

**Boroondara Planning Scheme Amendment C394boro  
Mont Iris Estate and Environs Heritage Review**

**Panel Report**

*Planning and Environment Act 1987*

**21 December 2023**

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### How will this report be used?

This is a brief description of how this report will be used for the benefit of people unfamiliar with the planning system. If you have concerns about a specific issue you should seek independent advice.

The planning authority must consider this report before deciding whether or not to adopt the Amendment.  
[section 27(1) of the *Planning and Environment Act 1987* (the PE Act)]

For the Amendment to proceed, it must be adopted by the planning authority and then sent to the Minister for Planning for approval.

The planning authority is not obliged to follow the recommendations of the Panel, but it must give its reasons if it does not follow the recommendations. [section 31 (1) of the PE Act, and section 9 of the *Planning and Environment Regulations 2015*]

If approved by the Minister for Planning a formal change will be made to the planning scheme. Notice of approval of the Amendment will be published in the Government Gazette. [section 37 of the PE Act]

Planning Panels Victoria acknowledges the Wurundjeri Woi Wurrung People as the traditional custodians of the land on which our office is located. We pay our respects to their Elders past and present.

Panel Report pursuant to section 25 of the *Planning and Environment Act 1987*

Boroondara Planning Scheme Amendment C394boro

Mont Iris Estate and Environs Heritage Review

**21 December 2023**



Sarah Carlisle, Chair

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## Glossary and abbreviations

the Amendment	Boroondara Planning Scheme Amendment C394boro
C333boro Panel	Panel that considered submissions on Boroondara Planning Scheme Amendment C333boro
Council	Boroondara City Council
Glen Iris Gap Study	<i>Municipal-Wide Heritage Gap Study for the City of Boroondara: Volume 7 Glen Iris</i> , Context Pty Ltd, March 2022
GJM Review	<i>Independent Review: Mont Iris Estate &amp; Environs Precinct</i> , GJM Heritage, October 2022
HERCON	Heritage Council Criteria for the Assessment of Cultural Heritage Significance
PE Act	<i>Planning and Environment Act 1987</i>
Planning Scheme	Boroondara Planning Scheme
PPN01	<i>Planning Practice Note 1: Applying the Heritage Overlay</i> (2018)
S#	Submitter number

## Overview

Amendment summary	
The Amendment	Boroondara Planning Scheme Amendment C394boro
Common name	Mont Iris Estate and Environs Heritage Review
Brief description	Apply the Heritage Overlay to two individual properties and three Precincts to implement the <i>Independent Review: Mont Iris Estate &amp; Environs Precinct</i> , GJM Heritage, October 2022
Affected land	<ul style="list-style-type: none"> <li>- 7 Fuller Avenue, Glen Iris (HO954)</li> <li>- 33 Fuller Avenue, Glen Iris (HO955)</li> <li>- Dent Street Precinct, Glen Iris (HO956)</li> <li>- High Street North Precinct, Glen Iris (HO957)</li> <li>- Tower Hill Estate Precinct, Glen Iris and Ashburton (HO958)</li> </ul>
Planning Authority	Boroondara City Council
Authorisation	27 April 2023, with conditions
Exhibition	15 June to 27 July 2023
Submissions	Number of Submissions: 25 (including 1 late submission) Opposed: 12 Support/partially support: 13

Panel process	
The Panel	Sarah Carlisle
Directions Hearing	Online, 14 November 2023
Panel Hearing	Planning Panels Victoria, 11 December 2023
Site inspections	Unaccompanied, 7 December 2023
Parties to the Hearing	<b>Council</b> represented by Brianna Eastaugh of Maddocks, who called expert evidence on heritage from Jim Gard'ner of GJM Heritage <b>Greg Price</b> <b>Robert Moffatt</b>
Citation	Boroondara PSA C394boro [2023] PPV
Date of this report	21 December 2023

## Executive summary

Glen Iris and Ashburton are two of the suburbs in Boroondara that were settled in the interwar period, from the 1920s through to the 1940s. Parts of those suburbs remain recognisable as having been settled during that period, with substantial numbers of intact interwar brick houses built in the English Domestic Revival style in garden settings.

In March 2022, Stage 1 of the *Municipal-Wide Heritage Gap Study for the City of Boroondara: Volume 7 Glen Iris* (the Glen Iris Gap Study) identified the Mont Iris Estate and Environs Precinct as worthy of permanent heritage protection, along with a number of other precincts in Glen Iris. Council prepared Boroondara Planning Scheme Amendment C333boro to implement the findings of the Glen Iris Gap Study.

The Boroondara C333boro Panel largely supported Amendment C333boro. However it did not support the application of permanent heritage controls to the Mont Iris Estate and Environs Precinct, finding the Precinct had “*serious issues*” and lacked cohesion. The C333boro Panel recognised that parts of the Mont Iris Estate and Environs Precinct met the threshold of local significance, and recommended the Precinct be reviewed.

Boroondara Planning Scheme Amendment C394boro (the Amendment) seeks to implement the *Independent Review: Mont Iris Estate & Environs Precinct* prepared by GJM Heritage in October 2022 (GJM Review), by applying the Heritage Overlay to five heritage places (two individual properties and three Precincts) within the former Mont Iris Estate and Environs Precinct.

Some submissions considered the proposed Heritage Overlay did not extend far enough, and more of the original Mont Iris Estate and Environs Precinct should be protected. Others felt the Dent Street and Tower Hill Estate Precincts did not meet the threshold for local heritage significance, and should not be included. Submissions raised concerns in relation to the proposed gradings of individual properties within those Precincts, and the identification of fences and garages as contributory in the Statements of Significance. Others submitted fences and garages should be exempt from permit requirements under the Heritage Overlay.

Submissions raised several issues that are commonly raised in heritage amendments, that have repeatedly been found to be not relevant when considering whether to apply a Heritage Overlay (although they may be relevant at the subsequent permit application stage). These included:

- structural integrity and building condition of individual properties
- impacts of the Heritage Overlay on development opportunity, building alterations and maintenance
- impacts of the Heritage Overlay on property rights
- financial implications of the Heritage Overlay, including impacts on property values.

The primary task of the Panel is to consider whether the two individual properties and three Precincts identified by the GJM Review for inclusion in the Heritage Overlay meet the threshold of local significance. It is satisfied on the basis of the GJM Review and Mr Gard’ner’s evidence that they do meet this threshold, and that the application of the Heritage Overlay is strategically justified.

The only contested heritage places were the Dent Street Precinct and the Tower Hill Estate Precinct. On its site visit the Panel observed these heritage places were highly consistent with Mr Gard’ner’s evidence. The Precincts are highly cohesive, with very few non-contributory properties

included. The Precincts can be readily understood as areas developed at a similar time with highly consistent architectural styles, features, materials and finishes, despite modifications to some properties. The Panel observed at least one (generally several) of the features of English Domestic Revival style in almost every contributory house within each Precinct.

The Panel finds it is appropriate to maintain the default permit trigger for alterations to fences and garages under the Heritage Overlay, given they are important elements that contribute to the significance of the Precincts including their open garden settings and the rise of motor car ownership among middle-class households.

In relation to the individual properties raised in submissions, the Panel concludes:

- 12 Dent Street – this property should be retained as a non-contributory property in the Dent Street Precinct.
- 24 Dent Street – this property should be retained as a contributory property in the Dent Street Precinct.
- 44 Dent Street – the garage is not original and should be removed from the ‘Contributory Fence/Garage’ column in the Statement of Significance for the Dent Street Precinct.
- 10 Munro Avenue – this property should be retained as a contributory property in the Tower Hill Estate Precinct, but the fence and garage should be removed from the ‘Contributory Fence/Garage’ column in the Statement of Significance for the Precinct.
- 20 Munro Avenue – this property should be retained as a contributory property in the Tower Hill Estate Precinct, and both its front fence and garage should be retained in the ‘Contributory Fence/Garage’ column in the Statement of Significance for the Precinct.

## Recommendations

Based on the reasons set out in this Report, the Panel recommends that Boroondara City Council:

1. **Adopt Boroondara Planning Scheme Amendment C394boro with the changes recommended in this report.**
2. **Correct the exhibited Heritage Overlay maps to include 33 Tower Hill Road, Ashburton.**
3. **Amend the schedule to the Heritage Overlay:**
  - a) **In Clause 2.5 (the table containing HO800 to HO1000), in the column headed ‘Outbuildings or fences not exempt under Clause 43.01-4’, replace the exhibited text for:**
    - **HO956 with ‘Yes – fences and garages listed in the ‘Contributory fence/garage’ column in the Precinct Gradings Schedule in the Dent Street Precinct, Glen Iris Statement of Significance, May 2023’**
    - **HO957 with ‘Yes – fences and garages listed in the ‘Contributory fence/garage’ column in the Precinct Gradings Schedule in the High Street North Precinct, Glen Iris Statement of Significance, May 2023’**
    - **HO958 with ‘Yes – fences and garages listed in the ‘Contributory fence/garage’ column in the Precinct Gradings Schedule in the Tower Hill Estate Precinct, Glen Iris and Ashburton Statement of Significance, May 2023’.**
4. **Amend the Dent Street Precinct, Glen Iris Statement of Significance, May 2023:**
  - a) **in the Precinct Grading Schedule, remove the garage of 44 Dent Street, Glen Iris from the ‘Contributory Fence/Garage’ column.**

5. **Amend the Tower Hill Estate Precinct, Glen Iris and Ashburton Statement of Significance, May 2023:**
  - a) **in the Precinct Grading Schedule, remove the fence and garage of 10 Munro Avenue, Ashburton from the 'Contributory Fence/Garage' column.**



# 1 Introduction

## 1.1 The Amendment

### (i) Amendment description

The purpose of the Amendment is to implement the *Independent Review: Mont Iris Estate & Environs Precinct*, GJM Heritage, October 2022 (GJM Review) by applying the Heritage Overlay to five heritage places (two individual properties and three Precincts) in Glen Iris and Ashburton.

Specifically, the Amendment proposes to:

- apply the Heritage Overlay to the five heritage places on a permanent basis
- incorporate Statements of Significance for the five heritage places into the Boroondara Planning Scheme (Planning Scheme)
- make the GJM Review a background document to the Planning Scheme.

### (ii) The subject land

The Amendment applies to land shown in Figure 1.

**Figure 1 Land affected by the Amendment**



Source: Document 3

Table 1 lists the affected heritage places.

