

Planning and Environment Act 1987

Panel Report

Whitehorse Planning Scheme Amendment C172 Part 2 Post-1945 Heritage Study

2 May 2016

Planning and Environment Act 1987

Panel Report pursuant to Section 25 of the Act

Whitehorse Planning Scheme Amendment C172 Part 2)

Post-1945 Heritage Study Study

2 May2016

A handwritten signature in black ink, appearing to read 'Peter McEwan', written in a cursive style.

Peter McEwan, Chair

A handwritten signature in black ink, appearing to read 'Peter Gaschk', written in a cursive style.

Peter Gaschk, Member

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List of Abbreviations

HERCON	Heritage Council of Victoria
HO	Heritage Overlay
PPN01	Planning Practice Note 01: Applying the Heritage Overlay, July 2015
SPPF	State Planning Policy Framework
the Study	Whitehorse Post-1945 Heritage Study
THE	Thematic Environmental History
VPP	Victoria Planning Provisions

Overview

Amendment Summary

The Amendment	Whitehorse Planning Scheme Amendment C172 Part 2
Common Name	Post-1945 Heritage Study
Subject Site	Twelve sites for which it is proposed to apply a Heritage Overlay
Planning Authority	Whitehorse City Council
Authorisation	A03124 17 July 2015
Exhibition	1 October to 2 November 2015
Submissions	Number of Submissions: 15 Opposed: 13

Panel Process

The Panel	Peter McEwan (Chair) and Peter Gaschk
Directions Hearing	Whitehorse Civic Centre, 28 January 2016
Panel Hearing	Whitehorse Civic Centre, 15 and 16 March 2016
Site Inspections	Unaccompanied, 15 and 16 March 2016
Date of this Report	2 May 2016

Executive Summary

(i) Summary

Amendment C172 Part 2 seeks to apply the Heritage Overlay to 12 individual places across the suburbs of Box Hill North, Box Hill South, Blackburn, Blackburn South, Burwood, Mont Albert North, Nunawading, Vermont and Vermont South as identified in the *City of Whitehorse Post-1945 Heritage Study* (2015).

The purpose of the Study was to identify places within the City of Whitehorse that were deemed to be significant at the local level, and not (necessarily) at a broader regional or state level. The HO will provide protection to post-1945 places of cultural significance.

(ii) Background

The parent amendment (Amendment C172) was exhibited through the statutory process between 1 October and 2 November 2015. A total of 76 submissions were received. On 14 December 2015 Council split the parent amendment into two parts, and referred Amendment C172 Part 2 and 14 associated submissions received to an independent Planning Panel. One late submission was also referred to the same Panel. Amendment C172 Part 1 was adopted by the Council with a number of changes and sent to the Minister for Planning for approval on 6 January 2016.

The Panel noted that each of the places have been recommended for inclusion on the Heritage Overlay schedule as an individual heritage place, not as part of a larger group or precinct of buildings. As such, they have necessarily been considered in isolation, as an individual specimen in their own right, irrespective of their streetscape context or the style or age of adjacent properties.

(iii) Key issues raised in submissions

The key issues raised in the submissions received, comprised:

- Alterations to the place
- Adverse impact on property values
- Stifling of redevelopment opportunities in commercial areas
- Insufficient evidence (comparative analysis) or rationale for heritage protection
- Place is not in a Precinct
- Support for the implementation of the Heritage Overlay over several sites.

The *City of Whitehorse Post-1945 Heritage Study* was undertaken between October 2013 and July 2015 and included a detailed post war period thematic history of the entire City of Whitehorse; focused between the years 1945 up to 1990.

The study methodology was diligent in responding to the Burra Charter process and the *VPP Practice Note 01: Applying the Heritage Overlay*, July 2015. The Thematic Environmental History provided a comprehensive and directly relevant basis for the consideration of the significance of individual properties.

(iv) Conclusions

The Amendment is strategically supported by the Whitehorse Planning Scheme and the objectives of the *Planning and Environment Act 1987* which seek to conserve places of heritage significance. The reference document and citations that the proposed planning controls are based upon have been well researched and are presented with the intent to protect heritage built form, not to stop development altogether.

The Panel concludes that the *City of Whitehorse Post-1945 Heritage Study* provides a sound basis for the application of the Heritage Overlay to defined post-1945 heritage places.

(v) Recommendations

Based on the reasons set out in this Report, the Panel recommends:

Whitehorse Planning Scheme Amendment C172 Part 2 be adopted as exhibited subject to the following:

- 1. The 'What is significant?' section of the 'Statement of Significance' in the Citation for HO283 - 24 Arnott Street, Mont Albert North should be amended to note that the brick screen wall at the frontage to the property is not considered to be significant.**
- 2. Delete 12 Sunhill Avenue, Burwood (HO291) from the Amendment.**

1 Introduction

1.1 Panel process

Whitehorse Planning Scheme Amendment C172 Part 2 (the Amendment) was prepared by the Whitehorse Council as Planning Authority. As exhibited, the Amendment proposes to apply the Heritage Overlay to 12 individual places across the suburbs of Box Hill North, Box Hill South, Blackburn, Blackburn South, Burwood, Mont Albert North, Nunawading, Vermont and Vermont South as identified in the *City of Whitehorse Post-1945 Heritage Study (2005)* (the Study).

The parent amendment (Amendment C172) was exhibited through the statutory process between 1 October and 2 November 2015. A total of 76 submissions were received (two submissions were received by the Council after the formal exhibition period closed). On 14 December 2015 Council split the parent amendment into two parts, and referred Amendment C172 Part 2 and 14 associated submissions received to an independent Planning Panel. One late submission was also referred to the same Panel. Amendment C172 Part 1 was adopted by the Council at the same meeting date with a number of changes and sent to the Minister for Planning for approval on 6 January 2016.

A Panel to consider the Amendment was appointed under delegation from the Minister for Planning on 8 January 2016 and comprised Peter McEwan (Chair), and Peter Gaschk.

A Directions Hearing was held in relation to the Amendment on 28 January 2016. The Panel undertook inspections of the subject sites following the Panel Hearings.

The Panel met in the offices of Whitehorse City Council on 15 and 16 March 2016 to hear submissions about the Amendment.

Table 1 Parties to the Panel Hearing

Submitter	Represented by
Whitehorse City Council	Ms Andrea Skraba, Senior Strategic Planner who called the following expert witness: - Simon Reeves, heritage expert, Built Heritage Pty Ltd.
Ved Berani	Panos Nickas of Best Hooper Lawyers
Ian Symons	
Stephen Nee	
Planning & Property Partners	Chris Wren QC who called the following expert witness: - John Briggs, heritage expert, J Briggs Architects Pty Ltd.
Chun Hua Zhang	Yong Pun
Barbara Weight	Panos Nickas of Best Hooper Lawyers who called the following expert witness: - Roger Beeston, heritage expert, RBA Architects Pty Ltd.
National Trust of Australia (Vic).	Felicity Watson, Senior Community Advocate

1.2 The proposal

(i) The subject area

The Amendment applies to the following sites:

- House at 24 Arnott Street, Mont Albert North (HO283)
- Dental surgery at 150 Canterbury Road, Blackburn South (HO284)
- House at 1 Gracefield Drive, Box Hill North (HO285)
- House at 4 Ian Grove, Burwood (HO286)
- House at 7 Norris Court, Blackburn (HO287)
- House at 1163 Riversdale Road, Box Hill South (HO288)
- House at 40 Somers Street, Burwood (HO289)
- House at 12 Sunhill Avenue, Burwood (HO291)
- House at 1 Verona Street, Vermont South (HO292)
- House 'Wildwood' at 3 Villa Mews, Vermont (HO293)
- House at 359 Whitehorse Road, Nunawading (HO294)
- Former ES&A Bank – 153-155 Springvale Road, Nunawading (HO290).

(ii) Amendment Description

Specifically, the Amendment proposes to:

- Modify the schedule to Clause 43.01 Heritage Overlay to add 12 new places
- Insert new Planning Scheme Maps marked "Whitehorse Planning Scheme, Amendment C172 Part 2" to include 12 new places in the Heritage Overlay (HO).

1.3 Background to the proposal

The Whitehorse Post-1945 Heritage Study and previous amendments

The *Whitehorse Post-1945 Heritage Study* (the Study) examines the unprecedented growth and development occurring in Whitehorse after the Second World War and identifies architecture and places from this important era in Whitehorse's development.

The Study was a recommendation of the *Whitehorse Potential Heritage Framework 2008* and its need was reiterated in the *Whitehorse Heritage Review 2012*. While earlier heritage studies had picked up on some key post-1945 places such as the Burvale Hotel, the former ATV-0 television studios, and the former Chapel of St Joseph's, a dedicated thematic study had not been undertaken.

The Study was undertaken between October 2013 and July 2015 and included a detailed post-war period thematic history of the entire City of Whitehorse; focused between the years 1945 up to 1990. The Study states "*it is only the second such study (following one recently undertaken by the City of Frankston) to be dedicated solely to heritage places from the post – Second World War period*".

Preparation of the Study initially identified nearly 400 potential heritage places throughout the municipality. Further assessment using a 'tailored rating score system' (based around the themes of rarity, vulnerability, documentation and potential significance) resulted in a final list of 30 places having clear, potential, local heritage significance - 25 individual places

and five precincts. These places and precincts were then recommended for inclusion in a Heritage Overlay within the Whitehorse Planning Scheme.

The Study addressed sites which are not part of this or previous amendments, but will require further investigation for potential future protection. The Panel was informed during the Hearing that officers have committed to seek further budget funds from Council to continue this detailed heritage assessment work.

Three of the heritage places in the Study have already been subject to the amendment process. There are now 27 remaining places recommended for heritage protection in the Study.

Chronology of Amendment C172 Parts 1 and 2

Amendment C172 proposed to apply the Heritage Overlay (HO) to 27 places and update Clause 22.01: Heritage Buildings and Precincts. The Amendment was exhibited between 1 October and 2 November 2015.

Following the preparation of the officer's report to the Council, an additional submission (Submission 75 relating to the former ES&A Bank at 153-155 Springvale Road, Nunawading) was brought to the attention of officers. One further submission was also received by Council on 26 January 2016, just prior to the Directions Hearing which was also directed to the Panel for Amendment C172 Part 2 (Submission 76 relating to 4 Ian Grove, Burwood).

At its meeting of 14 December 2015, the Council resolved to split the Amendment into two Parts 1 and 2.

Council adopted Amendment C172 Part 1 which proposes to:

- Modify Clause 22.01 to include specific reference to the AV Jennings Estate, Burwood Skyline Drive-in Cinema and the Concept Constructions Display Homes Precincts and Group Listing, and add the Whitehorse Post-1945 Heritage Study as a Reference Document.
- Modify the schedule to Clause 43.01 Heritage Overlay to add seven new places.
- Insert new Planning Scheme Maps marked "Whitehorse Planning Scheme, Amendment C172 Part 1" to include 7 new places in the Heritage Overlay.

Amendment C172 Part 1 was submitted to the Minister for Planning for approval on 6 January 2016. The Council informed the Panel it was waiting on a decision from the Minister in respect to that amendment.

Council resolved to request the Minister for Planning to appoint a Panel to consider the twelve places comprising Amendment C172 Part 2.

Two places were referred to Panel without any submissions being made. One of these properties (4 Ian Grove, Burwood) then made a very late submission on 26 January 2016 which was also referred to the Panel.

1.4 Issues dealt with in this report

The Panel considered all written submissions, as well as submissions presented to it during the Hearing. In addressing the issues raised in those submissions, the Panel has been assisted by the information provided to it, as well as its observations from inspections of specific sites.

This report deals with the issues under the following headings:

- Planning context;
- General issues;
- Submissions considered at the Hearing; and
- Written submissions.

A review of the entire Amendment was not undertaken. The Amendment was reviewed only as it relates to the submissions received.

1.5 Preliminary issue

Prior to consideration of the merits of the Amendment, the Panel will deal with a matter raised in the final proceedings of the Hearing.

Ms. Skraba, at the conclusion of her closing submission on 16 March 2016, tabled an email from Geoff Austin, Manager Heritage Register and Permits, Heritage Victoria (Document No. 16 - dated 4 March 2016), confirming peer review of the draft *City of Whitehorse Post War Heritage Study* prepared by Built Heritage Pty Ltd.

