

WHITEHORSE PLANNING SCHEME  
AMENDMENT C172 (PART 2)

SUBMISSION ON BEHALF OF  
WHITEHORSE CITY COUNCIL

PART A

8 MARCH 2016



## TABLE OF CONTENTS

1. INTRODUCTION .....	3
2. BACKGROUND TO THE AMENDMENT .....	3
3. CHRONOLOGY OF AMENDMENT C172 (PARTS 1 AND 2) .....	4
4. STRATEGIC CONTEXT AND ASSESSMENT .....	10
5. SUBMISSIONS.....	13
6. OTHER MATTERS .....	21
7. CONCLUSION .....	22
APPENDICES.....	23

## LIST OF TABLES

Table 1 – Final Resolution by Council by Place .....	8
Table 2 – Current Planning Permit Applications .....	21

## LIST OF APPENDICES

Appendix 1 – History of Heritage Studies in the City of Whitehorse	
Appendix 2 – Planning Scheme Amendment documentation for Amendment C172	
Appendix 3 – Whitehorse City Council Meeting Minutes of 14 December 2015	
Appendix 4 – Planning Scheme Amendment documentation for Amendment C172 (Part 1)	
Appendix 5 – Planning Scheme Amendment documentation for Amendment C172 (Part 2)	
Appendix 6 – Submissions to Amendment C172 (Part 2)	
Appendix 7 – Summary of submissions to Amendment C172 (Part 2)	
Appendix 8 – Current planning permit application plans for four heritage places	

## 1. INTRODUCTION

- 1.1. Ms Andrea Skraba, Senior Strategic Planner, represents Whitehorse City Council (the **Council**) at this panel hearing to consider Amendment C172 (Part 2) (the **Amendment**) to the Whitehorse Planning Scheme (the **Scheme**) and the submissions made to it.
- 1.2. The parent amendment was exhibited through the statutory process, and a total of 76 submissions were received. On 14 December 2015 Council split the parent amendment into two parts, and referred Amendment C172 (Part 2) and 14 submissions received to an independent Planning Panel. One late submission was also referred to the same Panel.
- 1.3. Amendment C172 (Part 2) proposes to apply the Heritage Overlay to 12 individual places across the suburbs of Box Hill North, Box Hill South, Blackburn, Blackburn South, Burwood, Mont Albert North, Nunawading, Vermont and Vermont South as identified in the *City of Whitehorse Post 1945 Heritage Study*.
- 1.4. The amendment has been prepared by the Whitehorse City Council which is the planning authority for this amendment.
- 1.5. The Panel has been provided with the relevant amendment documentation, including all relevant Council reports, the details of the amendment proposal and a copy of all the submissions to the amendment which have been referred to it for consideration.
- 1.6. This submission sets out the details of the amendment, including its history and the nature of the planning controls proposed. It outlines Council's response to the submissions that were made during the exhibition of the amendment and evaluates the amendment against the Strategic Assessment Guidelines Practice Note.
- 1.7. Council's principal submission to the Panel is that the amendment and its constituent planning controls be recommended for adoption and approval generally as exhibited.
- 1.8. Council relies on this submission (comprising Parts A and B) and the expert witness report of Mr Simon Reeves of Built Heritage Pty Ltd.

## 2. BACKGROUND TO THE AMENDMENT

### The *Whitehorse Post 1945 Heritage Study* and previous amendments

- 2.1. The *Whitehorse Post 1945 Heritage Study* (the **Study**) examines the unprecedented growth and development occurring in Whitehorse after the Second World War and identifies architecture and places from this important era in Whitehorse's development. The Panel has previously been provided with a copy of the Study.
- 2.2. The Study was a recommendation of the *Whitehorse Potential Heritage Framework 2008* and its need was reiterated in the *Whitehorse Heritage Review 2012*. While earlier heritage studies had picked up on some key post-1945 places such as the Burvale Hotel, the former ATV-0 television studios, and the former Chapel of St Joseph's (which was recently added to the Victorian Heritage Register), a dedicated thematic study had not been undertaken. The Study was consequently funded in Council's 2013/2014 budget and

follows a long history of well-considered heritage studies for the municipality and its predecessors (see Appendix 1).

- 2.3. Preparation of the Study initially identified nearly four hundred potential heritage places. Further assessment resulted in a final list of thirty places having clear, potential, local heritage significance - twenty five individual places and five precincts – which were recommended for inclusion in a Heritage Overlay. Many of the identified buildings might be considered modest in appearance, but this does not reduce their historic and/or architectural importance. The Study also includes sites which are not part of this or previous amendments, but that require further investigation for potential future protection.
- 2.4. Three of the heritage places identified in the Study have already been subject to the amendment process. The Blue Flame Precinct (former display housing village in Vermont South) and the former factory at 127 Whitehorse Road Blackburn (currently used as a Sikh temple) were the subject of Amendment C164. Heritage protection for the telecommunications tower at 730 Canterbury Road Surrey Hills (corner Harding Street) was prioritised as Amendment C169 when the tower was threatened with demolition. Both of these amendments were ultimately abandoned by Council. There are now 27 remaining places recommended for heritage protection by the Study.
- 2.5. A detailed description of the study will be provided by Council’s expert witness, Mr Simon Reeves of Built Heritage Pty Ltd.