**Table 1 Heritage places included in the Amendment**

HO number	Description of place	Property address
HO954	House	7 Fuller Avenue, Glen Iris
HO955	House	33 Fuller Avenue, Glen Iris

HO956	Dent Street Precinct, Glen Iris	6-28 Dent Street, Glen Iris 40-60 Dent Street, Glen Iris
HO957	High Street North Precinct, Glen Iris	127-141 High Street, Glen Iris 152 Summerhill Road, Glen Iris
HO958	Tower Hill Estate Precinct, Glen Iris and Ashburton	2-28 Tower Hill Road, Glen Iris 1-33 Tower Hill Road, Glen Iris 2-32 Munro Avenue, Ashburton 142-146 High Street, Glen Iris 146A-148 High Street, Ashburton

Source: Explanatory Report

## 1.2 Background

### (i) Chronology

Table 2 provides a brief chronology of the background to the Amendment, which has its genesis in Boroondara Planning Scheme Amendment C333boro and the report of the Panel which considered submissions on Amendment C333boro (the C333boro Panel).

**Table 2** Chronology of events

Date	Event
<b>2016</b>	
25 July	Council resolved to engage Context Pty Ltd and Trethowan Architecture to prepare the Municipal-Wide Heritage Gap Study for the City of Boroondara. See below for more detail
<b>2019</b>	
2 May – 3 June	Council conducted preliminary consultation for the Draft Glen Iris Heritage Gap Study, which identified an area defined as the Mont Iris Estate and Environs Precinct as a candidate for heritage protection. The Precinct is shown by the red line in Figure 1
<b>2020</b>	
2 March	Council resolved to request authorisation for Amendment C333boro to apply the Heritage Overlay on a permanent basis to the Mont Iris Estate and Environs Precinct and other areas identified in the Draft Glen Iris Heritage Gap Study
12 March	Council requested the Minister approve Amendment C334boro to apply an interim Heritage Overlay to the Mont Iris Estate and Environs Precinct (HO901) and other areas identified in the Draft Glen Iris Heritage Gap Study
27 April	Council sought authorisation to prepare Amendment C333boro
7 September	Minister authorised Amendment C333boro
15 December	Minister approved Amendment C334boro to apply HO901 to the Mont Iris Estate and Environs Precinct on an interim basis

<b>2021</b>	
12 February – 12 March	Council exhibited Amendment C333boro
6 September	Council considered submissions on Amendment C333boro and resolved to refer submissions to a panel
<b>2022</b>	
20 January	The C333boro Panel issued its report, which recommended: <ul style="list-style-type: none"> <li>- the Mont Iris Estate and Environs Precinct not be included in the Heritage Overlay on a permanent basis</li> <li>- the Precinct be reviewed.</li> </ul> See below for more detail
15 March	Context Pty Ltd and Trethowan Architecture issued the final <i>Municipal-Wide Heritage Gap Study for the City of Boroondara: Volume 7 Glen Iris</i> . See below for more detail
2 May	Council resolved to (among other things): <ul style="list-style-type: none"> <li>- request retention of the interim HO901 over the Mont Iris Estate and Environs Precinct</li> <li>- undertake a review of the Mont Iris Estate and Environs Precinct as recommended by the C333boro Panel</li> <li>- upon completion of the review, request: <ul style="list-style-type: none"> <li>- authorisation to prepare an amendment to apply the Heritage Overlay on a permanent basis to properties identified in the review (C394boro)</li> <li>- removal of the interim HO901 from properties not recommended for inclusion by the review</li> </ul> </li> </ul>
October	GJM Heritage completed its review of the Mont Iris Estate and Environs Precinct (the GJM Review). See below for more detail
December	Council requested the Minister to prepare, adopt, and approve Amendment C393boro which: <ul style="list-style-type: none"> <li>- deleted the interim HO901 from all properties not recommended for inclusion by the GJM Review</li> <li>- extended the remaining interim controls to 30 April 2024</li> </ul>
<b>2023</b>	
February	Amendment C393boro was gazetted. C393boro extended the interim heritage controls to all properties recommended in the GJM Review, with the exception of 12 Dent Street (for which a consent to demolish had been granted under the <i>Building Act 1993</i> )
27 April	Minister authorised Amendment C394boro
15 June to 27 July	Council exhibited Amendment C394boro
16 October	Council considered submissions on Amendment C394boro and resolved to refer submissions to a Panel

Source: Panel, from information in the Explanatory Report, the C333boro Panel report and Council's Part A submission

**(ii) The Glen Iris Gap Study**

In 2016, Council engaged Context Pty Ltd and Trethowan Architecture to prepare a municipal wide heritage gap study. The municipal wide study proceeded by suburb over the following few years. A draft of the *Municipal-Wide Heritage Gap Study for the City of Boroondara: Volume 7 Glen Iris* (Glen Iris Gap Study) was produced some time before May 2019, and the final was produced on 15 March 2022 (after the C333boro Panel had issued its report).

The Glen Iris Gap Study involved a two staged process:

- Stage 1 involved a preliminary identification of heritage places based on a desktop review including of previous studies, community feedback and a preliminary survey
- Stage 2 involved a more detailed assessment of the places and precincts identified in Stage 1.

While the Mont Iris Estate and Environs Precinct was identified during Stage 1 as a potential precinct of heritage significance, Appendix A.5 of the final Glen Iris Gap Study states:

In keeping with the recommendation of the Amendment C333boro Panel, the [Mont Iris Estate and Environs] Precinct is to be reviewed.

**(iii) C333boro Panel recommendations**

The C333boro Panel recommended the Mont Iris Estate and Environs Precinct be abandoned due to a lack of coherence and a high number of non-contributory properties in some sections that undermined the overall integrity of the Precinct. The C333boro Panel recommended a further review of the Precinct, recognising there are coherent parts of the Precinct warranting inclusion in the Heritage Overlay.

**(iv) The GJM Review**

The GJM Review of the Mont Iris Estate and Environs Precinct was completed in October 2022. It essentially agreed with the findings of the C333boro Panel, and recommended three smaller Precincts and two individually significant properties (the land shown purple in Figure 1) be included in the Heritage Overlay on a permanent basis.

**1.3 The issues**

No objecting submissions were received in relation to:

- the two individual heritage places (HO954 and H955)
- the High Street North Precinct (HO957).

This report focusses on the unresolved submissions, which relate to the Dent Street Precinct (HO956) and the Tower Hill Estate Precinct (HO958).

Key issues raised in objecting submissions were:

- on one hand, heritage protection should extend further including to the whole of the original Mont Iris Estate and Environs Precinct
- on the other hand, heritage protection is unjustified for whole Precincts or for individual properties or fences or garages within Precincts
- concerns with the GJM Review that underpins the Amendment, including the comparative analysis
- the Heritage Overlay will:
  - restrict development, maintenance and upgrades of affected properties

- impacts on property rights.

A number of submissions requested:

- changes to gradings for individual properties
- changes to the listings of contributory fences and garages
- more guidance on acceptable building heights and setbacks to provide landowners with a better understanding of what modifications they can make to their properties
- more permit exemptions (for example for fences).

## 1.4 Procedural issues

### (i) 33 Tower Hill Road, Glen Iris

Council advised that a mapping had occurred in the exhibited map for HO958 (the Tower Hill Estate Precinct). The exhibited Heritage Overlay mapping did not include the property at 33 Tower Hill Road. The property was included within the Precinct boundary in the exhibited Statement of Significance.

Council subsequently wrote to the landowner advising them of the Amendment and providing an opportunity for them to make a submission. No submission was received.

Council requested that the mapping error be corrected through the adoption and approval process. The Panel is satisfied that the affected landowner has been appropriately notified and supports this request.

### (ii) 20 Munro Avenue

Council referred a late submission in relation to 20 Munro Avenue to the Panel (Submission 25). This formed part of the Panel's deliberations, as well as the original submissions received in relation to that property.

### (iii) Issues that are not relevant

Many of the common issues raised in submissions are not relevant planning considerations, or are widely accepted as not being relevant when considering whether to apply a Heritage Overlay (although some may be relevant at the subsequent permit stage). Council made detailed submissions responding to these issues, so the Panel has addressed them in Chapter 3 notwithstanding they are not relevant.

## 1.5 The Panel's approach

The Panel considered all written submissions made in response to the exhibition of the Amendment, observations from site visits, and submissions, evidence and other material presented to it during the Hearing. It has reviewed a large volume of material, and has been selective in referring to the more relevant or determinative material in the Report. All submissions and materials have been considered by the Panel in reaching its conclusions, regardless of whether they are specifically mentioned in the Report.

This Report deals with the issues under the following headings:

- Strategic issues
- Common issues

- Dent Street Precinct (HO956)
- Tower Hill Estate Precinct (HO957).

## 2 Strategic issues

### 2.1 Planning context

This chapter identifies planning context relevant to the Amendment. Appendix C highlights key imperatives of relevant provisions and policies.

Table 3 Planning context

	Relevant references
<b>Victorian planning objectives</b>	- section 4 of the <i>Planning and Environment Act 1987</i> (PE Act)
<b>Municipal Planning Strategy</b>	- Clause 2 of the Planning Scheme
<b>Planning Policy Framework</b>	- Clause 15 (Built environment and heritage), including Clause 15.03-1L (Council's local heritage policy)
<b>Other planning strategies and policies</b>	- Plan Melbourne Direction 4, Policies 4.1, 4.2 - Boroondara Community Plan 2021-2031
<b>Planning scheme provisions</b>	- Heritage Overlay
<b>Ministerial directions</b>	- Ministerial Direction 11 (Strategic Assessment of Amendments)
<b>Planning practice notes</b>	- <i>Planning Practice Note 1: Applying the Heritage Overlay</i> , August 2018 updated November 2023 - <i>Planning Practice Note 46: Strategic Assessment Guidelines</i> , August 2018

### 2.2 The issues

The issues are whether:

- the Amendment is strategically justified
- the methodology of the GJM Review was sound
- the Heritage Overlay should be extended to more properties
- the Amendment should be accompanied by built form guidelines.

### 2.3 Strategic justification

#### (i) Submissions and evidence

Council submitted the strategic basis for applying the Heritage Overlay is well founded in the State policy provisions of the Planning Scheme as well as section 4(1)(d) of the PE Act which provides that one of the Victorian planning objectives is:

...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.

Council submitted that providing a framework for the protection of heritage places of significance will ensure Council is delivering on its priorities expressed in the *Boroondara Community Plan 2021-2031*, which includes the following objective:

Protect the heritage and respect the character of Boroondara, while facilitating appropriate, well-designed development

Council submitted ‘protection’ in the context of the application of a Heritage Overlay is the identification (by mapping) and explaining (by the citation and statement of significance) of the cultural heritage significance of the place. It submitted the application of the Heritage Overlay will ‘protect’ heritage by setting up permit triggers for demolition, development or subdivision of a heritage place, while the permit process is the stage at which it is determined whether the demolition, development or subdivision is acceptable and should be permitted.

