current or alternative approaches to identifying places of local heritage value, though we surmise that this situation has arisen from a combination of the following:

- Limited study budgets that do not allow for the costs of canvassing a wider range of strategic options
- The limited number of experts able to undertake these studies
- The difficulty and costs involved in undertaking effective and early community consultation about strategic planning issues
- Later studies borrowing the methodology of earlier studies, in order to gain the benefits of using accepted methodologies
- Objectors' tendency to focus on their individual situation and their difficulty in raising issues of a more strategic nature (Mr Trethowan's clients, who have brought forward evidence dealing with more strategic issues, are in our view unusual in this respect)
- Lack of any encouragement at a state level for councils to canvas a wider range of strategic approaches to defining local heritage.

Mr Trethowan has illustrated, there are options to how precincts might be conceived that have not been publicly (or professionally?) canvassed. That is our concern – that there has been no attempt to canvas any options to the approach that has conventionally been to define places of local heritage significance. At least, there is no discussion in the reports of other options that would support the amendment. The problem facing us is that at this late stage in this amendment, it is difficult to justify putting aside the work undertaken to date when it has been built on an approach that has been previously widely applied and accepted. However, that also does not justify our accepting it wholesale without raising broader issues to be addressed in any future research.

The questions that would frame a more strategic approach to local heritage planning can be put in the following general form:

- How to establish what elements of a municipality's history are important to the community
- How to relate the AHC criteria to the above elements
- How to identify thresholds of local significance in relation to the above elements and the AHC criteria.

To be more specific, and drawing on the *1999 Bayside Heritage Review: Thematic History* and the material put before the Panel, we believe that it would have been more helpful if the following questions had been posed:

- Re Criterion A4 – what are the important phases of development in Bayside that should be represented by protecting places in the Heritage Overlay, and how would these be best represented (which might throw up a number of options)
- Re Criterion D2 – what for Bayside are the important building types or representations of lifestyles or standards of living (e.g. "aspirations of the middle class"), and how would these be best represented
- Re Criterion E1 – what are the particular architectural styles that are important to Bayside and why, and how outstanding should any example be to be local heritage significance
- Re Criterion H1 – what kinds of people are sufficiently important to the City's community that they and their achievements should be permanently identified, and how should this best be done – would this be by preserving buildings and

which ones would be appropriate: houses, the places where important people worked, or how else?

Our concern is that the Bayside heritage studies have proceeded without any of these questions being clearly stated or answered. Apart from fairly selected community representatives on any heritage study's steering committee or reference group, and selected consultation with key interest groups, the only opportunity for the wider community to be involved is at the formal exhibition stage. At this late stage, the public can only react to what has been presented. Questions about undiscussed alternatives are not feasible.

As Mr. Stokans pointed out, there has been continual development in the practice of heritage conservation. We agree that this is the case and that it is a process that should continue. While our above comments draw on Panel members experience with a number of previous heritage amendments, our views have been particularly focused by submissions and evidence in relation to Amendments C37 and C38 of the Bayside Planning Scheme.

RECOMMENDATIONS

Re the means of improving future local heritage studies:

- ▮ **Future local heritage studies should initially explore a wider range of ways that local heritage significance might be defined, and should include a strategic component within which the consultant should explore more alternative ways of identifying places of local heritage significance, together with appropriate thresholds of significance**
- ▮ **Because it is desirable that there be reasonable consistency in the definition of local heritage significance across the sate, the City should also request Heritage Victoria to identify more strategic options for defining places of local heritage significance.**

7. ISSUES RELATING TO THE HERITAGE POLICY (CLAUSE 22.06)

7.1 INTRODUCTION

A number of submissions were made about the proposed new heritage policy (Clause 22.06), though no submitter appeared before the Panel to speak in support of their submission in relation to this aspect of the amendment. Clause 22.06 is introduced into the planning scheme in order to provide a policy context for Council's implementation of the heritage precincts.

A summary of the issues raised in relation to Clause 22.06 is set out in Section 4 of this report and is repeated here to assist the reader:

- Support for the objective in the Policy to encourage retention and conservation of all significant and contributory heritage places and to ensure that new development within these areas is respectful and sympathetic to the existing built form.
- The policy guidelines are too restrictive and onerous, as well as vague and ambiguous in places.
- Tests relating to demolition are unreasonable.
- The policy does not include recognition of the need for increased environmental sustainability and will inhibit owners from adapting their properties for greater energy and water conservation.
- Concerns about the interpretation of policy provisions, particularly what is worthy of retention and what is seen as a 'compatible' or 'sympathetic' replacement.
- Confusion about the stress on not replicating historical detail whilst respecting the style of the original building.
- Concerns about restrictions on second storey developments leading to loss of private open space and increasing encroachment on neighbours.
- Strong opposition to provisions re car parking, that are likely to restrict some owners from being able to build any covered parking space.

7.2 DISCUSSION

Clause 22.06 is a lengthy statement of policy. It has an extensive preamble that includes a statement of significance for each of the precincts. This preamble also lists all buildings that are designated as "contributory sites" within the precinct.

This preamble is then followed by the policy, which is split into a number of sections: demolition, restoration, new buildings in heritage precincts.

Because of the extensive nature of the policy and the absence of specific and focused submissions or expert evidence, it is difficult for us to form a strong view about these submissions. However, we draw Council's attention to the following points.

- We have commented, in Section 9.4, about the desirability of Council developing precinct-specific development guidelines for the Castlefield Estate Precinct and this comment can generally be taken to apply to other precincts where the nature of the housing stock would create the likelihood of many owners desiring to extend their dwellings. In the absence of clear guidelines, there is the probability of some degree of inconsistency in the process of balancing conservation policy with other social needs.
- We have also commented in the previous section about our concerns about the adequacy of the rigour that has been (or could realistically be) applied to the definition of contributory buildings and we have recommended an alternative course of action that would address this issue, but would require changes to Clause 22.06.

There is one other matter on which we comment, and it relates to the recommendation that we have made in Section 6 that all statements of significance should be based on the AHC Criteria and the fact that there was clear agreement that buildings that were significant for different reasons could reasonably be treated somewhat differently when proposals were made for any alterations.

We have highlighted this point in particular in our comments in relation to 5 Edward Street, Sandringham, where the site's significance is its association with the Boyd family, rather than the details of the general fabric of the house. In other cases, it was agreed by the various experts that the minimum acceptable integrity of a building that is of local heritage significance for its representation of a period of development could be less than for a building that is significance for its representation of an aesthetic principle.

The present Clause 22.06 does not include any indication that the basis of a place's significance should be taken into account when decisions are made about proposed alterations to existing buildings and works. Given that there is an inevitable need for Council to balance heritage conservation with other social and economic needs, we believe that it is important that Clause 22.06 should be modified to reflect, in some way, that variation in the policy's interpretation would, in appropriate circumstances, be acceptable.

Some of the above matters lie with actions that need to be taken in the longer term (e.g. supporting design and development guidelines), though it would be feasible to undertake others as part of this amendment (e.g. redrafting the statements of significance for individual places and precincts, as recommended elsewhere). We certainly consider it desirable that any changes to Clause 22.06 to reflect a greater degree of flexibility in taking account of the basis of a place's heritage significance should be introduced at as early a stage as possible.

7.3 RECOMMENDATION

That Clause 22.06 should be amended to provide the following:

- ▮ **The statements of significance to be redrafted to reflect the reasons for a place's significance in terms of the AHC criteria (this to apply to both individual places and precincts)**
- ▮ **Provision to take account of the basis of a place's significance in making decisions about the acceptability of any proposed buildings and works in a heritage precinct.**

8. CONSIDERATION OF PLACES – AMENDMENT C37

8.1 APPROACH

This chapter sets out the Panel's consideration of the individual places included in Amendment C37 and referred to this Panel. For convenience, places have been listed in the alphabetical order of the street name of their address.

8.2 12 AGNEW STREET, BRIGHTON EAST (HO402)

DESCRIPTION OF THE PLACE

The following description was provided in the *1999 Bayside Heritage Review*

"Haverstock" is an asymmetrical Italianate brick villa with a hipped roof. There is a projecting bay at one end of the main façade with a canted bay window. The bullnose verandah is supported on iron columns with a cast iron lacework frieze between. Beneath the verandah is a timber-framed double-hung sash window with narrow sidelights. The brickwork has been painted, and the original roof cladding (probably slate) has been replaced by modern tiles.



Built: 1887.

STATEMENTS OF SIGNIFICANCE

Ward et al (1986):

A typical, now altered, asymmetrical late Victorian villa of which there are many in Brighton.

1999 Bayside Heritage Review

"Haverstock", at 12 Agnew Street, East Brighton is of historical significance. It is a typical asymmetrical late Victorian villa of which there are many in Brighton. Although somewhat altered, it contributes to the overall nineteenth century character of housing in Agnew Street and thus demonstrates an important phase of residential settlement in the area.

Allom Lovell and Associates review (2004)

AHC Criterion A4: The villa is one of three in the street built during the land boom of the 1880s and early development of the suburb. Together with No. 10 and No. 20 it is demonstrative of the prevailing Italianate style and is demonstrative of a more modest lifestyle compared with the more substantial examples of wealthier residents.

Comparative examples:

Inverness, 8 Allee Street, Brighton	27 Halifax Street,
Nyora, 49 Bay Street, Brighton	29 Halifax Street, Brighton
Irwell, 451 Bay Street, Brighton	767 Nepean Highway, East Brighton
Ightham, 21 Black Street, Brighton	Concord, 79 Outer Crescent, Brighton
Shalimar, 213 Charman Road, Cheltenham	50 Roslyn Street, Brighton
203 Church Street, Brighton	Methven, 8 South Road, Brighton
Neangar, 30 Elwood Street, Brighton	

INTEGRITY

Fair (Allom Lovell 1999). Fair (Allom Lovell 2004)

While the principal, simple structure of this building remains unaltered, there have been a number of significant alterations to the building's details:

- Removal of original chimneys
- Replacement of the verandah roofing with non-original cladding having a contrasting profile
- Extension of the verandah at one end to form a carport with a low-pitched roof
- Replacement of the iron verandah posts with timber
- Replacement of the original (probably) slate roof tiles with terra cotta tiles and ridge capping
- Replacement of the verandah flooring.

SPECIFIC ISSUES RAISED IN SUBMISSIONS

The general nature of submissions relating to this property and relevant to our decision are:

- It does not satisfy the requirements for a 'B' grade listing
- There are a number of other buildings in the street of similar vintage and integrity which have not been included, or proposed to be included, in a Heritage Overlay
- The application of the Heritage Overlay is, for the above reasons, arbitrary.

DISCUSSION

As discussed previously, we have taken a strict interpretation of the definition of 'B' grading as provided in the *1999 Bayside Heritage Review*. This definition defines B-Grade buildings by excluding them from C-Grade buildings, which are generally similar but for the extent of their alterations:

["C" graded buildings] are structures that are close to grade "B" buildings, both in their physical location and their period and type, but have substantial alterations made to their original fabric which are, in large part, reversible

There are a number of issues to consider here:

- The effect of the alterations
- The apparently arbitrary nature of the building's selection from amongst many others of similar age and integrity
- The earlier reservations we have expressed about the general application of AHC Criterion A4.

Given the importance of the elements of this building that have been altered, and taking into account our earlier discussion on this matter, we conclude that the extent and cumulatively nature of alterations to this building place it in the *1999 Bayside Heritage Review*'s category of a 'C' Graded building.

The *1999 Bayside Heritage Review* cites four dwellings, including this one, as being of heritage significance (Nos. 10, 12, 20 and 30), all being included in Amendment C37, the other three being cited for "historic and aesthetic reasons" (i.e. presumably including AHC Criterion E1). However, we noted that there are a larger number of other dwellings of similar vintage and integrity in Agnew Street and it is not at all clear why these are not include, at least on the basis of AHC Criterion A4.

While we have expressed some sympathy for Ms Riddett's approach in setting aside the some of the significance of alterations in assessing buildings which are being assessed in relation to Criterion A4, clarification of such assessments still has to be developed. Finally, we have already concluded that, for these same reasons, the use of Criterion A4 is not supported other than in exceptional and special circumstances.

RECOMMENDATION

The dwelling at 12 Agnew Street, Brighton, is not of local heritage significance and should not be included in the Heritage Overlay.

8.3 74 BAY STREET, BRIGHTON (HO421)

DESCRIPTION OF THE PLACE

1999 Bayside Heritage Review:

Single-storey symmetrical rendered brick Victorian house. The front elevation comprises a central door flanked by single timber-framed double-hung windows beneath a concave-profile verandah. The hipped roof is clad in corrugated iron. One rendered chimney with moulded cap remains. Alterations include the replacement of the original verandah posts and frieze and of some windows. The low front fence appears to date from the inter-War period.



STATEMENTS OF SIGNIFICANCE

1999 Bayside Heritage Review:

The house at 74 Bay Street, Brighton, is of historic and aesthetic significance. It predates the first Brighton rate book of 1862, thus making it one of the oldest surviving houses in the municipality. Although altered, the house retains several Victorian elements, including its concave-profile verandah roof and chimney.

Comparative examples cited in the *1999 Bayside Heritage Review*:

70 Bay Street, Brighton

76 Bay Street, Brighton.

INTEGRITY

Some changes to the façade of the building. Fair (Allom Lovell 1999). Fair (Allom Lovell 2004).

SPECIFIC ISSUES RAISED

Mr Stokans submitted that this is one of the oldest surviving houses in the municipality which justifies inclusion despite unsympathetic changes to its verandah which can be reversed.

The owner, Mr Angelo Palomba, objected, saying that the verandah hip roof is probably the only original part left. A timber wall blocks off the right side of the veranda; steel (badly adapted) posts have replaced the rest of the frame and the supports. The veranda flooring has been replaced with concrete and paved with tiles. The front fence leaves a very narrow driveway. It is basically a development site. A heritage overlay inclusion would result in a loss of property value and increased maintenance costs.

PANEL'S DISCUSSION

While we note the changes to the façade, the building is important for its representation of the earliest phase of development and, in this example, the original nature and form of the building is sufficient clear that the building can be taken to provide a fair representation of one from its era.

With respect to the relevance of AHC criterion E1, we have previously concluded that we do not consider this criterion appropriate to vernacular and unselfconscious designs and styles of building.

The owner's objections are centred on the development potential of the property. The building has historical and cultural importance. As noted in the thematic history there are very few pre-1870 Vic buildings in Bayside.

PANEL'S CONCLUSION

That the dwelling at 74 Bay Street Brighton is of local heritage significance in relation to AHC Criteria A4 and should be included in the permanent heritage overlay. The statement of significance should be appropriately amended.

8.4 270 BLUFF ROAD (HO441)

DESCRIPTION OF THE PLACE

1999 Bayside Heritage Review:

Large, single-storey, block-fronted weatherboard Italianate style villa, asymmetrically planned with a hipped corrugated iron roof with bracketed eaves. A verandah returns around the north and west elevations. The verandah is terminated by a canted bay on the side (north) elevation; unusually the entrance door is also situated on the side elevation. Windows are double-hung sashes and chimneys are rendered.

STATEMENTS OF SIGNIFICANCE

1999 Bayside Heritage Review:

"Summerhill" at 270-272 Bluff Road, Sandringham, is of aesthetic significance. The house is a large and substantially intact example of a nineteenth century Italianate style villa, characterised by block fronting and ornate cast iron verandah details.

Comparative examples cited in the 1999 Bayside Heritage Review:

14 Coape Street, Cheltenham
Coronet Hill, 10 Coronet Grove, Beaumaris
Stokeavilly, 109-11 Park Road, Cheltenham
Thule, 25 Tennyson Street, Brighton
Claramae, 141 Weatherall Road, Cheltenham.

Review 2004

AHC Criterion A4: Built during the late nineteenth century as Sandringham was being developed, it is a fine example of the early phase of development of Sandringham.

AHC Criterion E1: a substantial and intact timber villa, in the Italianate style generically similar to others in Cheltenham and Brighton, and which is demonstrative of the aspirations and means of early upper-middle class settlers in the area. Located in one of the municipality's main streets it makes a significant contribution to the streetscape.

INTEGRITY

Good (Allom Lovell 1999). Good (Allom Lovell 2004).

A substantial and intact timber villa in the Italianate style (Allom Lovell 2004).

SPECIFIC ISSUES RAISED

Correction to the citation sheet to note that the property was originally accessed from a lane that is now 274 Buff Rd, originally part of the property.

PANEL'S DISCUSSION

The only comment submitted was to advise further information to the note in the citation, that the entrance door was "unusually" located on the side of the house, this was to confirm that the original entry from the "laneway". We have previously rejected the application of AHC Criterion A4 until further studies are completed which will clarify those situations where its use is appropriate.

In the absence of any evidence or facts presented to us that would suggest to the contrary, we accept that the building is of local heritage significance in relation to AHC Criterion E1.

PANEL'S CONCLUSION

That the building at 270 – 272 Bluff Road, Sandringham is of local heritage significance on the basis of AHC Criterion E1 and should be included on the heritage overlay.

8.5 31-33 BRIDGE ROAD, HAMPTON (HO82)

SUBMISSION

This property is in a permanent heritage overlay. However, while the property is correctly identified in the Schedule to Clause 43.01, we were advised that the mapping had been erroneously applied to the property at 31-33 Bridge Street, Brighton. Council requested the Panel to include a recommendation relating to the appropriateness of a Ministerial Amendment to correct this mapping error.

In the circumstances as described to us, we consider it appropriate that the mapping error should be corrected.

RECOMMENDATION

That the Minister be requested to amend the mapping error for the property at 31-33 Bridge, Hampton, which is presently incorrectly mapped as 31-33 Bridge Street, Brighton.

8.6 7-9 CAMPBELL STREET, BRIGHTON (HO85)

DESCRIPTION OF THE PLACE



1999 Bayside Heritage Review:

Heatherley (sic) is a large, double-storey, Queen Anne villa, constructed of red brick with steeply pitched terracotta tiled gabled roofs. Asymmetrically composed, a rectangular bay window with multi-paned sash windows projects on the south side and a verandah supported on simple timber posts exists to the north. Rendered string courses run across the façade. A segmented arched opening within a red brick porch marks the entrance. The gable ends are half-timbered in the Queen Anne style, and the tall chimneys are red brick with cement rendered Art Nouveau ornament and terracotta pots. A bracketed hood extends from the main gable over two of the first floor windows.

The red brick fence is not original, and a double garage has been constructed on the front boundary.

STATEMENTS OF SIGNIFICANCE

1999 Bayside Heritage Review

Heatherleigh, at 9 Campbell Street, Sandringham, is of aesthetic significance. The house is a substantial and relatively late example of the red brick Queen Anne style, retaining intact typical elements of the style including bracketed window hoods, half-timbered gable-ends and tall red brick chimneys. Unusual elements include the red brick entrance porch and the rectangular bay window with multi-paned sash windows.

Constructed: c. 1896?

Comparative examples

Heath Cliff, 37 Willis Street, Hampton.

Allom Lovell and Associates – review 2004

AHC Criterion A4: this house was constructed during the 1890s following the release of the Picnic Point Park Estate, an important phase in the development of the suburb.

AHC Criterion E1: a substantial and imposing example of the Queen Anne style executed in red brick and which demonstrates the aspirations and the lifestyle of the upper middle classes who were attracted to the area.

INTEGRITY

Allom Lovell and Associates (2004) acknowledged: “substantial alterations have been made to the property, including to the windows and porch as well as an addition to the rear”

SPECIFIC ISSUES RAISED

The submitter corrected the name of the place, being “Calver” and not “Heatherleigh”, drew attention to substantial alterations in the 1930s and 1980s “so the (the façade) no longer presents its original features”.

DISCUSSION

Ms Riddett acknowledged the extent of alterations, but still maintained “the alterations have not diminished the heritage significance of the site and are reversible.”

This building is very large and its Queen Anne features are very dominant. Consequently, we are prepared to agree with Ms Riddett’s conclusion. In the absence of any expert opinion to the contrary, we accept that 7-9 Cole Street, Sandringham, is of local heritage significance. Although we have questioned the application of AHC Criterion E1 to buildings that do not have a high level of integrity, we accept that the principal elements of the Queen Anne style are in this case sufficiently dominant that we are satisfied that the building meets this criterion.

Our earlier rejection of the general use of AHC Criterion A4 applies here.

CONCLUSION

The dwelling at 7-9 Cole Street, Sandringham is of local heritage significance in relation to AHC Criterion E1. The descriptive material should be amended to reflect the property’s correct name and the statement of significance amended to reflect the appropriate basis of its significance.

8.7 231 CHARMAN ROAD, CHELTENHAM

DESCRIPTION

1999 Bayside Heritage Review

Long, single-storey building of brick construction with a traverse gabled slate roof. The building has been extended at various dates. The centre section is constructed of brown English bond brickwork with a rendered moulded string course at dado level and has multi-paned, double-hung sash windows arranged in groups of three. A gabled section projects to the south. The additions to the north are of red English bond brickwork and continue the string course across the elevation. A large semi-circular opening contains the entrance. A further extension to the north is also of red brickwork but has a parapeted roof.



STATEMENTS OF SIGNIFICANCE

1999 Bayside Heritage Review

The Cheltenham Primary School is of historical [and] aesthetic significance. The building is a largely externally intact example of a nineteenth century school, with later sympathetic additions. Of interest is the use of local handmade bricks in its construction. A school has continuously occupied this site on Charman Road and has served the local community since 1869; its subsequent expansion reflects the growth of the suburb.

Comparative examples cited in the 1999 Bayside Heritage Review: nil

Allom Lovell and Associates review 2004:

AHC Criterion A4: Education was an important aspect of the settlement of the district, and the first school for the area was located on this site in Cheltenham.

AHC Criterion G1: one of the early schools in the area, previously known as Beaumaris No. 84, its historical contribution remains highly valued by the community, partly evidenced by its published history.

AHC Criterion E1: designed in an Arts and Crafts style by the Public Works Department and constructed from locally made bricks, the building has aesthetic value in its own right and also makes an important contribution to the streetscape.

INTEGRITY

The building is noted to be intact when viewed from the street, although alterations have been carried out since originally built.

SPECIFIC ISSUES RAISED

The principal of the school submitted a written objection, on behalf of the school council and department of education and training, expressing concern about the costs to owners of buildings subject to a heritage overlay. There was no objection to the significance of the building.

PANEL'S DISCUSSION

The panel accepts the significance of the building for cultural, educational and aesthetic values. Given the special nature of this building, we accept that both AHC Criteria A4 and G1 are appropriate and, given the special use of a conscious and well developed style, so is the use of AHC Criterion E1.

PANEL'S CONCLUSION

That the building at 231 Charman Road, Cheltenham is of local heritage significance in relation to AHC Criteria A4, G1 and E1 and should be included on the permanent heritage overlay.

8.8 203-205 CHARMAN ROAD, CHELTENHAM (H0737)

DESCRIPTION OF THE PLACE

1999 Bayside Heritage Review:

"Lorne" is an asymmetrically planned, single-storey inter-War bungalow, situated on a corner block at the intersection of Sydney Road. The house is constructed of red brick and has gabled and hipped terracotta tiled roofs. A broad gable faces Charman Road, with clinker brick diaperwork in the gable end. The entrance porch is supported on brick piers, between which are semi-elliptical arches and has clinker brick vousoirs. Windows are double-hung sashes grouped together, with geometric leadlighting, heavy moulded sills and bracketed hoods. Chimney stacks are red brick, with clinker brick cappings.

The low bluestone fence is not original.

Construction: c. 1910 (Ward review 2001)

STATEMENTS OF SIGNIFICANCE

1999 Bayside Heritage Review:

"Lorne", at 203-205 Charman Road, Cheltenham, is of historical and aesthetic significance. One of a small number of houses constructed in the suburb during the inter-War period, it is a good example of the bungalow style. Of particular note is the decorative use of clinker brickwork.

Comparative examples cited in the *1999 Bayside Heritage Review*: Nil.

Ward review (2001):

"Lorne" is an archetypal Bungalow of importance as a rare early building of its type in the locality. Elements that support the former claim include the use of patterned brickwork, shady corner verandah with canted buttresses, bracketed concrete window hoods, lead lighting and bull nosed brick garden steps. The date of c. 1910 makes this a stylistically early example which may be hinted at through the use of the diagonal axis and corner verandah as a form of expression.

INTEGRITY

Good (Allom Lovell and Associates).

SPECIFIC ISSUES RAISED

Mr. Stokans briefly advised us that Council had resolved that it considers that this building should not be included in the Heritage Overlay. Mr Stokans did not elaborate on this submission and did not call any expert evidence in relation to this property.

Mr Reynolds, on behalf of Mr Parsons, owner, submitted that the building "is in a very poor state of repair" and disputed that it was in a good condition.

DISCUSSION

For reasons discussed earlier in relation to the assessment of inter-War housing, and in the absence of any substantive submission or further expert evidence to support Mr Stokans' submission, we do not consider that we are able to form a final view about, or make a firm recommendation, in relation to this building. In accordance with our other recommendations in relation to like circumstances, we therefore conclude that this building should remain in the Interim Heritage Overlay until further research into buildings of this era can be completed.

In other circumstances, where Council's experts had undertaken research that concluded that a building was of local heritage significance, we could only reject that evidence if there were more persuasive evidence or facts presented to us to the contrary.

CONCLUSION

Re the dwelling at 203-205 Charman Road, Cheltenham, the Panel is not able to reach any conclusion with respect may to the local heritage significance of this building. The Panel recommends that No. 203-205 Charman Road, Cheltenham, be retained in the Interim Heritage Overlay until Council has undertaken further studies into the heritage significance of development in the City of Bayside during the Inter-War period.

8.9 95-7 CHURCH STREET, BRIGHTON (HO738)

DESCRIPTION OF THE PLACE

1999 Bayside Heritage Review

Edwardian shops, No. 95 being single-storey and No. 97 being double-storey. The first floor of No. 97 has a distinctive oriel window set within a slightly recessed semicircular arch. The buildings have been substantially altered. The shopfront of No. 97 has been incorporated with the adjacent shop at No. 95. The cantilevered awning is either not original or very altered. The red face brickwork at the first floor level of No. 97 has been painted.

STATEMENTS OF SIGNIFICANCE

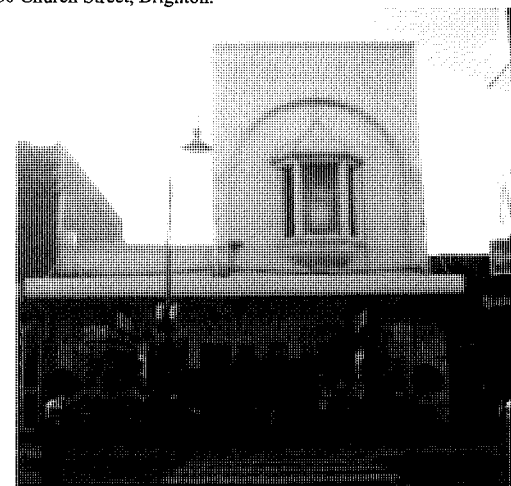
1999 Bayside Heritage Review:

AHC Criterion A4: in the initial development of Brighton, most shops were located in Church Street, which is a mixture of Victorian, early twentieth century and recent shops. Local decorators McPherson & Laurie first owned the shop. The early years of the twentieth century saw continued commercial growth in the area and the shop remains part of a significant phase in the development of the suburb. Oral history indicates that it is also of local social significance as *the* place to go for hardware.

AHC Criterion E1: a good and distinctive examples of Edwardian commercial design which is reinforced by the various other shops in the Church Street shopping area which are from the Victorian era through to [the] inter-War period. Collectively they demonstrate the historical development of Church Street as one of the two major shopping streets in Brighton.

Comparative examples cited in the 1999 Bayside Heritage Review:

Shops, 60 Church Street, Brighton.



Built: c. 1910

Statement of significance provided to the Panel at the hearing by the submitters in consultation with Council's advocate and Ms Riddett:

Minimal significance is attached to the single storey shop. The two storey shop at 97 Church Street is of aesthetic and historical significance. Its historical significance is as an example of a 1900s to 1910s period two storey shop typical of Edwardian commercial architecture. The principal aesthetic feature is the first floor level Church Street façade which gives it a presence in the streetscape.

INTEGRITY

The parties appearing before the Panel agreed that the external first floor structure, front and rear, of No. 97 (Lot 11) is the only element that still retains its original integrity. The ground floor of both shops has been so substantially altered that there is no evidence of how the original Edwardian shop front would have appeared. In fact, the structural changes are so substantial that the LHS first floor side wall, which is load bearing and would originally have been carried through to its own footings, now sits over the centre of a large-span shopfront opening at ground level (to all intents as if the first floor structure did not exist). As Mr. Bick wrote (in part) in his statement of evidence:

Essentially the front first floor façade of the two storey section of this building is the only part of this circa 1910 shop that has Heritage Overlay value.

The ground floor level of the two storey section of this shop and single storey section to the west have been completely gutted and have no Heritage Overlay value, and never will. The street verandah has no Heritage Overlay value.

The rear half of the site contains single-storey buildings that have no Heritage Overlay value.

SPECIFIC ISSUES RAISED

At the hearing, and following discussions between Mr Stokans and Mr John Cicero of Best Hooper solicitors, the parties advised the Panel that they had agreed as follows:

- The extent of the Heritage Overlay should be amended to exclude No. 95 (the single storeyed structure) and include only No. 97
- The statement of significance should be revised as follows –

“Minimal significance is attached the single storeyed shop. The two-storey shop at No. 97 Church Street is of aesthetic and historical significance. Its historical significance is as an example of a 1900's to 1910's period two-storey shop typical of Edwardian commercial architecture. The aesthetic feature is the first floor level of the Church Street façade which gives it a presence in the streetscape.”

DISCUSSION

Given the agreement between the parties, supported by Mr. Bick's evidence, we accept that the only part of the building that has any local heritage significance is the first floor front façade of No. 97. On this basis, it is appropriate to amend the Heritage Overlay to exclude No. 95.

From the evidence presented to us, supported by our own inspections, we accept that the only element that could satisfy AHC Criterion E1 is the first floor front elevation.

We are not satisfied that the statement of revised statement of significance for this building that was prepared by Ms Riddett, as elaborated here:

- In relation to AHC Criterion A4, all of the information appears to be merely descriptive and should properly be part of the background material. A more appropriate wording might be in the following form “Providing evidence of the Edwardian phase of commercial development in Bayside's commercial centres.”
- In relation to Criterion E1, the reference to this example being reinforced by the other shops is irrelevant to the significance of this shop unless all the buildings referred to, including No. 97, are in a heritage precinct. They are not and consequently the significance of this single property must be contained within the specified area of Heritage Overlay. Consequently, all the words after “Edwardian commercial design are irrelevant”.

While the statement prepared jointly during the hearing by the parties is more appropriate, we have previously recommended that all references to historic significance (AHC Criterion A4) should be removed until a clearer set of guidelines have been prepared for the use of this criterion.

We have also expressed the view that the Criterion E1 should only be applied where a building is close to meeting the AHC's guidelines for that criterion, which is a requirement that we consider should generally encompass the whole building. However, given the agreement between the parties, which has also been endorsed by the relevant experts, and given that the section of building to which Criterion E1 is proposed to apply is a clearly identifiable component and has a high degree of integrity within itself, we accept that in this case it is reasonable that the building should be cited with specific reference to this criterion. It is also important that the citation contain an appropriate qualification, as proposed by the parties.

On the basis of the above comments, an appropriate form of the statement of significance for this building should be in the following general form:

The two-storey shop at No. 97 Church Street is of local significance (AHC Criterion E1) for its excellent remnant example of the first floor front façade of a commercial building c.1900-1910.

RECOMMENDATION

That with respect to the two Edwardian shops at No. 95-97 Church Street, Brighton:

- **HO 738 should be amended to exclude No. 95 Church Street**
- **The most recent statement of significance prepared by Allom Lovell and Associates using AHC criteria should be redrafted in accordance with the Panel's specific comments and to apply only to No. 97.**

8.10 172 CHURCH STREET, BRIGHTON

DESCRIPTION OF THE PLACE



1999 Bayside Heritage Review:

'Danubia' is a symmetrical Victorian rendered brick residence with a hipped slate roof penetrated by rendered chimneys. The entrance elevation has a central projecting porch with an arched opening ornamented with compound pilasters and a keystone and is surmounted by a pedimented parapet with cement urns. The porch bisects the cast iron verandah, which is supported on iron columns with a cast iron lacework frieze. Windows have wide window openings containing a double-hung timber-framed sash flanked by narrow sidelights.

STATEMENTS OF SIGNIFICANCE

Ward (1986): not listed.

1999 Bayside Heritage Review:

"Danubia", at 172 Church Street, Brighton, is of aesthetic significance and historical interest. The house is a good example of a nineteenth century Italianate villa, featuring decorative render and cast iron work; of particular note is the classically detailed entrance porch. As an example of a post-Boom era house, it demonstrates a particular phase of residential settlement in the area.

Allom Lovell and Associates review (2004)

Assessment Against AHC Criteria:

AHC A4: Importance for associations with events, developments or cultural phases which have had a significant role in the human occupation and evolution of Victoria [*sic* – should read 'Bayside'].

AHC E1: Importance for a community for aesthetic characteristics held in high esteem or otherwise valued by the community.

AHC F1: Importance for its technical, creative, design or artistic excellence, innovation or achievement.

Assessment Against Thematic History

Built during the late nineteenth century, it is demonstrative of early development in Brighton. A substantial and intact villa in the Italianate style generically similar to others in Brighton, and it is demonstrative of the aspirations and means of early upper middle class settlers in the area. Located in one of Brighton's main streets, it makes a significant contribution to the streetscape, along with others of nineteenth century and later, eras in Church Street, [a] street noted for its fine corpus of aesthetically significant buildings.

Comparative examples cited in the 1999 Bayside Heritage Review

'Guernsey House', 11 Guernsey Avenue, Moorabbin

'Linton', 81 Outer Crescent, Brighton

'Kalimna', 14 William Street, Brighton

Judging from the data-sheets in the Allom Lovell study (1999) two of these houses are directly comparable to No. 172 Church Street, being of similar age, scale and style and having a projecting portico in the centre of the façade (although the verandah is missing on No. 14 William Street). No. 81 Outer Crescent (which was inspected from the street), has a central pediment over the entrance, which does not extend beyond the line of the verandah. No. 11 Guernsey Avenue, Moorabbin, forms part of Amendment C37 (no submission received) and the other two have permanent heritage protection.

The house shown in the Allom Lovell study as being located at No. 11 Manor Street, Brighton ('Normanby'), though built on a larger scale, also appears to be comparable to No. 172 in having a projecting portico. However, this house has either been demolished or so severely altered as to be unrecognisable and is not listed on the Heritage Overlay. The 19 properties listed as comparative examples for No. 11 Manor Street are all asymmetrical Victorian villas, none of which have porticos.

INTEGRITY/INTACTNESS

Good (Allom Lovell 1999). Good (Allom Lovell 2004)

SPECIFIC ISSUES RAISED

The main issues raised in the submission, expert evidence and presentation at the hearing centred around whether the house is of sufficient heritage significance to warrant protection as an individual place.

The submission pointed out that the house is not part of a group of buildings collectively reinforcing heritage and the presentation to the hearing reinforced this point by showing photographs of the property in relation to its neighbours.

Recent extensions to the house were noted, as well as further alterations for which a permit has been granted by Council.

The owner also recounted her experiences of seeking permits under the Heritage Overlay for the changes she wished to make to the dwelling, a process that she had found to be protracted and onerous.

DISCUSSION

All parties agreed that the house is a fine example of its type and has aesthetic value. However, the discussion revolved around whether it was of sufficient value to achieve significance at the local level, thus justifying its inclusion in the Schedule to the Heritage Overlay.

Mr Briggs gave it as his opinion that the house was an interesting building with heritage character and a fine example of its period, but was not of heritage significance as it had no particular historic associations and was not in any way distinguished. He also pointed out that the style is common elsewhere in Melbourne.

Ms Riddett acknowledged that there are other examples in the municipality of Victorian Italianate villas with projecting central porches, but pointed out that they are less common in Brighton than other verandah designs of the era. Examination of the datasheets for properties listed as comparative examples and other places identified in the 1999 Bayside Heritage Review (see above)) confirmed that the style with a projecting portico appears to be relatively rare in Bayside. All the comparative examples either already have permanent protection under the Heritage Overlay, or form part of Amendment C37.

With reference to the exclusion criteria contained in the AHC Guidelines (for Criterion E1), that places should not be included if they are not 'better' than others of their type, Ms Riddett said that she considered this house to be a very good example of the style and perhaps better than some other comparative examples.

In Mr Briggs view, the threshold for 'local significance' appears to be lower in Brighton – particularly for Victorian buildings – than in other municipalities. However, he did not put forward any objective way of setting the threshold and did not evaluate the property against either the Allom Lovell criteria (A-C) or the AHC criteria.

We therefore endorse Council's view that the property is of sufficient heritage significance for its aesthetic value to warrant listing in the Schedule to the Heritage Overlay. It also concludes that the changes made to the property and those recently approved have had or will have relatively little effect on the integrity of the place and do not negate its heritage significance.

However, we note that no specific argument was put forward concerning AHC Criterion F1. With reference to the AHC Guidelines, the Panel interprets this criterion as requiring a place to demonstrate special creative values or design innovation, rather than just being a good example of a particular style. Reference to Criterion F1 should be removed from the Statement of Significance. We also refer to

our earlier conclusion with respect to the application of Criterion A4 and, on that basis, also conclude that reference to Criteria A4 should be removed.

RECOMMENDATION

That the house at 172 Church Street, Brighton (HO463) is of local heritage significance in relation to AHC Criterion E1 and should be retained on the Heritage Overlay on a permanent basis. The statement of significance should be appropriately amended.

8.11 21 COLE STREET, BRIGHTON (HO470)

DESCRIPTION OF THE PLACE



1999 Bayside Heritage Review:

“Prendagga” is a large Edwardian Queen Anne style residence, constructed of red brick with hipped and gabled slate roofs with terracotta ridge cresting and finials. Asymmetrically planned, the house has a semi-circular bay window with leadlight casements, a timber post verandah, tall roughcast rendered chimney stacks and half-timbered gable ends. A garage has been recently constructed on the east side of the house and a double-storey addition to the rear. The roof has been disfigured by the insertion of skylights.

STATEMENTS OF SIGNIFICANCE

Ward (1986): not listed.

1999 Bayside Heritage Review:

“Prendagga”, at 21 Cole Street, Brighton, is of individual aesthetic significance. The house is a substantial and good example of the Edwardian Queen Anne style, displaying typical features including leadlight bay windows, half-timbered gables and timber verandah fretwork. Substantially intact, the house is an important element in the streetscape. Allom Lovell and Associates review (2004)

Assessment against AHC Criteria:

AHC A4: Importance for associations with events, developments or cultural phases which have had a significant role in the human occupation and evolution of Victoria [*sic* – should read *Bayside*].

AHC E1: Importance for a community for aesthetic characteristics held in high esteem or otherwise valued by the community.

Assessment Against Thematic History

The house was constructed during a period of renewed interest in the suburb in the early years of the twentieth century, an important phase of development of the suburb.

A substantial, intact and impressive residence in the Edwardian Queen Anne style similar to other comparable examples in Brighton and which is demonstrative of the aspirations and means of early upper middle class settlers in the area.

Comparative examples cited in the *1999 Bayside Heritage Review*

Higham Grange, 18 Asling St, Brighton	Keyham, 60 New St, Brighton
Ballara, 47 Bay St, Brighton	358 New St, Brighton
Elgin, 83 Centre Rd, East Brighton	Windarra, 54 North Rd, Brighton
Umfra, 144 Cochrane St, Brighton	Meanyet, 27 Outer Cres, Brighton
Adlez, 40 Cole St, Brighton	Carinya, 387 St Kilda St, Brighton
85 Cole St, Brighton	Milloo, 4 South Rd, Brighton
12 & 14 Dawson Ave, Brighton	42 Sussex St, Brighton
14 Gordon St, Hampton	54 Sussex St, Brighton
332 Hampton St, Hampton	Inglewood, 37 Tennyson St, Sandringham
Omah, 896 Hampton St, Hampton	Eulo, 33 Warleigh St, Brighton
7 Inner Cres, Brighton	2 Webb St, Brighton
Emohuo, 18 Linacre Rd, Hampton	7 Webb St, Brighton
22 Martin St, Brighton	Mucklebar, 10 Wellington St, Brighton
17 New St, Brighton	

Judging from the data-sheets in the Allom Lovell study (1999), plus the benefits of our inspection of a small sample of houses of the reference houses, these houses are comparable to No. 21 Cole Street, being of similar age, scale and overall style, although a number have terracotta tiled roofs rather than slate. Several appear to have original attic storeys, whilst several others – like No. 21 Cole Street – have recent rear second-storey additions and or garages or carports. All but three of the properties listed above either have permanent heritage protection or form part of Amendment C37.

INTEGRITY/INTACTNESS

Good (Allom Lovell 1999) Good (Allom Lovell 2004)

SPECIFIC ISSUES RAISED

The specific issues raised in the submission on this property included:

- the lack of internal inspection of the house, which meant that the process was ‘fundamentally flawed’
- the owner’s concern about the changing nature of the street and the likely impact of adjoining development on the small number of heritage listed properties
- the effect of heritage listing on property values, particularly in cases where a heritage place is listed individually, rather than being part of a precinct
- requests for financial assistance from Council to owners of heritage listed places.

DISCUSSION

The submission did not address the issue of the heritage significance of the property.

As discussed above, it is standard practice in local heritage studies to assess properties from the street, without an internal inspection. Whilst a more thorough investigation of the built fabric of potential heritage places might be desirable, we accept that this was not a requirement of the study methodology and, in the circumstances, we do not consider that it would have been necessary to ensure a reasonably degree of rigour in this case.

We also note that the rear second-storey addition, skylights and garage were in place at the time of the Bayside Heritage Review. No information was provided to indicate that an internal inspection would have revealed more extensive changes than those the consultants had already recognised and acknowledged.

Whilst we sympathise with the submitter's concerns about the impact of potential redevelopment of adjoining and nearby lots on the setting and amenity of No. 21 Cole Street, this is not an argument for failing to afford proper protection to a recognised heritage place.

The issue of the effect of heritage listing on property values has been discussed in Section 6.7.

We note that all the comparative examples listed in the report (with only three exceptions) either have permanent protection under the Heritage Overlay or have interim controls that Amendment C37 proposes to make permanent.

In the absence of any additional information on the integrity of the house or any expert evidence to refute the heritage significance claimed for it, the Panel accepts that it is significance at the local level for its aesthetic values.

For reasons set out in our earlier discussion, we do not consider it appropriate that AHC Criterion A4 should be applied to individual dwellings until Council has undertaken further research to clarify the circumstances where this criterion is appropriate for such buildings.

RECOMMENDATION

That the house at 21 Cole Street, Brighton (HO470) is of local heritage significance in relation to AHC Criterion A1 and should be retained on the Heritage Overlay on a permanent basis.

8.12 30 CROMER ROAD, BEAUMARIS (HO478)

SUBMISSION

This house faces The Close, Beaumaris. The garden has been subdivided off, so only a small part of the lot containing the heritage dwelling has a Cromer Road frontage. The exhibited version of the mapping reflects this. Council has now approved another subdivision to create a lot on the corner of Cromer Road and is of the view that the Heritage Overlay should not apply to this new lot. Consequently, a further modification of the mapping is proposed to reflect this excision.

