

**BRIMBANK PLANNING SCHEME
AMENDMENT C84**

PANEL REPORT

SEPTEMBER 2007

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A handwritten signature in cursive script, appearing to read "Margaret Pitt".

MARGARET PITT, CHAIR

A handwritten signature in cursive script, appearing to read "Julia Lamborn".

JULIA LAMBORN, MEMBER

A handwritten signature in cursive script, appearing to read "Boyce Pizzey".

BOYCE PIZZEY, MEMBER

SEPTEMBER 2007

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THE PANEL

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SUBMISSIONS

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1. WHAT IS PROPOSED?

1.1 THE AMENDMENT

Amendment C84

Amendment C84 is based on the *Brimbank City Council Post-Contact Cultural Heritage Study* which was completed in 2000 and reviewed in May 2005. The amendment, as exhibited, proposed the following changes to the Brimbank Planning Scheme:

- Inclusion of 112 individual properties and 8 heritage precincts in a heritage overlay;
- Inclusion of the Brimbank Heritage Policy at Clause 22.06 of the Local Planning Policy Framework; and
- Inclusion of an Incorporated Plan for Keilor Cemetery.

On 14 June 2005 Council resolved to request authorisation from the Minister to prepare Amendment C84.

Interim controls (Amendment C85)

On 14 June 2005 Council also resolved to request that the Minister authorise and approve Amendment C85 which included Heritage Overlays in the Brimbank Planning Scheme on an interim basis until Amendment C84 is decided.

Authorisation and approval of Amendment C85 took place on 16 February 2006. The interim controls will be removed once Amendment C84 has been approved.

Exhibition and submissions

Amendment C84 was exhibited in accordance with Section 19 of the *Planning and Environment Act 1987*. Notices were placed in local papers and the Government Gazette. Notices were also mailed to all owners and occupiers of properties included in the amendment.

Formal exhibition of the amendment took place between 3 November 2005 and 3 February 2006.

A further call for submissions was made on 31 May 2006 extending the period for making submissions to 23 June 2006.

A total of 130 submissions were received.

Changes to Amendment C84

Following consideration of submissions Council resolved at its meeting on 13 March 2007 to change the amendment pursuant to s. 23 (1) (a) of the *Planning and Environment Act 1987*.

The changes made by Council were summarised in Council's submission to the Panel as follows:

- *The proposed Heritage Policy was revised to provide more specific objectives and strategies, including specific policies for non-contributory places, fences and demolition. A definition of "contributory" and "non-contributory" places was also included as well as abbreviated statements of significance for each precinct policy.*
- *Fourteen (14) individual heritage overlays were deleted.*
- *The boundaries of a number of individual heritage overlays and heritage precincts were revised.*
- *The Heritage Study citations for the heritage precincts and individual heritage overlays were updated. In some cases the text of the citations was updated to provide more specific information about the property. All citations were updated to include the site's Heritage Overlay number and the AHC Criteria applicable.*
- *The Keilor Cemetery Incorporated Plan was updated to take into account the recommendations of the arborist report prepared by Treelogic dated 31 October 2006.*
- *An Incorporated Plan was prepared for Keilor Reserve (HO95) to provide permit exemptions for the Keilor Bowls Club and Keilor Tennis Club.*
- *A number of errors in the Heritage Study citations and Schedule to the Heritage Overlay were also corrected.*

Final form of Amendment C84

Amendment C84, as adopted by Council on 13 March 2007 proposes the following changes to the Brimbank Planning Scheme:

- Inclusion of 98 individual properties and 8 heritage precincts in a heritage overlay.
- Inclusion of the Brimbank Heritage Policy at Clause 22.06 of the Local Planning Policy Framework.
- Inclusion of the *Brimbank City Council Post-Contact Cultural Heritage Study, Version 2, 2007* as a Reference Document.
- Inclusion of an Incorporated Plan for Keilor Cemetery.
- Inclusion of an Incorporated Plan for Keilor Reserve.

This report addresses Amendment C84 as amended by the Council resolution of 13 March 2007.

1.2 SUBJECT SITES AND PRECINCTS

Amendment C84 proposes to introduce heritage controls over a range of places in the municipality, including residential and commercial precincts, industrial precincts, the Keilor Cemetery and a range of individual sites throughout the municipality.

Heritage precincts

There are 8 heritage precincts included in Amendment C84:

- HO19 – Commonwealth Munitions Housing Estate Heritage Area;
- HO20 – Leith Avenue Concrete Housing Estate Heritage Area;
- HO21 – ICI Residential Heritage Area;
- HO22 – Sunshine Commercial Heritage Area;
- HO23 – McKay Housing Estate - Durham Road Heritage Area;
- HO24 – McKay Housing Estate - King Edward Avenue Heritage Area;
- HO25 – Railway Station Estate – Wright and Edwards Heritage Area; and
- HO26 – War Service Homes Heritage Area.

Each of these precincts is discussed in detail in Chapter 4 of this report.

Industrial heritage site

The Orica site (former ICI Deer Park explosives factories complex) covers nearly 150 hectares and includes a range of buildings and infrastructure associated with explosives manufacture and other industrial processes. There are about 170 structures on the site. This site is discussed separately in Chapter 5 of this report.

Individual heritage sites

There are 95 individual heritage sites or buildings included in Amendment C84. These sites fall into a range of categories, including:

- Water infrastructure (fords and weirs);
- Railway infrastructure (station, substation, embankment, signal box, bridges, culverts);
- Community infrastructure (markets, community halls, fire station, schools, parks and reserves, memorials, churches);
- Farm infrastructure (homesteads, farm buildings, dairy, market gardens, remnants of early farm settlement);
- Commercial infrastructure (shops, bank, hotels, picture theatre, office and administration buildings); and
- Individual houses, including several that had been owned/occupied by members of H V McKay's family.

Individually listed sites are discussed in Chapter 6 of this report.

Sites subject to Incorporated Plans

Amendment C84 includes Incorporated Plans for two individually listed sites:

- Keilor Cemetery
- Keilor Reserve (part)

These sites are discussed in Chapter 7 of this report.

2. STRATEGIC CONTEXT

2.1 STRATEGIC PLANNING FRAMEWORK

This section identifies the existing strategic context within which issues associated with Amendment C84 must be considered, together with any proposed changes to it. The relevant documents providing the context for considering the amendment are indicated below.

State Planning Policy Framework (SPPF)

- Clause 11 - Introduction, goals and principles
- Clause 12 - Metropolitan development
- Clause 14.01 – Planning for urban settlement
- Clause 15.11 – Heritage

All the above clauses include policies that support the protection and enhancement of heritage places and values in the context of achieving net community benefit.

Metropolitan Strategy – Melbourne 2030

- Direction 5 – A great place to be

This direction identifies the need to protect heritage places as well as local cultural identity, neighbourhood character and sense of place. Initiative 5.4.4 requires planning schemes to ‘reflect the full extent of heritage values’ in each municipality.

Brimbank Planning Scheme

- Clause 21.01 – Municipal profile
- Clause 21.05 – A vision for the future
- Clause 21.11 Environment

The above clauses of the Municipal Strategic Statement acknowledge the municipality’s cultural heritage assets and the need to conserve and enhance them. The MSS includes a commitment to prepare and adopt the *Post-Contact Heritage Strategy*. Net community benefit is also identified as a context for heritage protection.

The Panel commented that, apart from identifying some individual sites that already have heritage protection, the current MSS contains only very general references to heritage assets and the need for their protection. More specific descriptions of the range and type of heritage places in the municipality, as well as positive strategies for their protection and enhancement, would clearly provide a much stronger strategic foundation for the changes being introduced through Amendment C84.

Council advised the Panel that the entire Brimbank MSS is currently under review. Council has therefore decided to address the required changes in relation to heritage protection as part of the overall MSS review and not to introduce any change to the MSS as part of Amendment C84. However, the Panel urges Council to consider the above comments in undertaking its MSS review.

There is currently no local planning policy in Clause 22 relating to heritage issues. The amendment includes a new local planning policy as Clause 22.06 Brimbank Heritage Policy. Apart from the introduction of Clause 22.06, the amendment does not propose any changes to the strategic framework.

The Panel accepts that there is sufficient strategic basis for Amendment C84 set out in the SPPF, Melbourne 2030 and the existing MSS. Having considered the balance of strategic issues emerging from these policy sources and from submissions, the Panel considers that the amendment is consistent with, and implements, the relevant strategic planning framework.

2.2 BRIMBANK HERITAGE STUDY

Council's submission to the Panel included the following comprehensive description of the development of the heritage study, including the background, development, consultation process, methodology and interim implementation.

Background

The Brimbank City Council Post-Contact Cultural Heritage Study was initiated in 1996 and completed in 2000. The purpose of the study was to identify places of heritage significance and recommend statutory and non-statutory measures for the conservation of heritage sites.

The Study was undertaken by Melbourne's Living Museum of the West. The study team consisted of:

<i>Gary Vines:</i>	<i>Team Leader, historical archaeologist</i>
<i>Olwen Ford:</i>	<i>Historian</i>
<i>Graeme Butler:</i>	<i>Architectural historian</i>
<i>Francine Gilfedder:</i>	<i>Heritage landscapes</i>
<i>Beatrice Magalotti:</i>	<i>Historical research</i>

The Study contains the following volumes:

Volume 1: Environmental History

Volume 2: Heritage Program and Conservation Policy (includes recommendations for precinct heritage conservation policies and, non-statutory conservation measures)

Volume 3: Place Reports – Heritage Areas and Individual Places (includes a Statement of Significance for the Brimbank Area, an architectural and landscape review of the municipality and citations for all precincts and individually significant places).

Volume 4: Location Maps (includes maps of all heritage precincts and individual places).

Methodology

The Study was prepared in accordance with the methodology outlined in the Australian International Council for the Conservation of Monuments and Sites (ICOMOS) Charter for the Conservation of Places of Cultural Heritage Significance, otherwise known as the Burra Charter.

Places of heritage significance were identified using the criteria adopted by the Australian Heritage Commission for the Register of the National Estate. Consideration was also given to criteria used by Heritage Victoria and the National Trust of Australia.

Consultation

Substantial consultation took place during the preparation of the Heritage Study. Numerous articles were placed in the local papers informing the community about the study and inviting residents to nominate sites of heritage interest and provide comments on the preliminary documentation. Council also organised community information sessions in St. Albans, Sunshine and Keilor, distributed flyers and carried out direct mail outs to affected property owners.

A steering committee directed the progress and the Study and a Heritage Advisory Committee was established to advise Council on heritage matters. The Heritage Advisory Committee was absorbed into Council's Local Agenda 21 Committee in 2000.

Draft copies of the strategy were reviewed by relevant stakeholders including the local historical societies, members of the steering committee, the Brimbank Heritage Advisory Committee, Brimbank Councillors, Heritage Victoria and the National Trust.

Informal consultation was also undertaken with individuals by Council staff and the Heritage Study Team.

Council received 254 submissions to the draft Heritage Study exhibited in 1999. These submissions were reviewed and the Study was revised and completed in 2000. In 2001 and 2002 affected land owners were informed about the outcomes of the 1999 consultation and the process for implementing the recommendations of the Study through the introduction of heritage overlays in the Brimbank Planning Scheme. This second stage of consultation was undertaken in three (3) stages. Affected land owners were invited to submit further comments about the Study and speak to Council at three (3) General Purpose Advisory Committee Meetings. Council received 132 submissions to the second stage of consultation.

Council delayed implementation of the Study by way of a planning scheme amendment until following completion of the Heritage Study Review in 2005.

Brimbank Heritage Study Review 2005

A review of the Heritage Study was undertaken in 2005 by Gary Vines. The review:

- *Identified places that had been demolished or altered beyond recognition since completion of The Study in 2000.*
- *Reassessed the grading of “contributory” and “non-contributory” properties within the heritage precincts.*
- *Recommended refining some of the precinct boundaries to reduce the number of non-contributory properties included. The most significant changes occurred to The Railway Station Estate (HO25) and The McKay Housing Estate – King Edward Avenue (HO24).*
- *Recommended excluding three (3) precincts from inclusion in a Heritage Overlay: St. Albans Village Plan, Keilor Market Gardens and Keilor Village.*

Grading of properties

The Heritage Study Review defined “contributory” properties as places that exhibit a built style that contributes to the significance of the precinct. In particular, the Review states the following about the identification of contributory properties:

Anomalies were identified in the listing of contributory places within precincts. The detailed survey and listing of contributory properties within the precincts was undertaken in the original study as an add-on, due to concerns by council officers and the consultants, of the fragmented nature of surviving places which contribute to the significance of the precincts. This mainly effected the railway station estate precinct and the McKay housing precincts (A B1 and B2 - these have been renumbered by Council as Precincts 4, 5 and 6 respectively).

The review has reassessed these properties based on stylistic grounds and the current condition and integrity of the surviving heritage places. The initial listing was based on a review of historical sources, primarily the Sands & McDougall post office directories from the 1910s and 1920s, and MMBW Survey Plans from about 1933.

The review has identified some further places that are of a built style which contributes to the significance of the period, even though they might have been constructed in a slightly later period, but in a “retardataire” style. In some cases the design and construction may have been some years apart.

In some instances, places have been removed from the list of contributory properties, because despite the historical sources indicating a construction date in the period of significance, the surviving house is not stylistically of this period. These places are not ones where the original house has been demolished or replaced, but where the initial identification from historical sources was in error, or where the constructed house was in a style not consistent with the specific criteria which form the significance of the heritage area. Some properties were also miss-identified due to inadequate base mapping used in the original survey, lack of house numbers or confusion regarding property identification or property boundaries. These issues have been corrected as much as possible in this review.

A small number of places have been demolished or so-altered that they no longer warrant identification either as individual or contributory heritage places.

Brimbank Heritage Study Review, 2005, P4 -5 (emphasis added)

The definition of “contributory” and “non-contributory” places referred to in the Review formed the basis of the definitions used in Council’s revised Local Heritage Policy.

The citations for all the heritage precincts were updated to list the contributory and non-contributory properties. These updated citations formed part of the documentation mailed to land owners and occupiers during exhibition of Amendment C84.

Amendment C84 proposes to include the Brimbank City Council Post-Contact Cultural Heritage Study, Version 2, 2007 as a Reference Document.

Consultation process

Council provided a detailed chronology of an extensive consultation process undertaken in the course of preparation of the Heritage Study and Amendment C84. Council’s submission summarised the process as follows:

Substantial consultation took place during the preparation of the Heritage Study. Numerous articles were placed in the local papers informing the community about the study and inviting residents to nominate sites of heritage interest and provide comments on the preliminary documentation. Council also organised community information sessions in St. Albans, Sunshine and Keilor, distributed flyers and carried out direct mail outs to affected property owners.

A steering committee directed the progress and the Study and a Heritage Advisory Committee was established to advise Council on heritage matters. The Heritage Advisory Committee was absorbed into Council’s Local Agenda 21 Committee in 2000.

Draft copies of the strategy were reviewed by relevant stakeholders including the local historical societies, members of the steering committee, the Brimbank Heritage Advisory Committee, Brimbank Councillors, Heritage Victoria and the National Trust.

Informal consultation was also undertaken with individuals by Council staff and the Heritage Study Team.

Council received 254 submissions to the draft Heritage Study exhibited in 1999. These submissions were reviewed and the Study was revised and completed in 2000. In 2001 and 2002 affected land owners were informed about the outcomes of the 1999 consultation and the process for implementing the recommendations of the Study through the introduction of heritage overlays in the Brimbank Planning Scheme. This second stage of consultation was undertaken in three (3) stages. Affected land owners were invited to submit further comments about the Study and speak to Council at three (3) General Purpose Advisory Committee

Meetings. Council received 132 submissions to the second stage of consultation.

Panel conclusions on the study

During the course of the hearing and in the process of writing its report, the Panel has had many opportunities to test the rigor underlying the Heritage Study.

The Panel has found the citations for individual sites and precincts to be both detailed and thorough. The depth of the research is revealed in both the level of detail provided in the study and the numerous sources used in compiling the citations. The Panel commends the authors on its comprehensive work.

This is not to say that there remain some inaccuracies and some assessments of heritage significance that the Panel does not fully support. These are detailed throughout this report, and recommendations are made in respect of individual entries and the need for revision once further investigation identified by the Panel as necessary are completed.

The Panel considers that the extensive consultation process provide appropriate opportunities for input from residents, local interest groups and professional bodies.

The Panel would also like to acknowledge that the information in the study was often supplemented through submissions made by local residents. The submission from the Keilor Historical Society, and particularly that from Olwen Ford, provided valuable additional historical material as a context for the Panel's consideration of heritage controls in Brimbank.

3. ISSUES

3.1 NATURE OF SUBMISSIONS

As stated earlier, a total of 130 submissions were received in response to exhibition of Amendment C84.

Of the total submissions, approximately two-thirds (89) were from residents of the heritage precincts, with the majority of these (65) related to the following three precincts:

- HO19 (Commonwealth Munitions Housing Estate)
- HO23 (McKay Housing Estate – Durham Road Area)
- HO24 (McKay Housing Estate – King Edward Avenue Area).

Most of the remaining submissions were from the owners of individual heritage places.

Other submissions received were as follows:

- Keilor Historical Society (supportive of Amendment C84 but requested inclusion of additional sites and precincts)
- Olwen Ford (supportive of Amendment C84 but requested consideration extension of the McKay estates areas (HO23 and HO24).
- National Trust (supportive of amendment C84)
- Environment Protection Authority (no objection)
- City West Water (no objection)
- Department of Sustainability and Environment (no objection).

The main issues raised in submissions can be summarised as follows:

1. There is not sufficient heritage value in the place or precinct to justify heritage controls;
2. The heritage controls place an undue burden on the owners of affected properties in terms of:
 - Reduced development opportunities
 - Perceived loss of property values
 - Uncertainty arising from the permit application process
 - Increased maintenance costs
 - Poor condition of existing buildings
 - Restrictions on demolition.

The Panel received a major submission from Chris Wren SC on behalf of Orica Limited, owners of the site identified in the Heritage Study as the 'former ICI Deer Park explosives factories complex'. Among other matters related directly to the

heritage values of the site (and discussed at length in Chapter 5 of this report), Mr Wren argued that the Council had failed to take into account the social and economic impacts of applying the Heritage Overlay, including the ‘present interests of the landowners’.

Mr Wren argued that in order to ‘balance the present and future interests of all Victorians’ (as required under Clause 4 (1) (g) of the *Planning and Environment Act 1987*), Council should have assessed the Heritage Study’s recommendations against all sections of the SPPF and LPPF (including economic, environmental and social objectives) prior to preparation of the amendment.

Mr Wren cited the following cases as providing support for his argument:

- Australian Conservation Foundation and Ors. V Latrobe City Council (2004) VCAT 2029
- Glenroy RSL v Moreland City Council (1997) 19AATR.

The Panel’s attention was drawn to findings in these cases that the full range of planning objectives should be considered by the planning authority. The cases revolved around the question of whether the discretion to consider social and economic effects implied in wording of clause 12(2) (c) of the *Planning and Environment Act 1987* should or should not have been exercised. While the Panel would support the findings in these cases, it notes that neither of them involved the heritage controls, and do not have specific relevance to Amendment C84.

Mr Wren also argued that the approach adopted by Planning Panels when considering amendments introducing a Heritage Overlay is in error. Panels have consistently taken the view that the sole consideration in applying the overlay is whether the place has heritage significance, and that other matters, such as building economic and environmental impacts, condition, hardship, costs, etc are properly addressed at the permit stage. Mr Wren tabled the findings of the Panel hearing Ballarat Amendment C58, which concluded that ‘*the Heritage Overlay should be applied to places of identified heritage significance without reference to the effect this may have on other planning objectives*’.

Mr Wren argued that all matters, including heritage significance, should be assessed as part of the amendment process. He stated that his argument was supported by the finding of the Tribunal in *Southern Sustainable Developments Pty Ltd. V Casey City Council VCAT P3099/2006 (7 May 2007)*, particularly at para 29 where the Tribunal states that ‘*with respect to a permit requirement for demolition, the ambit of considerations is restricted to heritage matters or the purpose for which the heritage overlay applies*’. However, the Panel notes that, notwithstanding this comment, the Tribunal went on to say at para 55:

As we foreshadowed earlier, there may be circumstances that mean that a demolition is an acceptable outcome, notwithstanding that a building has local heritage significance. We address that matter under the following heading.