Council submitted *Planning Practice Note 1: Applying the Heritage Overlay* (PPN01) sets out the key matters the Panel should consider in assessing the Amendment. PPN01 states the following places should be included:

Places identified in a local heritage study, provided the significance of the place can be shown to justify the application of the overlay.

PPN01 sets the threshold for local significance as “*those places that are important to a particular locality or community*”, and states:

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

Relying on the GJM Review and the evidence of Mr Gard’ner, Council submitted the Amendment satisfies each of these key factors.

Mr Gard’ner’s evidence (for Council) addressed the key matter of whether the heritage places identified in the GJM Review “*demonstrate one or more of the PPN01 heritage criteria at the local level and warrant inclusion in the Heritage Overlay*”. He explained that having had regard to the findings of the C333boro Panel, GJM Heritage undertook a ‘first principles’ assessment to identify places and precincts of potential heritage significance within the former Mont Iris Estate and Environs Precinct. His evidence was:

... the approach taken by my office to the identification and assessment of the Precincts follows the established heritage practice of undertaking historical research, conducting fieldwork, analysing the places against comparative examples, and preparing an assessment against heritage criteria.

It is my view that the approach taken is sound, robust, and has been informed by the guidance contained within PPN01.

Mr Gard’ner considered the Dent Street and Tower Hill Estate Precincts are of local heritage significance because they meet criteria A (historical significance), D (representativeness) and E (aesthetic significance) referenced in PPN01:

- They have strong associations with the interwar period of development in suburban Melbourne, when extensive tracts of land in Glen Iris (and Boroondara more broadly) were subdivided into suburban residential estates for middle-class housing.
- This period of development transformed the eastern part of the municipality from a semi-rural landscape to an almost entirely suburban one.
- They are highly intact Precincts of middle-class houses designed in various interwar styles, but with an emphasis on the English Domestic Revival style, which illustrate this important phase of development in the municipality.
- The houses in the Precincts display typical features of the English Domestic Revival style popular in Glen Iris and across Boroondara more broadly in the interwar period, including:
  - clinker brick and rendered brick walls with decorative brick detailing



- tiled roofs
- asymmetrical hipped and gable-ended roof forms
- prominent chimneys and entry porches
- timber framed windows including tripartite window sets
- generous front gardens
- low brick front fences and original brick garages.
- The above features and the consistent application of high-quality materials and detailing, in conjunction with their garden settings, present highly picturesque streetscapes.

Mr Gard'ner emphasised that the original Mont Iris Estate and Environs Precinct included 286 properties over 12 streets, whereas the GJM Review recommended 84 properties over three streets, along with two individual properties. His evidence was:

The current proposal is substantially refined and reduced in area compared to that considered by the previous Panel.

Mr Gard'ner considered the objecting submissions (discussed below), and responded that while the Precincts are interspersed with some examples of more recent residential development, they:

... demonstrate a cohesiveness of form, scale and materiality and a level of intactness that is not found in the surrounding area, excluding those streetscapes already included in the Heritage Overlay ...

He pointed to the high proportion of contributory buildings in each Precinct and the high degree of consistency in architectural style, and disputed assertions that the Precincts are not highly intact, are disjointed and are composed of a number of different styles, materials and features that are not coherent. He disagreed that the streetscapes feature substantial alterations to earlier properties such that their original form is distorted and no longer legible.

Some submitters considered the Dent Street and Tower Hill Estate Precincts did not meet the threshold for local significance. For example, S14 submitted the Dent Street Precinct lacks coherency and consists of an eclectic mixture of styles. He submitted there had been significant modifications to many properties since construction, and the Precinct and properties within it are no longer intact:

It is a joke to consider the streetscape as 'heritage' given the large number of new houses that have been constructed along Dent Street.

Mr Price (S20) submitted in relation to the Dent Street Precinct:

Many of the properties have been significantly modified from their original form. The Precinct is not highly intact, very disjointed and composed of a number of different styles, different materials used and a range of features which are not coherent. There is a general lack of strong consistency and cohesion in the Precinct.

He noted the proposed Precinct is not contiguous and has a large gap in the middle (between Sherwood Street and Mont Iris Avenue), which "*disrupts the rhythm*" and makes it difficult to appreciate it as a cohesive Precinct. He submitted:

- different parts of the Precinct have very different setbacks
- there is a mixture of timber, brick and rendered facades
- some windows have been replaced with modern variants
- only some of the properties still have original low brick fences
- some brick detailing has been painted over.

S2 submitted the block that included his house in the Dent Street Precinct was not covered in the original Mont Iris Estate and Environs Precinct and he did not understand why it "*suddenly*

*appeared*". He submitted the application of the Heritage Overlay is too late as many of the original nice homes in the street have been lost.

Mr Moffatt submitted the C333boro Panel did not support the Mont Iris Estate and Environs Precinct, and not enough had changed since then to justify reaching a different conclusion to the C333boro Panel. He questioned whether the west side of Munro Street should be included in the Tower Hill Estate Precinct, given the east side was not included. He submitted a single side of a street does not read as a consistent heritage precinct.

Several submitters (S3, S5, S6, S8, S9, S10 and S11) supported the Amendment, submitting that:

- it is very important to conserve the affected areas to keep examples of the best historical and architectural areas of Glen Iris and Ashburton
- the affected areas are a unique part of Boroondara and these intact mainly interwar houses show the formation and history of Glen Iris and Ashburton
- the heritage of Glen Iris has traditionally not been well protected
- historical suburban areas are appreciated by the community and most local people want to keep these character filled green streets
- Boroondara is famed for its great aesthetic architecture and well-designed suburbs
- allowing old homes to be knocked down and replaced by modern ones changes the whole feel of the environment.

## **(ii) Discussion**

The PE Act, the Planning Policy Framework and Plan Melbourne seek to protect places of heritage significance.

The Amendment has its genesis in the Glen Eira Gap Study and the findings of the C333boro Panel. The Glen Eira Gap Study was part of a systematic review of heritage places in the City of Boroondara, which represents a thorough and comprehensive approach towards the review of heritage places within the municipality.

Amendment C333boro was progressed before the Stage 2 review of the Mont Iris Estate and Environs Precinct under the Gap Study was completed. While the C333boro Panel found (and the GJM Review agreed) the extent of the Mont Iris Estate and Environs Precinct identified in Stage 1 could not be supported, it found:

... there are areas, particularly the north-eastern part, which are cohesive enough to meet the threshold of local heritage significance, but the boundary of such areas needed to be determined through further review.

This review was undertaken with the GJM Review, which identified a much refined group of heritage places recommended for permanent heritage protections. The GJM Review was an appropriate approach to respond to the findings of the C333boro Panel, and to develop a strategic justification for applying the Heritage Overlay to parts of the former Mont Iris Estate and Environs Precinct. The methodology of the GJM Review is discussed in Chapter 2.4.

The primary task of the Panel is to consider whether the properties identified by the GJM Review for inclusion in the Heritage Overlay meet the threshold of local significance. It is satisfied on the basis of the GJM Review and Mr Gard'ner's evidence that they do meet this threshold, and that the application of the Heritage Overlay is strategically justified.

The Panel's observations of the Dent Street and Tower Hill Estate Precincts on its site visit were highly consistent with Mr Gard'ner's evidence. The Precincts are highly cohesive, with very few

non-contributory properties included (only one of 23 in the Dent Street Precinct, and six of 53 in the Tower Hill Estate Precinct). The Precincts can be readily understood as areas developed at a similar time with highly consistent architectural styles, features, materials and finishes, despite modifications to some properties. The Panel observed at least one (generally several) of the features of English Domestic Revival style listed by Mr Gard'ner in almost every contributory house within each Precinct.

The Panel does not consider the gap in the Dent Street Precinct compromises its integrity or cohesiveness. There are sound historical reasons for excluding this block, as it was developed later, after the blocks on either side (demonstrated by Figure 6 in the GJM Review). The Precinct on either side of the gap extends for at least two street blocks in each direction, and the properties within the Precinct remain highly intact and collectively exhibit most if not all of the architectural features, materials and finished referenced by Mr Gard'ner.

Notwithstanding the construction of some higher modern fences, the streetscapes in both Precincts present as open garden settings with highly consistent setbacks.

Regarding S2's submission that there is now a block in the Dent Street Precinct that was not covered in the original Mont Iris Estate and Environs Precinct, Figure 1 demonstrates this is not the case. The Panel does not agree that most of the nice old homes in the Precinct have been lost, noting that only one property in the Dent Street Precinct is non-contributory.

The Panel does not agree with Mr Moffatt that the west side of Munro Avenue does not read as part of a Precinct due to the east side not being included. It is common for heritage precincts to only extend to one side of the street, and there is no guidance or accepted heritage assessment methodology that suggests a precinct on one side only of a street lacks integrity or cohesiveness.

Further, there are sound historical reasons for only including the west side of Munro Street, as this formed part of the land in the original Tower Hill Estate, whereas the east side did not (demonstrated by Figures 23 to 26 in the GJM Review).

### **(iii) Findings**

The Panel finds:

- The Dent Street Precinct and the Tower Hill Estate Precinct present as highly cohesive and intact precincts that meet the threshold for local heritage significance in accordance with the guidance in PPN01.
- The Amendment is strategically justified.

## **2.4 Methodology of the GJM Review**

### **(i) Submissions**

Council submitted the GJM Review followed the approach outlined in PPN01 to undertaking an assessment of whether the Heritage Overlay should be applied. In particular, GJM Heritage:

- undertook a street level survey of all identified places
- undertook additional historical research
- used the criteria set out in PPN01 to assess the heritage value of places proposed to be included in the Heritage Overlay
- prepared comparative analyses to substantiate the significance of those places

- prepared recommendations including statements of significance using the three-part format of:
  - What is Significant?
  - How is it Significant?
  - Why is it Significant?

Council submitted the methodology involved in the GJM Review was “*rigorous and in accordance with best practice*”, and “*thorough, considered and objective*”.

In his original submission (S20), Mr Price submitted the GJM Review makes many generalised statements with numerous caveats and inconsistencies, and the claims would equally apply to majority of interwar properties in Boroondara and do not rise to the threshold of local heritage significance. He considered the comparative analysis compares properties to others that are very different styles.

At the Hearing, Mr Price noted that Clause 15.03-1L (Boroondara’s local heritage policy) includes the following as its first objective:

- To preserve ‘significant’ heritage places, protecting all significant heritage fabric including elements that cannot be seen from the public realm.