Both Chris Wren QC and Panos Nickas correctly objected to the tabling of this document as Mr. Austin was not at the Hearing to be cross examined on the contents of this email or verify that the document was indeed from Mr Austin to Simon Reeves (author of the Study).

The Panel directed that the document could be tabled but agreed with Messrs. Wren and Nickas that little weight could be given to the document on the basis of the objections and since the detail could not be verified. In any event the Panel also noted that this document added little weight or substance to the Council's submission.

2 Planning context

Council provided a response to the Strategic Assessment Guidelines as part of the Explanatory Report.

The Panel has reviewed the policy context of the Amendment and made a brief appraisal of the relevant zone and overlay controls and other relevant planning strategies.

2.1 Planning Policy Framework

(i) State Planning Policy Framework

Council submitted that the Amendment is consistent with the State Planning Policy Framework (SPPF), in particular Clause 15.03 (Heritage) and implements the policy by including places which have been identified and assessed as having local cultural heritage significance in the Schedule to the Heritage Overlay.

(ii) Local Planning Policy Framework

Council submitted that the Amendment supports the following local planning objectives:

- Clause 21.05 – Environment is supported because it implements the clause through applying a Heritage Overlay to places recommended in the *City of Whitehorse Post-1945 Heritage Study*.
- Clause 22.01 - Heritage Building and Precincts is supported because the 12 places forming part of the Amendment are identified to be of clear local cultural heritage significance and respond to the objectives of the clause and Council's Heritage Framework, which seeks to identify remaining heritage places that are deemed by the Council to be the next priority of local significance.
- Clause 22.06 – Activity Centres is supported because two of the heritage places are in the Nunawading MegaMile Major Activity centre and Mitcham Neighbourhood Activity centre Structure Plan area. Council submitted that retention of these heritage buildings will assist in increasing the cultural heritage identity of these two Centres.

2.2 Planning scheme provisions

The Amendment does not change any other existing planning scheme provisions.

2.3 Ministerial Directions and Practice Notes

Council submitted that the Amendment is also consistent with the relevant requirements of the following relevant Ministerial Practice Notes and Directions:

(i) Ministerial Directions

Ministerial Direction No 11 - Strategic Assessment of Amendments

The Amendment is consistent with Ministerial Direction 11 (Strategic Assessment of Amendments).

The Form and Content of Planning Schemes (s7(5))

The Amendment is consistent with the Ministerial Direction on the Form and Content of Planning Schemes under Section 7(5) of the Act.

(ii) Planning Practice Notes (PPN)

PPN01 - Applying the Heritage Overlay (HO)

The PPN provides guidance about the use of the heritage overlay and the process and elements involved in identifying significant heritage places. The process that identifies the place is to clearly justify its significance as the basis for including it in the HO with documentation. This is finally expressed in detailed Citations that include a Statement of Significance setting out the importance of a particular place and addresses the heritage criteria applicable to that particular place.

PPN13: - Applying Incorporated and Reference Documents

This PPN explains the role of external documents in planning schemes. Reference Documents are not part of the planning scheme but provide background information which in this case comprise the Citations prepared for the Heritage Places.

2.4 Discussion and conclusions

PPN01 specifies the need to undertake sound 'comparative analysis' to clearly establish threshold levels of significance of the heritage place. The Panel considers this action as a critical task to clearly identify the threshold for local cultural heritage significance. A clear relationship should also be evident at this point with key themes identified in the Thematic Environmental History (TEH) that also forms an integral part of any heritage study.

The Panel noted a detailed TEH, building on previous heritage study work undertaken by Council, formed a significant part of the *City of Whitehorse Post-1945 Heritage Study* (the Study). Council has made an ongoing commitment to continue further heritage assessment work on other identified post-1945 places not included in Amendment C172 Parts 1 and 2.

The Panel concludes that the Amendment is well founded and is strategically justified subject to addressing the more specific issues raised in submissions as discussed in the following chapters.

3 General issues

3.1 Heritage criteria and thresholds

3.1.1 Evidence and submissions

The Panel was provided with evidence from expert witnesses and submissions on the appropriate use of the *Victorian Heritage Criteria and Threshold Guidelines* to establish the threshold for places of local significance.

In particular, submissions from Mr Chris Wren QC suggested that threshold tests set out in the *Victorian Heritage Criteria and Threshold Guidelines* at State level, are “*equally applicable to the local municipality as well as the State*” to help establish heritage significance levels.

Expert witness evidence provided by Mr John Briggs also highlighted challenges encountered by heritage practitioners seeking to establish local cultural heritage significance thresholds. Mr Briggs expressed a view this was often addressed at Panel or VCAT stage, rather than having clear guidelines up front for practitioners in the relevant Practice Note. He suggested that the use of heritage principles included in the *Burra Charter* provided him some assistance on this matter. Mr Briggs stressed that heritage practitioners needed to be ‘robust’ in their research and investigation methods and not base heritage assessment purely on ‘assumptions.’ He also referred the Panel to provisions in PPN01 that required ‘comparative analysis’ to demonstrate ‘heritage significance’ of a place.

During cross examination Council’s expert witness Mr Simon Reeves expressed his opinion that interchanging specific wording within a State level heritage guideline document and applying this to assess local level significance was not appropriate. Mr Reeves considered that the relevant provisions contained in *Planning Practice Note 1, Applying the Heritage Overlay (PPN01)*, was the appropriate planning tool to assess local heritage significance thresholds.

3.1.2 Discussion

Since the 2007 Advisory Committee Review of *Heritage Provisions in Planning Schemes*, heritage practitioners have assessed local level heritage significance using PPN01 on a case by case basis. As was highlighted in the above 2007 Review:

Thresholds have the greatest potential to vary from place to place as they will respond to the particular history and cultural fabric of the area under study.

PPN01 also states:

Local significance includes those places that are important to a particular community or locality.

The Panel also notes that PPN01 provides for the levels of State and Local Significance thresholds to be determined following comprehensive comparative analysis substantiating the significance of each place. In this context, one must be able to find sufficient and clear evidence in the prepared Citation and Statement of Significance for each place investigated by the Planning Authority, that leads to ultimate individual heritage listing in the HO.

The Panel has not been persuaded by evidence and submissions provided during the Hearing that wording in existing State heritage provisions are readily interchangeable, leading one to an improved understanding and outcome when determining local significance thresholds.

3.1.3 Conclusions

The Panel concludes that the Heritage Council of Victoria (HERCON) criteria as expressed in PPN01 (together with appropriate comparative analysis and direct links to researched and established historical themes) guide and provide the appropriate steps and method to determine local level heritage thresholds and cultural heritage significance of a place.

3.2 Visibility

3.2.1 Evidence and submissions

A number of written submissions raised the issue that lack of visibility of a nominated heritage place, particularly from the public realm, as a reason not to include that place in the HO.

For example, Submission 47 stated *“it is too late to impose the heritage overlay”* noting that ‘original views of the proposed heritage building have not been preserved and the building does not contribute to the streetscape.’ In respect to this submission photos were also tabled by the owner to demonstrate the lack of visibility of the particular building to the street.

Submission 60 raised concerns over other external building structures such as a brick wall and landscaping located in front of the proposed heritage place hiding the house from the street.

Submission 73 took a similar position stating that *“views to the building from the public realm are largely restricted”* and *“the building cannot be appreciated from the public realm which lessens the imperative that the building be protected under an overlay control”*.

3.2.2 Discussion

The Panel notes that PPN01 and HERCON criteria do not require an assessment of a place against visibility to the street (or from any other public realm) to establish cultural heritage significance thresholds.

The National Trust (Submission 67), also noted this in its tabled response, stating:

“Under PPN01 there is no requirement for identified places to be visible from the street.”

The Council also maintained that *“view lines from the street are not essential in determining whether a place has heritage significance”*.

Council’s heritage expert Mr Reeves also supported this position by stating the following:

Ultimately, a building that is deemed to be of cultural significance will retain that significance irrespective of whether it can be appreciated from the street or other public vantage point.

Mr Reeves also pointed out:

There are many heritage-listed buildings that are set back and cannot be seen from the street, or are otherwise concealed from public view by fences, walls or dense foliage.

In the Panel's view it would be advantageous from a local community education perspective, if a heritage place had a clear visible presence to or from a street or other public vantage point. However this element is not a specific requirement to determine heritage significance of a place. Visibility no doubt assists in the public's perception and awareness of heritage places, and is often desirable to highlight the importance of heritage buildings and places within a particular urban or rural environment.

3.2.3 Conclusions

The Panel concludes that lack of visibility of a heritage place to a street or from other public realm is not a matter that determines whether the place has or does not have heritage significance.

3.3 Impact on property values

3.3.1 Evidence and submissions

Submissions 19, 28, 56, 63, and 75 raise concerns regarding adverse negative financial impact and limited redevelopment opportunity if a HO was applied to these nominated properties.

In response to a proposed HO on an adjoining property, Submission 19 states if the HO is applied it will, "*negatively affect neighbouring property prices*". Submission 28 also refers to discussions held with a number of real estate agents in the area, indicating their view that, "*the imposition of an heritage overlay will negatively affect the property value and decrease the number of potential buyers*".

Submissions 56, 63 and 75 raise concerns regarding the potential for redevelopment opportunities (both residential and commercial) and property sales being restricted and reduced if a HO is applied to these particular properties. In particular Submission 63 argued that if a HO is applied to that place, 'commercial interests should outweigh residential or heritage interests in the property.' Submission 75 argued that, 'the proposed site specific HO undermines the policy set out in Clause 22.06 (*in the Whitehorse Planning Scheme*) which encourages new development within the 'Nunawading MegaMile.'

3.3.2 Discussion

The Panel notes the following comments made by the Council in responding to the potential economic effects that may arise from the Amendment (Part A Submission):

Some additional costs are likely to be imposed on the owners or developers of affected properties, since the amendment will necessitate a planning permit for most buildings and works. The amendment also has the potential to affect the redevelopment opportunities of some affected sites....It is considered that economic effects will be offset by the contribution that the heritage places offer to the broader community.

Panels will invariably be confronted with submissions concerning the potential loss of property values and redevelopment potential when hearing matters around the application of a HO.

In its Submission Part B, the Council referred to Amendment C157 to the Whitehorse Planning Scheme, to highlight issues around economic considerations and the application of a HO. The Panel considers the following quote from that panel report is also pertinent to the Amendment:

Because the HO itself does not preclude further development, it is difficult to gauge if there is any real impact on property values.

The National Trust in its Submission also sought to highlight similar findings in the recent panel report for Amendment C110 to the Frankston Planning Scheme:

If heritage significance has been clearly established, it (the Panel) must recommend that appropriate heritage protection be applied unless outweighed by community-wide social and economic considerations.

The Panel notes that the places proposed to be placed in a HO through the Amendment do not include 'internal alteration controls' on any of the sites nominated in the schedule to the HO. The Panel also notes that provisions contained in Clause 43.01-1 of the Whitehorse Planning Scheme specify that a planning permit is required to demolish or remove a building identified in a HO. The provisions do not necessarily lead a Responsible Authority to an 'automatic refusal' to a demolition or building removal application. Each application would be considered on its merits and assessed against all relevant planning policies of the Planning Scheme.

As highlighted by other Panels it is appropriate that the matters of adverse impact on property values (if any do exist) and restrictions on redevelopment opportunities (if any may present) are best handled at the detailed planning permit application stage.

The Panel notes the position put by the Melbourne C207 Panel Report (January 2014), which was that heritage significance should be the primary consideration for HO listing and that economic effects should be assessed on the basis of the likely impact on the community as a whole, rather than on individual owners or occupiers of land.

3.3.3 Conclusions

Based on the evidence and submissions, the Panel concludes that application of the HO in the Amendment must ultimately be tested against the provisions of PPN01. If places are found to meet the relevant threshold tests for cultural heritage significance at the local level then those places should be recommended for inclusion in a HO.