The heading is ‘*Building condition and economic arguments*’ and paras 56-63 discuss these issues in some detail.

The Panel therefore cannot accept that this Tribunal finding supports Mr Wren's argument that non-heritage issues cannot be taken into account at the permit stage.

The Panel has considered Mr Wren's arguments carefully. It notes that there are a number of instances of planning controls where the notion of 'the public interest' is held to outweigh the interests of individual property owners. One such instance is the imposition of height limits on the north bank of the Yarra River in the City of Melbourne in order to prevent overshadowing of the south bank, a lively activity centre enjoyed by the public. The imposition of the height limit in the planning scheme did not give weight to the potential social or economic effects on individual property owners on the north bank. However, this would not prevent a property owner from submitting such arguments at the time a permit is sought. In the Panel's view, heritage controls fall into the same category.

In view of the above, this Panel endorses the position expressed by the Panel hearing Ballarat Amendment C58 that heritage value is the sole criteria for assessment of whether heritage controls should be imposed by way of a planning scheme amendment. Other planning Panels considering heritage amendments have consistently adopted this approach for many years. The Panel is not persuaded that a case has been made to depart from well-established precedent in this regard.

3.2 ISSUES CONSIDERED BY THE PANEL

The Panel received many submissions stating, in various ways, that heritage controls place an undue burden on the owners of affected properties in terms of:

- Reduced development opportunities;
- Perceived loss of property values;
- Uncertainty arising from the permit application process;
- Increased maintenance costs;
- Poor condition of existing buildings; and
- Restrictions on demolition.

While the Panel recognises that these issues are critical for the submitter concerned, it has not considered them in its assessment of individual sites or precincts. The reasons for this have been discussed in detail in the previous section, where the Panel reached the conclusion that such matters are appropriately dealt with at the permit application stage.

The Panel therefore identifies the following as the key issues in its assessment of Amendment C84:

- Whether the Heritage Study has been undertaken with the necessary degree of rigor;
- Whether the heritage value of the individual sites and precincts has been adequately established;
- Whether the heritage controls have been applied in the most appropriate form.

4. HERITAGE PRECINCTS

4.1 INTRODUCTION

The Panel is satisfied that definition of the Heritage Overlay precincts of Brimbank have been rigorously researched and considered by Council. The Panel particularly supports the Council's research approach of providing an 'Environmental History' and subsequent 'Heritage Program and Conservation Policy'. These documents provide a sound context for consideration of significance and, later, permit determinations.

The documents do, however, highlight the key difficulty in assessing some of these precinct Heritage Overlays – the apparent disconnection between precincts identified for historic or town planning interest and their presenting built fabric, which may be reduced by demolitions, alterations or successive waves of development. Often, definition of the boundaries of precincts, once clear in a semi rural landscape, are now lost; often the housing constructed contemporaneously with the original subdivision is hard to identify in the context of later styles; and sometimes whole parts of a historic subdivision are overtaken by building and site amalgamation which completely overwhelms the presence of any precinct identity.

The Panel noted a number of submissions where an individual building of interest had become isolated from the rest of its 'parent' precinct. Again, in some cases it appears that the weight of 'non-contributory' buildings outweighs the 'contributory' and that the physical representation of the area is difficult to read as a consistent heritage precinct.

The Panel notes that the designation of precincts, their boundaries and contributory and non-contributory buildings within the precinct has been the product of informed research and vigorous community interaction. The Panel gives considerable weight to the community's own assessment of places of interest. In addition, however the Panel considers it may be helpful to reflect on the approach it has taken to considering Brimbank's HO precincts.

Many of Brimbank's precincts relate to the early development of industry – particularly H V McKay's Sunshine Harvester plant and various explosives works. The Panel has no doubt that the development of housing estates linked to a particular industry is both an interesting and important aspect of the heritage of Brimbank. There is strong argument to be made that they contribute to state and national heritage. Similarly, the relationship between H V McKay (both as industrial entrepreneur and land developer) and the estates is historically significant. There is further argument that the style of development – the so called 'garden suburb' – was a significant influence on contemporary and subsequent subdivision and settlement. The Panel takes the view that it is entirely appropriate that these heritage themes are highlighted in the Heritage Overlays.

In reaching its conclusions the Panel has sought to balance the historic and the extant built form. Where consistency of building forms, subdivision features, and history align and are easily observable (as for example in HO 26) the decision is clear. However, where the HO identifies remnants of the original subdivision and the extant buildings are less consistent, the Panel has adopted the following principles:

- Historic interest should be established; and/or
- Landscape/town planning interest should be established; and/or
- Aesthetic/architectural interest of building styles should be established; and
- A sense of 'precinct' must be established.

In summary, the Panel has adopted the view that a precinct must have a level of built consistency, and an extant underlying subdivision pattern which demonstrate the historic aspects of its heritage.

In practice, the panel is satisfied that remnants of larger subdivisions can be identified. But it does not accept that boundaries which include buildings of interest isolated from a consistent visual precinct form should be included.

The Panel notes that many submissions reflect misunderstandings about the nature of the heritage planning process and unwarranted fears of the implications of inclusion in an HO. It also recognises that the operational conservation success of a HO depends to a great degree on owners' understanding of the relevance of controls. To the extent that the Heritage Study's Heritage and Conservation Policy provides guidance for administration of the controls, the Panel is supportive.

The Panel also considers that the Council has opportunities to promote the heritage interest of precincts and to encourage their conservation. Council infrastructure works, planting and fencing schemes, financial incentives, technical advice and planning, and promotions can contribute to an understanding of precinct significance and increased pride of ownership. Re-examination of a precinct's history as 'lived' rather than 'planned' may also reveal personal and community stories which can enhance an understanding of Brimbank's heritage and commitment to its conservation.

4.2 HO19 COMMONWEALTH MUNITIONS HOUSING ESTATE



Description of precinct

The Heritage Study provides the following description of this precinct:

The Brimbank heritage area is part of a larger estate of concrete houses and brick semi-detached houses built by the Commonwealth to house munitions workers, a total of 234 houses. The development extends across Duke Street with a substantial number of houses (58%) in Braybrook, now part of the City of Maribyrnong. Both areas were within the City of Sunshine prior to council amalgamations.

The Brimbank precinct (98 houses) comprises houses in Baker Street, Nixon Street, Yewers Street, Cobrey Street, Duke Street, Devonshire Road and around Lowe Crescent. A characteristic design element of the area was the use of concrete roads and the curving Lowe Crescent on a small irregular shaped square with landscaping of contemporary date and also later periods. The concrete roads have recently been reconstructed with new concrete kerbs and hot mix asphalt laid over the original road surfaces. (Some original and renewed concrete roads survive in the City of Maribyrnong section of the estate).

The houses themselves are generally hipped roof with overhanging eaves. The Nixon Street, Baker Street, Yewers Street and Lowe Crescent houses are concrete-walled, while the others are generally red brick, with a series of long duplexes in Duke Street and Cobrey Street.

The Heritage Study provides the following Statement of Significance for this precinct.

This Commonwealth Munitions Housing Estate is of national historical significance as part of a Federal Government-initiated housing scheme for workers in the munitions industry in the Maribyrnong-Footscray area, the largest concentration of defence production establishments in the whole of Australia, when World War Two began.

It was one of the first major Commonwealth war housing schemes to be undertaken and was one of the few large-scale housing schemes undertaken in Victoria during World War Two. This part of the estate included the main recreational and community area, serving the whole estate of 234 houses. The estate is historically significant as a demonstration of the co-ordinated State and Commonwealth wartime effort on the home front, to build up defence production capabilities during the period of national emergency.

The estate is of architectural significance as an unusual example of planned suburban development, reflecting the Garden City principles and therefore can be seen as a continuation of the historical precedent established in McKay's Sunshine estates.

The precinct also has aesthetic significance for the distinctive styles of solid brick and concrete houses, built in a variety of forms but still maintaining a visual cohesion, and set in part, on curving streets with large garden allotments. Architecturally these houses are quite plain, but they are important for their innovative use of concrete and evidence of a modern design aesthetic.

There are 100-110 properties in this precinct, over 90% of which are assessed as contributory to its heritage value.

The study recommends that this precinct be designated as having a national level of significance.

Nature of submissions

A total of 16 submissions were received in relation to this precinct (Submission #'s, 21, 28, 31, 42, 105, 112, 113, 118, 126; 22, 46, 51, 59, 102, 110). None of these submitters appeared at the hearing.

The issues raised in submissions can be summarised as follows:

- The majority of the original brick and wire fences have been replaced;
- Many houses have been altered or demolished and replaced with two units;
- The types of houses in the precinct are not going to disappear for many years. The overlay is not required;
- The reserve is in disrepair and is often vandalised;
- The Commonwealth Munitions Industry buildings no longer exist or are undergoing substantial re-development;
- Most of the Munitions housing estate is in Maribyrnong;
- Only the brick homes were built by the Federal Government. The concrete houses were built by the State Government and were not only for the munitions workers;
- No end of year picnics or social gatherings took place in the recreational area;
- The concrete roads have been covered in asphalt;
- There is nothing unique or interesting about the houses or area;
- The houses are constructed from solid brick and are costly to maintain. It will be difficult to replicate materials;

- Overlay has been inequitably applied and is discriminatory;
- house ‘beyond repair’;
- house substantially altered;
- concerns re future renovations and property value; and
- house has no heritage features

Panel conclusions

The Panel considered all submissions and undertook a detailed inspection of this precinct (It outlines its conclusions in full here for reference to following heritage precincts where similar conclusions are summarised).

The Panel noted that a number of submitters offered objections based on alterations to the fabric of buildings or the precinct as a whole. As a general principle the Panel takes the view that condition of a property is not relevant unless the intactness and integrity of the place is so impaired that its heritage interest is effectively destroyed. To the extent that it was submitted that alterations had diminished the heritage value of the property, the Panel satisfied itself that the place was substantially intact, that alterations were not unduly detrimental, and that alterations did not detract substantially from the overall character of the precinct. Where alterations - such as the removal of original fences or road paving – were precinct-wide, the Panel assessed the possibilities for re-instatement and encourages Council and owners to examine opportunities for programs leading to appropriate re-instatement.

Similarly, the Panel takes the view that repair costs or other financial aspects of ownership are not relevant to this consideration which is primarily concerned with heritage interest. The Panel was not persuaded that it will be difficult to replicate materials and cost more to pay for labour and materials – even should this be required under any future permit. The Panel was not satisfied that submissions relating to vandalism of the reserve were relevant.

The Panel accepts that Commonwealth Munitions Industry buildings no longer exist or are undergoing substantial re-development. However it accepts that the remaining estate is an important feature of the enterprise in its own right and of sufficient significance for inclusion in an HO. The fact that some of the munitions estate was within the City of Maribyrnong does not reduce the significance of the area of the estate within Brimbank.

The Panel was not satisfied that the HO had been inequitably applied or that inclusion of a place the HO will prejudice equitable consideration of future permit applications.

The Panel concludes that, overall, the precinct is very intact (91 of the 98 properties are assessed as contributory) and still strongly reflects the subdivision’s original urban and building design qualities. The Panel supports fully the Statement of Significance set out in the Heritage Study, which notes its historical contribution to the heritage of Brimbank. It also supports the Council’s position that aerial photograph evidence suggests that both brick and concrete dwellings were likely to have been constructed contemporaneously – possibly with both state and federal government involvement. On the basis of the design features of the subdivision and

buildings, the Panel confirms the precinct's aesthetic and architectural heritage significance. The Panel accepts the assessment of the precinct as of National Significance.

The Panel concludes that HO19 is consistent with the principles established in the Introduction to this chapter of the report, and should be included in the Brimbank planning scheme.

4.3 HO20 LEITH AVENUE CONCRETE HOUSING ESTATE



Description of precinct

The Heritage Study provides the following description of this precinct:

This small estate of concrete houses has an unusual form of street layout, featuring a court originally constructed with both concrete and bluestone kerb and channel around an oblong central grassed median. The road has been resurfaced with asphalt and the median currently has a part-buried bluestone cobbled kerb. Houses on the south side are concrete-walled with tiled roofs. Others on the north side have been demolished, partly for expansion of the adjacent secondary college, in the days when it was Sunshine Technical School.

There are eight surviving houses at 1 to 15 Leith Avenue and also four houses surviving at 51 - 57 Hampshire Road. One of the Hampshire Road houses appears to be brick or brick faced. Three of the surviving houses in Leith Avenue feature notable faceted chimney shafts. 17 Leith Avenue, was demolished some years ago, probably at the same time as the houses on the north side of the street. The estate was originally symmetrical,

The Heritage Study provides the following Statement of Significance for this precinct:

The Leith Avenue precinct is of regional historic and architectural significance as an interesting example of a planned building settlement, under the auspices of the Sunshine Harvester Works, though financed with Victorian State Savings Bank backing. The precinct is of architectural significance for the early and rare use of concrete in the construction of the houses, which was still quite an innovation in 1924, although some concrete houses had been built in Sunshine by 1910. The spaciousness of the lay-out of Leith Avenue suggests the influence of Garden City planning principles.

The precinct is of historical significance as one of the more recognisable examples of the planned urban development that characterise much of early Sunshine's suburban expansion during the period under McKay's influence in the early 20th century. It is also significant for its association with the State Bank of Victoria as one of a number of interwar housing schemes. While much smaller than the Garden City Estate, there are interesting parallels with it in relation to garden city design principles and the experimental building methods such as the use of off-form and prefabricated concrete.

There are 13 properties in this precinct, 11 of which are assessed as contributory to its heritage value.

The study recommends that this precinct be designated as having a regional level of significance.

Nature of submissions

The Panel considered a total of 4 submissions (#'s 13, 24, 78, and 107) in relation to this precinct. None of these submitters appeared at the hearing.

The issues raised in submissions can be summarised as follows:

- The estate consisted of 26 (not 24) houses;
- Original roads and gutters have been asphalted over;
- HO will adversely impact property values;
- Permit requirements will increase cost of works;
- Most houses are altered from original; and
- Council should allocate money to restoring Leith Avenue.

Panel conclusions

The Panel undertook a detailed inspection of this precinct. It noted that the Heritage Study citation has been amended to indicate that the original bluestone kerb is covered in asphalt and to state that the original estate contained 26 dwellings instead of 24.

Although the entire north half of the estate has been demolished, the southern half and the median reserve are quite intact, and form a consistent streetscape.

Although issues relating to property values, possible cost of works and personal financial matters are not considered material at this stage of the planning process, the Panel draws the Council's attention to the existence of heritage restoration funds in a number of municipalities throughout Victoria. There is potential to positively enhance the heritage character of a precinct through sympathetic infrastructure and landscaping works and positive precinct conservation planning.

The Panel fully supports the Statement of Significance set out in the Heritage Study.

The Panel concludes that the precinct is a significant and consistent remnant of the subdivision's original urban and building design with associations with H V McKay.

The Panel notes that the emergence of new types of subdivision is a recurring theme in the history of Brimbank. Of itself, this is a special aspect of Brimbank's heritage which deserves HO attention. The Panel also noted that Concrete housing became one of the standard forms of the Victorian Housing Commission after WWII, but was still relatively rare in the 1920s.

The Panel concludes that HO20 is consistent with the principles established in the Introduction to this chapter of the report, and should be included in the Brimbank planning scheme.

4.4 HO21 ICI RESIDENTIAL AREA



Description of precinct

The Heritage Study provides the following description of this precinct:

This heritage area includes the ICI housing scheme of the late 1920s-1930s in Ballarat Road, Station Road, Hume Street and Hyde Streets. This housing scheme centred on a group of streets formed near the corner of Ballarat Road and Station Road and comprised houses of three distinct styles. These are:

- *Indian Bungalow style: at 76-58 Station Road, 10, 12 Hyde Street (altered), 52-56 Station Road: These include wide timber verandahs following the roof line and returning a short distance down one side. Red brick chimneys feature corbelled tops.*
- *Cottage style: 14-24 Hyde Street (altered), relatively small houses with asymmetrically facades, small verandah/porch over the entrance and tapered chimneys. They appear to be concrete walled or roughcast.*
- *Brick Californian Bungalow style: 789, 791, 793 (altered), 795 Ballarat Road. Red brick, with verandahs across part of the front, featuring more complex roof forms with gable and hipped sections.*

The principal alterations have been made to the verandahs, with one partly bricked in with an arched colonnade. Others have had windows replaced or new openings made. The Ballarat Road houses include one relatively unaltered (No. 789) which features stained shingles, wire fabric fence and some remnant garden planting. The house at 797 Ballarat Road has had its facade completely reconstructed in cream bricks in an unsympathetic style. A corner site at Ballarat and Hume Street comprises a maternal and child health centre of later c.1960 date, but evidently on land reserved for community use in the original subdivision.

The Heritage Study provides the following Statement of Significance for this precinct:

The ICI Residential Heritage Area is of State historical and architectural significance as a rare and distinctive company township and for its association with the nineteenth century origins and twentieth century expansion of the former Nobel (later ICIANZ, now ORICA) factory which became the major private manufacturer of explosives and munitions in Australia.

The estate, initiated by Leathercloth Pty Ltd, (a subsidiary of Nobel) is one of a number of company sponsored housing schemes in the Brimbank municipality and reflects a pattern of development where nationally important industries established in green-fields sites beyond the urban fringe and so needed to provide accommodation and other facilities for workers. The inclusion of the recreation reserve in the precinct and the adjacent separately listed Deer Park Hall, and Hunt Club Hotel (a former ICI training centre) further demonstrate the company role in local planning and development.

The precinct is significant for its association with the largest explosives, chemicals and plastics manufacturer in Australia, originally established here under the importer Jones Scott and Co in the 19th century, and then becoming the Australian Lithofracteur Company (Krebs Patent), a rival to Nobel's dynamite patent, and in production in Australia only a couple of years after Nobel's Ardeer factory was opened. It later merged with the Nobel company and then became ICIANZ before the most recent change to ORICA. This important industry played a major role in mining through the development of progressively more efficient and safer explosives. It also contributed to wartime production in ammunition, initiators and in World War Two, the development of synthetic ammonia production and construction of the Defence Explosives Annexe No 5 (later the Albion Explosives Factory).

The Leathercloth plant was influential in the development of synthetic materials for the motor industry including vinyl seat fabrics and hoods, and has continued to play an important role in synthetic fabrics.

The houses in Station Road, Ballarat Road, Hume Street and Hyde Street reflect a sequence of development in their distinctive styles and forms, reflecting the colonial origins of the company in their Indian Bungalow forms as well as giving insight to the social and economic status of their proposed occupants with the larger and more elaborate houses intended for factory managers. The inclusion of concrete houses in the estate also points to the innovation in building in the later period, possibly as a response to war-time material shortages.

The recreation reserve and contemporary (but altered) pavilion are significant in demonstrating the role of the company in providing community services to their workers, and as evidence of the urban design and landscape approaches to company housing in the period.

There are about 40 properties in this precinct, three quarters of which are assessed as contributory to its heritage value.

The study recommends that this precinct be designated as having a State level of significance.

Nature of submissions

The Panel considered two submissions (#'s 7 and 68) in relation to this precinct. Neither of the submitters appeared at the hearing.

The issues raised in submissions can be summarised as follows:

- 52 Station Road is post-WW2, is 'ugly' and 'not financially viable' to renovate;
- Buildings are not of sufficient significance;
- Planning controls are an unjust burden on owners; and
- HO will depress future property values.

Panel conclusions

The Panel undertook a detailed inspection of this precinct. In respect of the submissions the Panel concluded that:

- 52 Station Road is substantially intact and typical of the dwellings in the precinct. It contributes to the overall heritage value of the area;
- Issues relating to property values, possible cost of works and personal financial matters are not considered material at his stage of the planning process.

The Panel fully supports the Statement of Significance set out in the Heritage Study.

It noted the remaining houses are quite intact, and form a consistent precinct.