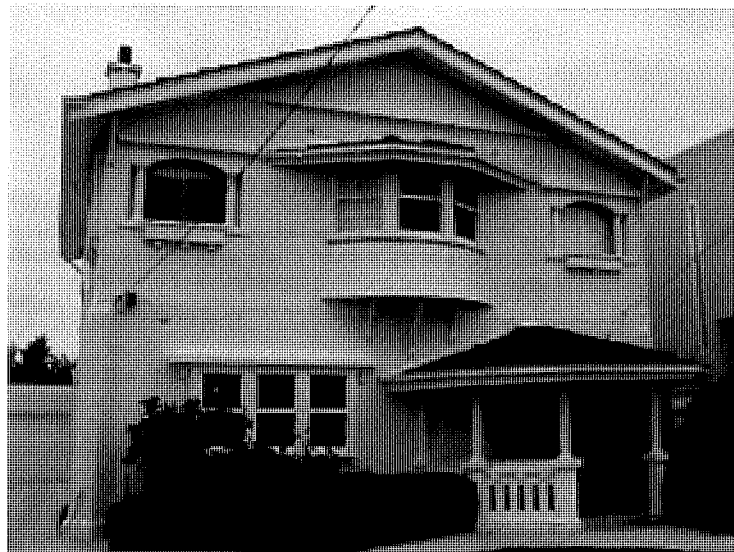
The proposal is supported by both Council and the property's owners. In these circumstances, we support the requested variation to the exhibited map boundary.

RECOMMENDATION

That the mapping of the Heritage Overlay applying to the property at 30 Cromer Road, Beaumaris, be amended to exclude the new lot fronting Cromer Road that has recently been excised from the original lot.

8.13 29 DAWSON STREET, BRIGHTON (HO740)

DESCRIPTION



1999 Bayside Heritage Review

Large double-storey Craftsman style bungalow with a single-ridge, shallow pitched gabled roof clad in terracotta tiles. Walls are roughcast rendered with bold raking buttresses at the corners. A plain string course divides the double-storeys. At ground floor, a canted porch projects at the west end. The first floor level is symmetrical, having a central bay window with a tiled roof flanked by segmental arched openings. The front gate is marked by tall rendered brick piers supporting a timber fascia with carved ends; a similar arrangement of piers flanks the driveway.

STATEMENTS OF SIGNIFICANCE

1999 Bayside Heritage Review

The house at 29 Dawson Avenue, Brighton, is of aesthetic and historic significance. The house is an interesting example of the inter-War Craftsman style bungalow, notable for its well-composed entrance elevation, simple gabled roof form, and original matching gate piers. Historically the house is demonstrative of the more substantial houses which were constructed in the area between the Wars.

Comparative examples cited in the *1999 Bayside Heritage Review*

32 Cole Street,	Tandara, 25 Seymour Grove,
33 Martin Street,	10 South Road, Hampton
11 Rennison Street, Beaumaris	Boselman House, 62 South Road, Hampton
26 St Ninians Road,	

Allom Lovell and Associates (2004)

AHC Criterion A1: Several new estates were built during the inter-War years of the 1920s, and the houses in Dawson Street form part of a significant phase in the development of Brighton.

AHC Criterion E1: an interesting, well-composed and substantial example of the inter-War Craftsman bungalow style located in a street where there are numerous large residence in various styles of the era.

INTEGRITY

Good (Allom Lovell 1999)

SPECIFIC ISSUES RAISED

Council's summary of the issues raised by the submitter, which were amplified at the hearing, included:

- The uniqueness and character of the place do not appear to be as significant as the classification indicates;
- Inconsistent and discriminatory selection of houses for inclusion;
- The piers are not of architectural or heritage significance and need to be replaced to accommodate a new garage.

DISCUSSION

Mr Trethowan provide us with a number of other examples of inter-War housing in the City which he considered were of greater aesthetic value and which have not been identified in any heritage study, including Nos. 4, 6, 7, 8, 20, together with other houses in St. Kilda Street and elsewhere in the locality. On this basis he suggested the potential for a more widely drawn precinct based on inter-War housing. He also expressed the opinion that "given the number of good examples of buildings dating from this period in this area of Brighton, it would be very doubtful that 29 Dawson Avenue would make the grade as locally significant." While we are not sure that we can support Mr Trethowan's thesis on this matter, we are not in a position to reject it either, given the lack of rigour in the assessment of the inter-War housing stock in the City and our earlier comments about alternative principles that could be explored as a basis for defining precincts.

We have already set out our concerns about the use of AHC Criterion A4. These concerns apply here. We have also set out our concerns about the use of AHC Criterion E1 in relation to inter-War housing. This house may well merit the consultant's assessment of its aesthetic importance, though we note that it has some unusual features and some aspects are not characteristic at all of the bungalow style (e.g. the lack of exposed rafters under the eaves), which suggests that it reflects a loose, if moderately reliable, use of many aspects of this style, rather than being a good exemplar of it.

CONCLUSION

That with respect to the dwelling at 29 Dawson Avenue, Brighton, the Panel is not able to reach a conclusion about its local significance and it should remain on the Interim Heritage Overlay until Council has undertaken further research into development of this era. The statement of significance should be amended to reflect our other conclusions that affect this property.

8.14 5 EDWARD STREET, SANDRINGHAM (HO745)

STATEMENTS OF SIGNIFICANCE

Ward (1986): not listed

1999 Bayside Heritage Review: not listed

2003 Bayside Heritage Review (Revision 1):

[The Table of Contents shows 5 Edward Street, Sandringham as Appendix A, but it not included in version of the report supplied to the Panel.]

A letter from Allom Lovell to Bayside City Council in July 2002 described the house as follows:

Aesthetically, the house is representative of the Edwardian Queen Anne style, typical of many weatherboard houses in Sandringham and Hampton.

The Registrations Committee of the Victorian Heritage Council added further information on the property as a whole:

The main features are the garden setting of the house on its large block and garden, the mature Algerian Oak, the pond, the mature remnant ti-tree, and the outbuildings. The house itself is a reasonably handsome example of Federation design.

Allom Lovell letter (July 2002)

The significance of the property lies principally with its historical connection with the Boyd family. Arthur Boyd's studio, which reportedly survives, demonstrates the Boyd's occupation of the house and the artistic activities which took place there. Guy Boyd's subsequent purchase of and additions to the house are also of interest, further reinforcing the Boyd family links to the house.

... Based on the information available, it is considered that the house is of local historical significance.



Allom Lovell's submission to the Victorian Heritage Council on behalf of the owner (November 2002)

The former Boyd house is considered to be of local heritage significance ...

Bryce Raworth's submission to the Victorian Heritage Council on behalf of the owner (November 2002)

The house itself, while a reasonably handsome example of Federation design, is not remarkable and is of local rather than state significance. The grounds, including the Algerian Oak, are also not remarkable and appear to be of local rather than state significance.

Draft Statement of Significance prepared by Heritage Victoria (2002) to support recommendation for listing on the Victorian Heritage Register:

[The] Former Boyd House, 5 Edward Street, Sandringham is historically significant to the State of Victoria.

The Former Boyd House is historically important for its association with three generations of the Boyd family. It is associated particularly with the painters Arthur Merric and Emma Minnie Boyd, their daughter, landscape painter Helen Boyd Read, and their grandchildren including Arthur, David, Guy and Robin, who regularly visited the house in the 1920s and 1930s. It is strongly associated with the life and career of sculptor Guy Boyd, who maintained the house as a home and studio in the 1980s. The house demonstrates the links with the family and the way family talent was encouraged and nurtured. Allom Lovell and Associates review - revised datasheet (2004)

Assessment against AHC Criteria:

AHC H1: Importance for close associations with individuals whose activities have been significant within the history of the nation, state or region.

Note: an earlier version of the datasheet also included AHC Criterion G1: Importance as a place highly valued by a community for reasons of religious, spiritual, symbolic, cultural, education, educational, or social associations.

Assessment against Thematic History:

This property was the home of Arthur Merric and later Guy Boyd, a significant family of Australian painters and artists.

Comparative examples cited in the *1999 Bayside Heritage Review*: none.

INTEGRITY/INTACTNESS

The house was modified during Guy Boyd's ownership, through – amongst other things – alterations to the verandahs, replacement of the original slate roof with terracotta and internal changes. The outbuildings – including the one used as Arthur Merric Boyd's studio – were also modified during this time. The Heritage Council acknowledged in 2002 that the outbuildings were in a state of disrepair.

SPECIFIC ISSUES RAISED

The submission by the owner of No. 5 Edward Street made the following points:

- he believed that the property was of local interest but not of local heritage significance
- the recommendation for its inclusion under the Heritage Overlay in the Bayside Planning Scheme derived from the findings of the Registrations Committee of the Victorian Heritage Council, when considering the property for possible listing on the Victorian Heritage Register; however, the Committee had provided insufficient grounds to support some of its conclusions
- the property lacks tangible evidence of an artistic legacy from the Boyd family
- the Algerian Oak tree which is the main feature of the garden is identified in the register of notable trees in Bayside and thus already has protection
- there is no evidence that the rest of the garden dates from the first period of Boyd occupation
- the outbuildings, which were used as studios by the Boyd family, are in poor repair and structurally unsound
- the periods during which the house was occupied by members of the Boyd family were relatively short and did not involve residence by the most famous members of the family.

DISCUSSION

We note that property at 5 Edward Street, Sandringham was not identified by the Bayside Heritage Review 1999. It came to the attention of Council when it was put up for sale. A member of the local community nominated it for the Victorian Heritage Register on the basis of its association with the Boyd family.

The Executive Director of Heritage Victoria recommended that the property should be included on the Victorian Heritage Register. This was justified as follows:

Ms O'Neill [representing the Executive Director at the hearing of the Registrations Committee of the Victorian Heritage Council] explained that the property could be understood as a document or evidence of a substantial part of the lives and work of an outstanding artistic family, as the home for some twenty years from 1921 to 1940, in the latter part of their lives, of Arthur Merric Boyd and Emma Minnie Boyd. She emphasised their significance as artists in their own right and as mentors to their children and grandchildren. These members of the second and third generation, many of them notable in their own right, were frequent visitors to the property. The grandson Guy conceived an unusually strong attachment to the house and purchased it when it came up for sale in 1980, by which time he had achieved an international reputation as a sculptor. He spent the last years of his life living and working at the house in Edward Street which he renovated and extended. After his death in 1988, his widow Phyllis retained the property as her home until her death in 2001. Ms O'Neill drew attention to Arthur Merric Boyd's use of a timber structure on the property as a studio and noted that the building had been modified by Guy as a sculpture studio in the 1980s. Guy had further adapted a second small timber structure as a workshop for his daughter Charlotte.

The owners of the property opposed the VHR listing, on similar grounds to those included in their submission on Amendment C37. Submissions from heritage consultants Allom Lovell & Associates Pty Ltd and Bryce Raworth to the Registrations Committee concluded that the property was of local, rather than State, historical significance since the surviving fabric did not show sufficient evidence of its association with the Boyd family to allow for an immediate understanding of the significant role it played in the their lives.

The Committee agreed that the place was not of State significance but concluded:

... the Committee resolved that the property should be *strongly* [original emphasis] recommended to the local Council for inclusion in the local planning scheme. The main features that invited respect were the setting of the house on its large block and garden, the Algerian Oak (which is already included on the register of notable trees), the pond, on the assumption that this was associated with the Boyd period of ownership, the mature remnant ti-tree [sic] and the outbuildings – in particular the larger of the two.

The outbuildings may be in a state of disrepair, but they do have more particular associations with the artistic output of the family, even if they pre-date the time of Arthur and Emma, and they should be respected and restored if possible, even if relocated on the property.

We noted the views of Allom Lovell and Bryce Raworth (quoted above) on the significance of the property and the opinion given at the hearing by Ms Riddett, who considered the it to be of local heritage significance for its association with the Boyd family (AHC Criterion H1) and as a place highly valued by the local community for its [cultural] associations (AHC Criterion G1). It also took account of the recommendation from the Heritage Council for inclusion of the property in the City of Bayside planning scheme.

A contrary opinion was put to this Panel by Mr Trethowan:

It is my belief that the identification of the subject site as of local significance is not justified. The property has historic interest only. This is related to the association the site has with the Boyd family and this in turn can be limited to the setting of the house in its large block and garden and some individual landscape features of the site.

Individually and collectively these elements are insufficient in themselves to warrant protection under an individual site specific Heritage Overlay. The current protection to the existing significant trees on the site should remain.

Mr. Trethowan interpreted the Registration Committee's conclusions on 5 Edward Street to indicate that the house is not important, other than in its setting on the large block and garden. He also challenged the connection with the Boyds of some of the other elements of the property noted by the Committee – particularly the ti-tree and the pond.

He provided a summary – derived from Brenda Niall's book *The Boyds* – of the various other properties owned by Arthur Merric and Emma Minnie Boyd and claimed that the houses they occupied were not themselves a focus of family activity, merely a location for artistic endeavour. Mr Trethowan concluded that Arthur Merric and Emma 'basically retired' when they went to live at 5 Edward Street. He does, however, note that their grandchildren enjoyed their visits to Sandringham during their childhood and the pleasure of time by the sea here. He also notes:

Being by the sea was relevant to Arthur [*who was known for his seascapes*] and this perhaps influenced their final choice of residence at Sandringham, which perhaps harked back to their more formative time here in the period 1894-1906.

Mr. Trethowan was fairly dismissive of Guy Boyd and any importance that might be attached to his ownership of the property.

In evaluating 5 Edward Street, we also considered the opinion from Graeme Davison, quoted above, that there is a need for 'the historic personage and the building [to] somehow help to interpret each other' before a place should be regarded as historic because of its association with an individual or group of people.

We consider that, contrary to the views put by the submitters, that it is not necessary for the fabric of the place to have been changed in a way that is particularly related to the activity for which the individual or group is famous. That is to say, just because the Boyds were artists, one does not necessarily need to find evidence of particularly creative or artistic changes to a house or garden to conclude that the place in which they lived their lives and carried out at least some of their artistic endeavours is significant. A key consideration here is that the property today is substantially the same as it was when it was the location for the interaction of the three (or more, counting Guy's children) generations of Boyd artists and, as the draft Statement of Significance (above) puts it, evidence of 'the way family talent was encouraged and nurtured'.

We also considered the AHC Guidelines with regard to Criterion H1, which state that:

In general, the association between a person and a place needs to be of long duration, or needs to be particularly significant in the person's productive life.

Several submitters and experts put the view that the periods of occupation of the Boyds at the property were neither long nor productive, compared with other places the family had lived. However, the elder Boyds owned the house for 15 years, Guy Boyd for approximately eight and his widow for a further 13 years. The National Trust, in a letter supporting the proposed State listing of the property in 2002, claimed that 'the Sandringham house is the one with the longest and most significant connection that still exists' (by implication in Victoria).

We also note that Guy Boyd's locally well-known sculpture 'The Swimmer', which is installed outside the Bayside City Council offices in Sandringham, was created at 5 Edward Street.

Finally, we considered the advice given in the VPP Planning Practice Note on *Applying the Heritage Overlay*. Under the heading 'What places should be included in the Heritage Overlay' the PPN includes:

Any place that has been recommended for planning scheme protection by the Heritage Council.

After considering all of the above, the Panel is of the opinion that the property at 5 Edward Street, Sandringham is of sufficient local heritage significance on the basis of its association with the various members of the Boyd family to justify its inclusion under the Heritage Overlay.

However, we were not persuaded by Council's claim that the property is also significant under AHC Criterion G1, for its importance as a place highly valued by a community for reasons of its cultural associations. The file tabled by Council in support of this view contained too few statements of support to be able to come to this conclusion. We therefore endorse the later version of the datasheet supplied by Council, which omits reference to Criterion G1.

There remains the question about what aspects of fabric of the property should be identified as being significant in demonstrating the association with the Boyd family.

We are of the opinion that the house is significant, but that significance does not reside in the details of the design or particular decorative features. Proposed future modifications to it should be assessed in this light. We do not see any reason why it would not be acceptable to make quite significant changes to the dwelling, as long as its principle elements were retained.

The garden is clearly significant and the Schedule to Clause 43.01 should be amended to introduce additional tree controls. Likewise, the two outbuildings/studios are significant and should be listed in Column 6 of the Schedule. However, we accept that these are in poor condition and contain hazardous materials and that it may not be practicable to restore them without unreasonable costs and/or risks. This is a matter to be decided when a permit is sought to demolish or alter them.

We accept Mr Trethowan's view that the pond was not installed during the earlier period of Boyd ownership and that Guy Boyd's modifications around it are not significant.

RECOMMENDATION

Re the property at 5 Edward Street, Sandringham (HO745)

- ▮ The place is of local heritage significance for its historical associations with the Boyd family of artists (AHC Criterion H1) and should be included in the Heritage Overlay on a permanent basis.
- ▮ Tree controls should be applied to the garden and the two outbuildings should be listed in the Schedule as not exempt under Clause 43.01-4.
- ▮ A full datasheet should be prepared for 5 Edward Street, Sandringham, in the same format as for other places in Bayside included under the Heritage Overlay, clearly outlining what is significant about the property and combining material from Heritage Victoria's draft with the Allom Lovell assessment against the AHC Criteria
- ▮ The statement of significance should be amended accordingly.

8.15 65 FERNHILL ROAD, SANDRINGHAM (HO489)

DESCRIPTION OF THE PLACE

1999 Bayside Heritage Review:

Large, double-story inter-War English Domestic Revival style residence, situated on a corner block. The house features typical elements of the style, such as rendered walls, steeply pitched tiled gable roofs, multi-paned double-hung sashes and tall clinker brick chimneys. A half-timbered bay projects over the entrance. Part of the front fence is original and has been extended in height at a later date.

Built: c. 1936



STATEMENTS OF SIGNIFICANCE

1999 Bayside Heritage Review:

The house at 65 Fernhill Road, Sandringham, is of local aesthetic significance. The house is a substantial example of the English Domestic Revival style incorporating typical features of the style including steeply pitched gabled roofs, tall chimneys and multi-paned double-hung sash windows. Of note is the projecting half-timbered first floor bay.

Allom Lovell and Associates (2004) review:

AHC Criterion A4: It is demonstrative of the Inter-War development of the Sandringham area which was a significant phase in the development of the suburb.

AHC Criterion E1: A substantial and intact example of the popular English Domestic revival style which is demonstrative of the aspirations and means of the upper middle who were attracted to the evolving affluence of the area.

Comparative examples cited in the 1999 *Bayside Heritage Review*:

6 Bay Street, Brighton	The Gables, 7 Brandon Road, Brighton
Culverkeys, 11 Beach Road, Beaumaris	18 Deauville Street, Beaumaris
35 Bolton Avenue, Hampton	4 Sussex Street, Brighton
188 Church Street, Brighton	

INTEGRITY

Good (Allom Lovell 1999). Good (Allom Lovell 2004)

Mr. Trethowan reported "Externally the house has been renovated and repainted and it is a good state of repair. The original timber windows have been replaced with aluminium equivalents and parts of the external porch paving have been replaced. The original rear garage has been converted to a living room and a carport has been constructed in the front yard."

SPECIFIC ISSUES RAISED

The principal issues raised in submissions and evidence that are relevant to our considerations are:

- The building is only one of many in its particular design and is not especially outstanding within this group
- The value of the building lies in its being one of many extant buildings that were constructed at the same time and which, collectively, represent the development of the Sandringham Golf Links Estate and the aspirations of those for whom the development was undertaken.

PANEL'S DISCUSSION

The issues relevant to this property are:

- Whether the building is a sufficiently good example of its Type (as an English Domestic Revival style to qualify for Criterion E1)
- The significance of the building's representation of the development of the Sandringham area
- The merits of Mr. Trethowan's proposition that the Golf Links Estate provides a more appropriate representation of the historic development of the area.

In considering the merits of the building to qualify for Criterion E1, we are faced again with the difficulty created by the lack of any rigorous research into this period, together with the absence of any clarity about the threshold levels for this criterion.

Mr. Trethowan conceded that the building is a representative example of its style but contended that there were a large number of buildings of this style and that this one

was not of particular significance within the group. He also tended copies of documents promoting the public auction of the original golf course land (auction 2nd December 1933, subdivided into “73 perfect residential allotments”). He also spoke of the prestige in which this housing estate was originally held by the Sandringham community as an outstanding representation of its type. He expressed the view that, for this reason, the estate could also merit designation in relation to AHC Criterion G1 (a place highly valued by a community for reasons of [its] social associations).

Mr Trethowan proposed that this building should be retained in the Interim Heritage Control until its estate had been more thoroughly researched.

Having inspected the estate ourselves and noted the substantial number of buildings that appear to date from the earliest days of the estate. Taking account of our observations and our earlier discussion, we are persuaded that the Golf Links Estate as whole, including the substantial number of remnant original buildings that it still contains, potentially has greater significance as a reflection of its particular phase of development in Sandringham than does the house at 65 Fernhill Road as an individual example. We also agree with Mr. Trethowan that the selection of this individual building appears to be arbitrary – in respect to both the Criteria A4 and E1 and, for this reason, does not at this stage of research justify inclusion in the permanent Heritage Overlay on the basis of Criterion E1.

RECOMMENDATION

Re the house at 65 Fernhill Road, Sandringham:

- ▮ **The Panel is not able to reach a conclusion about its local significance and it should remain on the Interim Heritage Overlay until Council has undertaken further research into development of this era. The statement of significance should be amended to reflect our other conclusions that affect this property**
- ▮ **That further research should also review the significance of the Golf Links estate with particular reference to AHC Criteria A4 and G1.**

8.16 27 GLEBE STREET, CHELTENHAM (HO495)

DESCRIPTION OF THE PLACE

1999 Bayside Heritage Review:

No. 27 Glebe Street is an asymmetrically planned, single-storey weatherboard cottage with a hipped and gabled roof. A pair of double-hung sash windows face the street and the front entrance has a narrow sidelight and highlights. The chimney is of brick, with a corbelled cap. The roof has been reclad, the porch verandah is missing, and the timber picket front fence is not original.

Constructed: c. 1913

STATEMENTS OF SIGNIFICANCE

1999 Bayside Heritage Review:

The house at 27 Glebe Avenue, Cheltenham, is of historical significance and aesthetic interest. The house was one of several constructed on the Glebe Estate during the early period of suburban subdivision of Cheltenham in the 1880s, and is one of the few nineteenth century residences in Glebe Avenue to survive relatively intact. The appearance of the house has been marred by alterations which are reversible.

Bryce Raworth (2004)

This diminutive and altered timber cottage is of minor interest only, even within its local context. In fact, it presents only in terms of its form and general ‘character’ to the street, as it has been completely reclad, its roof has been replaced, and its porch detailing is recent and not of a traditional detail. The front windows are amongst the few elements that remain intact.

Moreover, it is certainly of less individual interest and intactness than 25 Tennyson Street, which the Panel for C29 (Part 2) found did not warrant a heritage overlay.

.....

For all the reasons outlined above, it is my opinion that the house at 27 Glebe Avenue, Cheltenham is not of a significance sufficient to warrant listing within the schedule to the heritage overlay, and on this basis I suggest that the building be removed from the Heritage Overlay Schedule to Clause 43.01 and the corresponding planning scheme map references deleted.

Comparative examples cited in the *1999 Bayside Heritage Review*: 7

INTEGRITY

Mr. Raworth described this building as “altered”, noting “The front windows are amongst the few elements that remain intact”.

SPECIFIC ISSUES RAISED

Mr. Stokans advised the Panel that Council no longer supported inclusion of this building in the Heritage Overlay.

PANEL'S DISCUSSION

The most recent review of this building is that by Mr. Raworth, who has taken into account the information presented in the *1999 Bayside Heritage Review* and has made his own inspection and assessment of it. Given Mr. Raworth's rejection of this building as justifying inclusion in the Heritage Overlay, together with Council's support for this position, we consider that it is appropriate that the Panel should adopt Mr. Raworth's conclusion.

PANEL'S CONCLUSION

That the building at 27 Glebe Street, Cheltenham, is not of local heritage significance and should be removed from the Heritage Overlay.

8.17 13 HILLCREST AVENUE, BRIGHTON (HO518)

DESCRIPTION OF THE PLACE

1999 Bayside Heritage Review

A single-storey asymmetrical red brick bungalow with a broad gabled roof clad in terracotta tiles. The gable end faces the street and it intersects with a secondary gable over the projecting front porch. The porch roof is supported on heavy brick piers with rendered caps and unusual squat balusters. Beside the porch is a wide window with a painted rendered head and a shingles skirt below the sill. The brick front fence has piers with unpainted capping and it appears to be original. The double-storey section at the rear of the house is an addition.



STATEMENTS OF SIGNIFICANCE

1999 Bayside Heritage Review:

The house at 13 Hillcrest Avenue is of aesthetic significance. Although altered at the rear, it remains a substantially intact example of a typical inter-War brick bungalow with a number of distinctive elements, including the squat balusters supporting the porch, as well as the unusual treatment of the gable ends and window surrounds.

Allom Lovell and Associates review (2004)

Assessment Against AHC Criteria:

AHC A4: The house sits in the context of some other similar examples, such as that opposite and further along the street. It is demonstrative of an important phase of development in Brighton when the suburb was expanding during the 1920s.

AHC E1: A good and interestingly detailed example of an inter-War Craftsman bungalow style located in a street where there are several complementary examples including No.12 opposite.

Comparative examples cited in the 1999 *Bayside Heritage Review*: none

INTEGRITY

Good (Allom Lovell 1999). Good (Allom Lovell 2004)

SPECIFIC ISSUES RAISED

The issues raised in submissions and presentations to the Panel hearing included:

- The house does not have sufficient architectural merit to warrant an individual heritage listing
- The decorative details listed in the citation apply to many other houses in the street, which are not proposed for heritage protection, thus leading to doubts about the basis for selection of properties for inclusion in the Heritage Overlay
- The house has been significantly altered and upgraded, particularly at the rear, to the extent that it is no longer intact
- Application of the heritage overlay to the whole property may prevent replacement of a garage, driveway and paths that are all suffering structural failure.

DISCUSSION

Discussion at the Panel hearing focussed on two key issues:

- whether the original design of the house was of sufficient aesthetic value to warrant the conclusion that it had local heritage significance
- whether the alterations to the house had compromised its intactness to such an extent that it no longer represented a good example of its type and style.

Ms Riddett called attention to several distinctive features of the design and decorative details of 13 Hillcrest Avenue that she believed made it stand out from others of its type. In her opinion, its aesthetic qualities included good composition, good proportions, balance, the array of original elements including the fence and the chimneys, nice leadlight windows, a reasonably intact façade – as it presents to the street – and a nice juxtaposition of the porch with the front windows and offset gable.

Mr Bick, on the other hand, contended that there was nothing special about the design or decoration of this property and that, at best, it was an example of a typical house of its time (i.e. the 1920s). He also pointed to the lack of comparative examples quoted in the Bayside Heritage Review datasheet for 13 Hillcrest Avenue as an indication that a full assessment of inter-War housing had not been undertaken. He noted that although there are a lot of 1920s buildings in Brighton and the northern half of the municipality, not many had been proposed for heritage controls. He considered that it was impossible to determine whether a single Californian Bungalow was outstanding, without seeing the other examples with which it had been compared.

We have commented above on the need to carry out a more thorough heritage investigation of inter-War houses in Bayside and recommended retention of some properties under interim Heritage Overlay controls until that study is complete. However, we consider that the major issue with this property is not the merit of the original design, but the degree of alteration that has taken place.

Ms Riddett put the view that the front of the house was substantially intact and the internal changes were not relevant in assessing local heritage significance (since the Heritage Overlay rarely requires permits for internal alterations). She pointed out that the rear addition had been in place at the time of the original assessment, describing it as 'the sort of thing for which a permit might be issued' (i.e. under the Overlay). She did not believe it had compromised the significance of the house.

Mr Bick, on the other hand, considered the house to be severely compromised by the second storey addition. He believed that a house with such extensive alterations did not qualify for individual heritage listing, although it might still be acceptable as a contributory building in a precinct.

Inspection of the property revealed that, whilst the addition is relatively inconspicuous from directly in front of the house or from the north, it is exceedingly visible from slightly oblique angles or along the side driveway to the south of the house. The main materials used in the extension – cream painted weatherboard (or possibly Hardiplank) – and the pitch of the roof differ from those of the main house, almost creating the impression that the extension is a separate two-storey residence constructed very close to the original house.

In forming a conclusion on this matter, we took note of a recent VCAT decision about whether to grant a permit for a second-storey addition to a house in a heritage precinct (VCAT No. P710/2004). The Tribunal identified the key issues in that case as being the protrusion of the proposed new roof above the existing roof and whether a first floor addition should be set back so as to be screened or substantially screened by an existing roof. The Tribunal member accepted as principles that the proposed addition should not dominate the architectural style, form and scale of the original building and that it should be of lesser perceived scale and bulk than the original building.

We have concluded that the rear second-storey addition to No. 13 Hillcrest Avenue, Brighton, especially when viewed along the driveway to the south of the property, does dominate the form and scale of the original house. It substantially reduces the integrity of the house, to the extent that – in our view – it no longer meets the Allom Lovell definition of a Grade B building and therefore does not qualify for local heritage significance on aesthetic grounds.

We then considered whether the historical significance of the property was sufficient to justify its retention on the Overlay in the interim (pending the review of inter-War houses recommended above), but decided that this was not the case, as the historical values ascribed to it are generic rather than particular.

We therefore concluded that this property is not of local heritage significance.

RECOMMENDATION

That the house at 13 Hillcrest Avenue, Brighton (HO518) is not of local heritage significance and should not be included in the permanent Heritage Overlay.

8.18 22 JAMES STREET, BRIGHTON (HO525)

DESCRIPTION OF THE PLACE

1999 Bayside Heritage Review:

No. 22 James Avenue is an symmetrical Austerec-style weatherboard bungalow with a hipped terracotta tile roof that has a subsidiary hip forming a porch at the street front. The porch is supported on rendered tapered piers, which in turn rest on square cream brick piers. The central doorway is recessed and is flanked by tripartite windows comprising three timber-framed double-hung sashes. The front fence is probably original, it consists of square timber posts with chamfered tops and woven wire running between. The matching gate has typical curvilinear wrought iron ornament.

STATEMENTS OF SIGNIFICANCE

1999 Bayside Heritage Review:

The house at 22 James Avenue, Highett, is of historical significance and aesthetic interest. Erected in the late 1930s, it was the first house in James Avenue, and one of the earliest surviving houses in an area which is completely dominated by post-War development. The house is of interest for its combining of Austere materials and composition with elements from earlier styles such as the California Bungalow pillars and the Tudor Revival lozenge glazing.

Bryce Raworth (2004)

This simple post war bungalow is well presented and is a good representative example of it type, but it is not significant in any appreciable sense. I note that some of the elements identified as adding to its interest, eg the fence and possibly the windows, are not original, and the building adopts a format that is common in other parts of the municipality. Other houses in the street, if they received a similar period style fence and had period windows installed, would present in a similar manner. The building is identified as being in good condition and having good intactness.

The original house has been modified by an extension, removal of the front windows and recently installed front fence.

SPECIFIC ISSUES RAISED

The most recent heritage appraisal of the place does not support its inclusion in the heritage overlay because it lacks the degree of architectural merit required.

PANEL'S DISCUSSION

Mr Raworth concluded that the house does not meet the measure of local significance in terms of either its architectural or historical significance. "I do not believe this house meets the measure of local significance in terms of either its architectural or historical significance. I believe that the information presently exhibited is neither sufficiently persuasive nor authoritative to warrant or justify a heritage overlay."

The most recent review of this building is that by Mr. Raworth, who has taken into account the information presented and has made his own inspection and assessment of it. Given Mr. Raworth's rejection of this building as justifying inclusion in the Heritage Overlay we consider that it is appropriate that the Panel should adopt Mr. Raworth's conclusion.

PANEL'S CONCLUSION

That the building at 22 James Avenue Highett is not of local heritage significance and should be removed from the Heritage Overlay.

8.19 7/8 MANOR STREET, BRIGHTON (HO534)

DESCRIPTION OF THE PLACE

Bayside Heritage Review 1999:

Double-story, asymmetrically planned block of flats, constructed of orange brick and set back from the street with a deep front garden. Typical of flats of the post-War period, the building has a stepped, triple-fronted plan form, boxed eaves and a glazed terracotta tiled hipped roof. A series of three recessed brick string courses encircle the building, dividing the two storeys. The entrance is located at the rear of the block. Windows are timber-framed double-hung sashes with horizontal glazing bars. Chimneys are of orange brick with red brick string courses.

Date of construction: 1941.

STATEMENTS OF SIGNIFICANCE

1999 Bayside Heritage Review:

..... are of aesthetic significance. Largely intact they are characteristic of flat design of the Post-war [period] with typical moderne details. The adjacent block of flats (c 1960s) is of no heritage significance.

Allom Lovell and Associates 2004 review:

There is no justification for an overlay over the 1960s building which is not of any particular architectural or historical significance.

This raises a technical mapping problem related to identifying curtilages which do not correspond with cadastral boundaries.

Although the 2004 review did not cite any AHC criteria, we consider it reasonable to conclude, from the discussion in the *1999 Bayside Heritage Review* and subsequent evidence, that the only relevant AHC criterion is E1 (aesthetic significance) – either as a good example of the Moderne Style in a block of flats or, alternatively, as a good example of flats of their period (referred to as post-War).

Comparative examples cited in the *1999 Bayside Heritage Review*: nil.

INTEGRITY

The original 1941 building had a single two-storeyed wing projecting towards the street on the left hand side of the lot. At a later date (c. 1960s), a second two-storeyed wing has been constructed on the right-hand side of the lot. This wing, which projects forward of the original front wing, has broadly similar proportions and roof details, similarly coloured brickwork but larger and plainer windows and no coloured horizontal brick banding.

SPECIFIC ISSUES RAISED

Issues relevant to this Panel's consideration, as raised in submissions and expert evidence, included:

- The building is not intact, due to the 1960s structure to its frontage
- The building is an unremarkable example of a c. 1940s block of flats
- It has only minor elements of the Moderne Style
- The building is not an important example of 1940s flats in the City.

DISCUSSION

It seems to us that there are two issues here:

- Whether, if the 1960s building is ignored, the original 1941 building is of local heritage significance on the basis that is a good example of an important aesthetic style, whether Moderne or another, or
- Whether, in any case, the 1960s addition destroys any local heritage significance the building might otherwise have.

Mr. Bick identified a number of other Moderne Style houses and flats in Brighton and, on the basis of this wider group, undertook a comparative assessment of this building's significance. From this he concluded that the building is a poor example of the Moderne Style. We accept Mr. Bick's evidence and conclusions.

The *1999 Bayside Heritage Review* did not provide any comparative examples of typical flat design of the 1940s. There is, of course, the difficulty that the citation refers to the building's significance as a post-War block of flats, whereas, as Mr. Bick pointed out, it is not appropriate to give this title to a building constructed in 1941. "Post-War" must be confined to the period post-1945.

From Mr. Bick's evidence and our observation, the only Moderne Style characteristics of this building are the confined to the horizontal bands of light-coloured brickwork across the frontage and the curved roofs to the front door porches. It seems to us that the Moderne Style elements are quite trivial, certainly trivial in comparison to No. 10 Sussex Street, Brighton. Perhaps the most significant feature of this building's design and one that best reflects design principles of its era is the spacious site layout, with the main building receding from the street in steps and quite extensive front garden areas, as compared to today's typical flat design.

However, we consider that we are obliged to have regard to both the definition of 'B' grade buildings and the guidelines for the AHC Criterion E1. Both emphasise the need for the building to have a considerable degree of integrity, the former with moderate emphasis, the latter with great emphasis.

In either case, we conclude that the 1960s addition cannot be treated as a separate and unrelated building. It has been built within the same site. It occupies a very prominent position; more prominent than the foremost original wing of the building, so that it is the most dominant section of the whole. It destroys the original spacious site layout and what might have been a quite attractive garden to set off the original building.

We have previously commented on the difficulties arising from the absence of adequate records of, and analysis of, Inter-War buildings. However, we do not consider that this affects our conclusion in this case as the issue, based on the nominated grounds for this building's significance, relates to the degree of the building's overall design integrity.

PANEL'S CONCLUSION

The block of flats at 7/8 Manor Street, Brighton, is not of local heritage significance should be removed from the Heritage Overlay.

8.20 2 MARTIN STREET, BRIGHTON (HO536)

DESCRIPTION OF THE PLACE

Ward (1986): not listed

1999 Bayside Heritage Review:

The house at 2 [sic] Martin Street is a large double-storey residence constructed of clinker brick, designed in the English Revival style. The Martin Street elevation is symmetrical, with two projecting gabled sections at each end and a projecting central entrance porch with a half-timbered gable and semi-circular archway. The steeply pitched gabled roofs are clad in terracotta tiles. Windows are timber-framed double-hung sashes, with clinker brick sills and heads. The low clinker brick front fence is original.



2003 Bayside Heritage Review (Revision 1)

The house at 1 Martin Street is a large double-storey residence constructed of clinker brick, designed in the English Revival style popular in the inter-War period. The Martin Street elevation is symmetrical, with two projecting gabled sections at each end and a projecting central entrance porch with a half-timbered gable and semi-circular archway. The steeply pitched gabled roofs are clad in terracotta tiles, and have projecting rafter ends and corbelled brick gable ends. Windows are timber-framed double-hung sashes, with clinker brick sills and heads. The low clinker brick front fence is original.

STATEMENTS OF SIGNIFICANCE

1999 Bayside Heritage Review:

The house at 2 [sic] Martin Street, Brighton, is of aesthetic significance. The building is a good example of the inter-War English Domestic Revival style, featuring characteristics of the style such as clinker brickwork, steeply pitched gables and half-timbering. The symmetrical entrance elevation is a prominent element in the local streetscape.

2003 Bayside Heritage Review (Revision 1)

The house at 1 Martin Street, Brighton, is of aesthetic significance. The building is good example of the inter-War English Domestic Revival style, featuring typical characteristics of the style such as clinker brickwork, steeply pitched gables and half-timbering. The symmetrical entrance elevation is a prominent element in the local streetscape.

Allom Lovell and Associates review (2004)

Assessment Against AHC Criteria

AHC A4: Importance for associations with events, developments or cultural phases which have had a significant role in the human occupation and evolution of Victoria [sic – should read 'Bayside'].

AHC E1: Importance for a community for aesthetic characteristics held in high esteem or otherwise valued by the community.

Assessment Against Thematic History

This house was built in 1930, an important phase in the inter-War development of the suburb.

An interesting, well-composed and substantial example of the inter-War English Domestic revival style which demonstrates the aspirations and the lifestyle of the upper middle classes who were moving into the area.

Comparative examples cited in the 1999 Bayside Heritage Review: none

INTEGRITY/INTACTNESS

Good (Allom Lovell 1999). Good (Allom Lovell 2004)

SPECIFIC ISSUES RAISED

The only submissions received were on behalf of the owner of No. 2 Martin Street, supporting the removal of the Overlay from his property. (The initial submission confused No. 1 Martin Street with No. 1A Martin Street, which is in the same ownership as No. 2, and objected to the Overlay being applied to this building. This was corrected in the second submission.)

DISCUSSION

The interim controls in the Schedule to the Heritage Overlay refer to No. 2 Martin Street and this is the property to which HO536 is applied on Map 1HO in the Bayside Planning Scheme. However, it is clear from the datasheet in the Bayside

Heritage Review that the designation was intended to apply to No. 1 Martin Street. The Bayside Heritage Review (Revision 1) in 2003 gave the correct address.

Amendment C37 proposed to amend the property number in the Schedule and to remove the HO map designation from the property at 2 Martin Street and apply it to the building at No. 1 Martin Street.

We support the proposed removal of the HO from the property at No. 2 Martin Street – a modern house of no heritage significance – and its application to No. 1 Martin Street, an inter-War building that is clearly recognisable as the property identified by the Bayside Heritage Review (and listed correctly in the 2003 Revision 1).

However, as with the other inter-War houses discussed above, we concluded that the interim heritage controls should be retained for this property, pending a full comparative assessment of the buildings from this era.

We also consider that the citation for this property needs further attention. The history in the Bayside Heritage Review says that a timber house was built on the property by 1930 and then 'substantially remodelled or perhaps completely replaced' by 1937. However, the assessment against the Thematic History states that 'this house was built in 1930'.

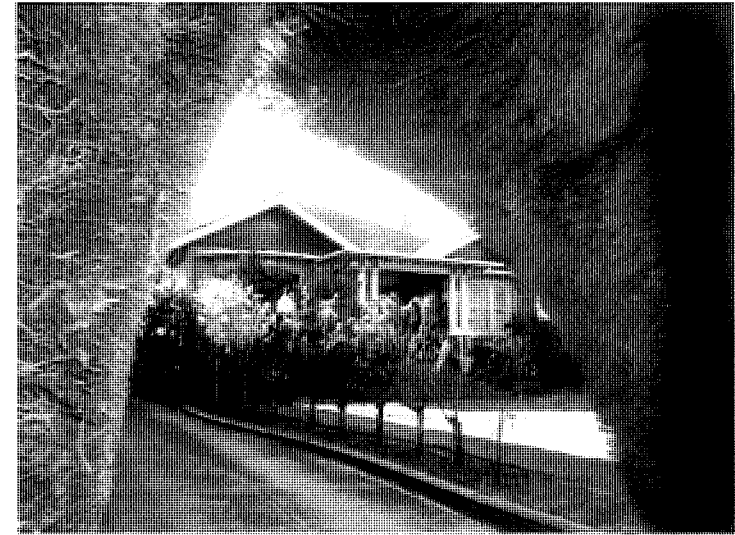
RECOMMENDATION

Re the house at 1 Martin Street, Brighton:

- ▣ That the address of the property listed as HO536 in the Schedule to the Heritage Overlay be amended from No. 2 Martin Street, Brighton to No. 1 Martin Street, Brighton and that the HO536 designation on Map 1HO be removed from No. 2 Martin Street, Brighton and applied to No. 1 Martin Street, Brighton.
- ▣ That No. 1 Martin Street, Brighton should be retained in the Interim Heritage Overlay until Council has completed the further research required to clearly establish the heritage significance of inter-War development.

8.21 5 MENZIES STREET, BRIGHTON (HO540)

DESCRIPTION OF THE PLACE



Ward (1986)

Not listed

1999 Bayside Heritage Review:

The house at 5 Menzies Avenue is a single-storey symmetrical red brick inter-War bungalow. The front elevation has a central porch with paired Classically-derived columns, flanked by curved bay windows beneath gabled roofs and shingled gable ends. Windows are timber-framed double-hung sashes with leadlight upper panes. The hipped and gabled roof is clad in terracotta tiles and penetrated by several tall red brick chimneys. The house is concealed behind a high cypress hedge.

STATEMENTS OF SIGNIFICANCE

1999 Bayside Heritage Review:

The house at 5 Menzies Avenue, Brighton, is of aesthetic significance. It is an intact example of an interesting, symmetrical inter-War bungalow. The house incorporates architectural elements typical of the style including the gabled front bays with shingling. The prominent chimneys are particularly unusual. The hedge is also of particular note.

Allom Lovell and Associates review (2004):

Assessment Against AHC Criteria

AHC A4: Importance for associations with events, developments or cultural phases which have had a significant role in the human occupation and evolution of Victoria [*sic* – should read 'Bayside'].