4 Submissions considered at the Hearing

4.1 HO284 - 150 Canterbury Road, Blackburn South

4.1.1 Evidence and submissions

(i) Nature of Heritage Place

Following is the *Why is it significant?* portion of the Statement of Significance as proposed for the property:

Aesthetically, the house is a notable example of a dwelling in the stark international modernist style, characterised by its trademark box-like expression, a sense of weightlessness created by elevating the volume on a recessed plinth, flat roof with projecting eaves and generous full-height windows (Criterion E). The architect ably evoked these qualities on a very limited budget, using simple timber-framed construction with Masonite cladding and a Conite (textured stucco) finish. At the same time, the house incorporated materials that were new or unusual at the time, including Cascalite (a type of fiberglass sheeting), terrazzo tiling and quarter-inch plate glass. Its open planning, with hybrid spaces (such as combined bathroom/laundry and kitchen/dining/living room), was also very unusual at the time (Criterion F).

Architecturally, the house is significant as one of very few private residential commissions known to have been undertaken by noted architect Stuart McIntosh, who was then in charge of the Architectural Department of the ES&A Bank (Criterion H). While McIntosh is very highly regarded for his bank architecture in the modernist vein (with multiple examples published, and one included on the Victorian Heritage Register), he appears to have designed only a few houses in Melbourne as favours for close friends (Criterion B). This example, which is the only one in the City of Whitehorse, is of especial significance as the architect's own residence from 1956 until his family moved to Queensland in 1963.

(ii) Submission

Submission 63 was made by the owner of the property, who was represented at the hearing by Panos Nickas of Best Hooper Lawyers.

The submission (initially by Wakefield Planning) objected to the inclusion of 150 Canterbury Road in the Amendment on the basis that there is insufficient support to justify individually listed significance in the HO of the heritage place. The submission considered the application of HO's to individual properties as 'problematic' relative to application to a precinct or group of buildings. The submission also stated the building's long term commercial context and use is not conducive to limiting development on the site. As the building is now used for medical purposes (dental practice), consequential alterations to the property have diminished its heritage significance.

The following statements from the written submission highlights the key reasons why the submitter is objecting to inclusion of the subject place into the HO:

The proposed heritage overlay comprises mainly individual places rather than group listings or precincts. This is considered problematic in a way that the heritage significance of individual places is not as clearly identifiable and appears to be chosen more randomly rather than as part of a whole precinct or group of relevant buildings ...

The significance of the heritage place is said to emerge from the use of the subject site as a residential building. However the residential use has ceased long ago. The property has been used as a medical centre and continues in this use. The owner of the building also does not intend to use the property for residential purposes in the future, but seeks to expand the medical use.

The original floor plan and architectural features of the property have been altered in the past as part of works allowing the use of the subject site as a dental practice. These works are considered intrusive in a way that significantly alters the appearance of the heritage place.

In his submission tabled at the Hearing, Mr Panos Nickas expanded on these matters. His key arguments centred on:

In terms of the Statement of Significance, this part should leave the reader in no doubt as to what elements of the place are under discussion and what elements have been identified which are significant (or those that are not).

Mr Nickas contended that neither Council (nor its expert witness) had clearly established this level of significance, thus not satisfying the relevant HERCON criteria threshold tests referred to in the citation. He concludes his submission by stating that:

The Planning Authority has failed to discharge the onus of demonstrating that the former house on the subject land is worthy of an individual citation.

(iii) Council response

The property at 150 Canterbury Road was identified by Built Heritage Pty Ltd as a place of potential heritage significance, and it is included in the Study which underpins the Amendment.

Council submitted that although the building may have undergone many alterations, the key features pertaining to its heritage significance were still able to be observed. Council's response to this submission highlighted:

Built Heritage Pty Ltd has reviewed the heritage information provided in the submission and noted the following:

- *The citation acknowledged the external alterations, and specifically the partial infill of what was formerly a semi-enclosed carport-like space to the left side of the street frontage. It is maintained that, while this infill is regrettable, the original form of the building can still be readily interpreted. It remains significant as the original prototype of this project house.*

Council also noted that there is a current planning permit application for the site that has incorporated the existing dwelling. This application proposes to expand the existing dental surgery and combines the building at 150 Canterbury Road with the building at 152 Canterbury Road. Any further development will require planning permission due to the proposed HO.

Council submitted that many properties with HO's exist in isolation:

It is not a prerequisite that Heritage Overlays apply to a precinct or group of buildings as suggested by the submission. There are also many examples of heritage properties within commercial precincts, although it is noted that this property is in a residential zone adjoining a commercial precinct.

Mr Reeves' evidence

Mr Reeves was called to provide evidence in response to submissions. In summary he argued:

- The property was identified through no fewer than three separate and unrelated avenues, including Heritage Alliance's *Survey of Post-war Built Heritage in Victoria* (2008), Built Heritage's own database of post-war Australian architecture and nomination of the building by the Robin Boyd Foundation.
- The citation did not actually ascribe cultural significance to this place on the basis of ongoing residential use but, rather, as a display unit for a prototype project housing unit.
- The proposal for an individual heritage overlay on this property did not include a recommendation for internal controls.
- The citation acknowledged the external alterations, and specifically the partial infill of what was originally a semi-enclosed carport-like space to the left side of the street frontage. It is maintained that, while this infill is regrettable, it is readily reversible and is not deemed to unduly detract from the original building nor confuse interpretation of its original form.

While a number of more intact examples of the FLER project house are known to exist in Melbourne's eastern suburbs (including a virtually unaltered one that was recently discovered in Possum Lane, Heathmont), the one at 150 Canterbury Road still stands out as the original prototype and display unit, and the one with which Boyd himself would have been directly involved. As such, and despite the external alteration, the subject building accrues a layer of cultural significance that is absent from all subsequent copies.

4.1.2 Discussion

Changes in use do not constitute a valid reason for a HO not to be applied to any place. There are many examples of culturally significant buildings, such as churches, schools, factories and retail buildings that are no longer used for the purpose for which they were designed or built, but have met the thresholds required for statutory protection.

As argued by Mr Reeves, the notion of finding and maintaining appropriate adaptive re-use is, in itself, a crucial aspect of modern heritage conservation practice.

In this same context the Panel notes Clause 15.03 of the SPPF – Heritage that supports:

Adaptive reuse of heritage buildings whose use has become redundant.

In addition Clause 43.01 which provides a specific purpose within the HO:

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 Panel notes Mr Reeve's evidence identifying the local significance of the place as a "display unit for a prototype project housing unit". This sub-theme was identified as very significant to the urbanisation and residential development of the City of Whitehorse following World War Two (see Chapter 6.7 of the TEH of the Study).

The key consideration for the Panel therefore centres around whether the cultural heritage significance of the place (as identified through the particular heritage study) meets relevant HERCON criteria as outlined in the citation and have been clearly substantiated in the accompanying citation and Statement of Significance.

The Panel's inspection of the site raised some initial questions regarding the impact of physical alterations to the original fabric and form of the building. This concern was highlighted in the submission from Mr Nickas. At certain viewing points it was difficult to discern the original fabric/architectural form from the alterations made to the building. This was particularly noticeable where the building alterations had taken place and included prominent business-advertising signs on and around the building, together with advanced landscaping. However, other vantage points made possible from the corner context of the subject land, offered the Panel further views that support Mr Reeves citation comments and observations on the building.

From these vantage points the Panel was able to observe significant parts of the original form and context of the building, particularly to the rear and eastern sides. In this regard the Panel concurs with the Council's expert witness assessment of the local aesthetic significance of the place, in spite of a 'regrettable infill.' The Panel also relies on Mr Reeves evidence that the 'infill' is reversible and does not 'unduly' detract from the overall original building fabric and form.

4.1.3 Conclusions

The Panel accepts the Council's expert evidence that these alterations are considered 'reversible.' In this regard the Panel notes advice from the Council that the landowner is currently seeking to expand the dental practice. The Council and landowner may be able to accommodate such change during negotiations and consideration of any planning application to extend the current practice.

More particularly the Panel was satisfied that the methodology used to identify the significance of the place was sound, albeit that the use and focus of the building as a residential house had changed over time. The change in use to the building is not fatal to its ultimate heritage significance listing under the HO. As the HO does not require 'internal alteration' controls, the landowner is at liberty to continue the dental practice and make appropriate changes to internal layouts of the building to ensure ongoing functionality.

The Panel concludes there should be no change to the Amendment.

4.2 HO293 – ‘Wildwood’ 3 Villa Mews ,Vermont

4.2.1 Evidence and submissions

(i) Nature of Heritage Place

Following is the *Why is it significant?* portion of the Statement of Significance as proposed for the property:

Architecturally, the house is significant as a notable and notably large example of Robin Boyd’s residential work from the final stage of his career, when he was in partnership with Frederick Romberg (Criterion H). Typical of the architect’s style at the time, the house incorporates a number of themes and motifs that recur in his other houses of the mid-to-late 1960s, including the stepped plan form with irregular skillion roofline, the bagged and painted brickwork in a pale colour scheme, and the use of fin-like piers to break elevation up into full-height window bays (Criterion E). The only example of Boyd’s late work in what is now the City of Whitehorse, this sprawling five-bedroomed residence is also one of the largest that he ever designed (Criterion H).

(ii) Submission

Submission 47 objected to the inclusion of 3 Villa Mews in the Amendment as the heritage significance of the site has already been compromised due to surrounding subdivision and development, and because the building does not contribute to the broader community because of these changes.

They submitted that the land on which the proposed heritage building stands has been extensively subdivided and developed and as a result the original integrity, cohesiveness and aesthetic value of the building has not been conserved and enhanced.

Development on sites adjacent to the building has not been sympathetic in terms of its bulk, setbacks, materials, colour schemes and forms. Neighbouring houses on all sides are of two storeys, have been built to within one or two metres of our boundary and directly overlook the property.

The submission concludes that original views of the proposed heritage building have not been preserved and the building does not contribute to the streetscape.

The submitter attended the Hearing and tabled a series of photographs to demonstrate the changes to the area and concerns raised in the submission. The Panel also inspected the subject land and verified that the ‘rural’ context of the place has been altered through the subdivision of land and development of multi-storey buildings on surrounding lots.

(iii) Council response

Council referred to the Built Heritage Pty Ltd review of the submission which noted that:

The citation already acknowledges that the house formerly occupied a substantial bush block that was subdivided in the 2000's so that the property is now accessed from the rear rather than from Terrara Road. Notwithstanding this change in setting, the house itself remains substantially intact and is still deemed to be worthy of an individual heritage overlay, irrespective of its new setting.

Mr Reeves' evidence

Mr Reeves was called to provide evidence in response to submissions. In summary he argued:

- The citation in the Study recommended that the HO only extend to the current boundaries of the property known as 3 Villa Mews.
- The citation did not suggest that any of the original landscaping or driveway arrangement remained, nor ascribe any significance to their presumed or actual survival.
- The gardens of most post-war architect-designed houses would have been altered, re-configured and/or re-planted since the house was completed, but this would seldom be considered to have a negative impact on the significance of the house itself.
- Although it is desirable for heritage places to retain at least some of their original views, it is not always possible.

In respect to the last dot point in evidence above, the Panel also noted Mr Reeves' specific comment that:

A building that is deemed to be of cultural significance will retain that significance irrespective of whether it can be appreciated from the street or other public vantage point.

4.2.2 Discussion

The Panel inspected the site and agrees that that the immediate context of the house has been significantly altered. Residential re-subdivision over subsequent decades has resulted in major changes to the setting of the place. This is the case with many large houses in suburban Melbourne, particularly large Victorian mansions.

However the Panel does not believe that the significance of the house has been diminished by subsequent changes to the original setting of the house.

The issue of visibility from the public and private realm was addressed by an Advisory Committee in 2007.¹ The Committee noted that the Victoria Planning Provisions and the HO in all planning schemes are silent as to whether this is a relevant consideration.

¹ *Review of Heritage Provisions in Planning Schemes, Advisory Committee Report - August 2007*

The Committee considers that ultimately the focus of heritage controls should not be on views from particular vantage points per se. Rather the focus should be on the significance of the heritage place. The inability to see elements of significance from outside the site does not detract from their significance.

The Panel concurs with Mr Reeves that ultimately, a building that is deemed to be of cultural significance will retain that significance irrespective of whether it can be appreciated from the street or other public vantage point. There are many heritage-listed buildings that are set back and cannot be seen from the street, or are otherwise concealed from public view by fences, walls or dense foliage. This, however, does not mean that they cannot be considered significant.