The Panel confirms that the precinct is an example of 'rare and distinctive company township' directly associated with the development of important industry in the municipality and is of sufficient interest for inclusion in the HO.

The Panel concludes that HO21 is consistent with the principles established in the Introduction to this chapter of the report, and should be included in the Brimbank planning scheme.

4.5 HO22 SUNSHINE COMMERCIAL AREA



Description of precinct

The Heritage Study provides the following description of this precinct:

A group of several small, mainly Edwardian shops, with low flat roofs of corrugated iron behind brick parapets with mostly altered glazed shopfronts. These are centred around the City Place and Sun Crescent corner, extending down to the Durham Road Corner. As planned, City Place provided the access to the level crossing and railway station, linking the residential estate with the McKay factory. The shops therefore are focussed on what was the busiest thoroughfare in Sunshine prior to the construction of the overpass.

The Heritage Study provides the following Statement of Significance for this precinct:

This Sunshine commercial precinct is of local historical and social significance as a part of a suburb created by Australia's leading industrialist, which set a milestone in the development of the industrial suburb under the influence of the Garden City movement. Sunshine became a yardstick for planning and housing reformers, with H V McKay being regarded as an expert on planned industrial housing. The McKay estate is of historical significance as it marks a crucial phase in the development of Sunshine, reflecting a period when McKay encouraged or directly provided services to the resident work force, such as recreation and retail facilities, in order to develop a stable local economy.

The precinct is of architectural significance in representing the prevailing interwar style of relatively unadorned parapeted single story shop fronts. The precinct includes community, civic and commercial premises. While the building stock provides a representative sample of generally typical small shops of the period, Sunshine does contain some more elaborate designs (such as the Derrimut Hotel), some of which can

be ascribed to J Raymond Robinson, who fulfilled the role of company architect for the McKay Sunshine Harvester Works.

Characterised generally by low flat corrugated iron clad roofs cantilevered verandahs, the buildings are also set on typical narrow frontage allotments, with small rear yards (now generally redeveloped for storage or parking). The provision of commercial allotments close to the station was consistent with the garden suburb character that was intended in the original town planning designs, and perpetuated in the perceptions of Sunshine's character. In the early 20th century Sunshine's generous suburban estates were atypical of working class housing of the period.

All of the properties in this precinct are assessed as contributory.

The study recommends that this precinct be designated as having a local level of significance.

Nature of submissions

The Panel considered a total of 4 submissions (#'s 101, 116,117, and 120) in relation to this precinct. None of these submitters appeared at the hearing.

The issues raised in submissions can be summarised as follows:

- Buildings are not of sufficient significance;
- Planning controls will hinder efforts to improve appearance of the area; and
- HO will depress future property values.

Panel conclusions

The Panel undertook a detailed inspection of this precinct.

In relation to the issues raised in submissions, the Panel concluded that issues relating to property values, possible cost of works and personal financial matters are not considered material at his stage of the planning process.

The Panel fully supports the Statement of Significance set out in the Heritage Study. It noted that the commercial area remains an identifiable part of the history of McKay's land dealings and housing subdivisions, and that the extant buildings are of architectural significance - representing the prevailing interwar style of relatively unadorned parapeted single story shop fronts.

The Panel concludes that HO22 is consistent with the principles established in the Introduction to this chapter of the report, and should be included in the Brimbank planning scheme.

4.6 HO23 McKAY HOUSING ESTATE - DURHAM ROAD AREA



Description of precinct

The Heritage Study provides the following description of this precinct:

This McKay housing subdivision is of national historical and social significance as a part of a suburb created by Australia's leading industrialist and as a milestone in the development of the industrial suburb under the influence of the Garden City movement. Sunshine became a yardstick for planning and housing reformers, with H V McKay being regarded as an expert on planned industrial housing. The McKay estate is of regional architectural significance as it marks a crucial phase in the development of Sunshine, housing the resident work force which promoted further industrial development.

The group of houses in the precinct represent the type of houses built either by or for company employees and managers during the period of H V McKay's dominance of Sunshine's economy and development. Most of the remaining commercial premises, which formed the nucleus of the suburb west of the railway line, have been included in a separate precinct centred on the corner of Sun Crescent and City Place. While a number of original houses have been demolished, the remaining stock provides a representative sample of homes that are generally typical of the period, with several distinctive architectural designs, some of which can be ascribed to J Raymond Robinson, who might be considered the defacto company architect for the McKay Sunshine Harvester Works.

Characterised generally by steep gabled corrugated iron clad roofs (with hipped roofs on some of the earliest examples), weatherboard cladding and timber trimmed verandahs, the houses are also set on generous allotments, often with deep setbacks. These elements contribute to the garden suburb character that was intended in the original town planning

designs, and perpetuated in the perceptions of Sunshine's character. It should be remembered that in the early 20th century, Sunshine's generous suburban estates were atypical of working class housing of the period.

The Heritage Study provides the following Statement of Significance for this precinct:

A group of several substantial timber houses and small shops, from the development of McKay's estate, mainly Edwardian, with cast-iron, bull-nose verandah, hipped and gabled roofs of corrugated iron. This was evidently once an almost complete pre-1920s streetscape, but now with gaps. The commercial area on Sun Crescent that supported the suburb is separately identified under HO22.

Examples of characteristic surviving buildings include: in Anderson Road, numbers 83-91, 97-99 and in Durham Road numbers 133, 150. In Derby Road are several Edwardian houses, with cast-iron, bull-nose verandah, hipped and gabled roofs of corrugated iron. No. 140 has been redeveloped, as has much of the street frontage to the east. The south side of Derby Road contains the prominent school zone, while the Masonic Lodge, Corio Street Library and Church of Christ form another interesting group near the Hampshire Road - Corio Street corner. Opposite are the Sunshine Picture Theatre and the remains of Crittall's window frame factory. The Lions House of Sunshine is an unusual community building of the post-war period.

Of the houses on the south side of Fraser Street and west side of Anderson Road, nearly all are double fronted with both bull nosed verandah types to symmetrical facades, and 'L' shaped plans with projecting gable roofed front rooms and small half verandah, sometimes returning around the side. Some garden plantings are contemporary and two houses retain woven wire front fences. An altered and extended corner shop formed a central element in the group and physically separated the Fraser Street and Anderson Road houses, but this was recently demolished. It appears that all the Fraser Street houses are original to the development with the westernmost being somewhat later (c. 1930) and consequentially stylistically different.

St Marks Church on the corner of Anderson Road and Sun Crescent is a 1960s building on the site of an earlier church. While it is not considered to be part of the precinct, the timber hall at the rear is contemporary with the significant period of the precinct and is a contributory place.

There are 120 – 130 properties in this precinct, two thirds of which are assessed as contributory to its heritage value.

The study recommends that this precinct be designated as having a national level of significance.

Nature of submissions

A total of 24 submissions were received relation to this precinct. Seven of these submitter's properties are in areas now excluded from the precinct following boundary changes made by Council on 13 March 2007.

The Panel considered the remaining 17 submissions (#'s 1, 16, 23, 32, 35, 76, 86, 94, 101, 104, 106, 116, 117, 119, 120, 123, 125) in relation to this precinct. Mr Kuszniarczyk of Clement Stone represented Mrs Romano (Sub 76) before the Panel.

The issues raised in submissions can be summarised as follows:

- 43 Sun Crescent is weatherboard not brick (corrected);
- HO Controls will impact on owner's standard of living;
- There is inconsistency in inclusions in the HO;
- 130 Derby Road is structurally inadequate. Repair would be unreasonably expensive and would require total rebuilding;
- Other controls are sufficient;
- Places are of insufficient heritage interest;
- Places have been altered;
- There are other examples;
- Particular building do not contribute to the neighbourhood;
- Inclusion in HO will reduce value;
- Inclusion will stop redevelopment; and
- The HO does not support *Melbourne 2030*.

Panel conclusions

The Panel undertook a detailed inspection of this precinct. In relation to the issues raised in submissions, the Panel concluded that:

- Issues relating to property values, possible cost of works and personal financial matters are not considered material at his stage of the planning process.
- In respect of 130 Derby Road the Panel took the view that structural condition was relevant at this stage only if it impinged on the heritage value of the place. It noted that the building was relatively intact and that it remained a strong contributor to the interest of the precinct. The questions related to repair are therefore appropriately considered at the permit application stage.

Mr Kuszniarczyk made a detailed submission arguing that the relationship between H V McKay, the subdivisions and the housing was much less direct than that set out in the Heritage Study, and had been inadequately researched.

The submission also argued that the amendment, amongst other things:

- Does not balance the present and future interests of all Victorians;
- Is contrary to Ministerial development No 9 (Melbourne 2030);
- Is contrary to the objectives of 5.44 of the Metropolitan Strategy;
- Does not meet the objectives of Clause 12 SPPF (Metropolitan development); and

- Is contrary to Clause 11 of the SPPF as it does not net community benefit.

The Panel was not persuaded that HO23 would be in conflict with *Melbourne 2030* or the SPPF, provided the heritage value warranted the imposition of heritage controls in the precinct. However, the issue raised about the disconnection between historical interest and physical form echoes the Panel's own assessment.

The Panel noted that an area comprising about 70 (mostly non-contributory) properties was removed from the overlay after exhibition '*...to improve the integrity of the precinct and reduce unnecessary planning controls to non-heritage properties*'. Council's view was that the significance of the subdivision had been reduced by the introduction of non-contributory buildings, alterations to some buildings, and by erosion of the character of the precinct, leading to a reduction of the boundaries of the precinct back to a 'core' remnant of the subdivision (The commercial buildings that had contributed to the significance of the precinct were retained in a newly-designated HO22 Sunshine Commercial Precinct.).

The Panel notes that the original precinct identified in the Heritage Study was reduced prior to exhibition. It has now been further reduced. It is also noteworthy that HO23 (and HO24) attracted the highest number of submissions. This would appear to indicate that the heritage value of this precinct was less clear to the community generally, in terms of both its history and the built fabric.

In the Panel's view, this highlights an inherent contradiction between the historic value of the subdivision itself and the value of the buildings now present. The Panel accepts that the history and form of the subdivision and its association with H V McKay are important parts of Brimbank's history, and that the provision of detached houses on relatively large lots was innovative at the time in a suburb designed for worker housing.

The Panel is less convinced that the estate displays the influence of the Garden City movement to any great extent, especially compared to some of the other subdivisions in the area such as HO26. The subdivision is strictly rectilinear and does not provide the characteristic open space areas.

In relation to the built fabric, Mr Vines gave evidence that the waves of development over the years were an important part of its history and thus its heritage significance. Buildings dating from the 1910s to the 1940s and representing a range of styles are identified as contributory. Approximately one third of houses are of more recent origin and are identified as non-contributory. There is therefore not the same degree of homogeneity of housing stock as seen in other precincts. Furthermore, it was unclear why the evolution of the built fabric (described as a characteristic of the precinct) should be 'frozen' at a particular point in time.

In the Introduction to this chapter, the Panel expressed the view that '*where consistency of building forms, subdivision features, and history align and are easily observable (as for example in HO 26) the decision is clear*'. The Panel does not believe, on the basis of the evidence, the submissions and its own observations, that HO23 falls into this category.

The Introduction goes on to say:

... where the HO identifies remnants of the original subdivision and the extant buildings are less consistent, the Panel has adopted the following principles:

- *Historic interest should be established; and/or*
- *Landscape/town planning interest should be established; and/or*
- *Aesthetic/architectural interest of building styles should be established; and*
- *A sense of 'precinct' must be established.*

The Panel accepts that historic interest and some town planning interest have been established for HO23. However, neither of these would be sufficient to justify heritage controls in their own right. There are other ways in which historic importance can be recognised and recorded outside the planning system.

The establishment of aesthetic/architectural interest is more uncertain as there is a variety of 'typical' housing stock covering several decades, and similar housing types exist in other, more intact precincts. Approximately one third of the housing stock in HO23 was built in more recent decades and is designated as non-contributory.

Most importantly, the Panel does not believe that a 'sense of precinct' has been established within the current boundaries, which (unlike other precincts) are fragmented. It believes that this view, based on a detailed inspection, is supported by the successive changes to the boundaries and the low level of community support for the precinct, evidenced by the number and nature of submissions.

In view of the above comments, the Panel is also not convinced that HO23 merits the designation of 'national' significance recommended in the Heritage Study.

The Panel also notes the Tribunal finding in *Zoran Ilievski v Brimbank City Council (2007) VCAT P2638/2006*. Although this case concerns HO24 rather than HO23, there are distinct similarities between the two precincts. The application was for a permit to demolish. While the Panel does not necessarily agree with all the findings in this case, it notes that the Tribunal expressed the same difficulty as the Panel in relating the history of the precinct to its built form. In para 25 the Tribunal states:

As to the historical association of McKay with the estate, and his life as an industrialist and as leading figure in industrial relations and in the history of Sunshine, how is this reflected in or by the form of the subdivision, or in the original housing which remains? No such reflection is evident to me.

In the same case the Tribunal also comments on the relationship with the Garden City Movement. At para 26, the Tribunal states:

There is little about the pattern of subdivision which reflects the influence of the Garden City Movement. There are no curvilinear streets and no areas of public open space....

However, the Panel's reservations do not lead it to the conclusion that the precinct should be abandoned at this stage. Rather, the Panel considers that the precinct and its boundaries should be re-evaluated. The purpose of the review would be to:

- Establish whether a direct relationship between the history, the subdivision and the built form can be demonstrated;
- Establish whether the link to the Garden City movement can be substantiated;
- Establish whether the boundaries could be modified to establish a visually recognizable precinct; and
- Establish the appropriate level of significance.

It is feasible that such a re-evaluation could lead to confirmation, modification or abandonment of the precinct. It is important to state that abandonment of the precinct would not deny its historic significance – it would simply acknowledge that its historic value is not adequately represented in physical terms.

Recommendation

The Panel recommends that precinct HO23 should be re-evaluated with the purpose of:

- **Establishing whether a direct relationship between the history, the subdivision and the built form can be demonstrated;**
- **Establishing whether the link to the Garden City movement can be substantiated;**
- **Establishing whether the boundaries could be modified to establish a recognizable 'sense' of precinct;**
- **Establishing the appropriate level of significance.**

4.7 HO24 MCKAY HOUSING ESTATE - KING EDWARD AVENUE AREA



Description of precinct

The Heritage Study provides the following description of this precinct:

The distinctive grid of streets with large blocks west of Anderson Road and north of Forrest Street and the adjoining radial street layout from the octagonal 'square' of Selwyn Park is part of a subdivision sponsored by the H V McKay Sunshine Harvester company early this century. Initially houses were erected in the eastern part of the estate, with roads and other services only gradually developed. Street tree plantings were a key part of the planning for the 'Garden Suburb'. The subdivision was laid out with large gardens, with both deep and wide blocks as part of this garden suburb philosophy. While a number of the houses have survived, the large blocks and their proximity to central Sunshine and the railway station, attracted flat development in the 1960s and 70s. As a consequence, houses on the east end of Forrest Street and in Anderson Road between Forrest Street and King Edward Avenue, have almost universally been replaced by two storey elevated walk up brick flats. On the eastern side of Anderson Road are the H V McKay Gardens, bowling club, Presbyterian Church and Chaplain Reserve.

The Heritage Study provides the following Statement of Significance for this precinct.

The McKay housing subdivision is of national historical and social significance as the first stage of the suburb created by Australia's leading industrialist and a milestone in the development of the industrial suburb, under the influence of the Garden City movement. Sunshine became a yardstick for planning and housing reformers, with H V McKay being regarded as an expert on planned industrial housing. The McKay estate

is of regional architectural significance as it marks a crucial phase in the development of Sunshine, housing the resident work force which promoted further industrial development.

The estate is also of historical significance in relation to H V McKay's important role in the history of industrial relations in Victoria and Australia, as the provision of housing for his workers was one of the arguments made by McKay in defending the Basic Wages Case which lead to Justice Higgins' "Harvester Judgement".

The group of houses along Forrest Street, Ridley Street, Sydney Street, King Edward Avenue, Anderson Road, Talmage Street and Kororoit Street, represent the type of houses built either by or for company employees, foremen and managers. The houses include major remnants of the large blocks allotted to senior staff of the Sunshine Harvester Works. Most of the houses were set back on their blocks with side drives, rather than rear service lanes, giving an air of spaciousness and permitting large gardens (of which some remnants survive).

There are 160-170 properties in this precinct, two thirds of which are assessed as contributory to its heritage value.

The study recommends that this precinct be designated as having a national level of significance.

Nature of submissions

The Panel considered a total of 23 submissions (#'s 2, 5, 11, 12, 18, 19, 33, 39, 41, 47, 50, 58, 70, 73, 80, 83, 84, 85, 88, 90, 95, 103 and 109) and a petition with 106 signatures in relation to this precinct. Two additional submissions had been resolved by Council on 13 March 2007 by exclusion of the relevant properties from the precinct.

The issues raised in submissions can be summarised as follows:

- Places are of insufficient heritage interest;
- Places have been altered;
- Precinct is degraded by inappropriate redevelopment;
- Property is surrounded by inappropriate development;
- There are other examples;
- Particular building does not contribute to the neighbourhood;
- Inclusion in HO will reduce property value;
- Owner resents intrusion in decision making on property;
- HO will limit works or make alterations more expensive;
- Permit exists for construction of new dwellings on the land;
- Building should be included on basis of important association with H V McKay enterprise;
- Only 135 (of 330) buildings in the precinct are considered contributory;
- McKay estates are not unusual;
- McKay was speculating;

- Not consistent with *Melbourne 2030*; and
- There is insufficient net community benefit from Heritage Overlay.

The following submitters appeared before the Panel:

- Terry O'Connor on behalf of M. and G. O'Connor (Sub 47);
- Barbra Ryrich (Sub 50)
- Beverley Hickey (Sub. 58)
- Frank and Olwen Ford (Sub 73)
- Nikola Grgik (Sub 109)
- W. Kuszniarczyk (Clement Stone and Partners) on behalf of B and V Simovski (Sub 77)
- Paul Reid on behalf of Suzanne Ganley (Sub 80)

The submission from Frank and Olwen Ford sought inclusion of their property in the HO. All other submissions sought exclusion from the HO.

The submission from W. Kuszniarczyk was also made on behalf of property owners in precinct HO23, and is discussed in the section on that precinct.

Panel conclusions

The Panel undertook a detailed inspection of this precinct. In relation to the issues raised in submissions, the Panel concluded that:

- Issues relating to property values, possible cost of works and personal financial matters are not considered material at this stage of the planning process.
- The building at 36 Sydney Street was so substantially altered that its heritage integrity is virtually destroyed. The site should be designated non-contributory.
- The building at 20 Forrest Street. has some of the necessary qualities for inclusion but its isolation from other contributory buildings effectively negated any contribution to the precinct.
- The Kororoit Street area of the precinct does not appear to warrant inclusion in the HO.

The Panel also considered personal submissions from the owners of 50 Forrest Street. that the building was wrongly excluded from the HO. The Panel found that the building had many of the necessary qualities for inclusion but that its isolation from other contributory buildings reduced its contribution to the precinct. The Panel did however conclude that the building was of sufficient heritage interest for inclusion as an individual HO on the basis of:

- its strong historic interest – directly reflecting the life and lifestyle of a known worker living in the H V McKay estates and contributing to the H V McKay enterprise; and
- the integrity of the especially intact building as an example of the building type of the estates.

This Panel's overall evaluation of this precinct is the same as that for HO23. Both are substantial estates established by H V McKay, they date from the same era and followed similar patterns of development over the years.

Like HO23, HO24 has been subject to two boundary reductions since the Heritage Study was completed, and received a high number of submissions questioning the quality and integrity of the precinct.

The Panel therefore refers to the detailed comments and evaluation made in relation to HO23, rather than repeat them here. The same recommendations are also made.