He submitted the Dent Street Precinct does not meet ‘significant’ in this context, and its significance “*is being overstated*”, particularly in comparison to other areas in the Heritage Overlay.

## **(ii) Discussion**

The Panel agrees with Council that the GJM Review has been prepared in accordance with widely accepted contemporary heritage assessment methodology and is consistent with the guidance in PPN01. It has been completed with appropriate analysis and rigour. The methodology of the assessment follows the process outlined in PPN01, and the statements of significance clearly articulate what is significant, how it is significant and why it is significant for each of the five heritage places.

With regard to comparative analysis, PPN01 states:

To apply a threshold, some comparative analysis will be required to substantiate the significance of each place. The comparative analysis should draw on other similar places within the study area, including those previously included in a heritage register or overlay.

The GJM Review included a comparative analysis for each of the five heritage places recommended for inclusion in the Heritage Overlay. Comparisons for the Dent Street and Tower Hill Estate Precincts included the:

- Goodwin Street and Somerset Road Precinct, Camberwell (HO226)
- Great Glen Iris Railway Junction Estate and Environs, Ashburton (HO227)
- Holyrood Estate and Environs, Camberwell (HO228)
- Harley Estate and Environs Precinct, Camberwell (HO735).

Mr Price’s assertion that the Precincts do not reach the level of ‘significant’ compared to other areas in Boroondara was not substantiated. The comparisons referred to in the GJM Review are appropriate, as they are local (within Boroondara), and were developed at around the same time as the Dent Street and Tower Hill Estate Precincts with interwar properties of similar styles. The comparative analysis includes detailed reasons as to why the Dent Street and Tower Hill Estate

Precincts are significant when compared with these other precincts. The Panel finds those reasons and the underlying rationale to be sound.

### (iii) Finding

The Panel finds:

- The methodology of the GJM Review, including the comparative analysis, was sound, robust, and in accordance with the accepted methods of assessment and the guidance in PPN01.

## 2.5 Should the Heritage Overlay be extended?

### (i) Submissions and evidence

S4 submitted there is no substantial difference in the mix of contributory and non-contributory dwellings between the original Mont Iris Estate and Environs Precinct and the smaller Precincts now proposed to be included in the Heritage Overlay. He submitted:

With the exception of any dwelling listed as Significant, a precedent has been set and it is inappropriate to subject the remaining island of dwellings ... to a different outcome.

He submitted a simple walk through of the streets clearly demonstrates how areas being excluded are “*ostensibly similar*” to those being included, and there is no justification for only including the proposed smaller Precincts in the Heritage Overlay.

S6 submitted the study (presumably the GJM Review) seems to have “*chosen aesthetically pleasing Precinct boundaries over ensuring the protection of all the homes that contribute to the Precincts and areas they have found significant*”. He submitted the small group of Old English houses at the end of Allison Avenue feature “*some rather idiosyncratic houses*” which surely contribute to the Dent Street Precinct, considering they have the same high-quality late interwar Old English style homes which make the proposed Precinct significant.

Several submitters submitted the Tower Hill Estate Precinct should be extended to the east side of Munro Street, as it contains a large number of properties built around the same time, and in similar styles, as the west side of the street. For example, S13 submitted:

... it is of architectural and historical significance that the two sides of the street developed in different periods with distinct architectural styles. This point of differentiation should be valued and retained.

If the [interim] heritage overlay on the eastern side is removed, new developments will change the character of the street, adversely impacting residents on the western side.

S6 submitted the “*beautiful and quite substantial*” late interwar houses from 19-29 Munro Avenue (on the east side of the street) have been “*inexplicably left out*”. He submitted these houses are directly opposite identical late interwar houses found to be worthy of preservation as part of the Tower Hill Estate Precinct:

They are a contiguous and very high quality group of 6 brick/render Old English & Moderne houses which are all highly intact with each keeping an original fence. They make a huge contribution to Munro Avenue's character, and undoubtedly that of the Tower Hill Estate Precinct. It would be a bizarre oversight not to include them.

Mr Gard'ner responded:

While there are other individual and small groups of properties within the area that remain highly intact and clearly demonstrate this period of development, they do not form a tightly defined precinct, nor do they exist within a sufficiently cohesive and intact streetscape to

warrant a precinct control. They are also not of sufficient historic or architectural (aesthetic) merit in their own right to warrant inclusion in a site-specific Heritage Overlay.

Regarding the extension of the Tower Hill Estate Precinct to the east side of Munro Avenue, Mr Gard'ner noted (as discussed earlier) that the original estate only extended to the west side of Munro Avenue, so there are sound historical reasons for not extending the Precinct to the east side. Further, and perhaps more importantly, while there are a number of interwar era houses on the east side of Munro Avenue, the east side is:

... less cohesive with a higher proportion of non-contributory or substantially altered properties affecting the appreciation of the streetscape as one that can be considered highly intact and visually cohesive.

## **(ii) Discussion**

On its site visit the Panel observed a number of interwar properties outside the proposed Precincts but within the boundary of the original Mont Iris Estate and Environs Precinct. It specifically noted the groups of interwar houses at the southern end of Allison Avenue and on the eastern side of Munro Avenue referred to by S6.

The Panel agrees with Mr Gard'ner that those properties were generally less tightly defined into precincts, and less intact than those identified for inclusion by the GJM Review. The Panel was not persuaded that these groups of properties reach the threshold for local significance, or that the Precincts should be expanded beyond those recommended by GJM Heritage.

## **(iii) Finding**

The Panel finds:

- There is no justification for extending the Heritage Overlay beyond the five heritage places identified in the GJM Review.

## **2.6 Built form guidance**

### **(i) Submissions**

S17 submitted the Amendment should be accompanied by clearer guidelines on building heights and setbacks, to give home owners a better understanding of what modifications they can make to their properties.

### **(ii) Discussion**

Council's local heritage policy in Clause 15.03-1L of the Planning Scheme provides extensive guidance on what constitutes acceptable alterations to properties in the Heritage Overlay, as well as guidance as to when demolition may be considered appropriate. The Panel does not consider further guidance is needed.

### **(iii) Finding**

The Panel finds:

- Clause 15.03-1L of the Planning Scheme already provides extensive guidance as to what constitutes acceptable alterations to properties in the Heritage Overlay. No further guidance is needed.

## 2.7 Conclusions and recommendations

For the reasons set out in this report, the Panel concludes that the Amendment:

- is supported by, and implements, the relevant sections of the Planning Policy Framework
- is consistent with the relevant Ministerial Directions and Practice Notes
- is well founded and strategically justified
- should proceed subject to addressing the more specific issues raised in submissions as discussed in the following chapters.

The Panel recommends:

**Adopt Boroondara Planning Scheme Amendment C394boro with the changes recommended in this report.**

**Correct the exhibited Heritage Overlay maps to include 33 Tower Hill Road, Ashburton.**

## 3 Common issues

### 3.1 Fences and garages

#### (i) The issues

The issues are whether fences and garages should be:

- exempt from a permit trigger
- exempt from third party notice and review rights.

#### (ii) Background

##### Contributory fences and garages

The Statements of Significance for the three Precincts state that original low brick fences and original brick garages are elements that contribute to the significance of the Precinct. Each Statement of Significance includes a Precinct Grading Schedule which includes a table that specifies (among other things) whether the fence or garage for each property is contributory.

##### Permit requirements

Under the Heritage Overlay parent clause, a permit is required to construct a building or to construct or carry out works to:

- a fence that is visible from a street (other than a lane) or a public park
- an outbuilding including a garage.

Exemptions can only be provided in an Incorporated Plan (Clause 43.01-3). No such plan is proposed for the Amendment.

##### Notice and review requirements

Under the Heritage Overlay parent clause, the default position is applications for a permit to:

- construct a fence or garage are VicSmart applications that are exempt from third party notice and review rights (Clause 43.01-1)
- demolish or remove a fence or garage are VicSmart applications that are exempt from third party notice and review unless the overlay schedule specifies otherwise (Clause 43.01-4).

The Amendment proposes (through the Heritage Overlay schedule) to ‘switch on’ third party notice and review for applications for demolition or removal of “*original or early brick fences and brick garages*” in each of the three Precincts.

#### (iii) Evidence and submissions

S17 submitted the state of the fences in the neighbourhood is an issue. He submitted many were poorly constructed and are now in disrepair, including due to impacts from trees, posing a hazard as they often collapse. He submitted home owners should be allowed to repair or replace fences that are in poor condition, which would improve safety and aesthetics in the neighbourhood.

S18 supported the Amendment, but considered fences and garages should be exempt:

Regarding front fences, there are many examples in our street and local neighbourhood where front fences have been built to a height to provide security and privacy. Both things which are fair and reasonable to have for your family home. Such fences will not be allowed



at all under these restrictions. I believe that tall fences can be designed to fit into the area, and for our property. I want the opportunity to do this, as others have in our street, and not be locked in to what currently exists, is in disrepair and about to fall over.

He submitted fences and garages should be exempt for a 5 to 10 year period to allow owners to repair or replace fences without the strict requirements of the Heritage Overlay applying.

S4 submitted:

... I would insist that the garages (and in many instances the openings to the fences) for most or all of the properties proposed as Contributory are not wide enough to function as a garage, hence why the streets are littered with cars on the street. Without diluting my recommendation to remove the Heritage Overlay for the dwellings in Tower Hill Rd and Munro Ave, I would also recommend removing Fence and Garage from the addresses for any remaining properties listed as Contributory.

S21 submitted that owners should be allowed to change fences, and that fences do not need to be heritage listed:

If some old homes can be demolished and new builds built then heritage homes can alter their fence in a tasteful way so that home owners can secure their property.

Other submitters objected to their particular fences or garages being listed as 'Contributory'. These are discussed in the Precinct chapters.

Mr Gard'ner's evidence was that fences and outbuildings such as garages can contribute to the significance of a heritage precinct, allowing for the historic design and function of properties to be more fully appreciated. The original and early garages "*demonstrate the rise of private vehicle ownership at the time of the Precinct's development*" while the low brick or masonry fences "*reflect greater levels of openness and sense of community in suburban development*". In oral evidence, Mr Gard'ner stated the low front fences contribute to the open garden setting, another significant feature of the Precincts.

#### **(iv) Discussion**

The default position under the Heritage Overlay is that a permit is required to construct, alter, demolish or remove a front fence or garage. This requirement cannot be removed unless an exemption is provided in an Incorporated Plan. The Amendment has therefore not 'applied' controls over fences and garages – rather, it has not changed the default position by introducing exemptions via an Incorporated Plan.

