

*Planning and Environment Act 1987*

**Panel Report**

**Glen Eira Planning Scheme Amendment C201glen  
Murrumbeena Village Precinct**

**29 May 2020**

### How will this report be used?

This is a brief description of how this report will be used for the benefit of people unfamiliar with the planning system.

If you have concerns about a specific issue you should seek independent advice.

The planning authority must consider this report before deciding whether or not to adopt the Amendment.

[section 27(1) of the *Planning and Environment Act 1987* (the Act)]

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

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

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

Planning and Environment Act 1987

Panel Report pursuant to section 25 of the Act

Glen Eira Planning Scheme Amendment C201glen

Murrumbeena Village Precinct

29 May 2020



Con Tsotsoros, Chair

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## Glossary and abbreviations

Act	<i>Planning and Environment Act 1987</i>
Council	Glen Eira Council
Heritage Study	Glen Eira Post-War and Hidden Gems Study 2020
HO187 heritage citation	Murrumbeena Village Precinct Heritage Citation
Inter-war	Development phase between the two world wars
Precinct	Murrumbeena Village Precinct
Statement of Significance	Murrumbeena Village Precinct, Statement of Significance 2019
WWII	World War II

## Overview

Amendment summary	
<b>The Amendment</b>	Glen Eira Planning Scheme Amendment C201glen
<b>Common name</b>	Murrumbeena Village Precinct
<b>Brief description</b>	The Amendment proposes to permanently apply the Heritage Overlay to properties in the Murrumbeena Village Precinct.
<b>Subject land</b>	55-87 (odd), 88-94 (even) Murrumbeena Road and 398, 412-486, 504 (even), 453-473 (odd) Neerim Road
<b>Planning Authority</b>	Glen Eira Council
<b>Authorisation</b>	25 September 2019
<b>Exhibition</b>	24 October to 25 November 2019
<b>Submissions</b>	<p>Submissions were received from:</p> <ol style="list-style-type: none"> <li>1. Joseph Cusmano</li> <li>2. Vivace Property Group Pty Ltd</li> <li>3. Cathy Yin</li> <li>4. Phil Ridder</li> <li>5. Anh Ha</li> <li>6. Bert Frey</li> <li>7. Chris Hansen</li> <li>8. Louis Holding</li> <li>9. Graham McCall</li> <li>10. Kitty O'Loughlin</li> <li>11. Kingcorp Enterprises Pty Ltd</li> <li>12. David Glenn</li> <li>13. Emmanuel Gioutlou</li> <li>14. Marjery Sheldy</li> <li>15. Environment Protection Authority</li> <li>16. George and Sue Thomson</li> <li>17. Ericka Argiris</li> <li>18. Nick Stamatelos</li> <li>19. Graham McCall</li> <li>20. George and Sue Thomson</li> <li>21. Department of Transport</li> <li>22. Susannah Farfor</li> <li>23. Elissa Blackman</li> <li>24. Janie Thompson</li> <li>25. Emma Mason</li> </ol>

## Panel process

<b>The Panel</b>	Con Tsotsoros
<b>Directions Hearing</b>	Caulfield Town Hall, 12 March 2020
<b>Panel Hearing</b>	By video conference, 11 and 12 May 2020
<b>Site inspections</b>	Unaccompanied, 12 March 2020
<b>Parties to the Hearing</b>	<ul style="list-style-type: none"> <li>- Glen Eira Council represented by Adeline Lane of Marcus Lane Group, who called expert evidence on heritage from Simon Reeves of Built Heritage Pty Ltd</li> <li>- George and Sue Thomson represented by David Thomson</li> <li>- Joseph Cusmano</li> <li>- Vivace Property Group Pty Ltd represented by Dominic Scally and Emily Marson of Best Hooper, who called expert evidence on heritage from Peter Barrett of Peter Andrew Barrett</li> </ul>
<b>Citation</b>	Glen Eira PSA C201glen [2020] PPV
<b>Date of this Report</b>	29 May 2020

## Executive summary

Murrumbeena Village is an activity centre with a railway station which connects to Melbourne's central city about 12 kilometres northwest and Dandenong metropolitan activity centre about 17 kilometres southeast. The centre developed as a retail centre modestly soon after the initial subdivisions on the north side of Neerim Road in the late 1880s after the railway station opened in 1879. It grew more rapidly following land subdivisions and sales in Murrumbeena from the mid-1910s.

In early 2019, Council engaged heritage consultants to conduct the Glen Eira Post-War and Hidden Gems review. The 'hidden gems' referred to historically significant heritage places built before World War II (WWII). A member of the public nominated 430-434 Neerim Road, Murrumbeena which resulted in Murrumbeena Village being further investigated. A select number of properties were short-listed and recommended for the Heritage Overlay.

The review resulted in the Glen Eira Post-War and Hidden Gems Study 2020 (Heritage Study) which included a citation for the Murrumbeena Village Precinct. The Heritage Study found that the earliest buildings were constructed in Murrumbeena Village between the late Victorian era and World War I and the predominant number of buildings were constructed between the two world wars. It concluded that many properties in the centre formed a cohesive heritage precinct which achieved historical and aesthetic local significance (Criteria A and E).

The Heritage Study has applied a logical and comprehensive methodology to inform the relevant heritage citation and Statement of Significant.

Glen Eira Planning Scheme Amendment C201glen (the Amendment) seeks to apply the Heritage Overlay to these recommended properties:

- 55-87 (odd) and 88-94 (even) Murrumbeena Road
- 398, 412-486, 504 (even), 453-473 (odd) Neerim Road.

The Amendment was exhibited between 24 October to 25 November 2019 and received 25 submissions. Precinct-wide and common issues raised in submissions included insufficient strategic justification, competing planning policy objectives, incohesive and insufficiently significant precinct, restrictions on development and maintenance, property value and financial implications. Specific issues were raised for 87 Murrumbeena Road and 430-434 Neerim Road. Council submitted that it proposed to exclude the non-contributory rear sections of properties north of Neerim Road and south of Melbourne Street.

The Amendment is supported by, and implements, the relevant sections of the Planning Policy Framework. It is well founded, strategically justified and consistent with the relevant Ministerial Directions and Practice Notes. It will achieve net community benefit by protecting and promoting identified local heritage for future generations without unreasonably affecting housing and activity centre policies objectives.

The Amendment should proceed subject to addressing the more specific issues raised in submissions as discussed in this report.

### *Common issues*

Development opportunity, building alterations, maintenance, property value and financial implications are not relevant when assessing the heritage significance of an individual place or a precinct or when deciding whether to apply a Heritage Overlay.

### *Murrumbeena Village Precinct (HO187)*

The study research which informed the heritage citation is comprehensively insightful, supported by thorough research, and forms an appropriate baseline for assessing individual places in the Precinct.

Murrumbeena Village Precinct meets the threshold of local heritage significance to justify the Heritage Overlay. It is appropriate and justified to include 87 Murrumbeena Road and 430-434 Neerim Road as Contributory properties in the Precinct. However, there is no need to apply the Heritage Overlay to railway land zoned Public Use Zone 4.

In principle, it would be sensible to not apply the Heritage Overlay to non-contributory elements on the deep properties along the north side of Neerim Road if they are not required to form part of the curtilage. It is premature to recommend any change to the boundary alignment until Council, with its heritage consultant, conduct further assessment consistent with guidance in Planning Practice Note 1.

### **Recommendations**

Based on the reasons set out in this Report, the Panel recommends that Glen Eira Planning Scheme Amendment C201glen be adopted as exhibited subject to the following:

- 1. The planning authority, with its heritage consultant, reassess the precinct boundary along properties north of Neerim Road, south of Melbourne Street (from 430 to 486) to determine the extent to which it can exclude non-contributory post World War II buildings and additions fronting Melbourne Street.**
- 2. Amend the HO187 Statement of Significance to remove reference to post World War II buildings to the rear of Neerim Road shops with principal frontage to Melbourne Street, if they are excluded from the precinct before the Amendment is adopted.**
- 3. Amend the Heritage Overlay Map to exclude land zoned Public Use Zone 4.**

### **Further recommendations**

The Panel further recommends:

- 4. Amend the Murrumbeena Village HO187 heritage citation to:**
  - a) remove reference to post World War II buildings to the rear of Neerim Road shops with principal frontage to Melbourne Street, if they are excluded from the precinct before the Amendment is adopted.**
  - b) delete “as is all infrastructure associated with the Skyrail” from the last sentence under ‘What is significant’ to reflect that the precinct will no longer include Public Use Zone 4 land.**



# 1 Introduction

## 1.1 The Amendment

The Amendment seeks to implement findings in the Glen Eira Post-War and Hidden Gems Study 2020, specifically the Murrumbeena Village Precinct heritage citation (HO187 heritage citation), by:

- applying the Heritage Overlay (HO187) to properties in the Murrumbeena activity centre (otherwise known as Murrumbeena Village) shown in Figure 1
- amending the Heritage Overlay Schedule to insert a new HO187 listing for the Murrumbeena Village Precinct (Heritage Precinct) and to reference the Murrumbeena Village Precinct, Statement of Significance 2019 (Statement of Significance)
- incorporating the Statement of Significance into the Planning Scheme through Clause 72.04.