Recommendations

The Panel recommends that precinct HO24 should be re-evaluated with the purpose of:

- **Establishing whether a direct relationship between the history, the subdivision and the built form can be demonstrated;**
- **Establishing whether the link to the Garden City movement can be substantiated;**
- **Establishing whether the boundaries could be modified to establish a recognizable 'sense' of precinct;**
- **Establishing the appropriate level of significance.**

The Panel also recommends that, as part of the re-evaluation of HO24:

- **36 Sydney Street should be designated non-contributory;**
- **20 Forrest Street should be excluded from the HO;**
- **The Kororoit Street area of the precinct should be excluded from the HO;**
- **50 Forrest Street should be granted individual heritage designation.**

4.8 HO25 RAILWAY STATION ESTATE – WRIGHT/EDWARDS AREA



Description of precinct

The Heritage Study provides the following description of this precinct:

All the original allotments in this rectangular grid subdivision were 40 foot frontages. Several of the original 'lanes', between the blocks, can still be seen. In some cases, two houses were built on one allotment. The best examples of this re-subdivision process can be seen in the row of 1890s houses in Benjamin Street. This row of five single-fronted detached brick Victorian houses has simple parapet ornament, corrugated iron verandahs and iron lace (some original). This parapeted row house type in the form of detached brick cottages is unique in Sunshine. Six houses were built on three of the original subdivision blocks (two to a block). These blocks were originally 40 foot frontage, with a 120 foot depth. One of the houses (the second from the east end of the group) has subsequently been demolished. The facades have had details altered, some with windows replaced, others having the cast iron ornament removed or altered, probably representing attempts to undo renovations of the mid twentieth century.

At least eleven houses survive from the early 1890s subdivision, including the five single-fronted houses in Benjamin Street (Numbers 25, 29, 31, 33, 35); one single-fronted house in Morris Street (No. 179); the house of Edmund Parsons at 114 Morris Street; houses at 46 Chapman Street; 51 Stanford Street, 77 Couch Street (altered) and 79 Couch Street.

Adjacent areas of early twentieth century development are included in the Heritage Area as they complement the nineteenth century houses.

Most houses built in the McKay period are of timber, with iron roofs. Some houses in the area are said to have been moved here from Ballarat, when H V McKay's workers followed him to Braybrook Junction.

The Heritage Study provides the following Statement of Significance for this precinct:

The Railway Station Estate - Wright & Edwards Heritage Area is of regional historical and architectural significance as a sub-division first developed in the speculative boom of the 1880s. This related to the industrialisation of the area and the creation of a new suburb - the township of Braybrook Junction. The few remaining houses of the early 1890s are amongst the oldest in the district and are a remarkable survival from the era of the 1890s Depression, when many newly-built houses were moved.

The subdivision is significant for its unusual (for the City of Brimbank) late nineteenth century plan with a simple grid of streets, divided into narrow allotments and with rear service laneways. The pattern was unrelieved by any provision for recreation, community facilities or other services. The earliest sold allotments were either intended to be for narrow terrace-type houses, or were subdivided. Allotments first sold in the 1920s were larger, perhaps in response to the impact McKay's subdivisions was having on aspirations of new residents. The houses tend to be simple double fronted plan, asymmetric with a projecting gable, weatherboard clad with corrugated iron roofs.

This subdivision is also significant for its diversity and the range of housing from different periods, especially the years immediately following the establishment of H V McKay's Sunshine Harvester Works at Braybrook Junction. The area provides an interesting comparison with H V McKay's housing estate, since many of his Ballarat workers moved or built homes here in the early years of the 20th century. The neighbourhood's population more than doubled in ten years, with further expansion in the 1920s -30s and during and after World War Two.

There are 180 – 190 properties in this precinct, approximately 60% of which are assessed as contributory to its heritage value.

The study recommends that this precinct be designated as having a regional level of significance.

Nature of submissions

The Panel considered a total of 7 submissions (#'s 4, 6, 53, 81, 92, 115 and 121) in relation to this precinct. The issues raised in submissions can be summarised as follows:

- Research information is inaccurate (since corrected);
- Owner resents intrusion into decision-making on property;
- Buildings are altered from original;
- Further planning control is not necessary; and

-
- 33 Hampshire Road was constructed in 1949 not the 1930's (as indicated in Council research)

Josephine Bonnici appeared before the Panel on behalf of Cemile Acik (Sub 81).

Panel conclusions

The Panel undertook a detailed inspection of this precinct. In relation to the issues raised in submissions, the Panel concluded:

- Issues relating to property values, possible cost of works and personal financial matters are not considered material at his stage of the planning process.
- That alterations were not unduly detrimental, and that alterations did not detract substantially from the overall character of the precinct.
- In respect to 33 Hampshire Road the Panel accepted the later date. Based on stylistic grounds it considers it still contributory to the precinct.

Ms Bonnici's submission requested that 106 Morris Street be designated non-contributory on the grounds that there are non-contributory properties on either side. However, following inspection, the Panel's view is that the building has heritage value and contributes to the precinct, regardless of the status of the neighbouring properties.

The Panel fully supports the Statement of Significance set out in the Heritage Study.

Overall, the Panel believes that the precinct is important for its social history, its town planning interest and its architectural interest.

The Panel concludes that HO25 is consistent with the principles established in the Introduction to this chapter of the report, and should be included in the Brimbank planning scheme.

4.9 HO26 WAR SERVICE HOMES AREA



Description of precinct

The Heritage Study provides the following description of this precinct:

The estate is composed of gabled roof simple Bungalow style weatherboard houses, of a very consistent form, with the majority of the houses still intact, although some with minor alterations. Most are well-preserved with some intrusions (new flats). The houses are formed around an unusual Garden City Movement-inspired Y-shape street pattern, some houses backing onto oblong, five-sided 'Recreation Reserves' as common open spaces, as well as the circle at the intersection of Coolamon and Bazentin Streets.

Apart from the internal commons there are some basalt-pitched drains and a lane, and small grassed reserves at the Kamarooka and Hamel Streets corner. The original plan has 4 small reserves of this type at the angles made by Sydney Street to the Bazentin and Hamel Streets corners. The War Service Homes estate plan is reflected in the larger street pattern, which radiated from the eight-sided Selwyn Park, in a faceted street layout reminiscent of estates on the Mornington Peninsula created around the 1920s by Saxil Tuxen.

The Heritage Study provides the following Statement of Significance for this precinct:

This Albion War Service Homes Estate is historically and architecturally significant to the Melbourne metropolitan area and the City of Brimbank for its combination of a uniform architectural house style (although generally altered in detail) and an uncommon garden city-inspired plan which was atypical for both war service and privately developed estates at that time. This was one of several soldier settlement estates set up in Australia after World War One, possibly one of the earliest. It is of particular interest because of the initiative taken by H V McKay in offering to sell his land to the War Service Homes Commission and as

the first example of Commonwealth intervention in the provision of housing in the Sunshine area.

The simple gabled, weatherboard bungalow style houses are architecturally significant for their consistent form and design details, with characteristic wide eaves, steep pitched roofs and timber details such as eave and verandah brackets. While the houses are clearly designed and built to standard plans, the small variations, orientation to the allotments and subtly varied details indicate the attempts to create variety and avoid monotony in the designs.

The layout of the estate is distinctive and unusual with its small corner and central roundabout reserve, planted with a large palm, and the large reserves enclosed by back fences of the houses in a manner reminiscent of Walter Burley Griffin's pioneering town planning at Eaglemont and Avondale Heights.

There are about 70 properties in this precinct, approximately 80% of which are assessed as contributory to its heritage value.

The study recommends that this precinct be designated as having a regional level of significance.

Nature of submissions

The Panel considered a total of 7 submissions (#'s 3, 14, 82, 93, 99, 108, and 111) in relation to this precinct. None of the submitters appeared at the hearing.

The issues raised in submissions can be summarised as follows:

- Land has been redeveloped into townhouses;
- Buildings identified as non-contributory are included within the precinct;
- Planning controls will hinder efforts to improve the area;
- HO will depress future property values;
- Buildings are altered from original;
- Building is in poor condition; and
- Council should provide financial incentives to owners included in the Heritage Overlay.

Panel conclusions

The Panel undertook a detailed inspection of this precinct. It was unable to view the open spaces enclosed by the housing, but was advised they are generally not in good condition or well used. However, the housing is largely intact and the area reads visually as a precinct.

In relation to the issues raised in submissions, the Panel concluded:

- Issues relating to property values, possible cost of works and personal financial matters are not considered material at his stage of the planning process.

-
- That the place was substantially intact, that alterations were not unduly detrimental, and that alterations did not detract substantially from the overall character of the precinct.
 - Although some properties have been developed out of character with the precinct, the Panel supports inclusion of non-contributory places as a means of controlling future development.
 - The Panel notes that financial or other heritage assistance may encourage conservation of the precinct and may increase community pride in the precinct.

The Panel fully supports the Statement of Significance set out in the Heritage Study. Overall, it considers that the street layout, extant housing and social history of the precinct to contribute to a place of heritage importance to Brimbank. Furthermore, this precinct is largely intact.

The Panel concludes that HO26 is consistent with the principles established in the Introduction to this chapter of the report, and should be included in the Brimbank planning scheme.

5. INDUSTRIAL SITES

5.1 INDUSTRIAL HERITAGE IN BRIMBANK

Brimbank is significant for its industrial heritage. It was a major part of Victoria's most highly industrialised region – Melbourne's western region. The first factory in the Brimbank area was amongst the earliest high explosives factories in the world, and became Australia's leading explosives and chemical factory. Brimbank's agricultural implement factories had a huge impact on farming in Victoria and Australia, especially the Sunshine Harvester Works, once the largest farm implement factory in the southern hemisphere. Now almost nothing remains of this huge complex.

Remnants of Brimbank's former industrial development can be found at Albion with the Darling Flour Mill, the best example of a 20th century flour mill in Victoria, and the ARC and Wunderlich factory representing important contributions to Australia's construction industry. Large scale meat works, metal industries and engineering works are historically important for their role in the growth of Australia's export trade. The Brimbank area was one of Victoria's leading producers of bluestone, its quarries providing stone for local and metropolitan buildings, for roads and railways and for export.

5.2 THE ORICA SITE

The Orica (formerly ICI) site comprises 146.8 hectares of land with approximately 170 buildings of various ages, types and uses. The site has been used for the manufacture and testing of explosives since the 1870s. It therefore contains large areas of buffer land some of which are no longer serve that function, but which contain disused bunkers and magazines which require remediation. In the past the site has been used for the manufacture of fertiliser, acid, nitrocellulose, nitrobenzene and lead.

The Leathercloth factory started in 1928 and was designed for the production of nitrocellulose-coated fabrics, the fore-runner of today's vinyl. The site was chosen to take advantage of nitrocellulose, a product of the ICI explosives plant. The establishment of this plant represented a major investment in the Deer Park area. The factory was more recently used for the manufacture of plastic film.

The sporting ammunition factory dates from the 1930s. This complex includes a rare example of a 1935 shooting range.

Current uses of the site are for the manufacture of detonator caps and a modern chemical plant on the Northern side of the site. The former leathercloth factory was at one time leased to a film company.

5.3 NATURE OF SUBMISSION

A number of issues were raised by Orica regarding the application of a heritage overlay to their site. The issues can be summarised as follows:

1. Panel's need to take into account the competing strategic objectives and the environmental, economic or social consequences of the outcome of the amendment.
2. There had been no assessment of the relevant factors that need to be considered by a planning authority prior to putting forward the site for inclusion in the Heritage Overlay.
3. Ballarat's C58 Panel report is incorrect in stating that heritage significance should be considered separately to these other issues.
4. The level of significance does not warrant the site being included in the Overlay.
5. The level of rigour in the heritage study.
6. The Council had not satisfied the onus it is required to meet to justify the site being included in the Overlay.
7. Lack of a comparative analysis of other explosives and chemical plants on or near the Municipality.
8. Intrusion of a modern chemical plant on the site.
9. The size of the land proposed to be included in the Overlay.
10. Problems associated with contaminated sites, and unsafe and redundant buildings and the clean-up notice issued by the EPA in February 2007.

Orica was represented at the hearing by Chris Wren SC instructed by Meg Lee of Allens Arthur Robinson. Mr Wren called David Bick, architectural historian, as an expert witness.

Issues 1 to 3 above have already been addressed in Chapter 3.1 of this report ('Issues raised in submissions') and will not be further addressed in this chapter. The remaining issues, which relate primarily to heritage significance, are addressed in this chapter.

Mr Bick gave evidence that he had assessed a number of buildings on the site as having sufficient heritage value to merit protection under a heritage overlay. These buildings were:

- *Buildings EG7, EG1 and an area of land to the north of both buildings to Kororoit Creek and otherwise to a radius of 30 metres from the west, south and east sides of the buildings.*
- *(The building identification numbers are Orica's. This report generally refers to these two buildings as 'the 'White House' (EG7) and 'the Nobel building' (EG1).*
- *Buildings PF1, PF2, PF3, Station Road West Substation, VQ5 and S02, the 1929 leathercloth factory and the land between them and Station Road and otherwise to a radius of 20 metres.*
These buildings are generally referred to in this report as 'the Leathercloth factory and associated structures'.

- *From a heritage point of view only, as an example of a quite substantial 1930s factory building in the City, buildings AP1, AP2, AH1, AH2, AV1, AV9, AV2, AH3 and the associated sewerage pump house AN1 and the land within 30 metre radius of all of the above. – Note that Orica opposes Heritage Overlay controls for some or all of these buildings.*

These buildings are generally referred to in this report as ‘the Sporting Ammunition factory and associated structures’.

It should be noted none of the nominated buildings are currently occupied or used by Orica.

5.4 ASSESSMENT CRITERIA AND ISSUES

Assessment criteria

Criteria for assessment

The Panel relied on the Burra Charter and the objectives of the *Planning and Environment Act 1987* as its criteria for inclusion of industrial properties under the Heritage Overlay. Like all properties, industrial places must meet the test of:

..... places which are of *scientific, aesthetic, architectural or historical* interest, or otherwise of special cultural value.

Mr Vines undertook the Heritage study using the methodology outlined in the Burra Charter. Places of heritage significance were identified using the criteria adopted by the Australian Heritage Commission for the Register of the National Estate. Consideration was also given to the criteria used by Heritage Victoria and the National Trust of Australia.

Council assessment

One of the objectives of the proposed Heritage Policy states that:

To ensure that the conservation of heritage places and precincts is based upon a clear understanding of the reasons for their significance

The Policy basis states:

The statement of significance ... describes the history and condition of each heritage place and identifies specific qualities that contribute to the place's heritage significance.

These imply that the heritage study underlying the proposed Heritage Overlay is rigorous, thorough and covers all the heritage sites proposed for inclusion in the Overlay.

The Council's heritage consultants had been unable to gain access to the site since 1999. Mr Vines stated that his last visits to the site were in the period 1980 – 1990. Therefore, during the heritage review process the assessment was confined to the elements visible from public roads, and through using historical documents, plans and photographs and knowledge gained from these early visits. Orica did not

directly refuse access but they also did not facilitate access for the heritage consultants.

Orica did not pass on the assessment of the site by its heritage consultant, Mr Bick, to the Council. This would have helped facilitate an agreed position between Orica and Council on the significance and future management of the site.

As a result, Council took a precautionary approach and applied the HO overlay to the whole site, using the information obtained from earlier site visits and from numerous other sources to justify application of controls pending a more detailed investigation.

Issues with Heritage Overlays for industrial sites

The Panel recognises that there are a number of special issues associated with industrial heritage sites that need to be considered. Issues associated with industrial heritage sites include:

- problems associated with contaminated sites, and unsafe and redundant buildings;
- ‘conservation by use’ as an essential part of heritage conservation;
- evolving industrial processes, and the importance of the evolutionary process to future heritage significance;
- the need for certainty; and
- incorporated plans.

Contaminated sites, and unsafe and redundant buildings

Industrial sites are often highly contaminated, particularly sites which have been operating over a considerable period of time and have involved significant chemical use during that period. Owners have responsibilities under occupational health and safety regulations to provide a safe working environment for their workers. Furthermore, there are rigid requirements under the Environment Protection Act with respect to contaminated land and discharge of contaminants to the air, land or waterways. Contamination issues are an ongoing liability to industrial property owners unless the sites can be cleaned sufficiently to enable the issuing of a certificate of environmental audit. This certificate enables the land to be used for any future beneficial use.

The costs for contaminated land cleanup can be significant - often running into tens of millions of dollars for full cleanups. Furthermore, contamination is often throughout the buildings and the soil, and may extend significant distances from the source of the contamination. This means that often equipment and buildings that are of heritage significance are also contaminated and cannot continue to be used or need to be demolished for health and safety reasons.

In addition to issues associated with contaminated sites, the ongoing and changing nature of industrial processes means that many sites contain redundant, or older and often unsafe buildings. The costs associated with maintaining redundant buildings can have an effect on the viability of some businesses.

Whilst the heritage value of industrial sites needs to be decided without regard to these issues, an industrial heritage policy or incorporated plan (for an individual site)

is required that acknowledges the need to take these issues into account in the process of deciding whether a permit should be issued for demolition of a building, or for alterations that address safety and other operational issues.

Parts of the Orica site proposed for inclusion in the Heritage Overlay are contaminated, or are structurally unsound, or are now redundant to the requirements of the historic industrial use on the site. Council's MSS includes as part of its vision for the municipality:

- expansion of existing industries;
- adoption of best practice community safety and environmentally standards; and
- facilitate the cleanup of contaminated sites and unsightly industrial operations.

On the other hand the MSS also supports protection of valuable remnants of the city's industrial past.

Orica was issued with a Clean Up Notice by the EPA in February 2007. An environmental Order was issued on the areas known as 'Gate 6' and a clean-up plan is to be prepared and implemented. An environmental audit is then required to be undertaken for the balance of the site and a clean-up plan developed. Orica is required under the *Environment Protection Act 1970* to undertake this work. These requirements apply irrespective of whether or not a Heritage Overlay is applied.

Conservation by use

Many industrial sites have gained their importance from the ongoing use that has occurred on that site. If that use should cease, then some of the value of the site would also be lost. Industrial sites rely on more than just architectural importance to demonstrate their heritage significance. The interest of an industrial site may lie in the history of its development, the technical processes used and the evolution of those processes, and the type of buildings used to house the industrial processes. Furthermore, the historic interest of an industrial site may come from the progression of uses that have occurred on the site and the interrelationship with other industries in the immediate area.

The Burra Charter states that use is of value but with industrial sites it often is critical. Interpretation and understanding of an industrial site may also be quite difficult once a significant use has ceased, and the building fabric and equipment no longer exists or is no longer functioning.

For example looking at the Orica site, the Heritage Study Citations state that:

The Deer Park factory complex is of historical significance as the location of the first plant for the manufacture of high explosives in Australia and has been, for its entire history, the most important, if not only, commercial manufacturer of high explosives in Australia.

High explosives are no longer being manufactured on this site; however detonator caps are still be manufactured. This manufacture comprises some newer plant; however a number of the existing magazines are still used.

If Orica were to close their business on this site, then the layout, buffer distances, magazines and bunkers around the magazines would lose some relevance when Orica

vacated the site (unless another explosives manufacturer took over the site) or when the new owner started another industrial use. It can also be assumed that a number of structures on the site would also be removed during this change-over process, particularly once land contamination issues are taken into account.

The Panel takes the view that the best use for industry specific heritage sites is continuance of the industrial use – that is ‘conservation by use’. This implies that certain concessions may need to be made in order to facilitate ongoing industrial use and to take into account the economic realities governing industry in the 21st century. ‘Conservation by use’ is listed in the Victorian Heritage Strategy as a principle to guide and support the direction of the strategy.

Mr Bick in his evidence commented in relation to that site that:

Orica’s Deer Park site is very different to the usual Heritage Overlay/potential Heritage overlay sites in Melbourne where the buildings can be simply preserved under the Overlay controls and either given new uses when they become disuse (most are now disused), or viably preserved in a disused state until a suitable new use is found – this is not possible for a number of the buildings at Deer Park, due to the explosive residues and contamination constraints. Also the purpose-build nature of a number of the structures, particularly the explosive magazines, means that they will never have a viable future use.

However, whilst ‘conservation by use’ can be important to the conservation of the historic interest of a place, the Heritage Overlay has only limited ability to influence this. The overlay is simply a development control that has as an objective to conserve and enhance elements that contribute to the significance of a heritage place. However, an industrial heritage policy can play an important role in ensuring that the conservation objectives of the overlay are balanced, where appropriate, against the objective of ensuring continuation of an historic industrial use.