The submission also raised economic concerns if the HO was placed over the subject land (albeit confined to the actual curtilage of the place). The submission contended if this occurred, the listing of the place could not contribute to the broader community benefit, *“because of the previous subdivision and development that has been permitted to take place”*.

As was noted in Chapter 3.2 of this report, visibility from a street or other public realm, is not a prerequisite (or nominated HERCON criteria threshold) required to determine heritage significance. In its submission to the Panel the National Trust submitted *“that what is invisible can be made visible”*. Other avenues are indeed available to the Council (including recording of the place with owner consent) to ensure the proposed nomination of this place into the HO helps increase the understanding and education of the broader community around locally significant cultural heritage places.

4.2.3 Conclusions

The Panel acknowledges the submitter’s concerns that the urban fabric and context around the nominated place has been significantly altered. The Panel notes this is an unfortunate outcome arising from previous urban subdivision and development.

The Panel has found that the local heritage significance of the place remains largely intact as cited in the Amendment’s Statement of Significance and related HERCON criteria for this particular place. The significant aesthetic characteristics and historical record of the place as identified by the citation remain.

The Panel also concludes that the special association of this place with Robin Boyd’s residential architecture has been clearly demonstrated and notes this association was not refuted through submissions received and made to the Panel.

The Panel concludes there should be no change to the Amendment.

4.3 HO290 - 153-155 Springvale Road, Nunawading

4.3.1 Evidence and submissions

(i) Nature of Heritage Place

Following is the Why is it significant? portion of the Statement of Significance as proposed for the property:

Architecturally, the building is significant as a fine and substantially intact example of the progressive and highly distinctive bank architecture introduced in the post-war period by the ES&A Bank, and specifically by Stuart McIntosh, who was Staff Architect from 1953 to 1963. While most banking groups embraced the modernist style when designing new branches from the early 1950s, the ES&A Bank was acknowledged at the time as the leaders of this trend, creating 'eye-catching designs' that represented 'an interesting departure from the conventional type architecture'. McIntosh's output, reportedly influenced by Surrealist design techniques, was particularly idiosyncratic, characterised by contrasting finishes, projecting and receding planes and bold massing of sculptural forms (Criterion E).

While the building is unique as the only example of McIntosh's bank architecture in the City of Whitehorse (and one of only a handful in Victoria that still remain substantially intact), it has an additional layer of local significance in that McIntosh himself was a local resident at the time of its construction (Criterion H). He lived in the Box Hill area from the early 1950s until 1963; his work in the study area is otherwise represented by his own house in Arnott Street, Mont Albert North, and St Benedict's Church at 299 Warrigal Road, Burwood, both of which represent rare private commissions undertaken while he was Staff Architect to the ES&A Bank.

Aesthetically, the building is significant for its atypically sculptural form, of a type rarely seen in mid-century architecture in Victoria (Criterion F). With an unusual plan form based on a stretched hexagon (set well back from the footpath to create a small forecourt) and a stark symmetrical façade that juxtaposes two projecting angled brick walls at the lower level and a prow-like windowless stone-clad volume hovering above, the building stands out as a particularly striking and eye-catching element in a commercial streetscape that is otherwise characterised by far more conventional buildings of rectilinear form, built right to the footpath.

(ii) Submissions

Submission 2 relating to the former ES&A Bank supported the Amendment and the inclusion of this property within the HO. Further information for inclusion within the citation was also provided.

Submission 75 was brought to the attention of strategic planning officers by statutory planning officers when a planning permit application was lodged for the site at 153-159 Springvale Road on 1 December 2015. Council officers contacted the author of the

submission who confirmed that it had been posted, however despite a comprehensive search, no record of it having been received or being on Council's internal records system was found. As the Council report had already been published, no change to the report could be made to reflect the missing submission, and instead Council formally resolved that the property be referred to Panel for consideration.

Submission 75 was made by Planning and Property Partners (Lawyers & Consultants) acting for the owner of the property, who was represented at the Hearing by Mr Chris Wren QC. The submitter objected to the Amendment as it considered that a HO would be contrary to policies encouraging new development in the Nunawading Activity Centre. They do not support an overlay for a single site, and consider that there is no valid basis for this individual heritage listing when considered against relevant heritage criteria.

This submission states that:

Although the building is admittedly unusual in its presentation to the public realm, it provides little historic contribution to the aesthetics of the public realm. C172 intends to incorporate this building into a site specific heritage overlay while all adjoining buildings surrounding will be excluded from heritage overlays.

Mr Wren argued that Council in seeking to appropriate private landowners control over their land need to prove "that which they assert warrants appropriation". The burden of proof lies with Council:

"It must establish that the heritage significance it says attaches to the land is of such significance as to warrant the imposition of the control"

Mr Briggs' Evidence

Mr John Briggs, heritage expert, from John Briggs Architects Pty Ltd was called by Mr Wren to provide evidence in response to the submission.

In summary he argued that:

- There remains an absence of readily understandable reasoned explanation that is needed to justify the attribution of heritage significance to the former bank.
- At 57 years old the building is not of an age to be considered historic.
- It is not demonstrated that any particular community of the City of Whitehorse, or its visitors, have more than passing interest in this former bank.
- Whilst the former bank has distinctive design features and is distinct as a product of its time, the appropriation of control over the property for the protection of a perceived public benefit cannot be based upon assumption.
- Fundamental to an assessment of heritage significance is clarity in the understanding of what is of significance, and how and why it is significant.
- This has not been achieved for the Heritage Criteria of the field of 'Architectural and aesthetic significance to the City of Whitehorse. More specifically the thresholds for significance under Criteria E, F and H have not been related to how the building is claimed to be of significance.

(iii) Council response

Built Heritage Pty Ltd reviewed the heritage information provided in Submission 2 and noted that the *“additional information does not impact [the] existing assessment but could be added to the citation for the sake of providing a fuller historical record”*.

Given the focus of Submission 75, Council provided a further response in relation to the strategic planning context for the subject site:

The subject site is located within the Nunawading/MegaMile Major Activity Centre and Mitcham Neighbourhood Activity Centre Structure Plan (the Structure Plan) area. The Structure Plan provides guidance for heights within the Nunawading Activity Centre. For areas along Springvale Road, heights of 8-11m (2-3 storeys) are anticipated at the frontage, with heights of 20m (5-6 storeys) acceptable to the rear of the sites should the road and rail intersection at Springvale Road be separated (which occurred in 2010).

In relation to built form and density, the Structure Plan seeks to:

- a) Redevelop under-utilised land parcels and obsolete buildings close to public transport and core retail to revitalise the appearance and enhance the economic capacity of the village centres; and*
- b) Retain and enhance the valued elements of the urban fabric which give Nunawading and Mitcham their character and distinctiveness (page 48).*

One of the strategic directions for built form and density set out in the Structure Plan is to:

- a) Ensure that the scale of new buildings in Nunawading, MegaMile and Mitcham complements the existing natural features of the area and the preferred future character and quality of its built form (page 48).*

This is to be achieved through maintaining a “lower village scale built form within 6m of street with higher forms setback”. Other relevant directions encourage a vibrant street life and facilitation of a consistently high standard of architectural design.

The Structure Plan also envisages this area as providing increased social and housing diversity, while encouraging uses that support the MegaMile shopping strip.

Council noted that the planning permit application for the consolidated lot, the proposed use and development is largely supported by strategic objectives set out for the precinct in the Structure Plan.

However, the Council advised the Panel it considered that:

The built form is inconsistent with the Structure Plan and contrary to objectives to maintain valued elements of the existing urban fabric in Nunawading.

Council further acknowledged that development of the consolidated site will bring life to this section of Springvale Road, and take advantage of its strategic location near high quality road and rail infrastructure:

However, The Structure Plan is very clear in its preference for a lower scale built form within six metres of the street, with this represented in both text and diagrammatic form. The proposal has not responded to this preference, instead presenting a six storey street wall to Springvale Road. It is noted that even in the Box Hill Metropolitan Activity Centre the maximum podium height is four storeys.

The Structure Plan also encourages retention and enhancement of the existing urban fabric. The existing urban fabric in this area is of a fine grain retail character, with many of the existing properties having high street activation which is enhanced by the generous setbacks of the built forms. The proposed building does not engage with users on the street, nor does it provide a very active frontage, instead choosing to have a meeting place (café and lobby) on the inside of the building rather than one interfacing with the public realm. Currently some of the private land is donated to the public realm however this proposal will reduce the plaza space. Overall it is difficult to imagine how this proposal will be an improvement relative to what is there now due to the excessive building bulk and lack of activation at street level.

The former ES&A Bank building itself is distinctive and has been a feature of the centre for many decades. Council prides itself on protecting heritage buildings, and retaining high quality and distinctive buildings is also consistent with the direction provided in the Structure Plan.

In concluding this part of the Council's submission the following quote is provided:

The planning system inherently involves balancing competing objectives. The question of whether land utilisation or heritage considerations are more important is often raised in relation to heritage matters. In this circumstance, there is no shortage of sites within close proximity to the subject site which are ready for redevelopment. On the contrary, there are few buildings within the centre that can provide character and distinctiveness such as the one at 153-155 Springvale Road. Given the location of the building and the land available to the south owing to the consolidation of sites, it is considered reasonable to request retention of parts of the heritage building.

Mr Reeves' evidence

Mr Reeves was called to provide evidence in response to submissions. In summary he argued:

- The subject building was recommended for a HO because it was considered, in isolation, as a notable individual specimen of modern architecture, in its own right, and irrespective of its streetscape context.
- As such, it was not necessary to take into account the type, scale, style, form or era of any of the adjacent or nearby buildings. The (*former*) bank is not

being recommended as part of a heritage precinct, but as an individual heritage place.

The Council in its closing submission also provided the following statement to the Panel:

There may be ramifications of a Heritage Overlay for the owners of this site, however it is no different to the ramifications for other land owners. This particular place shouldn't have to meet a higher threshold of justification just because of its location or the development proposal afoot.

4.3.2 Discussion

The Panel makes no comments or observations with regard to the current planning permit application. The only relevant consideration in relation to the Amendment is whether the place warrants heritage protection at this time as a place of local cultural significance.

In his tabled submission, Mr Wren QC submitted that the application of a HO over the subject place could be likened to *"an easement right over land"*. He used this example to highlight that 'those wishing to assert a right need to prove that which they assert' and further that 'the burden of proof' in respect to heritage significance of the place 'lies with the Council.'

It is the Panel's view that the Planning Authority for the Amendment must be able to clearly demonstrate that the subject place has satisfied the relevant HERCON Criteria AND met the threshold(s) that help determine whether the place has significant cultural heritage value.

This is not a cumulative exercise as implied by Mr Briggs. It is necessary only to meet the threshold of at least one of the criteria in order to meet the case for cultural significance at the local level.

The Panel has previously commented on the suggested approach to interpose State level provisions from *The Victorian Heritage Register Criteria and Thresholds Guidelines*. The Panel maintains the view that the application of the HO must be in accordance with the relevant provisions contained in PPN01.

The Panel noted and concurs with the following statement in the submission made by the National Trust in response to evidence led by Mr Briggs on this matter:

Whether a place is recognised as being held in high esteem by the public in comparison with other buildings from the late 1950's is not a valid consideration in light of the guidelines outlined in PPN01.

It is the role of the Panel to consider the assessment of significance, as submitted to the Panel, on its own merits.

The Panel undertook an inspection of the subject place to consider the 'aesthetic' qualities of the building as highlighted in the citation and Statement of Significance. The Panel observed that the particular building combination of a strong cubed shaped hexagon form at the upper level, together with an angled and winged foyer entrance to the building at ground level, provided the building with a *"particularly striking and eye-catching element"*. The Panel was not persuaded by contrary evidence that suggested the building provided *"little historic contribution to the aesthetics of the public realm"*.

The Panel considered the particular urban streetscape in this location, linked with open public realm spaces and generous building setbacks along Springvale Road, all added to the significant aesthetic characteristics, sculptural form and context of the subject building.

The Panel was not persuaded by submissions and evidence led suggesting the role of the building's architect within the context of the urban fabric and environment that is now the City of Whitehorse, was not significant or important to the broader community of Whitehorse.