The Panel accepts Mr Gard'ner's evidence that the original and early fences and garages are important features of the Precincts and the period during which they were developed. It therefore considers that a permit should be required for alterations to or demolition of fences and garages. If a fence or garage needs maintaining or demolition to maintain the long term efficient use of the property, those matters can be appropriately managed through the planning permit process (noting that applications to construct a fence or garage are VicSmart applications that are exempt from third party notice and review).

Council did not directly address why it considers third party notice and review rights should apply to permit applications which propose demolition or removal of an original or early low brick fence or garage. This is not generally the approach for other precincts within Boroondara (with some exceptions). However, on balance, the Panel supports the application of third party notice and review rights where the fence or garage is contributory to the Precinct's heritage significance. The Heritage Overlay schedule should be reworded to refer to fences and garages that are identified as

contributory in the relevant Statement of Significance, as the exhibited wording of ‘original or early brick fences or brick garages’ is unclear.

#### **(v) Conclusion and recommendation**

The Panel concludes:

- It is appropriate to maintain the default permit trigger for fences and garages, given they are important elements that contribute to the significance of the Precincts.
- Third party notice and review rights should only apply to permit applications to demolish or remove a fence or garage identified as contributory in the relevant Statement of Significance.

The Panel recommends:

##### **Amend the schedule to the Heritage Overlay:**

a) In Clause 2.5 (the table containing HO800 to HO1000), in the column headed ‘Outbuildings or fences not exempt under Clause 43.01-4’, replace the exhibited text for:

- HO956 with ‘Yes – fences and garages listed in the ‘Contributory fence/garage’ column in the Precinct Gradings Schedule in the Dent Street Precinct, Glen Iris Statement of Significance, May 2023’
- HO957 with ‘Yes – fences and garages listed in the ‘Contributory fence/garage’ column in the Precinct Gradings Schedule in the High Street North Precinct, Glen Iris Statement of Significance, May 2023’
- HO958 with ‘Yes – fences and garages listed in the ‘Contributory fence/garage’ column in the Precinct Gradings Schedule in the Tower Hill Estate Precinct, Glen Iris and Ashburton Statement of Significance, May 2023’.

## **3.2 Building condition**

### **(i) The issue**

It is widely accepted that building condition is not a relevant issue when considering whether to apply a Heritage Overlay (although it may be relevant at the subsequent permit stage). Nevertheless, the Panel has addressed the issue as several submitters raised it, and Council made detailed submissions responding to the issue.

### **(ii) Submissions**

Some submissions (S4, S16 and S17) submitted the structural integrity or condition of a building should be taken into account when proposing to apply the Heritage Overlay.

Council responded that the structural condition or age of a house is generally not relevant to whether the property should be included in a Heritage Overlay. Rather, structural condition is a matter that can be taken into account during the application for a planning permit for development, which will assess the proposal against the objectives of Council’s Heritage Policy (Clause 15.03-1L).

**(iii) Discussion**

Many previous panels have found that, except in rare cases, structural integrity is not a relevant consideration when assessing whether a particular property should be included in a Heritage Overlay. Rather, the question is whether the property meets the threshold of local significance to justify its inclusion. If it meets the threshold, it should be included. Structural integrity issues can then be considered subsequently as part of a permit process when permission is sought to demolish or alter the property.

As Council pointed out, there are sound policy reasons for this. If panels were to refuse heritage controls on the basis of poor structural condition of a building, property owners might be incentivised to allow their buildings to fall into disrepair to avoid the application of the Heritage Overlay, undermining longer term heritage protection.

The exception to this general rule is where the structural integrity of the building is so poor that demolition is an inevitability, or necessary renovations or repairs would be so extensive that a large amount of the heritage fabric will inevitably be lost such that the form and nature of the heritage place will no longer be able to be appreciated. In these circumstances, it may not be appropriate to apply the Heritage Overlay.

No evidence was presented to the Panel that established that the condition of any of the buildings proposed to be included in the Heritage Overlay was so poor as to justify excluding them.

**(iv) Conclusions**

The Panel concludes:

- Building condition is generally not a relevant factor when deciding whether a property should be included in the Heritage Overlay.
- No evidence was presented to the Panel that any of the properties proposed to be included in the Amendment are in such poor condition as to justify being excluded.

**3.3 Development opportunity, building alterations and maintenance****(i) The issue**

It is widely accepted that restrictions on development opportunity is not a relevant issue when considering whether to apply a Heritage Overlay (although it may be relevant at the subsequent permit stage). Nevertheless, the Panel has addressed the issue as several submitters raised it, and Council made detailed submissions responding to the issue.

**(ii) Submissions**

Several submitters (S2, S16, S17, S18, S20, S22) raised concerns that the application of the Heritage Overlay would make it difficult to repair, maintain, improve or sell their properties, including to upgrade the environmental performance of the property (for example by installing solar panels). For example, S17 submitted:

... it could potentially restrict the ability of homeowners to make necessary modifications to their properties, which could impact property values and limit the flexibility of homeowners to adapt their properties to meet their changing needs - growing families. Given the current housing crisis, many residents may need to improve and add additions to their properties in order to accommodate larger families and elderly parents.

Council acknowledged the Heritage Overlay introduces another layer of control for property owners by imposing additional permit triggers. However, this is necessary to ensure heritage places are recognised and appropriately managed. It submitted numerous previous panels had found that potential constraint on development is not material to this stage of the planning process (although it may be relevant at the permit application stage). Further:

- the Heritage Overlay does not prevent alterations to heritage properties
- under the Heritage Overlay a permit is not required to carry out works, repairs or routine maintenance which do not change the external appearance of a heritage place, or which are undertaken to the same details, specifications and materials (Clause 43.01-1)
- a permit will not be required for internal works, as the Amendment does not propose internal controls.

### **(iii) Discussion**

It is well established that constraints on development are not relevant when deciding whether to apply a Heritage Overlay. Rather, the question is whether the place reaches the threshold of local significance to justify the application of the overlay.

This issue was put by the Panel considering Amendment C14 to the Latrobe Planning Scheme as follows:

This approach has the merit of separating two distinct issues: assessment of the significance of the place, and the question of its conservation, adaptation, alteration or demolition. This conforms with proper heritage conservation practice and mirrors the processes of the *Victorian Heritage Act 1985*. It reflects the desirability of considering long term matters (if we accept that heritage significance is likely to be somewhat enduring, if not immutable) at one point in time; and, shorter term matters (personal desire, financial considerations and economic circumstances) when they are most relevant.

As Council pointed out, application of the Heritage Overlay does not prevent alterations to properties, but ensures that the heritage implications of the changes are properly considered at the permit stage, and balanced with other considerations which could include matters such as the environmental performance of the building. The Panel notes for completeness that a solar energy system will only require a permit if it is visible from the street (Clause 43.01-1).

### **(iv) Conclusion**

The Panel concludes:

- It is well established that constraints on development or maintenance of a property are not relevant when deciding whether to apply a Heritage Overlay.

## **3.4 Impacts on property rights**

### **(i) The issue**

It is widely accepted that the impact of planning controls on personal property rights is not a relevant issue when considering a planning scheme amendment. Nevertheless, the Panel has addressed the issue as several submitters raised it, and Council made detailed submissions responding to the issue.

**(ii) Submissions**

Some submitters (S14, S15 and S20) submitted the Heritage Overlay represents an impost on owners and residents, and is a case of local government “*interfering with our right to do with our property as we wish*”.

**(iii) Discussion**

All planning controls impact to some degree on a person’s ‘rights’ to do with their property as they wish. So do many other regulatory regimes, including (among others) the *Building Act 1993* and the *Environment Protection Act 2017*.

A decision to apply planning controls (including the Heritage Overlay) involves balancing the public interest against the legitimate interests of individuals to use and enjoy their property rights. That balance must consider the Victorian planning objectives, which include protecting places of heritage significance, and balancing the present and future interests of all Victorians. In balancing these interests, the Planning Scheme directs that consideration be given to whether the Amendment will deliver net community benefit and sustainable development.

For the reasons set out in Chapter 2, the Panel is satisfied that the application of the Heritage Overlay to the affected land is strategically justified, and will deliver net community benefit, notwithstanding it will interfere with individual property rights.

**(iv) Conclusion**

The Panel concludes:

- The Amendment is strategically justified and appropriate notwithstanding it will impact on individual property rights.

**3.5 Property value and financial implications****(i) The issue**

It is widely accepted that potential financial implications of planning controls, including on property values, is not a relevant issue when considering a planning scheme amendment. Nevertheless, the Panel has addressed the issue as several submitters raised it, and Council made detailed submissions responding to the issue.

**(ii) Submissions**

Several submitters (S12, S14, S15-S18, S20, S21, S22) submitted the Amendment will impose an additional cost burden whenever they want to undertake modifications to their properties, and will cause financial loss if they choose to sell the property. Mr Price submitted the Amendment would result in a class of people (affected property owners) incurring additional costs, forcing them to subsidise an economic benefit for the broader community. He argued this is an economic impact of the Amendment that should be considered.

Council submitted the financial implications raised in submissions are expressed on a site-by-site or personal basis and not at a broader community level, and are therefore not relevant in deciding

whether to apply the Heritage Overlay. Council referred to the Panel report for Moonee Valley Planning Scheme Amendment C200moon :<sup>1</sup>

The Panel acknowledges submitters' concerns about private financial impacts of the Heritage Overlay and that those concerns have caused them distress. But Planning Practice Note 1 and judicial authority cited by Council make it clear that the key issue for the Panel is the heritage significance of the properties. Private financial issues of a personal or property specific nature are not relevant at the planning amendment stage.

The requirement under the [PE] Act for planning authorities to consider social and economic impacts of planning scheme amendments is limited to community wide impacts. No submitter provided information about wider social or economic impacts of the Heritage Overlay even though it applies to a wide area, as shown by the Municipal Heritage Overlay map. The Panel therefore has no basis to assess those impacts.

...

The Panel concludes that property value and private financial implications are not relevant when deciding whether to apply the Heritage Overlay.

### **(iii) Discussion**

Successive panels have concluded that property value and financial implications are not relevant when assessing heritage significance or when deciding whether to apply a Heritage Overlay. Financial impacts on individual property owners – or even a class of property owners – are not the type of community wide social and economic effects that are relevant under section 12 of the PE Act. Personal financial implications may be a relevant consideration at the permit application stage.

The Heritage Overlay increases the regulatory burden when a property owner wishes to undertake works to their property. The Panel acknowledges that this will have an associated cost. However the Heritage Overlay does not compel a property owner to maintain a property to a particular standard.