Evolving Industrial Processes

Industrial processes go through many changes over time. These changes occur as a result of improvements in design, processes, and technology and are driven by economic factors relating to ongoing business viability. From a heritage point of view, it’s often the historic equipment, building design and layout that is of interest as it directly demonstrates the process that has significance. However, for industry to survive in a business world, changes in industrial processes may be required. These changes may involve not only the technology used but changes in the space required. Change may involve substantial shrinking of the space required to undertake industrial processes and this is often reflected in large complexes by a number of redundant buildings.

Change is also part of the evolutionary process of industry and can become part of the future heritage of the site. Thus the changes that occur on a site have potential future heritage value.

The Panel is concerned that the current assessment process tends to focus on the past and does not acknowledge the importance of the evolutionary process to future

heritage significance. In particular it focuses on a particular era (i.e. 1930s) and ignores the changing processes that have occurred since that time.

Following on from the concept of 'conservation by use', the Panel notes that many industrial processes are subject to constant evolution and change. Sometimes the change can be accommodated within the existing building fabric, but in other cases buildings have to be modified or new buildings constructed to accommodate new processes. This evolutionary process can be an important part of the historic interest of an industrial site, and today's buildings, machinery and processes can become tomorrow's heritage.

The Need for Certainty

Operating industries must be able to plan with a degree of certainty. Considerable delays can occur in the process of applying for permits under a Heritage Overlay, particularly where there is no clear policy guidance in relation to the sort of development that may be allowed. Operating industries need to be able to carry out works such as maintenance, critical equipment repairs and updates, compliance with occupational health and safety requirements and EPA clean-up notices without the delays often associated with the permit application process. Clear guidelines are needed in relation to the type of redevelopment that is likely to be favourably considered by the Council, or which could be exempt from the permit process.

Incorporated Plans for industrial sites

Ms Wyatt in her submissions regarding the Orica site advocated the use of an Incorporated Plan as a management tool on working industrial sites. She submitted that:

..Council wishes to work collaboratively with Orica in the future to identify the site's heritage assets and prepare an Incorporated Plan for inclusions in the Brimbank Planning Scheme at a later date.

Mr Wren stated that:

Orica accepts without prejudice to its likely need to apply for demolition permits in the future due to contamination and safety issues, that certain buildings could be included within the Overlay but otherwise objects to the whole of the site being included. The sites it accepts that have some level of heritage significance are those identified by Mr Bick.

Appropriate permit exemptions through use of an Incorporated Plan can provide industries with a greater degree of certainty. The Panel considers that where possible Incorporated Plans that provide appropriate permit exemptions should be included as part of the amendment.

Panel Conclusions on industrial issues

Industrial sites with contamination are not unusual. The application of a Heritage Overlay requires the assessment of the heritage value of the site, not the condition or contamination of the site. Those issues are dealt with through the permit process.

The continuing use of the site by Orica for explosives should be encouraged and the evolving use of the site can also have heritage importance. Heritage significance is not just based on a single period, rather the evolution of the industry over the 132 years of operation.

The Panel has carefully considered the complex range of issues associated with industrial heritage sites and has concluded that, in general, where heritage significance or interest of a site has been clearly established the most appropriate approach is to apply the Heritage Overlay to the whole of the site and to provide permit exemptions in relation to the non-contributory buildings parts by way of an incorporated plan.

However, where the heritage assessment and levels of significance for all the buildings on the site have not been sufficiently established, but the case has been made for some level of significance, then the approach needs to be cautious to ensure that significant fabric is not lost due to a lack of assessment.

The Panel is of the view that the best long term management for an operating industrial site is the preparation of an Incorporated Plan. This would provide certainty regarding what can be undertaken on the site without the need for a planning permit. The inclusion of permit exemptions would avoid the potential for frustrating delays and unreasonable permit requirements.

5.5 HERITAGE SIGNIFICANCE OF ORICA SITE

Taking all the evidence into account and the inspection of the site undertaken by the Panel, the Panel is satisfied that the Orica site has heritage significance. However the detailed analysis that is required to justify application of a Heritage Overlay over the entire site, and the identification of the significant buildings within the complex, has not been undertaken in some areas.

The Panel does not support the Council's position that without the required detailed heritage assessment that the Heritage Overlay should be placed over the entire site. The site is extensive with some areas that clearly have no heritage significance. Other areas are significant and have been supported by the Council, Mr Bick and Orica. There are further areas where the Panel considers insufficient assessment has been undertaken to determine whether heritage controls should be applied.

Process proposed by Orica

Mr Wren on behalf of Orica proposed the following process for assessment and protection of significant elements of the site:

1. The modern chemical factory would be excluded from the Interim HO.
2. The Interim HO would be retained over the remainder of the site.
3. Orica would enter into an s.173 agreement with Council under which all sites would progressively be assessed and recorded.
4. Once the s.173 agreement is signed, the HO would be applied to the sites identified by Mr Bick by way of a separate amendment and without objection

from Orica, and the Interim HO over the remainder of the site would be removed.

5. All other sites would be assessed and recorded, and the documentation provided to Council, in accordance with the s.173 agreement.

Mr Wren submitted that this approach will ensure that a more detailed assessment is undertaken and allow Orica to continue with the environmental audit process required by the EPA. He stated that this process would be preferable to a process leading to an Incorporated Plan.

The Panel was not convinced that this process would lead to a satisfactory outcome in terms of heritage conservation. It would mean that, once recorded, all sites outside the HO areas identified by Mr Bick could be demolished or substantially altered without further consultation with Council.

Process proposed by Panel

Having considered the evidence and the heritage assessments provided to date, the Panel has concluded that the most appropriate approach is to divide the site into precincts and undertake the following process:

1. Apply the Heritage Overlay to the precincts identified by Mr Bick (with minor modifications).
2. Remove the HO from areas with no established heritage interest.
3. Undertake further investigations in the potential precinct where the magazines, bunkers and related infrastructure are located.
4. Prepare Incorporated Plans for all areas nominated for protection under the HO.

The precincts proposed by the Panel are as follows:

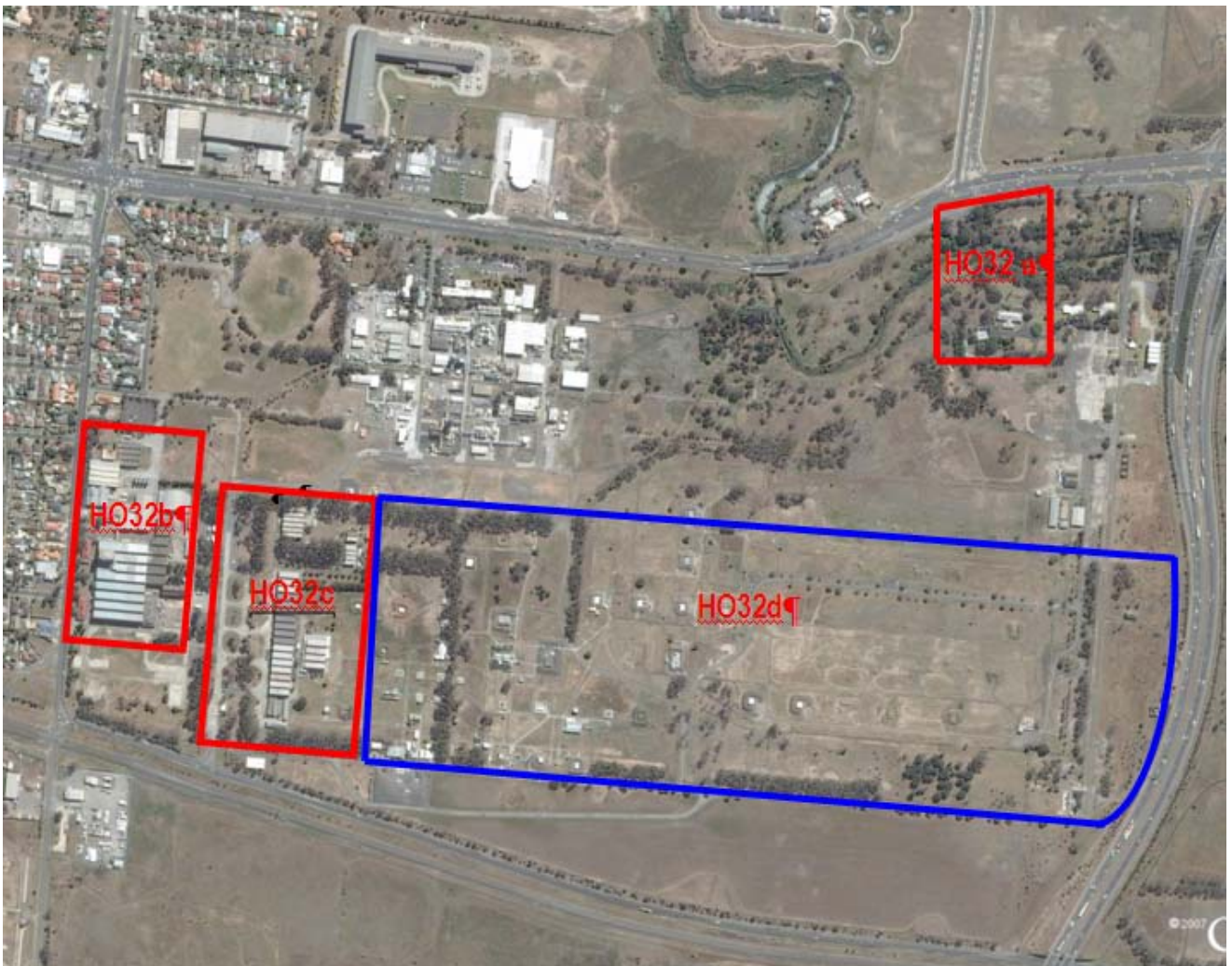
- HO32a The White House, Nobel Building and surrounds.
- HO32b The Leathercloth factory, associated buildings and surrounds.
- HO32c The sporting ammunition factory, associated buildings and surrounds.
- HO32d The area where the remnant and extant magazines, bunkers and associated infrastructure are located.

The balance of the site (including the modern chemical plant and large areas of vacant land) would be removed from heritage controls.

The recommended precincts have been marked on the following aerial photo. The boundaries should not be regarded as definitive at this scale. Precise boundaries should be determined on the basis of detailed site inspections and consultation between Council, Orica and their heritage consultants.

Each of the precincts is discussed in more detail in the section following.

The Panel recommends that the Orica site be redefined as four precincts as illustrated on the following page.



- HO32a** **The White House, Nobel Building and surrounds.**
- HO32b** **The Leathercloth factory, associated buildings and surrounds.**
- HO32c** **The sporting ammunition factory, associated buildings and surrounds.**
- HO32d** **The area where the remnant and extant magazines, bunkers and associated infrastructure are located.**

The Panel also recommends that the balance of the site be removed from heritage controls.

5.6 PROPOSED NEW HERITAGE PRECINCTS

HO32a (White House/Nobel area)

The White House and the Nobel building represent the early period of operation on the site.

The White House, used variously as office, laboratory and manager's residence has important links with significant phases and leading personnel in the factory's history. In its early years (up to the 1920s), it accommodated a resident manager, as essential requirement of such a dangerous industry. The building took on a new role as 'part of factory offices' in 1926-27, after the construction of a new manager's residence in Ballarat Road, and as a laboratory in later years. It is significant as one of the oldest buildings on the site with evidence of its former uses.

The 1930s Nobel office building is representative of the Nobel Company's connection with the site and the size of the company's operation at that time. This retains its outward appearance and some original Art Deco detailing such as the company logo over the entrance doorway and timber and plaster mouldings.

The Panel concluded that the land proposed for HO32a should include a reasonable curtilage of 40 metres around the buildings to the south, west and east and extend to the Western Highway (or to the Creek if, as indicated by Orica during the hearing that it did not own the land the north of the creek). This retains the context of these buildings with the original bridged entrance onto Ballarat Road.

During the site visit, the Panel was impressed by quality and intactness of the interior of the Nobel building, and recommends in Chapter 8.2 that the interior be assessed for heritage controls. It was also disappointed to see that significant water damage has recently occurred towards the rear of the building. However, the damage would be easily rectified through roof repairs and removal of areas of wet carpet. The Panel recommends that Orica address this issue as a matter of urgency.

Panel conclusion

The Panel concludes that the proposed precinct HO32a has sufficient heritage value to justify heritage controls. The White House is the oldest building on the site and still shows signs of its various uses throughout its history as a residence, laboratory and office; and the Nobel building is important for its architectural style and its representation of the size of the operation during the period when the Nobel Company was operating.

Recommendation

The Panel recommends that a new heritage precinct (HO32a or other number) be established covering the White House, Nobel building and surrounds up to the property boundary on the north and including a 40m curtilage to the east, south and west.

The Panel recommends that the Schedule to the Heritage Overlay identify the White House and Nobel building as the significant elements of the site.

The Panel recommends that an Incorporated Plan be prepared for the precinct.

The Panel recommends that Orica undertake urgent repairs to prevent further water damage to the interior of the Nobel building.

HO32b (Leathercloth Factory area)

The Leathercloth Factory is significant for its capacity to convey information about the history of industry and manufacturing in Melbourne. Some of the buildings are significant for their architectural significance for their unusual detailing while others are significant for their stylistically consistent forms that create a cohesive industrial precinct. The Heritage Study states:

The Leathercloth Factory is of significance for its architectural and technical values. The Leathercloth Factory was influential in the development of synthetic materials for the motor industry including vinyl seat fabrics and hoods, and has continued to play an important role in synthetic fabrics. The Leathercloth factory was a pioneering enterprise in Australia. No other comparable buildings relate to the same industry from this period survives in the State. Activities in other buildings within the ICI complex at Deer Park produced some of the raw materials used in the Leathercloth production.

The Panel agrees with much of Mr Bick's assessment of the Leathercloth factory, including his view that a number of buildings were included in the proposed Heritage Overlay that had no heritage significance. Nothing remains to demonstrate the manufacture of leathercloth and most of the buildings are standard buildings designed to house machinery rather than being specifically designed to suit a particular production process. Mr Bick stated that:

The old Leathercloth Factory has quite considerable local historical and social significance in the context of Deer Park as it was the/a major employer between 1929 and circa 1950.

Mr Bick in his expert evidence stated:

Building PF1, the former leathercloth factory and PF2 and PF3, the two office buildings in front of it, comprise an example of a quite substantial, circa 1930, ... industrial complex originally constructed in a basically rural location ... that has rarity value in the context of Deer Park and the Municipality.

A small amount of decorative brickwork exists on the front façade of the factory. The two office buildings to the west are distinctive with elaborate roof vents and cast iron verandah columns. The station Road West substation was not considered to be of primary significance. VQ5 was circa 1942-46 built for plastics manufacture period and not of primary significance. Mr Bick had thought that SO2 was a boiler house but the interior remanent features do not support this. However it is a substantial early building of heritage significance.

Having reviewed the heritage assessments and inspected the site, the Panel came to the view that the significant buildings in this precinct are:

- PF1 the 1929 Leathercloth factory;
- PF2 office building to west of factory;
- PF3 office building to west of factory;
- VQ5 office building to north of factory;
- SO2 a substantial building to east of factory (formerly identified as a boiler house);
- P4 a small building to east of factory.

The boundaries of HO32b were set to include the complex and in particular the buildings of significance, and to provide a reasonable curtilage (e.g. 20 metres) around them to retain a context for the site.

Panel conclusion

The Panel concludes that the proposed precinct HO32b has sufficient heritage value to justify heritage controls. The Leathercloth factory has historic and architectural significance as a pioneering enterprise in Australia and a logical extension for ICI to expand its production at Deer Park. The range of buildings directly associated with the operation of the factory is also of significance and form an important industrial complex.

The more recent buildings from the plastic film manufacturing era have no heritage value.

Recommendation

The Panel recommends that a new heritage precinct (HO32b or other number) be established covering the Leathercloth factory and associated buildings and surrounds up to the property boundary on the west and including a reasonable curtilage to retain the context of the buildings.

The Panel recommends that the Schedule to the Heritage Overlay identify buildings PF1, PF2, PF3 VQ5, SO2 and P4.

The Panel recommends that an Incorporated Plan be prepared for the precinct.

HO32c (Sporting Ammunition Factory area)

The sporting ammunition factory represents another phase in manufacture at the site.

As ICI was formed from the Nobel Dynamite Trust in 1928, it also absorbed a number of other munitions works. Major expansions occurred at the plant during the two world wars. Many of the surviving buildings on the site were constructed between 1935 and 1945.

The buildings of significance identified by Mr Bick are:

- AP1 Sporting ammunition factory: shells manufacture 1935-6;

- AP2 Sporting ammunition factory: cartridge manufacture, complete shells, 1935-6;
- AH1 Original office building 1935-6; and
- AH2 Original office building 1935-6.

Following the inspection of the site the Panel concluded that the shooting range AK2 was a rare or unique example of such a structure from the mid 1930s. The lead contamination does not affect the heritage significance and therefore it was to be included as a significant structure.

Panel conclusion

The Panel concludes that the proposed precinct HO32c has sufficient heritage value to justify heritage controls. This precinct demonstrates the manufacture of sporting ammunition with a range of 1930 manufacturing buildings including the rare example of a shooting range. The office buildings provide architectural interest, as does the design of their landscaped setting including the front circular garden beds.

Recommendation

The Panel recommends that a new heritage precinct (HO32c or other number) be established covering the Sporting Ammunition factory and associated buildings and surrounds up to the roadway on the west and including a reasonable curtilage to retain the context of the buildings.

The Panel recommends that the Schedule to the Heritage Overlay identify buildings AP1, AP2, AH1, AH2 and AK2 as the significant elements of the site.

The Panel recommends that an Incorporated Plan be prepared for the precinct.

HO32d (Magazine area)

This is a large area containing dispersed groups of remnant and extant magazines, tramways, bunkers, explosive production buildings, associated transport infrastructure (rail tracks and sidings) and roadways. It is likely that, following the detailed assessment, the total area recommended for heritage protection would be significantly reduced.

During the inspection the Panel noted that there are significant groupings of similarly styled magazines and bunkers. The Panel also recognises that the functions of the structures in this area are closely linked to either the Sporting Ammunition Factory complex to the west or the older high explosives factory (now demolished) to the north-east. However, the Panel does not believe that separating them into their own precinct will prevent those links from being recognised and valued.

The Panel agreed with the Council's position that a full heritage assessment is required to assess the heritage significance, specify the significant sites, propose a revised Heritage Overlay and inform the development of an Incorporated Plan.

The Panel concludes that the evolution of explosives manufacture was important and that a range of both age and type of the structures demonstrate that evolution. The spacing between the structures is also of importance as it demonstrated the dangerous

nature of the processes being undertaken on the site. This further detailed work would then enable the identification of suitable structures to be included in the final heritage overlay for this section of the site.

The elements of the site of heritage interest include the bunkers and magazines (either singly or preferably in groups), production buildings, portable magazines, railway links and sidings and treed avenues. The links with other Heritage precincts on the Orica site will be an important part of the assessment. The analysis of this area must also be undertaken in the context of its use.

Panel conclusion

The Panel concludes that the proposed precinct HO32d has sufficient potential heritage value to justify further assessment.

This precinct clearly demonstrates the dangerous nature of explosives manufacture by the design and spacing of the magazines. The layout and design have the capacity to convey information about the manufacturing processes specific to explosives and ammunitions manufacture at that time. They are distinctive earth or solid sand wall enclosed buildings of various designs that changed over time with the earliest surviving magazine dating from the 1930s. The remanent tramway network served the magazines using battery powered engines.

Recommendation

The Panel recommends that a detailed heritage assessment of precinct (HO32d or other number) be undertaken. The assessment should include the following aspects of the precinct:

- **The evolution of explosives and ammunition manufacture at the site;**
- **The changes in design and operation of the magazines. A selection of magazines should be identified to show the evolution of the manufacturing processes;**
- **The significance of the remnant tramway system;**
- **The significance of the road networks (especially those planted as avenues).**

The Panel recommends that the boundaries of the precinct be reviewed once the significant areas of the site have been identified.