### **3. CHRONOLOGY OF AMENDMENT C172 (PARTS 1 AND 2)**

- 3.1. At its meeting of 16 March 2015 Council resolved to note the draft Study and seek authorisation from the Minister for Planning to prepare and exhibit a planning scheme amendment to introduce a Heritage Overlay for the remaining 27 places (as Amendment C172).
- 3.2. Typically Council would engage in a “pre-consultation” period to notify owners and occupiers that their property had been identified as having heritage potential and allow them to suggest changes to the proposed citations and provide additional information. However, there was no pre-consultation period for this amendment on the basis that the draft Study had already been released and was in the public realm from the previous two amendments (as mentioned previously). That said, three letters were received prior to the formal notice period for the amendment commencing. Two of these were from members of the community and made general comment on the Study while the third was from Yarra Valley Water objecting to the amendment proceeding in relation to its site.

#### **Amendment C172**

- 3.3. Amendment C172 proposed to apply the Heritage Overlay to 27 places and update Clause 22.01 Heritage Buildings and Precincts. This was to introduce heritage protection for the places identified in the Post 1945 Study.
  - a) The three proposed precincts were:

- AV Jennings Estate Precinct – 11 properties in Spencer Street / Springvale Road, Nunawading
  - Concept Constructions Display Homes Precinct – 3 properties in Canterbury Road, Forest Hill
  - Housing Commission of Victoria Precinct – 9 properties in Cadorna Street, Box Hill South
- b) The 24 proposed individual heritage places were:
- House at 24 Arnott Street, Mont Albert North
  - Mount Scopus Memorial College – 245 Burwood Highway, Burwood
  - Burwood Skyline Drive-In Cinema (group listing) – Burwood Highway, Burwood
  - Dental surgery at 150 Canterbury Road, Blackburn South
  - House at 31 Fowler Street, Box Hill South
  - House at 18 Gilmour Street, Burwood<sup>1</sup>
  - House at 1 Gracefield Drive, Box Hill North
  - House at 17 Grange Street, Mont Albert
  - House at 4 Ian Grove, Burwood
  - House at 1 Laurencia Court, Mont Albert
  - Yarra Valley Water Eastern Area Office – 25-35 Lucknow Street, Mitcham
  - House at 111 Main Street, Blackburn
  - House at 7 Norris Court, Blackburn
  - House at 1163 Riversdale Road, Box Hill South
  - Residential flats “Indiana” at 96 Severn Street, Box Hill
  - House at 17 Sheehans Road, Blackburn
  - House at 40 Somers Street, Burwood
  - Former ES&A Bank – 153-155 Springvale Road, Nunawading
  - House at 12 Sunhill Avenue, Burwood
  - House at 1 Verona Street, Vermont South
  - House “Wildwood” at 3 Villa Mews, Vermont

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<sup>1</sup> Incorrectly referred to as Box Hill in the Study and Council Reports

- House at 359 Whitehorse Road, Nunawading
  - House at 453 Whitehorse Road, Mitcham
  - Sculpture “Tristan’s Journey” at 666 Whitehorse Road, Mitcham
- 3.4. Specifically, Amendment C172 proposed to:
- a) Modify Clause 22.01 to include specific reference to the AV Jennings Estate, Concept Constructions Display Homes and the Housing Commission of Victoria Estate Precincts and the Burwood Skyline Drive-in Cinema Group Listing, and add the *Whitehorse Post 1945 Heritage Study* as a reference document.
  - b) Modify the schedule to Clause 43.01 Heritage Overlay to add 27 new places.
  - c) Insert new Planning Scheme Maps marked “Whitehorse Planning Scheme, Amendment C172” to include 27 new places in the Heritage Overlay.
- 3.5. Amendment C172 was formally exhibited between 1 October 2015 and 2 November 2015. Notice was sent to owners and occupiers of affected properties, properties adjoining and opposite affected properties, the National Trust, local historical societies, relevant Ministers and referral authorities. Notice of the amendment was also published in the Government Gazette on 1 October 2015 and in the Whitehorse Leader on 28 September 2015.
- 3.6. At the close of the exhibition period 65 submissions had been received, with an additional nine submissions received after the closing date. The 74 submissions can be summarised as follows:
- a) 37 objections to the inclusion of Mount Scopus Memorial College within the amendment;
  - b) 16 objections to the inclusion of the Cadorna Street Precinct within the amendment;
  - c) 4 submissions supporting the amendment; and
  - d) 16 objections to the amendment on various grounds, generally opposing the inclusion of specific properties within the amendment.
- 3.7. Following the preparation of the officer’s report to Council, an additional submission was brought to the attention of officers (submission 75 relating to the former ES&A Bank at 153-155 Springvale Road Nunawading). One submission was also received on 26 January 2016, just prior to the Directions Hearing for the Panel for Amendment C172 (Part 2) (submission 76 relating to 4 Ian Grove Burwood).
- 3.8. For the Panel’s information, a copy of the amendment documentation for Amendment C172 is included as Appendix 2.

### **Council resolution of 14 December 2015**

3.9. Following the review of submissions, Council officers recommended that Amendment C172 be split into two parts, broadly as follows:

- a) Amendment C172 (Part 1) comprised of:
  - Ten places to be referred to the Minister for Planning for approval as they had received submissions of support, had been modified in line with submitter comments or had received no submissions; and
  - Three places to be abandoned based on new information coming to light and a reassessment on heritage merits.
- b) Amendment C172 (Part 2), comprised of 14 places where submissions had been received, to be referred to an independent Panel.