### **(iv) Conclusion**

The Panel concludes:

- It is well established that personal financial implications for affected property owners are not relevant when deciding whether to apply a Heritage Overlay.

<sup>1</sup> Moonee Valley C200moon [2021] PPV 7



## 4 Dent Street Precinct (HO956)



Figures 1-6. Examples of residences included in the precinct (R-L, starting at top) 28, 42, 44, 46, 58 and 60 Dent Street, Glen Iris (GJM Heritage, July 2022).

### Exhibited Statement of significance

#### What is significant?

The Dent Street Precinct, Glen Iris, a 1930s subdivision development of the Albion Park Estate, containing a collection of modest Interwar houses.

The precinct comprises 6-28 and 40-60 Dent Street, Glen Iris.

Elements that contribute to the significance of the place include:

- Strong Interwar character with the majority of properties demonstrating characteristics of the English Domestic Revival style
- Consistent front setbacks
- Predominantly brick construction, both face clinker brick and rendered brickwork
- Hipped and gable-ended roof forms, clad in terracotta tiles
- Predominantly asymmetrical front elevations
- Single-storey scale
- Tall prominent chimneys
- Entry porches
- Timber framed windows, including tripartite windows with fixed central panes and double hung side sashes
- Decorative brick detailing to windows, porch entries, corners and gable ends
- Original low brick front fences
- Original brick garages
- Garden settings.

Later alterations and additions to the properties, including rear additions, later garages/outbuildings and later fences, are not significant. The new dwelling at 12 Dent Street is not significant.

#### How is it significant?

The Dent Street Precinct, Glen Iris is of local historical, representative (architectural) and aesthetic significance to the City of Boroondara.

#### Why is it significant?

The Dent Street Precinct has strong associations with the interwar period of development in suburban Melbourne. In this period, extensive tracts of land in Glen Iris – and throughout Boroondara more broadly – were subdivided into suburban residential estates, and allotments were purchased for the construction of middle-class housing. This period of development transformed the eastern part of the municipality from a semi-rural landscape to an almost entirely suburban one. The Dent Street Precinct clearly illustrates this important phase of development in the City of Boroondara. As a highly intact precinct of middle-class houses designed in various Interwar styles – but with an emphasis on the English Domestic Revival style – the Dent Street Precinct clearly illustrates this important phase of development in the City of Boroondara (**Criterion A**).

The Dent Street Precinct is a fine and highly intact example of a cohesive middle-class Interwar residential precinct. Together these modestly-scale, single-storey houses predominantly display typical features of the English Domestic Revival style popular in Glen Iris and across Boroondara more broadly in the Interwar period, including clinker brick and rendered brick walls with decorative brick detailing, tiled roofs, asymmetrical hipped and gable-ended roof forms, prominent chimneys and entry porches, timber framed windows including tripartite window sets, generous front gardens, brick front fences and original brick garages (**Criterion D**).

The Dent Street Precinct forms a unified group of single-storey residences dating to the Interwar period and predominantly demonstrating characteristics of the English Domestic Revival style. The consistent application of high-quality materials and detailing, such as face clinker and rendered brick construction, prominent chimneys and porches, tripartite window sets and decorative brick detailing, in conjunction with their garden settings, presents a highly picturesque streetscape (**Criterion E**).



## 4.1 12 Dent Street

12 Dent Street is proposed to be included as a non-contributory property in the Dent Street Precinct.

**Figure 2** 12 Dent Street, Glen Iris



Source: Panel from site visit

### (i) The issue

The issue is whether the property should be included in the Dent Street Precinct.

### (ii) Evidence and submissions

The owner of 12 Dent Street submitted it should be removed from the Precinct as the property is a new build which was legally demolished and constructed without the need for a planning permit. He submitted the current house doesn't impact the legibility of the Precinct, and submitted:

Nothing permitted in ResCode or elsewhere in the planning scheme that I'm allowed to do without a permit would degrade or interfere with my neighbours' properties.

The owner was concerned that if the Heritage Overlay was applied and the house were destroyed (say by fire), he would not be able to rebuild it in its current form, due to its prominent garage and second storey visible from the street. He was further concerned that he would be unable to replace the existing front fence – because he is neighboured by a contributory property, he would have to build a similar low brick fence. *“In essence, we're stuck with mitigations from 90 years ago”*.

Council submitted 12 Dent Street should be retained as a non-contributory property in accordance with the recommendations of the GJM Review. It submitted:

- the contemporary dwelling currently on the property does not impact on the legibility of the Precinct as an interwar precinct with a high degree of built form consistency
- the purpose of applying the Heritage Overlay to non-contributory properties in a precinct is to ensure development of non-contributory sites does not impact heritage values of other sites in the precinct.

It submitted:

Numerous Planning Panels have confirmed that it is not appropriate to punch holes in precincts to remove individual non-contributory properties, particularly where their redevelopment may impact on neighbouring properties and the precinct values more broadly.

Mr Gard'ner's evidence was that while 12 Dent Street is a non-contributory property, it is located "*within an otherwise highly intact streetscape*". He considered any future development of the property should have regard to the surrounding heritage context and it should therefore be retained as a non-contributory property within the Precinct.

### **(iii) Discussion**

12 Dent Street is the only non-contributory property proposed to be included in the Dent Street Precinct.

It is well established heritage practice to include non-contributory properties in a precinct where the development of that property has the potential to impact on the heritage values of the precinct. This approach has been supported by many previous panels. For example, the Panel considering Boroondara Planning Scheme Amendment C388boro confirmed that:

...the Heritage Overlay enables changes to a non-contributory property, subject to a planning permit application to assess any impact on surrounding heritage. This is affirmed by two strategies in Clause 15.03-1L of the Planning Scheme for non-contributory heritage places:

- Support the demolition of 'non-contributory' places.
- Ensure replacement buildings, development, alterations and additions are sympathetic with heritage fabric of the place, rather than any 'non-contributory' elements of the place.

12 Dent Street sits mid-block in a highly intact and cohesive group of interwar properties. Any redevelopment proposal should be carefully considered in terms of its potential to impact on the surrounding properties and the heritage values of the Precinct more broadly. This can only occur if the property is included in the Precinct as a non-contributory property.

As noted by the C388boro Panel, Clause 15.03-1L supports the demolition of non-contributory places, subject to the replacement building being sympathetic to its surrounding precinct through measures such as building orientation and ensuring the siting, setbacks and scale of the new building compliments rather than dominates adjoining contributory places. While certain aspects of the current dwelling may not be strictly in accordance with the guidelines in Clause 15.03-1L, this is not a reason to exclude it from the Precinct. There is a need to ensure that any future redevelopment of the property has regard to its heritage context.

For completeness, the owner of 12 Dent Street was concerned about inconsistencies in the application of interim heritage controls to his property. While the Panel acknowledges these concerns, and that 12 Dent Street is not currently subject to interim heritage controls (Council explained it was removed from the interim controls when Amendment C393boro was gazetted), this is not a justification for excluding it from the Precinct and from permanent heritage controls.

### **(iv) Conclusion**

The Panel concludes:

- 12 Dent Street should be retained in the Dent Street Precinct as a non-contributory property.

## 4.2 24 Dent Street

24 Dent Street is proposed to be included as a contributory property in the Dent Street Precinct.

**Figure 3** 24 Dent Street, Glen Iris



Source: Mr Gard'ner's evidence

The Panel notes that since the above photograph was taken the front fence has been replaced with a modern timber fence of a similar height.

### (i) The issue

The issue is whether the property should be included in the Dent Street Precinct.

### (ii) Evidence and submissions

The owners of 24 Dent Street stated the property is a *“nondescript suburban dwelling that is hardly worth preserving”*.

Mr Gard'ner responded that the property is an interwar residence constructed in the English Domestic Revival style, and is located in a highly intact streetscape of modestly-scaled, single-storey interwar houses that demonstrate a very high degree of consistency in architectural style, materiality and detailing. He noted 24 Dent Street has a strong interwar character which demonstrates several elements that contribute to the significance of the Precinct:

- single-storey scale and consistent front setbacks
- brick construction, featuring both face clinker brick and rendered brickwork
- hipped and gable-ended roof forms, clad in terracotta tiles
- asymmetrical front elevations
- a tall prominent chimney
- tripartite timber framed windows with fixed central panes and double hung side sashes
- an original brick garage.

He concluded:

It is therefore my position that the property should remain as a 'Contributory' graded property within the Dent Street Precinct ...



**(iii) Discussion**

The Panel agrees with Mr Gard'ner that while 24 Dent Street is modest, it features a number of the elements of interwar English Domestic Revival style that characterise the Dent Street Precinct. Apart from the new front fence, the property presents to the street as highly intact, in a cohesive streetscape of similar properties. It disagrees with the owners that the property is “*non-descript*” or “*hardly worth preserving*”.

**(iv) Conclusion**

The Panel concludes:

- 24 Dent Street should be retained in the Dent Street Precinct as a contributory property.

**4.3 44 Dent Street**

44 Dent Street is proposed to be included as a contributory property in the Dent Street Precinct. The garage is proposed to be listed as contributory in the Statement of Significance.

**Figure 4** 44 Dent Street, Glen Iris



Source: Panel from site visit

**(i) The issue**

The issue is whether the garage should be listed as contributory in the Statement of Significance.

**(ii) Evidence and submissions**

The owner of 44 Dent Street submitted the garage – which is identified in the citation and Statement of Significance as being a contributory garage – was constructed 13 years ago, and provided records which confirmed the construction date.

Mr Gard'ner acknowledged the garage is of recent construction, albeit in a ‘historicist’ style to match the main dwelling. He therefore proposed the garage be removed from the ‘Contributory Fence/Garage’ column in the citation and Statement of Significance. Council proposed this change in its Part A submission.

**(iii) Discussion**

The Panel supports the proposed change to the listing of the garage as contributory in the Dent Street Precinct citation and Statement of Significance.

**(iv) Conclusion and recommendation**

The Panel concludes:

- The garage at 44 Dent Street should be removed from the 'Contributory Fence/Garage' column in the Statement of Significance.

The Panel recommends:

**Amend the Dent Street Precinct, Glen Iris Statement of Significance, May 2023:**

- a) in the Precinct Grading Schedule, remove the garage of 44 Dent Street Glen Iris from the 'Contributory Fence/Garage' column.



## 5 Tower Hill Estate Precinct (HO957)

### Exhibited Statement of significance



#### What is significant?

The Tower Hill Estate Precinct, a 1930s and early 1940s subdivision development of the Tower Hill Estate, containing a collection of Interwar houses and the original house in the estate known as 'Tower Hill' built c1901.