The Panel recommends that Schedule to the Heritage Overlay clearly identify the significant elements of the site.

The Panel recommends that an Incorporated Plan be prepared for the precinct.

5.7 OVERALL CONCLUSIONS

Orica (formerly ICI) site contains approximately 170 buildings of various ages, types and uses. The site has been used for the manufacture and testing of explosives since the 1870s. It therefore contains large areas of buffer land some of which are no longer used, but which contain disused bunkers and magazines. The site also includes the leathercloth factory and the sporting ammunitions factory. A number of the buildings in these two complexes demonstrate architectural values as well as

technical and historical value. This site has played an important role in Australia's industry history and has the capacity to convey information about past industrial processes.

The Panel has concluded that the Statement of Significance for the Orica site demonstrates the overall importance of the site as one of the largest explosives, chemical and plastic manufacturers in Australia. However, it is based on documentary evidence rather than detailed on-site assessment. Mr Bick's report (obtained after exhibition of the amendment) adds significantly to knowledge of the site's built fabric. Further examination of precinct HO32d will further complement this body of knowledge. It is clear that when the investigation of this precinct has been completed, there will be a need for substantial revision of the Statement of Significance.

Recommendation

The Panel recommends that, following completion of the further investigations recommended in this report, the Statement of Significance for the Orica site be substantially revised with the purpose of:

- **Providing an overview of the whole site, its history and heritage value;**
- **Providing a separate Statement of Significance for each of the four precincts, including their individual history and the elements within them that demonstrate heritage significance;**
- **Identifying the historic and functional links between the precincts;**
- **Correcting inaccuracies and inconsistencies in the text.**

The Panel acknowledges that due to the dangerous nature of the explosives, ammunitions and chemical industry carried out on this site, it is unlikely to be open to the public in the foreseeable future. Due to its size, only structures close to the boundaries can be observed by members of the public. This however, and the contamination issues on the site, do not diminish heritage value of the complex.

The Panel strongly encourages Orica to work collaboratively with Council and its consultants to:

- facilitate access to the site when reasonably requested;
- resolve the final boundaries of precincts 32a, 32b and 32c;
- facilitate completion of a detailed assessment of precinct 32d and the resolution of elements of the area meriting heritage protection;
- facilitate preparation of Incorporated Plans for all four precincts.

The outcome of the collaborative process should be positive for Orica, in that it will result in both the protection of important heritage assets closely identified with the company's history over more than a century and certainty for the company in planning the future redevelopment of the site.

6. INDIVIDUAL SITES OR BUILDINGS

There were 95 individual heritage sites or buildings exhibited in Amendment C84. These sites fall into a range of categories, including:

- Water infrastructure (fords and weirs);
- Railway infrastructure (station, substation, embankment, signal box, bridges, culverts);
- Community infrastructure (markets, community halls, fire station, schools, parks and reserves, memorials, churches);
- Farm infrastructure (homesteads, farm buildings, dairy, market gardens, remnants of early farm settlement);
- Commercial infrastructure (shops, bank, hotels, picture theatre, office and administration buildings);
- Individual houses, including several that had been owned/occupied by members of H V McKay's family.

As discussed in Chapter 3, a total of 41 submissions were received in relation to individual heritage sites. This Chapter of the report discusses these submissions.

6.1 SUBMISSIONS MADE AT HEARING

Six submitters made representations to the Panel at the hearing regarding the following individual sites.

HO86 Opie's dairy

SUBMISSION NO: 36
SUBMITTER M. ZERAFA
ADDRESS 2 EGAN STREET DEER PARK



Description (as in Heritage Study)

Opie's dairy was originally part of a farm and homestead complex set in an isolated location about a kilometre from the village of Kororoit Creek (Deer Park) which was centred on the Ballarat Road – Station Road intersection. Now located within a subdivision (originally 1930s but not built until recently) on the north west of the corner Egan Street and Lake Boga Street. Until a recent subdivision and unit development, the remnant farm extended through to Kunat Street. Some stone walling remains. The surviving historical structures include the much modified bluestone homestead, which, although it retains some of the random coursed bluestone walls, has been re-roofed, fitted with new windows and door frames, and probably extensively altered inside. Along the north side of Egan Street runs the random-coursed, bluestone, former milking shed and dairy with hipped roof clad in corrugated iron. Stone work, (although patched in cement) was constructed in mud mortar. Some remnants of dry stone walls survive, along with weather board outbuildings. Remnants of the garden include Maritime pines, peppercorn tree and oleander C. 1870.

Statement of Significance

Opie's dairy is of local historical and social significance as a rare surviving remnant of the nineteenth century rural agricultural

development that was centred around the old village of Kororoit Creek (Deer Park). The mud-mortared bluestone and timber structures demonstrate the vernacular architecture of the period. Remnant landscape elements, such as the peppercorn trees, contribute to the rural atmosphere of the site, surrounded as it is by suburban development.

Basis of submission

Mr Zerafa's submission was that the HO should not be applied on the grounds that:

- The original bluestone building is in a dangerous state due to cracking
- The timber addition is not original and is rotting
- The roots of the peppercorn tree are affecting the stability of the building
- The bluestone building has been altered (new window)
- The fireplace is not part of the original structure.

Mr Zerafa's submission states that he intends to apply for a demolition permit. He was represented at the hearing by his son Greg Zerafa.

Discussion

The Panel inspected this site on 25 July 2007 from outside the property. It was quite surprising to find this remnant of farming activity in the middle of a fully developed subdivision. It was clear to the Panel that the bluestone dairy and adjacent peppercorn tree are obvious physical representations of the history of the area.

The HO covers the whole of the site (2-4 Egan Street), including the original bluestone house and the dairy. The site is quite large and the original bluestone dairy is located close to the southern boundary. The western half of the site is vacant. The dairy has a later timber addition, which does not appear to have heritage value. The Panel agrees with the assessment in the heritage study that the bluestone homestead is 'much modified' and believes it would not warrant inclusion in the HO in its own right.

While the dairy building is not in good condition, the Panel was unable to agree with the submission that it is 'unsafe'. Indeed, the safety risks on the site appeared to arise more from the amount of debris evident around the dairy building.

Panel conclusion

The Panel concludes that the original dairy building and associated peppercorn tree have sufficient heritage value to justify application of the HO. However, the same could not be said for the remainder of the site or the other structures on it. The Panel believes that a satisfactory outcome would be for the HO area to be reduced to include only the original bluestone dairy and peppercorn tree together with a 5 metre curtilage to retain some of the context. The Panel notes that a similar solution has been applied to other heritage places in the municipality (eg. HO64 'Hazelwood').

Recommendation:

The Panel recommends that the area of HO86 be reduced to include only the bluestone dairy and peppercorn tree and a 5 metre curtilage.

HO27 Former Keilor Police Station

SUBMISSION NO. 52
SUBMITTER ALEXANDRA BETTS
ADDRESS 779 OLD CALDER HIGHWAY KEILOR

**Description (as in Heritage Study)**

Double-gabled bluestone former police station now converted to a private residence with a large rear extension. The building is obscured behind a high fence and mature garden planting. The police station has a slate roof with a Victorian style metal-roofed verandah on timber posts. The two storey brick and timber building connected to the bluestone building at the rear is a modern addition which is not of heritage fabric. The former police station is located on the main Bendigo Road in the Keilor Village and next to the former courthouse. 1863

Statement of Significance

The former Keilor police station is of State historical significance for its associations with the establishment of government and law on the developing colonial roads as a direct consequence of the Victorian gold rushes. The building is of architectural significance as a representative building of its type, reflecting the standards of workmanship and vernacular construction techniques using the local bluestone.

Basis of submission

Ms Betts made a submission at the hearing detailing her correspondence to Council regarding inaccuracies in the Statement of Significance and Description of the property. While these matters have largely been resolved, Ms Betts raised three further requests:

1. That her property be exempt from the general policy provisions related to front fences.

The proposed Heritage Policy states that new front fences should not obscure views of the heritage place. Ms Betts stated that her property's high front fence had been in place for some 20 years and that it was necessary to provide privacy, reduce traffic noise and pollution, prevent trespass and littering, and disturbance from users of nearby community facilities. She stated that the fence '*provides the owners their right to quiet, private enjoyment of their property*'.

2. That the recommendation that the property be nominated to the Victorian Heritage Register and the Register of the National Estate be deleted from the citation.

Ms Betts stated that Heritage Victoria had refused a nomination for registration of the property in 2001, and there seemed little point in nominating it again. Ms Betts provided copies of the relevant documents from Heritage Victoria.

3. That the recommended level of significance be amended from State to Local.

Ms Betts submitted that the citation should be amended to be consistent with Heritage Victoria's assessment that the property has significance at a local level.

Discussion

The Panel inspected this site on 10 July and 25 July from outside the property.

The existing front fence appears to be a lightweight structure completely covered with creeper. There was no evidence provided to the Panel on what form the original fence (if any) might have taken.

In response to the concerns raised by Ms Betts about the future of fence and its ultimate replacement, Council stated that the existing fence could be repaired and maintained at its current height without a permit, and that the other matters raised by Ms Betts as justifying a higher fence would be addressed if a permit for a new fence was sought in future.

The Panel agrees with Council's submission on this issue. It also notes that a process under which specific properties could be exempt from specific policies would quickly become unworkable, and does not believe it would be appropriate to create such a precedent. Furthermore, it needs to be understood that a local planning policy provides guidance but does not take away Council's ability to use its discretion in individual cases where it is supported by particular circumstances.

In view of Heritage Victoria's 2001 decision, it is not clear to the Panel why the recommendation for nomination to the Victorian Heritage Register remains in the citation.

While the Panel accepts that there can be legitimate differences of opinion among experts as the appropriate level of significance of a heritage place, the Panel was not persuaded by the evidence that the Heritage Study's assessment of this property as having State significance should stand.

Panel conclusion

For the reasons set out above, the Panel does not support Ms Betts' submission requesting an exemption from the policy for front fences.

However, the Panel agrees that the Study's recommendation for nomination to the Victorian Heritage Register should be deleted, and that the level of significance should be amended from State to Local significance in the citation.

Recommendation

The Panel recommends that the citation for HO27 be amended to:

- **Delete the recommendation for nomination to the Victorian Heritage Register**
- **Change the level of significance from State to Local.**

HO77 Former Stuart McKay house

SUBMISSION NO: 54
SUBMITTER: SUNSHINE CITY CLUB
ADDRESS: 2 TALMAGE STREET ALBION



Description (as in Heritage Study)

Two-storey Georgian revival weatherboard, once the home of Stuart McKay, son of Sam McKay, and nephew of H V McKay Planting includes Kurrajong (2); Monterey cypress; silky oak; Italian cypress (4); Schinus molle var. areira and Grevillea robusta. The fine wrought iron gates and fence date from c.1930s. A large carpark has replaced the other garden areas. C 1937.

Statement of Significance

This is the last surviving McKay house in Talmage Street, associated with a later generation of McKays who were active in the area in the 1930s. The house is significant as the home of Stuart McKay, who played a prominent role in the McKay firm's overseas business affairs, notably in England during the Second World War. It is very different in style to other houses in the Sunshine area up to that time.

Basis of submission

The Sunshine City Club was represented at the hearing by George Bryce and Barry Warburton. The Club's submission was made on the basis that:

- The building is 'most likely at the end of its economic life' (as concluded in a Structural Condition Report prepared on behalf of the Club by Alasdair Macleod (architect) of BSS Design Group);

- The Club's 2007 to 2012 Business Plan assumes demolition of the building to accommodate expanded facilities.

The Panel ascertained that the Club was established in 1956 as a private club by a group of local businessmen, and now has a membership of about 360. In 1981 the Club purchased the site of the Stuart McKay house as an extension of its adjoining premises. The house was refurbished for residential use in 1998, but has been vacant since 2003. The overall site contains a clubhouse, bowling greens, function rooms, members' amenities and administration offices.

The Club's plans for expansion of its facilities (including extension of the second green) would involve demolition of the Stuart McKay house, which is the only structure on the site with heritage value.

The submission did not dispute the heritage assessment of the site.

Discussion

Council called its Heritage Adviser, Michael Taylor, to give evidence in relation to the site. Mr Taylor's evidence supported, and expanded on, the evidence given by Mr Vines. Mr Taylor described the building as follows:

The former dwelling is a two storey timber framed and weatherboard dwelling with terracotta tile roof. The building designed in a Carpenter Georgian style, nostalgic of East Coast USA vernacular idioms of architecture, characterised by its forthright form and volume in a two tone monochrome colour scheme, use of vernacular building practices and building elements such as timber window shutters. The building has a symmetrically arranged front facade of central entry with gable roofed porch and central octagonal upper window as the only decorative counterpoint on this prim architectural composition.

The Panel inspected this site on 10 July 2007. It was most disappointing to find this building in an almost derelict state and many of the trees removed. The building has been subject to repeated vandalism, and despite requests from the Council, the owners had not seen fit to secure the building adequately to prevent further damage. The Panel inspected the site again on 24 August 2007 and was pleased to note that the building appeared to have been secured.

The Panel notes that the building is subject to the Interim Heritage controls applied as Amendment C85 (including tree controls) and that the owners have an obligation to protect both the structure and the trees nominated as significant. This obligation has not been fulfilled.

While Mr Macleod (the author of the Structural Condition Report) was not available for questioning at the hearing, the Panel has read his report and Council commented on it at the hearing. The report describes the following as '*fundamental problems from a structural perspective*':

- Need for major levelling and restumping;
- Need to reduce perimeter ground levels to prevent future sub-floor ponding;
- Need to remove asbestos sheeting in laundry, WC and rear entrance.

The report also list a number of specific defects such as broken windows, rotting window frames, leaking roof and gutters, rotting/missing weatherboards, etc.

Council commented that *'the repair works listed by the submitter are part of routine building maintenance and do not condemn the building'*.

Council's expert witness Mr Taylor also offered his opinion potential for repairs:

Whilst the building appears to be in neglected condition it is believed able to be readily conserved and upgraded using easily available trades and materials.

The Club did not dispute the heritage assessment of the building, apart from an unsubstantiated claim made at the hearing that it was owned and/or built by Kinder Smith, not by Stuart McKay. However, the Panel accepts the evidence of Mr Vines that Council rate records show the house was built by McKay in 1937-38.

Panel conclusion

The Panel concludes that, in view of its historic association with the McKay family and its unusual and very attractive architecture, the application of the heritage overlay over this building is fully justified. The Panel notes that the homes of H V McKay and his brother George were also located in Talmage Street but have both been demolished.

The area of the site proposed for inclusion in the HO are the house itself and the area up to the street frontage, with the objective of retaining views to the house from the street. The Panel agrees that retention of views from the street is an essential component of the HO.

The Panel also concludes that, although the building is in poor condition as a result of sustained neglect and vandalism, it remains largely intact and is not beyond reasonable repair. There are many examples of much older timber buildings retaining their viability with appropriate maintenance.

The position of house on the site should not compromise redevelopment of the site as proposed by the Club. For example, if the later rear additions were demolished, there appears to be sufficient space for the small bowling green behind the house to be extended to a full size green. There is also ample scope for the house to be renovated and adapted for one or more of the new facilities proposed by the Club (office administration and/or change rooms).

It is unfortunate that the Club appears to view the house as a liability rather than as an asset valued by the community.

Recommendation

The Panel recommends that Council encourage the Club to work collaboratively with Council and its Heritage Adviser in the development of a plan that achieves the Club's objectives for expansion while preserving the integrity of this important heritage place.

HO99 St Alban's Uniting Church

SUBMISSION NO. 65
 SUBMITTER UNITING CHURCH IN AUSTRALIA
 ADDRESS 24-26 EAST ESPLANADE ST ALBANS



Description (as in Heritage Study)

An unusual spired and towered timber church with pointed side windows, obscured glazing, boarded entry doors. There are several rear additions, some of which are unrelated. The distinctive feature is the timber spire with pointed arches. Adjacent is a brick manse of relatively recent origin. It is sited on a radial street facing a minor reserve with play equipment and native planting. A later and unrelated brick residence is to the north and a brick toilet block added to the rear of the church yard. There is an added, unusual, 1950s wrought-iron balustrade on the porch. A bell is bracketed to the side of the porch. C. 1912.

The church itself has a rectangular plan and form, timber frame, timber weather board cladding externally and a corrugated iron clad gable roof and pointed arch tinted glass windows as a clue to its ecclesiastical use. A small gable roofed entry porch or narthex is located at the church's street frontage. The building is distinguished by an unusual and naive pressed metal spire mounted on a timber tower, this is a rare element on what a typically humble and utilitarian building type.

Statement of Significance

The St. Albans Presbyterian is of local historical and architectural significance as an unusual early timber church which reflects the origins of St Albans as a turn-of-the century suburban development. The scale, shape, form and construction of the church is typical of many churches and halls found in small communities throughout the State. The church's

distinguishing feature is the steeple, an unusual and rarely found element on this utilitarian and modest building type. It is also of social significance for its association with the Presbyterian community of the then predominantly Anglo-Celtic farming community.

Basis of submission

The written submission was prepared on behalf of the Uniting Church in Australia by Roz Hansen of Hansen Partnership. The submission included an assessment of the site against the criteria established in the *VPP Practice Note for the Heritage Overlay*, concluding that the building did not satisfy the criteria and should not be subject to heritage controls.

The Church was represented at the hearing by Sandra Rigo of Hansen Partnership. The basis of the submission was consistent with the written submission but added that *'if the Panel deems the church to be of heritage significance, the HO should be limited to the church building itself and its immediate environs'* rather than cover the whole site.

Ms Rigo called Bryce Raworth as an expert witness. Mr Raworth gave his opinion that the church *'is of local historic significance sufficient to warrant listing under the heritage overlay, although not necessarily of significance sufficient to warrant a requirement for full or partial retention in the face of a future application for development of land with another church'*. Mr Raworth also proposed that the other buildings on the land should be *'explicitly excluded from the extent of the heritage overlay'*.

Three options for limiting the impact of the overlay were proposed by the Church, in order of preference:

1. Vary the area of the HO
2. Specify in the Schedule that only the church building is significant
3. Introduce an Incorporated Plan for the site.

Discussion

Council called its Heritage Adviser, Michael Taylor, to give evidence in relation to the site. Mr Taylor's evidence supported, and expanded on, the evidence given by Mr Vines. Mr Taylor's report concluded as follows:

The St Albans Uniting church is significant to Brimbank City as an early building in St Albans and one located in an important position within the planned suburb of St Albans.

It is important as an unusual example of a common building type, distinguished by its church spire, a rare element on this humble and utilitarian building type. The spire itself is of interest for its inventive and resourceful use of pressed metal sheet which provides a decorous external cladding.

In summary, all three heritage experts (Gary Vines, Michael Taylor and Bryce Raworth) agreed that the 1912 church building has sufficient heritage significance to justify its protection under the Heritage Overlay.

The remaining issue concerned whether the whole site should be included in the HO. The Church expressed concern that the redevelopment of other parts of the site could be compromised if the whole site is included. Alternatively it was proposed that either the Schedule could specify the original church building as the sole significant element of the site, or an Incorporated Plan could be prepared to achieve the same purpose. Council expressed the view that it would be preferable to retain the HO over the whole site to ensure that any new buildings on the site are respectful of the heritage structure.

Panel conclusion

The Panel inspected this site on 10 July 2007 from outside the property. The church is on a prominent site and is in good condition. The architecture, though simple, is an attractive example of this type of building, and the unusual spire adds significantly to its overall presence. The Panel is satisfied that the church building has sufficient heritage value to justify its inclusion in the HO.

In relation to the question of HO coverage of the whole site, the Panel supports the view expressed by Council that this is the best mechanism for protecting the building's significance by having some control over any new structures on the site. The role of the HO is to 'protect and enhance', and this can be undermined if unsympathetic development is able to occur adjacent to, or behind, the original structure.

However, the Panel agrees that the Schedule should clearly specify that the significant element of the site is the church itself, providing certainty for the Church in any application for demolition of other structures on the site.

Recommendation

The Panel recommends that the HO Schedule be amended to specify the original church building as the only heritage element of HO99.