## 1.2 Subject land and context

Figure 1 Subject land



Source: HO187 citation, <https://mapshare.vic.gov.au/vicplan/> and Planning Panels Victoria

The subject land, as shown in Figure 1, comprises commercial properties at 55-87 (odd) and 88-94 (even) Murrumbeena Road and 398, 412-486, 504 (even), 453-473 (odd) Neerim Road in the Murrumbeena Village activity centre. The activity centre includes the Murrumbeena Railway Station which connects to Melbourne's central city about 12 kilometres northwest and the Dandenong metropolitan activity centre about 17 kilometres southeast.

Murrumbeena Village developed modestly as a retail centre soon after the initial subdivisions on the north side of Neerim Road in the late 1880s following the railway station opening in 1879. It grew more rapidly following land subdivisions and sales from the mid-1910s.

### 1.3 Background

2019	
May	Built Heritage Pty Ltd commenced heritage gap study
27 June to 16 July	Fieldwork conducted for outline citations
24 July	Council received a permit application for 430-434 Neerim Road to construct a nine-storey building with 135 student accommodation units and supermarket
28 August	Murrumbeena Village Precinct full-length citation completed
3 September	Council resolved to: <ul style="list-style-type: none"> <li>- endorse the Murrumbeena Village Precinct heritage citation</li> <li>- request the Minister for Planning exempt himself from notice and prepare, adopt and approve interim heritage controls to the Murrumbeena Village Precinct while the amendment for permanent controls runs its course (Amendment C198glen);</li> <li>- seek authorisation from the Minister for Planning to prepare and exhibit the Amendment</li> <li>- exhibit the Amendment subject to authorisation</li> </ul>
4 September	Council wrote to the Minister for Planning requesting interim heritage controls to the Murrumbeena Village Precinct
25 September	Department of Environment, Land, Water and Planning (DELWP), under delegation from the Minister for Planning, authorised the Amendment
24 October	Amendment exhibition commenced
25 November	Amendment exhibition ended
2020	
12 March	DELWP advised Council that an interim heritage control would be applied to 430-434 Neerim Road but not to the broader precinct
23 April	The interim Heritage Overlay was applied to 430-434 Neerim Road and will expire on 31 March 2021

### 1.4 Procedural issues

Council and Vivace Property Group Pty Ltd representatives attended the Directions Hearing at the Caulfield Town Hall on 12 March 2020. They provided their contact details through an attendance register in response to the Novel Coronavirus Disease 2019 (COVID-19). Parties discussed the potential impact of COVID-19 on hearing procedures.

In response to a request from Vivace Property Group, and with agreement from other parties at the Directions Hearing, the Panel decided to defer the Hearing commencement until 11 May 2020.

### **(i) Hearing format changes in response to COVID-19**

The Panel wrote to parties on 9 April 2020 to advise that government restrictions on public gatherings did not enable the Hearing to be conducted in person at venue. The Panel provided each party with an opportunity to comment on its proposal to conduct the Hearing by video conference, and the option for an additional written submission.

For reasons set out in their responses, Council and Mr Thomson did not oppose the Hearing being conducted by video. Vivace Property Group and Mr Cusmano opposed this process. Having carefully considered all feedback, the Panel decided to proceed with the Hearing by video. This was confirmed in its letter to the parties on 24 April 2020.

The *COVID-19 Omnibus (Emergency Measures) Act 2020* was subsequently introduced on 25 April 2020. This Act, among many other sections, states that a “*panel is not required to hear the person in person, but may instead require the person or their representative to appear and be heard at a specified time by electronic means*”.

The Panel issued further directions on 28 April 2020 to facilitate the electronic Hearing process.

## **1.5 Submissions**

Council received 25 submissions from 23 submitters, including one proforma which was copied and signed by 10 objecting submitters. The proforma generally replicated paragraphs from the Vivace Property Group submission. Ten other submissions also objected, while five submissions either supported the Amendment, or did not object.

Ms Blackman, Ms Farfor, Ms Thompson and Ms Mason each supported the Amendment in its exhibited form.

## **1.6 The Panel’s approach**

The Panel has assessed the Amendment against the principles of net community benefit and sustainable development, as set out in Clause 71.02-3 (Integrated decision making) of the Planning Scheme.

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

This Report deals with the issues under the following headings:

- Planning context
- Strategic justification
- Common issues
- Murrumbeena Village Precinct (HO187).

## 2 Planning context

### 2.1 Planning policy framework

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

#### Victorian planning objectives

The Amendment will implement section 4(1)(d) of the *Planning and Environment Act 1987* (the Act) 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
- balance the present and future interests of all Victorians.

#### Planning Policy Framework

The Amendment supports:

- **Clause 15.01-5S** (Neighbourhood character) which seeks to recognise, support and protect neighbourhood character, cultural identity, and sense of place.
- **Clause 15.03-1S** (Heritage conservation) which seeks to ensure the conservation of places of heritage significance. Relevant strategies are:
  - Identify, assess and document places of natural and cultural heritage significance as a basis for their inclusion in the planning scheme.
  - Provide for the protection of natural heritage sites and man-made resources and the maintenance of ecological processes and biological diversity.
  - Provide for the conservation and enhancement of those places which are of, aesthetic, archaeological, architectural, cultural, scientific, or social significance.
  - Encourage appropriate development that respects places with identified heritage values.
  - Retain those elements that contribute to the importance of the heritage place. Encourage the conservation and restoration of contributory elements.
  - Ensure an appropriate setting and context for heritage places is maintained or enhanced.
- **Clause 21.10** (Heritage) which seeks to identify, protect, enhance and promote understanding of Glen Eira's heritage. Relevant strategies are:
  - Protect places identified as having architectural, cultural or historical significance.
  - Ensure sympathetic redevelopment and renovation of areas and places identified as having architectural, cultural or historic significance in the municipality.
  - Enhance knowledge and popular understanding of Glen Eira's architectural, cultural and historic heritage.

**Clause 22.01** (Heritage) which sets out Glen Eira's policy for all land in the Heritage Overlay. It sets out its policy for demolition, subdivision, and a new building, alterations and additions in a commercial heritage area. Clause 22.01 includes policies which seek:

- To preserve the scale and pattern of streetscapes in heritage precincts.
- To ensure that additions and new buildings and works to a heritage place respect the significance of the place and/or precinct.
- To ensure the design of new development respects, complements and responds to the heritage significance of the precinct.

- To promote design excellence which supports the ongoing significance of heritage places.
- To ensure that non-contributory buildings in heritage precincts are developed in a manner that is sympathetic to, and does not detract from, the significance of the heritage precinct.

### (i) Plan Melbourne

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

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

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

## 2.2 Planning scheme provisions

The Heritage Overlay purposes are:

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

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

## 2.3 Ministerial Directions and Practice Notes

### Ministerial Directions

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

- Ministerial Direction 11 (Strategic Assessment of Amendments)
- Ministerial Direction (The Form and Content of Planning Schemes pursuant to section 7(5) of The Act) – referred to as Ministerial Directions 7(5) in this Report.

That discussion is not repeated here.

### **Planning Practice Note 1 – Applying the Heritage Overlay (August 2018)**

Planning Practice Note 1 provides guidance about using the Heritage Overlay. It states that the Heritage Overlay should be applied to, among other places:

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

Planning Practice Note 1 specifies that documentation for each heritage place needs to include a statement of significance that clearly establishes the importance of the place and addresses the heritage criteria. It recognises the following model criteria (the Hercon criteria) that have been adopted for assessing the value of a heritage place:

- Criterion A:** Importance to the course or pattern of our cultural or natural history (historical significance).
- Criterion B:** Possession of uncommon rare or endangered aspects of our cultural or natural history (rarity).
- Criterion C:** Potential to yield information that will contribute to an understanding of our cultural or natural history (research potential).
- Criterion D:** Importance in demonstrating the principal characteristics of a class of cultural or natural places or environments (representativeness).
- Criterion E:** Importance in exhibiting particular aesthetic characteristics (aesthetic significance).
- Criterion F:** Importance in demonstrating a high degree of creative or technical achievement at a particular period (technical significance).
- Criterion G:** Strong or special association with a particular community or cultural group for social, cultural or spiritual reasons. This includes the significance of a place to Indigenous peoples as part of their continuing and developing cultural traditions (social significance).
- Criterion H:** Special association with the life or works of a person, or group of persons, of importance in our history (associative significance).

## **3 Strategic justification**

### **3.1 The issues**

The issues are whether the Amendment:

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

### **3.2 Glen Eira Heritage Management Plan**

Architectural historian, Andrew Ward, prepared the Glen Eira Heritage Management Plan in 1996. Council prepared an addendum to the Plan in 2014. Mr Ward had previously prepared the City of Caulfield Urban Conservation Study early in 1990.

The Plan sets out Glen Eira's background history which includes the following development eras:

- Proclamation of Shires and Land Boom (1870's-1890's)
- The Post Federation Years (1900's-1910's)
- Suburban Expansion and Consolidation (1920's-1930's).

The exhibited Precinct includes development across all three eras.

### **3.3 Study methodology**

Mr Reeves set out the study's methodology in his report, which is summarised below.

#### **(i) Preliminary work and nominations**

The Murrumbeena Village Precinct formed part of Council's broader heritage gap study, Hidden Gems & Post-War Heritage Study 2020. The Study grouped places by whether they were built before or after World War II (WWII).