The precinct comprises 2-28 & 1-33 Tower Hill Road, Glen Iris, 2-32 Munro Avenue, Ashburton, 142-146A High Street, Glen Iris and 148 High Street, Ashburton.

Elements that contribute to the significance of the place include:

- Strong Interwar character generally demonstrating characteristics of the English Domestic Revival style
- Consistent front setbacks within streetscapes
- Brick construction, both face clinker brick and rendered
- Hipped and gable-ended roof forms, clad in terracotta tiles
- Predominantly asymmetrical front elevations
- One and two-storey scale
- Tall prominent chimneys
- Entry porches
- Timber framed windows, including bay windows and tripartite windows with fixed central panes and double hung side sashes
- Decorative brick detailing to walls, porch entries and gable ends
- Original low brick front fences
- Some original or early brick garages
- Garden settings.

Elements that contribute to the significance of 'Tower Hill' include:

- Single-storey Italianate-style villa with some Edwardian-era decorative influences
- Balustraded central tower with pairs of windows to each face
- Rendered brick construction (overpainted)
- Decorative roof ridging and finials
- Asymmetrical front elevation
- Return verandah with turned timber posts and timber fretwork
- Tall prominent chimneys with corniced capping
- Half timbering and rough cast render to gable end
- Tripartite window to the front gable end with segmental arched head and highlights containing leadlight glazing.

5, 15, 26 & 31 Tower Hill Road, 12 & 26 Munro Street and 146A High Street are not significant. Later alterations and additions to other properties, including rear additions, later garages/outbuildings and later fences are not significant.

### How is it significant?

The Tower Hill Estate Precinct is of local historical, representative (architectural) and aesthetic significance to the City of Boroondara.

### Why is it significant?

The Tower Hill Estate Precinct has strong associations with the late Interwar period of development in suburban Melbourne. In this period extensive tracts of land in Glen Iris and Ashburton – and throughout Boroondara more broadly – were subdivided into suburban residential estates, and allotments were purchased for the construction of middle-class housing. Many of these residential estates resulted from the subdivision of large Victorian or Edwardian-era landholdings, as was the case with the subdivision of the c1901 "Tower Hill" House Estate. The interwar period of development transformed the eastern part of the municipality from a semi-rural landscape to an almost entirely suburban one. As a highly intact precinct of middle-class houses designed in various Interwar styles – along with the turn-of-the-century "Tower Hill" House – the Tower Hill Estate Precinct clearly illustrates this important phase of development in the City of Boroondara (**Criterion A**).

The Tower Hill Estate Precinct is a fine and highly intact example of a cohesive middle-class interwar residential precinct. Together the one and two-storey houses predominantly display typical features of the English Domestic Revival style popular in Glen Iris and across Boroondara more broadly in the interwar period, including clinker brick and rendered brick walls with decorative brick detailing, tiled roofs,



asymmetrical hipped and gable-ended roof forms, prominent chimneys, timber framed windows including tripartite window sets, generous front gardens and brick front fences (**Criterion D**).

'Tower Hill' house at 148 High Street, Ashburton is a distinctive and intact representative example of an Italianate-style residence in the City of Boroondara. The building displays important characteristics, typical of late nineteenth century/early twentieth century middleclass housing in Glen Iris and across Boroondara more broadly, including an asymmetrical form with imposing balustraded tower, prominent chimneys, imitation half-timbering and rough cast render to the front gable end, tripartite front window with leadlighting, and return verandah with turned timber posts and timber fretwork; the latter more typical of early 20th century decorative detailing (**Criterion D**).

The Tower Hill Estate Precinct forms a unified group of one and two-storey residences dating to the late interwar period and predominantly demonstrating characteristics of the English Domestic Revival style. The consistent application of high-quality materials and detailing, such as such as face clinker and rendered brick construction, prominent chimneys and porches, tripartite window sets and decorative brick detailing, in conjunction with their garden settings, present as highly picturesque streetscapes (**Criterion E**).

## 5.1 10 Munroe Avenue

10 Munro Avenue is proposed to be included as a contributory property in the Tower Hill Estate Precinct. The fence and garage are proposed to be listed as contributory in the Statement of Significance.

Figure 5 10 Munro Avenue, Ashburton



Source: Panel from site visit



**Figure 6** 10 Munro Avenue garage



Source: Mr Gardner's evidence

**(i) The issues**

The issues are whether the:

- property should be graded as contributory or non-contributory
- fence and garage should be listed as contributory in the Statement of Significance.

**(ii) Evidence and submissions**

The owners of 10 Munro Avenue supported the Amendment, but submitted the grading for the property should be changed to non-contributory, and its 'Contributory Fence/Garage' designation removed because:

- the house was substantially altered in the 1970s with an upper-storey addition and dormer-style windows, to the point that the house's relationship to the Precinct's significance is no longer clear
- the original low brick front fence has been removed and replaced by a high brick fence, which does not enhance the interwar character of the house and obscures the house from the street view
- the garage was added in the 1960s which does not match the house and is clearly of a different style, and detracts from the late interwar character of the Precinct.

The owners provided a photo of the original house taken in the early 1940s to illustrate how the changes have altered the overall character of the house.

**Figure 7** 10 Munro Avenue historic photo



Source: Mr Gard'ner's evidence

Mr Gard'ner acknowledged some changes have occurred to the property since its construction, including the construction of the side garage, replacement of the front fence, insertion of a dormer window into the main front roof pitch and alteration of gable end details. However he considered these changes to be relatively minor, and undertaken in a relatively sensitive manner. He did not consider they diminished the ability to appreciate the property as a substantially intact English Domestic Revival style property within a highly intact Precinct.

He described the property as of strong interwar character demonstrating several of the characteristics of the English Domestic Revival style that contribute to the significance of the Tower Hill Estate Precinct:

- consistent front setback with other properties in Munro Avenue
- brick construction
- gable-ended roof forms clad in terracotta tiles
- a predominantly asymmetrical front elevation
- tall prominent chimney
- an entry porch
- timber framed windows
- decorative brick detailing to the walls
- a garden setting.

He therefore considered the property should remain as a contributory graded property within the Precinct.

Mr Gard'ner accepted the historic photograph clearly demonstrates the side brick garage and front fence were constructed after the residence was constructed, and therefore recommended both the fence and garage be removed from the 'Contributory Fence/Garage' column in the Statement of Significance. Council supported this change.

**(iii) Discussion**

The Panel agrees with Mr Gard'ner that while 10 Munro Avenue has been modified over the years, it retains a number of the elements of interwar English Domestic Revival Style that characterise the Tower Hill Estate Precinct, including the consistent front setback with other properties in Munro Avenue, brick construction, a gable-ended terracotta tiled roof, an asymmetrical front elevation, timber framed windows and a garden setting. While the chimney is not particularly tall (compared to the house), it is prominent. The property presents to the street as relatively intact despite the addition of the dormer window, and can clearly be read as an interwar English Domestic Revival style home. It is located in a cohesive streetscape of similar properties. The Panel therefore agrees with Mr Gard'ner that the property should remain graded as contributory.

The fence and garage are clearly not original, and the Panel supports the proposed change to remove the fence and garage from the 'Contributory Fence/Garage' column in the Tower Hill Estate Precinct Statement of Significance.

**(iv) Conclusion and recommendation**

The Panel concludes:

- The property at 10 Munro Avenue should remain a contributory property in the Precinct.
- The garage at 10 Munro Avenue should be removed from the 'Contributory Fence/Garage' column in the Statement of Significance.

The Panel recommends:

**Amend the Tower Hill Estate Precinct, Glen Iris and Ashburton Statement of Significance, May 2023:**

- a) in the Precinct Grading Schedule, remove the fence and garage of 10 Munro Avenue, Ashburton from the 'Contributory Fence/Garage' column.

**5.2 20 Munroe Avenue**

20 Munro Avenue is proposed to be included as a contributory property in the Tower Hill Estate Precinct. The fence and garage are proposed to be listed as contributory in the Statement of Significance.

**Figure 8** 20 Munro Avenue, Ashburton



Source: Panel from site visit



**(i) The issues**

The issues are whether the:

- fence and garage should be listed as contributory
- property itself should be listed as contributory or included in the Precinct.

**(ii) Evidence and submissions**

The owners of 20 Munro Avenue opposed the grading of the fence and garage as contributory. They submitted the garage now has a roller door which is not original and is not big enough to fit a car. They submitted the garage is not able to be used for its intended purpose, and the fence is impractical with a gate that is barely wide enough to fit a modern car. They submitted the fence is not representative of other fences in the street.

A supplementary late submission filed on behalf of the owners (S25) broadly supported the Amendment, but questioned the contributory status of the property, stating:

... there are many historically significant homes and architecture that is unique and should be preserved for historical and cultural reasons but this house at 20 Munroe Street isn't one of them and we request that it is struck off the heritage list ...

Mr Gard'ner's evidence was the property is a late interwar red brick residence with an attached red brick garage (with a later roller door) and low red brick front fence. He produced some historical aerial imagery which demonstrated the presence of the garage in 1945. His evidence was that fences and garages can contribute to the significance of the Precinct, allowing for the historic design and function of properties to be more fully appreciated. He stated:

Within the Tower Hill Estate Precinct, the original and early garages demonstrate the rise of private vehicle ownership at the time of the Precinct's development while the low fences reflect greater levels of openness and sense of community in suburban development at the time.

Mr Gard'ner concluded that while the garage had been altered (with the addition of a roller door):

It is my view that the fence and garage are appropriately identified as elements that contribute to the significance of the Tower Hill Estate Precinct.

Regarding the property's contributory status and whether it should remain as part of the Precinct, Mr Gard'ner responded that the reasons cited in S25 for removing the property were (in addition to restating the garage and fence concerns):

- the internal layout of the house is not conducive to modern living
- there is no architectural feature that makes the home stand out as culturally or historically significant
- the house is of a basic form with common hipped roof and "*nondescript architecture*".

Mr Gard'ner agreed the property is a simple, modestly-scaled residential example of the late interwar period. He emphasised the GJM Review did not suggest the property is individually unique or of architectural merit in its own right. Rather, it demonstrates elements of modestly-scaled late interwar development that contribute to the significance of the Precinct as a whole, including:

- strong interwar character
- consistent front setbacks
- brick construction with an original low brick fence and side garage
- hipped and gable-ended roof forms, clad in terracotta tiles
- an asymmetrical front elevation

- timber framed tripartite windows
- a garden setting.

He noted internal alteration controls are not proposed for the Precinct and internal changes to accommodate a more functional layout can occur without requiring a planning permit. He concluded:

It is therefore my position that the property should remain as a 'Contributory' graded property within the Tower Hill Estate Precinct.