Responding to Panel questioning on this particular matter, Council's heritage expert Mr Reeves, reiterated his opinion in written evidence and submitted material, that the building design at 153-155 Springvale Road, Nunawading was associated and historically linked with the works of Stuart McIntosh, a noted Staff Architect at that time of numerous bank designs associated with the ES&A Bank in Victoria.

The Panel also notes Mr Ian Symons tabled written submission, commentary from the published book *New Directions in Australian Architecture* (P. Goad and P. Bingham-Hall) on this matter:

Stuart McIntosh's designs for the ES&A Bank in the late 1950s around Australia were similarly a remarkable series of sculptural forms which derived from McIntosh's experiments with surrealist design techniques.

In this regard the Panel was also assisted by the Comparative Analysis for the building undertaken by Mr Reeves in the Study. Noting in particular:

The Nunawading building represents an amalgam of themes that McIntosh explored in various other branches. Its symmetrical massing, for example, echoes the banks at Traralgon and Broken Hill. Both buildings have their upper levels expressed in a similar prow-like form.

4.3.3 Conclusions

The Panel concludes that the material and evidence submitted on this particular place justifies its local significance statement and meets the relevant HERCON criteria thresholds set within the context of PPN01. As highlighted in the Council's submission and noted by the Panel's inspections, the subject land has the capacity to be redeveloped in combination with the heritage significance of this particular place.

The Panel concludes there should be no change to the Amendment.

4.4 HO286 - 4 Ian Grove, Burwood

4.4.1 Evidence and submissions

(i) Nature of Heritage Place

Following is the Why is it significant? portion of the Statement of Significance as proposed for the property:

Historically and architecturally, the house is significant as an example of the Peninsula house, which was Australia's first project house (Criterion A). Introduced by Contemporary Homes Pty Ltd in 1955, the standardised design (and its variants) was popular for some time. Although the company did not achieve lasting success (particularly after Boyd severed his connection with it in 1957), it heralded the way for the massive and influential project housing boom of the 1960s and '70s. While hundreds of Peninsula houses are believed to have been erected in Victoria, this example is one of a relatively small number (possibly as few as 65) that date from the company's initial phase in 1955-56, and which were personally supervised by the office of Grounds, Romberg & Boyd before Boyd severed his connection with the company (Criterion B).

As an example of Boyd's residential work, the Peninsula significantly marked the start of the architect's formal involvement with project housing, which would see him design other standardised dwellings for rival firms including Fler & Staff Company, A S L'Hullier & Company and A G McDonald in the later 1950s, as well as Brian Stegley, Lend Lease and Consolidated Home Industries in the 1960s (Criterion H). With its modular planning, flexible design and partial prefabrication with standardised construction elements, the Peninsula house represented the distillation of several overlapping themes in residential architecture that had interested Boyd for many years, typified by the low-cost standardised houses that he designed for the Small Homes Service in the later 1940s and early 1950s (Criterion F).

(ii) Submission

Submission 76 was received very late in the amendment process, and was referred direct to the Panel by Council officers. The submission objected to the inclusion of the property in the amendment as the property was in bad condition and was purchased with the intent of being redeveloped. The written submission asserts that there is nothing significant and of heritage value to preserve in the residential dwelling at 4 Ian Grove Burwood. The submission states:

- *To restore 4 Ian Grove, Burwood is beyond economic repair and a very poor return on investment, and*
- *To live in 4 Ian Grove, Burwood as is a health and safety hazard.*

A Building Inspection Report, together with a quotation for works to restore the building, was also tabled at the Hearing by Mr Yong Pun on behalf of the land owner Ms Chun Hua Zhang.

The front page of the Building Inspection Report dated 30 December 2015, indicates the report was prepared by Mr Andrew Zigouras, Building Practitioner from A Z Residential Solutions. The report indicates it was based on an inspection that was limited to the readily accessible areas of the building and site and was based on a visual examination of surface work (excluding furniture and stored items) and the carrying out of tests. It concludes the report by stating:

To conclusion, I would say that this house is at the brink of being dilapidated and almost unliveable condition. It is unfeasible to spend any money fixing it.

The Works Quotation dated 8 March 2016, also appears to be prepared for the landowner by the same author as the Building Inspection Report.

The Panel questioned Mr Yong Pun on the source of the additional '*historical and comparative building analysis*' document submitted with these reports. This particular document did not include a front cover page, nor was an author identified on the document as presented to the Panel.

The Panel was informed the landowner was unable to obtain an expert witness for the Hearing and the subject report included excerpts from a preliminary report requested by the landowner. The Panel is therefore unable to place significant weight on the veracity and content of this particular document as submitted and tabled at the Hearing.

(iii) Council response

Due to the timing of the late submission, it was not able to be included in the report to Council. In its written Submission Part A, the Council noted that all land can be subject to new planning controls, which in some cases can be detrimental to development opportunities. The introduction of new residential zones across Victoria limiting many landowners to two dwellings per lot, was cited as an example. The Council also noted that heritage controls on this particular site would have an insignificant impact on the City's ability to increase its housing stock in accordance with urban consolidation objectives.

Mr Reeves' evidence

Mr Reeves was called to provide evidence in response to this late submission. In summary he noted:

This late objection, a copy of which was provided to me on 27 January 2016, identified seven grounds for abandoning the proposed heritage overlay. All but one of these pertain to non – heritage issues such as health, safety and economics.

Further, Mr Reeves evidence noted:

The basis for ascribing cultural significance to this property, including a comparative analysis of other local examples of this particular type of project house, has been clearly outlined in the citation.

4.4.2 Discussion

Submission 76, identified seven grounds for abandoning the proposed heritage overlay. As noted in Mr Reeves evidence, all but one of these pertain to non-heritage issues such as health, safety and economics.

In his presentation, Mr Yong Pun referred the Panel to the tabled Building Inspection Report and Works Quotation, listing a set of building renovations that would be required to the building. While acknowledging that the 'Peninsula House' project house design style was significant, he suggested there were other better examples of this style in the City.

Mr Reeves evidence was that the basis for ascribing cultural significance to this property, including a comparative analysis of other local examples of this particular type of project house, had been clearly outlined in the citation.

The Panel notes in Mr Reeves Comparative Analysis citation for this place that:

Peninsula Houses are invariably subjected to significant enlargement, alteration and/or remodelling in later years, and it rare to find examples with little or not external changes.

The Panel also notes that the Statement of Significance for this particular place highlights:

While hundreds of Peninsula Houses are believed to have been erected in Victoria, this example is one of a relatively small number (possibly as few as 65) that date from the company's initial phase in 1955-56, and which were personally supervised by the office of Grounds, Romberg & Boyd before Boyd severed his connection with the company.

The Panel was not provided with any evidence that any particular building order had been placed on the building, suggesting the building was in such a state of disrepair that it required immediate works to make the building safe. Irrespective of this the Panel is still required to assess the merits of the place as having local heritage significance under the terms of PPN01 and the HERCON criteria. This is the basis upon which the Panel must make its assessment in this particular case.

4.4.3 Conclusions

The Panel has not been persuaded by evidence led that the place does not have heritage significance under the HERCON criteria as listed in the Statement of Significance.

The Panel concludes there should be no change to the Amendment.

4.5 HO285 - 1 Gracefield Drive, Box Hill North

4.5.1 Evidence and submissions

(i) Nature of Heritage Place

Following is the *Why is it significant?* portion of the Statement of Significance as proposed for the property:

Architecturally, the house is a notable example of a dwelling in the stark international modernist style, characterised by its trademark box-like expression, compact zoned plan, flat roof with projecting eaves and generous full-height windows. However, rather than divorcing the building from its context (a trait often associated with hard-edged modern buildings like this), the architect made a deliberate and notable effort to relate the house to its site by stepping the plan to follow the downward slope, and setting the building well back from the street, at a distinct angle (Criterion F).

Architecturally the house is also significant as an example of the work of architect Charles Weight, whose modernist tendencies were strongly influenced by his employment in the offices of Frederick Romberg in the early 1950s and subsequently Grounds Romberg & Boyd from 1953 (Criterion H). The house is significant both as a rare example of an independent private commission undertaken by an active employee of Grounds, Romberg & Boyd, and as a very early example of Weight's own work (who went on to greater things as a partner in Hipwell, Weight & Mason, a very promising architectural firm that was prematurely disbanded following Weight's early death in 1968).

Aesthetically, the house is significant for its stark expression and minimalist detailing, typical of the modernist style (Criterion E). Its stark box-like form, with fully-glazed front wall, is enhanced by its generous setback and angled siting, creating a bold composition. Subject to only minimal external alteration, the house remains a striking element in the streetscape, and appears much the same as it did in contemporary photographs of the mid-1950s.

(ii) Submission

Submission 56 objected that the value of the property and its sale potential would be reduced with a HO listing. Additional information about the property was provided, as was an independent heritage assessment.

The written submission from the landowner contends that the house was significantly altered in the 1960s with the addition of a front porch and rear bedroom. The landowner also points out that the adjoining house at 2 Gracefield Drive was not designed by Charles Weight (it was purported in earlier heritage studies that this residence was also designed by Charles Weight).

It was also submitted that Charles Weight only worked for a short period with the architectural firm of Grounds, Romberg and Boyd due to illness, as a junior architect and this diminishes design influence on Mr Weight during that period.

It was also submitted that the modest dwelling does not meet modern day living requirements and heritage listing would adversely affect the economic value of the home.

The written submission also included a Heritage Review prepared by RBA Architects & Conservation Consultants. This Review summarised that the building did not warrant the application of a heritage overlay for the following reasons:

- The early 1960's porch addition to the front of the building decidedly altered the expression of the house to the front and is not considered a 'minimal alteration' as stated in the Statement of Significance. The addition of the porch has the effect of rendering it less box-like and changing the house's relationship with its landscape, causing it to appear as if raised on a podium rather than it being placed box-like on the site, as was originally the case.
- The building is considered to be more a representative example of the type of 'modernist expression' of that period.
- The demolition of the adjoining dwelling at 3 Gracefield Drive has altered the original broader setting of the subject house.
- Charles Weight was not responsible for designing 2 Gracefield Drive and the grouping of the 3 'minimalist dwellings' is no longer in place.
- The Statement of Significance partially establishes the case for the house's importance via Charles Weight's association with the office of Grounds, Romberg and Boyd.
- Mr Weight was not recognised as an architect of note (not included in the *Encyclopedia of Australian Architecture*).
- It is typical that satisfaction of two or more criteria (HERCON) is demonstrated for inclusion in a HO.

Mr Beeston's evidence

Mr Beeston, heritage expert with RBA Architects & Conservation Consultants, was called to provide evidence to support the submissions that the subject site did not warrant an individual heritage overlay.

In summary he highlighted:

- The Statement of Significance overstates the significance of the subject house.
- The subject house is representative of the type of Modernist expression being employed by many progressive architects of the time.
- The link between the architect Charles Weight and the office of Grounds, Romberg and Boyd is not a strong one.
- The practice of Hipwell, Weight and Mason/Ross seems to have had some modest recognition, they do not appear to have been particularly prominent.
- Originally, Nos 1 and 3 were designed as a pair of almost identical houses on larger shared block of land. However, the later subdivision of the land and the recent demolition of No 3 (together with the loss of the shared central driveway) has altered the original broader setting of the house.

- The Statement of Significance lacks a demonstration of historical significance and this results in an overly architectural focused view of the place's significance.
- It is unusual that only the aesthetic criterion is cited as the basis of the place's significance. The lack of demonstration of other criteria results in a less rounded and architecture focused view of the place's significance.

In an earlier heritage study, it was stated that Nos 1, 2 and 3 Gracefield Drive were of "especial interest" on the basis that they formed a group of similar minimalist dwellings designed by Charles Weight.

It has been established this is no longer the case, as it has since been found that Charles Weight was not responsible for No 2, and furthermore the house at No 3 has been demolished.

(iii) Council response

Council referred to the Built Heritage Pty Ltd review of the submission in Part A of its submission:

The rear addition is barely visible from the street, and is wholly sympathetic in scale and form, as is the front porch. This is not surprising, given that they were designed by the original architect, Charles Weight. These alterations cannot be considered to have disfigured the house, or compromised its interpretation, to the point that a HO is not warranted. The fact that they were the work of the same architect is of interest in its own right.