Council prepared a list of pre-WWII candidate places, which consolidated places:

- designated as C-graded in Andrew Ward's 1996 heritage study
- nominated by Council staff, the Glen Eira Historical Society, local residents and property owners.

Council engaged heritage consultants, Built Heritage Pty Ltd, to conduct further research and provided it with the list of 46 individual places and four precincts. A member of the public nominated 430-434 Neerim Road.

In late May 2019, Built Heritage was provided with further nominations, including:

- Wardrop's Buildings at 77-79 Murrumbeena Road
- row of six Inter-war residential shops at 476- 486 Neerim Road
- row of five Inter-war shops on railway land along the south side of Neerim Road.

**(ii) Fieldwork and outline citations**

The fieldwork for outline citations occurred between 27 June and 16 July 2019, including a 15 minute inspection at Murrumbeena on 1 July.

Each nominated place was assessed and rated as either low, medium or high. Half of the 100 outline citations prepared in August 2019 were for pre-WWII places. Council selected places to progress to full-length citations.

**(iii) Full length citations**

In mid-August 2019, Council requested a full-length citation for an area designated as the 'Murrumbeena Commercial Precinct'. It provided a potential precinct boundary and asked Built Heritage to consider where the final precinct boundary should align.

The full citation was prepared through further fieldwork, historical research, description and mapping and comparative analysis.

**Fieldwork**

Built Heritage conducted an approximately 20 minute inspection of the Precinct area later in August 2019 and captured 80 photographs. It observed that the buildings and other fabric had not changed noticeably since previous fieldwork in early July 2019.

**Historical research**

Historical research relied mostly on primary sources:

- street-by-street listings in the Sands & McDougall Directory from the late 1880s to the early 1970s
- former City of Caulfield Rate Books (East Ward)
- historic maps, notably the subdivision plan for the original Murrumbeena Reserve estate (1887) and the MMBW sewerage detail plans covering the study area (1918)
- archival newspapers
- historical images from published secondary sources, notably:
  - Colin Smith's, Merric Boyd and Murrumbeena (2013)
  - Glen Eira Historical Society's Along the Line: Caulfield to Oakleigh Rail Stories (2019).

The historical component of the Precinct's citation included the development spanning:

- the opening of the railway line (1879)
- the creation of the Murrumbeena Reserve estate (1887)
- the first wave of retail activity (early c1890s)
- the boom of early twentieth century commercial development (c1910-1935)
- post-WWII expansion and redevelopment up until the 1980s.

The citation referred to recent redevelopment between the 1990s and the removal of railway infrastructure associated with the construction of the elevated rail.

**Description and mapping**

The Precinct's description was informed by the two phases of fieldwork and associated photographs. It observed that post-WWII buildings "*tend to be sympathetic in scale, form and style to their pre-war counterparts*". The final paragraph noted vintage painted signage



and some later twentieth century murals of interest which justified external paint controls through the Heritage Overlay.

### **Comparative analysis**

The Precinct was initialled compared to five other suburban commercial strips with the Heritage Overlay in Glen Eira:

- Glenhuntly Road, Caulfield South (HO66)
- Derby Road, Caulfield North (HO71)
- Glenhuntly Road, Elsternwick (part HO72)
- North Road, Ormond (part HO75)
- McKinnon Road, McKinnon (part HO75).

It also compared it with the Centre Road, Bentleigh and Koornang Road, Carnegie commercial streetscapes which did not have the Heritage Overlay applied when the citation was prepared.

### **(iv) Revised citation**

In late August 2019, Council provided Built Heritage with recommended changes to the citation to:

- revise the date range from '1889-1970s' to reflect predominant pre-war character
- not apply the paint controls through the Heritage Overlay
- delete descriptive text about post-WWII fabric, including painted signage and murals, except for a council-owned mural in the walkways between the shops at Nos 469-471 Neerim Road
- relocate the list of specific addresses (under the heading 'Significant places') to form part of the Statement of Significance
- re-grade the post-WWII places in the Precinct from Contributory to Non-contributory
- make clerical and formatting changes
- delete the sentence in the Statement of Significance about post-WWII buildings.

Council recommended that the comparative analysis in the citation be reworked to identify that two comparators under the heading of 'Commercial streetscapes without heritage overlays' had been assessed and recommended as heritage overlay precincts as part of an earlier review by RBA Architects.

Council requested the mapping to be changed to:

- step the east boundary around the elevated railway station rather than bisecting
- exclude the post-WWII shop/office block at the south edge of the precinct
- regrade other post-WWII buildings in the Precinct as non-contributory elements
- extend the rear boundary of shop sites along the north side of Neerim Road (east of Murrumbeena Road) to extend all the way to Melbourne Road.

A revised citation included Council's changes and commentary in the Statement of Significance clarifying that properties with their principal frontage to Melbourne Street were deemed to be non-contributory elements.

### 3.4 Submissions

There were submitters who considered the Amendment to be inconsistent with State planning policy objectives. They submitted that Murrumbeena Village's proximity to major transport, services and infrastructure made it ideal for higher density development. For example:

#### **Vivace Property Group:**

Firstly, the Amendment is inconsistent with the overarching objectives of the State planning policies. The government has spent hundreds of millions of dollars on the Caulfield to Dandenong Level Crossing Removal Project and upgrade of the Murrumbeena Railway Station. The close proximity to major transport facilities, services and infrastructure makes the Precinct a perfect candidate for higher density development. According to Council's local policy at Clause 22.09 (Student Housing Policy), the Precinct is identified as one of the area where student housing is specifically encouraged. The introduction of heritage controls to the Precinct will severely restrict its development potential and its ability to accommodate additional housing and employment. It will strip the opportunities and benefits created by the government's major infrastructure upgrade project.

#### **10 proforma submissions:**

Firstly, the Amendment is inconsistent with the overarching objectives of the State planning policies. The government has spent hundreds of millions of dollars on the Caulfield to Dandenong Level Crossing Removal Project and upgrade of the Murrumbeena Railway Station. The close proximity to major transport facilities, services and infrastructure makes the Precinct a perfect candidate for higher density development. The introduction of heritage controls to the Precinct will severely restrict its development potential and its ability to accommodate additional housing and employment. It will strip the opportunities and benefits created by the government's major infrastructure upgrade project.

Mr and Mrs Thomson submitted that the Heritage Overlay would deter current and future property owners and tenants from investing in Murrumbeena Village. They said that the centre had lost customers and sense of community after losing staple business that operated for 60 years. They explained that over the past five years, the supermarket, butcher, grocer, milk bar and news agency had all ceased to operate over without being replaced.

Mr and Mrs Thomson considered that the centre needed change through high quality and higher density developments such as the one at 488-490 Neerim Road. They referred to Carnegie and Hughesdale as examples of centres where change has made them more appealing to potential tenants.

About half of the submissions considered that the Amendment had insufficient strategic basis and should have been prepared with other strategic work. For example, Vivace Property Group and the 10 proforma submitters each said:

Secondly, the Amendment lacks strategic vigour and should have been prepared as part of comprehensive strategic planning work. Council has not undertaken any strategic study (such as a structure plan or an urban design framework) for the Precinct to date. Given the development potential of the Precinct, if heritage controls were to be introduced, they should be prepared in conjunction with a structure plan, so matters such as massing, setbacks and building height can be properly and holistically considered. The introduction of heritage controls, in isolation of any supporting development controls, will lead to poor planning outcomes for the Precinct.

At the Hearing, Vivace Property Group reinforced that the Amendment "*lacks strategic planning insight*" and should have been prepared with strategic planning work including built form structure planning.

Ms Farfor considered that applying the Heritage Overlay would attract economic development by promoting Murrumbeena Village's heritage. Ms Mason referred to the social benefit which would be achieved through maintaining Murrumbeena's history and identity.

Council submitted that the Amendment reasonably balances different Planning Scheme policy objectives and will not significantly impact the ability to meet housing and activity centre strategic objectives. It referred to key policies in the Planning Policy Framework which seek to balance heritage recognition and preservation with providing housing diversity for a growing population in accessible locations, such as activity centres. It submitted:

- no submitter provided evidence to support claims regarding the Amendment's social or economic effects
- preserving heritage character will have an inherent economic value and positive social effects for present and future generations, thereby resulting in a net community benefit
- the broader community benefit would offset the potential increase in planning permit applications resulting from more properties with the Heritage Overlay.

Council added:

Council respectfully rejects assertions the Amendment will impact significantly on the ability of affected properties to contribute to the policy objectives of the Scheme, particularly those associated with urban consolidation and the provision of student housing. The Heritage Overlay does not prohibit development, but instead requires the significance of affected properties to be considered when assessing permit applications.

Council referred to Elsternwick Estate and environs (HO72), the Caulfield South Shopping Centre and Environs, South Caulfield (HO66) and the Ormond Precinct environs (HO75) as examples of commercial heritage precincts in the municipality which have achieved medium to high density development while preserving identified heritage values. They reasonably balanced different policy objectives, with guidance from Clause 22.01 of the Planning Scheme.