AHC E1: Importance for a community for aesthetic characteristics held in high esteem or otherwise valued by the community.

Assessment Against Thematic History:

This property is located in an area that was opened up in the first decades of the twentieth century, the second land boom for Brighton, and a significant phase in the development of the suburb.

Individually it is a competent and substantial example of an Arts and Crafts style bungalow with classical overtones which also demonstrates the lifestyle aspirations of the upwardly mobile middle classes in the first decades of the twentieth century. Menzies Ave contains a corpus of buildings in similar and different styles erected after the subdivision of the Blair Athol estate. Collectively and individually they demonstrate the various residential styles of the era.

Comparative examples cited in the *1999 Bayside Heritage Review*:

- 7 Menzies Ave, Brighton
- 99 Park Rd, Cheltenham
- 72 The Esplanade, Brighton
- Belbert, 2 Were St, Brighton

No. 2 Were Street has permanent heritage protection and No. 7 Menzies Avenue and No. 99 Park Road, Cheltenham are part of Amendment C37 (no submissions made to Amendment C37). The house at 72 The Esplanade, Brighton – which appears to be the least like No. 5 Menzies Street of the four listed properties – does not appear to be included in the Heritage Overlay.

INTEGRITY

Good (Allom Lovell 1999). Good (Allom Lovell 2004)

SPECIFIC ISSUES RAISED

The submission on this property raised the following points:

- The property had been selected through a discriminatory process involving a 'drive-by' assessment that did not identify changes to the house or the full range of comparable properties in the street
- The house is not special and, in addition, has been substantially altered, a garage has been added, and the chimneys and hedge have also been changed over time
- The proposed heritage controls would lead to a loss of property value.

DISCUSSION

Issues relating to the method of identification of properties for assessment in local heritage studies and to the impact of heritage listing on property values have been discussed earlier.

The revised datasheet for this property – prepared for the Panel hearings – acknowledges that alterations to the rear, garage and hedge have been made, but concludes that these were in place at the time of the original survey and do not detract from the principal streetscape presentation of the property. The Panel agrees with this evaluation.

As with the other inter-War houses discussed above, we have concluded that the interim heritage controls should be retained for this property, pending a full comparative assessment of the buildings from this era.

We note that despite the importance ascribed to the hedge in the 1999 Statement of Significance, no tree controls have been applied to the property in the Schedule to the Heritage Overlay. In addition, the hedge is not mentioned in the assessment against the Thematic History.

RECOMMENDATIONS

Re the house at No. 5 Menzies Avenue, Brighton (HO540):

- ▮ **This house should be retained in the Interim Heritage Overlay until Council has completed the further research required to clearly establish the heritage significance of inter-War development.**
- ▮ **Council should review the significance of the hedges on this property and, if appropriate and feasible, amend the interim heritage controls to apply tree controls to property, specifically to the Cypress hedges at the front and western boundary of the site, which form part of the significance of the place.**

8.22 10 NEPEAN STREET, HAMPTON (HO 543)



DESCRIPTION OF THE PLACE

Ward (1986): not listed

1999 Bayside Heritage Review:

The house at 12 [sic] Nepean Avenue is a modest, single-storey symmetrical timber cottage with an unusual half-hipped corrugated iron roof. The street façade has a verandah with a corrugated iron roof supported on timber posts. Two double-storey sash windows flank the centrally located main entrance. The chimney is red brick.

2003 Bayside Heritage Review (Revision 1)

The house at 10 Nepean Avenue is a modest, single-storey symmetrical timber cottage with an unusual half-hipped corrugated iron roof. The street façade has a verandah with a corrugated iron roof supported on timber posts. Two double-storey sash windows flank the centrally located main entrance. The chimney is red brick.

STATEMENTS OF SIGNIFICANCE

1999 Bayside Heritage Review:

[Shown as 12 Nepean Avenue, Moorabbin.]

The house at 12 Nepean Avenue, Hampton East is of aesthetic significance. The modest timber house combines Victorian composition and detailing with an unusual Edwardian-style half-hipped roof.

2003 Bayside Heritage Review (Revision 1)

The house at 10 Nepean Avenue, Hampton East is of aesthetic significance. The modest timber house combines Victorian composition and detailing with an unusual Edwardian-style half-hipped roof.

Allom Lovell and Associates review (2004):

AHC A4: The Hampton Estate was developed later than other suburbs in the Municipality. The house, one of the first in the area, was built during this important phase of development of the suburb and as such demonstrates its early development.

AHC E1: A good (stylistically) example of an early twentieth century transitional timber cottage which demonstrates both Victorian and Edwardian characteristics.

Comparative examples cited in the *1999 Bayside Heritage Review*:

- Tallandoon, 36 Bamfield Street, Brighton
- Cascaes, 28 Fernhill Road, Sandringham
- Veronique, 49 Fernhill Rod, Sandringham
- Warringah, 24 Georgiana Street, Sandringham

INTEGRITY

Good (Allom Lovell 1999). Good (Bayside Heritage Review, Revision 1 2003)

SPECIFIC ISSUES RAISED

The issues raised in the submission on this property were:

- the confusion created by conflicting advice to the owner about whether her property was or was not proposed for permanent heritage controls
- the house is in a state of disrepair and the owner is proposing redevelopment of the site.

DISCUSSION

Judging from the datasheets in the Bayside Heritage Review, most of the properties listed as comparative examples have little in common but their building dates and their timber construction. No. 36 Bamfield Street, Brighton is a symmetrical Victorian house (described as 'Victorian Survival') with a slate roof, No. 28 Fernhill Road, Sandringham is a Queen Anne-style Edwardian villa, and No. 49 Fernhill Road is described as 'largely intact, a very unusual example of a transitional Edwardian/ Victorian villa with distinctive decorative details' The final comparative example, No. 24 Georgiana Street, Sandringham is a pre-1886 house, built in a simple Victorian style, with a metal roof.

All these properties either have permanent heritage protection or – in the case of No. 49 Fernhill Road – are part of Amendment C37 (no submission).

Council and its consultants seem to have experienced considerable problems in correctly identifying the address of this house and the lot on which it is located. We are not sure that, even now, Council has unravelled the sequence but, in the light of our conclusions on this property, the details are not important.

In brief, the Bayside Heritage Review datasheet for this property gives the address as 12 Nepean Avenue, Moorabbin. This is corrected in Revision 1 (2003) to 10 Nepean Avenue, Hampton. The interim controls in the Schedule to the Heritage Overlay give the address as 12 Nepean Avenue, Highett. The current mapping of the property in the Planning Scheme (Map 3HO) appears to apply to 10 Nepean Avenue, Hampton East. Amendment C37 proposes to remove the HO from 10 Nepean Avenue and apply it to 12 Nepean Avenue and to change the listing in the Schedule to describe the suburb as Hampton East, but not to change the street address.

We were advised at the hearing that confusion with the Department of Sustainability and Environment over the address led to the owner being advised that the Overlay was to be removed from her property and then – when the error was identified – that it was proposed to make the controls permanent (i.e. to retain the existing mapping and correct the address in the Schedule).

Presentations at the hearing confirmed that the state of repair of the house was so poor as to make it barely habitable. However, unless it were completely derelict, the condition of a house is not relevant in considering any heritage significance it may have.

Ms Riddett advised us that the reason for listing the house was primarily aesthetic, as representing a transitional design between Victorian and Edwardian. The revised datasheet describes it as ‘a good (stylistically) example of an early 20th century transitional timber cottage which demonstrates both Victorian and Edwardian characteristics’. However, since the house was built in the very early 1900s, and was one of the first in this area – which was developed later than other parts of the municipality – she also considered that AHC Criterion A4 (representation of a key phase in the development of the municipality) was relevant.

We were not persuaded by the argument that the ‘unusual Edwardian-style half-hipped’ roofline, on an otherwise simple vernacular design for a workingman’s cottage, is enough to justify its listing on the grounds of aesthetic significance; certainly not if any regard is given to the guidelines that support AHC Criterion E1. We believe that the combination of Victorian and Edwardian elements is demonstrated much more clearly in the property at No. 49 Fernhill Road, Sandringham, for example.

As to the historical significance of No. 10 Nepean Avenue, it is clear from Ms Riddett’s presentation to the hearing that this was of secondary importance and would probably not, on its own, have led to the house being proposed for listing.

On this basis, we have concluded that the house at 10 Nepean Avenue, Hampton East is not of sufficient heritage significance to warrant listing on the Heritage Overlay.

RECOMMENDATION

The property at 10 Nepean Avenue (HO543) – shown in the interim controls in the Heritage Overlay as 12 Nepean Avenue – is not of local heritage significance and should be removed from the Heritage Overlay.

8.23 176 NEW STREET, BRIGHTON (HO552)

DESCRIPTION

1999 Bayside Heritage Review:

Single-storey timber-framed house with a corrugated iron gabled roof. The house is asymmetrically planned with a projecting bay to the front façade. The timber verandah with a corrugated iron bullnose roof terminates at the projecting bay. The front façade is clad in timber shingles.



Allom Lovell and Associates review (2004)

[The house] is a distinctive example of an Edwardian timber house in the suburb. It is adjacent to timber houses of the same era and is located in a prominent street in the municipality. The reported internal and external works to the façade, fence, rear extension and garage have not diminished its significance.

Construction: c. 1910 (assessment based on stylistic features).

STATEMENTS OF SIGNIFICANCE

1999 Bayside Heritage Review:

The house at 176 New Street, Brighton, is of aesthetic significance. The single-storey residence is a largely intact and distinctive example of an Edwardian house, enhanced by its prominent corner site.

Allom Lovell and Associates review (2004):

AHC Criterion A4: This Edwardian home is demonstrative of the early development of Brighton.

AHC Criterion E1: A distinctive example of an Edwardian style timber villa which is on a prominent corner site and in the context of other similar buildings of the same era.

Comparative examples cited in the *1999 Bayside Heritage Review*: 20.

Colonsay, 23 Albert Street, Brighton
 Craigie Lea, 14 Black Street, Brighton
 Buxton, 54 & 56 Bamfield Street,
 Sandringham
 3 Berwick Street, Brighton
 15 Campbell Street, Sandringham
 68 Champion Street, Brighton
 Hartley, 115 Cochrane Street,
 Bellview, 31 Fernhill Road,
 Sandringham
 Balcom, 11 Gillies Street, Hampton
 1 Hoyt Street, Hampton

Myora, 6 Linacre Road, Hampton
 Sunne Brac, 15 Linacre Road, Hampton
 The Ramble, 10 Littlewood Street,
 Hampton
 Marimo, 10 Menzies Avenue,
 Linn Mill, 7 Milroy Street, East Brighton
 Wirringa, 33 Service Street, Hampton
 Aghada, 35 Service Street, Hampton
 Cleaveland, 39 Service Street, Hampton
 Nareenya, 10 Young Street, Brighton
 Elouara, 12 Young Street, Brighton

INTEGRITY

Good (Allom Lovell 1999), good (Allom Lovell 2004).

RELEVANT ISSUES

The only issues that we need to consider in relation to this property are assessment against to two nominated AHC criteria: A4 and E1.

DISCUSSION

We have previously discussed our concerns in relation to the application of the AHC criterion A4. These comments apply here.

With respect to Criterion E1, there was no evidence brought to contradict or question the views expressed by Ms Riddett and her firm's earlier studies. In our view, the building is a good representation of a building of the nominated era and style.

RECOMMENDATION

The building at 176 New Street, Brighton, is of local heritage significance pursuant to AHC Criterion E1 and should be placed in a permanent heritage overlay. The statement of significance should be appropriately amended.

8.24 278 NEW STREET, BRIGHTON (HO553)

DESCRIPTION OF THE PLACE

1999 Bayside Heritage Review

The Wesleyan Uniting Church is a small Gothic Revival style building of rendered masonry with a gabled slate roof and parapeted gable ends. A small gabled entrance porch project on the west elevation, and has staged corner buttresses. Stage buttresses are also located on the north and south side elevations. Windows are tall, pointed arched openings, with moulded window hoods terminated by decorative foliated bosses. A crucifix surmounts the west gable end and the shallow eaves have moulded brackets.

Stott Hall [*listed separately*], is a gable roofed timber building with pairs of narrow lancet arched windows set high along the nave walls, and having timber drip moulds above. The projecting entrance porch has a gable end containing distinctive carved timber ornament in imitation of gothic tracery.



Wesleyan Uniting Church

STATEMENTS OF SIGNIFICANCE

Ward 1986

Church

Of importance at the State level as a substantially intact Wesleyan Methodist Church and Sunday School being the oldest such church south of the Yarra and being designed by the early Brighton architect James Webb.

Stott Hall

Of importance at State level for its links with and close visual relationship with the former Wesleyan Church at the location.

1999 Bayside Heritage Review

The Wesleyan Uniting Church at 278 New Street, Brighton is of aesthetic and historical significance. Construction of the church is associated with the early period of suburban development of Melbourne during the 1850s, located within HB Foot's 1842 Brighton Estate, Henry Dendy's Special Survey. Historically, the church is one of the oldest in Melbourne and has served the local community continuously since its construction.

The church is attributed to prominent early Melbourne architects and Brighton residents Charles and James Webb. Externally the building is a largely intact example of a mid-Victorian church, exhibiting Regency characteristics typical of the Webb brothers' work. The subsequent alterations and additions reflect the growth of Brighton during the nineteenth century. Prominently sited at the corner of New and Allee Streets, the church is a notable local landmark.

Stott Hall [*listed separately in the 1999 report*], in Allee Street, Brighton is of historical and aesthetic significance. As part of the Wesleyan (now Uniting) Church complex, it has strong associations with one of the oldest congregations in Melbourne. The building itself is a good and intact example of a nineteenth century church hall, with some distinctive Gothic detailing. It is also of interest as a minor example of the work of distinguished ecclesiastical architects Oakden & Kemp.



Stott Hall

Allom Lovell and Associates review (2004)

Assessment Against AHC Criteria:

AHC G1: Church services and worshipping were an integral part of the experience of settling a new country or town. This church was not just one of the earliest in the area, it was one of the first churches to be built in the Port Phillip District and is also significant in the development of the town and suburb of Brighton.

AHC E1: A significant example of ecclesiastical Regency design and an important example of architects Charles and James Webb who also had particular associations with Brighton.

Comparative examples cited in the *1999 Bayside Heritage Review*: none.

INTEGRITY/INTACTNESS

Church: Good (Allom Lovell 1999). Stott Hall: Good (Allom Lovell 1999).

SPECIFIC ISSUES RAISED IN SUBMISSIONS

Consultants on behalf of the Uniting Church objected in part to the application of the Overlay. The submission acknowledged that the church building itself and the adjoining Stott Hall were of heritage significance and should be included in the Overlay, but opposed inclusion of the aged care facility on the adjacent land. A reduced boundary was proposed.

The submission also raised issues concerning HO14, which applies to adjoining land also owned by the Church (see below).

DISCUSSION

We note the history of heritage controls for this site, summarised by Mr Stokans as follows:

The 1986 Ward Study includes a citation of the Church with an A grading, and a citation of the Church's Stott Hall with an A grading.

The site on the corner of New and Allee Street Brighton was included in Heritage Overlay HO14 as a permanent control by Amendment SL4 which was gazetted on 10 July 1997, prior to the introduction of the New Format Planning Scheme. It has been transferred into the current Schedule to the Heritage Overlay as:

HO14 Corner Allee and New Street Brighton Former Church (paint controls apply).

The 1999 Bayside Heritage Review also includes two citations, giving the Church (B grading) and Stott Hall (B grading).

Neither report makes any reference in the citations to the 1950s cream brick dwelling and 1980s aged care facilities also located on the site and included in HO14.

Amendment C13 introduced an interim control for HO553, listed in the schedule as:

278 New Street Brighton - Wesleyan Church, later Ghiraween Chapel (no paint controls).

Inspection of the site showed that the timber Stott Hall is attached not only to the 1850s masonry church but also, by means of an enclosed overhead walkway, to the two storey brown brick building on the corner of Allee Street and Outer Crescent, that is used as an aged care hostel.

The submission on behalf of the Church included a report by conservation architect, Mr David Bick. He confirmed the heritage significance of the church and hall and pointed out that Stott Hall conceals nearly everything else on the site (to the south and south east) when viewed from the front or abutting streets. He concluded that the boundary proposed by the Uniting Church's consultants would not adversely impact on the heritage significance of the church.

Ms Riddett, in her reappraisal of the property, agreed that the proposal to amend the boundary was acceptable in principle. The parsonage and other related buildings that had previously existed on part of the land have been removed and replaced by the aged care facility, which has no heritage significance. Ms Riddett recommended that a more detailed heritage assessment of the site by undertaken to ensure that all significant elements, particularly landscape elements, would be protected by an amended Heritage Overlay boundary. However, she supported, in principle, a realignment of the Church's Heritage Overlay boundary. She also endorsed the proposal put forward by the Church that HO14 should be deleted, as she accepted that it contained no fabric of heritage significance.

We accept that the church (now known as Ghiraween Chapel) and Stott Hall are of heritage significance, but the balance of the land covered by HO553 and the permanent HO14 have no established significance. We therefore support Council's recommendations about adjustment of the boundary of HO553 and deletion of HO14.

We note, with some surprise, that the AHC criteria listed in the Allom Lovell and Associates 2004 review did not include Criterion A4 (phase of development). While we have been concerned about the inappropriate use of this criterion, we had considered that this building is one where its application would be appropriate.

RECOMMENDATION

Re the church (Ghiraween Chapel) at 278 New Street, Brighton and the adjoining Stott Hall in Allee Street, Brighton (HO553)

- ▮ these buildings are of local heritage significance for their aesthetic values (AHC Criterion E1) and their religious and spiritual associations (AHC Criterion G1) and should be retained on the Heritage Overlay on a permanent basis.
- ▮ Subject to the provision by the owner of further information, the boundaries of HO553 should be adjusted to exclude the aged care hostel on the corner of Outer Crescent and to include all heritage elements, including any identified on the land currently covered by HO14; the further information to support the above is -
 - a more detailed heritage assessment of the site, demonstrating that all significant heritage elements, including landscape elements, will be protected by the proposed new boundaries, and
 - a feature survey of the site showing the proposed boundaries in relation to existing structures,
- ▮ Once the heritage assessment of the whole Church property bounded by New Street, Allee Street and Outer Crescent has been completed and the boundaries of HO553 adjusted to contain only items of heritage significance, Council should request the Minister for Planning to prepare an Amendment to delete HO14 from the Schedule and mapping of the Heritage Overlay.
- ▮ The revised statement of significance for HO553 should also be amended to include reference to Stott Hall and refer to the relevant AHC criteria, with Council giving further consideration to the relevance of AHC Criterion A4 and redrafting the assessments more in accordance with the Allom Lovell and Associates 2004 review.

8.25 417 NEW STREET (HO281)

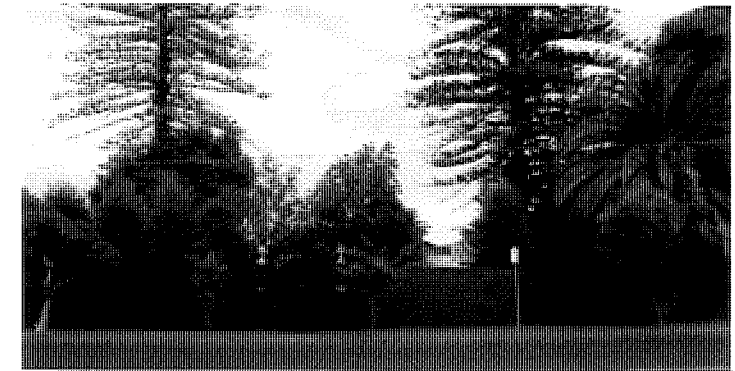
Ward (1986)

A single fronted Victorian villa with a bayed wing on the south side. The cast iron verandah has coupled columns and the eaves are bracketed. ... The front garden retains two bunya pines and its central pathway.

1999 Bayside Heritage Review:

Colombo is a double-fronted Italianate brick villa with hipped roof with bracketed eaves [further description of the house follows].

The grounds provide an example of garden plantings associated with a late nineteenth century house. Two Norfolk Island Pines (*Araucaria heterophylla*) dominate the front garden, with the balance of the garden screened from view behind a high masonry fence. The height and form of the trees is excellent, however, both specimens are displaying considerable dieback with many branches half to fully defoliated. It is difficult to determine a possible cause of this stress due to the fence.



Garden: 417 New Street

STATEMENTS OF SIGNIFICANCE

Ward (1986):

An important element in its precinct and of note for its landscaped setting.

1999 Bayside Heritage Review:

Colombo at 417 New Street, Brighton is of aesthetic significance ...

The garden at Colombo is of local significance for its early plantings. The two Norfolk Island Pines (*Araucaria heterophylla*) have a high amenity value and contribute to the cultural significance of the City of Bayside, forming a conspicuous local landmark.

The garden was graded B in the landscape citations prepared by John Patrick Pty Ltd for the 1999 Bayside Heritage Review (Volume 4).

Comparative examples cited in the *1999 Bayside Heritage Review*: not relevant – no comparisons involved any gardens.

However, of the 50 landscape elements listed in the Summary List (Volume 4), only 16 were graded B or higher, indicating that this garden was one of the more important.

INTEGRITY

The description quoted above indicates that in 1999, both the Norfolk Island Pines appeared to be suffering considerable dieback.

SPECIFIC ISSUES RAISED

Council's submission supported amending the schedule to Clause 43.01 to remove reference to the garden.

The submission by the owner of this property dealt mainly with matters relating to the previous assessment of the house – which is subject to permanent heritage controls (HO281) – as being of local significance.

The owner's submission also objected to the proposal in Amendment C37 for permanent application of tree controls (which are currently interim, as a result of Amendment C6), on the grounds of the health of the trees and the fact that, in the owner's opinion, there are many Norfolk Island Pines in better condition in Brighton.

A late submission from the Bayside Alliance, tabled at the Panel hearing, opposed Council's decision to remove tree controls from this property (see below), on the grounds that the garden had been identified in the Bayside Heritage Review 1999 as being of local heritage significance.

DISCUSSION

The house at 417 New Street, Brighton is already subject to permanent heritage controls (HO281). Despite this, Council commissioned a recent review of the property by Bryce Raworth, who concluded that the degree of alteration of the building was so significant that it no longer qualified as a 'B' grade building (on the Allom Lovell grading system) and, therefore, it should be removed from the Heritage Overlay.

However, we note that the inclusion of the property in Amendment C37 arose solely from the proposal to apply permanent heritage controls to the garden, as well as the house. We cannot revisit the merits of the case for listing the house. If Council wishes to do so, it should prepare a separate amendment to remove the property from the Heritage Overlay.

Bryce Raworth's review did not address the issue of the significance of the garden, other than noting that the central path mentioned in the Ward study has since been removed.

With regard to the condition of the Norfolk Island Pines, at a recent inspection we concluded that the trees may have recovered, since most branches had either full or at least partial foliage (see photograph above). The inspection also revealed that the garden contains a large, old date palm and a number of other substantial trees, which would be protected by the proposed permanent tree controls in the Heritage Overlay.

However, between exhibition of Amendment C37 and the hearings Council resolved (at its meeting on 26 April 2004) to remove the garden from heritage protection. No reason was given for this decision and no statement or evidence to support it was presented to the Panel hearing.

In the absence of any justification for Council's decision, we accept the finding of the Bayside Heritage Review that the garden is of local heritage significance and, on that basis, that tree controls should be applied in the Schedule to the Heritage Overlay.

RECOMMENDATION

Re the site at 417 New Street, Brighton

- ▮ **The garden is of local heritage significance and tree controls in Column 5 of the Schedule to the Heritage Overlay should be applied permanently**
- ▮ **In the light of the opinion expressed by Mr. Raworth that the house is not of local heritage significance, Council should consider amending the planning scheme to remove heritage controls from the dwelling.**

8.26 135 PARK ROAD, CHELTENHAM (HO566)

DESCRIPTION OF THE PLACE

Bayside Heritage Review 1999:

Large double-storey residence designed in the Spanish Mission style. Characteristic of the style, the walls are finished in a textured render and the hipped roof is clad in Cordoba-profiled terracotta tiles. The entrance porch is particularly decorative, featuring Solomonic Corinthian columns, rustication, cement rendered cartouches and a decorative grille. Windows are timber-framed casements, some with mouldered sills. A number of windows are embellished with smooth rendered curved architraves.

The house has a deep front garden with an original garage situated to the west. Rendered walls divide the garden into a series of courtyards. The low timber paling fence and gates may be original.

STATEMENTS OF SIGNIFICANCE

Bayside Heritage Review 1999:

The house at 135 Park Road, Cheltenham, is of aesthetic significance. The house is a distinctive example of the Spanish Mission style displaying a range of decorative elements including the particularly distinctive entrance porch and intact matching garage.

Allom Lovell and Associates review (2004):

AHC Criterion A4: this part of Cheltenham developed principally in the early decades of the inter-War period, particularly close to the railway station. This was a significant and formative phase in the development of the suburb.

AHC Criterion E1: a well-designed and particularly distinctive example of the popular Spanish Mission style in a prominent setting. It is also demonstrative of the lifestyle of the upwardly mobile middle classes.



Comparative examples cited in the 1999 *Bayside Heritage Review*:

1 Bay Street, Brighton
5 Birdwood Avenue, Brighton
17 North Road, Brighton
Okataina Flats, 33 Chelsea Street, Brighton.

INTEGRITY

Good (*Bayside Heritage Review 1999*); good (Allom Lovell 2004).

RELEVANT ISSUES

The issues relevant to this place are its significance in relation to the two AHC criteria A4 and E1.

PANEL'S DISCUSSION

We have previously discussed our views on the application of criterion A4 in relation to Inter-War housing. On the basis of those conclusions, we do not consider that this building is of significance in relation to AHC Criterion A4.

With respect to whether the building is appropriately representative as a good example of the Spanish Mission style, we note that the building, although relatively simple in form and detailing, contains a range of details that are directly and well representative of this style. These include the hipped roof with cordoba-pattern roof tiles, textured render finish to walls, decorative window grills, some moulded window sills and curved window architraves, the highly ornate porch.

However, in the light of our earlier conclusions about the lack of adequate comparative assessment of inter-War housing, we consider that this building should remain in the Interim Heritage Overlay until further research into development of this era has been completed.

RECOMMENDATION

That with respect to the dwelling at 135 Park Road, Cheltenham, the Panel is not able to reach a conclusion about its local significance and it should remain on the Interim Heritage Overlay until Council has undertaken further research into development of this era. The statement of significance should be amended to reflect our other conclusions that affect this property.

8.27 4 PARLIAMENT PLACE, BRIGHTON (HO568)

1999 Bayside Heritage Review:

4 Parliament Place is a late nineteenth century double-fronted timber cottage. The house has a hipped slate roof with paired timber eaves brackets and rendered and mouldered chimney. The front façade has ashlar boarding and a cast iron verandah with iron lace brackets. The double-hung sash windows have small moulded timber hoods. The rendered front fence is not original.

STATEMENTS OF SIGNIFICANCE

1999 Bayside Heritage Review:

The house at 9 (sic) Parliament Street, Brighton, is an unusually pretentious design for a weatherboard cottage which takes on the presence of a more substantial Italianate villa, of which there are many in Brighton. The distinctive appearance of the cottage together with its overall integrity warrants recognition.

Bryce Raworth (2004)

I have inspected the property externally and have reviewed the documentation provided by Council, copies of submissions made and other correspondence.

The building is identified as being in fair condition and having good intactness. A brief review of directories indicates that the house at 4 Parliament Street was built between 1880 and 1890. It is thus not by any measure an early example of this type of house. I do not believe it warrants an overlay on an individual basis, although if it had been in a precinct it could have been identified as a contributory element.

INTEGRITY

Mr. Raworth described this as building as representative rather than special, being of less individual interest than 25 Tennyson Street, which the Panel for C29 (Part 2) found did not warrant a heritage overlay.

SPECIFIC ISSUES RAISED

A serious mistake has been made in the identification of the house. The property referred to in Council correspondence, 9 Parliament Street, was demolished some time ago.

PANEL'S DISCUSSION

Council supported the removal of this building from the Heritage Overlay.

The most recent review of this building is that by Mr. Raworth, we consider that it is appropriate that the Panel should adopt Mr. Raworth's conclusion. Mr Stokans put Council's position as that it does not warrant an individual listing in the Schedule.

PANEL'S CONCLUSION

That the building at 4 Parliament Place Brighton is not of local heritage significance and should be removed from the Heritage Overlay.

8.28 44 ST ANDREWS STREET, BRIGHTON (HO351)

DESCRIPTION

1999 Bayside Heritage Review

Large single storey late Victorian Italianate villa.

STATEMENTS OF SIGNIFICANCE

1999 Bayside Heritage Review

Historically and aesthetically significant as a large and intact 19th century villa. The building is particularly expressive of the late Victorian period with richly decorated chimney stacks and verandah ironwork. The house also has a close association with the prominent Wilson family and, particularly with Thomas Wilson, a long serving councillor and sometime Mayor of Brighton.

INTEGRITY

Not relevant

SPECIFIC ISSUES RAISED

The Amendment L15 Panel recommended that the house at 44 Andrews Street, Brighton be included in the Heritage Overlay on a permanent basis. This recommendation was subsequently adopted by Council and the Amendment approved by the Minister for Planning.

PANEL'S DISCUSSION

This property was placed in a permanent heritage overlay as a result of Amendment L15. Although the property has been altered, these alterations took place before the exhibition of Amendment L15 and would have been taken into account by the Panel that considered submissions to that amendment.

In these circumstances and in the absence of further evidence that would negate the earlier Panel recommendations, as the Panel pointed out to the submitters, this Panel has no power to recommend to Council any change to the existing planning scheme. Such events lie outside the scope of our powers.

PANEL'S CONCLUSION

That there is no basis on which this Panel can make any recommendation to change the existing Heritage Overlay that applies to the dwelling at No 44 St Andrews St, Brighton.

8.29 390 ST KILDA STREET, BRIGHTON (HO724)

DESCRIPTION

Ward (1986): not listed

1999 *Bayside Heritage Review* (Volume 4)

The site contains a tree remnant from an earlier garden planting in the front of a private residence.

Remnant Fabric (Vegetation): The site is dominated by a mature Coral Tree (*Erythrina sp.*) in the front garden. The specimen is in excellent condition and appears to be a remnant of an earlier garden planting.

STATEMENTS OF SIGNIFICANCE

1999 *Bayside Heritage Review* (Volume 4):

This site is of local interest to the City of Bayside for the mature Coral Tree (*Erythrina sp.*) in the front garden of the property. The specimen is significant for its size, form and contribution to the overall streetscape.

2003 *Bayside Heritage Landscape Audit* (Enviro Group Pty Ltd): recommended retention of heritage control.

John Patrick review 2004

Erythrina x sykesii is not a common tree and this is an especially large and good example.

Comparative examples cited in the 1999 *Bayside Heritage Review*: not relevant

INTEGRITY/INTACTNESS

Poor (Bayside Heritage Review, Vol. 4, 1999). This presumably referred to the setting of the tree, as its condition was assessed as "Good". The Bayside Heritage Landscape Audit (2003) assessed the health of the tree as "Good" and its architecture and condition as "Fair".

SPECIFIC ISSUES RAISED

The submission on this property made the following points:

- The tree grows rapidly and requires regular maintenance, which Bayside City's policies require should be carried out only in the presence of a Council-appointed arborist; this is not realistic in emergency situations.
- It is not a particularly good example of this type of tree and its age makes it likely that it will pose a risk to people and property.
- The owner will have no control over neighbours removing branches that overhang their properties.
- If the heritage listing proceeds, Council should indemnify the owners against any damage to people or property.

DISCUSSION

We note that the Heritage Overlay requires a permit to remove, destroy, prune or lop a tree to which tree controls apply in the Schedule. Exemptions apply to the advertising of applications for pruning. The Panel was unable to identify, in the proposed Heritage Policy Clause 22.06, the requirement mentioned by the submitter relating to the need for a Council-appointed arborist to be present when such works are carried out. This may be a non-statutory policy outside the provisions of the Planning Scheme and may be a requirement imposed through permit conditions.

We acknowledge that the requirement to seek a permit for tree maintenance could be an onerous condition for owners, but note that a solution may be to prepare a tree-management plan, to the satisfaction of the responsible authority, that could be included as an Incorporated Plan under the Heritage Overlay.

With regard to the quality of the tree, no expert evidence was supplied to challenge Mr Patrick's contention that it was an especially large and good example of its species. He told the Panel hearing that he had not found a better specimen in Melbourne. We therefore conclude that the local heritage significance of the tree has been established.

In relation to the owners' ability to control removal of branches by neighbours, we note that Amendment C37 proposes to enlarge the coverage of the mapping for the tree, in order to cover the whole of the canopy and root zone. The controls of the Overlay will, therefore, apply to the adjoining property at 388 St Kilda Street and to the public realm of the road reserves of St Kilda Street and Merton Street, as well as to the property that contains the trunk of the tree.

Finally, in regard to the potential risks posed by the tree, Mr Patrick advised that he thought that damage from limb loss or root damage was unlikely as the tree was well removed from any existing buildings.

RECOMMENDATION

The Coral Tree (*Erythrina x sykesii*) at 390 St Kilda Street, Brighton is of local heritage significance and should be retained on the Heritage Overlay on a permanent basis.

8.30 24 ST NINIANS ROAD, BRIGHTON (HO 598)

DESCRIPTION OF THE PLACE

Allom Lovell and Associates (1999)

The house at No. 24 St Ninians Road is a double-storey Georgian Revival rendered brick residence with a hipped roof of glazed terracotta tiles, penetrated by a tall face brick chimney. The symmetrical front façade has repetitive fenestration of twelve-pane double-hung sash windows, flanked by louvred shutters. The projecting entry porch is in the form of a Classical portico, with grouped Tuscan columns supporting a decorated frieze and cornice. The portico is finished with a balustrade which forms a balcony at the upper level.

Date of construction: between 1925 and 1930.

STATEMENTS OF SIGNIFICANCE

Allom Lovell and Associates (1999)

Of aesthetic significance. It is a particularly good example of the Interwar Georgian Revival style with fine classical detailing evident in the portico. As one of the several large Interwar brick houses in St. Ninians Road, it makes an important contribution to the streetscape.



Allom Lovell and Associates (review):

AHC Criterion A4: This house is demonstrative of the (sic) an early and formative phase in the development of the area.

AHC Criterion E1: A well-designed and substantial example of the popular inter-War Georgian revival style with Classical overtones. It is also demonstrative of the lifestyle of the upwardly mobile middle classes. As part of a group of substantial inter-War houses it makes a significant contribution to the streetscape.

Comparative examples cited in the 1999 *Bayside Heritage Review*: none

INTEGRITY

Alterations to the building include

- Replacement tiles to the roof (Allom Lovell and Associates describe these as “an appropriate pattern and colour”)
- Construction of a large attic window (Allom Lovell and Associates describe this as “reversible”)
- Major ground floor additions to the rear (not visible from the street).

SPECIFIC ISSUES RAISED

Mr. Bick’s evidence, including written and oral during cross-examination, was that the building was not a sound example of the Georgian revival style. He cited a number of stylistic deficiencies to support this conclusion, based largely on the fact that the design does not reflect the symmetry that is part of a neo-Georgian building:

- The frontage has a false symmetry, in that there is a slightly recessed section of wall in the front façade, on the left hand end; this is only slightly let back from the principal frontage and is reflected in a roof hip; this creates the impression of a short wing on that side of the building.
- The principal doorway should be within the centre of the façade and the centre of the ‘portico’ but is, in fact around on the right-hand side of the building; the central doorway under the portico actually leads to a living room and is offset from the centre of both the elevation and the ‘portico’; likewise the visible central doorway at first floor, opening onto the ‘portico’s balcony level, opens off a bedroom and is offset in the opposite direction to the equivalent doorway at ground floor
- The front ‘portico’, or at least the structure that creates the impression of a portico, is nothing more than a verandah with patio over, due to the fact that the front doorway is elsewhere.
- The windows in the front façade should be symmetrically, evenly spaced and matching at both levels; in fact they are asymmetrical at both ground and first floor, with windows at both levels differing in their positions.

PANEL'S DISCUSSION

Having reviewed the evidence from Ms. Riddett and Mr. Bick, and having viewed the building ourselves, we accept Mr Bick's analysis that the building does not satisfy the principal design features of a neo-Georgian building. In our view, this would be sufficient to exclude the building from satisfying the AHC criterion E1 without considering the impact of the large dormer window.

However, to the above design weaknesses we add the incongruous and large dormer window, which forms a striking visual intrusion into a roof structure that should be elegantly simple. While Ms. Riddett had concluded that this element is removable, we believe that this conclusion unreasonably stretches the bounds of what is practically feasible. The dormer window presumably provides light to a large habitable room, presumably a bedroom (we were not provided with plans of this third level of the building). On that basis, removal of the dormer window, while technically possible, would require abandonment of this recently and presumably expensively constructed habitable room and, possibly, other associated facilities. We consider that removal of this feature cannot be considered as anything other than theoretical.

The Allom Lovell and Associates citation emphasised the elaborate quality of the design and decoration of the portico and we agree that it is a very distinctive feature of the building. However, in our view its elaboration and excellence within itself does not offset the distinct lack of integrity of the design of the balance of the buildings in terms of the archetype Georgian Revival style. To paraphrase a description provided by Mr. Beaston in relation to a different property (the building at 10 Sussex Street, Brighton), this appears to be a fairly simple building with a portico containing Georgian Revival details with classical overtones.

Overall, we conclude that this building is not even a poor example of the Georgian Revival style, though it contains some elements of that style.

In the light of our clear rejection of this building as satisfying Criterion E1, we also conclude that it does not satisfy Criterion A4. We have previously discussed our concerns about the difficulty in applying Criterion A4 to individual buildings without there being some significant and specific basis.

PANEL'S CONCLUSION

The building at 24 St Ninians Road, Brighton, is not of local heritage significance and should be removed from the Heritage Overlay.

8.31 8 SOUTH ROAD, HAMPTON (HO588)



DESCRIPTION OF THE PLACE

1999 Bayside Heritage Review

Ornate single-storey villa displaying stylistic influences from the 19th century. Constructed in red brick, the house is asymmetrically composed with a projecting semi-octagonal bay window, a return case iron verandah and a hipped slate roof. Vermiculated rendered dressings and timber bracketed eaves. Chimneys are rendered. Windows are double-hung sashes.

STATEMENTS OF SIGNIFICANCE

1999 Bayside Heritage Review

"Methven", at 8 South Road, Hampton, is of historical and aesthetic significance. The building is substantially intact and displays the characteristics reminiscent of the nineteenth century Boom style. The house features decorative rendered dressings and cast iron work.

Comparative examples cited in the 1999 Bayside Heritage Review

Inverness, 8 Allee Street, Brighton	30 Elwood Street, Brighton
Haverstock, 12 Agnew Street, Brighton	27 Halifax Street, Brighton
Nyora, 49 bay Street, Brighton	29 Halifax Street, Brighton
451 Bay Street, Brighton	767 Nepean Highway, East Brighton
21 Black Street, Brighton	79 Outer Crescent, Brighton
213 Charman Road, Cheltenham	50 Roslyn Street, Brighton
203 Church Street, Brighton	

INTEGRITY

The property has had some changes such as a section of unseen slate roof replaced with Zincalume, new front fence and gates, colour changes and the like but otherwise the property remains intact.

SPECIFIC ISSUES RAISED

The owners are generally in favour of maintaining heritage character but feel there should be compensation to affected owners

PANEL'S DISCUSSION

The alterations are to the rear and cannot be seen from the streetscape and do not diminish the assessment of significance. The owners are in favour of maintaining the building's heritage. In the absence of any evidence or substantive facts supporting a contrary point of view, we accept that the building is of local heritage significance.

For reasons previously outlined, however, we do not accept that the citation relating to AHC Criterion A4 is appropriate until the application of this criterion has been further clarified.

PANEL'S CONCLUSION

That the house at 8 South Road Brighton is of local heritage significance and should be included on the heritage overlay. The statement of significance should be amended to reflect the Panel's other comments.

8.32 52 SOUTH ROAD, HAMPTON

DESCRIPTION OF THE PLACE

Bayside Heritage Review 1999 (Volume 4)

This site contains an outstanding mature tree along the boundary to South Road, the canopy of which extends out over the property boundary. A number of other mature garden plantings are located within the garden, however the majority of these are screened from view by a relatively high timber fence.

Remnant Fabric (Vegetation)

The most outstanding feature on this site is a mature Irish Strawberry Tree (*Arbutus unedo*), situated close to the South Road boundary. The specimen is currently recorded on the National Trust (Victoria) Register of Significant Trees for its contribution to the streetscape and its outstanding size. The tree was planted by the current owner to commemorate the safe return of his father from Gallipoli. A mature Flowering Gum (*Eucalyptus ficifolia*) is also positioned along the South Road boundary making a significant contribution to the streetscape. A number of other mature garden plantings exist within the property boundary, however these are screened from view.

STATEMENTS OF SIGNIFICANCE

Bayside Heritage Review 1999 (Volume 4)

The Irish Strawberry Tree (*Arbutus unedo*) along the South Road boundary is of local significance for its height and canopy spread, and for its contribution to both the property and to the streetscape. The balance of [the] mature trees within the site are significant for their overall contribution to the property and general streetscape.

Comparative examples cited in the 1999 *Bayside Heritage Review*: not relevant.

INTEGRITY/INTACTNESS

Poor (Allom Lovell & Associates & John Patrick Pty Ltd). This must have referred to its setting, because the condition is assessed as Good.

SPECIFIC ISSUES RAISED

The submission on this property pointed out that the land that was formerly the garden of No. 52 South Road has been subdivided into several lots. One of these, No. 13 Vista Road, contains no vegetation and a new house is being constructed on it. The owner sought the removal of the Overlay from this portion of the original property.

DISCUSSION

Mr Patrick's 2004 reappraisal of this site notes that the property that is now 13 Vista Road was formerly the tennis court of 52 South Road. The mature Flowering Gum (*Eucalyptus ficifolia*) mentioned in the description of the site is now in on a separate lot, fronting South Road, and known as No. 48 South Road.

The hearing was told that No. 48 South Road is owned in conjunction with No. 13 Vista Road. The owners intend retaining it as a garden, with no vehicle access from South Road. They have no objection to the Heritage Overlay continuing to apply to the South Road lot.

Mr Patrick recommended redefining the boundaries of HO723 to exclude that portion of the site that now forms No. 13 Vista Road. The Panel agrees with this recommendation.

The Schedule description of the remainder of the land covered by HO723 should be amended to reflect the existing subdivision pattern and to accurately describe the lots affected, e.g. as 48-60 South Road, Hampton, rather than 52 South Road, Hampton.

RECOMMENDATION

The property at No. 13 Vista Road, Hampton has no heritage significance and the mapping of HO723 should be revised to exclude this lot. The description of HO723 in the Schedule to the Heritage Overlay should be amended to reflect the fact that the garden of No. 52 South Road has been subdivided, by listing all the addresses to which the Overlay now applies.

8.33 2 SOUTHEY STREET, BRIGHTON (HO 595)



DESCRIPTION OF THE PLACE

Ward (1986): not listed

1999 Bayside Heritage Review:

Thanet Cottage is a single-storey Victorian Italianate house with a hipped and patterned slate roof and paired eaves brackets. The house features bichromatic brickwork and a cast iron verandah to the front façade. Paired double-hung sash windows are located to each side of the central entrance. The chimneys are also bichromatic brickwork.