The officer recommendation of 14 December 2015 was worded accordingly, and places were designated to each part of the amendment based on the recommended course of action (refer to Council Meeting Minutes of 14 December 2015 at Appendix 3).

3.10. At the Council meeting of 14 December 2015, Councillors initiated a number of amendments to the officer's recommendation. In particular, these were to abandon heritage protection for certain places and to refer others to Panel, as follows:

- a) The change to refer the Former ES&A Bank at 153-155 Springvale Road Nunawading to Panel was made at the request of officers. This was because they had not received a submission from the land owner, however it was brought to their attention that one had been submitted but not received. This was discovered after the time of publishing the Council Agenda and therefore the report could not be modified.
- b) Two places were referred to Panel without any submissions being made. One of those properties (4 Ian Grove) then made a very late submission on 26 January 2016 which officers then referred to the Panel.
- c) Five places were moved to Amendment C172 (Part 1) with the intent of being abandoned. Two of these places had received a considerable number of submissions.

3.11. The following table summarises the officer recommendation and the final resolution as made by Councillors (the justification provided by officers is in the full table in Appendix 3).

**Table 1 – Final Resolution by Council by Place**

<b>Place</b>	<b>Officer recommendation</b>	<b>Council resolution</b>
<b>AV Jennings Estate Precinct – Spencer Street / Springvale Road, Nunawading</b>	Adopt	Adopt
<b>Concept Constructions Display Homes Precinct – Canterbury Road, Forest Hill</b>	Adopt	Adopt
<b>Housing Commission of Victoria Precinct – Cadorna Street, Box Hill South</b>	Refer to Panel	Abandon
<b>House at 24 Arnott Street, Mont Albert North</b>	Refer to Panel	Refer to Panel
<b>Mount Scopus Memorial College – 245 Burwood Highway, Burwood</b>	Refer to Panel	Abandon
<b>Burwood Skyline Drive-In Cinema (group listing) – Burwood Highway, Burwood</b>	Adopt	Adopt
<b>Dental surgery at 150 Canterbury Road, Blackburn South</b>	Refer to Panel	Refer to Panel
<b>House at 31 Fowler Street, Box Hill South</b>	Refer to Panel	Abandon
<b>House at 18 Gilmour Street, Burwood</b>	Refer to Panel	Abandon
<b>House at 1 Gracefield Drive, Box Hill North</b>	Refer to Panel	Refer to Panel
<b>House at 17 Grange Street, Mont Albert</b>	Abandon	Abandon
<b>House at 4 Ian Grove, Burwood</b>	Adopt	Refer to Panel
<b>House at 1 Laurencia Court, Mont Albert</b>	Adopt	Adopt
<b>Yarra Valley Water Eastern Area Office – 25-35 Lucknow Street, Mitcham</b>	Abandon	Abandon
<b>House at 111 Main Street, Blackburn</b>	Refer to Panel	Abandon
<b>House at 7 Norris Court, Blackburn</b>	Refer to Panel	Refer to Panel
<b>House at 1163 Riversdale Road, Box Hill South</b>	Refer to Panel	Refer to Panel
<b>Residential flats “Indiana” at 96 Severn Street, Box Hill</b>	Adopt	Adopt
<b>House at 17 Sheehans Road, Blackburn</b>	Abandon	Abandon
<b>House at 40 Somers Street, Burwood</b>	Adopt	Refer to Panel
<b>Former ES&amp;A Bank – 153-155 Springvale Road, Nunawading</b>	Adopt	Refer to Panel
<b>House at 12 Sunhill Avenue, Burwood</b>	Refer to Panel	Refer to Panel
<b>House at 1 Verona Street, Vermont South</b>	Refer to Panel	Refer to Panel
<b>House “Wildwood” at 3 Villa Mews, Vermont</b>	Refer to Panel	Refer to Panel
<b>House at 359 Whitehorse Road, Nunawading</b>	Refer to Panel	Refer to Panel
<b>House at 453 Whitehorse Road, Mitcham</b>	Adopt	Adopt
<b>Sculpture “Tristan’s Journey” at 666 Whitehorse Road, Mitcham</b>	Adopt	Adopt

**Amendment C172 (Part 1)**

3.12. As per Council’s resolution on 14 December 2015, eight places were abandoned, while the following places formed Amendment C172 (Part 1) to be adopted and sent to the Minister for Planning for approval:

- “AV Jennings Estate Precinct” – Spencer Street / Springvale Road, Nunawading
- “Concept Constructions Display Homes Precinct” – Canterbury Road, Forest Hill

- Burwood Skyline Drive-In Cinema (group listing) – Burwood Highway, Burwood
- House at 1 Laurencia Court, Mont Albert
- Residential flats “Indiana” at 96 Severn Street, Box Hill
- House at 453 Whitehorse Road, Mitcham
- Sculpture “Tristan’s Journey” at 666 Whitehorse Road, Mitcham

3.13. Specifically, Amendment C172 (Part 1) proposes to:

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

3.14. Once the amendment documentation and mapping had been updated, Amendment C172 (Part 1) was submitted to the Minister for Planning for approval on 6 January 2016 (see Appendix 4 for amendment documentation).