Council submitted that matters about competing policy objectives are more relevant during the planning permit application stage. They are not relevant during the planning scheme amendment stage when assessing whether a precinct has heritage significance. Council referred to previous panel reports which have consistent views:

- Moonee Valley C66 (PSA) [2007] PPV
- Whittlesea C24 (PSA) [2003] PPV
- Ballarat C58 (PSA) [2004] PPV.

### **3.5 Discussion**

Section 4(1)(d) of the Act which seeks to conserve buildings, areas and places of interest and balance the present and future interests of all Victorians is reflected through planning policies in the Victoria Planning Provisions, Glen Eira Planning Scheme and Plan Melbourne.

These policies direct Councils to identify, protect, enhance and promote local heritage. Council's broader heritage gap study, Hidden Gems and Post-War Heritage Study 2020, identified places and precincts with local heritage significance. The study applied a logical

and comprehensive methodology to inform the relevant heritage citation and Statement of Significant.

The Amendment seeks to introduce the Heritage Overlay to protect, enhance and promote local heritage. As discussed in Chapter 5.1, Murrumbeena Village has fared well as a pre-war (predominantly Inter-war) commercial precinct without the Heritage Overlay for over 100 years.

Whether Murrumbeena Village needs further strategic work such as structure planning or urban design framework is a separate matter. Applying the Heritage Overlay to identified properties would inform any such future work. Conversely, the Amendment does not rely on any future strategic work to progress because the process for identifying and implementing locally significant heritage, as set out in Planning Practice Note 1, is very different to assessing structure planning and urban design matters.

The Panel agrees with Council that the Amendment will achieve net community benefit by protecting and promoting identified local heritage for future generations without unreasonably affecting housing and activity centre policies objectives. No submitter provided information which explained how the Heritage Overlay would restrict development in Murrumbeena Village to the point where it could not be able to achieve these objectives for the community.

Consistent with Clause 71.02-3, Council has demonstrated how the Amendment has integrated a range of planning policies in favour of net community benefit and sustainable development. There are no apparent competing policy objectives to be balanced. This clause reminds the community that planning is for the benefit of both present and future generations. This is relevant because what is valued by the community can, and often does, evolve – particularly with heritage.

Clause 71.02-3 equally applies to Council, as the responsible authority, when assessing a future planning permit application. The matter of competing policy objectives will be more relevant during this stage when an actual proposal is formally lodged, and its design and development details are known.

### **3.6 Conclusions**

For the reasons set out in the following chapters, the Panel concludes that the Amendment:

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

## **4 Common issues**

### **4.1 Development opportunity, building alterations and maintenance**

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

The issue is whether development opportunity, building alterations and maintenance are relevant when assessing the heritage significance of an individual place or a precinct.

#### **(ii) Submissions**

There were submissions which objected to the Heritage Overlay being applied because it would restrict development opportunity and affect their ability to alter and maintain their property.

Council explained that the Heritage Overlay:

- does not prohibit development
- requires a planning permit so that the heritage significance of affected properties can be considered through a permit application.

Council referred to Clause 22.01 of the Planning Scheme, including the following policies:

- retain contributory buildings and incorporate them into overall development
- allow the partial demolition of significant and contributory buildings where the fabric to be demolished is of no significance, or for the purpose of additions if the addition will not affect the heritage significance of the building and is sympathetic in its scale and form.

Council explained that while the policy enables development, it directs new buildings in commercial heritage areas to respect the scale and form of the heritage place and precinct. It referred to other commercial heritage precincts in the municipality which have achieved medium to high density development while preserving identified heritage values.

Council considered that matters regarding redevelopment opportunities are more appropriately assessed through a planning permit application when proposal details are known.

#### **(iii) Discussion**

The Amendment proposes to apply the Heritage Overlay to properties forming a precinct which has been identified as having local heritage significance. The precinct was assessed through a methodology consistent with guidance in Planning Practice Note 1. The Practice Note does not include potential impact on development opportunity as a criterion for assessing whether a property has sufficient local significance to justify the Heritage Overlay.

Matters about development opportunity are hypothetical during the planning scheme amendment stage because not everyone may be affected. Those seeking to maintain their property and conduct works which are not visible from the street are unlikely to need a planning permit. The Heritage Overlay would enable someone to apply for a planning permit to develop, demolish, subdivide or undertake other works. The application process would enable Council to assess the potential impact a proposed development may have on the heritage fabric of the subject property and broader precinct.

**(iv) Conclusion**

The Panel concludes that development opportunity, building alterations and maintenance are not relevant when assessing the heritage significance of an individual place or a precinct.

## **4.2 Property value and financial implications**

**(i) The issue**

The issue is whether property value and financial implications are relevant when assessing heritage significance or when deciding whether to apply a Heritage Overlay.

**(ii) Evidence and submissions**

Each submitter who signed the same proforma and four other submitters were concerned that the Heritage Overlay would reduce property value and result in unreasonable financial impacts.

Ms Sheldy submitted that the Heritage Overlay would remove her control, cause financial insecurity and uncertainty, and would result in stress and costs associated with having to “*deal with unwieldy bureaucratic departments and processes*”. Ms Yin considered that Council should acquire the properties if they are found to have heritage value.

Council observed that no submitter presented evidence to demonstrate potential indirect economic effects on the affected properties. Council referred to the following reports and decision to support its submission.

### **Melbourne PSA C207 [2014] PPV**

The Panel agrees with Mr Morris [who appeared for an objecting submitter], relying on Gantidis, that the social and economic effects most likely to be relevant at the Amendment stage are those of a broad community nature rather than of a personal kind. Personal economic and social impacts, as against effects for the community as a whole, are generally not matters taken into account in planning decisions. This is also recognised in the Panel report on Amendment C50 to the Campaspe Planning Scheme at Section 5.10

...

The Panel recognises that the changes to s.12(2)(c) of the Act in relation to preparing amendments have implications for the manner in which various social and economic matters raised in relation to heritage amendments are to be treated. Where the social and economic effects raised in submissions are of a community nature, they may well be relevant matters. To meet the requirements of the Act, planning authorities and Panels will have to endeavour to consider those matters when preparing an amendment along with other relevant issues.

### **Dustday Investments Pty Ltd v Minister for Planning**

Where planning authorities are directed to consider conservation or heritage matters, or social and economic effects, consideration must inevitably be given as to the stage in the planning process that has been reached, and the nature of the consideration that is to be given to these matters or effects at that stage. The nature and level of information available at the rezoning or amendment stage will often be significantly less than that available at the permit stage. By the time of a permit application, much more detail is likely to be available as to the proposed use and development including development plans, building specifications, site information, expert reports and the like.

### **Boroondara PSA C294 [2020] PPV**

The Act and Planning Scheme require social and economic matters and the principles of net community benefit and sustainable development to be considered. They relate to the interests of the broader community and do not extend to individual impacts.

#### **(iii) Discussion**

The Act and Planning Scheme are relevant to these economic issues. The Act requires a planning authority to take into account the economic effects of a planning scheme amendment. A purpose of the Planning Policy Framework of the Planning Scheme seeks to:

... ensure that the objectives of planning in Victoria (as set out in section 4 of the Act) are fostered through appropriate land use and development planning policies and practices that integrate relevant environmental, social and economic factors in the interests of net community benefit and sustainable development.

Each planning scheme amendment needs to be assessed independently because they vary in scale and nature. Previous Panel reports and court decisions provide useful context but do not necessarily reflect all circumstances and matters for reasons outlined below.

The Panel agrees with Council that any potential economic impacts resulting from the Amendment should be assessed at the broader community scale rather than private individual property owners or their tenants. However, submitters have said that individual property owners and retailers currently experience economic issues, which collectively is affecting the Murrumbeena activity centre. Several cited this to the closure of the supermarket at the corner of Murrumbeena and Neerim Roads. If applying the Heritage Overlay further exacerbates economic circumstances to a centre-wide scale, this may result in a broader negative economic impact and a community disbenefit.

While the Panel acknowledges the economic issues raised in submissions, no submission provided information to quantify the scale. There was no economic evidence to better understand the extent of existing economic issues across the centre and how applying the Heritage Overlay would exacerbate the problem to the point where the centre was no longer economically viable.

As discussed in Chapter 4.1, the Heritage Overlay does not:

- prohibit further development or subdivision
- require a permit to maintain a property
- compel an owner to restore an altered property to its original form.

The Panel was not presented with information to persuade it that the Amendment would escalate any potential economic impacts to a broader community scale.

Regarding property value, no submitter provided information which proved a direct correlation between the Heritage Overlay and property value.

Planning Practice Note 1 does not include property value and financial implications as criteria for assessing whether a place or precinct achieves sufficient local significance to justify the Heritage Overlay. Applying these as part of the assessment criteria would skew how heritage places are assessed and affect the ability to meet state and local planning policy which seeks to protect precincts of local significance.

**(iv) Conclusion**

The Panel concludes that property value and financial implications are not relevant when assessing heritage significance or when deciding whether to apply a Heritage Overlay.

**4.3 Pre-amendment consultation**

**(i) The issue**

The issue is whether the Amendment process has been conducted consistent with the requirements of the Act.

**(ii) Submissions**

Ms Sheldy submitted that Council did not follow the correct process because it did not consult with her before the Amendment was exhibited. She felt that the 'rights and welfare' of property owners were being overridden by people with vested interest and added:

The Heritage Overlay will unlikely serve anyone other than an obstructive minority.