While the consultant accepts Mrs Weight's testimony that her husband was not responsible for the design of the house at No 2, this new information does not diminish the significance that has been ascribed to the subject building at No 1.

Council submitted that the impact of HOs on property values is also inconclusive:

The Panel considering Amendment C157 to the Whitehorse Planning Scheme, which sought to apply heritage overlays to 32 places, stated that the "economic issues to be considered at the planning scheme amendment stage are those of a broad community nature rather than those of a personal kind" (page 20).

Council also noted that the property is covered by Schedule 3 to the Vegetation Protection Overlay which applies specific protection to two gum trees (a lemon scented and spotted gum) on the property. Any redevelopment would need to consider the location and root zone of these trees.

Mr Reeves' evidence

Mr Reeves was called to provide evidence in response to submissions. In summary he argued:

- As it is desirable for a heritage citation to be as accurate as practicable, references to 2 Gracefield Drive in the current heritage study should be

revised accordingly. However, it is not considered that a revised attribution diminishes the cultural significance ascribed to No 1.

- The owner's own heritage expert concedes that the changes made in the early 1960s are not considered unsympathetic.
- Heritage protection should not only be afforded to residences that are conducive to present-day living standards.
- At this more limited municipality-wide level, the house is most certainly 'notable' rather than merely 'representative'.
- The house at No 1 is recommended for heritage protection as an individual specimen of modernist residential architecture.
- *Encyclopedia of Australian Architecture* was not intended to be exhaustive, nor was it conceived as a canon. As such, little weight can be applied to the fact that any particular architect or firm was not included therein.
- One would surely expect that, in a suburban heritage study specifically focused on the more recent heritage of the 1950s, '60s and '70s, that the emphasis would be on the criterion of architectural/aesthetic significance rather than those of historic, social or spiritual significance.
- Ultimately, any heritage listed house, whether it dates from the 1850s, the 1880s, the 1920s or the 1950s, has the capacity to be updated, refurbished, renovated and enlarged to accommodate present – day standards of living.
- There is no doubt that the architectural output of Charles Weight, and the firm of Hipwell, Weight & Mason, was highly regarded in its time.

4.5.2 Discussion

The Panel notes that the Amendment does not propose 'internal' planning controls for any place. The interior of the subject house can therefore be altered or updated as the current owner, or any future owner, sees fit, subject to a planning permit. Mr Reeves noted that there would also be scope for enlargement (e.g. discrete rear additions), provided that the cultural significance ascribed to the place is not compromised.

The Panel accepts Mr Reeves' contention that the extent to which an architect and his/her work has been researched, discussed, documented or published, is not necessarily an accurate indicator of the significance of any individual example of his/her work. The same can be said of the architect's direct involvement and work within a particular firm. As pointed out in Mr Reeves evidence, based on the number of work entries recorded in Mr Reeves own in – house database of post – war Australian architecture, the firm of Hipwell, Weight and Mason, was 'highly regarded in its time.'

Mr Panos Nickas's submission on behalf of the landowner submitted that:

When all of the material before the Panel is properly and fairly considered, the Planning Authority has failed to discharge this burden.

The 'burden' referred to here was Mr Nickas's contention that the Planning Authority was required to establish a sound basis that the property was of such significance to warrant individual heritage protection. This view was also supported in the RBA Architects & Conservation Consultants submission:

Whilst it may only be necessary to satisfy one criterion in order to meet the threshold for inclusion in a heritage overlay, it is typical that satisfaction of two or more criteria is demonstrated.

In response to this particular proposition, Mr Reeves stated in his evidence there was no such stipulation in the *Heritage Act*, the *Burra Charter* or PPN01, that two or more criteria must necessarily be satisfied in order to establish a case for cultural significance at the local level. The Panel concurs with this view.

Much was submitted by all parties in reference to the significance of the alterations made to the subject place. Including the impact from the demolition of the adjoining residential dwelling and the loss of 'group dwellings' in this particular street.

In this context the Panel noted commentary in the submission made by the National Trust. In particular the Trust sought to highlight that:

Additions and alterations may not necessarily detract from the significance of a place (see Article 22 of the Burra Charter).

The Trust's Submission went on to point out that in respect to the alterations and additions to the building at 1 Gracefield Drive, these were considered to be 'reversible and did not detract from the interpretation of the original structures'.

The Panel's site inspection confirmed the aesthetic significance of the particular place in its own right, despite the loss of the adjoining residential dwelling and combined access way setting. The Panel was not convinced by Mr Beeston's evidence that the building was only 'representative' of the modernist expression and was considered 'modest and lacks distinctiveness.'

The Panel accepts evidence led by the landowner that Mr Weight's time and influence (particularly at the firm of Ground, Romberg and Boyd) was limited due to illness. Nevertheless, based on the evidence led by Mr Reeves, the Panel finds it difficult not to conclude that the architectural output of Charles Weight, and the firm of Hipwell, Weight and Mason was significant.

4.5.3 Conclusions

The Panel has not been persuaded by evidence led that the place does not have individual local heritage significance under the relevant HERCON criteria as listed in the Statement of Significance. The Panel concludes the place should be listed in the HO for the reasons outlined in the citation.

5 Written submissions

5.1 HO283 - 24 Arnott Street, Mont Albert North

5.1.1 Evidence and submissions

(i) Nature of Heritage Place

Following is the *Why is it significant?* portion of the Statement of Significance as proposed for the property:

Aesthetically, the house is a notable example of a dwelling in the stark international modernist style, characterised by its trademark box-like expression, a sense of weightlessness created by elevating the volume on a recessed plinth, flat roof with projecting eaves and generous full-height windows (Criterion E). The architect ably evoked these qualities on a very limited budget, using simple timber-framed construction with Masonite cladding and a Conite (textured stucco) finish. At the same time, the house incorporated materials that were new or unusual at the time, including Cascalite (a type of fiberglass sheeting), terrazzo tiling and quarter-inch plate glass. Its open planning, with hybrid spaces (such as combined bathroom/laundry and kitchen/dining/living room), was also very unusual at the time (Criterion F).

Architecturally, the house is significant as one of very few private residential commissions known to have been undertaken by noted architect Stuart McIntosh, who was then in charge of the Architectural Department of the ES&A Bank (Criterion H). While McIntosh is very highly regarded for his bank architecture in the modernist vein (with multiple examples published, and one included on the Victorian Heritage Register), he appears to have designed only a few houses in Melbourne as favours for close friends (Criterion B). This example, which is the only one in the City of Whitehorse, is of especial significance as the architect's own residence from 1956 until his family moved to Queensland in 1963.

(ii) Submission

Submission 60 (presented in the form of a written submission prepared by Mr Jimmy Klu, Architect on behalf of the landowner) objected on the grounds that the house has been altered internally and externally and has structural issues. Some alterations listed in the submission include repainting of the front stand alone wall, timber beams in the front courtyard, front gate replaced, updated kitchen, raised hearth and fireplace/heater, new bedroom robes and floor boards, together with ceiling beams exposed.

The submission contends that the house does not relate to any significant post-modern architecture style and that the landscaping around the property does not contribute to the house. Concerns were raised in the submission, that the location of big trees in close

proximity to the house were affecting the footings/stumps of the building. The submission highlights concerns over the structural integrity of the front wall.

The current owner feels unsafe and has voiced her concerns and wishes to remove the freestanding brick screen wall across the frontage should it be granted for demolition.

The submission concludes that there are *“other more significant houses that warrants the Heritage Protection overlay more than this house”*. The landowner is seeking to establish a new home on the subject land in the future.

(iii) Council response

Council submitted that the landscaping was not ascribed any significance, and that it did not assert that the building was an example of post-modernism.

Council noted that internal changes are not relevant as the overlay does not recommend interior controls:

Similarly, the freestanding brick wall is not part of the original house and can be removed (with a planning permit if the overlay is applied), which would be encouraged from a heritage perspective to allow the house façade to be visible from the street.

Mr Reeves' evidence

Mr Reeves was called to provide evidence in response to submissions. In summary he argued:

- Repainting of previously painted external surfaces, which is entirely to be expected in any house of a certain age, is rarely (if ever) considered to be a major alteration that has fundamentally or irreversibly compromised the appearance of the house. It is noted that, under the proposed heritage overlay, external paint controls were not recommended.
- The internal changes to the interior are not evident from the exterior and therefore are not deemed to negatively impact the ascribed cultural significance of the place in any way.
- The proposal to apply an individual HO to the house did not include a recommendation for internal controls.
- The outdoor deck area, only slightly visible from the side (Tyrrell Street) frontage of the house, is a discreet element that is not considered to be unsympathetic, intrusive or otherwise have a negative impact on the significance of the place. The fact that some of its components have been replaced or rebuilt is not a pertinent factor.
- The Statement of Significance explicitly mentions that the garage is not considered to be significant. As such, it could be removed or replaced as necessary.
- As it does not represent part of the original fabric of the house, the screen wall is deemed to be an element of no heritage significance. Its current condition, and any changes that may have been made to it in recent times, are thus not pertinent to the case for cultural significance of the house itself.

- The citation did not assert that the building was an example of Post-Modernism. With its stark cubiform expression, plain wall surfaces, large areas of glazing and flat roof with broad overhang, the house demonstrably satisfies the criteria to be considered as a textbook example of Post-War International Modernism.

5.1.2 Discussion

The Panel acknowledges and accepts evidence from Mr Reeves on this matter in respect to the type and impact of alterations to the subject building. His opinion is that these alterations (both internal and external) do not detract from the cultural heritage significance of the building. In addition the Panel notes that controls over internal changes to the building are not proposed in the Schedule to the HO for this place.

As noted by Mr Reeves evidence:

The internal changes to the interior are not evident from the exterior and therefore are not deemed to negatively impact the ascribed cultural significance of the place in any way.

The Panel's site inspection confirmed the external nature of changes to the building and concurs with the assessment of Mr Reeves in his evidence. Cultural historical links to the significant architectural design contributions (albeit in the design of banks) attributed to Stuart McIntosh as a local resident, have also been noted and accepted by the Panel in previous evidence led at this Hearing.

5.1.3 Conclusions

For the reasons outlined above and based on the evidence provided the Panel concludes the place should be listed in the HO for the reasons outlined in the citation.

The Panel also concludes that references in the citation referring to the external brick screen wall not having any significance to the heritage place should be added according to the evidence submitted.

5.1.4 Recommendation

The Panel recommends:

1. **The 'What is significant?' section of the 'Statement of Significance' in the Citation for HO283 - 24 Arnott Street, Mont Albert North should be amended to note that the brick screen wall at the frontage to the property is not considered to be significant.**

5.2 HO287 - 7 Norris Court, Blackburn

5.2.1 Evidence and submissions

(i) Nature of Heritage Place

Following is the *Why is it significant?* portion of the Statement of Significance as proposed for the property:

Architecturally and aesthetically, the house is significant as an unusual example of residential architecture of the later 1960s (Criterion F). With its highly formalised planning based on a Greek cross with walled courtyards at each corner, and a roofline dominated by a single central gambrel with glazed gable ends and ridge, the house represented a striking contrast to the prevailing trends in contemporary residential design of that period. Designed for a Danish migrant family who specifically wanted a house with a Scandinavian flavour, the house integrated many distinctive features and finishes that were uncommon at the time, including painted brick interior walls, quarry tiled floors, timber-lined ceilings, a freestanding fireplace and full-height sliding glass door opening into themed courtyards (Criterion E). With its entirely windowless façade, incorporating a recessed central entrance and pediment-like glazed gable end, the house remains a striking element in the streetscape. Subject to a certain amount of press attention at the time of its completion in 1968, the house represented a notable achievement for its designer, a young female architect who had only recently graduated and was still yet to establish a private practice of her own.

(ii) Submission

Submission 28 objected on the grounds that the architect who designed the dwelling is not significant, is less than 50 years old and an HO will adversely affect property values.

The submission questioned why a similar dwelling at 238 Canterbury Road was not heritage listed, and state that their dwelling is not unique if there are similar houses elsewhere. Specifically, the submission contended that the house was designed by “*a very inexperienced and unknown architect*”, noting that it was only the second house that Miss Seidel designed.