#### **Amendment C172 (Part 2)**

3.15. As per Council’s resolution on 14 December 2015, 12 places formed Amendment C172 (Part 2). Council then requested the Minister for Planning to appoint an independent Panel to consider the amendment and associated submissions. The following places are to be considered:

- House at 24 Arnott Street, Mont Albert North
- Dental surgery at 150 Canterbury Road, Blackburn South
- House at 1 Gracefield Drive, Box Hill North
- House at 4 Ian Grove, Burwood
- House at 7 Norris Court, Blackburn
- House at 1163 Riversdale Road, Box Hill South
- House at 40 Somers Street, Burwood
- Former ES&A Bank – 153-155 Springvale Road, Nunawading
- House at 12 Sunhill Avenue, Burwood
- House at 1 Verona Street, Vermont South

- House “Wildwood” at 3 Villa Mews, Vermont
- House at 359 Whitehorse Road, Nunawading

3.16. Specifically, Amendment C172 (Part 2) proposes to:

- a) Modify the schedule to Clause 43.01 Heritage Overlay to add 12 new places.
- b) Inserts new Planning Scheme Maps marked “Whitehorse Planning Scheme, Amendment C172 (Part 2)” to include 12 new places in the Heritage Overlay.

3.17. Amendment C172 (Part 2) was referred to Planning Panels Victoria on 21 December 2015 (see Appendix 5 for amendment documentation).

#### **4. STRATEGIC CONTEXT AND ASSESSMENT**

##### **Strategic Assessment Guidelines**

4.1. This section details Council’s response to the Strategic Assessment Guidelines, as per the explanatory report for Amendment C172 (Part 2).

##### Why is the amendment required?

4.2. The amendment is required to provide permanent protection to the 12 new heritage places as no protection exists currently. There is no other mechanism in place to introduce a Heritage Overlay.

##### How does the amendment implement the objectives of planning in Victoria?

4.3. The amendment gives effect to and is consistent with the following objectives of planning in Victoria as identified in Section 4 (1) of the *Planning and Environment Act 1987*:

- a) *To conserve and enhance those buildings, areas or other places which are of scientific, aesthetic, architectural or historical interest, or otherwise of special cultural value;*
- b) *To facilitate development in accordance with the objectives of the Act.*

##### How does the amendment address the environmental effects and any relevant social and economic effects?

##### *Environmental effects*

4.4. The amendment will conserve and enhance places identified as being of aesthetic, architectural and historical interest and special cultural value.

4.5. The amendment will also make a significant positive contribution to the built environment of the municipality by assisting in the conservation of heritage places.

4.6. The retention of heritage places has positive environmental effects by significantly reducing building waste and conserving embodied energy in existing buildings.

### *Social effects*

- 4.7. The amendment is expected to have positive social impacts by providing protection for places that help demonstrate the historical development of the municipality to current and future generations.
- 4.8. The amendment also provides protection to aesthetically appealing places, which contributes to the cultural identity of Whitehorse.

### *Economic effects*

- 4.9. The amendment is not expected to have significant economic repercussions for the community. However some additional costs are likely to be imposed on the owners or developers of affected residential properties, since the amendment will necessitate a planning permit for most buildings and works. The amendment also has potential to affect the redevelopment opportunities of some affected sites.
- 4.10. It is considered that economic effects will be offset by the contribution that the heritage places offer to the broader community

### Does the amendment address relevant bushfire risk?

- 4.11. None of the properties affected by this amendment are situated within a Bush Fire Prone Area. The amendment will not increase bush fire risk to life, property, community infrastructure or the natural environment.

### Does the amendment comply with the requirements of any Minister's Direction applicable to the amendment?

- 4.12. The amendment is consistent with the following Ministerial Directions:
- a) Form and Content of Planning Schemes.
  - b) No. 9 Metropolitan Strategy as discussed below.
  - c) No. 11 Strategic Assessment of Amendments as discussed below.
  - d) No. 15 The Planning Scheme Amendment Process.

### How does the amendment support or implement the State Planning Policy Framework and any adopted State policy?

- 4.13. The amendment implements State Planning Policy 15.03 Heritage. The amendment will implement the objectives and strategies of Clause 15.03 by identifying places of heritage significance and applying the Heritage Overlay to provide for their conservation.

### How does the amendment support or implement the Local Planning Policy Framework, and specifically the Municipal Strategic Statement?

- 4.14. The amendment supports and implements the Municipal Strategic Statement at Clause 21.05 and the Local Planning Policy Framework at Clauses 22.06 and 22.01 as follows:

### *Municipal Strategic Statement*

- 4.15. An objective of Clause 21.05 Environment is “to protect and enhance areas with special ... cultural or historic significance for the future enjoyment of the community”. A strategy for achieving this is to identify places of historic significance within Whitehorse and then apply a Heritage Overlay to protect such places. The current amendment implements the clause by applying a Heritage Overlay to places recommended in the *Whitehorse Post 1945 Heritage Study*.