HO67 Robinson house**SUBMISSION NO. 72****SUBMITTER PHILIP DAVIS****ADDRESS 33 SUN CRESCENT SUNSHINE****Description in Heritage Study**

This is a large brick house on the south-west corner of Watt Street, featuring steeply-pitched roof and panelled gables. It retains original landscape details including the fence, entry gates and garden remnants. A notable brick garage faces Watt Street. The garden is complementary, with its gates and pillars while key plantings include loquat, pittosporum, ash, wisteria, plumbago, prunus, purple leaf plum, Acer saccharinum, cotoneaster, and other plants all typical of the 1920s period. Much of the garden is currently overgrown. C 1923.

Statement of Significance

Of historical and architectural significance at the Metropolitan level as the former home of the locally influential architect, J Raymond Robinson, who did extensive work in the Sunshine area including domestic, commercial and civic projects, many of which were associated with H V McKay's Sunshine Harvester Works. Robinson may well have been employed by the Sunshine Harvester Works company for some years. The house is architecturally important as an example of the large inter-war domestic buildings of some visual prominence, related to McKay management and staff and in a generally cohesive style.

Basis of submission

Mr Davis made a detailed submission to the Panel at the hearing. Mr Davis explained that his family had owned the house since 1966, and that he had planned to renovate the house since he inherited it in 1995. Many of the concerns expressed by Mr Davis were based on a misunderstanding of the restrictions imposed by the HO.

Mr Davis also argued that much of Brimbank's heritage has been destroyed and that it is unfair to impose restrictions on the owners of surviving sites.

In relation to the heritage value of the house, Mr Davis submitted the following comments:

As a response to the criteria for selection of heritage areas

1. *33 Sun Crescent is not a building which has any cultural significance or particular relationship to any other building in the heritage area.*
2. *It is on a busy corner opposite a supermarket and does not have a relatively intact or cohesive landscape. In other words the area looks like a slum. The area does not give the appearance of creation of a precinct of historic or architectural integrity. Perhaps there used to be, but with so many sites demolished to make way for development the area looks like a ghetto.*
3. *Is not a building which contributes to the historic or architectural significance of the area.*
4. *33 Sun Crescent does not reflect any historic theme, nor has any historic association to any other works or contributes any social value.*

Some of these arguments relate to the site's inclusion in a heritage precinct in the exhibited version of Amendment C84, although the site was individually listed as a heritage place within the precinct. Following changes made by the Council on 13 March 2007, the surrounding area has been removed from the precinct, but the individual listing of the site remains.

Mr Davis also detailed problems with the structural condition of the house.

Discussion

The Panel inspected this site on 25 July 2007 from outside the property. The house stands on a substantial corner block from which most of the vegetation has been removed. There was evidence of the commencement of some renovation work, although it appeared not to have been undertaken recently.

The site is in a Residential 1 Zone and has residential properties adjoining its western and southern boundaries. The opposite side of Sun Crescent is a Business 1 Zone, with uses in the immediate area include a supermarket and a large second hand goods store. Although there is some loss of the original residential context, both the building and its history are unaffected by these changes, and the heritage value of the property is not diminished.

The Panel explained to Mr Davis that the heritage controls proposed in the Amendment are the least onerous of those available, with no external paint controls and no internal alterations controls or tree controls. Although a planning permit will be required, the heritage listing should not affect the planned renovations.

Mr Davis also expressed interest in subdividing the property for a dual occupancy. This would require a planning permit, but as the corner site is substantial and the house would be retained in the front portion of the site, it is likely that Council would consider such an application favourably. However, it would be preferable to retain the HO over the whole site to ensure that any new building on the site is respectful of the heritage structure.

The Panel notes that the description in the Heritage Study mentions that ‘a *notable brick garage faces Watt Street*’ but it is not cited in the Statement of Significance. The Panel believes that the garage, which does not appear to have been built at the same time as the house, should not be affected by the heritage controls. This could be achieved if the Schedule specifies that the only significant element of the site is the house.

The condition of the building and the personal circumstances of the owner are matters that should be taken into account at the permit application stage, as set out in Chapter 3.3 of this report.

Panel conclusion

The Panel accepts the Statement of Significance for this site, and agrees that the building has sufficient heritage value to warrant its inclusion as an individual site in the HO. The Schedule should specify the house as the only significant heritage element on the site. The Statement of Significance and Description of the site need to be amended to remove references to specific vegetation as it no longer exists.

Recommendation

The Panel recommends that:

- **The Schedule be amended to specify the house as the only heritage element of HO67.**
- **The Statement of Significance and Description of HO67 be amended to remove references to vegetation.**

HO76 Cameron house and dairy

SUBMISSION NO 100
SUBMITTER R. D. CAMERON
ADDRESS 49 SYDNEY STREET SUNSHINE

**Description (as in Heritage Study)**

Part of H V McKay's Sunshine Estate. The Cameron House is a typical symmetric hipped roof Edwardian, with iron verandah. A dairy is thought to be at the rear. C.1910.

Statement of Significance

The Cameron house and outbuilding are historically significant, since they are amongst the oldest surviving farm buildings in the Sunshine area. Cameron's dairy farm, being on land rented from H V McKay, became progressively smaller as the surrounding land was sub-divided, but continued to supply milk to local people for some decades.

Basis of submission

Mr Cameron made a succinct submission seeking removal of references to 'outbuildings' as significant elements of the site. He explained that the original dairy is now part of an adjoining lot, and that the small outbuilding within the HO76 site was built in the 1930's a retail outlet for the dairy.

Mr Cameron supported his submission with aerial photographs showing that the outbuilding was not one of the original farm structures.

Discussion

The Panel inspected this site on 25 July 2007 from outside the property. The original dairy is a large structure visible at the rear of the adjoining lot, and is not subject to any heritage controls.

The small retail outlet was clearly constructed at a later date than both the house and dairy building, and does not appear to have significant heritage value in its own right,

especially as the dairy, which could be seen as an associated use, has been excluded from the HO.

Mr Vines accepted the photographic evidence that the outbuilding was not one of the original farm buildings.

Panel conclusion

The Panel supports Mr Cameron's submission that reference to outbuildings should be removed from the Statement of Significance. The title of the heritage place should also be amended.

Recommendation

The Panel recommends that the Statement of Significance and title of HO76 be amended to remove references to the outbuildings/dairy.

6.2 WRITTEN SUBMISSIONS

Written submissions were received in relation to the following heritage sites.

Public Transport Infrastructure

(HO28, HO37, HO39, HO40, HO41, HO42, HO43, HO60) These sites include rail bridges, culverts, signal boxes, sub-stations and railway stations.

The Director of Public Transport submitted that the HO may result in unreasonable constraints on maintenance and upgrade of infrastructure. The heritage value of the sites was not challenged (A request to be heard at the Panel hearing was submitted but withdrawn prior to the hearing).

Based on the citations in the Heritage Study and its own observations, the Panel is satisfied that these sites warrant protection under the HO. Issues regarding maintenance/upgrade will be addressed at the time a permit application is made.

VicRoads

This submission states VicRoads' position that the HO not be applied to arterial roads. In this case, HO23 (McKay Housing Estate, Durham Road) includes part of Anderson Road.

Council's response is that Anderson Road bisects part of the precinct, and it would be unreasonable to divide the overlay into two sections.

The Panel supports Council's response and notes that inclusion in the HO would not place any unreasonable constraints on VicRoads operations.

HO64 Sunshine Fire Station and Flats

The submission from the owner (Mr Papanastassis) acknowledges the heritage value of the fire station but requests that the associated flats be excluded from heritage controls. The submitter states that the flats are of little significance and are located

in a transport and commercial hub and could be redeveloped (in association with an adjacent property) to implement *Melbourne 2030*.

Council's response is that the flats are integral to the fire station complex and should be retained as part of in HO64. The Schedule indicates that prohibited uses to be permitted on the site, allowing a range of business or residential uses to be considered for the site, including the flats.

The Heritage Study identifies the flats as part of the 1927 complex designed by Cedric Ballantyne, a well-known commercial architect. The complex is assessed as having metropolitan significance.

The Panel inspected this site on 10 July from outside the site and supports Council's response to this submission.

HO66 St Mark's Anglican Church Sunshine

This church was designed by prominent architects Mockridge, Stahle and Mitchell in 1959 when the congregation outgrew the original church. The associated timber hall was moved to the site in 1918. While the Statement of Significance refers to the '*notable timbered interior*', no internal alteration controls are proposed in the Schedule.

The submission from the Anglican Diocese of Melbourne states that the church is in poor repair and has been closed for safety reasons. The parish has now combined with the Braybrook parish. There are plans to demolish the church and re-use the site for other purposes.

The submission included a copy of a Geotechnical Site Investigation Report prepared by Hardrock Geotechnical P/L on behalf of the church in 2003. The report details investigations of soil and foundation conditions undertaken for both the church and hall, and reaches the following conclusion:

Considering the condition of the existing buildings, the poor performance of the foundation to date, and taking into account the serviceability requirements of the owner, it is possible that demolition of the existing buildings and re-development of the site may be the most appropriate course of action.

While the report suggests remedial actions that could be taken to prevent further deterioration of the church structure, it does not provide details or cost estimates for these actions.

Council's response to this submission was to confirm the site's heritage significance, and state that issues relating to structural condition are taken into account during the permit application process.

The Panel inspected this site on 10 July from outside the property and supports the Heritage Study's assessment of this site. While acknowledging the poor structural condition of the church (evidenced by its closure), the Panel was not presented with any evidence that it is '*beyond reasonable repair*'. For this reason the Panel's supports Council's response to this submission.

HO130 193 Hampshire Road Sunshine

This site is a substantial and prominent two-storey shop building in the Sunshine commercial centre opposite the railway, built in 1924.

The submission from Mr Crisci states that the building is not original and has been altered and extended.

Council's response states that the building is substantially intact, especially at the upper level, and that the extension and alteration to the shopfronts and verandah do not detract from its heritage value.

The Panel inspected this site on 10 July from outside the property. The Panel endorses the citation in the Heritage Study and supports Council's response to this submission.

HO44 'Hazelwood' John Milburn's Farmhouse

The house was built in the 1890s on a property owned by prominent local farmer David Milburn, credited with having established the first irrigation system in Victoria on the property. The Statement of Significance relies mainly on these historic associations, but also assesses the homestead as having '*some architectural merit as a representative of a substantial late nineteenth century farming property*'.

The submission from the current generation of the Milburn family states that the house has been modified substantially, has deteriorated due to traffic impact and would cost more to repair than replace.

Council's response was that the building is largely intact, and that issues of structural condition will be addressed at the permit application stage.

The Panel endorses the assessment in the Heritage Study and supports Council's response to this submission.

6.3 OTHER HERITAGE PLACES

No submissions were received in respect of a further 70 heritage sites that were exhibited as part of Amendment C84. While the Panel has not examined these sites in detail, it has reviewed the relevant citations and is satisfied that they have been prepared with the same degree of rigor as those sites that were examined through the submission process.

The remaining submissions were resolved at the Council meeting of 13 March 2007 either through modifications to the heritage listing or deletion of the site from the HO.

7. SITES SUBJECT TO INCORPORATED PLANS

7.1 KEILOR CEMETERY (HO50)

The Keilor Cemetery was established in 1856, only three years after the opening of the Melbourne General Cemetery. Many members of Keilor's pioneer families are buried there. It is the only cemetery in the municipality.

The Brimbank Heritage Study includes the following Statement of Significance for the Keilor Cemetery:

Keilor Cemetery is of historical and cultural significance, as one of the oldest cemeteries in Melbourne, after the Melbourne General Cemetery, and as the resting place of local people from many diverse cultural traditions, from Irish, Scots, English and German settlers of the later 19th century to migrants from Europe in more recent times. The memorials in the cemetery include some excellent examples of the stone mason's craft.

The citation describes the significant vegetation in the cemetery as follows:

Mature exotic trees and some planted eucalypts (possibly Sugar Gums) define most of the boundaries of the original cemetery reserve, although as the site has been extended to the east, this boundary is not well defined. In addition there are mature trees used as landscaping elements on the internal roadways, in particular, a pair at the north west corner, probably marking the original entrance.

After the citation was completed, an arborist was engaged to advise on the condition and conservation of historic vegetation on the site.

The proposed Keilor Cemetery Incorporated Plan following as 'elements of particular significance':

- All trees identified as 'historic' in the Arboriculture Assessment of Keilor Cemetery (Treelogic, 31 October 2006);
- All monuments.

The purpose of the Incorporated Plan is to exempt range of cemetery operations (including burials) and maintenance functions from the requirement for a planning permit.

The Panel is satisfied that the Incorporated Plan will allow cemetery operations to continue while protecting the features of the cemetery identified as having heritage significance. However, the Heritage Overlay does not cover all sections of the cemetery, and the Incorporated Plan should only apply to the HO50 area.

Recommendation

That the Keilor Cemetery Incorporated Plan be modified to clarify that it applies only to the area identified as HO50.

7.2 KEILOR RESERVE (HO95)

The Statement of Significance for Keilor Reserve is as follows:

Of historical significance as a recreation reserve created in the 1890s, with some plantings that have apparently survived. This reserve was a focal point for sporting activities in the district, mainly for cricket and football in the early years, but also as the venue for the 'Keilor Gift' and other sporting events.

The purpose of the Incorporated Plan is to provide exemptions from the requirement for a planning permit for alterations to the tennis courts and bowling green and for alterations to the sporting club buildings that do not involve an extension in floor area.

The Panel is satisfied that the Incorporated Plan for Keilor Reserve is appropriate in the circumstances.

8. PROPOSED CONTROLS

8.1 PROPOSED LOCAL PLANNING POLICY 22.06

The Panel notes that at its meeting on 13 March 2007 a substantially revised Heritage Policy was approved by Council. The revisions were prompted by submissions and a subsequent review of the exhibited policy by Council staff.

The Policy includes has two main parts: General polices and Precinct policies.

General policies

This section comprises a series of general policies applying to all sites in the Heritage Overlay. These policies cover the following matters:

- Demolition and removal of buildings
- Subdivision
- Alterations and additions to existing buildings
- New buildings
- Car parking
- Materials, colours and finishes
- Services and equipment
- Fences
- Advertising signs
- Landscaping

The policy on alterations and additions has separate policies for contributory and non-contributory buildings within the heritage precincts.

This section of the policy was discussed briefly with Council at the hearing.

The Panel is generally supportive of the General policies. The second dot point of the General policy (page 2 of 13) states:

It is policy to ... disregard buildings and works that detract from the cultural heritage and character of the heritage place, streetscape or precinct when determining appropriate siting, massing and scale of new buildings or extensions to existing buildings in a Heritage Overlay.

The Panel believes that the term 'buildings and works that detract from the cultural heritage and character of the heritage place, streetscape or precinct' should simply be replaced with the term 'non-contributory buildings or works'.

The policy also nominates two documents as Reference Documents within the planning scheme. These documents are:

- *Brimbank City Council Post-Contact Cultural Heritage Study, Version 2, 2007;*

- Draft *Guidelines for the Assessment of Heritage Planning Applications* (Heritage Victoria 2007).

The Panel supports the inclusion of these documents as Reference Documents. However, the title of the Heritage Study should allow for updates from time to time, including any changes made as a result of the Panel's recommendations.

Recommendations

On the basis of the above, the Panel recommends that:

- **In Clause 22.06, the words 'buildings and works that detract from the cultural heritage and character of the heritage place, streetscape or precinct' in the second dot point of the General Policy be replaced with the words 'non-contributory buildings or works'.**
- **The words 'as amended from time to time' be added to the nomination of the Heritage Study as a Reference document.**

Precinct policies

This section of the policy comprises separate policies for each of the eight proposed heritage precincts. The Statement of Significance for the precinct is included, followed by specific policies related to the matters identified as integral to the precinct such as subdivision pattern, setbacks, fences, driveways, and housing styles including roof profile, window style and building materials.

The Panel is generally supportive of the Precinct policies, which provide specific guidance for decision-making reflecting the characteristics of each precinct.

Assessment against Planning Practice Note

The Planning Practice Note *Writing a local planning policy* (DSE December 1999) provides a series of tests against which a new local planning policy should be assessed. The Panel considers it is important to assess any proposed new policy against the Practice Note tests to facilitate consistency in the use of local planning policies across the planning schemes.

The following is an assessment of the Heritage Policy against the seven tests.

Does the LPP respond to a demonstrated need?

Yes. There is a generally a need for a heritage policy to bridge the gap between the broad heritage strategy set out in the MSS and the individual controls imposed in the Heritage Schedule. The policy provides specific guidance as to how a planning authority will respond to a planning permit application and on the basis on which decisions will be made.

Does the LPP implement an objective or strategy in the MSS?

As noted earlier in this report, the current MSS contains only very general references to heritage assets and the need for their protection. The Panel was advised that the entire Brimbank MSS is currently under review. The Panel is confident that the revised MSS will include a description of the types of heritage assets in Brimbank, as

well as specific objectives and strategies for heritage protection, and will provide a more substantial and appropriate basis for the Heritage Policy.

Does the LPP relate to a specific discretion or group of discretions in the scheme?

The Heritage Overlay provides a wide range of discretions that can be exercised when making decisions on planning applications.

Does the LPP help the responsible authority make a decision?

Yes. Both the General policies and the Precinct policies offer clear guidance on a wide range of matters that are likely to be the subject of permit applications. The policy also includes criteria that should be met in relation to extensions, demolition and replacement buildings.

Does the LPP help any other person to understand whether a proposal is likely to be supported or not?

It is important for the owners of heritage properties understand how Council is likely to exercise its discretion, and what factors will be taken into account. The Panel believes the proposed Heritage Policy will greatly assist property owners in this regard.

Does the LPP add to the other planning tools in the scheme, especially the relevant zone or overlay?

The Heritage Policy will support, explain and expand on the controls set out in the Heritage Schedule.

Does the LPP address the format, content and language guidance in this Practice Note?

The Panel considers that the Heritage Policy is consistent with guidance in the Practice Note relating to format, content and language.

On the basis of the above tests, the Panel is satisfied that the proposed Heritage Policy complies with the Practice Note, providing the revised MSS provides much stronger support for the both policy and application of the HO.

8.2 PROPOSED HERITAGE SCHEDULE

The Schedule to the Heritage Overlay shows that the eight heritage precincts have the lowest level of heritage controls - i.e. there are no controls on external painting, internal alterations, trees, outbuildings or fences in any of these residential precincts. Prohibited uses may not be permitted in any of the heritage precincts.

In relation to the 98 individual places, the following additional controls have been activated in the schedule:

External paint controls

Activated for two heritage places:

- HO08 Foxly Lodge Farm, Derrimut
- HO87 St John's Anglican Church and Hall, Deer Park

Internal alterations controls

No internal alteration controls have been activated for any heritage place in the Schedule.

Tree controls

Activated for six heritage places in the Schedule where specific vegetation has been identified as contributing to the heritage significance of the place:

- HO42 Sugar Gum Row, Talmage Street Albion;
- HO77 House and Trees, Talmage Street Ardeer;
- HO08 Foxly Lodge Farm, Derrimut;
- HO17 Mt Derrimut Homestead, Derrimut;
- HO95 Keilor Reserve, Keilor;
- HO74 Selwyn Park, Albion.

Outbuildings or fences

Applied only to the drystone walls at HO17 Mt Derrimut Homestead, Derrimut.

Prohibited uses may be permitted

This provision has been activated for a total of 52 heritage places in the Schedule. The heritage places can be categorised as follows:

- 14 churches;
- 4 halls;
- 6 hotels;
- 3 railway buildings;
- 6 homesteads and houses;
- 7 office premises;
- 7 commercial premises (shops, markets, picture theatre);
- 3 former community facilities (shire hall, fire station, police station);
- 1 memorial garden;
- 1 school.

There was insufficient time at the hearing to discuss with Council the specific controls activated for individual places in the Schedule.

However, it is evident from the details summarised above that Council's intention has been to minimise the level of control wherever it is consistent with protecting the heritage values of the place as identified in the Heritage study.