The submission also considered that the approach to applying HOs is “*piecemeal*”, and has been unsuccessful elsewhere. The submission also highlighted that the current landowners had only purchased and moved into the dwelling during 2016 and it was not heritage listed.

Council response

Council submitted that:

The consultant stands by the assessment that the house is unusual. It was never asserted that it was unique. It should also be noted that the house at 238 Canterbury Road was indeed recommended for heritage listing, as part of a proposed precinct of high-end project houses.

Council noted that many properties with Heritage Overlays exist in isolation. They are selected on their heritage significance and do not necessarily have to be part of a precinct or group.

Council submitted that the impact of HOs on property values is also inconclusive referring to its statements with regard to 1 Gracefield Drive, Box Hill South.

Mr Reeves' evidence

Mr Reeves was called to provide evidence in response to submissions. In summary he argued:

- Ultimately, cultural significance is not something inherent only in the works of architects who are well known or well-documented. There are countless examples of heritage-listed buildings designed by lesser-known architects who are not household names, and whose lives or careers are not (or at least not yet) adequately documented.
- An architect's early work can actually be deemed particularly important, for the way in which it may foreshadow their mature work later in life.
- The citation did not suggest that the house was 'unique', only that it was 'unusual' in a local context.
- The fact that the house is less than fifty years old is not a valid reason for the proposed heritage overlay to be abandoned.

5.2.2 Discussion

The Panel notes that the HO schedule to the Whitehorse Planning Scheme already includes a several places dating from the mid-1960s or later, including the Wattle Park Uniting Church in Box Hill South (1964), the former ARRB offices in Vermont South (1970), the Vermont Park housing estate in Vermont (1976 onwards), the former Chapel of St Joseph in Box Hill North (1976-78) and the Box Hill Community Arts Centre in Box Hill (1990).

In current Victorian heritage practice, there is no minimum age that a building must reach before statutory heritage protection can be considered, either at the local or state level.

The Panel has also previously commented on the matter of impacts of HOs on property values (see Chapter 3.3 of this report). The Panel noted that heritage significance is and should be the primary consideration for HO listing and that economic effects should be assessed on the basis of the likely impact on the community as a whole.

The HERCON Criteria relevant to the citation and Statement of Significance for the Norris Street place is based on Criterion E (aesthetic significance) and Criterion F (technical significance).

Evidence led by Mr Reeves highlights that the citation references the building as 'unusual' in a local context. The Comparative Analysis states:

This overtly Scandinavian – themed house represents a striking contrast to the prevailing modes of contemporary residential architecture in Melbourne of the later 1960s.

The Analysis then proceeds to point out that the building has “*virtually no pertinent comparators in the City of Whitehorse*”, noting ‘broad’ similarities with works from Bernard Joyce and Guilford Bell. The Analysis goes on to point out that:

The only known example of Bell’s work in the study area, namely the so – called Garden House that was erected at 238 Canterbury Road, Forest Hill, as part of the Concept Constructions display village, is eerily similar to the Kristiansen House.

In further evidence led by Mr Reeves in response to the landowner’s submission, he points out that the house at 238 Canterbury Road “*is not yet heritage listed*”. However he notes that:

The current Study did recommend that a HO be applied to it, as part of the proposed Concept Constructions Display Homes precinct.

The Panel was informed that the place at 238 Canterbury Road is proposed as part of a precinct HO included with Amendment C172 Part 1. The Panel has not undertaken a detailed assessment of this particular precinct citation or Statement of Significance, given that Amendment C172 Part 1 has been submitted to the Minister for Planning for approval.

The Panel notes the relative lack of comparative analysis with other similar places within the study area. Nevertheless the Panel inspected the place and concurs that it is indeed a distinctive and unusual example of residential development of the later 1960s. The clients sought a distinctly Scandinavian style and the resulting design defies the usual comparison with other like houses in the municipality. Part of its significance is that very distinctiveness and relative uniqueness.

The Statement of Significance does go into some detail to demonstrate what particular architectural elements of the place are aesthetically and technically significant at a local level.

5.2.3 Conclusions

The house at 7 Norris Street, Blackburn does have local cultural significance with respect to both Criteria E and F. The Panel concludes there should be no change to the Amendment.

5.3 HO288 - 1163 Riversdale Road, Box Hill South

5.3.1 Evidence and submissions

(i) Nature of Heritage Place

Following is the *Why is it significant?* portion of the Statement of Significance as proposed for the property:

Architecturally, the house is significant for its notably early use of the skillion roof form (Criterion F). Although flat roofs had been used in Melbourne since the late 1910s (and became increasingly common in the 1930s), the appearance of the boldly-raked skillion form is mostly associated with the post-Second World War era. This example, dating from as early as 1940, was cited by Robin Boyd as the earliest example ever built in Victoria, anticipating a trend that was explored by only a few other architects in the later 1940s and would not become more commonplace until the 1950s (Criterion D).

(ii) Submission

Submission 74 objected to the inclusion of 1163 Riversdale Road in the amendment, however no grounds of objection were provided. The submission simply states that the landowners do not wish to have a heritage overlay applied to their property.

(iii) Council response

The submission did not raise any objections to the heritage significance of the dwelling for officers to respond to. In his evidence Mr Reeves also states:

As this written submission has objected to the proposed heritage overlay without raising any specific issue (on heritage grounds) I am unable to provide a response.

5.3.2 Discussion

The Panel considers it unfortunate that the submission did not elaborate on why the landowners were objecting to the place being listed in the HO.

The Panel has reviewed the citation and Statement of Significance for this place and notes the house has been designated as 'architecturally significant' due to its "*early use of the skillion roof*" (Criteria F: Technical significance).

The comparative analysis highlights a number of places where this particular roof form was considered significant, quoting renowned Architect Robin Boyd who also referenced this particular building form in a number of publications.

The Panel inspected the site and confirmed the architectural elements noted in the citation. The Statement of Significance also notes that a relatively recent addition of a gable – roofed brick garage at street level is not significant. The Panel noted this later addition. However given its discrete location at street level against the remainder of the building above, the Panel considered this does not adversely affect the architectural significance of the remainder of the building as highlighted in the citation.

5.3.3 Conclusions

For the reasons outlined above the place should be listed in the HO for the reasons outlined in the citation and Statement of Significance.

The Panel concludes there should be no change to the Amendment.

5.4 HO289 - 40 Somers Street, Burwood

5.4.1 Evidence and submissions

(i) Nature of Heritage Place

Following is the *Why is it significant?* portion of the Statement of Significance as proposed for the property:

Aesthetically, the house is a striking, if somewhat late example of the Functionalist style that was popular in Melbourne during the later 1930s and '40s (Criterion E). The house displays all of the hallmarks of that style, including its stark rectilinear massing, compact planning, low-pitched skillion roof (atypically expressed with projecting eaves, rather than concealed behind a parapet), porthole windows, cantilevered porch canopy, and slightly projecting first floor balcony with light metal balustrade. The projecting rendered surrounds to the groups of doors and windows (which included several corner windows) is a detail that is more unusual and particularly striking. Notwithstanding the recent demolition of the matching garage and studio wing (added in 1954), the house remains a prominent and eye-catching element on this corner site.

(ii) Submission

No submission. However the matter was referred to the Panel by the Council at its meeting on 14 December 2015.

(iii) Council response

Council advised it was unable to provide a response to the Panel as no submission was received for this property.

Evidence provided by Mr Reeves states that:

The owners of this house did not submit a written objection, but the matter has been referred to panel by Councillors ... The basis for ascribing cultural significance to this property has been clearly outlined in the citation.

5.4.2 Discussion

As noted in Mr Reeves evidence the basis for ascribing cultural significance to this property has been clearly outlined in the citation.

The Panel has reviewed the citation and Statement of Significance for this place and notes the following:

Aesthetically, the house is striking, if somewhat late example of the Functionalist style that was popular in Melbourne during the late 1930s and '40s.

The comparative analysis indicates that the house can be compared with some other examples of Functionalist architecture in the City of Whitehorse. This includes:

- House at 1163 Riversdale Road, Box Hill South (L Mitchell & F Jessup, 1940). See Chapter 5.3 above.
- House at 47 Kitchener Street, Box Hill (P Keys, 1945).
- Rendered houses at 40 – 40a Harold Street, Blackburn (architect unknown, c1954).

The Panel inspected the subject place and was able to confirm matters of significance raised in the citation and Statement of Significance.

5.4.3 Conclusions

For the reasons outlined above the place should be listed in the HO as outlined in the citation and Statement of Significance.

The Panel concludes there should be no change to the Amendment.

5.5 HO291 - 12 Sunhill Avenue, Burwood

5.5.1 Evidence and submissions

(i) Nature of Heritage Place

Following is the *Why is it significant?* portion of the Statement of Significance as proposed for the property:

Architecturally, the house is significant as an early example of the work of noted architect Peter Corrigan (Criterion H). Designed while he was a final year student at Melbourne University, it is rare as one of only five realised projects that Corrigan designed before he left Australia in 1967 for an extended period of study and work experience in the USA (Criterion B).

Establishing the firm of Edmond & Corrigan soon after his return in 1974, Corrigan (together with Maggie Edmond) went on to considerable acclaim, winning more than thirty RAIA awards from the mid-1970s to the late 1990s, and having work widely published locally and internationally. As the firm is acknowledged as both the progenitors and leading exponents of the post-modernist style in Australia, the few buildings that Corrigan undertook in the mid-1960s are exceptionally important as indicators of the development of his mature style (Criterion E). The Mercovich House ably demonstrates the highly idiosyncratic approach, fragmented composition and contrasting use of finishes and materials that would continue to define the architect's work for several decades. The only example of Corrigan's early work in what is now the City of Whitehorse (and one of only five extent houses from that period anywhere in Melbourne), it forms a valuable counterpoint to the Chapel of St

Joseph in Box Hill North (1976), an example of Corrigan's mature work that is his only other building in the municipality. (Criterion B)

Aesthetically, the house is significant for its highly unusual appearance. Its highly idiosyncratic expression, anticipating later developments in post-modernism in the 1970s, stands well outside the prevailing trends of contemporary Australian residential architecture of the mid-1960s (Criterion F). With a floorplan that is irregularly stepped both horizontally and vertically, an equally fragmented roofline and the incongruous juxtaposition of bagged brickwork with full-height shingled cladding, the house is unlike any other example of 1960s residential architecture in the City of Whitehorse. It remains an unexpected and eye-catching element in an otherwise conventional post-war suburban streetscape.

(ii) Submissions

Submission 5 objected on the basis that the property is not in “good” condition, and because the owners would like to put a new home on the site. The submission also questions whether the building's architect could have developed his style at this point of his career when this building was designed, and contends that the as-built dwelling does not match the original plan.

Submissions 19 and 20 also objected to the inclusion of the place in the Amendment. These submissions considered the house to be rundown and out of character with the neighbourhood. The submissions also raise concerns that heritage listing will ‘curtail the renewal of Sunhill Avenue’ and ‘negatively affect neighbouring property prices.’

(iii) Council response

Council submitted that the condition of the house does not impact upon the significance ascribed to it.

Council submitted that the house is in character with the neighbourhood as Sunhill Avenue has a number of houses from a similar era and of a similar scale.

Mr Reeves' evidence

Mr Reeves was called to provide evidence in response to submissions. In summary he argued:

- Given the somewhat experimental nature of this house as a progenitor to the emerging post-modernist style, it is hardly surprising that some of its fabric may not have aged as well as more conventional construction.
- Ultimately, the current condition of the house is not considered to have diminished the significance that has been ascribed to the place.
- The fact that Corrigan designed this house before he completed his university studies, or even before he became registered as an architect in Victoria, is not a valid reason for a heritage overlay not to be applied.
- The axonometric drawing, which is clearly a presentation drawing rather than part of the final contract documentation, depicts a preliminary scheme. It is not unusual for revisions to be made during design development.

Mr Reeves made reference to Conrad Hamann's monograph, *Cities of Hope: Australian Architecture & Design by Edmund & Corrigan* (1993):

An entire chapter is devoted to Corrigan's early solo work between 1965 and 1967. The discussion leaves no doubt that these early projects, of which some remained unbuilt, represented a significant departure from prevailing architecture tastes in Melbourne at the time, and demonstrably anticipated Corrigan's ground-breaking work in the 1970s.