STATEMENTS OF SIGNIFICANCE

1999 Bayside Heritage Review:

“Thanet Cottage”, at 2 Southey Street, Brighton, is of historic and aesthetic significance. The residence was the first house to be built in the street, which forms part of what was the Town Boundary portion of H B Foot’s original Brighton Estate. As such, the house demonstrates an important phases of residential settlement in the area. The indirect connection of the house with the prominent nineteenth century musician David Lee, who owned and developed the land in Southey Street, is also of some interest. Aesthetically, the patterned slate roof, bichromatic brickwork and decorative cast iron verandah are notable architectural elements.

Allom Lovell and Associates review (2004)

AHC A4: built on what was the town boundary portion of H B Foot's original Brighton Estate, the house forms part of the early development of Brighton.

AHC E1: a substantial and intact polychromatic villa, in the exuberant Italianate style generically similar to others in Brighton, and which is demonstrative of the aspirations and means of early upper middle class settlers in the area.

Comparative examples cited in the *1999 Bayside Heritage Review*:

Beltana, 6 Allee St, Brighton	Grutle, 57 Halifax St, Brighton
Hazelwood, 15-19 Barnett St, Brighton	Hazelhurst, 59 Halifax St, Brighton
400 Bay St, Brighton	Colombo, 417 New St, Brighton
Coggeshall, 92 Beach Road, Hampton	Lumeah, 85 Outer Cres, Brighton
9 Black St, Hampton	Toiyabe, 42 Were St, Brighton

Judging from the datasheets in the Bayside Heritage Review, plus inspection of a sample of the above properties, they are all similar to No. 2 Southey Street in age, style and general form. Some appear to be much less intact than No. 2 Southey Street, e.g. No. 417 New Street and No. 59 Halifax Street. All either have permanent heritage protection or are included in Amendment C37 (no submissions, other than that relating to the garden at No. 417 New Street).

INTEGRITY/INTACTNESS

Good (Allom Lovell 1999). Good (Allom Lovell 2004).

SPECIFIC ISSUES RAISED

The submission queried how the property, which it described as the only Victorian house in the street, qualified for heritage control. It pointed out changes that have been made to it, including replacement of the front fence, path, verandah and glass surrounding the front door and substantial alterations to the interior and rear of the property.

DISCUSSION

Ms. Riddett's reappraisal of this property acknowledged the alterations to the façade that were listed in the submission, but concluded that these were minor and had not diminished its significance. The Panel accepts that this is true (even if, as our inspection indicated, the windows to either side of the front door have also been lengthened slightly).

No evidence was presented to us to challenge any other aspects of the historic or aesthetic significance claimed by for the building by the Bayside Heritage Review or Ms Riddett's reappraisal.

We also note that all the comparative examples listed in the Bayside Heritage Review either have, or are proposed to have, permanent heritage protection.

For these reasons, we accept that the building is an excellent example of a building style that was highly valued and is of local significance for that reason. We have

discussed earlier our concerns about the lack of clarity in relation to AHC Criteria A4 (association with important phases of development). For the reasons set out previously we therefore conclude that, at this stage, this building should not be cited as of local significance in relation to that criterion.

RECOMMENDATION

The property at 2 Southey Street is of local heritage significance for its aesthetic values (AHC Criterion E1) and should be retained on the Heritage Overlay on a permanent basis. The statement of significance should be appropriately amended.

8.34 19 STANLEY STREET, HAMPTON (HO600)

DESCRIPTION OF THE PLACE

1999 Bayside Heritage Review

Double-fronted late Victorian residence with hipped slate roof of corrugated galvanised steel and paired timber eaves brackets. A timber verandah with cast iron brackets extends across the front façade. Tripartite double-hung sash windows are located either side of the central entrance. The chimneys are rendered, moulded and contain tall chimney pots. The house is enhanced by its surrounding cottage garden.

STATEMENTS OF SIGNIFICANCE

1999 Bayside Heritage Review

“Toowong”, at 19 Stanley Street, Brighton, is of aesthetic significance. The house is a largely intact example of a late Victorian villa. The tripartite windows and simply detailed verandah are notable architectural elements. The house is enhanced by the surrounding cottage garden.

Bryce Raworth 2004

The identification of the building at this address for the purposes of the overlay seems to be a case of mistaken identity. The description and photograph in the *Bayside Heritage Review* citation refer to the adjoining house at 839 Hampton Street, Brighton, but the history and address relate to 19 Stanley Street. It would seem likely that the citation was originally directed toward 839 Hampton Street, but that the wrong address was provided and the history was researched in relation to this incorrect address.

INTEGRITY

Bryce Raworth (2004):

The house at 19 Stanley Street is standard in design and has been altered to some extent. This house does not warrant an individual heritage overlay, and it would appear that the overlay has been applied to the wrong house, as discussed.

SPECIFIC ISSUES RAISED

The Heritage Overlay should be removed from 19 Stanley Street and the citation amended to refer to 839 Hampton Street and the correct history substituted. A decision could then be made to include the place in a subsequent heritage review after appropriate notices are given.

The Bayside Alliance made a substantial submission, arguing that the 19 Stanley Street had sufficient integrity and quality to justify inclusion in the Heritage Overlay. The Alliance also sought to demonstrate that the *1999 Bayside Heritage Review* contained a number of errors of different types in relation to the addresses of properties and that, in a number of these cases, corrections had been made in a way that retained the identified building in the overlay rather than as in this case, removing it.

PANEL'S DISCUSSION

We accept that in this case, the wrong property has been cited, in that 19 Stanley Street Brighton should not have been listed for inclusion in the heritage overlay and that the intention was to cite 839 Hampton Street. We also accept the opinion of Council's experts that 19 Stanley Street does not have sufficient integrity or design significance to meet the requirements for local heritage significance.

PANEL'S CONCLUSION

That the building at 19 Stanley Street Brighton is not of local heritage significance and should be removed from the Heritage Overlay.

8.35 10 SUSSEX STREET, BRIGHTON (HO 602)

DESCRIPTION OF THE PLACE

1999 Bayside Heritage Review:

Double-storey and double-fronted inter-War block of flats. The building has a terracotta tiled hipped roof. The brick walls are rendered and painted and have contrasting panels of face brickwork between the ground and first floor windows on the projecting bay.

Date of construction: 1936 (R Beaston).

STATEMENTS OF SIGNIFICANCE

1999 Bayside Heritage Review

The building at 10 Sussex Street, Brighton, is of aesthetic significance. The double-storey building is a good example of an inter-War block of flats with elements such as the decorative panels of face brickwork and horizontality, all characteristic to the period.



Allom Lovell and Associates (2004)

AHC A4: This block of flats was built in the 1930s at a time when new estates were opening up in the Brighton area and flats were a relatively new phenomenon. It forms part of a significant phase of development of the suburb.

AHC E1: A good example of an inter-War block of flats in the Moderne Style and which is demonstrative of the aspirations but more modest means of residents in the area.

Comparative examples cited in the *1999 Bayside Heritage Review*: none

INTEGRITY

The Allom Lovell and Associates report does not discuss the building's integrity per se. From Mr. Beaston's evidence and our observation, the building is in its original state, though in need of significant maintenance. Some brick walls are cracked.

SPECIFIC ISSUES RAISED

The Allom Lovell and Associates 1999 report identified the building as "*a good example of an inter-War block of flats with elements such as the decorative panels of face brickwork and horizontality, all characteristic to the period.*"

Mr. Beaston's evidence dealt with a number of issues relevant to this building and undertook and provided a more detailed exposition of his comparative analysis. He contended, in summary, as follows.

- There were very few buildings of the Moderne Style in Brighton, with the three best being the flats "Ostend", the Brighton Baths and the former Brighton Court House.
- This building along with another block of flats at 8 Manor Street, are amongst a group of a few that display some Moderne Style characteristics.
- This building, "although not outstanding, has been competently designed. The design is eclectic but is probably best described as an Inter-War building with some characteristics of the Moderne Style. With more elaboration, he concluded: "Although not an archetypal example of the Moderne Style, it is more closely assigned to it than others of the era and so can be described as an Inter-War building with some Moderne Style characteristics.

The elements of the building's façade (the elements that could be considered as being related to the Moderne Style are largely confined to the front façade) include:

- The horizontal emphasis (banded rustication in the brickwork, metal railings and glazing barks of the windows)
- Asymmetry,
- Recessed porch
- Smooth rendered walls
- Some secondary vertical emphasis in the composition of the projecting bay, which is also used in the short faces along the sides.

Features that would be expected, in some degree or combination, in an archetypal Moderne Style building, include:

- Curved corners, the roof at least partially hidden by a parapet (these being the features that led Mr. Beaston to reject the building as a standard example of the Moderne Style), and
- Corner windows
- Metal frame windows
- Chevron or zig-zag ornamentation.

Mr. Briggs also concluded, similarly, that the building is an example of "Interwar flats using Moderne elements".

PANEL'S DISCUSSION

In its review, Allom Lovell and Associates designated the building as being significant pursuant to AHC criteria A4 and E1.

In relation to the AHC criterion E1, we accept Mr. Beaston's conclusions that this is not a particularly outstanding example of the Moderne Style and that, rather, it is representative of the vernacular Inter-War style with some elements of the Moderne Style. It seems to us that this building is of a quite basic design for a pair of flats and it could have been readily dressed up in any one of a number of Inter-War stylistic guises. We do not believe that, because it has a number of decorative elements that can be attributed to the Moderne Style that it is a good local example of this style.

On the basis of the guidelines of the AHC Criterion E1, and taking account of the fact that this building is not a particularly good exemplar of the Moderne Style building, we therefore conclude that it does not warrant designation as a building of local significance.

Mr. Beaston also discussed the building's significance in relation to Criterion A4 (phases of development). He contended that, while there was a significant building boom in Brighton during the period 1921 to 1931 (citing a 50% population increase and housing stock during this period), this 'boom' largely ceased during the Depression of the 1930s and had not progressed to any new boom following. Mr Beaston concluded:

..... the site is of some local value because it displays some Moderne Style characteristics, which are of interest because of their suitability to the Bayside lifestyle. Furthermore, it is an example of a domestic building in Brighton which features some aspects, albeit in a hybrid manner, of what were the progressive building styles of the Inter-War period.

On this basis, it appears that, rather than representing any important phase of development, the building merely represents, as do most other buildings, the continued process of urban development throughout Melbourne's suburbs. As Mr. Briggs pointed out, the statement of significance in relation to Criterion A4 does not explain the particular importance, in terms of the heritage of the City, of

..... the construction of a number of purpose built blocks of flats, some in the Moderne Style, deemed appropriate for this seaside location.

On the basis of the above discussion, the Panel concludes that, on the evidence and analysis provided, the building at 10 Sussex Street, Brighton, should not be included in the Heritage Overlay.

RECOMMENDATION

The building at 10 Sussex Street, Brighton, is not of local heritage significance and should be removed from the Heritage Overlay.

8.36 10 SYDNEY STREET, CHELTENHAM (HO605)

DESCRIPTION OF THE PLACE

1999 Bayside Heritage Review:

10 Sydney Street Cheltenham is a block-fronted timber cottage with hipped slate roof. The allotment originally fronted Weatherall Road, subsequent subdivision has resulted in it facing away from its present Sydney Street address. A cast iron verandah extends across the original front elevation. Windows are double-hung sashes with moulded timber architraves and sills. Chimneys are rendered, with moulded sills.

STATEMENTS OF SIGNIFICANCE

1999 Bayside Heritage Review:

The house at 10 Sydney Street, Cheltenham, is of historical and aesthetic significance. The house was one of a few to be constructed on the Charman Estate during the early period of suburban subdivision of Cheltenham in the 1880s. The type of house – a brick-fronted villa – although common elsewhere, is rare in the suburb.

Bryce Raworth (2004)

This building faces away from the street and is unremarkable to the extent it can be seen. Closer inspection reveals a nineteenth century Italianate timber house that is typical rather than special in most respects, although a little unusual in having a return verandah with an entry at the side and with arched windows across its main face. It is certainly of less individual interest than 25 Tennyson Street, which the Panel for C29 (Part 2) found did not warrant a heritage overlay.

INTEGRITY

The building is generally intact.

SPECIFIC ISSUES RAISED

Mr. Stokans advised the Panel that Council supported Mr. Raworth's views and no longer sought inclusion of this building in the Heritage Overlay.

PANEL'S DISCUSSION

The most recent review of this building is that by Mr. Raworth, who has taken into account the information presented in the *1999 Bayside Heritage Review* and has made his own inspection and assessment of the building. Given Mr. Raworth's rejection of this building as justifying inclusion in the Heritage Overlay, together with Council's support for this position, we consider that it is appropriate that we should adopt Mr Raworth's conclusion.

PANEL'S CONCLUSION

That the building at 10 Sydney Street is not of local heritage significance and should be removed from the Heritage Overlay.

8.37 13 THOMAS STREET, BRIGHTON EAST (HO618)

DESCRIPTION OF THE PLACE

1999 Bayside Heritage Review:

15 Thomas Street is a single-storey residence of rendered brick construction with a brick plinth and flat roof. The house has an encircling projecting concrete roof and eaves. Windows are steel-framed casements with brick sills. A semi-circular bow window is located at the north end and abuts a broad chimney stack clad in random-coursed slate. The low front fence is of matching slate and the front garden contains exotic species and hedges which may be original. The rear side garage appears to be original.

STATEMENTS OF SIGNIFICANCE

1999 Bayside Heritage Review:

The house at 15 Thomas Street, East Brighton, is of aesthetic significance. The house is an unusual example of the modernistic style popular in the immediate post-War period, featuring a distinctive bow window and slate-clad chimney. The house is enhanced by its exotic front garden and original front fence and side garage.

Bryce Raworth (2004)

The house at 15 Thomas Street, Brighton East, was not identified at all in the City of Brighton Urban Character and Conservation Study, 1986, nor was a citation prepared with regard to the building at that time. The subject building was not recommended for an individual overlay control in the 1986 study. The building was subsequently graded B in the City of Bayside Heritage Review, 1999, and a data sheet was provided in support of that listing. The site was incorrectly identified as 13 Thomas Street, but the photograph and associated information clearly indicated that 15 Thomas Street was the intended subject of the data sheet.

INTEGRITY

Bryce Raworth (2004)

The building has been altered to a degree, possibly including the stone facing of the chimney. A number of the changes cited in the owner's objection are of minor or no impact. The front garden, garage and chimney, which have also been altered, would seem not to be key *original* elements as identified as in the citation. The historical information appears to relate to another house (13 Thomas Street) and would need to be checked if it was to be relied upon.

SPECIFIC ISSUES RAISED

Mr. Stokans acknowledges the lack of information presently exhibited is not sufficiently persuasive or authoritative to justify a heritage overlay.

DISCUSSION

The citation contains inaccuracies. We accept Mr Raworth's conclusion that there is no established aesthetic value in this property sufficient to merit local heritage significance.

PANEL'S CONCLUSION

That the building at 15 Thomas Street, Brighton East, is not of local heritage significance and should be removed from the Heritage Overlay.

8.38 47-49 VICTORIA STREET, SANDRINGHAM (HO620)

DESCRIPTION OF THE PLACE

Bayside Heritage Review 1999

Large double-storey residence designed in an unusual austere inter-War style. The house is an asymmetrical composition of cubic forms with plain rendered walls. The windows are double-hung with multi-paned upper sashes. The lower roof is concealed behind a parapet whilst the first floor is set back and has a flat roof. A wide projecting cornice runs around both levels. A porte-cochere, square in plan, marks the entrance.

Allom Lovell and Associates review (2004):

The house is a double-storey inter-War residence designed in an unusual austere style.



STATEMENTS OF SIGNIFICANCE

Bayside Heritage Review 1999:

The house at 49 Victoria Street, Sandringham, is of historic and aesthetic significance. It is an unusual example of an inter-War house; of note is its distinctive composition of rendered cubic forms and the projecting rendered concrete hood. It is important as one of the few known private commissions of W T Sunderland, one-time Sandringham City Engineer and a pioneer of concrete construction in the 1920s.

Allom Lovell and Associates review (2004):

AHC Criterion A4: The house was building during the 1920s expansion of Brighton, an important phase in the suburbs development. It is also one of only a few houses built by W T Sunderland, once the City Engineer of Sandringham.

AHC Criterion E1: a substantial and well-composed inter-War residence based on the juxtaposition of the cuboid forms and executed in render and concrete. One of the designs of W T Sunderland, Sandringham City Engineer and pioneer of concrete construction.

Comparative examples cited in the 1999 *Bayside Heritage Review*: 3, being

- 23 Bamfield Street, Brighton
- 33 Black Street, Brighton
- 1 Lorac Avenue, Brighton.

INTEGRITY

The *Bayside Heritage Review 1999*, the 2004 Allom Lovell and Associates review and the single submission relating to this property do not comment on the building's integrity. From the street, it appears to us to have reasonable integrity.

SPECIFIC ISSUES

The issues in relation to this building are whether it is:

- Appropriately representative of the 1920s period of development in Brighton (AHC Criterion A4), and
- A good example of the design of Inter-War housing (AHC Criterion E1).

With respect to the first point, we refer to our previous comments on the application of AHC Criterion A4, where we rejected the use of this criterion until further research has been undertaken in relation to its application.

The second question is whether this building is a good example of an Inter-War housing style. Because the submitter did not appear before the Panel, we did not have the benefit of any cross-examination or of evidence from an alternative expert witness.

In our view, the building, like the two others designed by W. T. Sunderland and identified in the *Bayside Heritage Review 1999*, contains elements identifiable as Inter-War housing though with an unusual and idiosyncratic interpretation.

The style that this building appears to best reflect, as we can identify it, and one that was not to our knowledge widely applied in Melbourne until the 1950s or 1960s, is the International Style. The elements of that style that are identifiable here are the composition of simple cubes with flat roofs hidden behind parapets. The cubic form is emphasised by the plain rendered and paint-finished walls. However, there are a number of elements to this building's design that appear atypical. These include the more conventional sash windows, the projecting hood with, around the portico, projecting corbels of possible classic derivation. These details are also evident in the other two buildings designed by W T Sunderland, with other two exhibiting similar and, in some case, more idiosyncratic details.

With respect to the Criterion E1, we do not consider that this is a good example of any of the definable Inter-War housing styles, or none with any significance to the City of Bayside.

We agree that the building, like two of the others cited as comparative examples, is indisputably from the Inter-War period and its austere design is quite unusual and perhaps reflective of the European International style. However, this and the other three buildings share a number of design features that are not clearly of this period, or seem to be from other styles of the times.

For example, the use of a shade-hood running below the parapet and above window level, at first and ground levels, is unusual. The use of decorative corbels to support this hood suggests a classic influence, although the derivation of the decorative character of the corbels is less obvious – varying for the different reference buildings from plain to unusually sculptured profiles. While some windows are steel-framed and consistent with the International style, others have timber sashes in projecting timber window on timber corbels – typical of the Bungalow-style, with a few of these having lead lighting. One of the buildings (33 Black Street), has a brick parapet with draped-profile rendered coping extending between rendered piers – all more characteristic of Edwardian commercial buildings than any thing else. The latter building's projecting hood is supported on concrete beams that have more the characteristic of timber rafters; the windows are more characteristic of Bungalow or Edwardian detailing. Interestingly, that building (of unknown designer, constructed c.1920) is described as an **inter-War bungalow**, though it has none of the other principal features of the bungalow style.

The 1999 *Bayside Heritage Review* describes the dwelling at 23 Bamfield Street as revealing the influence of the “**so-called Prairie School style**” (it does have the horizontal lines of this style, although it also has a parapets and concealed roof rather than the strongly characteristic, low pitched and broad-eaved roof of this style). No. 49 Victoria Street is simply described as “an **unusual inter-War style**.” The dwelling at 1 Lorac Avenue (which has strong design similarities to the others, and is also attributed to the design of Sunderland) is described as “an unusual inter-War brick residence, designed in an **austere Arts & Crafts style**.”

The Amendment C29 Panel supported that Council's proposal to remove the dwelling at 1 Lorac Avenue from the Interim Heritage Overlay on the grounds of the detrimental extent of alterations **and** the building's lack of any consistency with the nominated style. Of the other two examples, 23 Bamfield Street is included in the permanent Heritage Overlay and 33 Black Street is included in Amendment C37 but was been referred to this Panel.

We note that there are other issues that could have been considered in previous assessments but which appear not to have been, or not reported. One relates to the influence of Sunderland as a designer or construction innovator, though we think that more research would be needed to demonstrate whether his designs and innovations had any influence or were of no account. Our previous comments on the need for a more fundamental approach to the use of AHC Criterion H1 (association with significant persons) are also relevant here.

CONCLUSION

On the basis of our previous conclusions about the lack of adequate assessment of inter-War buildings, we conclude that the building at 47-49 Victoria Street, Sandringham should remain in the Interim Heritage Overlay until Council is able to undertake further assessment of buildings of this period. Further research seem justified, in particular, into the peculiarities of the design of buildings by Sunderland and at least one other superficially related design (i.e. at 33 Black Street).

RECOMMENDATION

That No. 47-49 Victoria Street, Sandringham, may be of local heritage significance and should be retained in the Interim Heritage Overlay until Council has undertaken further studies into the heritage significance of development in the City of Bayside during the Inter-War period.

8.39 53A VINCENT STREET, SANDRINGHAM (HO726)

DESCRIPTION

1999 Bayside Heritage Review (Volume 4):

[Referring to 55 Vincent Street, on which the tree is located.]

A mature tree in the front garden, remnant from an earlier garden. The tree is set amongst a more recently established garden.

Remnant Fabric (Vegetation)

A mature Manna Gum (*Eucalyptus viminalis*) in the front garden of the property, a remnant from an early garden planting. The specimen has an outstanding form, with a wide-spreading canopy. It is positioned close to the front boundary of the property and has caused some up-lifting of the footpath.

STATEMENTS OF SIGNIFICANCE

1999 Bayside Heritage Review (Volume 4):

[Referring to 55 Vincent Street, on which the tree is located.] This Manna Gum (*Eucalyptus viminalis*) in the front of this property is of local interest as either remnant vegetation from pre-European settlement of the area or an example of an early garden planting. The specimen is significant for its outstanding form, size and impressive contribution to the landscape.

Comparative examples cited in the *1999 Bayside Heritage Review*: not applicable

INTEGRITY/INTACTNESS

Poor (Allom Lovell & Associates and John Patrick Pty Ltd, 1999). This seems to have referred to the setting of the tree, since its condition was listed as 'Good'.

The Bayside Heritage Landscape Audit assessed the health of the tree as 'Fair' and its architecture and condition as 'Poor'. It recommended that Council consider removing it from the Heritage Overlay.

SPECIFIC ISSUES RAISED

A submission was received from the owners of No. 53A Vincent Street, Sandringham, opposing the proposed Heritage Overlay on their property, which seeks to protect that part of the root and canopy zone of a River Red Gum [*sic*] which extends onto their property from the adjoining property, No. 55.

The basis of their opposition was the view that the tree was dangerous because of the tendency of the species to drop limbs without warning. A report from arborist Dr Peter Yau was enclosed to support this assessment.

The owners contended that they should not be prevented from lopping those parts of the tree that overhang their property. They also believed that including more than

half their lot in the Overlay was unreasonable, when only a small portion of the tree's canopy stretched over the garage of their property.

DISCUSSION

Mr Patrick's reassessment of the tree (July 2004) confirmed that it is a Manna Gum rather than a River Red Gum, but is not native to the area. He believed it had been planted approximately 70 years ago as part of an early garden planting. He concluded that the tree continued to dominate the streetscape and retained its significance due to its size and maturity.

Mr Patrick acknowledged the conclusions of the 2003 Heritage Landscape Audit (above) but did not agree with them. He considered it a very good example of its type, particularly in terms of its contribution to the streetscape and did not believe that its unusual limb formation was a problem. He outlined some of the management actions that could be undertaken to minimise the risks associated with old trees.

Dr Yau accepted that he had been mistaken in the species of the tree, but maintained that Manna Gums also had a tendency to drop limbs. He did not consider them appropriate trees for urban situations. Although classifying the tree as senescent, he concluded that it was in good health.

Dr Yau did not, however, present any evidence on the significance of the tree in a heritage sense and did not challenge the basis on which it had been identified by the Bayside Heritage Review. He told the Panel that he had no experience in the area of heritage assessment of trees or landscape elements.

In view of the evidence put forward, the Panel concludes that the tree does have the heritage significance ascribed to it in the Bayside Heritage Review. Its condition should be monitored by the owners, in consultation with Council, and appropriate management actions taken to reduce the likelihood of risks to persons or property.

In regard to the mapping of the area to which the Heritage Overlay designation should apply, the Panel endorses Council's view that it should cover the whole of the root zone of the tree. This involves its application to part of the property at 53A Vincent Street, Sandringham.

RECOMMENDATION

The tree at No. 55 Vincent Street, Sandringham is of local heritage significance and should be retained on the Heritage Overlay on a permanent basis. The area to which the controls apply should cover the whole root zone of the tree, as proposed in Amendment C37 (HO726), thus encompassing part of the property at 53A Vincent Street, Sandringham.

8.40 59 WILSON STREET, BRIGHTON (HO633)

DESCRIPTION

1999 Bayside Heritage Review

Brighton State School No. 1542

Brighton State School is a single-storey symmetrical brown brick building with a steep gabled slate roof supported on timber brackets at the eaves line. At the centre of the street façade are two gable ends. Between the two gables is a projecting entry porch. The adjacent classroom wings have pairs of rectangular windows with rendered sills and contain double-hung multi-paned sashes. The building has been somewhat altered. An early photograph shows that the arched windows originally contained Gothic-style tracery and that there was a tower and gabled bellcote above the entry porch.

STATEMENTS OF SIGNIFICANCE

Ward (1986): not listed

1999 Bayside Heritage Review:

Brighton State School in Wilson Street, Brighton, is of historical and aesthetic significance. As the first state school in the municipality, it has been the focus of local education and social activity for over a century. The building is a good example of the institutional Gothic Revival style typical of nineteenth century schools, characterised by gabled slate roofs and multi-paned double-hung sash windows. It is important as an example of the work of prominent Melbourne architectural firm of Terry and Oakden.



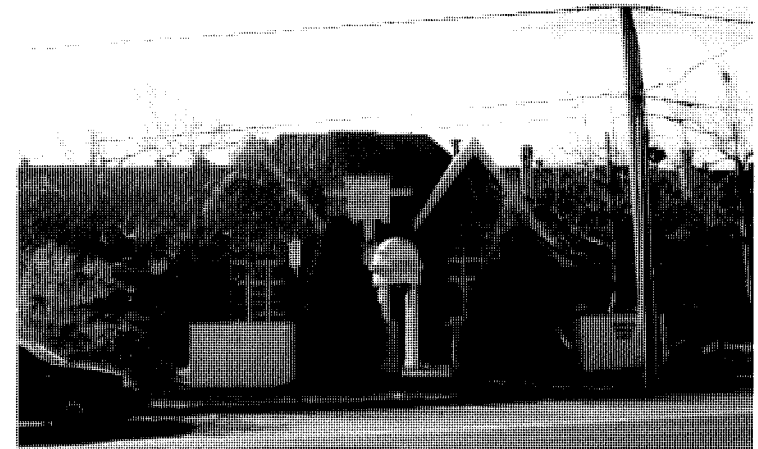
Allom Lovell and Associates review (2004)

AHC Criteria A4, G1: the first school for the Brighton area was located on this site. By the 1870s, when education became free, compulsory and secular, the need for permanent, rather than temporary, buildings was evident and this school was constructed. Its historical contribution remains highly valued by the community as indicated by its published histories.

AHC Criteria E1, F1: designed by notable architects Terry & Oakden, it is an accomplished example of the institutional Gothic Revival style. Illustrated in Burchell [158] who notes "its very successful façade and striking T-form plan" (p. 103) and its

jerkinhead roof and matching gables flanking the entrance, being first used on this building (p.120).

Comparative examples cited in the *1999 Bayside Heritage Review*: none



INTEGRITY/INTACTNESS

Good (Allom Lovell 1999).

SPECIFIC ISSUES RAISED

The submission received on behalf of Brighton Primary School opposed the heritage listing of the school on the basis that the Department of Education already had mechanisms in place to maintain the historical significance and architectural integrity of the school buildings and the Heritage Overlay would restrict the school in providing a safe and secure learning environment for its children.

DISCUSSION

We understand that the Department of Education has been exempted by the State Government from compliance with Planning Schemes, so that the application of the Heritage Overlay to a State school property will have no practical effect in terms of requirements for permits. However, it considers that school buildings of established heritage significance should be included on the Overlay, in order to draw attention to their value and to provide protection should they ever be converted to other uses.

We accept that the history of the Brighton Primary School building provided above justifies the finding that it is of local heritage significance for its historic and aesthetic values and educational/social associations. There is also some evidence for it being an innovative design that was replicated extensively in schools elsewhere.

However, the description and Statement of Significance for the Brighton Primary School appear to the Panel to require more work. In particular, there is no mention

of any significance that may attach to the large, handsome red brick Queen Anne-style building in the north-west corner of the school site. It is possible that this is the Infant School, built in 1910, that is mentioned in the history of the school (Allom Lovell 1999). The alterations to the brown brick building on the Wilson Street frontage (i.e. the attachment of later red brick extensions on either end) should also be acknowledged.

Given our previous comments in relation to the application of AHC Criterion A4, we accept that it is applicable to this building. Likewise Criterion G1 is applicable to a building as important as such a public school as this was when erected. However, given the lack of substantive, we consider that further research is required to justify the citation in relation to Criterion F1.

RECOMMENDATION

Re the Brighton Primary School at 59 Wilson Street, Brighton

- ▮ **This Queen Anne-style building is of local heritage significance in relation to AHC Criteria A4, E1 and G1 and should be retained on the Heritage Overlay on a permanent basis**
- ▮ **Further investigations should be undertaken to determine whether the building should also be identified in relation to AHC Criterion F1 and, if appropriate, the statement of significance amended accordingly.**

9. CONSIDERATION OF PRECINCTS – AMENDMENT C38

9.1 APPROACH

In this chapter, we consider submissions made with respect to various precincts exhibited in amendment C38. We have listed the matters under the headings of the individual precincts, as submissions generally raised issues in relation to the rationale for the precinct rather than the individual property, though there were a number of submissions in the latter vein. Such submissions will be found under the appropriate precinct heading.

9.2 ASLING STREET PRECINCT (HO746)

DESCRIPTION OF THE PLACE

1999 Bayside Heritage Review.

The precinct encompasses a long stretch of land running the length of, and on both sides of, Asling Street: between North Road, to the north, and a point about one-third of the distance between Rooding Street and Bay Street, to the south. The precinct only includes one site facing North Road, on the western corner of Asling and not the other corner. It only includes the western side of Asling south of Rooding. It also excludes 6 lots abutting Asling Street. Two of these are included in individual Heritage Overlays and three are in individual Heritage Overlays and may also be included in precincts. HO664 abuts Asling Street and intrudes into HO746 and includes one property that is excluded from HO746 and one that is included in it.

The *1999 Bayside Heritage Review* contains a table demonstrating the following proportions of dwellings in this precinct by era of construction. This places 66% of dwellings as being constructed pre-1940.

Period	Number of Houses	Percentage
Early and Mid-Victorian (1850s – 1870s)	4	8%
Late Victorian (1880s and 1890s)	20	36%
Edwardian (1916-1939)	9	15%
Inter-War (1916-1939)	9	16%
1940- to 1970s	8	15%
Recent (1980 onwards)	5	9%
TOTALS	55	100%

STATEMENTS OF SIGNIFICANCE

1999 Bayside Heritage Review:

The Asling Street Precinct is of historical and aesthetic significance.

Historically, the street developed steadily from the 1850s until the 1930s, and the precinct comprises a chronology of building stock which provides evidence of several successive and historically important stages of residential development in the area. Throughout its history, Asling Street has always been a particularly prestigious address in Brighton, evidenced by the fact that a number of important local men and women have resided there. These include district pioneers such as Edward Asling, Robert Sterry and the Keys family, as well as several prominent local professionals, clergymen, military officers and at least two one-time mayors.

Aesthetically, the precinct consists of substantial houses befitting its status as a premier residential address. It has remnant mansions from the mid-Victorian period, speculative subdivisions from the 1880s Boom period, and representative examples of Edwardian villas and inter-War bungalows. While the different eras of building stock necessarily display a range of different materials and styles, there is cohesion in their comparable setbacks and scale. Despite a number of high brick walls, the properties combine to form a distinct streetscape, particularly in terms of rooflines and chimneys.

Clause 22.06 Policy Statement

The Asling Street Precinct comprises substantial houses befitting its status as a premier residential address. It contains remnant mansions from the mid-Victorian period, speculative subdivisions from the 1880s Boom period and representative examples of Edwardian villas and inter-War bungalows. Although the variety of styles necessarily displays different characteristics, there is cohesion in their comparable setbacks and scale.

Contributory Buildings

Asling Street, Nos. - 7, 9, 11, 13, 15, 18, 20, 21, 22, 23, 24, 25, 27, 29, 30, 31, 32, 34, 35, 37, 38, 40, 43, 45, 47, 48, 49, 51, 52, 53, 54, 55, 56, 58, 59, 60, 61, 62, 63, 64, 68

North Road, No – 132

Statement of significance proposed by Mr Trethowan (2004) (with the Panel's grammatical corrections):

Asling Street contains a significant number of houses constructed prior to World War II including three villas dating from the mid-Victorian period, speculative housing from the 1880s Boom period and representative examples of Edwardian villas and inter-War bungalows. Although this variety of styles displays different characteristics, there is cohesion in their comparable setbacks and scale despite being often concealed behind high front fences.

PLACES SUBJECT TO SPECIFIC SUBMISSIONS

Submissions were received in relation to the following properties: Nos. 46, 30, 52, 54 and 56.

The basis of the submissions, which all objected to the Heritage Overlay, was the heterogeneity of dwellings styles and the wider date-range of dwellings in the precinct. Submitters also emphasised the poor quality of the Inter-War housing and

the personal difficulties that would result from their property's inclusion in a heritage precinct.

DISCUSSION

In summary, and to quote his own statement, Mr Trethowan was of the following view:

The identification of the subject precinct is justified but not in its present form. The proposed precinct boundaries are unsuitable given the precinct concerned. The statement of significance is inaccurate and should be redrafted. The inventory of contributory buildings should be reviewed. The present and proposed arrangement of Heritage Overlays within this general area should be reviewed as it is unnecessarily complex. The Heritage Review should seek to protect all of this area of Brighton by applying a series of blanket Heritage Overlay controls. In addition, there are some buildings in the street that are of [individual] architectural and historic significance. These buildings should be comprehensively identified. Individual Heritage Overlay controls should apply to these buildings. The property at 30 Asling Street [Mr Trethowan was commissioned by the owner of No. 30] is neither individually significant nor contributory to the Asling Street precinct.

On the basis of the above summary and the longer statement of evidence supporting it, Mr. Trethowan did not dispute that there was some parts of Asling Street that were of local heritage significance. He made a number of specific observations and suggestions as to how the precinct could be more appropriately defined and described. These included the following:

- Deleting both the single dwelling on the south-western of Asling Street and North Road and the corner dwelling opposite (which once faced North Road, but has now been cut off by another intervening building); he considered both these buildings were more appropriately related to North Road.
- Including No. 8 Asling Street, which is a Victorian cottage, albeit altered.
- Removing the reference to Asling Street as a premier address; Asling Street was never a premier address comparable to other prestige streets in Brighton. It contains only three houses of architectural significance; none of the other older houses are either particularly substantial or of high design quality.
- Making a number of other corrections to the statement of significance to emphasise the important period of the street's development as being Ward's 'Rural Suburb' period (1860-1940).

From our inspection, we would describe the Asling Street precinct as having the following characteristics:

- Dwellings constructed over a long period of time, with the larger and more notable ones from the Victorian and Edwardian eras, with those from the Inter-War period being quite modest by comparison and reflecting much more modest socio-economic circumstances.
- Quite extensive modifications to dwellings' settings, particularly in the form of high and concealing front fences.

From our review of submissions and evidence we have reached the following general and specific conclusions.

We agree with Mr Trethowan that there is a significant part of the precinct that is of local heritage significance and should be included in a Heritage Overlay on the basis that it reflects the historic evolution of development over the period 1860-1940.

We disagree with a number of observations that are included in both the various descriptions and long statements of significance, including the proposed policy statement. In particular, we do not accept the following-

- Reference to 'remnant mansions' is not appropriate, as these appear to be neither remnant (there is no suggestion that any equivalent dwellings have been lost) or mansions, but rather are simply large houses
- Reference in the background material to 'homesteads' is also inappropriate as they appear to be the Victorian equivalent of rural-residential dwellings
- There is no substantiation to the statement that Asling Street was recognised as a premier address; we accept Mr Trethowan's views to the contrary
- That any visual cohesion in the streetscape is of particular heritage significance, it being a characteristic of many suburban areas of all periods.

In line with the above, we therefore also agree with Mr Trethowan, both for reasons he has advanced and for our own reasons as set out earlier, that the statement of significance should be redrafted, though we do not entirely adopt Mr Trethowan's proposed version, as this still contains much material that is descriptive of the street and does not include sufficient explanation of why the this precinct is significant.

The precinct excludes a number of buildings that we consider are contributory but which are situated in adjoining precincts (e.g. the corners of Rooding and Oak Streets), together with other buildings that fall within the range of dates that this street is cited as representing. It is not clear why these buildings have been excluded and, for consistency with Council's approach to other precincts, the precinct should be reviewed with a view to incorporate additional buildings within the street, where appropriate.

On this basis, we accept that this precinct, with appropriate changes, is significant in terms of AHC criterion A4 (important phases of development). Because of the wide range of dates and variety of housing, together with the substantial alterations that have occurred to many dwellings, together with the very modest nature of the Inter-War dwellings, we do not consider that this precinct satisfies AHC Criterion E1.

Our alternative suggestion for a statement of significance would be along the following lines:

Asling Street is of local heritage significance (AHC Criterion A4) in its representation of the progressive waves of residential development and social change in Brighton between the mid-19th century and the 1940.

Mr. Trethowan's evidence was that No. 30 had been constructed after 1940 and therefore was outside the nominated period of the precinct's significance. He agreed that:

The building does contribute to the overall character of the street however it does not contribute the street's cultural significance. The building's possible removal and replacement at some future date by a new building of compatible size and scale would not affect the overall integrity of the street.

The submitted had earlier identified the construction date for this house as 1943. None of the construction dates for the inter-War dwellings had been identified, they were only referred to in Bryce Raworth's data sheets as c.1930s.

We note that, although No. 30 is of similar bulk to the inter-War dwellings, it is stylistically quite different and clearly from a different stylistic genre. If Council were to proceed on the basis of the exhibited form of Amendment C38, with contributory buildings identified in Clause 22.06, then we consider that, as No. 30 is a quite different style to the inter-War dwellings and is the only one of its style or post-1940 period, that it should not be included in the list of contributory buildings.

With respect to Mr. Trethowan's proposals to vary the outline of the precinct at its northern and southern end. With respect to the northern end, we consider that, while the two northernmost building were constructed with frontages to North Road, they still contribute, in a typical suburban manner, to the street to which they have a sideage. Mr. Trethowan's proposition to extend the southern end of the precinct, on the eastern side of the street, depends on the existence of a relatively isolated, substantially altered Victorian dwelling situated opposite the westernmost side of the precinct. We consider that the benefits of squaring up the southern end of the precinct are rather marginal and we see no great benefit in advocating such a change.

We support Mr. Trethowan's view that it may be useful to undertake further research into the three earliest, mid-nineteenth century dwellings in the street.

RECOMMENDATION

Re the Asling Street Precinct (HO746):

- ▮ **The area generally defined within this precinct is of local heritage significance in relation to the buildings from the period up to about 1940, on the basis of AHC Criterion A4**
- ▮ **Council should undertake further research into the three houses of the earliest period of settlement in this street (Nos. 9, 13-15 and 23)**
- ▮ **Council should investigate the feasibility of further amendments to HO746 to include (subject to the availability of appropriate mapping techniques) those dwellings presently excluded from the Overlay but situated on street corners where they contribute to both this and adjoining overlays**
- ▮ **The Clause 22 policy statement should be redrafted to be simpler and more specific, in the manner described earlier.**

9.3 BERKLEY GROVE PRECINCT, EAST BRIGHTON (HO650)

DESCRIPTION OF THE PLACE

1999 Bayside Heritage Review (Volume 3)

The Berkeley Grove Precinct is a small residential area comprising almost entirely houses dating from the inter-War and post-War periods. The other houses are generally single-storey, of brick construction and set back from the street. The houses are designed in a variety of styles popular in the inter-War period. The house at 56 Union Street, and the corner of Hurlingham Street, is a good example of a Classical Revival villa, with a symmetrical roughcast rendered façade dominated by an Ionic portico. No. 5 Berkeley Grove is a typical English Domestic Revival style villa, constructed of clinker brick with contrasting rendered upper walls, corbelled gable ends and leadlight sash windows. No. 4 is similar, and has a Tudor arched brick and rendered entrance porch. The house at No. 62 Union Street at the corner of Berkeley Grove, is a good example of a Californian bungalow, displaying typical characteristics including its low spreading form encompassed by a transverse gabled roof, gabled entrance porch and leadlight windows. The house at 64 Union Street, at the opposite corner and constructed in 1950 is a particularly good example of the Waterfall style; of note are the decorative use of ironwork, contrasting manganese brickwork, curved steel framed windows and curved and stepped chimneys.

Woolsery is an exception to the largely inter-War character of the area, being a typical 19th century Italianate residence with a cast iron verandah and hipped slate roof.

The precinct is enhanced by the intactness of the front fences, generally of low brick, and the exotic front gardens. Garages are located to the sides of houses, usually at the rear, and are accessed by side driveways. The streets have nature strips and concrete kerbs.

[This precinct – though missing from the Table on pages 2-3 of Volume 3 – appears to have been a new precinct identified by Allom Lovell; the description was restated in Revision 1 to clarify that the west side of Hurlingham Street was not included.]

STATEMENTS OF SIGNIFICANCE

1999 Bayside Heritage Review (Volume 3)

The Berkeley Grove Precinct is of aesthetic significance. The precinct is a remarkably intact inter-War residential area characterised by detached single storey houses in a variety of styles. Consistency in scale, setbacks and materials create cohesive and homogenous streetscapes, which are enhanced by exotic front gardens and intact front fences. Woolsery, at No. 1 Berkeley Grove, demonstrates the 19th century origins of the area.

2003 Bayside Heritage Review (Revision 1)

Added the following:

The following is a list of buildings that contribute to the heritage significance of the precinct:

Berkeley Grove Avenue [sic]	1,2,3,4,5,6,7,8,9,10,11,12
Hurlingham Street	1,3,5,7,9
Union Street	46,48,49,50,52,54,55,56,58,60,62,64,66

Draft Clause 22.06 Heritage Policy)

The Berkeley Grove Precinct is a remarkably intact inter-War residential area characterised by detached single storey houses in a variety of styles. Consistency in scale, setbacks and materials create cohesive and homogenous streetscapes, which are enhanced by front gardens and intact front fences.

[The list of contributory buildings was the same as above.]