Council submitted that people have been provided with ample opportunity to participate in the Amendment process, including the Panel hearing process. It explained that it met its obligations set out in the Act, by publicly exhibiting the Amendment between 24 October and 25 November 2019, which included:

- letters to affected property owners and tenants, prescribed authorities and stakeholders
- notices in the local newspaper and Government gazette
- Amendment documentation available through the websites of Council and DELWP.

Council also held planning conference on 5 December 2019, attended by nine submitters. Council submitted that the Act does not require it to conduct pre-amendment consultation.

**(iii) Discussion and conclusion**

The Panel agrees with Council on this matter. It has met the requirements of the Act and went beyond by meeting with affected people to listen to their views.

The Panel concludes that the Amendment process has been conducted consistent with the requirements of the Act.



## 5 Murrumbeena Village Precinct (HO187)

### Exhibited Statement of significance

#### What is significant?

The Murrumbeena Village Precinct, extending along both sides of Neerim and Murrumbeena Road where the latter crosses the railway line, comprises cohesive commercial streetscapes made up of single- and double-storey buildings predominantly dating from the first four decades of the twentieth century, punctuated by two rare survivors from the late-Victorian era and a small number of post-war buildings of sympathetic scale and form.

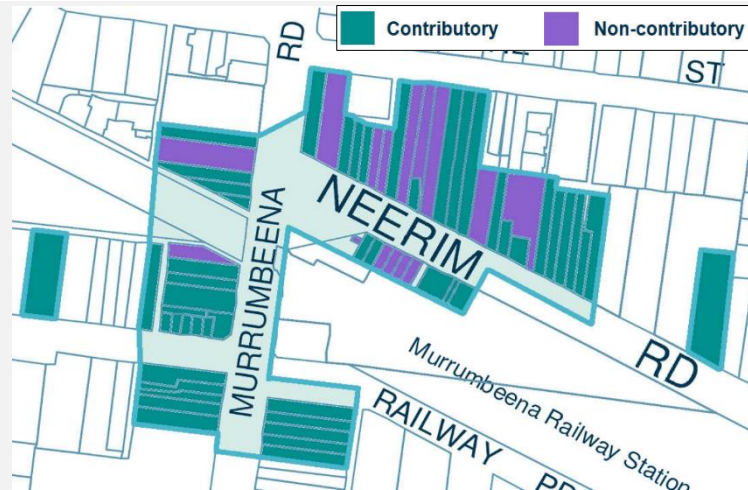
The following are deemed to be contributory elements in precinct:

- Neerim Road: Nos 398, 412, 414-422 (row of five; Wardrop's Buildings), 430, 436, 438, 440, 446, 450, 453-455 (pair), 456, 458, 460, 465-473 (row of five), 466, 468, 470-472 (pair), 476-486 (row of six), 504.
- Murrumbeena Road: Nos 55, 61, 63, 65, 69-71 (pair), 73-75 (pair), 77-79 (Wardrop's Buildings), 81, 83-83a (pair), 85, 87, 88, 90-92 (pair), 94 (former bank).

The following are deemed to be non-contributory elements within the precinct:

- Neerim Road: Nos 442, 444, 448, 452 (at rear), 457-459 (pair), 461, 463, 462-464 (former bank), 474 (factory at rear), 454, 461; also coffee kiosk adjacent to No 453.
- Murrumbeena Road: Nos 57-59 (former bank), 67.

Post-WW2 buildings to the rear of the Neerim Road shops, with principal frontage to Melbourne Street, are deemed to be non-contributory, as is all infrastructure associated with the Skyrail.



#### How is it significant?

- Importance to the course, or pattern, of Glen Eira's cultural history (**Criterion A**)
- Importance in exhibiting particular aesthetic characteristics (**Criterion E**)

#### Why is it significant?

The Murrumbeena Village Precinct is significant for historic associations with early development of the suburb of Murrumbeena. A local retail centre emerged promptly after subdivision and sale of land on the north side of Neerim Road in 1887-88. Of ten shops built by 1900, two survive (Nos 430, 468) to provide rare evidence of the strip's origins. A commercial boom from the mid-1910s to the mid-1920s, echoing the suburb's rapid residential growth, is illustrated by so many buildings from that era, including not only shops but also motor garages, a bank, outposts of leading city retailers such as Moran & Cato and Bruce & Carey, and George Wardrop's eponymous corner office/retail complex. Shops on the south side of Neerim Road, built on railway land, demonstrate what was then an unusual and controversial phenomenon, while a breezeway that once provided access to the station is amongst the last remaining physical evidence of the railway complex at ground level prior to the recent completion of the elevated Skyrail. (**Criterion A**)

The Murrumbeena Village Precinct is significant as a mostly pre-war commercial streetscape of unusual form, radiating in all four directions from an offset crossroad bisected by a railway line. The pre-war shops display noted cohesion through consistent single- and double-storey scale, single-fronted expression with low parapets, and a recurring palette of materials (face red brick, smooth and roughcast tender) coupled with an array of decorative detailing. Many are atypically intact, retaining elements of original shopfronts (eg recessed doorways, metal-framed windows, leadlight, spandrel tiling), and some with painted signage or rendered lettering. These shops, as individual specimens, pairs or longer rows, are punctuated by other building types of similar vintage, notably two motor garages and a monumental branch bank. (**Criterion E**)

## 5.1 Precinct assessment

The issue is whether the Murrumbeena Village Precinct (HO187) meets the threshold of local heritage significance to justify the Heritage Overlay.

### (i) Evidence and submissions

There were submissions which considered that the HO187 heritage citation had overstated the Precinct's heritage significance. They disputed its claim that the Precinct was cohesive and referred to buildings on the northern side of the railway line, where they calculated that half are Non-contributory. Vivace Property Group and the 10 proforma submitters each made the following submissions:

#### **Vivace Property Group:**

Thirdly, it is our client's position that the report prepared by Mr Simon Reeves overstates the heritage significance of the Precinct. We note almost half of the buildings on the northern side of the railway line are non-contributory buildings according to Mr Reeves. In this respect, to claim 'cohesion' through the Precinct as he did, is an overstatement.

#### **10 proforma submissions:**

Thirdly, in my view the report prepared by Mr Simon Reeves overstates the heritage significance of the Precinct. I note almost half of the buildings on the northern side of the railway line are non-contributory buildings according to Mr Reeves. In this respect, to claim 'cohesion' through the Precinct as he did, is an overstatement.

Vivace Property Group referred to the Glen Eira Heritage Management 1996 which does not refer to the Precinct and submitted that "*Glen Eira's heritage thematic history does not support the historical importance now afforded to the Precinct by Council.*"

Mr Cusmano and Mr Stamatelos each acknowledged that a few buildings in Murrumbeena Village may have some historical aesthetic but considered they did not form a cohesive precinct to justify the extent of the proposed Heritage Overlay.

At the Hearing, Mr Cusmano panned through online street images to show which buildings in the Precinct he considered worthy to be recognised as heritage and which ones should not. He identified the Wardrop's Buildings at 77-79 Murrumbeena Road and the row of five shops at 465-473 Neerim Road with their intact shop fronts, leadlight windows at pressed metal ceilings on the awning. He submitted that plain and altered buildings such as 87 Murrumbeena Road and 466 Neerim Road did not compare well to these buildings and did not contribute to the streetscape.

Mr Cusmano then panned through Maling Road, Canterbury to show an example of an intact commercial centre which had, and was worthy of, the Heritage Overlay.

Ms Blackman, who supported the Amendment, agreed that the Precinct met Criteria A and E.

Ms Yin submitted that the elevated rail development had "*destroyed the whole area as a heritage precinct*". Council called Mr Reeves of Built Heritage as a heritage expert and Vivace Property Group called Mr Barrett of Peter Andrew Barrett as a heritage expert. Both heritage experts had different perspectives to Ms Yin.

Mr Reeves noted that the elevated rail did not remove any pre-WWII commercial buildings that contribute to the Precinct. He acknowledged that ground-level railway infrastructure, including the pre-WWII station building with the Heritage Overlay (HO132), was demolished and removed to enable the elevated rail.

In response to a Panel question at the Hearing, Mr Barrett said that the elevated rail's suspended design had opened views across the Precinct from certain vantage points. Parts of these views were previously obstructed by at-grade railway infrastructure.

Mr Barrett considered that:

- there is some merit in aspects of Heritage Overlay (HO187)
- the Statement of Significant level overstates the level of built form cohesion
- the Precinct area south of the railway line retains more heritage fabric than the area to its north
- the Heritage Overlay should not be applied before the heritage fabric in areas north and south of the railway line are further analysed to understand their integrity and how they contribute to the Precinct.

Mr Barrett asked Council to explore a Heritage Overlay of non-continuous elements rather than applying a precinct overlay, after further analysing the heritage fabric.

Mr Reeves explained that his methodology for determining if a building contributed to the Precinct was whether:

- it has built fabric that provides evidence of one the key development phases
- it could still be readily interpreted as a product of the era in which it was built, even in its altered form.