### **(iii) Discussion**

The Panel agrees with Mr Gard'ner that notwithstanding the pergola that has been added to the front of the house, 20 Munro Avenue retains a number of the elements of interwar English Domestic Revival Style that characterise the Tower Hill Estate Precinct, including the consistent front setback with other properties in Munro Avenue, brick construction, a gable-ended terracotta tiled roof, an asymmetrical front elevation, timber framed windows and a garden setting. The property presents to the street as relatively intact despite the addition of the pergola (which is an easily reversible change), and can clearly be read as an interwar English Domestic Revival style home. It is located in a cohesive streetscape of similar properties. The Panel therefore agrees with Mr Gard'ner that the property should remain in the Precinct, graded as contributory.

The Panel also agrees with Mr Gard'ner that the fence and garage should remain graded as contributory in the Statement of Significance. The Panel accepts that garages are an important feature that contributes to the significance of the Tower Hill Estate Precinct. While the roller door is clearly a later addition to the garage, the structure itself appears to be original, and the roller door is at least a partially reversible change. The fence appears to be in original condition.

### **(iv) Conclusions**

The Panel concludes:

- 20 Munro Avenue should be retained in the Tower Hill Estate Precinct as a contributory property.
- The fence and garage should remain listed as contributory in the Statement of Significance for the Precinct.

## Appendix A Submitters to the Amendment

No.	Submitter	No.	Submitter
1	David Haigh	14	Paul McMahon
2	Dion Makowski	15	Robyn Moore
3	Christina Branagan	16	Sarah Perkins
4	John Tiborc	17	Andrew Ranger
5	Melanie Eardley	18	Ian Russell
6	Axel Ackerman	19	Robert Moffatt
7	David Haig (second submission)	20	Greg Price
8	Rosemary Blanden	21	Sara Jenner
9	Jane Oldham	22	Margaret Hones
10	Sandra Alexander	23	Bruce Jones
11	Nerida Muirden	24	Penelope Anastasiadis
12	Stephanie Kapes	25	Impact Development Group Pty Ltd (late submission on behalf of the owners of 20 Munro Avenue)
13	Georgia Pinto		

## Appendix B Document list

No.	Date	Description	Provided by
1	15 Nov 23	Panel Directions and Hearing Timetable (version 1)	Planning Panels Victoria (PPV)
2	20 Nov 23	Submitter location map (not public)	Boroondara City Council (Council)
3	20 Nov 23	Maps showing: - original extent of the Mont Iris Estate and Environs Precinct, compared to the Amendment land - properties in dispute	Council
4	20 Nov 23	Glen Iris Gap Heritage Study – Mont Iris Estate extract	Council
5	20 Nov 23	Statement of Significance for the Mont Iris Estate as originally proposed, January 2021	Council
6	20 Nov 23	Panel report for Amendment C333boro, 20 January 2022	Council
7	27 Nov 23	Council Part A submission	Council
8	4 Dec 23	Expert witness report – Jim Gard’ner, GJM Heritage	Council
9	5 Dec 23	Hearing Timetable (version 2)	PPV
10	8 Dec 23	Council Part B submission	Council
11	8 Dec 23	Summary of evidence – Jim Gard’ner, GJM Heritage	Council
12	11 Dec 23	Photos (in 3 parts)	G Price
13	11 Dec 23	Speaking notes	G Price

## Appendix C Planning context

### C:1 Planning policy framework

Council submitted the Amendment is supported by various clauses in the Planning Policy Framework, which the Panel has summarised below.

#### Victorian planning objectives

The Amendment will implement the Victorian planning objectives in section 4 of the PE Act which include 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 (section 4(1)(d))
- balance the present and future interests of all Victorians (section 4(1)(g)).

#### Clause 2 (Municipal Planning Strategy)

The Amendment is consistent with and implements the strategic direction outlined in the Municipal Planning Strategy at Clause 02.03-4 to:

... protect all individual places, objects and precincts of cultural, aboriginal, urban and landscape significance.

#### Clause 15 (Built environment and heritage)

The Amendment supports:

- Clause 15.01-5S (Neighbourhood character) which seeks to recognise, support and protect neighbourhood character, cultural identity, and sense of place
- Clause 15.03-1S (Heritage conservation) which seeks to ensure the conservation of places of heritage significance. Relevant strategies are:
  - Identify, assess and document places of natural and cultural heritage significance as a basis for their inclusion in the planning scheme.
  - Provide for the conservation and enhancement of those places which are of, aesthetic, archaeological, architectural, cultural, scientific, or social significance.
  - Encourage appropriate development that respects places with identified heritage values.
  - Retain those elements that contribute to the importance of the heritage place.
  - Encourage the conservation and restoration of contributory elements.
  - Ensure an appropriate setting and context for heritage places is maintained or enhanced.

Clause 15.03-1L contains Boroondara's local heritage policy. It has the following objectives:

- To preserve 'significant' heritage places, protecting all significant heritage fabric including elements that cannot be seen from the public realm.
- To facilitate sympathetic new buildings which extend the life of 'significant' heritage places.
- To retain and conserve 'contributory' places and fabric in the Heritage Overlay which are visible from the primary street frontage.
- To facilitate sympathetic additions, alterations and new buildings to 'contributory' heritage places which are massed, detailed, finished and located to preserve the presentation of the place from the street.



- To ensure buildings and works to 'non-contributory' properties are sympathetic to the heritage values of the precinct and complement the precinct's heritage built fabric by being respectful of the scale, massing, rhythm and detailing.

The policy contains detailed strategies and guidelines for 'significant', 'contributory' and 'non-contributory' heritage places, which would guide future decision making once the Heritage Overlay applies. There are also strategies and guidelines for (among other things) fences, landscaping, outbuildings, servicing and the like.

## C:2 Other relevant planning strategies and policies

### Plan Melbourne

*Plan Melbourne 2017-2050* sets out strategic directions to guide Melbourne's development to 2050, to ensure it becomes more sustainable, productive and liveable as its population approaches 8 million. It is accompanied by a separate implementation plan that is regularly updated and refreshed every five years.

Plan Melbourne is structured around seven Outcomes, which set out the aims of the plan. The Outcomes are supported by Directions and Policies, which outline how the Outcomes will be achieved. The following are relevant to the Amendment:

- **Outcome 4:** Melbourne is a distinctive and liveable city with quality design and amenity
  - **Direction 4.4:** Respect Melbourne's heritage as we build for the future
    - **Policy 4.4.1:** Recognise the value of heritage when managing growth and change
    - **Policy 4.4.4:** Protect Melbourne's heritage through telling its stories.

Direction 4.4 states:

Heritage will continue to be one of Melbourne's competitive strengths, contributing to its distinctiveness and liveability and attracting visitors, new residents, and investors. Heritage is an important component of Victoria's tourism industry and benefits the economy.

Policy 4.4.1 states:

There will need to be continuous identification and review of currently unprotected heritage sites and targeted assessments of heritage sites in areas identified as likely to be subject to substantial change.

Council submitted the Amendment will not compromise the implementation of Plan Melbourne. In response to a question from the Panel as to how it would not compromise Plan Melbourne, Council clarified that the Amendment would not lock up a substantial portion of properties in the municipality such that the municipality may not achieve expectations in Plan Melbourne that it accommodates its fair share of Melbourne's growth.

### Boroondara Community Plan 2021-31

The *Boroondara Community Plan 2021-31* sets out the 10-year vision for Boroondara's future based on values, aspirations and priorities important to the community, and includes the Council Plan 2021-25.

Council submitted the Amendment implements the Strategic Objective of Theme 4 of the Plan:

Protect the heritage and respect the character of Boroondara, while facilitating appropriate, well-designed development.

Specifically, the Amendment implements Strategy 4.1:

Boroondara's heritage places are protected through ongoing implementation of heritage protection controls in the Boroondara Planning Scheme.

### C:3 Planning scheme provisions

The Heritage Overlay purposes are:

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

The Heritage Overlay requires a planning permit to demolish, subdivide, build or carry out works. The Heritage Overlay enables its schedule to specify additional controls for specific trees, painting previously unpainted surfaces, internal alterations and an incorporated plan (which may exempt buildings and works and other changes from requiring a planning permit). The schedule may also identify if a place can be considered for uses that are otherwise prohibited, subject to a planning permit.

### C:4 Ministerial Directions, Planning Practice Notes and guides

#### Ministerial Directions

The Explanatory Report discusses how the Amendment meets the relevant requirements of:

- Ministerial Direction 9 (Metropolitan Planning Strategy)
- Ministerial Direction 11 (Strategic Assessment of Amendments)
- Planning Practice Note 46 (Strategic Assessment Guidelines).

That discussion is not repeated here.

#### Planning Practice Note 1: Applying the Heritage Overlay

PPN01 provides guidance about using the Heritage Overlay. It states the Heritage Overlay should be applied to, among other places:

Places identified in a local heritage study, provided the significance of the place can be shown to justify the application of the overlay.

PPN01 specifies that documentation for each heritage place needs to include a statement of significance that clearly establishes the importance of the place and addresses the heritage criteria. It recognises the following model criteria (the HERCON criteria) that have been adopted for assessing the value of a heritage place:

- Criterion A:** Importance to the course or pattern of our cultural or natural history (historical significance).
- Criterion B:** Possession of uncommon, rare or endangered aspects of our cultural or natural history (rarity).
- Criterion C:** Potential to yield information that will contribute to an understanding of our cultural or natural history (research potential).
- Criterion D:** Importance in demonstrating the principal characteristics of a class of cultural or natural places or environments (representativeness).
- Criterion E:** Importance in exhibiting particular aesthetic characteristics (aesthetic significance).

**Criterion F:** Importance in demonstrating a high degree of creative or technical achievement at a particular period (technical significance).

**Criterion G:** Strong or special association with a particular community or cultural group for social, cultural or spiritual reasons. This includes the significance of a place to Indigenous peoples as part of their continuing and developing cultural traditions (social significance).

**Criterion H:** Special association with the life or works of a person, or group of persons, of importance in our history (associative significance).

### **Practitioner's Guide**

A Practitioner's Guide to Victorian Planning Schemes Version 1.5, April 2022 (Practitioner's Guide) sets out key guidance to assist practitioners when preparing planning scheme provisions. The guidance seeks to ensure:

- the intended outcome is within scope of the objectives and power of the PE Act and has a sound basis in strategic planning policy
- a provision is necessary and proportional to the intended outcome and applies the Victoria Planning Provisions in a proper manner
- a provision is clear, unambiguous and effective in achieving the intended outcome.