June 2004 Proposed Amendments to Draft Clause 22.06 Heritage Policy

Recommended omission of No. 9 Hurlingham Street from list of contributory buildings.

Note: The only individual heritage listing within this precinct is 'Woolsery' at 1 Berkeley Grove (HO67).

PLACES SUBJECT TO SPECIFIC SUBMISSIONS

Submissions were received in relation to No. 9 Hurlingham Street and No. 64 Union Street. Both were listed as contributory buildings in the exhibited version of the Heritage Policy.

The submission on No. 9 Hurlingham Street opposed the inclusion of the property in the Overlay and in the list of contributory buildings, on the grounds that it was only built two years ago, so could not have any heritage significance.

Owners of the property at No. 64 Union Street opposed inclusion of the property in the Heritage Overlay on the following grounds:

- the date of construction (1950) given in the citation is incorrect, it should be 1938 [even though this reflects information provided previously by the same owner, as evidenced by an earlier submission included in the papers supplied to the Panel by Council].
- the application of the Heritage Overlay will cause a loss of property values and restrict the ability of owners to extend or build new dwellings as they wish or as their needs dictate.
- the submitter does not believe there is any support for heritage controls amongst owners in the precinct.

DISCUSSION

Inspection of the precinct revealed that it is a relatively intact collection of predominantly inter-War single storey, brick residences. The houses in Union Street are larger and more distinctive than those in the smaller streets, which tend to be modest structures, generally in the California Bungalow style. Some properties have

attic storeys that may be original, but others – particularly in Hurlingham Street – appear to have been extended. ‘Woolsery’, the beautiful Victorian villa at 1 Berkeley Grove, is clearly a remnant from an earlier stage of development and has an individual Heritage Overlay.

We concluded that the Precinct demonstrates the heritage qualities which are set out in the description and the Statements of Significance and that – with one minor exception discussed below – its boundaries are logical and recognisable on the ground.

With regard to the submissions on individual properties, we note that the house at 64 Union Street appears not to have changed since the photograph in the 1999 Bayside Heritage Review, which described it as ‘a particularly good example of the Waterfall style; of note are the decorative use of ironwork, contrasting manganese brickwork, curved steel framed windows and curved and stepped chimneys’. Mr Raworth, in his 2004 assessment of the property, concluded that ‘The site contributes to the identified significance of the place, being a house of the identified period “the inter-war period” (i.e. c.1930s)’ and that it should be retained as a contributory building. The Panel agrees and does not consider the issue of whether the house was constructed in 1938 or 1950 to be material, given that its style is consistent with properties constructed in the inter-War period as well as immediately afterwards.

The property at No. 9 Hurlingham Street is a recently constructed, reproduction Victorian/Edwardian house with a double garage projecting in front of the verandah. The latest list of contributory buildings for the precinct (in the revised Heritage Policy attached to Bryce Raworth’s expert evidence to the Panel hearing) does not include this house. Given that it is on the edge of the precinct, the Panel considers that the boundary should be redrawn to exclude this property altogether.

No. 1 Hurlingham Street is of an era unrelated to the grounds on which the area’s significance has been identified and it is therefore inappropriate that it should remain in the precinct. In any case, it is protected by its own area of Heritage Overlay.

RECOMMENDATION

That the area defined as the Berkeley Grove Precinct (HO650):

- ▮ **Is of heritage significance and should be retained in the Heritage Overlay on a permanent basis**
- ▮ **That the boundaries should be redrawn to exclude No. 9 Hurlingham Street from the mapping of this precinct, as it has no heritage significance**
- ▮ **That No. 9 Hurlingham Street should be omitted from the list of contributory buildings in the Heritage Policy and No. 64 Union Street should be retained**
- ▮ **That ‘Woolsery’ at No. 1 Berkeley Grove be removed from the list of contributory buildings as it does not share the heritage characteristics for which the precinct is cited and is already covered by the Heritage Overlay.**

9.4 CASTLEFIELD PRECINCT, HAMPTON (HO652)

DESCRIPTION OF THE PLACE

1999 Bayside Heritage Review:

The Castlefield Precinct embraces the whole of the former War Service Homes Commission estate known as Castlefield. The residential area surrounds the original Castlefield residence, now part of Haileybury College, and is characterised almost entirely by inter-War bungalows, interspersed with a small number of later houses. The street pattern comprises diagonally oriented streets, in contrast to the orthogonal layout of streets of the surrounding suburb, and streets are named after key locations on the eastern and western fronts of the First World War.

The bungalow style housing stock is of a consistent character formed by the use of a number of standard-plan, single-storey houses. The houses have hipped and gabled corrugated iron roofs, shingled gable ends and verandahs supported on coupled timber posts on brick bases. Windows are double-hung with multi-paned or leadlight upper sashes, arranged in groups of two and three. Many of the original wire mesh fences on post and rail frames and low picket fences have been replaced with Victorian style picket fences and high screen walls with intrusive effects. The generally homogenous character of the estate is relieved by Haileybury College and the Castlefield Reserve. A narrow unmade right-of-way connects the reserve with the college. Street plantings include *melaleucas*, and kerbs and gutters are of concrete.

STATEMENTS OF SIGNIFICANCE

1999 Bayside Heritage Review:

The Castlefield estate is of aesthetic and historic significance. The area was one of the War Service Homes Commission’s largest estates. Constructed to house war veterans, the estate’s association with the First World War is reflected in the names of the streets.

All streets display a high level of integrity and cohesion of scale and materials, comprising almost entirely single-storey weatherboard bungalows.

The statement then includes a list of buildings considered to be contributory to the heritage significance of the precinct.

Clause 22 – proposed Policy Statement:

Constructed to house war veterans, the Castlefield Precinct is one of the War Service Homes Commission’s largest estates. Comprising almost entirely single storey bungalows, streets throughout the Castlefield Estate display a high level of integrity and cohesion, particularly in scale and materials.

Contributory Buildings

Amiens Street, Nos - 1 to 17, 2 to 32
Avelin Street, Nos - 1 to 29, 2 to 26
Favril Street, Nos - 1 to 11, 2 to 10
Hamel Street, Nos - 1 to 15, 2 to 12
Hampton Street, Nos - 576 to 598
Imbros Street, Nos - 1 to 43, 2 to 46
Lagincourt Street, Nos -2 to 24, 1 to 19
Ludstone Street, Nos - 1 to 15, 17 to 25
Passchendaele Street, Nos - 1 to 33
Rouen Street, Nos -1 to 17, 2 to 18
South Road, Nos -102 to 178

Villeroy Street, Nos - 1 to 51, 2 to 44

INTEGRITY

Council has identified the buildings that it considers contribute to, and by exclusion do not contribute to, the precinct's heritage significance.

SPECIFIC ISSUES RAISED

In addition to more general submissions, specific submissions were received from owners of 18 properties in this estate. Apart from one submission in support of the heritage overlay, these submissions raised a number of issues that largely focused on the problems associated with managing the housing stock to allow for changing lifestyles, i.e. to allow dwellings to be increased in size to meet current social expectations of those wishing to live in this estate. Some submissions contested Council's assessment of their property as being of contributory value.

Other issues raised in submissions during the hearing included:

- Nos. 176-178 South Road are not War Service Homes and should not be included in the Heritage Overlay
- Some buildings have been so altered that they do not contribute to the estate's local heritage significance
- Conflict between the application of heritage conservation policies and local flood levels, which require higher floor levels (this relates to the Special Buildings Overlay, which runs diagonally across the precinct and mainly affects most of the houses between Agincourt and Imbros Streets, as well as the eastern part of Haileybury College and the Castlefield Reserve, in the precinct's south-eastern corner).
- The difficulty, in terms of resultant costs for advice and delays in obtaining approval, in negotiating with Council's planning officers to find a compromise design that will satisfy the officer's views on heritage values while allowing families to achieve their objectives for improved liveability and internal space in these old dwellings
- The subjectivity and variability of advice from Council's planners and their (alleged) failure, in some instances, to follow Council policy (e.g. in relation to the acceptable siting of carports).

Some submitters described, in detail, the protracted and difficult nature of the process required in individual cases to obtain Council's approval for extensions to existing dwellings. They also pointed out the difficulties involved in meeting other planning objectives, e.g. energy efficiency in design, while maintaining the heritage value of buildings constructed with non-energy efficient designs and materials.

DISCUSSION

We agree, in principle, with Council's assessment that the Castlefield precinct is of local heritage value. Put simply, the estate represents an important phase of social reconstruction post-World War I and is also an important repository of a stock of low cost housing from that era.

However, as discussed in an earlier chapter, we consider that the statement of significance is not appropriately drafted and, in this case, we consider that it does not

make adequately clear the basis of this estate's local heritage significance. We base this conclusion on the very brief outline of the estate's origins and development history and on the basis that we understand that a quite large proportion of the original housing still remains but has undergone varying degrees of modification, whether from insufficiently sensitive maintenance or as a result of the often substantial enlargement of the original dwellings.

The important issue that we need to consider is how to identify and manage the buildings that are contributory to the precincts heritage values.

We were advised that the original dwelling stock in this estate is quite small, in terms of current expectations of family-type housing in this metropolitan region (it was suggested to us at the hearing that these are less than 100m² for a typical dwelling). From this, and our observation of dwelling extensions undertaken to date in many parts of the precinct, it is clear that there is a demand by many residents for very extensive extensions. These often appear to have more than doubled the original dwelling's floor area and, even when set behind the original building or at least to involve its rear portions, they often dominant the original scale of the structure, making starkly apparent the difference between the dwelling's original modest scale and its extended form.

It therefore seems to us to be clear that either Council will have to severely limit extensions to dwellings, resulting in their occupancy being limited to those households that could tolerate such small dwellings, or Council must be prepared to find some acceptable way that owners can undertake reasonably large extensions without unduly compromising the original heritage values. The first option, if applied to an area as extensive as the Castlefield Precinct would involve a degree of social engineering that seems to us both inappropriate and undesirable, as well as being fraught with conflict between Council and existing or future residents.

The preferred option is therefore one of finding a way of allowing dwellings to be extended to meet residents' reasonable expectations while doing so in ways that minimise any compromise to the precinct's heritage values.

It seems to us that, because of the large extent of this precinct and the limited range of dwelling types and their siting on allotments, that there would be some justification for, and benefits in, preparing guidelines for building extensions that are specific to the Castlefield Estate. There must be sufficient standard dwelling and lots, together with existing extensions, for Council to explore solutions that would have some general applicability. This would also provide an opportunity to resolve such issues as the poor thermal efficiency of the historic buildings, the desire of many residents to provide on-site parking and car shelters and any requirement of the SBO for higher floor levels for new domestic construction.

It may be that Council should accept that additions to buildings will almost always be two-storeyed but that, if this can be achieved in reasonably consistent ways (after all, one of the dominant characteristics of the original estate was the visual consistency of dwellings) it may be possible to integrate future but quite visible changes with the historic past, to create a new layering of history that integrates past with modern adaptation, allowing old and new to each be separately identifiable.

We were provided by Bryce Raworth with a discussion paper by a number of eminent architectural historians, which explored the issue of how to design extension

to Californian bungalows with least effect on their heritage value. While this paper pointed out a number of options, and the complexity of the issues to be addressed, it did not propose a definitive solution. In our view, there is a choice between new work being imitative, to some extent, of the old or new work being designed to be clearly different.

The former of these has the advantage that, in terms of neighbourhood character, it will be least conflictive but will risk confusing new and old except for the experienced or informed observer. The latter may not be supportive of the existing but will clearly differentiate the past from the current history.

The other issue is the question of how to identify contributory buildings within the precinct. We were concerned by the clear demonstration, through cross-examination in particular, of the arbitrariness of decisions as to which buildings are contributory to the estates heritage values and which are not. For reasons discussed earlier, we consider that this arbitrariness could only be overcome by much more careful analysis of individual buildings. This would have to be preceded by a much clearer statement of the criteria for assessing a building's contributory status to a precinct. While we have a personal preference for the latter, as it would avoid confusing the two distinctive periods of change, this is really a matter best left to Council and the affected community to resolve.

As we have discussed earlier, we consider it unreasonable to expect Council to undertake such further research with the degree of rigour that would be necessary to provide a more confident identification of contributory buildings. We have therefore concluded that the more appropriate solution is to adopt the proposal advanced by the Ballarat C58 Panel: that all buildings in the estate should be classed as contributory with the exception of those that are clearly non-contributory (e.g. buildings of unrelated date) which would be identified on an incorporated plan), and the latter would be exempted by this plan from an identified range of the controls otherwise imposed by the Heritage Overlay.

We have supported the exclusion of Nos. 176 and 178 South Road, on the basis that, while abutting the estate, they do not appear to share the same social and institutional history.

As with other precincts, we consider that AHC Criteria A4 is appropriate and, given the nature and constancy of the architectural styles in this precinct, Criterion E1 also. There may be others that are relevant, but this will require further consideration of the social and historic issues relating to the estate.

RECOMMENDATION

Re the Castlefield Precinct (HO652)

- **That the Castlefield Precinct is of local heritage significance and should be included in a permanent heritage overlay, with the boundary varied only to exclude Nos. 176 and 178 South Road**
- **That Council develop a set of guidelines specifically for this precinct, to take account of the major social needs to adapt the historic dwellings to modern living standards and environmental requirements while retaining key heritage values of the estate**
- **Council review the statement of significance to identify the appropriate citations in relation to the AHC criteria.**

9.5 CHEESEMAN AVENUE PRECINCT, EAST BRIGHTON (HO653)

DESCRIPTION

1999 Bayside Heritage Review

The Cheeseman Avenue Precinct is located with one exception in the entirety of Cheeseman Avenue and Mackie Grove, there is also one property in Union Street which is on the corner of Mackie Grove. The properties are 3-33, 2-28 Cheeseman Avenue, 1-11, 2-14 Mackie Grove and 109 Union Street.

STATEMENTS OF SIGNIFICANCE

1999 Bayside Heritage Review

The Cheeseman Avenue Precinct is notable for its exceptionally intact inter-War style residential development. Comprising almost entirely standard single plan, single storey brick villas, the consistency of scale, setbacks and materials creates cohesive and homogenous streetscapes which are enhanced by mature front gardens and intact front fences.

Contributory Buildings

Cheeseman Avenue, Nos. - 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 33

Mackie Grove, Nos. - 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 14

Union Street, No - 10

INTEGRITY

The precinct comprises inter-war clinker and red brick villas, all generally uniformly set back from the front boundary.

PLACES SPECIFICALLY DISCUSSED

2 Mackie Grove, East Brighton

The owner objected on the grounds that the residence was atypical to the other precinct buildings, the heritage requirements would financially disadvantage owners, infringe on rights and that the materials used in construction were of an inferior standard which was common at the time.

Bryce Raworth inspected the property in June 2004 noting that the building is a typical and substantially externally intact example of the valued interwar building stock of the precinct.

PANEL'S DISCUSSION

The precinct is of distinctive character and the panel accepts Mr Raworth's opinion regarding the value of 2 Mackie Grove Brighton East and notes that none of the objections related to heritage issue.

The precinct consists of a common type of generally unremarkable standard plan brick villas that are intact and capture the character of the period. The area has cultural and historical significance.

In the absence of any expert evidence or substantial facts to the contrary, we accept Council's submission and Mr. Raworth's evidence.

PANEL'S CONCLUSION

That the property at 2 Mackie Grove, Brighton East

- ▮ **Is of local cultural and historical heritage significance and should be included on the heritage overlay**
- ▮ **The area defined as the Cheeseman Avenue Precinct is of local cultural and historical heritage significance (AHC Criteria A4) and should be included on the Heritage Overlay.**

9.6 COWPER STREET PRECINCT, BRIGHTON (656)

DESCRIPTION OF THE PLACE

[Identified by Ward, the boundaries remained substantially the same after the 1999 Review.]

1999 Bayside Heritage Review (Volume 3)

The 19th century development of the present Cowper and Budd Streets remains largely intact. The streets comprise predominantly small single and double-fronted, single-storey weatherboard cottages, typical of Brighton's former working class areas. The streets are oriented east-west and north-south, relieved by the dog-leg at the intersection of the two streets.

Typically, the houses have block fronted facades, verandahs supported on timber or cast iron columns with cast iron lacework friezes. Roofs are hipped and clad in corrugated iron with timber bracketed eaves. Chimneys are generally rendered with moulded caps. None of the original front fences remain, but many have been replaced by sympathetic timber picket fences. Windows are double-hung sashes and entrance doors have narrow sidelights. Nos. 7 and 9 are examples. Nos. 1, 3 and 5 are nearly identical detached double-fronted villas, characterised by symmetrical facades with tripartite double-hung sashes flanking the central entrance doors.

STATEMENTS OF SIGNIFICANCE

1999 Bayside Heritage Review (Volume 3)

The Cowper Street Precinct is of historical and aesthetic significance. The area is a substantially intact late 19th century residential area, comprising almost entirely modest detached weatherboard single storey cottages. The area demonstrates the important Boom period phase of the development of Brighton, representative of working and middle class housing of the period.

The following is a list of buildings that contribute to the heritage significance of the precinct:

Cowper Street	1,3,5,7,9,11A,13,15,17,19,21,23,25,27 8,10,12,14,16,18,20,22
Budd Street	14,16,22,24,26
Cochrane Street	34,36

2003 Bayside Heritage Review (Revision 1): no change.

Draft Clause 22.06 Heritage Policy (Amendment C38)

The Cowper Street Precinct is substantially intact and comprises detached weatherboard single storey Victorian cottages, as well as a number of detached brick Edwardian and Bungalow dwellings. The area demonstrates the important Boom period phase of the development of Brighton, representative of working and middle class housing of the period.

[The list of contributory buildings was the same as above.]

June 2004 Proposed Amendments to Draft Clause 22.06 Heritage Policy

[Recommended addition of 2 Cowper St and omission of 8 and 13 Cowper Street from list of contributory buildings.]

Note: there are five places with individual heritage listings in this precinct, Nos. 1, 3, 19, 21 and 27 Cowper Street (HO116-HO120). The first two are single fronted Victorian weatherboard cottages, the others double-fronted brick Victorian villas.



12 Cowper Street

PLACES SUBJECT TO SPECIFIC SUBMISSIONS

Submissions were received concerning Nos. 2 and 12 Cowper Street and No. 14 Budd Street.

The former was in support of the application of heritage controls to the Precinct and sought to have the property recognised as a contributory building, on the basis of information supplied.

The submission in regard to No. 12 Cowper Street opposed the inclusion of the property in the precinct on the grounds that the cost of maintenance of the house in its original condition was beyond the resources of the owner.

The submission on N. 14 Budd Street opposed heritage listing on the grounds that the property was no longer in original condition due to alterations and was not capable of being renovated to meet current needs. The submission also pointed out the potential impact of redevelopment of adjacent lots – not in the Heritage Overlay – on heritage houses.

DISCUSSION

We inspected the precinct and concluded that that the original description and Statement of Significance from the 1999 Bayside Heritage Review were rather misleading in their stress on weatherboard cottages. The version included in the draft Heritage Policy (Clause 22.06) is more accurate in mentioning the Edwardian and Bungalow-style brick residences in the precinct. We noted that a number of the Victorian properties are also brick, particularly on the northern side of Cowper Street at the Asling Street end.

We accept that the precinct is a coherent collection of working class and lower middle class housing of the late 19th and early 20th centuries. The Victorian houses are a mixture of double-fronted brick villas and single- or double-fronted timber cottages. Collectively, they represent the Boom period when settlement of the area began. The remainder of the properties, particularly those on the south side of Cowper Street (east of Budd Street) and in Cochrane Street date from the early 20th century. They are either Edwardian - mostly brick - or (apparently) early examples of the Bungalow style, which are similar to their Edwardian neighbours in scale, form, roof pitch, materials and relationship to the street. We therefore accept that the inclusion of the Bungalow-style properties in the Statement of Significance and the list of contributory buildings is appropriate,

Ms Horten-Zimmer also presented to the hearing, stressing in particular her difficulties with maintenance and renewal of her cottage at No. 14 Budd Street, since a large two-storey house was built on the southern boundary, cutting off access to one side of her property for painting and repairs. She did not believe that her property warranted 'contributory' status, since major changes had been made to the façade over time. Mr Raworth's review, however, found the property to be substantially externally intact and of the Victorian period, and recommended its retention as a contributory building. Whilst sympathising with Ms Horten-Zimmer's difficulties re ongoing maintenance and the practicality of extensions, we agree that the house does demonstrate the key characteristics of the housing type and era for which the precinct was identified. The maintenance problems and alternative solutions to them are matters which Council should be prepared to take into account in considering any future proposals for the property.

We also considered the submission with regard to No. 12 Cowper Street and note that the Heritage Overlay cannot compel owners to maintain their houses in original condition.

Finally, we note the recommendations of Mr Raworth's 2004 review of contributory buildings and endorse his suggestion that No. 13 Cowper Street be omitted from the list (this number does not seem to exist, since the numbering goes from 11A to 15). Mr Raworth also suggested omitting No.8 Cowper Street, though no grounds were given for concluding that this property was not contributory. It is a weatherboard house that seems to the Panel to date from the early 20th Century, and therefore to be of the same era as many of the other houses in the street. It does not appear to be substantially altered. We suggest that this house should be checked again before being omitted from the list of contributory buildings.

We also recommend that, in due course, Council should reassess the boundaries of the precinct to determine whether the two properties on the western side of Budd Street at the northern end should be included within it. No.3/3A Budd Street is

unlikely to be contributory, but No.5 appears to be a Victorian cottage, although somewhat altered. We also consider that, given that Budd Street is 'dead end', inclusion of the houses on both sides would be advantageous in preserving its character and contribution to the Precinct.

RECOMMENDATION

The Cowper Street Precinct (HO654) is of local heritage significance and:

- ▣ **Should be retained on the Heritage Overlay on a permanent basis**
- ▣ **The Statement of Significance should be amended to recognise that some of the Victorian houses in the Precinct are also of brick construction**
- ▣ **The Precinct's boundaries should be reviewed in due course to determine whether the two properties on the west side of Budd Street at its northern end should be added to the precinct (by means of a future Amendment)**
- ▣ **With regard to the list of contributory buildings in the Heritage Policy (Clause 22.06), No. 2 Cowper Street should be added to the list, No. 12 Cowper Street and No. 14 Budd Street should be retained on the list, No. 13 Cowper Street should be removed from the list and No. 8 Cowper Street checked to establish if it is contributory and, if not, removed from the list.**

9.7 GROSVENOR ESTATE PRECINCT, BRIGHTON (HO656)

DESCRIPTION

The following description of the Grosvenor Street Precinct has been extracted from the *1999 Bayside Heritage Review's* description of the Normanby and Grosvenor Estates Precinct, Brighton.

The precinct is residential, and building stock comprises mostly Victorian and Edwardian houses interspersed with a small number of inter-War houses. Generally, houses are single-storey, detached and set back from the street.

..... Grosvenor Street (has) bluestone kerbs Original front fences have generally been replaced, often with unsympathetic high brick fences.

STATEMENTS OF SIGNIFICANCE

Policy Statement of Significance:

Development within the Grosvenor Street Precinct is associated with the speculative Boom period of the 1880s. The area contains one of the most cohesive and intact collections of middle class Victorian and Edwardian housing in Brighton. The range of housing types is also of interest and includes mostly detached brick and weatherboard single storey villas.

Contributory Buildings

Chelsea Street, Nos. - 1, 5, 7, 11, 13, 15-15A, 17

Grosvenor Street, Nos. - 2, 4, 7, 9, 11, 11A, 14, 16, 18, 21, 22, 23, 23A, 24, 26, 27, 28, 34, 38, 40

At the Panel hearing, Mr Raworth acknowledged that this statement omitted reference to Inter-War housing, which should be included since such housing is included in the list of contributory dwellings and is at least alluded to in the *1999 Bayside Heritage Review's* description of the precinct.

SUBMISSIONS – GENERAL AND IN RELATION TO SPECIFIC PROPERTIES

Specific objecting submissions and presentations to the Panel were made in respect to the following properties: Nos. 4, 38, 40 Grosvenor Street.

All the submissions focused on the issue of whether there should be any Heritage Overlay in Grosvenor Street and, if so, what buildings should be included or not. There were no objecting submissions in relation to the Chelsea Street section of the Heritage Overlay. There were submissions in general support for this particular Heritage Overlay.

In respect to the individual properties, submitters argued that their properties did not meet the requirements for contributory buildings, that other buildings were incorrectly classified as contributory, or that the eastern or western boundary of the

section of the Heritage Overlay in Grosvenor Street should be redrawn to exclude properties at the respective outer limits of the street.

Submissions in respect of individual properties included the following points, in summary:

- No 40 has been extensively altered beyond what is reasonable for a contributory building
- No 38 has also been altered, is poorly designed in its detailing and standards of habitation and is nearing the end of its useful life
- No 10 has been altered by the addition of a second floor (less intrusive than that on No 40), and the owner seeks to have this building identified as being contributory, on the basis of their extensive rehabilitation of the original parts of the building and their high regard for building heritage
- No 4 is too isolated by non-contributory buildings as possibly was moved to this site from elsewhere.

Submissions about the generality of that part of the heritage precinct in Grosvenor Street included the following points:

- There are relatively few Victorian and Edwardian buildings in the street
- There are substantial numbers of non-contributory buildings in or abutting Grosvenor Street, including recent extensions to the Brighton Grammar School (some submissions treated inter-War dwellings as non-contributory).

PANEL'S DISCUSSION

There is no claim that there is anything particularly historic about the subdivision itself. This one is typical of many in Brighton. The principal grounds for the significance of the precinct is its "cohesiveness" and its representation of a wide range of historic building types.

This precinct includes a number of buildings and one tree that are already included in their own individual heritage overlays (6 dwellings in Grosvenor Street, one in Chelsea Street and a tree in Grosvenor Street). If this precinct is gazetted, each of these properties would then be included in two Heritage Overlays – one individual, one a precinct.

The failure of the statement of significance to include specific reference to the Inter-War housing created further difficulties for us in interpreting the intended basis of this precinct's significance. The statement of significance clearly focuses on the "Boom period" and then extends this by reference to the "cohesive and intact collections of middle class Victorian and Edwardian housing in Brighton". With reference to the range of housing styles, the statement merely notes "the range of housing types is also of interest" (not significance!).

In discussions before the Panel, Mr. Raworth also emphasised the importance of the cohesive quality of the precinct, but we had great difficulty in comprehending what exactly this 'cohesiveness' refers to. There is a great variety of housing types and sizes in the Grosvenor street and these have been built over a quite extended period. Even ignoring the post-Inter-War housing (which is not easy), we cannot discern what the concept of cohesiveness relates to. In our view, this group of housing, with

its considerable stylistic variety, has no more cohesiveness than most suburban housing built over this period but without any claims to historic significance.

The statement of significance makes only a cursory reference to the extended time scale of buildings in Grosvenor Street, though in Council's response to the submission in relation to 4 Grosvenor Street Mr Stokans submitted: "the essence of the statement of significance is not the homogeneity of the housing stock, but the range of housing types which is also highlighted."

With respect to the difficulties we see in this part of this precinct, there is firstly, and importantly, the fact that we cannot agree that there is any visual cohesiveness that would set this street apart from many typical suburban streets, as we see it. We had great difficulty in conceptualising what this cohesiveness relates to. Secondly, the Grosvenor Street part of the 'precinct' is not readily definable in any visually clear manner; at each end it fades out and becomes quite inconsequential and ambiguous.

At the eastern end, No 40 is an extremely modified Inter-War house (here we disagree with Mr Raworth, who concluded that it retains sufficient of its essential character to contribute to this precinct) which is not readily identifiable as of that era; the recent second floor addition dominates the building's overall character and the remnant original detailing of the ground floor is quite reticent. Opposite is the large open area of Brighton Grammar School. No 38, adjoining No 40, is of the Craftsman style but so individualistic in Brighton's suburban setting that it provides no connection with any other buildings in the precinct and no cohesiveness. Next to that is a vacant lot and is not, to our knowledge, representative of the Craftsman style as built in Melbourne. To that extent, it is an aberration, though stylistically identifiable.

At the other end of Grosvenor Street and on the northern side is a quite large group of very large, recently constructed dwellings that isolate or front No 4, the remaining contributory buildings to the very west. This building would not be so isolated if No 10 were classed as contributory, but it never has been in.

The effect of the heritage precinct would be to include an additional 14 dwellings as contributory in addition to the 6 that are already designated in their own overlay (Nos. 7, 9, 21, 24, 26 and 28) and would include an additional 10 sites (including one block of flats and one block of villa units that would be non-contributory).

The difficulty we have with this precinct, as stated above, is in defining a visually coherent boundary. In effect, the heritage values of the precinct tail out at each end in a very inconsequential manner.

In our view, a more coherent area would be to limit the precinct at each end to create a more cohesive core (cohesive in respect to the dominance of heritage values that accord with the statement of significance). We have rejected No 40 as having a contributory status, as a result of the dominating first floor extension, which overwhelms the relatively modest ground floor scale and detailing. We also do not consider that No 38, in spite of its aberrant curiosity factor, contributes to the precinct's defined core values. On this basis, the eastern end of the precinct would be better designated as defined by Nos 27 and 34.

At the western end, No. 4 is a relatively modest dwelling and could not be classed as representative of middle class housing. In spite of the owner's submission, we do not have any evidence with which to contradict the 1999 *Bayside Heritage Review's*

conclusion that No. 10 is not a contributory building. On that basis, the western end of the precinct would be better defined by Nos 7 and 14. We note that, although No 4 is included as a contributory building, it is not within the exhibited boundary of the precinct.

In conclusion, we support the general proposal to create a precinct to contain parts of Grosvenor and Chelsea Streets, but we consider that its boundaries should be reduced in Grosvenor Street. As discussed earlier, we consider that this precinct should be cited in relation to AHC Criterion A4. Because the AHC criteria apply to the whole of the precinct and because this precinct, as a whole, has a fairly heterogeneous character, we do not consider it appropriate to cite the precinct in relation to Criterion E1.

On this basis, we consider that the statement of significance should be redrafted in words to have the following effect:

The Grosvenor Street Precinct is historically significant at the local level as an example of the pattern of development of this part of Brighton over three main phases: the 1880s Boom period, when settlement was commenced; the Edwardian years of the early 20th Century, when building resumed after the 1890s depression, completing development of the original subdivision; and the Inter-War period, when houses were constructed on lots provided by re-subdivision of large original titles.

RECOMMENDATION

That the Grosvenor Precinct:

- Is of local heritage significance in relation to AHC Criterion A4 and should be included in the permanent heritage overlay
- The boundaries within Grosvenor Street should be redefined to exclude properties west of Nos 7 and 14 and east of Nos 27 and 34
- The Statement of Significance should be redrafted to include reference to inter-War housing.

9.8 HAMILTON STREET PRECINCT, BRIGHTON (HO657)

The 2003 Bayside Heritage Review altered the boundaries of Ward's Hamilton Street Precinct and enlarged it.

1999 Bayside Heritage Review (Volume 3)

The Hamilton Street Precinct is a small residential area in Gardenvale, to the west of Gardenvale Station. The precinct is characterised by detached single-storey houses, mostly of weatherboard construction, dating from the late 19th and early 20th centuries. The west side of Hamilton Street comprises almost entirely Victorian single- and double-fronted cottages, with hipped corrugated galvanised steel roofs and verandahs with cast iron lacework friezes. Facades are typically of block-fronted timber with tripartite double-hung sash windows.

The majority of the remainder of the building stock comprises modest Edwardian cottages. Most are weatherboard, with hipped and gabled corrugated galvanised steel roofs, characterised by asymmetrical planning, leadlight casement windows and timber verandah fretwork. A small number are of red brick with terracotta tiled roofs.

Kerbs and gutters are of concrete, with the exception of Cochrane Street, which is of bluestone.

Houses are substantially intact, the most common alterations being the replacement of front fences and roofing. The intactness of the built fabric of the area as a whole is high, with only two post-War houses in Cole Street and one in Cochrane Street.

STATEMENTS OF SIGNIFICANCE

1999 Bayside Heritage Review (Volume 3)

The Hamilton Street Precinct is of aesthetic significance. The area is a very intact, late 19th and early 20th century residential area, comprising both brick and weatherboard single storey cottages. Hamilton Street itself is the most intact example of a 19th century Boom period subdivision of workers cottages in Brighton, and is relatively unusual in the context of Gardenvale, which was predominantly developed during the Edwardian period.

The following is a list of buildings which contribute to the heritage significance of the precinct:

Hamilton Street	1,4,5,6,7,10,11,12,13,14,15,17,19,21,23
Cole Street	104,106,108,110,111,114,116,117,118,119,120,121,123,129,131,133
Cochrane Street	100,102,108,110,112,114,116,118,120
May Street	1,2,3,4,5,6,7,8,9,10,11,12,13,14,15,16

2003 Bayside Heritage Review (Revision 1)

The Hamilton Street Precinct is of aesthetic significance. The area is a very intact late 19th and early 20th century residential area, comprising almost entirely detached weatherboard single-storey cottages. Hamilton Street itself is the most intact example of a 19th century boom period subdivision of worker's [sic] cottages in Brighton and is

relatively unusual in the context of Gardenvale, which was predominantly developed during the Edwardian period.

[The list of contributory buildings remained the same.]

Note: the original definition of this precinct included four properties on the north side of Martin Street, west of Hamilton Street, but they were not included in the mapping of the boundaries of HO657 for the interim controls.

Draft Clause 22.06 Heritage Policy (Amendment C38)

The Hamilton Street Precinct is a very intact late 19th and early 20th century residential area, comprising both brick and weatherboard single-storey cottages. Hamilton Street itself is the most intact example of a 19th century Boom period subdivision of workers cottages in Brighton and is relatively unusual in the context of Gardenvale, which was predominantly developed during the Edwardian period.

[The list of contributory buildings was the same as above.]

June 2004 Proposed Amendments to Draft Clause 22.06 Heritage Policy

[No change to list of contributory buildings.]

Note: this precinct encompasses five properties with individual Heritage Overlays: Nos 4, 17, 19, 21 and 23 Hamilton Street (HO193 to HO196). They are all single fronted Victorian weatherboard cottages.

PLACES SUBJECT TO SPECIFIC SUBMISSIONS

Two submissions were received from the owners of No 110 Cochrane Street, one in support of the application of the Heritage Overlay to the area, the other opposed, especially with regard to May Street and the area of Cochrane Street included in the precinct. The latter claimed that all the houses in these areas had been altered, including the submitters' property.

A submission was also received concerning 118 Cole Street, in which the owner raised concerns about the cost of compliance with the Heritage Overlay in terms of the additional information required to accompany a permit application.

DISCUSSION

Our inspection revealed that properties in Hamilton Street and the part of Cole Street included in this precinct are predominantly weatherboard workers' cottages, with some later brick residences included. This area appears to have undergone relatively little change. There are handsome street trees, particularly in Cole Street. In May Street and on the eastern side of Cochrane Street the houses are mainly Edwardian brick villas, some with pebble-dash finish. A number of those in May Street have been altered and/or added to and some have unsympathetic garages or carports.

We concluded that the precinct as a whole demonstrated the qualities outlined in the Statement of Significance.

With regard to the properties that were subject to submissions, Mr Raworth reassessed both properties and concluded that they were typical examples of the Edwardian residential stock that is valued within the area and should be retained as

contributory. He did not consider the alterations that have been made to the properties changed this assessment. We agree with this conclusion.

Our earlier comments relating to the application of AHC criteria A4 and E1 to precincts also is applicable.

RECOMMENDATION

That the Hamilton Street Precinct (HO657):

- **Is of local heritage significance (AHC Criterion A4) and should be retained on the Heritage Overlay on a permanent basis**
- **No. 110 Cochrane Street and No. 118 Cole Street should be retained on the list of contributory buildings**
- **The bluestone kerb in the section of Cochrane Street included in the Hamilton Street Precinct should be mentioned in the Statement of Significance**
- **The statement of significance should also be reviewed in the light of the Panel's other comments.**

9.9 MUNRO STREET PRECINCT, BRIGHTON(HO659)

DESCRIPTION OF THE PLACE

1999 Bayside Heritage Review (Volume 3)

The Munro Street Precinct is a small residential area, comprising a mix of Victorian, Edwardian and inter-War houses. The houses are generally detached, single-storey and set back from the street, and designed in a variety of styles. The 19th century houses are typically Italianate, characterised by rendered or bichromatic brick facades, hipped slate roofs with bracketed eaves and cast iron verandahs. The Edwardian houses are asymmetrically planned with hipped and gabled roofs. The south side of the street contains mostly brick and weatherboard inter-War houses, all single storey and characterised by intersecting terracotta tiled gabled roofs and asymmetrical composition. Alterations include the replacement of the original front fences with timber paling of [*sic*] picket fences. Both sides of Munro Street are largely intact; there has been only one later construction on the north side of the street.

STATEMENTS OF SIGNIFICANCE

1999 Bayside Heritage Review (Volume 3)

The Munro Street Precinct is of aesthetic significance. The precinct is distinguished by its mixed character containing a collection of typical Victorian, Edwardian and inter-War houses, all relatively intact. The streetscape is compromised by only one later addition on the north side of Munro Street.

The following is a list of buildings which contribute to the heritage significance of the precinct:

Munro Street	1,3,5,7,9,11,11A,17,19 2,4,6,8,10,12,14,16,18,20,22,24,26,28
New Street	144,146,148

2003 Bayside Heritage Review (Revision 1)

[No change.]

Draft Clause 22.06 Heritage Policy (Amendment C38)

The Munro Street Precinct is distinguished by its mixed character that includes Victorian, Edwardian and inter-War houses, all of which are relatively intact. Buildings are generally single storey, detached and set back from the street.

[No change to the list of contributory buildings.]

June 2004 Proposed Amendments to Draft Clause 22.06 Heritage Policy

[Proposed omitting No 146 New Street from list of contributory buildings and recognising that the building listed as No 24 Munro Street is 24A and 24B.]

Note: There is only one individually listed building encompassed in this precinct, No 144 New Street, Brighton (HO267).

PLACES SUBJECT TO SPECIFIC SUBMISSIONS

A submission was received concerning No 14 Munro Street. The submitter opposed the inclusion of the property in the Overlay, since it was an old timber building that had been altered and he had bought it with the intention of redeveloping.

A submission was also received in relation to No 146 New Street, opposing the inclusion of the property in the Precinct and in the list of contributory buildings.

DISCUSSION

An inspection of the precinct showed that it is made up generally of small houses dating from the late 19th century to the inter-War period, most on relatively small allotments and set back from the street. Some of the Victorian houses have been rendered and several of the timber Edwardian properties have prominent second storey extensions. The inter-War houses are similar in scale, materials and roof pitch to the older properties in the precinct and do not stand out as being of a different era or design. The precinct appears to be very coherent, with only one large house of recent construction that is at odds with the rest of the street.

We accept that the Precinct exhibits the characteristics for which it has been nominated.

With regard to the properties on which there were submissions, a review by Bryce Raworth confirmed that the house at No 146 New Street was a new building (although in a reproduction Edwardian style) and recommended that it be omitted from the list of contributory buildings. No 14 Munro Street, on the other hand, is a timber inter-War building which Mr Raworth considered was appropriately identified as contributory. The Panel agrees with these assessments.

We consider that if the house on the south-west corner of New Street (No 146) is no longer recognised as a contributory building and the boundary of the precinct should be redrawn to exclude this property.

RECOMMENDATION

With regard to the Munro Street Precinct (HO659):

- ▣ **The precinct is of local heritage significance (AHC Criterion A4) and should be retained in the Heritage Overlay on a permanent basis**
- ▣ **The precinct's boundaries should be refined to exclude the property at No. 146 New Street**
- ▣ **The description of the precinct in the Heritage Policy (Clause 22.06) should retain No 14 Munro Street as a contributory building but be amended to recognise both 24 and 24A Munro Street and omit reference to No 146 New Street.**

9.10 NEW/DENDY STREET PRECINCT, BRIGHTON (HO660)

DESCRIPTION

The precinct comprises numerous large houses dating from the Victorian and Edwardian eras. In Dendy Street, near Manor and Sussex Streets, the substantial Victorian villas are readily visible, their flamboyant architecture reflecting the aspirations of the residents and the extent to which this area was valued as a residential address. The substantial Edwardian period residences built on the grounds of “Bronte” facing New Street add variety to the precinct and import distinction to it. The corner property at No. 127 New Street is an amalgam of stylistic influences including those of the American shingle style, H H Richardson, and the Queen Anne period. No 135 and 137, “Braemar” also display similar influences in their design.

We were advised that, contrary to the map from the *1999 Bayside Heritage Review* Vol. 3, No. 2 Sussex Street is not included in HO660, has its own heritage overlay and is otherwise included in the Clause 22.06 policy statement.

STATEMENTS OF SIGNIFICANCE

Bayside Heritage Review 1999:

The New and Dendy Street Precinct is of historic and aesthetic significance. The area is noteworthy as a collection of substantially intact Victorian and Edwardian middle to upper class villas. The later Edwardian residences are of particular architectural merit.

Buildings listed as contributing to the precinct’s significance are:

- Dendy Street – Nos 11, 13, 15, 17
- New Street – Nos 127, 131, 133, 135, 137, 139, 143.

Individual heritage overlays are applied to eight lots in this precinct – five fronting Dendy Street (Nos 11, 11A, 11B, 15 and 17) and three fronting New Street (the corner lot, No 127 and, at the northern end of the precinct, Nos 139 and 141).

PLACES THE SUBJECT OF SPECIFIC SUBMISSIONS

Properties about which specific submissions were made are:

- Dendy Street - Nos 11, 13A, 15, 17
- New Street – No 133.

PANEL’S DISCUSSION

Only one submission was made in respect to a property in New Street (No 133). Mr. Raworth described this dwelling as “an example of turn of the century residential stock, part of the ‘substantially intact Victorian and Edwardian’ built form that is valued within the precinct.” No contrary evidence or detailed submission was provided to rebut this statement. From our inspection, we agree with and accept Mr. Raworth’s evidence.

The New Street section of this precinct contains a row of substantial buildings of the relevant era. We do not consider that there are any grounds on which this section of the precinct can be questioned.

However, the Dendy Street section is a different matter. Owners of four properties in this street made submissions arguing that their property did not have the integrity required to support its inclusion in a heritage precinct (this notwithstanding that three of these building are already placed in their individual Heritage Overlay).

Generally, while we accept that each of these buildings has been altered, we consider that the alterations are not of such a scale or nature as to render them unsuitable as contributory buildings to a heritage precinct:

- No 11 has undergone significant alterations to its rear and west side – towards Manor Street, but its original, Victorian character is still very dominant
- No 15, a two-storeyed Edwardian house, has undergone a number of alterations, partly perhaps as a result of less sensitive maintenance, partly as a result of the subdivision of the western side of its site to create a separate allotment, now developed (loss of the original extensive garden, relocation of the western side entry to a front corner entry). However, because of the large size and strong architectural form and detailing, the original architectural character of the building is still very much in evidence and sufficiently unspoilt to merit its inclusion as a contributory building.
- No 17, a single-storeyed Victorian house, has undergone alterations to its rear sections, but still retains the important structure and detailing in the front sections.