In his evidence, Mr Barrett stated:

This is demonstrated in the map in the citation that has been prepared for this precinct, which shows around 40% of the building stock north of the railway line is non-contributory. This is a high-level of non-contributory fabric for a heritage overlay.

and

The level of cohesion of built form that is claimed in the statement of significance in the citation for this heritage overlay is not there, and this is demonstrated on the north side of the railway line, where 40% of the buildings are marked non-contributory.

At the Hearing, he explained that this figure:

- was based on the proportion of shopfront widths and not by the number of properties
- was based on a visual judgement (he considered it unnecessary to measure and calculated widths)
- would be higher if it included 430, 468 and 466 Neerim Road which he considered to be Non-contributory (but exhibited as Contributory).

Mr Reeves and Council disagreed with Vivace Property Group's and Mr Barrett's calculations of Non-contributory buildings.

Mr Reeves upheld his method of calculating the proportion of properties rather than shopfront widths. Based on this method:

- 22 per cent of properties north of the railway line did not contribute to the Precinct's significance
- 20 per cent of properties in the entire Precinct did not contribute.

Council adopted Mr Reeves' evidence regarding the Precinct's significance and cohesiveness. It did not agree with "*hard and fast rules*" percentages for measuring the Precinct's

composition and referred to Heritage Provisions Review Final Report (AC) [2007] PPV, where the Advisory Committee stated:

With regard to the proportion of significant (or significant and contributory) buildings that is desirable within precincts, we consider that the stress on built fabric inherent in this question is misleading. Precincts need to be coherent, thematically and/or in terms of design, and need to be justifiable in relation to protection of significant components. It is neither possible nor desirable to set hard and fast rules about percentages.

In response to a Panel direction, Council referred to other non-contiguous heritage precincts with the Heritage Overlay existed in the municipality, including:

- Beauville Estate and Environs, Murrumbeena (HO12)
- Bentleigh Environs (HO69)
- Elsternwick Estate and Environs (HO72)
- Gladstone Parade, Elsternwick (HO22)
- Ormond Precinct environs (HO75).

## **(ii) Discussion**

Whether the Precinct achieves local heritage significance is dependent on the research findings at the time of its study. As explained by Council and Mr Reeves, there were places which did not progress further due to available budget and not because they were considered to be insignificant. What the community values as heritage can also evolve over time. A place or precinct not referenced in previous heritage studies is therefore not a reliable criterion for assessing a precinct's heritage significance.

Having relied on Planning Practice Note 1 for guidance, the Panel considers that the study research which informed the HO187 heritage citation is comprehensively insightful and supported by thorough research. It forms an appropriate baseline for assessing individual places within the Precinct. It is unclear how further research suggested by Mr Barrett would achieve anything beyond what is already in the citation.

There were conflicting submissions and evidence about whether Murrumbeena Village achieves local heritage significance and whether it was a cohesive precinct. The Panel was persuaded by the evidence of Mr Reeves that Murrumbeena Village achieves the threshold of local heritage significance to justify the Heritage Overlay. The Panel also agrees with, and has adopted, Mr Reeves' methodology for determining whether a building contributes to the Precinct's significance.

The Panel finds the Precinct to be important to the course of Glen Eira's cultural history and in exhibiting pre-war aesthetic characteristics. It achieves Criteria A and E for the following reasons.

### **Criterion A**

The Precinct is significant for its historic associations as a local retail centre which developed:

- modestly soon after the initial subdivisions on the north side of Neerim Road in the late 1880s
- rapidly following land subdivisions and sales in Murrumbeena from the mid-1910s.

The Precinct represents three development eras identified in the City of Glen Eira Heritage Management Plan 1996. Its remaining Victorian and Federation buildings are evidence of its

origins while its predominantly Inter-war buildings are an expression of Murrumbeena's rapid development which followed soon after. It compares well with retail centres referred to in the HO187 heritage citation.

### **Criterion E**

The Precinct is significant for its pre-war commercial streetscape.

The streetscape's three development eras and eclectic styles which make up the Inter-war period present as a cohesive single and double-storey pre-war commercial centre. The properties proposed to be categorised as Non-contributory, comprising post-WWII, or significantly altered pre-war buildings, express a scale and form which is sympathetic to the heritage fabric.

The Panel accepts that there are heritage precincts throughout Glen Eira and Melbourne which comprise of non-contiguous properties. While not contiguous, 398 and 504 Neerim Road are from a similar era of properties in the main part of the Precinct and they have a historical relationship with the centre.

The Panel has mixed thoughts about the elevated rail's impact on the Precinct's aesthetics. At first glance, its overwhelming scale and modern design do not appear to sit comfortably with the smaller scale pre-war Precinct. However, the Panel agrees with both heritage experts that the elevated rail structure has:

- opened views across different parts of the Precinct from different vantage points
- not resulted in a loss of pre-WWII buildings.

While the elevated rail is clearly dominant, the community can appreciate more perspectives. The Panel has not commented on the demolished timber buildings which formed part of the original Murrumbeena train station because no heritage fabric existed when the Amendment was exhibited.

There appears to be a broad correlation between a precinct's cohesiveness and the proportion of contributory properties. For example, it is unlikely that there would be conversation about a potential precinct if less than half of the properties contributed to its significance.

The Panel does not dismiss either heritage experts' calculation methodology. The Panel refers to Mr Barrett's method explained at the Hearing regarding building widths, which differs from his evidence statement that *"40% of the buildings are marked non-contributory"*. While not clearly expressed in his evidence, there is some logic in measuring building widths in a commercial precinct where all building facades abut the footpath. It is therefore disappointing that Mr Barrett did not undertake the necessary calculations to establish the proportion of non-contributory building widths.

The Panel cannot accept the unsubstantiated figures in the Vivace Property Group and proforma submissions and Mr Barrett's evidence. Having adopted Mr Barrett's method and used actual measurements, the Panel finds that just over 25 per cent of those shopfronts are Non-contributory. This figure increases to about 32 per cent when 430, 468 and 466 Neerim Road are included.

However, the Panel has not relied on any calculation, including its own, to form the view that the subject land presents as a cohesive pre-WWII heritage precinct which evolved since Murrumbeena Railway Station opened. This assessment can be predominantly achieved by

standing at different vantage points to observe the relationship between buildings and properties and whether their collective presentation within the context of the Murrumbeena Village's significance can be considered a precinct.

The map of contributory/non-contributory properties and the exchange of statistical figures between parties and experts demonstrate what little value these desk-top exercises have in determining a precinct's cohesiveness. The Panel therefore agrees with Council's submission that "*hard and fast*" percentages should not be applied for such assessments.

### **(iii) Conclusion**

The Panel concludes that Murrumbeena Village Precinct (HO187) meets the threshold of local heritage significance to justify the Heritage Overlay.

## **5.2 Precinct boundary**

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

The issue is whether the Precinct boundary should be realigned to exclude non-contributory post-WWII buildings and additions fronting Melbourne Street from properties north of Neerim Road and south of Melbourne Street.

### **(ii) Evidence and submissions**

Mr Reeves explained that he originally proposed to align the Heritage Overlay to the rear building boundary of properties along the north side of Neerim Road to exclude the non-contributory elements. In late August 2019, Council requested that he extend the Precinct boundary their property boundary along Melbourne Road. Council sought to align the Heritage Overlay to the full extent of the property, consistent with guidance in Planning Practice Note 1.

In its Part A submission, Council referred to the HO187 Statement of Significance which states:

Post-WW2 buildings to the rear of the Neerim Road shops, with principal frontage to Melbourne Street, are deemed to be non-contributory ...

Council proposed to revert to Reeve's original proposal to exclude the rear of properties on the north side of Neerim Road, consistent with the Statement of Significance and submitted:

... the Panel should prefer Mr Reeves' approach in delineating the proposed boundaries observing it is both desirable and usual practice for precinct boundaries to deliberately exclude non-contributory fabric at the edges of the precinct.

Council referred to the relevant paragraph of Planning Practice Note 1 which advises that in many cases, particularly urban areas the Heritage Overlay is applied to the entire property. It highlighted the subsequent paragraph which states:

However, there will be occasions where the curtilage and the Heritage Overlay polygon should be reduced in size as the land is of no significance. Reducing the curtilage and the polygon will have the potential benefit of lessening the number of planning permits that are required with advantages to both the landowner and the responsible authority ...

Council included an aerial with an indicative boundary realignment, subject to further changes, as shown in Figure 2.



**Figure 2 Council's indicative precinct boundary realignment**



Source: Council Part A submission, p11

Vivace Property Group considered the indicative boundary to be arbitrary and unclear about:

- which part of 430-434 Neerim Road will be included in the Heritage Overlay
- how a future permit would be assessed with the Precinct boundary aligning part way through the property.

It referred to Planning Practice Note 1 for guidance on how to establish a curtilage and polygon:

1. Review the heritage study documentation and ask the question 'What is significant?'. The polygon should capture those elements of the place that are significant ...
2. In addition to capturing the elements that are significant, it is almost always necessary to include a curtilage (see definition above) to:
  - retain the setting or context of the significant building, structure, tree or feature
  - regulate development (including subdivision) in proximity to the significant building, tree or feature.
3. Where possible, uncomplicated and easily recognised boundaries (such as a fence line) leave little room for potential dispute in terms of the land affected by any future Overlay.
4. Use aerial photos where they exist to assist in identifying a reduced curtilage.
5. Where access is possible, 'ground truthing' may be of assistance.
6. Explain the basis for the reduced curtilage polygon in the heritage study documentation.
7. Where questions might arise in the future as to the extent of the polygon shown on the planning scheme map, use the entry in the Schedule to the Heritage Overlay (i.e. column two) to specify the area covered by the polygon.