### *Local Planning Policy Framework*

- 4.16. Clause 22.01 is the local policy for heritage buildings and precincts. The clause specifically concedes that not all buildings with heritage significance in the municipality are identified in existing heritage overlays. Existing studies do not identify every heritage place however Council is working towards identifying remaining heritage places. This work is being guided by the *City of Whitehorse Potential Heritage Framework 2008*, which sets priorities for Council’s heritage work. The *Whitehorse Post 1945 Heritage Study* progresses the 2008 Framework and assesses and prepares citations for places identified as being the next priority of local significance. The 12 places forming part of the current amendment are compatible with this priority. The places are identified to be of clear significance and in this way, the amendment responds directly to the objectives of Clause 22.01 and Council’s Heritage Framework.
- 4.17. Clause 22.06 is the local policy for Activity Centres. Two of the heritage places in this amendment are the Nunawading Megamile Major Activity Centre and Mitcham Neighbourhood Activity Centre Structure Plan area. Retention of these heritage buildings will assist in increasing the cultural identity of these two Centres.

### Does the amendment make proper use of the Victoria Planning Provisions?

- 4.18. The amendment makes proper use of the Victoria Planning Provisions.
- 4.19. It is considered that the Heritage Overlay is the most appropriate planning tool to use because it identifies sites of historical significance and provides demolition protection. Whilst it is acknowledged that the neighbourhood character overlay also provides demolition control, this is only intended as an interim measure until appropriate new development opportunities are proposed. For heritage places however, it is imperative that redevelopment occurs in sympathy with, rather than in replacement of, the existing buildings and therefore the Heritage Overlay is the most appropriate planning tool.

### How does the amendment address the views of any relevant agency?

- 4.20. Exhibition of the amendment provided the opportunity for relevant agencies to comment on the proposed amendment, and no submissions were received.

### Does the amendment address relevant requirements of the Transport Integration Act 2010?

- 4.21. The amendment is not expected to have any noticeable impact on the transport system. There are no applicable statements of policy principles.

Resource and administrative costs - what impact will the new planning provisions have on the resource and administrative costs of the responsible authority?

- 4.22. If the amendment is approved then it is expected that there will be a small increase in the number of planning permits to be processed. However Council has a well-established process for assessing heritage applications and since any expected increase will be minor, additional applications can be accommodated within existing resources.

**5. SUBMISSIONS**

- 5.1. As discussed previously, Amendment C172 was formally exhibited between 1 October 2015 and 2 November 2015. Notice was sent to owners and occupiers of affected properties, properties adjoining and opposite affected properties, the National Trust, local historical societies, relevant Ministers and referral authorities. Notice of the amendment was also published in the Government Gazette on 1 October 2015 and in the Whitehorse Leader on 28 September 2015.
- 5.2. As of 23 February 2016, a total of 76 submissions had been received to Amendment C172. Of these, 15 submissions relate to Amendment C172 (Part 2) and have been referred to the Panel for consideration. These submissions generally oppose the application of a Heritage Overlay to specific properties within the amendment. Submission 67 was made by the National Trust which supports the amendment in its entirety. The submission commends Council's leadership in the protection of post-war heritage places. The referred submissions are included as Appendix 6 while Appendix 7 provides a summary of the submissions received.
- 5.3. The following responses are sourced from the report to Council of 14 December 2015. Submissions which referenced or provided specific heritage information were referred to the author of the Study, Built Heritage Pty Ltd, for its comment. Responses are also provided to the two submissions which were not included in the 14 December 2015 Council report.
- 5.4. As part of his expert witness report, Mr Simon Reeves will provide a more detailed response to heritage issues raised in the submissions.

24 Arnott Street, Mont Albert North (Submission 60)

- 5.5. Submission 60 objected to the inclusion of 24 Arnott Street in the amendment on the grounds that the house has been altered and has structural issues. The submission contends that the house does not relate to any significant post-modern architecture style and that the landscaping around the property does not contribute to the house.

*Response*

- 5.6. Built Heritage Pty Ltd reviewed the heritage information provided in the submission. It noted that the landscaping was not ascribed any significance, and that it did not assert that the building was an example of post-modernism.

- 5.7. The submission mentions interior alterations and a freestanding brick wall which should be removed for safety reasons. It is noted that internal changes are not relevant as the overlay does not recommend interior controls. Similarly, the freestanding brick wall is not part of the original house and can be removed (with a planning permit if the overlay is applied), which would be encouraged from a heritage perspective to allow the house façade to be visible from the street.

150 Canterbury Road, Blackburn South (Submission 63)

- 5.8. Submission 63 objected to the inclusion of 150 Canterbury Road in the amendment on the basis that there is insufficient support to justify significance of the heritage place. The submission considered the application of Heritage Overlays to individual properties as ‘problematic’ relative to application to a precinct or group of buildings. The building’s commercial context and use is also not conducive to limiting development on the site. As the building is now used for medical purposes, consequential alterations to the property have deteriorated its heritage significance.