However, there are a substantial number of later intrusions into the Dendy Street section of this precinct:

- No 11A – a modern house with a design based loosely on the two-storeyed Neo-Georgian Revival style (from the Inter-War period).
- No 11B – a vacant lot created by a more recent subdivision, with the buildable section of land to the rear of No 13 and the narrow battle-axe section having frontage to Dendy Street between Nos 11A and 13.
- No 13 – apparently a single-storeyed Victoria Italianate style dwelling that was extensively remodelled in the Inter-War period into a two-storeyed building using Arts and Crafts-style finishes and detailing, to the extent that the visible remnants of the original structure and Victorian detailing are (in our view) both difficult to discern and visually overwhelmed by the later changes.
- No 13A – a two-storeyed, Inter-War Art Nouveau house.
- Nos 2A Sussex Street and No 19 Dendy Street – a pair of matching, recently-constructed, two-storeyed Georgian Revival dwellings.

Overall, we see the Dendy Street section of this precinct as consisting of a relatively small and scattered collection of individual buildings from the Victorian and Edwardian periods. We do not consider that, as a group, they offer any of the visual coherence that we consider desirable if the precinct is to offer something more than is already created by the heritage overlays to the individual properties. Certainly, this group of buildings does not come anywhere meeting Ms Riddett’s stated criteria of 80-85% of buildings in a precinct as being contributory. In making this statement, we consider that it is appropriate to not include No 127 New Street, which only

contributes its sideage to the Dendy Street part of the precinct, and we are excluding No 13 Dendy Street as a contributory building.

From this point of view, the intrusion of more (mainly much more) recent buildings and the substantial modifications to No 13 seem to make nonsense of the Dendy Street section of this precinct.

As discussed earlier, we consider that AHC Criteria A4 is relevant to the New Street balance of the precinct. Also for reasons discussed earlier, we are reluctant to support the application of Criterion E1 to a precinct.

CONCLUSION

Re HO660:

- **That part of the precinct consisting of dwellings facing Dendy Street is not of local heritage significance and should be excluded from the precinct**
- **The balance of the precinct, consisting of dwellings facing New Street, is of local heritage significance (AHC Criterion A4) and should be retained in a permanent heritage overlay**
- **The statement of significance should be amended accordingly.**

9.11 NORMANBY ESTATE PRECINCT, BRIGHTON (HO661)

DESCRIPTION

1999 Bayside Heritage Review (Volume 3)

[Note: The Normanby and Grosvenor Estates formed one large precinct in this study.]

Grosvenor, Chelsea and Normanby Streets are parallel east-west oriented streets, extending from the Esplanade to the west and New Street to the east. St Andrews Church terminates the vista along Normanby Street. The precinct is residential, with a small number of inter-War houses. Most of the properties facing the Esplanade and New Street are not sympathetic with the 19th and early 20th century character of the area, although the former hotel at the corner of Chelsea Street is of interest. Generally, houses are single storey, detached and set back from the street; the pair of double-storey terraces at 4-6 Normanby Street is an exception. Victorian houses include the substantially intact polychromatic brick villa at 15-15A Chelsea Street. Dalton, as 39 Normanby Street and constructed in 1884, is one of the largest residences in the precinct, distinguished by its double-storey Italianate tower and unusual front fence erected in 1915 from World War 1 ammunition shells. Nos 5 and 17 Chelsea Street are typical weatherboard Edwardian houses.

Normanby and Grosvenor Streets have bluestone kerbs while Chelsea Street has concrete kerbs. The streets have nature strips and plantings include melaleucas. The palm trees in the front garden of Dalton are prominent elements of the east end of Normanby Street. Original front fences have generally been replaced, often with unsympathetic high brick fences.

STATEMENTS OF SIGNIFICANCE

1999 Bayside Heritage Review (Volume 3)

The Normanby and Grosvenor Estates Precinct is of historical and aesthetic significance. Development of the area is associated with the speculative Boom period of the 1880s, and the area contains one of the most cohesive and intact collections of middle class Victorian and Edwardian housing in Brighton. The range of housing types is also of interest and including mostly detached brick and weatherboard single-storey villas, a terrace pair at 4-6 Grosvenor Street [*sic*] and Dalton, the substantial Italianate residence at 39 Grosvenor Street.

The following is a list of buildings that contribute to the significance of the precinct [*only those in Normanby Street are listed below*]:

Normanby Street	1, 3, 4-6, 5, 7, 8, 9, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 27, 28, 31, 33, 34, 37, 39, 40
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2003 Bayside Heritage Review (Revision 1)

The Normanby and Grosvenor Estates Precinct is of historical and aesthetic significance. Development of the area is associated with the speculative Boom period of the 1880s, and the area contains one of the most cohesive and intact collections of middle class Victorian and Edwardian housing in Brighton. The range of housing types is also of interest and including mostly detached brick and weatherboard single-storey villas, a

terrace pair at 4-6 Grosvenor Street [*sic*] and Dalton, the substantial Italianate residence at 39 Grosvenor Street [*sic*].

The following is a list of buildings that contribute to the significance of the precinct:

Normanby Street	1, 3, 4, 5, 6, 7, 9, 11, 12, 13, 14, 15, 16, 17, 19, 20, 21, 22, 23, 24, 25, 27, 28, 31, 33, 37, 39
New Street	247

Draft Clause 22.06 Heritage Policy (Amendment C38)

Developed during the Boom period of the 1880s, this precinct contains one of the most cohesive and intact collections of middle class Victorian and Edwardian housing in Brighton. Housing types are mostly detached, brick and weatherboard single storey villas.

[The list of contributory buildings was the same as above, except that Nos 4 and 6 Normanby Street were shown as 4-6.]

June 2004 Proposed Amendments to Draft Clause 22.06 Heritage Policy

[The revised Heritage Policy proposes to omit No. 247 New Street and Nos. 14 and 31 Normanby Street from the list of contributory buildings.]

Note: this precinct encompasses a very large number of properties that already have permanent individual Heritage Overlays: Nos 4-6, 5, 7, 9, 11, 12, 13, 15, 16, 17, 19, 20, 21, 22, 23, 24, 27, 28, 33, 39 and 40 Normanby Street (HO283-HO303).

PLACES SUBJECT TO SPECIFIC SUBMISSIONS

A submission was received regarding No 23 Normanby Street (a property already subject to a permanent Heritage Overlay – HO297) opposing the application of the overlay to the precinct on the grounds of the cost and loss of property values imposed on owners. The submission also pointed out that, since properties to the rear (in Chelsea Street) were not subject to similar controls, places in the heritage precinct could still be disadvantaged by unsympathetic development of adjoining lots.

The owner of No 37 also opposed the application of the Heritage Overlay to the property, on the grounds that it was built in the inter-War period and is screened from the street by a large Cypress hedge. The submitter suggested, however, that the fence should be considered for inclusion, since it, like the one at Dalton (mentioned in the precinct description above) was built in 1915 from World War I ammunition shells.

DISCUSSION

Inspection of the precinct shows that the most unusual feature of Normanby Street is the two-storey Victorian terrace-style pair at Nos 4-6. The majority of the other houses are single storey Victorian villas, plus several early 20th century Edwardian style residences and a relatively small number of houses from later periods. Some houses have been altered, particularly to add garages/carports or rear extensions. Many have high front fences or walls.

Mr Reynolds argued that individually significant buildings did not necessarily contribute to a precinct, even if they have some of the key characteristics for which

the precinct was nominated. He put the view that the high walls and fences in Normanby Street cut the houses off from street, so that they did not have the sense of spatial relationship required for a precinct. The Panel considers that it is true that properties of individual significance may not be contributory to a precinct if they are of a very different era or style from that which the precinct represents (for example, 'Woolsery', a Victorian house encompassed within an inter-War estate in the Berkeley Avenue Precinct, as discussed above). However, that is not the case with the Normanby Street Precinct.

We accept that, in view of the character and quality of the residential area encompassed by the precinct, the consistency of period (late 19th and early 20th century) of the majority of the residences, and the number that have already been identified as of individual heritage significance, the Normanby Street Precinct as a whole is of local heritage significance. Inclusion of the whole area under the Overlay will help to preserve the setting of the individually significant houses, as well as the overall character of the precinct.

Mr Raworth, in his review of the Precinct, recommended that 'inter-War' should be added to the Statement of Significance, so that the second sentence would read:

Development of the area is associated with the speculative Boom period of the 1880s, and the area contains one of the most cohesive and intact collections of middle class Victorian, Edwardian and **inter-War** housing in Brighton.

Ms Riddett, however, told the hearing that she had not reviewed the precinct and was not clear whether the addition of 'inter-War' was justified or desirable. She advised that one of the reasons for splitting the Normanby and Grosvenor Estates into two separate precincts was that the Victorian dominance was not as marked in Grosvenor Street.

Mr Raworth, in line with his recommendation above, considered that the inter-War house at 37 Normanby Street should be retained as a contributory building. The Panel does not accept that 'inter-War' should be added to the Statement of Significance for this precinct, since this would tend to dilute the importance of the properties from the earlier periods. Those houses that apparently fit into the inter-War category (on the Panel's assessment, Nos 1, 3, 25 and 37 Normanby Street) are quite modest buildings and/or mostly screened from the street. They do not, in the Panel's view, make a significant contribution to the streetscape or character of the Precinct, although their designs are not unsympathetic to the nearby Victorian and Edwardian dwellings.

Mr Raworth also recommended removing No 247 New Street and Nos 14 and 31 Normanby Street from the list of contributory buildings. The Panel agrees with these recommendations, on the grounds that No 247 New Street is not visually linked with the precinct and the two houses in Normanby Street appear to be from later periods.

With regard to the submission concerning No 23 Normanby Street, the Panel cannot revisit the merits of the heritage listing for this property, as it is already included in the Overlay on a permanent basis. The Panel acknowledges the submitter's concerns regarding potential development on the lots to the rear (in Chelsea Street), but notes that this area was not included in the original definition of the Normanby and Grosvenor Estates Precinct, as it was not regarded as having sufficient heritage significance.

Finally, the Panel considers the Statement of Significance, should be redrafted to reflect both the errors in the street names and to remove the lengthy and descriptive material that is not relevant to this purpose but which should be found in the supporting material.

RECOMMENDATION

Re the Normanby Street Precinct (HO661)

- **The precinct is of local heritage significance (AHC Criterion A4) and should be retained on the Schedule to the permanent Heritage Overlay**
- **No 247 New Street and Nos. 14 and 31 Normanby Street**
- **should be removed from the list of contributory buildings**
- **Subject to confirmation that they are inter-War buildings, Nos 1, 3, 25 and 37 Normanby Street should also be removed from the list of contributory buildings.**

9.12 NORTH ROAD PRECINCT, BRIGHTON (HO662)

DESCRIPTION

1999 Bayside Heritage Review

North Road is a wide east-west oriented street, the part which is located within the precinct extends from New Street to Cochrane Street. The principal public and private buildings stand exposed to public view in an historic, parkland setting. Kamesburgh dominates the south side of the road; the boundary fence and gatehouse are also important elements in the streetscape. Public buildings on the north side are the sandstone St James Catholic Church and adjacent red brick Presbytery, double fronted Italianate St Stephens Anglican vicarage and bichromatic brick John Knox Church.

STATEMENTS OF SIGNIFICANCE

1999 Bayside Heritage Review

One of the principal thoroughfares of Brighton, North Road is distinguished by its gracious boulevard quality. This is reinforced by its generous wide mature avenue of elm and pine trees and further enhanced by substantial abutting properties including Kamesburgh, St James Catholic Church and St Stephen's Anglican Church.

The precinct consists of 65-111, 54-106 North Road, 66-72 Cochrane Street, 1-13 Downes Avenue and 380-384 New Street Brighton.

INTEGRITY

Mr Stokans submission

There have been changes made to the precinct's boundaries since the 1999 Bayside Heritage Review, and what was exhibited. St Stephen's Anglican Vicarage, St James Catholic Church and part of the John Knox Presbyterian Church and Manse were excluded from the precinct by C38 as exhibited. It is proposed to include St Stephen's in the precinct as a result of the Minister's intervention associated with an application to demolish the place. Number 64 North Road has been excluded from the precinct because it is subject to an individual control and Number 55 has been redeveloped in a way inconsistent with the contributory features described in the Statement of Significance. The John Knox Manse was excluded from the precinct by mistake.

PLACES SPECIFICALLY DISCUSSED

No 72-74 Cochrane Street Brighton – seeking to exclude the Heritage Overlay from the undeveloped rear of the site.

No 106 North Road – objecting on philosophical grounds and questioning the accuracy of the research data.

DISCUSSION RE NO 72-74 COCHRANE STREET

There are four principal buildings on the St Stephen's Anglican Church site; the main church, an attached hall, the vicarage and the former church building.

The main church and attached hall are included in the North Road Precinct, whilst the vicarage is individually listed (HO 310). These and the former church building are sited on three separate titles.

The former church was inadvertently omitted when the precinct boundaries were drawn. Council now seeks to amend the precinct boundary to include the former church building.

A heritage review of the place on 7 July 2003, by Robyn Riddett and George Philips, Council's Heritage Advisers, indicates that the place dates from 1884, is of local historical and aesthetic significance, and is "associated with the establishment and early phase of St Stephen's in Brighton and, more generally, demonstrates the nineteenth century activities of the Church of England in the municipality."

The property's owner, the Anglican Diocese of Melbourne, has objected on the ground that it does not have the financial resources to carry out works elsewhere on the site and had intended to sell this property to finance the other works. The Diocese is concerned that the Heritage Overlay will devalue the site.

There was a written request from the owner to allow vehicular access on part of the site to gain access to the undeveloped rear portion of the site to allow for its future development.

Mr Dominic Scally, Best Hopper Solicitors, appeared for the Anglican Diocese of Melbourne, with expert witness Mr David Bick Architect. A report from Archicentre Ltd. was submitted, noting building faults.

Mr Bick's opinion supported the inclusion of the former church building on the basis of local heritage significance. Mr Scally sought removal of the Heritage Overlay from the rear section of the site to simplify the development approval required for its development. This development would require access to be provided along the side of the former church building.

Mr Stokans' summary states that if Heritage Overlay is removed from the land, the only planning controls that would apply would be the Residential 1 Zone, so that in the event that redevelopment of the rear area were to occur, there would be no controls that would protect the heritage qualities of the former church. The DD02 43.02 guidelines for height, scale for development only applies to less than 2 stories. Therefore, he submitted, it would be inappropriate to remove the Heritage Overlay. He noted that a permit can be granted for the redevelopment of the existing undeveloped (or any) portion of the site but within the guidelines created by the existing heritage overlay. He also submitted that it is not the Panel's responsibility to pre-judge future development proposals.

The Bayside Alliance supported the existing Heritage Overlay, noting that Heritage Victoria's recommendation for listing the building on the State Register (the letter from Heritage Victoria, 11 February 2004).

The undeveloped rear section of the site does not, of itself, have any heritage significance. The issue here is, therefore, to weigh the benefits to the owner of removing this area from the Heritage Overlay as compared to the risks to the heritage values of the site. In principle, and with the support of the VPP Practice Note: Applying the Heritage Overlay, it is desirable that the Heritage Overlay's boundaries should be those of a site's title, unless there is some special reason for adopting a different definition. If the Heritage Overlay is removed from the rear portion of the site, which would then be only affected by the Residential 1 Zone, a single detached house could be built without a permit. However, a permit would still be required to construct a driveway past the former church.

With the Heritage Overlay applying to the whole site, a permit would be required to construct a single dwelling to the rear in addition to any driveway past the former church. The principal issues to be considered, however, would be the affect of the design of such a dwelling on the heritage values of the former church (the existence of the Heritage Overlay would, of course, invoke relevant issues under Clause 55).

To the extent that any new building would be almost entirely concealed by the heritage building in front of it, so that its design could be unconstrained, the existence of the Heritage Overlay should not, in practice, be any hindrance. To the extent that the unfettered design of a dwelling to the rear of the site could prejudice the heritage values of the former church, it would be desirable to maintain the heritage controls over the whole site.

While we appreciate that old buildings may be more expensive, sometimes much more expensive to maintain and, when designed for a special purpose, have little value for any other use, this is not a matter that bears on the assessment of a building's heritage values. It is, on the other hand, a matter that should properly be taken into account in any subsequent decisions whether to allow the modification to, or demolition of, a building.

DISCUSSION RE 106 NORTH ROAD, BRIGHTON

This dwelling a single storey villa with cast extensive cast iron veranda and landscaped garden.

It was cited as a contributory building in the *1999 Bayside Heritage Review*. The property occupies the south-east corner of North Road and Cochrane Street Brighton, which forms part of the border of the North Road Precinct.

Bryce Raworth inspected the property in June 2004, noting that the subject house is a typical and substantially externally intact nineteenth century villa, part of the late nineteenth century built form that is valued within the precinct.

No evidence or other substantive facts were put to us that would contradict Mr. Raworth's assessment. We therefore are obliged to support his expert opinion.

RECOMMENDATION

Re the North Road Precinct (HO662):

- **That No. 72-74 Cochrane Street is of local heritage significance and the whole of the site should be included in a permanent Heritage Overlay**
- **That No. 106 North Road, Brighton, is a contributory building to the precinct**
- **That the area defined as the North Road, Brighton Precinct is of local cultural, aesthetic and historical heritage significance and should be included in the permanent heritage overlay.**

9.13 ORLANDO STREET PRECINCT, BRIGHTON (HO664)

DESCRIPTION

1999 Bayside Heritage Review (Volume 3)

The Orlando Street Precinct embraces most of the land formed by the Orlando Estate subdivision of 1888 and the smaller Hampton Estate of 1904. The area is predominantly residential, with a small area of commercial development in Small Street and Railway Crescent. It is located in the area between Beach Road and the Sandringham railway line and its limits are defined by the extent to which Edwardian building stock remains. The street pattern is irregular, with its principal street, Orlando Street, running parallel to Beach Road.



52 Orlando Street

The houses are generally modest detached Edwardian villas, generally of weatherboard construction and mostly single storey. These are often identical or similar in form, and occasionally occur in pairs. A group of larger Edwardian villas in the vicinity of the intersection of Orlando Street with Railway Crescent is an exception to this generalisation.

The houses are characterised by their usually asymmetrical composition, with projecting gabled bays and timber verandahs on the street elevations. The houses display typical features of the Edwardian Queen Anne style, including groupings of casement windows – some with original leadlighting – half-timbered gable ends, turned timber verandah posts and timber fretted verandah friezes. Roofs are generally clad in corrugated iron, with a small number having terracotta tiling. Timber bracketed hoods over windows and tall brick chimneys are also common features. No 66 Orlando Street is a typical and

intact example. An unusual example is 70 Orlando Street, which has its verandah running across the full length of the front elevation.

The houses are largely intact, the most common alteration being the replacement of the original fences. Many of the timber picket fences are recent and are generally sympathetic. Other typical alterations include the construction of a second storey addition and the construction of a carport in the front garden.

Commercial buildings include the single-storey group of shops at 9 Railway Crescent, which have been considerably altered and the single- and double-storey shops in Small Street. These Edwardian buildings, together with a small number of shops in Hampton Street south of the railway line, predate the development of the Hampton Street commercial centre.

The area also contains a small number of inter-War buildings, including the bungalow at No. 36 Orlando Street and the double-storey clinker brick block of flats at No. 34 Orlando Street. Non-heritage elements include the c.1970s block of units at No. 77 Orlando Street.

Street planting in Orlando Street is sparse and Railway Crescent features relatively recent natives. All streets have nature strips and the kerbs in Small Street and Railway Crescent are of bluestone.

STATEMENTS OF SIGNIFICANCE

1999 Bayside Heritage Review (Volume 3)

[Precinct as redefined by Allom Lovell, being part of a larger precinct identified by Ward.]

The Orlando Street Precinct, Hampton, is of historical and architectural significance. The precinct contains the highest concentration of intact Edwardian villas in Sandringham and as such it best represents the first successful phase of suburban development. The streets display a high level of integrity and cohesion in scale and materials, predominated by modest timber Edwardian cottages.

The remnant Edwardian commercial buildings are also important to the precinct, heralding the later development of the adjacent Hampton Street commercial area.

[A list of contributory buildings – on both sides of Orlando Street and including 12 properties in Small Street followed.]

2003 Bayside Heritage Review (Revision 1)

[Did not change the Statement of Significance, but modified the boundaries of the Orlando Street Precinct to leave out the west side of Orlando Street and the properties in Small Street. It also added the commercial buildings in Railway Walk in the list of contributory buildings, and made other changes to the list. The revised list follows.]

The following is a list of buildings which contribute to the heritage significance of the precinct.

Railway Crescent	4,5,6,7,7A,9,10,12,14,16
Orlando Street	40,42,46,50,52,56,58,60,62,66,68,70,72,74,76
Railway Walk	1,2,5

Draft Clause 22.06 Heritage Policy (Amendment C38)

The Orlando Street Precinct contains the highest concentration of intact Edwardian villas in Sandringham and as such represents the first successful phase of suburban development. The streets display a high level of integrity and cohesion in scale and materials, mostly evident in modest timber Edwardian cottages.

[No change to the list of contributory buildings.]

June 2004 Proposed Amendments to Draft Clause 22.06 Heritage Policy

[Proposed recognising that the building listed as No. 2 Railway Walk is actually No. 3 and omitting No. 5.]

There are no places covered by a permanent Heritage Overlay encompassed within this precinct. Note: interim individual heritage controls apply to No. 63 Orlando Street (HO736), but Amendment C37 proposes to remove this property from the Overlay (no submission).

In line with the recommendations of the 2003 Bayside Heritage Review (Revision 1) Amendment C38 proposes to exclude from the Precinct (HO664) all the properties on the west side of Orlando Street, all properties in Small Street, a number of those on the east side of Orlando Street, north of its junction with Small Street and most of those in the southern leg of Railway Crescent.

PLACES SUBJECT TO SPECIFIC SUBMISSIONS

A large number of submissions were received on this precinct.

Several submitters (owners of Nos 66 & 72 Orlando Street and No 12 Railway Crescent) supported the permanent application of the Overlay to the precinct but expressed disappointment at Council's decision to exclude the west side of Orlando Street.

Other submitters (from Nos 49, 59, 65, 67 & 80 Orlando Street and Nos 6, 23, 29 & 31 Small Street) supported the removal of the Overlay from the areas that Amendment C38 proposes to exclude from the Precinct.

The owner of Nos. 62 and 64 Orlando Street opposed the identification of No 62 as a contributory building, on the grounds that it was just an old, basic timber house, substantially altered, although retaining a few pleasant original features. The submitter also commented on other buildings in the street, in terms of whether they should be listed as contributory buildings.

The submission by the owners of No 52 Orlando Street opposed both heritage listing and the identification of their house as a contributory building, since they believed it had neither historical or architectural significance. They considered that the proposed new boundaries for the precinct were arbitrary and that permanent controls based on them would devalue the whole concept of preserving genuine heritage properties and areas.

The owner of No 6 Railway Crescent also opposed the inclusion of the property within the Precinct, but did not put forward any reasons (This house is also identified as a contributory building).

DISCUSSION

Mr Stokans advised us at the hearing that the Bayside Heritage Committee, as part of the 2003 revision of the Bayside Heritage Review, had recommended a reduction in the size of the Orlando Street Precinct. The basis for this decision was the lack of homogeneity of these areas and the absence of a sufficient number of buildings that could be identified as contributory. Council subsequently accepted this recommendation.

Our inspection of the area confirmed that the western side of Orlando Street and the southern areas of the original precinct have undergone greater modification of building stock than is the case with the area contained within the revised precinct proposed by Amendment C38. However, a number of properties on the east side of Orlando Street and within the Precinct have also been altered to a substantial degree. The houses within the precinct are predominantly modest Edwardian weatherboard properties, many single fronted, although there are some more substantial brick dwellings in Railway Crescent and in Orlando Street near its intersection with Railway Crescent.

Discussion at the hearing focussed on two major issues: whether the Orlando Street area retains a collective heritage character and the degree of modification that is acceptable in contributory properties.

Submitters put the view that there had been inadequate evaluation of the streetscape quality of Orlando Street and that the omission of the properties on the western side of the street made the proposed precinct unsatisfactory (this latter point was raised by both supporters and opponents of heritage controls for the area). Mr Raworth gave it as his opinion that the streetscape qualities of the area were quite high in Orlando Street and Railway Crescent (equivalent to Levels 1 or 2 on the City of Melbourne gradings, for example) but a little lower on the fringe of the precinct at Railway Walk.

We acknowledge that, compared with many other precincts in Bayside, the houses in HO664 are generally modest in scale, design and materials. However, in evaluating the precinct's claim to heritage significance, we have taken account of the different development history of this part of the municipality and the fact that working class or lower middle-class housing (as it was then) is as much a part of the story of suburban development as the grander residential areas. In this light, we accept that the Orlando Street Precinct has heritage significance for the City of Bayside. We agree that there is a strong probability that redevelopment on the west side of Orlando Street will impact adversely on the character of the street and the heritage value of the Precinct. However, exclusion of this area is nevertheless supported on the grounds that the proportion of properties that demonstrate the Edwardian character that is the focus of the precinct is not large enough to justify applying the Overlay to the whole area.

With regard to alterations to properties, Mr Raworth agreed that many changes had occurred to houses in Orlando Street (even within the reduced precinct), but pointed out that in some cases, this had led to a restoration or 'recovery' of heritage character and could help to qualify the building for contributory status. He stated that the same changes to the original fabric might not be acceptable in a property proposed for inclusion under the Overlay on an individual basis. With the exception of Ms Riddett, the other heritage experts who presented to the Panel all agreed that the

standard for a contributory building in a precinct is not as exacting as for an individually significant property. However, they gave examples of places altered so grossly that they no longer qualified for contributory status. On the whole, we agree that places that exhibit the general character for which a precinct is nominated are candidates for 'contributory' status, unless changes to them are so substantial as to overwhelm their original character.

This discussion applies to the properties at Nos 52 and 62 Orlando Street and at 6 Railway Parade. We accept that all of these houses are sufficiently demonstrative of Edwardian character, despite the changes that have been made to them, to be listed as contributory buildings. It does have doubts, however, about No 76 Orlando Street (raised by presenters at the hearing), which has a large second-storey extension, a new bullnosed verandah not in keeping with the period, and a third-storey contained within the roof space and lit by a skylight mounted flush with the roof. Mr Raworth, however, concluded that this property still retained its Edwardian character at ground level and was sufficiently recognisable to rate as a contributory building within the Precinct. Given that the owner of the house has not objected to its designation as contributory, we make no recommendation concerning this property.

In regard to the changes proposed to the list of contributory buildings in the revised Heritage Policy, we note Mr Raworth's explanation that the property shown as No 2 Railway Walk in the original listing is actually No 3. At our direction, Council notified the owner of the property of the proposed change during the period of the Panel hearings and no submission or request to be heard was received. Mr Raworth recommended omitting No 5 Railway Walk, which he did not consider to be contributory. We are of the opinion that No 3 Railway Walk should also be omitted from the list, since – whatever its origins – it now gives the appearance of being from a later period than the Edwardian focus of the precinct. Deletion of the Bungalow-style residence at No.56 Orlando Street from the list of contributory buildings is also suggested, for the same reasons. Finally, we note that the sequence of numbers of the shops in Railway Crescent (from north to south) appears to be 7, 7A, 9A and 9, so that 9A should be added to the list of contributory buildings.

We also note that the commercial buildings in Railway Crescent and Railway Walk are not mentioned in the Statement of Significance included in the Heritage Policy, so there is no basis at present for identifying them as contributory. This could be addressed in one of two ways: restoring the reference to the early commercial buildings (included in the 1999 Bayside Heritage Review's Statement of Significance) or omitting them from the list of contributory buildings. Given that their owner has not opposed inclusion of the shops in the precinct or their designation as contributory, we conclude that the former course is the most appropriate.

RECOMMENDATION

With regard to the Orlando Street Precinct (HO664):

- ▣ **The precinct is of local heritage significance and should be retained in the Heritage Overlay on a permanent basis**
- ▣ **The list of contributory buildings exhibited in the Heritage Policy (Clause 22.06) should be modified to delete No. 2 Railway Walk and No 56 Orlando Street and to add 9A Railway Crescent**
- ▣ **The reference in the original Statement of Significance to the commercial buildings in the precinct should be reinstated in the Heritage Policy.**

9.14 WESTLEY AVENUE PRECINCT, BRIGHTON (HO663)

DESCRIPTION OF THE PLACE

1999 Bayside Heritage Review

Comprising almost entirely detached, single storey Edwardian and Queen Anne style villas. The houses are typically characterised by red brick construction, hipped and gabled terra cotta tiled roofs and half timbered gable ends.

The precinct consists of 1-13, 2-14 Westley Avenue and 65-75, 74-88 Asling Street Brighton.

STATEMENTS OF SIGNIFICANCE

1999 Bayside Heritage Review

The precinct has a high level of type, cohesion of scale, materials and setbacks.

INTEGRITY

The Westley Avenue Precinct displays a high level of completeness for Edwardian red brick and Queen Anne style villas.

PLACES SPECIFICALLY DISCUSSED

86 Asling Street Brighton

The owner objected on the basis of sketchy and inadequate heritage analysis. The property was not listed in the Bayside Heritage Review (1999).

Mr. Bryce Raworth inspected the property in June 2004 and noted that the house is a typical example of Edwardian residential stock. Although not of brick like most of the other examples in the precinct, it nonetheless contributes to the Edwardian Queen Anne villa character that represents the core identified significance of the precinct.

A petition was a submitted to the panel by Mr. J Scott of 10 Westley Avenue with signatures of the owners of some 17 properties in the precinct strongly urging the adoption of the heritage overlay.

PANEL'S DISCUSSION

The precinct offers a distinctive character of the period and the style; there is a high level of intactness and cohesion. No substantive submission and no evidence was made opposing the basis of the precinct's local heritage significance.

RECOMMENDATION

That the Westley Avenue Precinct is of local heritage significance and should be included in the permanent heritage overlay.

10. STRATEGIC ASSESSMENT GUIDELINES

10.1 IS AN AMENDMENT REQUIRED?

The amendment is required to incorporate into the Bayside Planning Scheme the results of a number of heritage studies by amending the scheme to make permanent the Interim Heritage Overlay in which places deemed to be of local heritage value are presently placed. The amendment will also remove from the Heritage Overlay a number of properties, either in individual sections of Heritage Overlay or within larger heritage precincts, that are no longer considered to be of local heritage significance.

We therefore conclude that the amendment is appropriate.

10.2 STRATEGIC JUSTIFICATION

The amendment's strategic basis lies in the *Planning & Environment Act 1987*, Melbourne 2030, the City's Corporate Plan and a number of other State strategies.

The details of these are set out in Appendix E, which is an extract from the relevant section of the submission to the Panel by Mr Stokans, of Russell Kennedy, lawyers, on behalf of the City of Bayside.

10.3 PLANNING AND ENVIRONMENT ACT

Does the amendment adequately address environmental effects?

We conclude that the amendment will have no significant environmental effects that need to be taken into account.

Does the amendment adequately address the relevant social and economic effects?

We conclude that the amendment has taken account of those social and economic effects that can properly be reflected in the planning scheme's provisions and objectives.

Does the amendment comply with the requirements of the Ministerial Direction on the form and content of Planning Schemes?

We consider so.

Do any other Minister's Directions apply to the Amendment? If so, have they been complied with?

Ministerial Direction 9, which requires planning authorities to have regard to *Melbourne 2030*.

Is the Amendment accompanied by all the information required by a Direction?

Yes.

10.4 STATE PLANNING POLICY FRAMEWORK

What aspects, if any, of the SPPF are relevant?

The following clauses are relevant.

Clause 14.02, Metropolitan Development at 14.02-2 states:

"...Historic buildings and precincts should be protected from development which would diminish their environmental, conservation or recreation values."

At clause 15.11-1, Heritage contains the objective:

"To assist the conservation of places that have natural, environmental, aesthetic, historic, cultural, scientific or social significance or other special values important for scientific and research purposes, as a means of understanding our past, as well as maintaining and enhancing Victoria's image and making a contribution to the economic and cultural growth of the state."

Clause 15.11-2 states that planning and responsible authorities should identify, conserve and protect places of natural or cultural value from inappropriate development. These include:

- important buildings, structures, parks, gardens, sites, areas, landscapes, towns and other places associated with the historic and cultural development of Victoria, including places associated with pastoral expansion, gold mining, industrial development and the economic expansion and growth of Victoria;
- planning authorities should have regard to Local Government Heritage Guidelines (Department of Planning and Housing 1991) when preparing planning schemes or amendments to assist the conservation and enhancement of places, sites and objects of non-aboriginal cultural heritage value.

Clause 19.03 - design and built form - in the section on heritage states:

- "new development should respect but not simply copy historic precedents and create a worthy legacy for future generations."

The State Planning Policy Framework in the VPPs makes it clear that there is an obligation on municipal Councils to protect heritage assets within their boundaries. Bayside's MSS adopts heritage objectives consistent with these State policies.

Does the amendment or proposal support or give effect to the SPPF?

The amendment, as exhibited, gives effect to the relevant provisions of the SPPF relating to cultural heritage. This amendment is a contribution of Council's previous actions to implement heritage objectives as set out in the SPPF.

10.5 LOCAL PLANNING POLICY FRAMEWORK

MUNICIPAL STRATEGIC STATEMENT

How does the Amendment seek to implement and or support the MSS?

Amendment C37 proposes to change the Bayside Planning Scheme by amending the municipal strategic statement at clause 21.09 – heritage.

Amendment C38 proposes to change the Bayside Planning Scheme by amending the municipal strategic statement at clause 21.09 – heritage and adding a heritage policy at clause 22.06.

What is the strategic basis for any change to the MSS?

- The amendment is consistent with strategic directions elsewhere in the MSS. Changes to Clause 21 are consequential on the introduction of a new Clause 22.06. The new Clause 22.06 is required to provide specific policies to guide Council's decision-making in relation to heritage precincts.
- There will be no change to the cumulative effect of these amendments on the strategic directions in the MSS.

Has there been any community consultation with respect to proposed changes to the MSS? What have been the outcomes?

We are not aware of any community consultation other than the formal exhibition of the amendments.

Does the change to the MSS address the format, content and language guidance in the VPP Practice Note *Format of Municipal Strategic Statements*?

We consider that the changes do address this VPP Practice Note.

LOCAL PLANNING POLICY

What local planning policies will the amendment affect?

The new Clause 22.06

Are the proposed changes to local planning policy necessary?

Given that this is the first set of heritage precinct that have been introduced into the Bayside Planning Scheme, it is appropriate that Council introduce a set of local policies in relation to these precincts.

What is the strategic basis for any new or changed local planning policy?

The strategic basis is the need to provide effective and consistent decision-making in relation to the management of the heritage precincts in accordance with the policies and strategies previously outlined.

Has the VPP Practice Note *Writing a Local Planning Policy* been followed?

We consider that the policies in Clause 22.06 comply with this VPP Practice Note. In particular, they adequately:

- respond to a demonstrated need
- implement an objective or strategy in the MSS
- relate to a specific discretion or group of discretions in the scheme
- assist the responsible authority to make a decision
- assist any other person to understand whether a proposal is likely to be supported or not
- add to the other planning tools in the scheme, especially the relevant zone or overlay
- address the format, content and language guidance in this practice note?

10.6 ZONES, OVERLAYS AND SCHEDULES**Does the Amendment use the most appropriate VPP tools?****To what extent do local provisions adopt a performance-based approach?**

We consider that the policy provisions are appropriately performance based.

What Planning Practice Notes are relevant?

VPP Practice Note: Applying the Heritage Overlay.

Is the amendment in accordance with any relevant Planning Practice Notes?

We consider so.

10.7 REFERRAL AUTHORITIES**Does the Amendment contain new formal or informal referral requirements?**

No.

10.8 OUTCOME OF THE AMENDMENT**What is the cumulative effect of this amendment on the strategic directions of the planning scheme?**

It will confirm Council's actions to ensure the long term conservation of places of local heritage significance by removing the Heritage Overlay from those now no longer deemed locally significant and making permanent the Heritage Overlay for those that are.

Are the amendments and the desired outcomes clear?

Yes.

10.9 METROPOLITAN STRATEGY**What aspects, if any, of the Metropolitan Strategy are relevant?**

Melbourne 2030 recognises that heritage places 'offer a way of experiencing the heritage and unique cultural identity of the people who live in a region.' For this reason the cultural heritage of a place is seen as important not only to the people who live in the area, but also as an attraction to tourists. Melbourne 2030 states that the identification, conservation, protection and management of cultural heritage values across the region will receive continued support and lists as initiatives:

- Promote a consistent framework for assessment of heritage places and refine guidelines for the assessment of development proposals under the Heritage Overlay
- Provide guidance to local government and other agencies on preparing statements of heritage significance
- Ensure that planning schemes reflect the full extent of heritage values in each municipality

How does the Metropolitan Strategy affect the amendment?

Melbourne 2030 supports the continued identification, conservation, protection and management of cultural heritage values across the region.

Is the amendment consistent with any directions and policies in the Metropolitan Strategy?

Yes.

Does the amendment support, give effect to or assist the implementation of the Metropolitan Strategy or can it be reasonably modified to do so?

Yes. There is no reason for the amendment to be modified.

Will the amendment compromise the implementation of the Metropolitan Strategy?

No.

11. CONCLUSIONS & RECOMMENDATIONS

11.1 CONCLUSIONS

The Panel has considered all the submissions referred to it and all the material presented at the hearings and has reached the following conclusions.

11.2 RECOMMENDATIONS

Based on the reasons set out in this report, the Panel makes the following recommendations to the planning authority in relation to Amendments C37 and C38 to the Bayside Planning Scheme:

- Recommendation 1 Re the use of appropriate criteria to assess local heritage significance:
- That the criteria that are most appropriate for assessing places of local heritage significance are those of the Australian Heritage Commission and should be the sole criteria used in future assessments and, in order to provide greater clarity, should be applied retrospectively to places in Council's Heritage Overlay (and in conjunction with the recommended review of the statements of significance).
 - That Council should review the statements of significance for all places in heritage overlays, including heritage precincts and redraft these to reflect the AHC criteria, commencing with places in this amendment but extending to include those places already in the permanent heritage overlay.
 - That the Department of Sustainability and Environment, together with the Heritage Council should, as a matter of urgency, develop a set of Explanatory Notes to accompany the AHC criteria, to provide suitable guidance to identifying appropriate thresholds for the local level of heritage significance.
 - That, due to the lack of clarity in how AHC Criteria A4 and H1 should be interpreted at the local level, places should in general not be cited pursuant to these criteria (with exceptions, as discussed elsewhere in this Panel's recommendations) until a clear statement of their threshold levels for local significance has been developed.

- Recommendation 2 Re the significance of Inter-War buildings
- With the exception of a few identified examples, buildings of the inter-War period should remain in the Interim Heritage Overlay until Council has undertaken a more comprehensive study of buildings of this era (taking account also of our separate recommendations relating to the development and use of clearer and more appropriate statements of assessment criteria and threshold levels of local significance).
- Recommendation 3 Re the drafting of statement of significance:
- All the statements of significance of places included in Amendments C37 and C38, both those referred to the Panel and others, should be reviewed and, if necessary, redrafted to ensure that they meet the requirements for brevity, consistency of wording, clarity in identifying the basis of a place's local heritage significance
 - Council should progressively amend the statements of significance for places already in the Heritage Overlay to accord with the above recommendation.
- Recommendation 4 Re the definition of Contributory buildings in Amendment C38:
- That the list of contributory buildings be withdrawn from Clause 22
 - That Council introduce an incorporate plan for each heritage precinct, pursuant to the schedule to Clause 43.01, such plans to identify those buildings that are not contributory in any sense, Council to also determine which controls of the Heritage Overlay should not apply to such identified buildings.
- Recommendation 5 Re the means of improving future local heritage studies:
- Future local heritage studies should initially explore a wider range of ways that local heritage significance might be defined, and should include a strategic component within which the consultant should explore more alternative ways of identifying places of local heritage significance, together with appropriate thresholds of significance
 - Because it is desirable that there be reasonable consistency in the definition of local heritage significance across the state, the City should also request Heritage Victoria to identify more strategic options for defining places of local heritage significance.
- Recommendation 6 That Clause 22.06 should be amended to provide the following:
- The statements of significance to be redrafted to reflect the reasons for a place's significance in terms of the AHC criteria (this to apply to both individual places and precincts)
 - Provision to take account of the basis of a place's significance in making decisions about the acceptability of any proposed buildings and works in a heritage precinct.

- Recommendation 7 The dwelling at 12 Agnew Street, Brighton, is not of local heritage significance and should not be included in the Heritage Overlay.
- Recommendation 8 That the dwelling at 74 Bay Street Brighton is of local heritage significance in relation to AHC Criteria A4 and should be included in the permanent heritage overlay. The statement of significance should be appropriately amended.
- Recommendation 9 That the building at 270 – 272 Bluff Road, Sandringham is of local heritage significance on the basis of AHC Criterion E1 and should be included on the heritage overlay.
- Recommendation 10 That the Minister be requested to amend the mapping error for the property at 31-33 Bridge, Hampton, which is presently incorrectly mapped as 31-33 Bridge Street, Brighton.
- Recommendation 11 The dwelling at 7-9 Cole Street, Sandringham is of local heritage significance in relation to AHC Criterion E1. The descriptive material should be amended to reflect the property's correct name and the statement of significance amended to reflect the appropriate basis of its significance.
- Recommendation 12 That the building at 231 Charman Road, Cheltenham is of local heritage significance in relation to AHC Criteria A4, G1 and E1 and should be included on the permanent heritage overlay.
- Recommendation 13 Re the dwelling at 203-205 Charman Road, Cheltenham, the Panel is not able to reach any conclusion with respect may to the local heritage significance of this building. The Panel recommends that No. 203-205 Charman Road, Cheltenham, be retained in the Interim Heritage Overlay until Council has undertaken further studies into the heritage significance of development in the City of Bayside during the Inter-War period.
- Recommendation 14 That with respect to the two Edwardian shops at No. 95-97 Church Street, Brighton:
- HO 738 should be amended to exclude No. 95 Church Street
 - The most recent statement of significance prepared by Allom Lovell and Associates using AHC criteria should be redrafted in accordance with the Panel's specific comments and to apply only to No 97.
- Recommendation 15 That the house at 172 Church Street, Brighton (HO463) is of local heritage significance in relation to AHC Criterion E1 and should be retained on the Heritage Overlay on a permanent basis. The statement of significance should be appropriately amended.
- Recommendation 16 That the house at 21 Cole Street, Brighton (HO470) is of local heritage significance in relation to AHC Criterion A1 and should be retained on the Heritage Overlay on a permanent basis.

- Recommendation 17 That with respect to the dwelling at 29 Dawson Avenue, Brighton, the Panel is not able to reach a conclusion about its local significance and it should remain on the Interim Heritage Overlay until Council has undertaken further research into development of this era. The statement of significance should be amended to reflect our other conclusions that affect this property.
- Recommendation 18 Re the property at 5 Edward Street, Sandringham (HO745)
- The place is of local heritage significance for its historical associations with the Boyd family of artists (AHC Criterion H1) and should be included in the Heritage Overlay on a permanent basis.
 - Tree controls should be applied to the garden and the two outbuildings should be listed in the Schedule as not exempt under Clause 43.01-4.
 - A full datasheet should be prepared for 5 Edward Street, Sandringham, in the same format as for other places in Bayside included under the Heritage Overlay, clearly outlining what is significant about the property and combining material from Heritage Victoria's draft with the Allom Lovell assessment against the AHC Criteria
 - The statement of significance should be amended accordingly.
- Recommendation 19 Re the house at 65 Fernhill Road, Sandringham:
- The Panel is not able to reach a conclusion about its local significance and it should remain on the Interim Heritage Overlay until Council has undertaken further research into development of this era. The statement of significance should be amended to reflect our other conclusions that affect this property
 - That further research should also review the significance of the Golf Links estate with particular reference to AHC Criteria A4 and G1.
- Recommendation 20 That the building at 27 Glebe Street, Cheltenham, is not of local heritage significance and should be removed from the Heritage Overlay.
- Recommendation 21 That the house at 13 Hillcrest Avenue, Brighton (HO518) is not of local heritage significance and should not be included in the permanent Heritage Overlay.
- Recommendation 22 That the building at 22 James Avenue Highett is not of local heritage significance and should be removed from the Heritage Overlay.
- Recommendation 23 The block of flats at 7/8 Manor Street, Brighton, is not of local heritage significance should be removed from the Heritage Overlay.