Mr Reeves also stated in his evidence that:

Design revisions, irrespective of whether they were done to reduce costs or to satisfy the client's needs, will not necessarily diminish the significance of a place.

5.5.2 Discussion

The property does evidence a distinct lack of maintenance. The Panel noted and confirmed this following its inspection of the place. The primary consideration is whether the building has heritage significance. The condition of the building is not a determining factor in whether or not a HO should be applied to building.

The key question for the Panel is whether this place is significant in its own right.

The Panel was advised that Peter Corrigan designed 12 Sunhill Avenue, Burwood, as his first job when he was a 24 year old architecture student.

The place needs to be justified in its own right, not by association with, or by way of contrast to, Mr Corrigan's more mature and celebrated later buildings. It is not sufficient that a building 'anticipates' or provides a 'counterpoint' to later mature work or is an early 'marker' in the development of an architect's mature style. It is not sufficient that the building plays a supplementary role in the "body of work" of an architect, many of whose later buildings are already heritage listed in Whitehorse and other municipalities.

These are certainly matters of academic interest and it would certainly be appropriate to ensure that the building is fully documented. There appears to be good documentation already from the Building Permit and other sources cited in the work of Conrad Hamann.

5.5.3 Conclusions

The Panel concludes the assessment of local cultural significance in the citation provides insufficient justification for the introduction of an individual HO.

5.5.4 Recommendation

The Panel recommends:

- 2. Delete 12 Sunhill Avenue, Burwood (HO291) from the Amendment.**

5.6 HO292 - 1 Verona Street, Vermont South

5.6.1 Evidence and submissions

(i) Nature of Heritage Place

Following is the *Why is it significant?* portion of the Statement of Significance as proposed for the property:

Architecturally the house is a notable example of the early residential work of Chancellor & Patrick, a leading and award-winning architectural firm of the post-war period (Criterion H). The house displays many of the typical characteristics of the firm's work (and specifically, of the work of Rex Patrick, who was the project architect), including its flat roof with broad eaves and exposed rafters, large windows, and expression of the chimney as a massive slab-like element. Originally erected as a three-bedroom house on an elongated linear plan (to take advantage of views to the east) with a detached garage, the house was subsequently (and sympathetically) enlarged to Chancellor & Patrick's design. One of only three surviving houses by the firm in the City of Whitehorse, it remains as a substantial and intact example of their distinctive regional modernist style.

Aesthetically, the house is significant as a fine example of residential architecture of the late 1950s, in a regional modernist style that demonstrates the pervasive influence of American and Japanese precedents (Criterion E). With its low expression, elongated form, low-pitched roof with broad eaves and exposed rafters, and a massive stone chimney articulated as a sculptural feature on the Verona Street frontage, the house remains a striking element in this residential streetscape.

(ii) Submission

Submission 27 objected on the basis that there is no proper justification for its inclusion. It is not part of a group of dwellings and there have been substantial alterations to the dwelling. The submission also considered that the house has been selected due to its architect rather than specific elements of heritage significance.

(iii) Council response

Council submitted that the alterations are not considered to have an adverse impact on the ascribed significance of the place. It was further noted by the Council that the property has heritage significance beyond its architect.

Council reiterated that many properties with Heritage Overlays exist in isolation. In the Council's view it is not a prerequisite that Heritage Overlays apply to a precinct or group of buildings.

Mr Reeves' evidence

Mr Reeves was called to provide evidence in response to submissions. In summary he argued:

- Confirmation that it was designed by a well-known firm, whose work is well represented in local heritage overlay schedules, served only to strengthen the case for an individual heritage overlay.
- External alterations to the house are not deemed to have had a negative impact on the ascribed significance of the place and the extent of external alteration was also noted in the citation.
- Internal alterations (unless they are evident from the exterior) cannot be given as a compelling reason for a heritage overlay not to be applied.
- The subject building is being recommended for inclusion on the heritage overlay schedule as an individual heritage place, not as part of a larger group or precinct of buildings. As such, it is necessarily being considered in isolation, as an individual specimen in its own right, irrespective of its streetscape context or the style or age of adjacent properties.

5.6.2 Discussion

The Panel notes evidence from Mr Reeves that the extent of external alterations raised in the landowners submission as detrimental to HO listing, was already noted in the citation. Mr Reeves' view (as highlighted in the citation) was that the house was subsequently (and sympathetically) enlarged to complement the original design work undertaken by Chancellor & Patrick Architects. The citation further highlights that the original design of 1956 – 57 and the alterations in 1960 were both undertaken by and under the project management of the same architectural firm Chancellor & Patrick.

Comparative analysis for the place also highlights a considerable number of works undertaken by Chancellor & Patrick (around 30) within what is now the City of Whitehorse, making the firm a prominent architectural firm linked to the City during the period 1953 to 1970.

The Panel notes the submission from the landowner that raises concerns that their building is not part of a larger precinct or group of significant heritage buildings. As noted in Mr Reeves response and evidence on this matter:

The subject building is being recommended for inclusion on the heritage overlay as an individual heritage place, not as part of a larger group or precinct of buildings.

The submission appears to be under the misapprehension that the building has been isolated out unfairly for individual HO listing. However this is not the case as noted by Mr Reeves in his evidence.

The Panel inspected the site and confirmed the significant architectural detail and aesthetic significance of the place as cited in the Statement of Significance.

5.6.3 Conclusions

For the reasons outlined above, the place should be listed in the HO as outlined in the citation and Statement of Significance.

The Panel concludes there should be no change to the Amendment.

5.7 HO294 - 359 Whitehorse Road, Nunawading

5.7.1 Evidence and submissions

(i) Nature of Heritage Place

Following is the *Why is it significant?* portion of the Statement of Significance as proposed for the property:

Architecturally, the house is significant as a notable and substantially intact example of a house erected in the specific modernist theme of a rectilinear volume, raised up on slender posts to create the effect of a hovering mass, evoking a sense of weightlessness (Criterion E). Emerging in Australia in the late 1940s through the work of Harry Seidler and others, the theme remained popular into the 1950s, although individual manifestations display contrasting degrees of confidence and sophistication. This one, with its spindly metal poles, recessed lower level and butterfly roof, is an especially assured example by a Melbourne architect who, having spent nine years overseas from 1936-45, would have had first-hand experience of modern residential architecture of this type in Europe, England and the USA (Criterion F).

(ii) Submission

Submission 73 objected on the basis that the property is in disrepair and only meets limited criteria for heritage significance. The submission contended that the dwelling only meets the heritage significance for 'architectural significance' and "*satisfaction of this one criterion does not merit the building's inclusion in the overlay*".

It is accepted that satisfaction of this criterion ('aesthetic significance') may merit the inclusion of the building in the overlay it is typical that satisfaction of two or more criteria is demonstrated by a building to merit inclusion in the overlay.

Though expressing support that the building is an example of a "*substantially intact house erected in the specific modernist theme*" the submission argues that the building is a 'representative' not a 'notable' example of a modernist building.

The submission also questioned the architect's experience gained overseas when according to the submission "*six of those years were spent working as a Government technical advisor on mostly non-architectural war related projects*". It was also argued that the dwelling is not easily visible from the street frontage, thus diminishing its heritage significance.

(iii) Council response

Council submitted that many buildings in HOs are hidden from public view and noted that many homes of this age require renovations and maintenance.

Mr Reeves' evidence

Mr Reeves was called to provide evidence in response to submissions. In summary he argued:

- In applying the Heritage Overlay it is not necessary that two or more HERCON criteria must be applied and met.
- The fact that a place cannot be readily appreciated from the public realm is not a valid justification for a heritage overlay not to be applied.
- The fact that the building was conceived with its principal façade to the rear, rather than the street, is a clear reflection of the developing modernist movement and departure from traditional notions of suburban residential architecture.
- Although this building may indeed be representative of prevailing modernist trends when considered on a regional context across the entire Melbourne metropolitan area, it is rarer in the more limited municipality – wide context.

5.7.2 Discussion

Lack of visibility of a heritage place to the street (or other public realm) has been raised in other submissions forming part of this Amendment. The Panel addressed and commented on this matter in its discussion at section 3.2 of this report. Further specific discussion on this matter also occurred with the place at 3 Villa Mews, Vermont (see section 4.2); the Panel supported the view if a place cannot be readily appreciated from the public realm, does not necessarily lead to a valid justification for a HO not to be applied.

The Panel has provided commentary and discussion on the physical condition of a building; noting the Council's submission that *"many homes of this age require renovations and maintenance."* The Panel notes the HO listing in this matter does not include 'internal' planning controls, thereby enabling the landowner to undertake internal improvements as and when required.

The comparative analysis and citation includes reference to a number of examples of this type of house in the *"modernist tradition of a box like volume elevated above the ground"*. The Panel inspected the place and as a consequence is satisfied that the building demonstrates more than a representation of the modernist style. Rather, it agrees with Mr Reeves evidence and detail provided in the citation and Statement of Significance for this place that presents in the following manner:

Considered more broadly as an example of a house in the modernist tradition of a box-like volume elevated above the ground, the house has a number of comparators in the study area. However, none of these houses express the characteristic modernist sense of weightlessness as explicitly and confidently as the example at Nunawading.

The Panel is not in a position, based on evidence and submission provided to it, to comment on the veracity of the landowner's submission that the architect J Rivett's experience gained overseas was spent working as a Government technical advisor on mostly non – architectural related projects. Irrespective, the Panel accepts Mr Reeves' evidence that this particular example of his work has demonstrated cultural heritage significance under the relevant HERCON criteria to warrant individual HO listing.

The Planning Authority for the Amendment must be able to clearly demonstrate that the subject place has satisfied the relevant HERCON Criteria and met the threshold(s) that help determine whether the place has significant cultural heritage value.

As discussed at Chapter 4.3.2 of this report, this is not a cumulative exercise. It is necessary only to meet the threshold of at least one of the criteria in order to meet the case for cultural significance at the local level.

5.7.3 Conclusions

For the reasons outlined above, the place should be listed in the HO as outlined in the citation and Statement of Significance.

The Panel concludes there should be no change to the Amendment.

Appendix A Submitters to the Amendment

No.	Submitter
2	I Symons
5	B Zhou & L Chang
19	M Tewman & D Carroll
20	Z Liu & J Li
27	S Neofitou
28	C & S Parker
47	S Nee & M Wondergem
56	B Weight
60	J Kiu
63	J Wuebbels
67	National Trust of Australia (Vic)
73	P O'Shea
74	C A Sibbison & J A Slugg
75	P Little
76	C H Zhang

Appendix B Document list

No.	Description	Presented by
1	Council submission Part B.	Andrea Skraba
2	The Victorian Heritage Register Criteria & Threshold Guidelines (6 December 2012).	Chris Wren
3	Submission 21: Reply to Heritage Overlay.	Andrea Skraba
4	Written submission on behalf of V Berani Pty Ltd..	Panos Nickas
5	Background to Dental Practice at 150 Canterbury Road, Blackburn South.	Panos Nickas
6	Submission by Ian Symons, former ES&A Bank Building, 153-155 Springvale Road, Nundawading.	Ian Symons
7	Photos of 3 Villa Mews, Vermont.	Stephen Nee
8	Submission on behalf of Coolyah Properties, former ES&A Bank Building, 153-155 Springvale Road, Nunawading.	Chris Wren
9	History and Description document, 4 Ian Grove, Burwood.	Yong Pun
10	Building Inspection Report, A Z Residential Solutions, 30 December 2015, 4 Ian Grove, Burwood.	Yong Pun
11	Restoration Cost Estimate Quotation, A Z Residential Solutions, 16 March 2016, 4 Ian Grove, Burwood.	Yong Pun
12	Letter from Chun Hua Zhang to Whitehorse CC, 8 March 2016, 4 Ian Grove, Burwood.	Yong Pun
13	Submission by Panos Nickas, 1 Gracefield Drive, Box Hill South.	Panos Nickas
14	Submission on behalf of National Trust.	Felicity Watson
15	Closing comments submission, Whitehorse City Council	Andrea Skraba
16	Email from Geoff Austin, Heritage Victoria (dated 4 March 2016)	Andrea Skraba