*Response*

- 5.9. The property at 150 Canterbury Road was identified by Built Heritage Pty Ltd as a place of potential heritage significance, and it is included in the *Whitehorse Post 1945 Heritage Study* which underpins this amendment.
- 5.10. Although the building may have undergone many alterations, the key features pertaining to its heritage significance are still able to be observed. Built Heritage Pty Ltd has reviewed the heritage information provided in the submission and noted the following:

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

- 5.11. It is also noted that there is a current planning permit application for the site which has incorporated the existing dwelling. This application proposes to expand the existing dental surgery and combines the building at 150 Canterbury Road with the building at 152 Canterbury Road. Any further development will require planning permission due to the proposed Heritage Overlay.
- 5.12. Many properties with Heritage Overlays exist in isolation; it is not a prerequisite that Heritage Overlays apply to a precinct or group of buildings as suggested by the submission. There are also many examples of heritage properties within commercial precincts, although it is noted that this property is in a residential zone adjoining a commercial precinct.

### 1 Gracefield Drive, Box Hill North (Submission 56)

- 5.13. Submission 56 objected to the inclusion of 1 Gracefield Drive in the amendment as it would reduce the value of the property. Additional information about the property was provided, as was an independent heritage assessment. The submission contends that the house was altered in the 1960s with the addition of a front porch and rear bedroom, and that the house at 2 Gracefield Drive was not designed by Charles Weight.

#### *Response*

- 5.14. Built Heritage Pty Ltd reviewed the heritage information provided in the submission and noted the following:

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

and

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

- 5.15. The impact of Heritage Overlays on property values is also inconclusive. The Panel considering Amendment C157 to the Whitehorse Planning Scheme, which sought to apply heritage overlays to 32 places, stated that the *“economic issues to be considered at the planning scheme amendment stage are those of a broad community nature rather than those of a personal kind”* (page 20). They also noted the following about adverse impacts on property values:

*“Much has been written about potential financial impacts of the HO, but there is no definitive evidence available to support the view of some submitters that heritage controls diminish property values. In 2001 Heritage Victoria reviewed a number of studies on the effects of heritage on property values. The study found that, generally speaking, heritage controls do not affect property values for residential buildings and particularly not for buildings in heritage precincts. Because the HO itself does not preclude further development, it is difficult to gauge if there is any real impact on property values”* (page 18).

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

### 7 Norris Court, Blackburn (Submission 28)

- 5.17. Submission 28 objected to the inclusion of 7 Norris Court in the amendment on the grounds that the architect who designed the dwelling is not significant, and a Heritage Overlay will adversely affect property values. They question why a similar dwelling at 238 Canterbury Road is not heritage listed, and state that their dwelling is not unique if there are similar houses elsewhere. The submission also considered that the approach to applying Heritage Overlays is 'piecemeal', and has been unsuccessful elsewhere.

#### *Response*

- 5.18. Built Heritage Pty Ltd reviewed the heritage information provided in the submission. In relation to the notoriety of the architect it is noted that "there are many examples of heritage-listed buildings that were designed by lesser-known architects whose lives or careers are not well documented."
- 5.19. In relation to the house not being unusual and the query about applying a Heritage Overlay to 238 Canterbury Road, Built Heritage Pty Ltd stated that:

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

- 5.20. Council officers note that a Heritage Overlay is proposed for 238 Canterbury Road as part of the Concept Constructions Display Homes Precinct. It is also noted that many properties with Heritage Overlays exist in isolation; places are selected on their heritage significance and do not necessarily have to be part of a precinct or group. The impact of Heritage Overlays on property values is also inconclusive (see discussion regarding 1 Gracefield Drive).

### 1163 Riversdale Road, Box Hill South (Submission 74)

- 5.21. Submission 74 objected to the inclusion of 1163 Riversdale Road in the amendment, however no grounds of objection were provided.

#### *Response*

- 5.22. The submission did not raise any objections to the heritage significance of the dwelling for officers to respond to.

### 12 Sunhill Avenue, Burwood (Submissions 5, 19 and 20)

- 5.23. Submission 5 objected to the inclusion of 12 Sunhill Avenue in the amendment as the property is not in 'good' condition, and because the owners would like to put a new home on the site. The submission also questions whether the building's architect could have developed his style at this point of his career when this building was designed, and contends that the as-built dwelling does not match the original plan.

- 5.24. Submissions 19 and 20 also objected to the inclusion of 12 Sunhill Avenue in the amendment. These submissions considered the house to be rundown and out of character with the neighbourhood.

*Response*

- 5.25. Built Heritage Pty Ltd reviewed the heritage information provided in Submission 5 and noted that the condition of the house does not impact upon the significance ascribed to it. In relation to claims that the house is not erected exactly as shown in the presentation drawing, it noted that:

*“The axonometric drawing depicts a preliminary scheme. It is not unusual for revisions to be made during design development. No documentary evidence has been submitted to indicate that revisions to the design of this house were made without the architect’s consent.”*

- 5.26. It is not considered that the house is out of character with the neighbourhood. Sunhill Avenue has a number of houses from a similar era and of a similar scale.

1 Verona Street, Vermont South (Submission 27)

- 5.27. Submission 27 objected to the inclusion of 1 Verona Street in the amendment on the basis that there is no proper justification for its inclusion, it is not part of a group of dwellings, and that there have been substantial alterations to the dwelling. The submission considered that the house has been selected due to its architect rather than specific elements of heritage significance.