- Recommendation 24 Re the house at 1 Martin Street, Brighton:
- ▮ That the address of the property listed as HO536 in the Schedule to the Heritage Overlay be amended from No. 2 Martin Street, Brighton to No 1 Martin Street, Brighton and that the HO536 designation on Map 1HO be removed from No. 2 Martin Street, Brighton and applied to No 1 Martin Street, Brighton.
 - ▮ That No. 1 Martin Street, Brighton should be retained in the Interim Heritage Overlay until Council has completed the further research required to clearly establish the heritage significance of inter-War development.
- Recommendation 25 Re the house at No. 5 Menzies Avenue, Brighton (HO540):
- ▮ This house should be retained in the Interim Heritage Overlay until Council has completed the further research required to clearly establish the heritage significance of inter-War development.
 - ▮ Council should review the significance of the hedges on this property and, if appropriate and feasible, amend the interim heritage controls to apply tree controls to property, specifically to the Cypress hedges at the front and western boundary of the site, which form part of the significance of the place.
- Recommendation 26 The property at 10 Nepean Avenue (HO543) – shown in the interim controls in the Heritage Overlay as 12 Nepean Avenue – is not of local heritage significance and should be removed from the Heritage Overlay.
- Recommendation 27 The building at 176 New Street, Brighton, is of local heritage significance pursuant to AHC Criterion E1 and should be placed in a permanent heritage overlay. The statement of significance should be appropriately amended.
- Recommendation 28 Re the church (Ghiraween Chapel) at 278 New Street, Brighton and the adjoining Stott Hall in Allee Street, Brighton (HO553)
- ▮ these buildings are of local heritage significance for their aesthetic values (AHC Criterion E1) and their religious and spiritual associations (AHC Criterion G1) and should be retained on the Heritage Overlay on a permanent basis.
 - ▮ Subject to the provision by the owner of further information, the boundaries of HO553 should be adjusted to exclude the aged care hostel on the corner of Outer Crescent and to include all heritage elements, including any identified on the land currently covered by HO14; the further information to support the above is -
 - a more detailed heritage assessment of the site, demonstrating that all significant heritage elements, including landscape elements, will be protected by the proposed new boundaries, and

- a feature survey of the site showing the proposed boundaries in relation to existing structures,
 - ▮ Once the heritage assessment of the whole Church property bounded by New Street, Allee Street and Outer Crescent has been completed and the boundaries of HO553 adjusted to contain only items of heritage significance, Council should request the Minister for Planning to prepare an Amendment to delete HO14 from the Schedule and mapping of the Heritage Overlay.
 - ▮ The revised statement of significance for HO553 should also be amended to include reference to Stott Hall and refer to the relevant AHC criteria, with Council giving further consideration to the relevance of AHC Criterion A4 and redrafting the assessments more in accordance with the Allom Lovell and Associates 2004 review.
 - ▮ The garden is of local heritage significance and tree controls in Column 5 of the Schedule to the Heritage Overlay should be applied permanently
 - ▮ In the light of the opinion expressed by Mr. Raworth that the house is not of local heritage significance, Council should consider amending the planning scheme to remove heritage controls from the dwelling.
- Recommendation 29 That with respect to the dwelling at 135 Park Road, Cheltenham, the Panel is not able to reach a conclusion about its local significance and it should remain on the Interim Heritage Overlay until Council has undertaken further research into development of this era. The statement of significance should be amended to reflect our other conclusions that affect this property.
- Recommendation 30 That the building at 4 Parliament Place Brighton is not of local heritage significance and should be removed from the Heritage Overlay.
- Recommendation 31 That there is no basis on which this Panel can make any recommendation to change the existing Heritage Overlay that applies to the dwelling at No 44 St Andrews St, Brighton.
- Recommendation 32 The building at 24 St Ninians Road, Brighton, is not of local heritage significance and should be removed from the Heritage Overlay.
- Recommendation 33 That the house at 8 South Road Brighton is of local heritage significance and should be included on the heritage overlay. The statement of significance should be amended to reflect the Panel's other comments.

- Recommendation 34 The property at No. 13 Vista Road, Hampton has no heritage significance and the mapping of HO723 should be revised to exclude this lot. The description of HO723 in the Schedule to the Heritage Overlay should be amended to reflect the fact that the garden of No 52 South Road has been subdivided, by listing all the addresses to which the Overlay now applies.
- Recommendation 35 The property at 2 Southey Street is of local heritage significance for its aesthetic values (AHC Criterion E1) and should be retained on the Heritage Overlay on a permanent basis. The statement of significance should be appropriately amended.
- Recommendation 36 That the building at 19 Stanley Street Brighton is not of local heritage significance and should be removed from the Heritage Overlay.
- Recommendation 37 The building at 10 Sussex Street, Brighton, is not of local heritage significance and should be removed from the Heritage Overlay.
- Recommendation 38 That the building at 10 Sydney Street is not of local heritage significance and should be removed from the Heritage Overlay.
- Recommendation 39 That the building at 15 Thomas Street, Brighton East, is not of local heritage significance and should be removed from the Heritage Overlay.
- Recommendation 40 That No. 47-49 Victoria Street, Sandringham, may be of local heritage significance and should be retained in the Interim Heritage Overlay until Council has undertaken further studies into the heritage significance of development in the City of Bayside during the Inter-War period.
- Recommendation 41 The tree at No. 55 Vincent Street, Sandringham is of local heritage significance and should be retained on the Heritage Overlay on a permanent basis. The area to which the controls apply should cover the whole root zone of the tree, as proposed in Amendment C37 (HO726), thus encompassing part of the property at 53A Vincent Street, Sandringham.
- Recommendation 42 Re the Brighton Primary School at 59 Wilson Street, Brighton
- This Queen Anne-style building is of local heritage significance in relation to AHC Criteria A4, E1 and G1 and should be retained on the Heritage Overlay on a permanent basis.
 - Further investigations should be undertaken to determine whether the building should also be identified in relation to AHC Criterion F1 and, if appropriate, the statement of significance amended accordingly.

- Recommendation 43 Re the Asling Street Precinct (HO746):
- The area generally defined within this precinct is of local heritage significance in relation to the buildings from the period up to about 1940, on the basis of AHC Criterion A4
 - Council should undertake further research into the three houses of the earliest period of settlement in this street (Nos 9, 13-15 and 23)
 - Council should investigate the feasibility of further amendments to HO746 to include (subject to the availability of appropriate mapping techniques) those dwellings presently excluded from the Overlay but situated on street corners where they contribute to both this and adjoining overlays
 - The Clause 22 policy statement should be redrafted to be simpler and more specific, in the manner described earlier.
- Recommendation 44 That the area defined as the Berkeley Grove Precinct (HO650):
- Is of heritage significance and should be retained in the Heritage Overlay on a permanent basis
 - That the boundaries should be redrawn to exclude No 9 Hurlingham Street from the mapping of this precinct, as it has no heritage significance
 - That No 9 Hurlingham Street should be omitted from the list of contributory buildings in the Heritage Policy and No 64 Union Street should be retained
 - That 'Woolsery' at No. 1 Berkeley Grove be removed from the list of contributory buildings as it does not share the heritage characteristics for which the precinct is cited and is already covered by the Heritage Overlay.
- Recommendation 45 Re the Castlefield Precinct (HO652)
- That the Castlefield Precinct is of local heritage significance and should be included in a permanent heritage overlay, with the boundary varied only to exclude Nos 176 and 178 South Road
 - That Council develop a set of guidelines specifically for this precinct, to take account of the major social needs to adapt the historic dwellings to modern living standards and environmental requirements while retaining key heritage values of the estate
 - Council review the statement of significance to identify the appropriate citations in relation to the AHC criteria.
- Recommendation 46 That the property at 2 Mackie Grove, Brighton East
- Is of local cultural and historical heritage significance and should be included on the heritage overlay
 - The area defined as the Cheeseman Avenue Precinct is of local cultural and historical heritage significance (AHC Criteria A4) and should be included on the Heritage Overlay.

- Recommendation 47 The Cowper Street Precinct (HO654) is of local heritage significance and:
- Should be retained on the Heritage Overlay on a permanent basis
 - The Statement of Significance should be amended to recognise that some of the Victorian houses in the Precinct are also of brick construction
 - The Precinct's boundaries should be reviewed in due course to determine whether the two properties on the west side of Budd Street at its northern end should be added to the precinct (by means of a future Amendment)
 - With regard to the list of contributory buildings in the Heritage Policy (Clause 22.06), No 2 Cowper Street should be added to the list, No 12 Cowper Street and No 14 Budd Street should be retained on the list, No 13 Cowper Street should be removed from the list and No 8 Cowper Street checked to establish if it is contributory and, if not, removed from the list.
- Recommendation 48 That the Grosvenor Precinct:
- Is of local heritage significance in relation to AHC Criterion A4 and should be included in the permanent heritage overlay
 - The boundaries within Grosvenor Street should be redefined to exclude properties west of Nos 7 and 14 and east of Nos 27 and 34
 - The Statement of Significance should be redrafted to include reference to inter-War housing.
- Recommendation 49 That the Hamilton Street Precinct (HO657):
- Is of local heritage significance (AHC Criterion A4) and should be retained on the Heritage Overlay on a permanent basis
 - No 110 Cochrane Street and No 118 Cole Street should be retained on the list of contributory buildings
 - The bluestone kerb in the section of Cochrane Street included in the Hamilton Street Precinct should be mentioned in the Statement of Significance
 - The statement of significance should also be reviewed in the light of the Panel's other comments.
- Recommendation 50 With regard to the Munro Street Precinct (HO659):
- The precinct is of local heritage significance (AHC Criterion A4) and should be retained in the Heritage Overlay on a permanent basis
 - The precinct's boundaries should be refined to exclude the property at No 146 New Street
 - The description of the precinct in the Heritage Policy (Clause 22.06) should retain No 14 Munro Street as a contributory building but be amended to recognise both 24 and 24A Munro Street and omit reference to No 146 New Street.

- Recommendation 51 Re HO660:
- That part of the precinct consisting of dwellings facing Dendy Street is not of local heritage significance and should be excluded from the precinct
 - The balance of the precinct, consisting of dwellings facing New Street, is of local heritage significance (AHC Criterion A4) and should be retained in a permanent heritage overlay
 - The statement of significance should be amended accordingly.
- Recommendation 52 Re the Normanby Street Precinct (HO661)
- The precinct is of local heritage significance (AHC Criterion A4) and should be retained on the Schedule to the permanent Heritage Overlay
 - No 247 New Street and Nos 14 and 31 Normanby Street should be removed from the list of contributory buildings
 - Subject to confirmation that they are inter-War buildings, Nos 1, 3, 25 and 37 Normanby Street should also be removed from the list of contributory buildings.
- Recommendation 53 Re the North Road Precinct (HO662):
- That No 72-74 Cochrane Street is of local heritage significance and the whole of the site should be included in a permanent Heritage Overlay
 - That No 106 North Road, Brighton, is a contributory building to the precinct
 - That the area defined as the North Road, Brighton Precinct is of local cultural, aesthetic and historical heritage significance and should be included in the permanent heritage overlay.
- Recommendation 54 With regard to the Orlando Street Precinct (HO664):
- The precinct is of local heritage significance and should be retained in the Heritage Overlay on a permanent basis
 - The list of contributory buildings exhibited in the Heritage Policy (Clause 22.06) should be modified to delete No 2 Railway Walk and No 56 Orlando Street and to add 9A Railway Crescent
 - The reference in the original Statement of Significance to the commercial buildings in the precinct should be reinstated in the Heritage Policy.
- Recommendation 55 That the Westley Avenue Precinct is of local heritage significance and should be included in the permanent heritage overlay.

A. LIST OF WRITTEN SUBMISSIONS

Council received submissions on Amendment C37 from the following and referred those to the Panel.

- Mr Stanley J Allen & L Gardner
- Bayside Alliance for Heritage, the Environment & Appropriate Development (Ms K Stegley)
- Bayside Ratepayers' Association Inc (Mr G Reynolds)
- Mr S E Bensley
- Mr Geoffrey S Brearley
- Brighton Primary School, (Mr G Pratt, Principal & Mr A Fisher, President, South Council)
- Brighton Residents for Urban Protection (Ms K Stegley)
- Mrs A Calder
- Mr K J & Mrs L J Caporn
- Cheltenham Primary School (Ms B Fitzgerald, Principal)
- Church of England Trust Corp & Anglican Church of Australia & Others, Anglican Diocese of Melbourne (Ms Petty)
- Mr J & Mrs K Cornehls
- Ms L M Cunningham
- Department of Sustainability and Environment (Mr P Jarman)
- Mr J Duggan
- Mr D A Ellerington
- Mr A & Mrs G Ensabella, c/- John Blanch, Solicitor
- Ms G M de Fina
- Ms. S M & L M & M M Frederico, Isaacs Chambers
- Haileybury College, c/- Contour Consultants (Mr A Rodda)
- Ms J C Hansen
- Ms Deidre Patricia Hunter
- Ms Mary Johnstone
- Mr Stephen Jones & Ms Georgina Grigoriou
- Ms R Kailis
- Ms A Kanis
- Ms Betty McCallum
- Mr R Malone
- Melbourne Water (Ms T Wallace-Smith)
- Mr P J Moffatt
- Mr B W O'Flynn

- Mr J A Olvera
- Ms A C Orr
- Mr A & Mrs S Palomba
- Mr C Parsons
- Ms M Reeves, c/- Mr John Briggs, Architect
- Mr H & Mrs A Rogelberg
- Dr Ahmad Shayan
- Mrs C A Shepard
- Ms K A Simpson, c/- Geoffrey Simpson
- South East Water (Ms A Perrin)
- Thalma Pty Ltd & Mr H Thodos, c/- Hansen Planning Services, Mr D Hansen
- Uniting Care Victoria, c/- Hansen Partnership (Ms R Hansen)
- Mr A & Mrs S Valente
- VicRoads - Metropolitan South East Region (Ms Long)
- Mr M J & Mrs M Walsh
- Mr Adam Westaway
- Ms A D Whitney
- Ms E M Wilkins
- Mr T P & K A Wilmot
- Mr B A Young

Council received submissions on Amendment C38 from the following and referred these to the Panel:

- Mrs A P Adams
- M/- G E Adams
- Ms F M Altson
- Mrs J A Anderson
- Mrs S A Andersson
- Mr K Andersson
- Mr G M Andrews
- Mr J D & Mrs M M Armstrong
- M/- M E Arthur
- M/- L J Arthur
- Mr J A & Mrs M A Balmer
- Mr B Barnard
- Ms M J Baxter
- Bayside Alliance for Heritage, the Environment & Appropriate Development (Ms K Stegley)
- Brighton Primary School (Mr G Pratt, Principal & Mr A Fisher, President, School Council)
- Mr P J & Mrs J M Briggs

- Brighton Residents for Urban Protection (Ms K Stegley)
- Ms B E Brown
- Mr P J & Mrs S J Browne
- Mr V P Buccheri
- Mrs M R Bucki
- Mr G L Bujdoss
- Mr R Burman
- Mr C J Butler
- Mrs J Byrne
- Mrs A Calder
- Miss E M Calistan
- Mrs CD Cameron
- Mr K Cameron
- Mr K R Cameron
- Mr P J & Mrs K A Cameron
- Mr K J & Mrs L J Caporn
- Mr Richard Clevers
- Mr J Cole
- Ms J M Cole
- Ms Pauline Cooney & Mr Peter Howey
- Ms S J Davies
- Ms J Dean
- Department of Sustainability and Environment (Mr P Jarman)
- Mrs H E Donaldson
- Mrs P A Entwisle
- Mr B Felsenthal
- Mrs M A French
- Mr D W & Mrs J Gaffney
- Ms C H Gledhill
- Mr D J & Ms J G Grace
- Mr A & Mrs I M Grainge
- Mr H R Grant
- Mr J G & Mrs V R Grant
- Mrs A C Vander Griend
- M/- R M Grome
- Mr P & Mrs J P Gustavsen
- Mrs J A Guthrie
- Haileybury College, c/- Contour Consultants
- M/- E Harraghy
- Ms L Hattam
- Mr A R & Mrs T M Hewison

- Mr R P & Mrs P Holden
- Ms J E Horten-Zimmer
- Mr & Mrs B A & V Jemmeson
- Mrs E L Keenan
- Mr J P Keenan
- Ms P F Kent
- Mr J J & Mrs L J King
- Ms Joan Korman
- M/- M Korman
- Mrs M Kyriacou, c/- Andonis Kyriacou – Solicitors (Mr A Kyriacou)
- Mr D & Mrs P Kyrios
- Mrs S Langley
- Mr Y M Lim
- Mrs J P Linacre
- Mrs A Lustig
- Ms Betty McCallum
- Mrs P A McEniry
- Mr R G & Mrs M T Mc Gowan
- Mr A R Maclean
- Mr M Manning
- Melbourne Water (Ms T Wallace-Smith)
- Mr P J Moffatt
- Mr R J Mullens & Ms M Wedgwood
- Mr D J & B V Munro
- Ms J J Munro
- Mr B W Neal
- Mr R & Mrs G O'Connell
- Mr K Oliver
- Mr P A & Mrs D E Osbourne
- Mr G P Parish
- Mrs G Parish
- Mr S & Mrs V Pather
- Ms K P Plympton
- Ms Lisa Point
- Mr T F & Mrs A Portelli
- Mr S & Ms K Pullin
- Mr C C & Mrs R Ralph
- Ms Jenny & Mr Gerry Reardon
- Mr T A & A M Reedy
- Mr D J & P M Reilly, C/- JDA Architects (Mr J Douglas)
- Mr George Reynolds, Bayside Ratepayers' Association Inc

- Ms D H Rodwell
- Mrs Shan & Mr Michael Rose
- Mr G N Rosengarten
- Mrs G E Russell
- Mr J D Scott
- Mr G J Scull & Ms C Dea
- Mrs C A Shepard
- Mr P Shepard
- Mr J T & Mrs M M Sinclair
- Mr D & Ms J Smith
- Mr I & Ms J Smith
- South East Water (Ms A Perrin)
- M/- I F Spedding
- Mr F Tallarida
- Mr N Tembel
- Ms G P Thomas & Mr L Weber
- Mr R Tuttleby
- Mr N M & Mrs R J Tonkin
- Mr S W & Mrs C A Trotter
- Mrs S A Upton
- VicRoads - Metropolitan South East Region
- Mr M J & Mrs M Walsh
- Mrs M White
- Mr A L & Mrs S A Wildbore
- Mr H G Wildman
- Mr M Wilson
- Ms Fiona M Young
- Ms A M Younger & Mr W S Simmons

B. REFERENCES

Davison G, "What Makes a Building Historic?", in Davison G. and McConville C., ed, 1991, *Heritage Handbook*, Allen & Unwin.

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C. STRATEGIC ASSESSMENT GUIDELINES

General Practice Note

STRATEGIC ASSESSMENT GUIDELINES

For Planning Scheme Amendments

The purpose of the Strategic Assessment Guidelines is to provide a consistent framework for the evaluation of a proposed planning scheme amendment and the outcomes it produces.

The guidelines should be used by:

- proponents (including councils) when formulating a proposal
- the planning authority when considering a request to prepare an amendment
- any planning panel and advisory committee when considering an amendment
- the planning authority when considering the final construction and adoption of an amendment
- the Department of Sustainability and Environment when considering an amendment submitted to the Minister for approval.

PRINCIPLES APPLYING TO PLANNING SCHEME AMENDMENTS

Key objectives for Victoria's planning scheme are to:

- make planning more strategic and policy based
- make the reasons for planning policies and requirements and planning decisions more transparent
- ensure planning schemes are clear and useable.

These objectives equally apply to planning schemes amendments.

- Make planning more strategic and policy based
- The strategic foundation of each scheme is made up of two components – the State Planning Policy Framework and the Local Policy Framework.
- If the strategic focus of new schemes is to be maintained, it is essential that subsequent amendments do not undermine or ignore the planning policy framework in the scheme.

For this reason, an amendment should seek to implement the State Planning Policy Framework and the Local Planning Policy Framework of the planning scheme. Any specific proposal should support the policy framework.

Make the reasons for planning policies and requirements and planning decisions more transparent

The strategic directions that have been developed for the State or a municipality should guide the application of appropriate planning tools from the *Victoria Planning Provisions*. As Section 12A of the *Planning and Environment Act 1987* requires controls on the use and development of land in a planning scheme relate to the objectives and strategies set out in the Municipal Strategic Statement for the municipality. It is therefore important when preparing an amendment to a planning scheme to ensure that there are clear linkages between the Municipal Strategic Statement and the application of zones, overlays, schedules and policies, and that links to the Council's Corporate Plan are apparent.

Ensure planning schemes are clear and useable

The *Victoria Planning Provisions* provide clarity and consistency for users of planning schemes through the use of standard planning provisions, which ensure that consistent provisions for various matters are maintained across Victoria.

To ensure planning schemes are clear and useable, a series of Planning Practice Notes has been prepared on the use of the *Victoria Planning Provisions*. Planning Practice Notes provide best practice guidance about the use and application of many *Victoria Planning Provisions* tools, explanation and guidance about statutory processes and recommended structure and wording of statutory documents.

MATTERS TO BE CONSIDERED

The broad issues to be considered in preparing and assessing an amendment or proposal are:

- Is an amendment required?
- What is the strategic basis for the amendment or proposal?
- Have the requirements of the Act been considered?
- Does the amendment or proposal support or implement the State Planning Policy Framework and the Local Planning Policy Framework?
- What consequences will any proposed or necessary changes to the Municipal Strategic Statement or local planning policies have for other aspects of the policy framework?
- Does the amendment make proper use of the *Victoria Planning Provisions*?
- What is the outcome of the amendment or proposal in terms of the planning scheme's strategic directions, useability and transparency?
- Planning Panels and Advisory Committees will report on these matters when considering an amendment or proposal. The Department of Sustainability and Environment will also address these matters when considering any amendment submitted to the Minister for approval.
- In the context of evaluating these matters, the following issues should be addressed. If any issue is not relevant, this should be stated giving the reason why.

IS AN AMENDMENT REQUIRED?

- Before starting to prepare an amendment, consider whether an amendment is necessary.
- Does the amendment repeat provisions already in the scheme? If so, what additional value will the amendment to the scheme provide?
- Is an amendment necessary? Are there other ways of achieving the desired outcome? (For example, can the matter be dealt by other available council mechanisms such as a local law or with a planning permit application?) If so, why is an amendment to the scheme the preferred approach?

STRATEGIC JUSTIFICATION

- Every amendment should be strategically supported and should maintain or develop the strategic focus of the planning scheme.
- What is the strategic basis for the amendment?

PLANNING & ENVIRONMENT ACT

- Every amendment must meet the requirements of the Act including any Ministerial Directions under Section 7 and Section 12 of the *Planning and Environment Act 1987*.
- Does the amendment adequately address environmental effects?
- Does the amendment adequately address the relevant social and economic effects?
- Does the amendment comply with the requirements of the Ministerial Direction on the Form and Content of Planning Schemes?
- Do any other Minister's Directions apply to the amendment? If so, have they been complied with?
- Is the amendment accompanied by all of the information required by a Direction?

STATE PLANNING POLICY FRAMEWORK

- To ensure planning schemes further the objectives of planning in Victoria, planning authorities must take into account and give effect to the general principles and specific policies contained in the State Planning Policy Framework (SPPF).
- What aspects, if any, of the SPPF are relevant?
- Does the amendment or proposal support or give effect to the SPPF?

LOCAL PLANNING POLICY FRAMEWORK

- The Local Planning Policy Framework (LPPF) sets a local and regional strategic policy context for a municipality. It comprises the Municipal Strategic Statement (MSS) and specific local planning policies.
- If an amendment or proposal is at odds with the existing policy framework of the planning scheme, then the policy framework itself may require re-assessment. If this leads to the conclusion that the LPPF itself needs amendment, then the implications of the change for the rest of the planning scheme will need to be considered.

- It is not necessary to include references to specific proposals in the LPPF. The LPPF does not need to identify every project, but rather sets the policies and strategic objectives against which individual projects will be addressed.

MUNICIPAL STRATEGIC STATEMENT

The MSS contains the strategic planning objectives of the council and the strategies employed to achieve them. As such, there should be a clear link between the objectives and outcomes sought by the MSS and the requirements applied in the scheme. When preparing an amendment to the planning scheme, the planning authority must take the MSS into account.

- How does the amendment or proposal seek to implement and or support the MSS?
- If the amendment or proposal does not support or implement the MSS, are any changes to the MSS proposed or necessary?
- What is the strategic basis for any change to the MSS?
- What effect will any change to the MSS have on the rest of the MSS:
 - Is the amendment consistent/inconsistent with strategic directions elsewhere in the MSS?
 - What is the cumulative effect of this amendment and other amendments/proposals on the strategic directions in the MSS?
- Has there been any community consultation with respect to proposed changes to the MSS? What have been the outcomes?
- Does the change to the MSS address the format, content and language guidance in the VPP Practice Note *Format of Municipal Strategic Statements*?

Local Planning Policy

A Local Planning Policy is one of the tools available for implementing objectives and strategies in the MSS. A local planning policy is a tool for day-to-day decision making in relation to a specific discretion in the planning scheme. It helps the responsible authority and other users of the scheme to understand how a particular discretion is likely to be exercised. When preparing amendments to the scheme, a planning authority must take the content of relevant local planning policies into account.

- What local planning policies will the amendment or proposal affect or be affected by?
- If the amendment introduces or changes a local planning policy, is this necessary? Or is the issue adequately covered by another planning tool or decision guideline?
- What is the strategic basis for any new or changed local planning policy?
- If the amendment introduces or changes a local planning policy, has the VPP Practice Note *Writing a Local Planning Policy* been followed? In particular does the local planning policy:
 - respond to a demonstrated need?
 - implement an objective or strategy in the MSS?

- relate to a specific discretion or group of discretions in the scheme?
- assist the responsible authority to make a decision?
- assist any other person to understand whether a proposal is likely to be supported or not?
- add to the other planning tools in the scheme, especially the relevant zone or overlay?
- address the format, content and language guidance this practice note?

ZONES, OVERLAYS AND SCHEDULES

Zones and overlays are used to implement the State and local strategic directions identified in the SPPF and LPPF and the application of requirements such as zones, overlays and local provisions must have a readily discernible basis in the SPPF or LPPF.

In deciding the most appropriate VPP tool to best implement the strategic outcomes of an amendment, consideration should be given to the series of Planning Practice Notes that have been prepared on the use of the *Victoria Planning Provisions*. Practice Notes should be used where relevant to ensure consistency and best practice methodology in every amendment.

- Does the amendment use the most appropriate VPP tool to achieve the strategic objective of the scheme? (For example, is the right zone or overlay used?)
- To what extent do local provisions adopt a performance-based approach?
- What Planning Practice Notes are relevant?
- Is the amendment in accordance with any relevant Planning Practice Notes?

REFERRAL AUTHORITIES

The creation of a new referral authority must be justified and consideration should be given to the need for new formal or informal referrals of planning applications.

- Does the amendment contain new formal or informal referral requirements?
- If so, does the referral authority support these requirements?
- What is the purpose of the referral?
- Are the referral arrangements performance based?
- Can this purpose be served by other means, for example mandatory notice under Section 52(1)(c) of the *Planning and Environment Act 1987* or a mandatory condition on every permit under Section 62(1)(a)?

OUTCOME OF THE AMENDMENT

- What is the cumulative effect of this amendment and other amendments on the strategic directions of the planning scheme and on the usability and transparency of the planning scheme?
- Are the amendment and the desired outcomes clear?

D. HISTORY OF HERITAGE STUDIES IN THE CITY OF BAYSIDE

The following description of the history of heritage studies and related planning scheme amendments was provided to the Panel by Mr. Stokans.

In the early 1980s, the then City of Brighton initiated an heritage study which led to the “City of Brighton Urban Character and Conservation Study” completed in August 1986 by Perrott Lyon Matheson Pty Ltd in association with architectural historian Andrew Ward and landscape architect Michael Sandford (the “**1986 Study**”).

The 1986 Study contains citations for 780 individual properties, grading them “A” to “E”.

The 1986 Study recommended that all items identified as “A” or “B” be subject to planning control over demolition and changes in external appearance. “C” rated properties were to be protected if they were situated within a designated historic precinct. In the case of “C” rated items not in a designated heritage precinct, and those items identified as “D” and “E”, control over demolition and change in external appearance was not mandatory, but “should be promoted”.

Following the completion of this study, the City of Brighton listed a small number of the “A” graded properties where the owners supported the proposed heritage controls.

In July 1989, the City of Sandringham engaged Andrew Ward to carry out the City of Sandringham Heritage and Conservation Study, which was completed in July 1989 (the “**1989 Study**”) which related only to places in Sandringham. The 1989 Study took a precinct approach but recommended that some form of heritage control be applied to about 70 specified properties in the municipality.

Following the formation of the new Bayside City Council in December 1994 and the creation of the amalgamated Bayside Planning Scheme, there was a straight translation of the existing heritage controls. At that time, 73 places were listed.

As part of the introduction of the New Format Planning Scheme, the MSS was exhibited in September 1997 which contained the objective to protect and enhance the city’s buildings and structures of cultural significance and to apply an Heritage Overlay to places identified in the 1986 and 1989 Studies. This is consistent with the planning objective contained in section 4(1)(d) of the Planning and Environment Act 1987.

Contemporaneously with the introduction of the New Format Bayside Planning Scheme in February 1998, Allom Lovell & Associates were commissioned to review the 1986 and 1989 studies as well as undertaking a wider investigation of the heritage significance of places within Bayside.

On 29 June 1998, Council resolved to exhibit Amendment L15 and sought interim controls pending the gazettal of Amendment L15 (327 buildings) to avoid owners pre-emptively demolishing their buildings.

Ministerial Interim Control Amendment L13 came into effect on 6 July 1998 which required a planning permit for the demolition of any property listed in the schedule to Amendment L15.

On 29 March 1999 and prior to the L15 Panel hearing, the Allom Lovell Heritage Review Study was received by Council.

At the time of the L15 Panel hearings, in February, March and April 1999, the Allom Lovell report was not a public document and was not provided to the L15 Panel as Council had not formally received or adopted it at that time. Submitters to the L15 Panel were, however, provided with individual Allom Lovell citations relating to their particular properties.

Having received the Amendment L15 Panel Report in July 1999 and further submissions from affected residents, Council resolved to only include in Amendment L15 those 45 properties whose owners volunteered them for inclusion. Subsequently, the Minister for Planning, when gazetting the New Format Bayside Planning Scheme (February 2000), included all Amendment L15 properties in the new scheme, apart from those that the Panel recommended for deletion (15 in number).

At its meeting on 6 March 2000, Council resolved to request the Minister to delete from the planning scheme, all but the 45 properties which had volunteered for heritage protection. The Minister refused to do this, advising that Amendment L15 had lapsed upon gazettal of the new format scheme, and that Council would need to initiate an amendment if it wished to delete any properties from the Schedule.

ALLOM LOVELL & ASSOCIATES CITY OF BAYSIDE HERITAGE REVIEW 1999 (the "1999 Bayside heritage Review")

The 1999 Bayside Heritage Review recommended additional individual properties, precincts and landscape elements for heritage protection. Buildings graded "A" or "B" according to revised criteria were recommended for Heritage Overlay protection.

The 1999 Bayside Heritage Review adopts the following grading system:

- Grade "A" structures are places of individual cultural significance sufficient to be considered for inclusion on the Victorian Heritage Register and the Register of the National Estate.
- Grade "B" structures are integral to the cultural significance of the City of Bayside as a whole through their architectural integrity and/or their historical associations. These are places, whilst essential to the heritage value of the city's building stock and its streetscapes, would not warrant an individual listing on the Victorian Heritage Register, however, listing on the Register of the National Estate should be considered.
- Grade "C" structures contribute to the architectural or historical character and cohesiveness of Bayside and, as such, are either of local importance or interest. These are structures that are close to grade "B" buildings, both in their physical location and their period and type, but have substantial alterations made to their

original fabric which are, in large part, reversible and, if removed, their visual contribution would be enhanced. Buildings graded "C" were considered to be of importance within the municipality worthy of retention but were not considered to be of sufficient significance to warrant planning scheme protection.

"A" and "B" grade buildings within proposed Heritage Overlay Precincts were not recommended for individual protection as it was considered that the control exercised by the precinct would be sufficient.

The 1999 Bayside Heritage Review contains an assessment of heritage landscapes and trees which was prepared in conjunction with John Patrick Pty Ltd and is found in Volume 4 of the 1999 Bayside Heritage Review. It recommended a total of 50 landscapes and trees for Heritage Overlay protection. Of these, 13 landscapes and trees have individual status, whilst 37 are associated with individually listed significant buildings. Ten of these individual places have permanent heritage controls. A number of these trees are associated with historic houses, many are the only remnant element of the site, whilst others are located in public open space.

The following criteria were used in grading the landscape features:

GRADE A LANDSCAPES

- Are those with a high degree of cultural significance within the City of Bayside. These landscapes merit inclusion on the Victorian Register and/or the Register of the National Estate.

GRADE B LANDSCAPES

- Are integral to the cultural significance of the City of Bayside as a whole, through their integrity, their historical associations and/or environmental richness. These landscapes are substantially intact or with strong characteristics which underlie the historic nature of the area.

GRADE C LANDSCAPES

- Are those which contribute to the historical character of their locality. Generally, these landscapes have been altered or neglected, or provide important fragments of older landscapes. Many of the landscapes consist of remnant trees.

Grade A, B or C landscapes are recommended for planning scheme protection.

Each citation contains a physical description and assessment addressing the tree's condition and identifying potential problems as well as steps which should be undertaken to correct them.

SUBSEQUENT PLANNING SCHEME AMENDMENTS

Amendment C6

Amendment C6 was exhibited in December 2000 to generally implement the recommendations of the 1999 Bayside Heritage Review. It proposed the inclusion of 213 individual properties, 14 precincts (comprising 639 individual properties) and 35 landscape elements within the heritage overlay.

In order to protect these properties from demolition pending resolution of Amendment C6, Council requested that interim controls be introduced. Amendment C13 (as opposed to Amendment L13 which introduced interim controls relating to Amendment L15) was gazetted by the Minister in February 2001 providing interim heritage overlay protection for all places and precincts included in Amendment C6. There is no sunset clause for this control.

In response to concerns relating to a number of properties included in Amendment C6, Council reviewed all submissions and sought further expert opinion on 44 of the citations.

In September 2001, Amendment C17 was exhibited which proposed to apply heritage overlay controls over eight individual places including 2 Deauville Street, Beaumaris and deleted one place.

Amendment C18 proposed protection of Nos 13-15 Asling Street, Brighton and the Orlando Precinct comprising 96 properties.

In September 2001, the Minister, at Council's request, introduced interim controls through C19 in relation to Amendments C17 and C18.

Following representations made by the Owner of 13-15 Asling Street, Council's Heritage Committee recommended removal of No 15 Asling Street (vacant land) from the Schedule.

On 10 December 2001, Amendments C6, C17 and C18 were abandoned at the request of Council, but the interim controls introduced by Amendments C13 and C19 remained in force.

In January 2002 Council requested the Minister to remove interim controls C13 and C19.

The Minister took the view that, as Council requested the introduction of the interim heritage controls, Council should be responsible for the preparation and exhibition of any amendment to remove the affected places and precincts from the heritage overlay.

Amendment C29

During 2002, Council's Heritage Review Committee reviewed the Schedule to the Heritage Overlay and identified;

- errors in the original citations,
- places which had been demolished or substantially modified;
- places of limited individual significance; and
- places in an advanced state of disrepair.

As a result of this review, Amendment C29 was prepared and exhibited in late 2002. It proposed to remove eighteen properties from the Schedule, and to correct mapping anomalies affecting the Brighton beach bathing boxes.

At its Special General Committee Meeting of 25 June 2003, Council resolved to split the Amendment into two. Part 1 was referred to the Minister for Planning for approval in relation to the 9 properties to which there was no issue. This was

gazetted on 11 December 2003. Part 2 was referred to an independent panel which supported the deletion of 8 of the 9 properties whilst recommending the retention of 15 Asling Street Brighton within the Heritage Overlay.

On 1 March 2004, Council considered the recommendations of the C29 Panel, and resolved to adopt the Amendment as recommended. Council also resolved, in accordance with the Panel's recommendations to require all future instructions to heritage consultants to take account of the Australian Heritage Commission Guidelines.

Amendments C37 and C38 were already on exhibition at the time the C29 Panel reported.

Amendments C37 and C38

On 18 June 2003, Council's Special General Committee recommended a planning scheme amendment to apply permanently the heritage overlay to all individual properties denoted as having interim status excluding properties removed by Amendment C29, and subject to the following changes:

- the revised precinct boundaries of Orlando Street Precinct (HO662*);
- amended boundary of North Road Precinct (HO662*) to include a northern portion of John Knox Presbyterian Church and Manse site and 72-74 Cochrane Street;
- inclusion of the Asling Street Precinct;
- inclusion of 5 Edward Street, Sandringham;
- there be further refinements to the proposed landscape controls.

Following exhibition of C37 and C38 for one month closing on 15 December 2003, on 19 April 2004, Council resolved to refer Amendment C37 to an independent Panel with changes. On 27 April 2004, Council resolved to refer amendment C38 to an independent Panel with changes.

Amendments C37 and C38 are underpinned by the 1999 Bayside Heritage Review which builds on the substantial volume of heritage studies undertaken over a number of years. In October 2003, Council staff, with the consent of Allom Lovell and Associates, undertook a review to address factual errors in citations and to acknowledge building modifications, demolitions or subdivisions that have occurred since it was originally written. The Review made a number of minor factual corrections. No changes were made to the statements of significance.

The revised document, Bayside Heritage Review (Revision 1) 2003, was placed on exhibition as part of Amendment C37.

In April 2004, in response to submissions received by Council, Bryce Raworth reviewed nine individual buildings included in Amendment C37, and the precincts included in Amendment C38.

The Raworth report reviews the properties identified as contributory with respect to each of the proposed Heritage Overlay Precincts and makes recommendations regarding changes to the listings for each precinct as appropriate. In essence, the changes recommended have come about due to revisions in boundaries since the

precincts were first identified or through demolitions or changes to buildings that have occurred in the interim, or because buildings were overlooked when the survey was first undertaken.

Council retained the Environs Group to undertake an audit of all individual trees proposed for inclusion in C37 as a result of which six landscape elements, HO 706, 707, 709, 717, 719 and 720, were recommended for deletion from the Heritage Overlay based on the following criteria:

- Not included in the National Trust of Australia (Victoria) register;
- Not included in the City of Bayside Significant Tree register;
- Graded C in the City of Bayside Heritage Review: Landscape Citations (1999);
- In poor physical condition.

The planning scheme maps were revised to reflect the correct GPS coordinates and the protection radius listed in the table.

The audit of heritage landscape elements also reviewed a number of citations to clarify which of the landscape elements on each property are to be the subject of heritage controls.

E. STRATEGIC JUSTIFICATION

The following description has been provided by Mr. Stokans of Russell Kennedy, lawyers.

LEGISLATIVE AND STRATEGIC JUSTIFICATION FOR AMENDMENTS C37 AND C38

PLANNING AND ENVIRONMENT ACT 1987

Council is required pursuant to sections 6 and 12 of the *Planning and Environment Act 1989* (the "Act") to further and implement the objectives of planning in Victoria as defined in section 4 of the Act. These objectives include:

- "4.(a) to provide for the fair, orderly, economic and sustainable use and development of land; and,
- (d) to conserve and enhance those buildings, areas or other places which are of scientific, aesthetic, architectural or historical interest or otherwise of special cultural value;
- (g) to balance the present and future interests of all Victorians."

All municipalities are required by section 12(1)(a) of the Act to implement the objectives of planning in Victoria. In addition, section 12(1)(c) specifically requires the planning schemes to be regularly reviewed.

STATE PLANNING POLICY FRAMEWORK (SPPF) CLAUSE 11.03 PRINCIPLES OF LAND USE AND DEVELOPMENT PLANNING

The SPPF recognises that society has various needs and expectations that need to be addressed by planning schemes. Clause 11.03 sets out seven general principles that must be considered by a planning authority when preparing a planning scheme. The general principle relating to the environment makes particular reference to the need to:

Protect areas and sites with significant historic, architectural, aesthetic, scientific and cultural values.

Clause 11 also emphasises the State Government's expectation that planning authorities will endeavour to integrate conflicting objectives in favour of net community benefit and sustainable development.

Clause 14.01 Planning for urban settlement

The objectives of planning for settlement are to ensure sufficient supply of land for various uses and to facilitate orderly development. To achieve these objectives planning authorities should:

- ...encourage consolidation of existing urban areas while respecting urban character.

- ...encourage higher density and mixed use development near public transport routes.

Clause 14.02, Metropolitan Development at 14.02-2 states:

“...Historic buildings and precincts should be protected from development which would diminish their environmental, conservation or recreation values.”

At clause 15.11-1, Heritage contains the objective:

“To assist the conservation of places that have natural, environmental, aesthetic, historic, cultural, scientific or social significance or other special values important for scientific and research purposes, as a means of understanding our past, as well as maintaining and enhancing Victoria’s image and making a contribution to the economic and cultural growth of the state.”

Clause 15.11-2 states that planning and responsible authorities should identify, conserve and protect places of natural or cultural value from inappropriate development. These include:

- important buildings, structures, parks, gardens, sites, areas, landscapes, towns and other places associated with the historic and cultural development of Victoria, including places associated with pastoral expansion, gold mining, industrial development and the economic expansion and growth of Victoria;
- planning authorities should have regard to Local Government Heritage Guidelines (Department of Planning and Housing 1991) when preparing planning schemes or amendments to assist the conservation and enhancement of places, sites and objects of non-aboriginal cultural heritage value.

Clause 19.03 - design and built form - in the section on heritage states:

- “new development should respect but not simply copy historic precedents and create a worthy legacy for future generations.”

The State Planning Policy Framework in the VPPs makes it clear that there is an obligation on municipal Councils to protect heritage assets within their boundaries. Bayside’s MSS adopts heritage objectives consistent with these State policies.

VICTORIA HERITAGE STRATEGY 2000-2005

The Victoria Heritage Strategy 2000-2005 is a State government five year vision to identify, protect and manage the State's cultural heritage assets. Its key goals are:

- knowing by increasing knowledge of Victoria's heritage places and objects,
- communicating by enhancing community understanding and, appreciation of heritage.
- protecting by providing mechanisms for the strategic and practical protection of heritage places and objects.
- managing by supporting proactive management and sustainable use of heritage assets.