Vivace Property Group preferred that the boundary align at the very least with the rear upper level wall of the original building. It submitted that Council should have resolved the

boundary realignment through further assessment rather than presenting it two weeks before the Hearing.

Mr Reeves considered that more work was needed, using aerial photos, to determine the revised Heritage Overlay alignment. This may range from the rear of the significant heritage fabric through to a specified measure.

Council asked Panel to recommend that Council, with its heritage consultant, reassess the precinct boundary along properties north of Neerim Road south of Melbourne Street to exclude all non-contributory post World War 2 buildings and additions fronting Melbourne Street.

### **(iii) Discussion**

The Panel has not commented on the merit of Council's indicative Precinct boundary realignment because it was provided to demonstrate one option subject to further work. The Panel agrees with Council, Mr Reeves and Vivace Property Group that further work is needed to inform the ultimate Heritage Overlay alignment for the identified Neerim Road properties. Planning Practice Note 1 provides useful guidance for this exercise.

Consistent with Planning Practice Note 1, the Panel considers that the Heritage Overlay should apply to the whole property of all places in the Precinct unless there are exceptional circumstances. The unusually deep properties along the north side of Neerim Road may be such a circumstance. Subject to further assessment, there may be an opportunity to exclude non-contributory post-World War II buildings and additions fronting Melbourne Street which have been found to not contribute to the Precinct's significance.

The further assessment should consider whether the boundary can be realigned with sufficient curtilage to ensure that future development does not negatively affect the setting, context or significance of the around the heritage fabric. Should non-contributory post World War II buildings and additions fronting Melbourne Street be excluded from the Precinct, the HO187 heritage citation should no longer refer to them.

From a procedural perspective, affected property owners and tenants and the broader community had the opportunity to express their views about the Amendment's proposal to apply the Heritage Overlay to the entirety of these properties. Council's proposed changes do not introduce additional planning provisions, where owners and tenants would have otherwise been notified and provided with an opportunity to respond. However, Council should inform itself whether it should provide further notice.

### **(iv) Conclusions and recommendations**

The Panel concludes:

- In principle, it would be sensible to not apply the Heritage Overlay to non-contributory elements on the deep properties along the north side of Neerim Road if they are not required to form part of the curtilage.
- It is premature to recommend any change to the boundary alignment until Council, with its heritage consultant, conduct further assessment consistent with guidance in Planning Practice Note 1.



The Panel recommends:

**The planning authority, with its heritage consultant, reassess the precinct boundary along properties north of Neerim Road, south of Melbourne Street (from 430 to 486), to determine the extent to which it can exclude non-contributory post World War II buildings and additions fronting Melbourne Street.**

**Amend the HO187 Statement of Significance to remove reference to post World War II buildings to the rear of Neerim Road shops with principal frontage to Melbourne Street if they are excluded from the precinct, before the Amendment is adopted.**

The Panel further recommends:

**Amend the Murrumbeena Village HO187 heritage citation to:**

- a) **remove reference to post World War II buildings to the rear of Neerim Road shops with principal frontage to Melbourne Street if they are excluded from the precinct, before the Amendment is adopted.**

### 5.3 87 Murrumbeena Road

#### (i) The issues

The issue is whether it is appropriate and justified to include 87 Murrumbeena Road, Murrumbeena as a Contributory property in the Precinct.

#### (ii) Evidence and submissions

Mr Cusmano objected to the Heritage Overlay being applied to 87 Murrumbeena Road because he considered the building no longer had heritage characteristics. He explained that building alterations included:

- painting the façade and applying a stipple finish
- modernising the shop front with extruded aluminium material.

Mr Reeves considered that the building can be interpreted as an Inter-war shop, even with its more recent cantilevered canopy and aluminium-framed shopfront. He explained that the 1922 building retains its original and distinctive parapet which contributes to the Precinct's significance. He described the building as a *"single-storey brick shop with a hipped roof that is concealed from the street by a stepped parapet, enlivened with moulded coping"*.

Mr Reeves found the parapet detailing to be a bit more detailed than some other 1920s buildings in the Precinct. It appeared to have smooth rendering which was typical of the area. He acknowledged that the current colour scheme was not evocative of the Inter-war era but explained that it could be repainted. He did not consider the overpainting to be a building alteration.

#### (iii) Discussion

The issue comprises of two sub issues – how the property should be categorised and if it does not contribute to the Precinct, whether it should be excluded.

The Panel agrees with Mr Cusmano that the building has been altered, particularly the relatively contemporary shopfront and awning. As a property forming part of a broader Precinct, the building is not expected to achieve the same degree of intactness compared to

a building proposed to be an individual heritage place. The question is whether it presents as an Inter-war building and contributes to the Precinct's significance.

The Panel agrees with Mr Reeves that the building and its most recognisable element, the parapet, continues to express it as an Inter-war building within a predominantly Inter-war Precinct. While less obvious, it continues to retain its original window ledge height and the wall width distance on either side of the shop windows. The property at 87 Murrumbeena Road contributes towards the Precinct achieving Criteria A and E.

#### **(iv) Conclusion**

The Panel concludes that it is appropriate and justified to include 87 Murrumbeena Road, Murrumbeena as a Contributory property in the Precinct.

### **5.4 430-434 Neerim Road**

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

The issue is whether it is appropriate and justified to include 430-434 Neerim Road, Murrumbeena as a Contributory property in the Heritage Precinct.

The HO187 heritage citation states:

First recorded in the rate book for 1890, each was described as a "brick house, land & shop" on part of Lot 127. A pair of two-storey residential shops on the corner (corresponding to present-day Nos 430-432) was occupied by grocer Herbert Brine, and the two single-storey shops (Nos 442-444) by estate agent B C Lavender and baker C L Lorden.

#### **(ii) Evidence and submissions**

Vivace Property Group requested that 430-434 Neerim Road be excluded from the Heritage Precinct if Council decided to proceed with the Amendment. It submitted that the building:

- has had considerable mid-century alterations to its:
  - ground floor exterior and first floor facade
  - rear section which was demolished and replaced with an extension
- has not real historical value to understand its history or the history of the Precinct in its altered form.

At the Hearing and in response to a Panel direction, Vivace Property Group provided a photograph of the building's front room looking towards the two first floor windows. It showed the two original front windows with their projecting sills and double-hung sashes behind the external sheeting. It also provided photographs of the remaining first and ground floor rooms.

Vivace Property Group submitted that the building had interesting but unremarkable fabric. It did not present as a boom Victorian building so it would confuse the person in the street. It highlighted that heritage should be for the person in the street and not for heritage purists. Vivace Property Group considered that there was no reason to retain a highly altered and ordinary building.

Mr Barrett recommended that the Heritage Overlay not be applied to 430-434 Neerim Road and considered:

- the building does not meet Criterion E

- the HO187 heritage citation should articulate how the altered building remains as “*an element of intrinsic value*” to Murrumbeena Village.

Mr Barrett added that the Precinct’s historical importance needed to be further analysed to understand how buildings such as 430-434 Neerim Road contribute to its significance.

The building’s age was discussed considerably between parties and experts throughout the Hearing and further historical records were presented. They referred to Figures 2 and 3 of the heritage citation, also replicated in expert evidence, to view building and verandah details. Council attached rate book records dated 1907 to its Part A submission.

In his evidence-in-chief, Mr Barrett stated that the rate books only show evidence of the building’s existence from 1907. He said that it was up to Council to prove that the building existed from 1890. Council later provided a Municipal rates record extract from 1890<sup>1</sup> which referred to a two-storey shop building at Lot 127 (now 430-434) Neerim Road. Parties and experts expressed varying views about the accuracy and reliability of rates books and Sands and McDougall directories.

Mr Barrett questioned the building’s age because of its plainer features compared to other more ornate buildings of its era. He considered its plainer style to be more of an early twentieth century building. In response to a question from the Panel, Mr Barrett acknowledged that most, but not all, late Victorian buildings had ornate decorative features.

Mr Reeves considered the building to have clear aesthetic and historical value. He explained that it was a single development constructed in 1889-90 and was the larger, grander, and more prominently sited of a pair. The second building which abutted the eastern wall of 430 Neerim Road has since been demolished. Vivace Property Group’s photos of the east elevation of the external first floor wall, where the second of the pair would have once interfaced.

In his evidence, Mr Reeves stated that the building’s shopfront had been replaced and the first-floor windows along the Neerim Road frontage had been infilled. He added:

Its Neerim Roads façade still retains a typical stepped rendered parapet with moulded piers, architraves and cornices, while the upper level of the Murrumbeena Road façade is virtually unaltered, retaining a matching moulded parapet and all three original window openings with projecting sills and double-hung sashes.

In its altered form, Mr Reeves considered the building:

- to be a Victorian-era residential shop with rare evidence of the Precinct’s initial development phase
- has become rarer increase since its pair was demolished, becoming one of only two Victorian-era buildings in the Precinct
- can be readily interpreted as a “*quintessential*” Late Victorian residential shop.