The Panel noted three sites where the interior could be said to have some significance, either through its own observations or arising from the Statement of Significance. These sites are:

- HO30 Monsanto office block. This building is assessed as having State significance and is described as ‘a superb and rare example of American Colonial Revival architecture as applied to an industrial, pharmaceutical and chemical manufacture in Australia....’ While the Panel has not inspected the interior, the excellent condition of the exterior and the fact that its heritage value is acknowledged by the owners, indicate that the interior may have been spared unsympathetic alterations and remain noteworthy in its own right. The Panel notes that the Heritage Study recommends that the site be nominated for inclusion in both the Victorian Heritage Register and the Register of the National Estate. The Panel believes that heritage protection for the interior should be considered when Heritage Victoria has made its assessment, whether or not it is recommended for inclusion in the Victorian Heritage Register.
- Part HO32 ‘Nobel’ building. This building was the office of the former explosives factory at Deer Park and was proposed by Orica’s expert witness for inclusion in the HO. The Panel inspected the interior of this building, which is virtually intact. The building is currently unoccupied and unfortunately has recently suffered from significant water incursion. However, the damage is superficial and could easily be remedied by roof repairs and removal of affected areas of carpet. The Panel believes there is enough evidence of heritage value for the interior to be re-assessed and considered for heritage protection.
- HO66 St Mark’s Anglican Church Sunshine. The Panel has not inspected the interior of this church, but notes that the Statement of Significance includes reference to a ‘notable timbered interior’. On this basis, the Panel believes the interior of this church should be considered for heritage protection.

The Panel experienced some frustration tracking individual sites within the Schedule as it is not organised in either numerical or alphabetical order. It would be preferable for the Schedule to be re-arranged in the order of the HO numbers, but retaining the separate listing for heritage precincts.

Recommendations

The Panel recommends that the Schedule to the HO be rearranged so that individual listings appear in numerical order.

The Panel recommends that the interiors of HO30 (Monsanto offices), part HO32 (‘Nobel’ building on the Deer Park explosives factory site) and HO66 (St Mark’s Anglican Church Sunshine) be assessed for heritage protection in the Schedule to the Heritage Overlay by means of a separate amendment.

9. CONCLUSIONS

Having considered all the submissions referred to it and all the material presented at the hearings, the Panel has reached the following conclusions.

Quality of Brimbank Heritage Study

In Chapter 2.2 of this report the stated that during the course of the hearing and in the process of writing its report, the Panel has had many opportunities to test the rigor underlying the Heritage Study.

The Panel has found the citations for individual sites and precincts to be both detailed and thorough. The depth of the research is revealed in both the level of detail provided in the study and the numerous sources used in compiling the citations.

The Panel also noted that there are some inaccuracies and some assessments of heritage significance that it does not fully support. However, the Panel generally commends the authors on its comprehensive work, and accepts that in most cases the Heritage Study has established sufficient evidence of heritage significance to justify the imposition of heritage controls.

The Panel also acknowledged the additional historical information provided in the submissions from residents and the Keilor Historical Society, and particularly that provided by Olwen Ford in her submission.

The Panel concluded that the extensive consultation process undertaken by Council had provided appropriate opportunities for input to the Heritage Study from residents, local interest groups and professional bodies.

The Panel was also pleased to note that from 2001 Council employed a Heritage Adviser (Michael Taylor) to provide assistance and advice to Council and residents in the determination of permit applications.

Heritage precincts

The Panel has supported six of the eight precincts where it concluded that the assessments and Statement of Significance had been conducted with the required level of rigor. However, the Panel was less certain that the remaining two precincts (both of which were McKay Housing Estates) had been adequately assessed and has recommended a review of those two precincts.

The Panel also considers that the Council has opportunities to promote the heritage interest of precincts and to encourage their conservation. Council infrastructure works, planting and fencing schemes, financial incentives, technical advice and planning and promotions can contribute to an understanding of precinct significance and increased pride in ownership.

Orica industrial heritage site

The Panel has acknowledged that the lack of access to the site by the Study team has resulted in what is virtually a desktop evaluation of this important heritage site. Nevertheless, there is sufficient detail of the history and usage of the site over more than a century to establish broad heritage credentials for the site.

The Panel accepts that, in the absence of access to the site, Council adopted a precautionary approach in applying the HO to the whole site. The Panel has since had the benefit of a heritage assessment provided by Orica's expert witness at the hearing (David Bick) and a detailed inspection of the site. These have added significant weight to many of the assessments in the Heritage Study.

The Panel is now in a position to make recommendations about areas of the site that should be included in, and excluded from, the Heritage Overlay, and has recommended the adoption of four precincts within the site. Three of these precincts have had boundaries defined and significant structures identified. In the fourth precinct, the Panel has recommended further detailed investigation with the purpose of establishing areas, structures and linkages of heritage significance, leading to redefinition (and probably reduction) of the boundaries.

The Panel is confident that this process will provide certainty in the redevelopment of the site while protecting Orica's most significant heritage assets.

Individual heritage sites

With some minor modifications, the Panel has accepted most of the assessments of individual sites in the Heritage Study, and has recommended the addition of one additional site at the request of the owner.

Submissions from owners were helpful in assisting the Panel to assess these sites.

Heritage policy and Schedule

The Panel supports the Brimbank Heritage Policy proposed as Clause 22.06 of the planning scheme. The changes adopted by Council on 13 March 2007 in response to submission greatly enhanced the usability and clarity of the policy for Council, staff and residents alike.

Minor changes have been recommended to enhance the usability of the Heritage Schedule.

General comments

The Panel has noted that the current MSS pays only the briefest attention to heritage protection, and has assessed Amendment C84 on the assumption that MSS review currently being undertaken will provide an appropriate level of strategic support for heritage policies controls to be introduced as Amendment C84, in line with the commitment made to the Panel at the hearing. The Panel urges Council to be rigorous in ensuring that the MSS support every aspect of existing, proposed and future heritage protection initiatives within the municipality.

The Panel was pleased to note that there are several 20th century buildings included in the Heritage Study. These include former municipal offices, a church and a bank. When important buildings and other structures are not identified relatively early, there is always the possibility that they may be lost before their heritage significance is recognised and protected, as has happened so often in the past.

The Panel commends Brimbank Council on the time, resources and expertise it has been willing to devote to preparation of the Heritage Study and Amendment C84.

10. RECOMMENDATIONS

Based on the reasons set out in this report, the Panel makes the following primary recommendation to the planning authority.

10.1 RECOMMENDATIONS FOR AMENDMENT C84

The Panel recommends that Amendment C84 (as amendment by Council on 13 March 2007) be approved subject to the following:

Heritage precincts

HO23 (McKay Housing Estate – Durham Road Heritage Area) to be re-evaluated with the purpose of:

- Establishing whether a direct relationship between the history, the subdivision and the built form can be demonstrated;
- Establishing whether the link to the Garden City movement can be substantiated;
- Establishing whether the boundaries could be modified to establish a recognizable ‘sense’ of precinct;
- Establishing the appropriate level of significance.

HO24 (McKay Housing Estate – King Edward Avenue Heritage Area) to be re-evaluated with the purpose of:

- Establishing whether a direct relationship between the history, the subdivision and the built form can be demonstrated;
- Establishing whether the link to the Garden City movement can be substantiated;
- Establishing whether the boundaries could be modified to establish a recognizable ‘sense’ of precinct;
- Establishing the appropriate level of significance.

As part of the re-evaluation of HO24:

- 36 Sydney Street to be designated non-contributory;
- 20 Forrest Street to be excluded from the HO;
- The Kororoit Street area of the precinct to be excluded from the HO;
- 50 Forrest Street to be granted individual heritage designation.

Industrial Heritage

The Orica site to be redefined as four precincts as illustrated on page 48 of this report:

HO32a The White House, Nobel Building and surrounds

HO32b The Leathercloth factory, associated buildings and surrounds

- HO32c The sporting ammunition factory, associated buildings and surrounds
- HO32d The area where the remnant and extant magazines, bunkers and associated infrastructure are located.

The balance of the site to be removed from heritage controls.

Heritage precinct HO32a (or other number) to include the White House, Nobel building and surrounds up to the property boundary on the north and including a 40m curtilage to the east, south and west.

The Schedule to the Heritage Overlay to identify the White House and Nobel building as the significant elements of the site.

An Incorporated Plan to be prepared for the precinct.

Heritage precinct HO32b (or other number) to include the Leathercloth factory and associated buildings and surrounds up to the property boundary on the west and including a reasonable curtilage to retain the context of the buildings.

The Schedule to the Heritage Overlay identify buildings PF1, PF2, PF3 VQ5, SO2 and P4 as the significant elements of the precinct.

An Incorporated Plan to be prepared for the precinct.

Heritage precinct HO32c (or other number) to include the Sporting Ammunition factory and associated buildings and surrounds up to the roadway on the west and including a reasonable curtilage to retain the context of the buildings.

The Schedule to the Heritage Overlay to identify buildings AP1, AP2, AH1, AH2 and AK2 as the significant elements of the precinct.

An Incorporated Plan to be prepared for the precinct.

Heritage precinct HO32d (or other number). A detailed heritage assessment of this precinct to be undertaken. The assessment should include the following aspects of the precinct:

- The evolution of explosives and ammunition manufacture at the site;
- The changes in design and operation of the magazines. A selection of magazines (or groups of magazines) to be identified to show the evolution of the manufacturing processes;
- The significance of the remnant tramway system;
- The significance of the road networks (especially those planted as avenues).

The boundaries of the precinct to be reviewed once the significant areas of the site have been identified.

The Schedule to the Heritage Overlay to nominate the significant elements of the site.

An Incorporated Plan to be prepared for the precinct.

Statement of Significance for Orica Site. Following completion of the further investigations, the Statement of Significance for the Orica site to be substantially revised with the purpose of:

- Providing an overview of the whole site, its history and heritage value;
- Providing a separate Statement of Significance for each of the four precincts, including their individual history and the elements within them that demonstrate heritage significance;
- Identifying the historic and functional links between the precincts;
- Correcting inaccuracies and inconsistencies in the text.

Individual heritage sites

HO86 Opie's dairy- the area of the overlay to be reduced to include only the bluestone dairy and peppercorn tree and a 5 metre curtilage.

HO27 Former Keilor Police Station - the citation to be amended to:

- Delete the recommendation for nomination to the Victorian Heritage Register;
- Change the level of significance from State to Local.

HO99 St Alban's Uniting Church - the Schedule to be amended to specify the original church building as the only significant element of this site.

HO67 Robinson House - the Schedule to be amended to specify the house as the only heritage element of this site; the Statement of Significance and Description of this site to be amended to remove references to vegetation.

HO76 Cameron House and Farm Buildings - the Statement of Significance and title of this site to be amended to remove references to the outbuildings/dairy.

HO50 Keilor Cemetery - the Incorporated Plan to be modified to clarify that it applies only to the area included in the heritage overlay.

Clause 22.06 Heritage Policy

The words '*buildings and works that detract from the cultural heritage and character of the heritage place, streetscape or precinct*' in the second dot point of the General Policy to be replaced with the words '*non-contributory buildings or works*'.

The words '*as amended from time to time*' to be added to the nomination of the Heritage Study as a Reference document.

Schedule to the Heritage Overlay

The Schedule to the Heritage Overlay to be rearranged so that individual listings appear in numerical order.

10.2 OTHER RECOMMENDATIONS

The Panel recommends that Council encourage Orica to undertake urgent repairs to prevent further water damage to the interior of the Nobel building.

The Panel recommends that Council encourage the Sunshine City Club to work collaboratively with Council and its Heritage Adviser in the development of a plan that achieves the Club's objectives for expansion while preserving the integrity of this important heritage place.

The Panel recommends that the interiors of HO30 (Monsanto offices), part HO32a ('Nobel' building) and HO66 (St Mark's Anglican Church Sunshine) be assessed for heritage protection in the Schedule to the Heritage Overlay by means of a separate amendment.

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A. THE PANEL PROCESS

THE PANEL

This Panel was appointed under delegation on 15 May 2007 pursuant to Sections 153 and 155 of the Planning and Environment Act 1987 to hear and consider submissions in respect of Amendment C84 to the Brimbank Planning Scheme. This amendment introduces heritage controls to a range of places and precincts within the municipality identified in the Brimbank Heritage Study as having an appropriate level of heritage significance.

The planning authority is the Brimbank City Council.

The Panel consisted of:

- Chairperson: Margaret Pitt
- Member: Julia Lamborn
- Member: Boyce Pizzey

HEARINGS, DIRECTIONS AND INSPECTIONS

A Directions Hearing was held on Wednesday 13 June 2007. A number of directions were made in relation to the circulation of expert witness statements and material to be provided at the hearing.

The Panel Hearings were held from Monday 9 to Wednesday 11 July 2007 and Monday 16 and Tuesday 17 July 2007. All hearings were held in the Council Chamber, Brimbank Municipal Offices, Old Calder Highway, Keilor.

Panel members inspected a number of individual sites and all precincts on Tuesday 10 July 2007. On Tuesday 17 July 2007 Panel members made a formal inspection of the Orica site, accompanied by representatives from Orica and Brimbank City Council. Further individual sites were inspected by Panel members on Wednesday 25 July 2007.

SUBMISSIONS

A list of written submissions to Amendment C84 that were considered by the Panel is included in Table A.1 below.

It should be noted that following consideration of all submissions, Council changed the amendment by deleting a number of places from the Heritage Overlay. This decision was made at a Council meeting on 13 March 2007. However, all submissions, including those relating to deleted places, were later formally referred to the Panel for consideration.

The question of whether the Panel had jurisdiction to consider submissions relating to the deleted places was raised at the Directions hearing by Chris Wiseman of Clayton Utz on behalf of Smorgon Steel Group Limited and Natalie Gray on behalf of Roman Catholic Trusts Corporation. The Panel initially ruled that it would consider all submissions as they had been referred to it under s.23 (1) (b) of the Planning and Environment Act 1987.

At the Public Hearing the Panel heard a preliminary submission from Stuart Morris QC on behalf of the Smorgon Steel Group Limited and Roman Catholic Trusts Corporation. The Panel accepted Mr Morris's submission that Council had properly exercised its power to change the amendment pursuant to s. 23 (1) (a) of the Planning and Environment Act 1987, and that the wording of the Council's resolution made it clear that only 'unresolved' submissions were to be referred to the Panel. The Panel therefore accepted that the referral of submissions relating to places deleted by Council was an administrative error.

Submissions relating to the changes made by Council on 13 March 2007 were therefore not considered by the Panel and are not included in Table A.1.

The Panel has considered all written submissions listed in Table A.1, all oral submissions and material presented to it at the hearing in connection with this matter.

The Panel heard the parties listed in Table A.2 below.

Table A.1

SUB	NAME	ORGANISATION	HO
68	Angelo Abela	Society of Christian Doctrine	21
81	Cemile Acik		25
129	Sean Adams	Australian Rail Track Corp. Ltd	40
94	A & M Babacan		23
121	Ofelia Bastone		25
66	John Bentley		30
52	Alexandra Betts		27
103	Y & S Boudolh		24
93	Elsie Brennan		26
128	Frank & Caterina Calidonna		23
19	Gary Calleja		24
100	Ronald Cameron		76
32	Maria Candido		23
18	T R Carver		24
21	Mehmet Cimenkaya		19
17	A Crisci		130
46	C Cuschieri		19
42	A K & P S Davenport		19
72	Philip & Karen Davis		67
3	Domenica DiNatale-Abboud		26
4	Allan Duggan		25
13	Lucy Durose		20

SUB	NAME	ORGANISATION	HO
31	Laurie Dyson		19
2	Ian Ear		24
49	John Ericksen	VicRoads	N/A
14	Joseph Fernandes		26
5	Janina Ferrara		24
120	Vince Fiorenza		23
73	Frank & Olwen Ford		24
111	L Galea		26
80	Suzan Ganly	Clause 1 Property Planning	24
106	Dr L Glowinski		23
27	Mark Godfrey	Keilor Cemetery	50
109	N Grgic		24
82	Shane Grima		24
65	Roz Hansen	Hansen Partnerships Pty Ltd	99
95	Thomas Harvey		24
58	Beverley Hickey		24
67	Peter Horne	Orica	21, 32, 33
102	Huu Phung Huynh		19
70	Zoran Ilievski		24
56	Susan Jennison	Keilor Historical Society Inc	N/A
48	Michael Karikis	Amdtelecom	23
22	J C Kelly		19
1	Mladen Kljajcin		23
76	William Kuszniarczyk	Clement Stone Town Planners	23
77	William Kuszniarczyk	Clement Stone Town Planners	69
110	C Lagatuz		19
101	John Lascaris	Lascaris Designs Pty Ltd	23
104	Sievers Lee		23
29	Lordes Loque		68
51	Zora Maligec		19
108	A Masendycz		26
74	Trevor McLean		24
87	Brother Sean McManus		99
28	Mary Meddings		19
69	B T, J W & D G Milburn		44
37	Steve Morrison		19
33	P & A Nadalin		24
86	Nghia Huu Dang & Tuyen Thanh Thi Nguyen		23
16	Cung Nguyen		23
6	David Nixon		25
127	James Noy	Department of Infrastructure	42,28,37,43,3 9,40,41 & 60

SUB	NAME	ORGANISATION	HO
47	G & M O'Connor		24
79	Fr J W O'Reilly		52
91	Brad Paez	Christian and Missionary Alliance St Albans	99
71	T R Papageorge		23
119	V & A Papanastassis		23
122	Alex Papanastassis		23
123	N Papanastassis		23
124	A Papanastassis		64
125	V & A Papanastassis		23
60	Sally Petty	Anglican Diocese of Melbourne	66
107	John Pham		20
90	Maureen	Petition objecting to HO 24	24
130	John Roan	The Planning Group	21, 32 & 33
50	Adam & Barbara Ryrych		24
126	Lorenzo Salvador		19
92	Oksana Sapun		25
35	A & M Scaringi		23
118	R M & T Scott		19
23	Coral Seymour		23
88	Vonda Aurish & Wendy Spiteri		24
25	Leon Stackpole	Environmental Protection Authority	N/A
116	Alan E Stretton		23
117	A E Stretton	Alandon Pty Ltd	23
24	P & R Suffolk		20
99	Louis Sultana		26
105	QT Tran & N Troung		19
7	Lauren Tucci		21
112	Van Vuong Vu		19
12	Peter Watkinson	Dept. Sustainability & Environment	N/A
59	Brian Wheelahan		19
39	Mrs E Whiting		24
40	Peter Whiting		24
41	Margaret Whiting		24
11	John Williams		24
113	Robert Woolley		19
53	Martin Yatim		25
115	Mr & Mrs Zaloumis		25
96	Mrs M Zammit		23
36	Martin Zerafa		86
8		City West Water	N/A

SUB	NAME	ORGANISATION	HO
9		National Trust	N/A
54		Sunshine City Club	77
78		Residents of Leith Avenue	20
83		Damevski Investments Pty Ltd	24
84		Executor of LB Leung	24
85		Kealba Nominees P/L	24
97		Ferraro & Company Pty Ltd	23
98		Ferraro & Company Pty Ltd	23

Table A.2

Submitter	Represented By
Brimbank City Council	Michelle Wyatt (Brimbank Council) EXPERT WITNESSES: Gary Vines Michael Taylor Mr Vorscheimer
Sunshine City Club	G Bryce & B Warburton
Cemile Acik	Josephine Bonnici
Alexandra Betts	
M. Zerafa	Greg Zerafa
Barbra & Adam Ryrych	
Beverley Hickey	
R D Cameron	
A. & M. Simovski	W. Kuszniarczyk (Clement Stone)
Uniting Church in Australia	Sandra Rigo (Hansen Partnership) EXPERT WITNESS: Bryce Raworth
Frank Ford	
Olwen Ford	
Philip Davis	
Suzanne Ganley	Paul Reid
Nikola Grgik	
Orica Limited (130)	Chris Wren SC instructed by Meg Lee (Allens Arthur Robinson) EXPERT WITNESS: David Bick

B. STRATEGIC ASSESSMENT GUIDELINES

The Panel has considered the response to the Strategic Assessment Guidelines included in the exhibited Explanatory Report for the amendment, together with submissions on the guidelines from the planning authority.

The Panel endorses the planning authority's response and considers that the amendment complies with the guidelines.