The most relevant goal to these amendments is 'Protecting'. The objectives of the Strategy under this goal include providing:

- An appropriate level of protection for all significant heritage assets, based on a balanced assessment of values.
- Improved use and application of local government planning controls to protect a broader range of heritage places at local level.

A 'Proposed Program' to implement these objectives include:

Protection of places at the local level

The Heritage Council, in conjunction with the Department of Infrastructure, will develop a model of agreed protocols to assist local government authorities to comply with the provisions of the Heritage Act 1995 and the Planning and Environment Act 1987, as they relate to the protection of heritage assets. This program will work with the current review of the Department's Local Government Heritage Guidelines 1991. The protocols will help to add clarity by recommending the use of more consistent grading and terminology in heritage studies, conservation policies and planning schemes.

Heritage Victoria is currently working on a model of agreed protocols and assessment standards.

DRAFT GUIDELINES FOR THE ASSESSMENT OF HERITAGE PLANNING APPLICATIONS (2000)

Heritage Victoria has released a draft set of guidelines that are intended to guide decision-makers in the assessment of permit applications for heritage places. The guidelines provide detailed advice on the wide range of applications that may be made in relation to heritage places. The guidelines cover:

- Subdivision and consolidation of land
- Demolition and removal of buildings
- Construction of new buildings, including additions and extensions to existing buildings, verandahs and shopfronts, and demolition and construction of fences
- External alteration of an existing building
- Construction and carrying out of works
- Installation, demolition and alterations to utilities and services
- Signs
- External paint work
- Internal alterations
- Significant trees
- Heritage areas, including gardens, parks and landscapes
- Change of use
- Historical and maritime archaeological sites.

The guidelines for each of these matters are set out in a standard format, providing a Guideline Basis, Objectives and Guidelines.

The guidelines are comprehensive and provide a very helpful reference for the assessment of permit applications.

These Guidelines contain the caveat:

“These guidelines should not supersede or overwrite any local heritage guidelines as produced by the relevant Responsible Authority.” (Introduction)

PLANNING PRACTICE NOTE ON APPLYING THE HERITAGE OVERLAY

The Planning Practice Note provides advice about the use of the Heritage Overlay in the new format planning schemes. The Practice Note states that:

“All places that are proposed for planning scheme protection, including places identified in a heritage study, should be documented in a manner that clearly substantiates their scientific, aesthetic, architectural or historical interest or other special cultural or natural values.”

The Practice Note also states that:

“The heritage process leading to the identification of the place should be undertaken with rigour. The documentation for each place should include a statement of significance that clearly establishes the importance of the place.”

Recognised heritage criteria are discussed in the Planning Practice Note. Heritage criteria that could be adopted include those adopted by the Australian Heritage Commission or Heritage Victoria. However, the Practice Note emphasises that:

“The most important thing is that the assessment of heritage places has been rigorous and that heritage controls are applied judiciously and with justification.” (P31)

BURRA CHARTER

The *Australia ICOMOS Charter for the Conservation of Places of Cultural Significance* (the Burra Charter) defines the basic principles and procedures to be observed in the conservation of heritage places. The Charter includes definitions of concepts such as “cultural significance”, “conservation”, “preservation”, “restoration”, “reconstruction” and it defines “conservation principles”, “conservation processes” and “conservation practice”. The Charter also contains guidelines for the establishment of cultural significance, including a discussion on the concept of cultural significance, the establishment of cultural significance, and the content of a report relating to the cultural significance of the place.

The definitions, principles and processes set out in the Burra Charter are widely accepted as the basis for development of conservation policy in relation to heritage places in Australia.

MINISTERIAL DIRECTION NO. 9

This requires Council to take into account Melbourne 2030 Strategy.

MELBOURNE 2030 STRATEGY

The key directions of Melbourne 2030 that are of most direct relevance to this matter include:

Policy 5.4 Protect heritage places and values

Melbourne 2030 recognises that heritage places ‘offer a way of experiencing the heritage and unique cultural identity of the people who live in a region.’ For this reason the cultural heritage of a place is seen as important not only to the people who live in the area, but also as an attraction to tourists. Melbourne 2030 states that the identification, conservation, protection and management of cultural heritage values across the region will receive continued support and lists as initiatives:

- Promote a consistent framework for assessment of heritage places and refine guidelines for the assessment of development proposals under the Heritage Overlay
- Provide guidance to local government and other agencies on preparing statements of heritage significance
- Ensure that planning schemes reflect the full extent of heritage values in each municipality

LOCAL GOVERNMENT HERITAGE GUIDELINES APRIL 1991

The Local Government Heritage Guidelines were produced by the former Department of Planning and Housing in April 1991 that is, prior to the introduction of the Victoria Planning Provisions and the new format planning schemes). The guidelines primarily provide advice on the conservation of Victoria's post-contact cultural heritage. They are referred to in Clause 15.11 of the SPPF as something that planning authorities must have regard to when preparing amendments to planning schemes.

The guidelines explain the importance of conserving cultural heritage, the concept of cultural significance and thresholds of cultural significance. The guidelines also state that:

A primary source of protection for all historic places and particularly those not protected by a listing on the Register of the National Estate or the Register of Historic Buildings is through planning schemes at local government level.

Planning scheme controls may relate to individual buildings, heritage areas and notable trees. In relation to heritage areas the guidelines state that:

“A heritage area might encompass a small urban or suburban area, a town or a landscape of cultural significance. A heritage area might be significant because:

- the area itself, or the places within it have intrinsic heritage value;

- the area is composed of places that individually have little or no intrinsic value but which are important for what they tell us as a group or collection of places.

Heritage areas, particularly those of a large size, are also likely to include places that have little or no intrinsic value and are not contributory to the significance of the area. Within a heritage area, the primary objective is to ensure the conservation of those elements that contribute to the area's significance. The removal or alteration of non-contributory elements or the development of their sites, while requiring a planning permit, is usually not a major concern. The objective is to ensure that where development does occur, it occurs in a manner which is appropriate to the significance, character and appearance of the heritage area."

Use of planning policies and guidelines are also advocated to:

- assist in coming to an appropriate decision on a planning application;
- ensure that discretion under the planning controls is exercised in a consistent manner;
- assist permit applicants to have some idea as to what will be considered favourably by the council and what will not; and
- ensure support for council's actions should it be necessary to justify a decision before the Administrative Appeals Tribunal.

Finally, the guidelines summarise the Department's expectations in relation to an heritage amendment, including:

- That all places proposed for planning scheme protection are documented in a manner which clearly substantiates their scientific, aesthetic, architectural or historic interest, or other special cultural value. The documentation... must include a Statement of Significance. The Department may request further supporting information where it is considered that the:
 - Statement of Significance or documentation justifying the amendment fails to sufficiently establish the scientific, aesthetic, architectural or historic interest, or other special cultural value; or
 - The approach taken to identifying heritage places for planning scheme protection lacks rigour.
- That heritage amendments will be in a 'plain-English' and 'user-friendly' format in accordance with Department standards.
- That where a heritage amendment is proposed which is a significant departure from the format or content of the model heritage controls, the Department will consider whether the proposed amendment is likely to achieve the conservation of heritage places in accordance with the heritage objectives of the Planning and Environment Act 1987 Section 4(1) (d).
- That in the preparation of any major heritage amendment, consideration will be given to the general effect of the amendment in terms of the overall planning of the municipality and the achievement of Council's strategic planning objectives.
- That in the case of amendments applying to an extensive list of heritage places, the Department expects the Council to have given some consideration to supporting measures (e.g. advice, guidelines, policies etc) to provide assistance to

the community, to effectively administer the proposed controls and to ensure the consistent and justifiable application of discretion under the planning scheme.

The Guidelines are designed to address three specific objectives:

1. to provide a basic reference on a range of heritage conservation issues;
2. to provide a "how to" document for heritage studies;
3. to provide information necessary to satisfy the requirements of the Planning and Environment Act 1987 as they relate to the conservation of heritage places.

Although all municipalities have heritage responsibilities under the *Planning and Environment Act 1987*, there are limits on the duty to preserve cultural heritage.

This is acknowledged at page 6 of the Guidelines which states:

"Every place has a history, an aesthetic value or a special meaning to some members of a community. Most places therefore meet some of the standards described in the previous section. It is, however, neither possible nor desirable to conserve every building, work, place or object. Some measures must be applied to places, buildings and objects to which these standards apply in order to determine the degree of significance of a particular place. The degree to which a place is significant will determine the appropriate forms of management for the place."

The normal means of management for places of local significance is inclusion, (ie with appropriate designation and controls) in the local planning scheme.

The Local Government Heritage Guidelines refer to the threshold of cultural significance which determines the appropriate forms of management.

"Local significance" is defined as "places of local significance that are of particular importance to a local community or part of a community which is usually defined by a local government area".

An heritage area might be significant because:

- the area itself or the places within it have an intrinsic heritage value;
- the area is composed of places that individually have little or no intrinsic heritage value but which are important for what they tell us as a group or collection of places.

At page 13, the Guidelines state that it is important to stress that the adoption of an heritage study is not the final stage in the heritage processes for a community. Decisions regarding the significance of various aspects of the community's cultural heritage reflect the changing nature of that community's perception of itself and its environment. At page 28, the Guidelines recommend a regular review of local heritage controls that responds to changing circumstances. A study must therefore be reviewed and updated from time to time in order to cater for changing priorities within that community. Amendments C37 and C38 are entirely consistent with this.

Since the original Heritage Review was undertaken by Allom Lovell and Associates in 1999, further information has come to hand concerning the subject places, and consistent with Council's obligation to review its heritage assets, Amendments C37 and C38 have been prepared.

CITY OF BAYSIDE CORPORATE PLAN

Bayside's Corporate Plan includes a number of goals relevant to these amendments.

The Corporate Plan at item 2.2 identifies heritage protection as a key influence in urban form. Council has committed itself in the Corporate Plan to:

“protect and enhance the City's buildings, trees and structures *of cultural significance*”.

In relation to urban form, Council's goal is to “*reach a balance of heritage buildings and locations, with reasonable and responsible development*”. This flows down to various objectives including:

- manage and ensure access to Council's heritage buildings;
- protect heritage buildings and locations;
- enhance urban design and introduce vegetation controls.

These objectives flow down into the Municipal Strategic Statement.

MUNICIPAL STRATEGIC STATEMENT (MSS)

Clause 21.02-2 of the MSS recognises that many features of the gold rush period remain in Bayside with magnificent houses and former guesthouses, the Brighton sea baths and brightly coloured bathing boxes at Dendy Street Beach.

The vision for Bayside contained in clause 21.04-1 includes:

- preservation and enhancement of heritage, natural features and areas.

Council's Municipal Strategic Statement identifies heritage as a major issue for the municipality.

At clause 21.05 Housing, the overview acknowledges the need to promote sustainable economic growth whilst acknowledging that poorly designed medium density development is eroding the character and quality of some residential areas. Key issues include:

- development pressures in the City of Bayside due to its attractiveness as a place to live and its accessibility are eroding *the urban character and quality of some residential areas*.

Clause 21.07-1 Tourism recognises heritage buildings as a key resource for tourism in Bayside.

The most relevant policy is clause 21.09 - Heritage. The overview refers to limited heritage controls and that there is an increasing concern that the city's heritage is under serious threat. Key issues at clause 21.09-2 include:

- the protection of heritage buildings for present and future generations requires the implementation of effective planning controls.

Clause 21.09-3, the first objective is:

- to protect and enhance the city's buildings, trees and structures of cultural significance for present and future generations.

Strategies to achieve this objective include:

- introduce demolition and development controls over sites and precincts identified as having heritage significance;
- recognise the varying degrees to which individual buildings contribute to the significance of a heritage area.

These strategies will be implemented by:

- applying the Heritage Overlay to places listed in Brighton Urban Character and Conservation Study 1986 and the Sandringham Heritage and Conservation Study 1989 (which will be updated by these amendments).

Further strategic work is identified as including:

- preparing an amendment to implement the recommendations of the recent heritage review of past studies and survey or areas not previously studied;
- investigating the heritage significance of the remaining parts of the City of Bayside.

REFERENCE DOCUMENTS INCLUDE:

- City of Brighton Urban Character and Conservation Study 1986;
- City of Sandringham Heritage and Conservation Study 1989;
- City of Bayside Heritage Review February 1999.

LOCAL PLANNING POLICY FRAMEWORK

The City of Bayside does not include any policies directly relevant to the implementation of the Heritage Overlay additional to those contained in clause 21.09 of the MSS.

F. AUSTRALIAN HERITAGE COMMISSION ASSESSMENT CRITERIA

Attachment 10 Australian Heritage Commission Criteria & Guidelines

Criteria for The Register Of The National Estate

Without limiting the generality of sub-section (1) of the Australian Heritage Commission Act, a place that is a component of the natural or cultural environment of Australia is to be taken to be a place included in the national estate if it has significance or other special value for future generations as well as for the present community because of:

CRITERION A:

ITS IMPORTANCE IN THE COURSE, OR PATTERN, OF AUSTRALIA'S NATURAL OR CULTURAL HISTORY.

- A.1 Importance in the evolution of Australian flora, fauna, landscapes or climate.
- A.2 Importance in maintaining existing processes or natural systems at the regional or national scale.
- A.3 Importance in exhibiting unusual richness or diversity of flora, fauna, landscape or cultural features.
- A.4 Importance for their association with events, developments or cultural phases which have had a significant role in the human occupation and evolution of the nation, state, region or community.

CRITERION B:

ITS POSSESSION OF UNCOMMON, RARE OR ENDANGERED ASPECTS OF AUSTRALIA'S NATURAL OR CULTURAL HISTORY.

- B.1 Importance for rare endangered or uncommon flora, fauna, communities, ecosystems, natural landscapes or phenomena, or as a wilderness.
- B.2 Importance in demonstrating a distinctive way of life, custom, process, land-use, function or design no longer practiced, in danger of being lost, or of exceptional interest.

CRITERION C:

ITS POTENTIAL TO YIELD INFORMATION THAT WILL CONTRIBUTE TO AN UNDERSTANDING OF AUSTRALIA'S NATURAL OR CULTURAL HISTORY.

- C.1 Importance for information contributing to wider understanding of Australian natural history, by virtue of their use as research sites, teaching sites, Type localities, reference or benchmark sites.
- C.2 Importance for information contributing to a wider understanding of the history of human occupation of Australia.

CRITERION D:

ITS IMPORTANCE IN DEMONSTRATING THE PRINCIPAL CHARACTERISTICS OF:

(I) A CLASS OF AUSTRALIA'S NATURAL OR CULTURAL PLACES; OR

(II) A CLASS OF AUSTRALIA'S NATURAL OR CULTURAL ENVIRONMENTS.

- D.1 Importance in demonstrating the principle characteristics of the range of landscapes, environments or ecosystems, the attributes of which identify them as being characteristic of their class.
- D.2 Importance in demonstrating the principle characteristics of the range of human activities in the Australian environment (including way of life, custom, process, land-use, function, design or technique).

CRITERION E:

ITS IMPORTANCE IN EXHIBITING PARTICULAR AESTHETIC CHARACTERISTICS VALUED BY A COMMUNITY OR CULTURAL GROUP.

- E.1 Importance for a community for aesthetic characteristics held in high esteem or otherwise valued by the community.

CRITERION F:

ITS IMPORTANCE IN DEMONSTRATING A HIGH DEGREE OF CREATIVE OR TECHNICAL ACHIEVEMENT AT A PARTICULAR PERIOD.

- F.1 Importance for their technical, creative, design or artistic excellence, innovation or achievement.

CRITERION G:

ITS STRONG OR SPECIAL ASSOCIATIONS WITH A PARTICULAR COMMUNITY OR CULTURAL GROUP FOR SOCIAL, CULTURAL OR SPIRITUAL REASONS.

- G.1 Importance as places highly valued by a community for reasons of religious, spiritual, cultural, educational or social associations.

CRITERION H:**ITS SPECIAL ASSOCIATION WITH THE LIFE OR WORKS OF A PERSON, OR GROUP OF PERSONS, OF IMPORTANCE IN AUSTRALIA'S NATURAL OR CULTURAL HISTORY.**

- H.1 Importance for their close associations with individuals whose activities have been significant within the history of the nation, state or region.

CRITERIA FOR THE REGISTER OF THE NATIONAL ESTATE:**APPLICATION GUIDELINES****AUSTRALIAN HERITAGE COMMISSION****APRIL 1990****PREAMBLE**

Under the Australian Heritage Commission Act (1975), the Australian Heritage Commission was established and charged with the responsibility of compiling the Register of the National Estate. The National Estate is defined as 'consisting of those places, being components of the natural environment of Australia or the cultural environment of Australia, that have aesthetic, historic, scientific or social significance or other special value for future generations as well as the present community' (Australian Heritage Commission Act section 4(1)).

The functions of the Register, as set down in the Act, are:

- to establish which places are significant; and
- to ensure that the actions and decisions of Commonwealth Ministers and authorities are taken only after consideration of any adverse affect they may have on the national estate values of places.

The Commission's objectives for the Register are for it to:

- be a comprehensive list of places in Australia which have significant national estate value;
- inform Australians of the presence of places of national estate significance;
- provide all decisions-makers in Australia (non-Government and Government) with objective information about places of national estate significance to help them make better-informed decisions about the use and management of these places;
- educate Australians about the natural and cultural history of their country; and
- provide a focus and direction for the National Estate Grants Program and the Australian Heritage Research Program.

In order to ensure that the Register provides a comprehensive listing of places of national estate significance, the Commission has adopted the following general guidelines for the Register. It should: capture the essential character of the Australian environment and its variations;

- be sufficiently selective so as not to devalue the understanding of national estate significance;
- reflect both public and professional assessments of significance;
- be compiled professionally to specified criteria; and
- contain no internal 'ranking' of relative value.

The Australian Heritage Commission Act is not specific about the types of places to be entered in the Register. The range of places of national estate significance reflects the values of Australian society, as demonstrated by the public concern and interest which gave rise to the Hope Inquiry and the Act itself.

Similarly, although the Act defines the National Estate as those places of 'aesthetic, historic, scientific or social significance or other special value', it does not establish criteria for the Register. At the time of writing, amendments to the Act incorporating the general level of the criteria (A, B, C, etc) into the Act have been tabled in the Parliament. Similarly, the Act is not specific about thresholds for registration.

The Commission believes the Register should include places:

- which are either exceptional in or characteristic of the Australian natural or cultural environments;
- which are of symbolic or social value to the Australian people or to particular regional, ethnic or other communities;
- which characterise the periods and processes in the evolution of Australia's natural and cultural environments
- which are important in the context of those arts and sciences related to the natural and cultural environments;

- which reflect all aspects and periods of Australia's natural and cultural history;
- with which the community can identify.

The criteria below have been developed to implement these requirements. They have been adopted by the Commission for use in assessing nominations. The Application Guidelines are intended to provide guidance by use of generic and specific examples; the guidelines are not seen as exhaustive, although it is hoped that they will become more definitive through an annual review process. The use of examples is not intended to convey the impression that all places with a particular attribute will be entered in the Register, rather the Commission will propose for registration only those places which reach a threshold level of significance.

For example, a rainforest area in north Queensland may have species of Indo-Malay origin which may be significant under criterion A.1 for demonstrating past evolutionary and biogeographic processes. The relative significance of a place against this criterion will depend on the extent to which the place demonstrates those past processes. This relative significance depends on whether they have an evolutionary or biogeographic 'story to tell'. This 'story' might be indicated by a number of factors such as:

- the particular Indo-Malay families, genera and species represented;
- whether the genera and species represented indicate a particular line of evolution or pattern of distribution, either from their source or within Australia;
- the current status of those families, genera and species at their source or elsewhere; ° whether the genera represented are monospecific i.e. single species genera;
- the relative primitiveness of represented genera and species;
- the proportion of Indo-Malay genera and species in the whole community;
- whether those species take on particular niches within their host system or indicate distinctive survival or distribution mechanisms;
- whether the distribution of the families, genera and species in Australia has been relatively static or dynamic within Australia.

It should be noted also that a place will have some greater or lesser significance against a number of criteria. For example, the rainforest area discussed above may be significant for diversity of rainforest communities and the presence of an endangered fauna species; the presence of Indo-Malay flora species may be an interesting sidelight rather than the principal reason for listing.

It is imperative that all the appropriate issues and questions are addressed during the assessment process. The Commission is continuing development work on its assessment methodology with a view to making such considerations more consistent and explicit. Papers on assessment methodology are available from the Commission on request.

Any comments on the criteria should be addressed to the Director, Australian Heritage Commission, GPO Box 1567, Canberra ACT 2601.

April 1990

(RELEVANT CULTURAL CRITERIA)

CRITERION A: ITS IMPORTANCE IN THE COURSE, OR PATTERN, OF AUSTRALIA'S NATURAL OR CULTURAL HISTORY A.4 Importance for association with events, developments or cultural phases which have had a significant role in the human occupation and evolution of the nation, State, or community

Explanatory notes

This criterion applies where the contribution of an event, development or phase to the broad patterns of Australian history or prehistory can be clearly demonstrated, or where the place epitomises elements of those patterns.

An association with a significant development or cultural phase might be places associated with, for example:

- major development in prehistoric technology or other aspects of culture history;
- history of settlement;
- cross cultural contacts, e.g. major development of Mission Stations and Government Reserves;
- immigration;
- development of industries, e.g. mining, sealing, whaling, pastoralism;
- evolution of the convict or penal systems.

All of these associations can occur at different levels from national to regional.

This criterion may include places which were important historically in the development of branches of the arts in Australia, e.g. painting, theatre, creative writing, and places important in the natural and social sciences as they are related to cultural history, e.g. places significant in the development of the archaeological and anthropological study of Australia's past.

It may include places which were important historically in developing broad scientific theory, e.g. succession, climatic change, continental drift. It does not apply necessarily to places which are good examples of scientific phenomena (Criteria A.1 or D.1) or places important in the understanding of the Australian environment (Criterion C.1).

This criterion may apply also to places associated with pioneering collection of information, usually associated with historically significant explorations, e.g. Banks, Becker [Burke and Wills expedition], von Mueller, Gould. Very often Criterion H.1 [Associations with lives and works of historic figures] will apply also.

If the data produced by investigation of the place are scientifically significant, one or more of the other criteria may be relevant, especially A.1 [Ecological or bio-geographic significance], B.1 [Rare or endangered], C.1 [Research significance] or D.1 [Principal Characteristics].

Scope

Aboriginal

- Evidence of changing patterns of demography, physical anthropology, technology/ material, culture, land use and subsistence economies, social organisation and art;
- Archaeological remains (including rock art) reflecting cultural changes over time.

Historic

- Evidence of changing patterns of demography, ethnic diversity, economy and land use, political structures, social organisation, intellectual or aesthetic developments;
- Places important in settlement, politics etc, where single events may have been influential in changing the direction of aspects of the cultural development.

Natural, Aboriginal & Historic

- Places associated with the development of theories in geology, geomorphology, botany, zoology, ecology, archaeology, anthropology or other sciences associated with understanding of the natural environment and human interaction with the environment.

Inclusion guidelines

Places associated with events or developments which contributed to or reflect long-term changes in prehistory or history.

Places representing 'landmark' cultural phases in the evolving pattern of prehistory and history.

A place eligible for its association with a significant scientific theory must have a clear and important relationship to the development of that theory or its early application in Australia.

A place eligible for its history of science associations must have a strong connection with the work of an historically significant scientific figure or with an historically significant scientific exploration/undertaking, or methodological development.

Exclusion guidelines

Places which do not demonstrate a particular contribution to, or allow an understanding of, the broad evolutionary patterns of Australia's natural history, prehistory or history.

Places where claimed associations with events, development or phases cannot be verified.

Places are not eligible if they have been altered so that the aspects of the environment important to the association have been seriously degraded.

Examples of places which are or might be registered using this criterion

Aboriginal

- Macassan Sites (NT) - sites of contact between Aboriginal and Macassan people.
- Kutikina Cave (Tas.) - spread of Aboriginal occupation in the Pleistocene.
- Kow Swamp (Vic.) - physical anthropology.
- Lake Mungo (NSW) - cultural history, Pleistocene lifestyles, biological anthropology, land use and ritual beliefs.
- Lake Condah (Vic.) - manipulation of the environment, eel husbandry.
- Wombah Midden (NSW) - early presence of Dingo.

Historic

- Port Essington (NT) - attempts to settle the north.
- Hahndorf (SA) - German immigration.
- Palmer River (Qld) - Chinese goldmining, Cooktown.
- Eureka Stockade (Vic.) - site of goldfields uprising.
- Blue Mountains Crossing - site of first crossing of mountain barrier, start of exploration of the interior.
- Provisional Parliament House (ACT) - centre of federal government.
- Kingston (Norfolk Island) - major expression of an aspect of the convict system.
- Heidelberg area (Vic.) - landform giving inspiration to the Heidelberg school of painting.

Geology

- Great Barrier Reef sites (Qld) - theories of reef evolution.

Landform

- Willandra lakes (NSW) - theories on evolution of arid landforms.

Biological/Ecological

- Dark Island Heath Sites, near Keith (SA) - pioneering of comprehensive description of particular vegetation communities (Specht).
- Woylering Well (WA) - early collections and descriptions of Australian mammals.
- Shark Bay (WA) - first known collection of Australian plants (Dampier, 1606).

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CRITERION B

ITS POSSESSION OF UNCOMMON, RARE OR ENDANGERED ASPECTS OF AUSTRALIA'S NATURAL OR CULTURAL HISTORY

B2. Importance in demonstrating a distinctive way of life, custom, process, land-use, function or design no longer practised, in danger of being lost, or of exceptional interest.

Explanatory notes

This criterion applies particularly to places which characterise past human activities which are rare, endangered or uncommon by virtue of their being:

- few in number originally;
- few in number due to subsequent destruction;
- susceptible to rapid depletion due to changed practices or other threats; or
- outstanding example of uncommon human activity.

Scope

Aboriginal

- Evidence of human activities especially susceptible to environmental decay (e.g. carved trees);
- Rare or uncommon prehistoric places.

Historic

- Evidence of types of human activities particularly subject to destruction by changing land use and economic pressure;
- Rare or uncommon historic places.

Inclusion guidelines

Scarcity may be the result of historical process (i.e. few of such places were ever made) or of subsequent destruction or decay. However, rarity must be demonstrated to be more than simply absence of survey information.

Rarity in some cases may apply to the survival of the combination of characteristics and the place as a whole may lack integrity.

Rarity at a regional or State level must be assessed in the context of its distribution and abundance in other regions or States. Rarity in one location when compared with abundance in another may or may not give the place national estate significance, depending on the cultural context.

Exclusion guidelines

Rarity at local or regional or State level does not necessarily confer national estate value, unless such rarity has particular cultural significance.

Places deemed to be uncommon due to lack of research/survey may subsequently be found not to be eligible under this criterion. Evidence of rarity will normally be required.

Potential threat to a currently numerous class of place will not be regarded as valid grounds for inclusion within this criterion.

Examples of places which are or might be registered using this criterion

Aboriginal

- Tiboburra mia-mias (NSW) - rare organic structures.
- Ubirr Rock Thylacine painting (NT) - rare representation of extinct species.
- Carved trees (generally) - rare organic objects susceptible to rapid decay.
- Bora rings (generally) - rare structures susceptible to destruction by changed land use.
- Bookabie human footprints - rare due to preservation through exceptional circumstances, and at risk.
- Wyrick Swamp (SA) - rare site preservation of wooden artefacts.

- Upper Swan Site (WA) - site of oldest currently known Aboriginal occupation.
- Willandra Lakes (NSW) - rare survival of range of evidence of a distinctive prehistoric land-use and cultural practices.
- Ottery Arsenic Mine (NSW) - one of two examples of its type in the world.
- Cockatoo Island Dockyard (NSW) - rare survivor of nineteenth century engineering works.
- Broome (WA) - result of rare industry (pearling), and a distinctive and rare combination of European, Asian and Aboriginal customs, architecture and cultural influences.
- Capital Theatre, Sydney (NSW) - one of only two 'atmospheric' theatres in Australia.
- Calthorpe's House, Canberra (ACT) - Common house type but incorporating the rare survival of original fittings and furniture.

CRITERION C:

ITS POTENTIAL TO YIELD INFORMATION THAT WILL CONTRIBUTE TO AN UNDERSTANDING OF AUSTRALIA'S NATURAL OR CULTURAL HISTORY

C.2 Importance for information contributing a wider understanding of the history of human on of Australia

Explanatory notes

This criterion applies to research sites producing research information about the cultural environment or cultural history. Research value must relate to the likelihood of the place containing information within its fabric.

Places that have yielded information in the past but that no longer contain research potential (such as fully excavated archaeological sites or fully studied and recorded buildings) must be assessed within other criteria to ascertain whether they retain their significance.

The research value of places already partially studied (e.g. by excavation, architectural or engineering study) must be determined by examining the potential of the place to yield additional important information.

Scope

Places for which there is a strong presumption of research potential in one of a wide variety of fields (e.g. archaeology, palaeontology, dendrochronology, architecture, engineering, history, materials studies, geomorphology, palynology) which may contribute to the understanding of Australian prehistory or history.

Inclusion guidelines

A place with archaeological deposits may be eligible if it can be shown that the deposits are likely to contain evidence of technological, architectural, or cultural value, that evidence not being available through other research techniques. The nature of this research potential should be specified.

A building or engineering item may be eligible if its research value can be defined. For example, a building exhibiting a local variation on a standard design or construction technique may be eligible if study could yield important information such as how local materials and construction expertise affected the evolution of local building development, if this information is not available through documentary research.

A site that has been partially excavated but which still retains substantial intact deposits of which further research may be asked, or a building or structure which has not been studied fully and may yet contain important information, may be eligible.

Exclusion guidelines

A place is not eligible simply because it contains archaeological deposits. The value or likely value of those deposits must be demonstrated.

A building would not be eligible if it is valued for an unusual feature referred to in the documentary sources, but no longer part of the surviving fabric of the place.

A particular type of place may not be eligible for its research value if that type is well studied and documented and does not require additional research. The applicability of existing knowledge of a type may be regional in nature, and decrease in other regions, making further regional studies worthwhile.

A place which has had its research potential fully exhausted may not be eligible under this criterion, but may have other characteristics (its historical associations, technological or architectural values, etc) which make it eligible if all important questions which can be asked of the place have been answered by the study already undertaken.

Examples of places which are or might be registered using this criterion

Aboriginal

- Upper Swan Site (WA) - archaeological value.
- Lancefield Swamp (Vic.) archaeological and palaeontological potential.

Historic

- First Government House Site (NSW) - archaeological value.
- *Sirius* Shipwreck (Norfolk Island) - marine archaeology.
- Arltunga Goldfield (NT) - mining technology and settlement studies.
- Hahndorf (SA) - settlement and architectural studies.

CRITERION D:**ITS IMPORTANCE IN DEMONSTRATING THE PRINCIPAL CHARACTERISTICS OF:****(I) A CLASS OF AUSTRALIA'S NATURAL OR CULTURAL PLACES; OR****(II) A CLASS OF AUSTRALIA'S NATURAL OR CULTURAL ENVIRONMENTS.**

D.2 Importance in demonstrating the principal characteristics of the range of human activities in the Australian environment (including way of life, custom, process, land-use, design or technique).

Explanatory notes

A place must clearly represent the period, method of construction, techniques, way of life, etc of its *Type* as determined by comparison of the place to its *Type* as a whole, analysing such factors as:

- Condition and integrity, including consideration of minimum area for long term viability;
- Abundance and distribution of the *Type*;
- Degree of homogeneity or variability of the *Type* over its range.
- The presence of unusual factors (which may be assessable against other criteria) may be relevant in determining significance under this criterion.

*Scope*Historic

Places representative of the diversity of historic places, both by *Type* and by *region*.

Inclusion

- A place may be entered in the register for its representative value if one or more of the following apply:
- It can be regarded as a particularly good example of its *Type*, or a significant variant of the *Type* equally well;
- It is one of a number of similar places which are all good examples of the *Type*, but has a higher national estate value by virtue of its integrity, condition, association with other significant places or setting;
- It is part of a group of places which collectively include a range of variation within the *Type*;
- It represents the seminal or optimal development of the *Type*.

Exclusion

A place may not be eligible under this criterion if it is not representative of the characteristics which make up the established *Type*

CRITERION E
ITS IMPORTANCE IN EXHIBITING PARTICULAR AESTHETIC
CHARACTERISTICS VALUED BY A COMMUNITY OR CULTURAL
GROUP

E.1 Importance for a community for aesthetic characteristics held in high esteem or otherwise valued by the community.

Explanatory notes

The aesthetic values of the place must be able to be assessed with sufficient rigour to allow the basis for registration to be stated clearly.

Scope

Aboriginal

- Art sites - painting, engraving

Historic

- Cultural landscapes, townscapes, streetscapes, parks, gardens and structures.

Natural

- Natural landscapes.

Inclusion guidelines

A place is eligible if it articulates so fully a particular concept of design that it expresses an aesthetic ideal (e.g a place which epitomises the design principles of an architectural style, landscape ideal, etc.) or if the place, because of its aesthetic characteristics, is held in high esteem by the community.

To be eligible, a place must have a high degree of integrity so that it fully reflects the aesthetic qualities for which it is nominated.

The values of landscapes, townscapes and streetscapes must be demonstrated using accepted standards of assessment in those fields. Places which contribute to such values in a wider area might also be eligible.

Exclusion guidelines

A place is not eligible if the design concepts or aesthetic ideals are not expressed in a way that is better than that of other places within its *Type*, i.e. if it is not outstanding.

A place is not eligible simply because it is the work of a highly regarded architect, artist or engineer. It must be outstanding for *aesthetic* reasons.

Examples of places which are or might be registered using this criterion

Aboriginal

- Rock paintings of Kakadu National Park (NT).
- Rock engravings of Abydos-Woodstock (WA).
- Carved Trees (NSW).

Historic

- Ripponlea Garden (Vic.) - outstanding garden design.
- Sydney University Main Building - aesthetically important design.

Natural

- Franklin River (Tas.).
- Stirling Ranges (WA).
- Warrumbungles National Park (NSW).
- Shoalwater Bay Coast (Qld).
- Shelburne Bay Coast (Qld).
- Port Campbell National Park (Vic.).

CRITERION F:
ITS IMPORTANCE IN DEMONSTRATING A HIGH DEGREE OF
CREATIVE OR TECHNICAL ACHIEVEMENT AT A PARTICULAR
PERIOD

F.1 Importance for its technical, native, design or artistic excellence innovation or achievement

Explanatory notes

Creative or technical achievement can mean artistic excellence or technical excellence, innovation or achievement in many fields. Such achievements can only be judged by comparison with contemporary and subsequent developments in the same fields.

Some creative or technical achievement may be apparent in virtually any type of humanly created or influenced place or structure.

Inclusion guidelines

A place is eligible if it demonstrates clearly a particularly appropriate solution to a technical problem using or expanding upon established technology, or developing new technology, that solution being outstanding due to its conceptual strength. This might occur, for example, in the fields of engineering, architecture, industrial design, landscape design, etc.

A place may be considered to be outstandingly creative if it results from the innovative departure from established norms in some field of design or the arts.

To be eligible, a place must have a high degree of integrity so that it fully reflects the aesthetic or technical qualities for which it is nominated.

Exclusion guidelines

A place is not eligible simply because it is work of a highly regarded architect, or engineer. It must be outstanding for creative or technical reasons.

Examples of places which are or might be registered using this criterion

Aboriginal

- Lake Condah eel traps (Vic.) - technical achievement in hydrological engineering.

Historic

- Sydney Opera House (NSW) - creative and technical masterpiece.
- Kalgoorlie Water Pipeline (WA) - engineering achievement.
- Everglades, Leura (NSW) - outstanding creative garden design.
- Snowy Mountains Hydro-electricity Scheme - outstanding technical achievement.
- Bow Truss Woolstore, Bendigo (Vic.) - largest concrete span of its age.

**CRITERION G:
ITS STRONG OF SPECIAL ASSOCIATIONS WITH A PARTICULAR
COMMUNITY OR CULTURAL GROUP FOR, SOCIAL, CULTURAL OR
SPIRITUAL REASONS**

G.1 Importance as a place highly valued by a community for reasons of religious, spiritual, symbolic, cultural, educational or social associations.

Explanatory notes

This criterion applies to natural, semi-natural, Aboriginal and historic places which the community holds in special and high regard. The community attachment to the place must be demonstrable, enduring, broadly-based and out of the ordinary. Such long-term special regard may be based on associations of a religious, social, recreational or community history nature.

The value of a place to a very small section of the community (e.g. a voluntary conservation organisation, a church parish council, Aboriginal Land Council) may not in itself be sufficient to demonstrate national estate significance, unless a much wider part of the community accepts that such associations have wider cultural significance. Such special associations must be demonstrated not assumed.

Scope

The nature of the community regard might include:

- religious or spiritual associations, including Aboriginal sacred sites and burial sites;
- community history landmarks and places of special value;
- traditional or special educational value;
- landscape or townscape associations critical to a community's sense of place or of community.

Such associations exist in relation to Aboriginal, historic and natural places.

Inclusion guidelines

Places which are held in high esteem by the Australian community or a segment of it, that esteem being demonstrated and special. The value to the community must be beyond normal regard felt by a community for its familiar surroundings.

It is necessary to demonstrate that the strong association between a community and a place is of a social or cultural nature, and not simply a local assessment of some other value more correctly assessed against another criterion (e.g. historical association, rarity of Type, endangered species, etc).

A place is eligible that has spiritual, religious or symbolic significance to at least a small group of Aboriginal people, that has been nominated by, or with the approval of, a local Aboriginal group, and where there is anthropological or historic evidence that the place has been, or is, of considerable significance to that group.

Exclusion guidelines

Places where community concern or regard is:

- not clearly demonstrated as being held by a community; or
- not held very strongly by an identifiable group within the community.

The association between a group within the community and a place may not be accepted as significant by any other section of the community, and may therefore not be eligible.

A place for which there is a strong local regard on the grounds of the place's value within other criteria (e.g. its historical, archaeological, architectural, botanical or faunal importance) will be assessed within the relevant criteria before its social value is considered, as the outcome of that assessment may alter long-term community feeling about the place.

Examples of places which are or might be registered using this criterion

Aboriginal

- Uluru (Ayers Rock) (NT) - high spiritual significance to the Aboriginal community.
- Mumbulla Mountain (NSW) - a place of extreme importance to the Aboriginal community.
- Sir Edward Pellew Islands (NT) - dreaming pathways.
- Three Brothers Rocks, Tibbooburra (NSW) - mythological site.
- Tweed Heads Bora Ring (NSW) - initiation site.

Historic

- Sydney Harbour Bridge (NSW) - valued by Sydneysiders as central to their sense of place.
- Melbourne Botanic Gardens (Vic.) - important cultural, educational and recreational site.
- Shrine of Remembrance (Vic.) - central memorial to war dead.
- Explorer's Tree, Katoomba (NSW) - valued widely in the community despite its doubtful historical authenticity.

Natural or Semi-natural

- Uluru (Ayers Rock) (NT) - renowned landscape feature of great symbolic value.
- Berry Springs (NT) - recreation area very highly valued by community despite its poor condition caused by over-use.
- You Yangs (Vic.) - highly valued landmark and recreation area on western margin of Melbourne.

**CRITERION H:
ITS SPECIAL ASSOCIATION WITH THE LIFE OR WORKS OF A
PERSON, OR, GROUP OF PERSONS, OF IMPORTANCE IN AUSTRALIA'S
NATURAL OR CULTURAL HISTORY**

H.1 Importance for close associations with individuals whose activities have been significant within the history of the nation, State or region.

Explanatory notes

The individuals might be important in the arts, sciences, politics, public life and many other areas of the life of the nation and its history.

The association should be with the person's productive life only, unless there are few other places available which illustrate the person's contribution, or unless their formative or declining years are of particular importance to their contribution. This applies to birthplaces and graves as well.

The length of association of person and place is usually important, especially if the association has been transitory or incidental, or if other places exist with longer and more meaningful associations. The association of the place with a particularly important and short-term event affecting the person may be one of the exceptions to this condition.

The extent to which the association affected the fabric of the place, and the extent to which the place affected the person or events associated with the person, can be important.

This criterion also applies to places which have been used by historically important scientists. The scientists may be important for their continuing standing in their disciplines or for their importance in Australian scientific history generally. For example, a number of pioneering Australian scientists were better known as explorers, e.g. Leichhardt, Cunningham. In view of this perception, places identified with such historic figures will usually be significant against Criterion A4.

Scope

Aboriginal

- Places associated with named Aboriginal persons prominent in Aboriginal history after European settlement.

Historic

- Places associated with persons prominent in or associated with various themes in Australian history.

Natural

- Places may be sites for collecting, survey, research or monitoring of the natural environment, including but not restricted to the following disciplines: palaeoclimatology, geology, geomorphology, soil science, botany, zoology, ecology.

Inclusion guidelines

The person's contribution must be established sufficiently by historical documentation or other firm evidence, and the association of person with place established clearly in a similar way.

A building designed by a prominent architect may be eligible under this criterion if it expresses a particular phase of the individual's career or exhibits aspects reflecting a particular idea or theme of her/his craft. It is possible that several places may represent different aspects of the productive life of an important person. Similarly, several examples of a person's work may be registered because a different combination of criteria are satisfied, e.g. Criteria A4, B.2, D.2, E, F.

In general, the association between person and place needs to be of long duration, or needs to be particularly significant in the person's productive life.

Places which contain fabric that is a direct result of the person's activity or activities, or where the place can be demonstrated to have influenced the person's life or works, are eligible, and such places are more eligible than places which lack such direct and personal associations.

For a place to be eligible for its association with a prominent scientist:

- the importance of the scientist must be established, scientifically or historically;
- the place must have a clear, direct and important link to the work of that scientist; it cannot be simply a campsite or collecting locality.

The scientist may be an amateur naturalist, providing that person does have a confirmed historical standing.

Exclusion guidelines

A place is not eligible if it associated with relatively undistinguished persons within a given theme, or a person whose importance did not extend beyond the local context.

A place is not eligible if the association with the prominent person is tenuous or unsubstantiated.

A building is not eligible simply because it was designed by a prominent architect.

A place is not eligible simply because a prominent scientist worked there.

In general, brief, transitory or incidental association of person and place, for which there is little surviving direct evidence, would not make a place eligible for the Register.

Examples of places which are or might be registered using this criterion

Aboriginal

- Yuranigh's Grave (NSW) - grave of guide to Sir Thomas Mitchell.
- Namatjira's House (NT) - house outside which Namatjira lived.

Historic

- 'Nutcote', Sydney (NSW) - home and studio of author/artist May Gibbs.
- La Perouse Monuments Site (NSW) - site of La Perouse' landing place and stockade.
- Hyde Park Barracks (NSW) - prominent work of Francis Greenway, architect.
- Parkes & Braddon (ACT) - parts of primary design of Canberra by W. Burley Griffin.
- William Farrer's Laboratory (ACT) - location of major research into development of wheat strains.
- Tebbit's Observatory (NSW) - site of pioneering Australian astronomy/meteorology.
- First Government House site (NSW) - site associated with Captain Arthur Phillip.

Scientific

- Enorama Creek (SA) - associated with Sir Douglas Mawson (in the development of his glacial theories in Australian geology).
- Sturt Gorge (SA) - associated with the pioneering geologist W Howchin (in the development of his glacial theories for the southern hemisphere).