Mr Reeves referred to the heritage citation which acknowledges that the rear addition does not contribute to the Precinct’s significance. He stated that the building’s interior, whether altered or entirely gutted, is not sufficient reason to exclude a building from the Precinct. He explained that it is rarely appropriate to consider shop interiors when assessing a potential commercial/retail heritage precinct.

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<sup>1</sup> Document 25

In its closing submission, Council highlighted that the term ‘aesthetic’, in relation to Criterion E, is a technical consideration. It refers to whether place has important aesthetic characteristics to achieve local significance. A place does not have to be ornate, grand or beautiful to meet this criterion.

### **(iii) Discussion**

The Panel has determined that the exhibited Precinct meets Criteria A and E and achieves local significance to justify the Heritage Overlay. Regarding 430-434 Neerim Road, the question is whether it contributes to the Precinct’s significance, and if it not, whether it should be excluded from the Precinct.

Like other buildings in Murrumbeena Village which have existed for over 70 to 100 years without the Heritage Overlay, the building has been altered without regard to heritage. This includes its missing original verandah, demolished rear section, two-storey mid-twentieth century rear extension, sheeted first floor windows and modernised ground floor exterior. The question is whether it can still be viewed as a building of its development era.

As a corner building, the building’s southern and western elevations are viewed together from many different vantage points. The most striking features are its original:

- rendered parapet with architraves and cornices which wraps around its front and western elevations
- stepped central section of the parapet with moulded piers (front elevation)
- three double-hung windows with projecting sills (western elevation).

Removing the external sheeting from the façade to reveal the two front first-floor double-hung windows would enhance its appearance as a late Victorian era building.

Alterations to the two covered first floor windows are reversible because their fabric generally remains intact. There is sufficient existing heritage fabric and historic photographs to faithfully restore and match the two front sills, should they have been removed when the sheeting was added.

In its altered form, the building’s remaining elements clearly represents its development era and its overall form, as depicted in historic photographs. Regarding the building’s age, the Panel is confident that it was constructed during the late Victorian era. The Panel was persuaded by historical records which referred to a two-storey building on the property in 1890, and the verandah shown in Figures 2 and 3 of the HO187 heritage citation. The verandah detailing, particularly the ornate posts, are typical of verandahs constructed during the Victorian era.

Murrumbeena Village’s first attempt to evolve as a centre forms part of the Precinct’s Statement of Significance. As one of two remaining late Victorian buildings constructed soon after the opening of Murrumbeena Railway Station, 430 Neerim Road is an important element which contributes to the Precinct’s historical and aesthetic significance.

The Panel agrees with Vivace Property Group that heritage should be for people in the street and not only for those who may have a focussed interest or professional qualifications. Such a person originally nominated this property which resulted in a centre-wide assessment. The broader community is likely to further appreciate the building as a late Victorian if future development responded to the existing heritage fabric. This can only be achieved by applying the Heritage Overlay.

Should the Panel have found the building did not contribute to the Precinct, it would have continued to recommend that 430-434 Neerim Road be included. The property has three frontages at the Neerim Road, Murrumbeena Road and Melbourne Street junction, making it one of the most prominent in the entire centre. The Precinct relies on its inclusion to ensure that the different parts of the Precinct can be read as one cohesive heritage precinct.

Redeveloping such a prominent site without considering surrounding heritage fabric may result in a development which is unsympathetic to, and detracts from, the significance of the Precinct. This outcome would severely affect the ability to achieve state and local planning policy objectives, including those at Clause 22.01.

#### **(iv) Conclusion**

The Panel concludes that it is appropriate and justified to include 430-434 Neerim Road, Murrumbeena as a Contributory property in the Heritage Precinct.

### **5.5 Public Use Zone 4**

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

The issue is whether it is appropriate and justified to apply the Heritage Overlay to railway land zoned Public Use Zone 4.

#### **(ii) Evidence and submissions**

Department of Transport submitted that the Amendment proposed to apply the Heritage Overlay to Murrumbeena Railway Station and the rail line which were reconstructed on an elevated alignment. It referred to the HO187 heritage citation which did not identify any heritage significance to the elevated rail structure. The Department objected to the Heritage Overlay being applied to railway land zoned Public Use Zone 4 because its provisions may restrict the flexibility required to operate and maintain the railway corridor.

Mr Reeves referred to the section of the heritage citation referred to in the Department of Transport's submission which states:

Post-WW2 buildings to the rear of the Neerim Road shops, with principal frontage to Melbourne Street, are deemed to be *non-contributory*, as is all infrastructure associated with the Skyrail.

Both Mr Reeves and Council did not object to realigning the Precinct's boundary to exclude railway land west of Murrumbeena Road. Mr Reeves noted that railway land east of Murrumbeena Road had already been excluded. Council sought the Panel's guidance on the appropriate boundary alignment.

Council submitted that Murrumbeena Railway Station is subject to an existing Heritage Overlay (HO132) which does not form part of the Amendment.

#### **(iii) Discussion**

The Panel agrees with Council that the Amendment does not propose any change to the Heritage Overlay (HO132) which remains on the site of the heritage station buildings which were demolished to make way for the elevated rail. This is therefore not a matter the Panel can respond to.

The Panel acknowledges that the elevated rail infrastructure does not contribute to the Precinct's significance. Based on the infrastructure's scale and design, the Panel considers that the Heritage Overlay does not have to apply to Public Use Zone 4 to respond to any potential impact on the Precinct's heritage fabric. This outcome is consistent with what the Department of Transport sought through its submission.

**(iv) Conclusion and recommendation**

The Panel concludes that it is not appropriate and justified to apply the Heritage Overlay to railway land zoned Public Use Zone 4.

The Panel recommends:

**Amend the Heritage Overlay Map to exclude land zoned Public Use Zone 4.**

The Panel further recommends:

**Amend the Murrumbeena Village HO187 heritage citation to:**

- a) delete "*as is all infrastructure associated with the Skyrail*" from the last sentence under 'What is significant' to reflect that the precinct will no longer include Public Use Zone 4 land.**

## **5.6 Statement of significance**

In response to a Panel direction, Council provided a table showing properties categorised as Contributory and their built dates, descriptor, data source and original occupant. The table provided useful navigation and context throughout the Panel process.

The Panel considers that the Statement of Significance would benefit from a simplified table which listed all subject property addresses in numeric and alphabetical order, their category (either Contributory or Non-contributory) and built date.

The Panel makes no formal recommendation because it considers Council is best placed to decide the format of its Statement of Significance.

## Appendix A Document list

No	Date	Description	Provided by
<b>2020</b>			
1	2 Mar	Letter – Vivace Property Group Pty Ltd to the Panel requesting to be heard in the week of 4 May 2020	Mr Scally
2	20 Mar	Submission – for the Hearing	Mr Cusmano
3	9 Apr	Letter – to parties advising seeking comment on conducting the Hearing by video	Panel
4	15 Apr	Letter – Vivace Property Group response to Document 3	Ms Marson
5	16 Apr	Council response to direction 9 of the Panel letter, 17 March 2020	Mr D’Angelo, Marcus Lane Group
6	21 Apr	Letter – Council response to Document 3	Ms Lane
7	21 Apr	email – George and Sue Thomson response to Document 3	Mr Thomson
8	22 Apr	email – response to Document 3	Mr Cusmano
9	24 Apr	Letter – Further directions on revised Hearing process	Panel
10	27 Apr	Council Part A submission	Mr D’Angelo
11	29 Apr	email – further comment regarding Documents 3 and 9	Mr Cusmano
12	4 May	Evidence – Simon Reeves of Built Heritage Pty Ltd	Mr D’Angelo
13	4 May	Evidence – Peter Barrett of Peter Andrew Barrett	Ms Marson
14	11 May	Planning Practice Note 1	Ms Marson
15	11 May	The Victorian Heritage Register Criteria and Threshold Guidelines 2019	Ms Marson
16	11 May	Statements of Significance – Glen Eira heritage precincts:	Ms Marson
a		- Derby Road	
b		- Ormond 1 and 2	
c		- South Caulfield Shopping Centre	
17	11 May	Proposed Amendment C190glen statements of significance for proposed retail centres:	Ms Marson
a		- Carnegie Retail Precinct (HO158)	
b		- Glenhuntly Tram Terminus Estate Shops (HO159)	
c		- Bentleigh Retail Precinct (HO160)	
d		- Shops, 369-377 Centre Road (HO163)	
e		- Grand View Estate Shops (HO165)	
18	11 May	Council Part B submission	Mr D’Angelo
19	11 May	Council minutes – 21 March 2017 meeting	Mr D’Angelo
20	11 May	Rates book extract	Mr D’Angelo
21	11 May	Sands and McDougal directory extract, 1900	Ms Marson

No	Date	Description	Provided by
22	11 May	Submission – George and Sue Thomson	Mr Thomson
23	12 May	Submission – Vivace Property Group Pty Ltd	Ms Marson
24	12 May	Photos – 430 Neerim Road interior and external side wall	Ms Marson
25	12 May	Municipal rates record extract, 1890	Mr D’Angelo
26	13 May	Council’s draft recommendation regarding the precinct boundary reassessment	Mr D’Angelo

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