*Response*

- 5.28. The property at 1 Verona Street was identified by Council’s Heritage Advisor and Built Heritage Pty Ltd as a place of potential heritage significance, and it is included in the *Whitehorse Post 1945 Heritage Study* which underpins this amendment.
- 5.29. Built Heritage Pty Ltd reviewed the heritage information provided in the submission and noted that the alterations are not considered to have an adverse impact on the ascribed significance of the place. It also noted that the property has heritage significance beyond its architect.
- 5.30. It is reiterated that many properties with Heritage Overlays exist in isolation; it is not a prerequisite that Heritage Overlays apply to a precinct or group of buildings as suggested by the submission.

Wildwood – 3 Villa Mews, Vermont (Submission 47)

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

*Response*

- 5.32. Built Heritage Pty Ltd reviewed the heritage information provided in the submission and noted that:

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

359 Whitehorse Road, Nunawading (Submission 73)

- 5.33. Submission 73 objected to the inclusion of 359 Whitehorse Road in the amendment as the property is in disrepair and only meets limited criteria for heritage significance. The submission contended that the dwelling only meets the heritage significance for ‘architectural significance’ and that the building is a ‘representative’ not a ‘notable’ example of a modernist building. It also questioned the architect’s experience. It was also argued that the dwelling is not easily visible from the street frontage.

*Response*

- 5.34. Built Heritage Pty Ltd reviewed the heritage information provided in the submission and noted that there are many buildings with Heritage Overlays that are hidden from public view. It also stated that the “citation did not ascribe significance on the basis that the house was ‘unique’”.
- 5.35. It is also noted that many homes of this age require renovations and maintenance.

Former ES&A Bank – 153-155 Springvale Road, Nunawading (Submissions 2 and 75)

- 5.36. Submission 2 relating to the former ES&A Bank supported the amendment and the inclusion of this property within the Heritage Overlay. Further information for inclusion within the citation was also provided.
- 5.37. Submission 75 was brought to the attention of Strategic Planning officers by Statutory Planning officers when a planning permit application was lodged for the site at 153-159 Springvale Road on 1 December 2015. Council officers contacted the author of the submission who confirmed that it had been posted, however despite a comprehensive search, no record of it having been received or being on Council’s internal records system was found. As the Council Report had already been published, no change to the report could be made to reflect the missing submission, and instead Council resolved that the property be referred to Panel for consideration.
- 5.38. Submission 75 objected to the amendment as it considered that a Heritage Overlay would be contrary to policies encouraging new development in the Nunawading Activity Centre. They do not support an overlay for a single site, and consider that there is no valid basis when considered against relevant heritage criteria.

*Response*

- 5.39. Built Heritage Pty Ltd reviewed the heritage information provided in Submission 2 and noted that the “additional information does not impact [the] existing assessment but could be added to the citation for the sake of providing a fuller historical record”.
- 5.40. Submission 75 was not able to be included in the report to Council, but the submission has since been referred to Built Heritage Pty Ltd and comments on heritage aspects will be provided in the expert witness report of Mr Simon Reeves. However, Council officers can provide a response in relation to the strategic planning context for the subject site.
- 5.41. The subject site is located within the *Nunawading/MegaMile Major Activity Centre and Mitcham Neighbourhood Activity Centre Structure Plan* (the **Structure Plan**) area. The Structure Plan provides guidance for heights within the Nunawading Activity Centre. For areas along Springvale Road, heights of 8-11m (2-3 storeys) are anticipated at the frontage, with heights of 20m (5-6 storeys) acceptable to the rear of the sites should the road and rail intersection at Springvale Road be separated (which occurred in 2010).
- 5.42. In relation to built form and density, the Structure Plan seeks to:
- a) *Redevelop under-utilised land parcels and obsolete buildings close to public transport and core retail to revitalise the appearance and enhance the economic capacity of the village centres; and*
  - b) *Retain and enhance the valued elements of the urban fabric which give Nunawading and Mitcham their character and distinctiveness* (page 48).
- 5.43. One of the strategic directions for built form and density set out in the Structure Plan is to:
- a) *Ensure that the scale of new buildings in Nunawading, MegaMile and Mitcham complements the existing natural features of the area and the preferred future character and quality of its built form* (page 48).
- This is to be achieved through maintaining a “*lower village scale built form within 6m of street with higher forms setback*”. Other relevant directions encourage a vibrant street life and facilitation of a consistently high standard of architectural design.
- 5.44. The Structure Plan also envisages this area as providing increased social and housing diversity, while encouraging uses that support the MegaMile shopping strip.
- 5.45. In relation to the planning permit application for the consolidated lot, the proposed use and development is largely supported by strategic objectives set out for the precinct in the Structure Plan. Development of the consolidated site will bring life to this section of Springvale Road, and take advantage of its strategic location near high quality road and rail infrastructure.
- 5.46. However, the built form is inconsistent with the Structure Plan and contrary to objectives to maintain valued elements of the existing urban fabric in Nunawading. The Structure

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

- 5.47. The Structure Plan also encourages retention and enhancement of the existing urban fabric. The existing urban fabric in this area is of a fine grain retail character, with many of the existing properties having high street activation which is enhanced by the generous setbacks of the built forms. The proposed building does not engage with users on the street, nor does it provide a very active frontage, instead choosing to have a meeting place (café and lobby) on the inside of the building rather than one interfacing with the public realm. Currently some of the private land is donated to the public realm however this proposal will reduce the plaza space. Overall it is difficult to imagine how this proposal will be an improvement relative to what is there now due to the excessive building bulk and lack of activation at street level.
- 5.48. The former ES&A Bank building itself is distinctive and has been a feature of the centre for many decades. Council prides itself on protecting heritage buildings, and retaining high quality and distinctive buildings is also consistent with the direction provided in the Structure Plan.
- 5.49. The planning system inherently involves balancing competing objectives. The question of whether land utilisation or heritage considerations are more important is often raised in relation to heritage matters. In this circumstance, there is no shortage of sites within close proximity to the subject site which are ready for redevelopment. On the contrary, there are few buildings within the centre that can provide character and distinctiveness such as the one at 153-155 Springvale Road. Given the location of the building and the land available to the south owing to the consolidation of sites, it is considered reasonable to request retention of parts of the heritage building.

#### 4 Ian Grove, Burwood (Submission 76)

- 5.50. Submission 76 relating to 4 Ian Grove was received very late in the amendment process, and was therefore referred to the Panel by Council officers. The submission objected to the inclusion of the property in the amendment as the property is in bad condition and was purchased with the intent of being redeveloped. A Building Inspection Report was also provided.

#### *Response*

- 5.51. Due to the timing of the submission, it was not able to be included in the report to Council. The submission has been referred to Built Heritage Pty Ltd and comments on heritage aspects will be provided in the expert witness report of Mr Simon Reeves.
- 5.52. In terms of the property's redevelopment potential, it is noted that all land can be subject to new planning controls which in some cases can be detrimental to development opportunities. A recent example includes the introduction of new residential zones across

Victoria where many landowners are now limited to two dwellings per lot. Council also refers to previous discussion about property values.

- 5.53. The planning system inherently involves balancing competing objectives. In this case, broad social benefits of protecting places which contribute to the identity of Whitehorse, such as this one, need to be weighed up against metropolitan objectives for urban consolidation. The General Residential Zone, which is intended for moderate levels of housing growth, covers approximately 45 per cent of Whitehorse. It is considered that heritage controls on this particular site will have an insignificant impact on the City's ability to increase its housing stock in accordance with urban consolidation objectives.

40 Somers Street, Burwood (no submission)

- 5.54. No submission was received for this property, so no response is able to be provided.

**Proposed changes to the amendment documents as a result of submissions**

- 5.55. No change is proposed at this stage however there may be some changes made to the citations following the review of other expert witness statements.

**6. OTHER MATTERS**

**Current Planning Permits**

- 6.1. At the Directions Hearing the Panel asked for information about any current planning permits for the subject properties. The following table provides information about the four properties which have current planning permit applications with Council. A summary plan for each of the proposals is provided at Appendix 8.

**Table 2 – Current Planning Permit Applications**

<b>Address</b>	<b>Application number</b>	<b>Description</b>	<b>Status*</b>
<b>150 Canterbury Road Blackburn South</b>	WH/2015/696  Lodged: 20 August 2015	Use and development of the land for a medical centre, alteration of access to a road in a Road Zone Category 1, and a reduction in the car parking requirements of Clause 52.06	Further information received
<b>4 Ian Grove Burwood</b>	WH/2014/701  Lodged: 30 June 2014	Construction of three double storey dwellings	VCAT refusal issued
<b>1 Verona Street Vermont South</b>	WH/2015/1036  Lodged: 25 November 2015	2 lot subdivision	Further information preparation

Address	Application number	Description	Status*
<b>Former ES&amp;A Bank 153-155 Springvale Road, Nunawading</b>	WH/2015/1066  Lodged: 1 December 2015	Use and development of the land for the purpose of a residential hotel, reduction of standard car parking requirements associated with a food and drink premises and waiver of loading bay requirements.	Further information received

\*Status as at 23 February 2016

## 7. CONCLUSION

- 7.1. Amendment C172 (Part 2) seeks to apply the Heritage Overlay to 12 places in the City of Whitehorse, as identified in the *Whitehorse Post 1945 Heritage Study*. Exhibition of the parent amendment attracted seventy six (76) submissions, of which fifteen (15) submissions relate to Amendment C172 (Part 2). Of these, all but one generally oppose the inclusion of specific properties within the amendment.
- 7.2. It is submitted that the amendment is strategically supported by the Whitehorse Planning Scheme and the objectives of the *Planning and Environment Act 1987* which seek to conserve places of heritage significance. The reference document and citations that the proposed planning controls are based upon have been well researched and are presented with the intent to protect heritage built form, not to stop development altogether.
- 7.3. Council therefore respectfully requests that the Panel recommends that Amendment C172 (Part 2) be adopted generally as exhibited.

**Andrea Skraba**  
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Whitehorse City Council  
8 March 2016

## **APPENDICES**

## **Appendix 1 – History of Heritage Studies in the City of Whitehorse**

## **Appendix 2 – Planning Scheme Amendment documentation for Amendment C172**

**Appendix 3 – Whitehorse City Council Meeting Minutes of 14 December 2015**

**Appendix 4 – Planning Scheme Amendment documentation for Amendment C172 (Part 1)**

**Appendix 5 – Planning Scheme Amendment documentation for Amendment C172 (Part 2)**

## **Appendix 6 – Submissions to Amendment C172 (Part 2)**

## **Appendix 7 – Summary of submissions to Amendment C172 (Part 2)**

## **Appendix 8 – Current planning permit application plans for four heritage places**