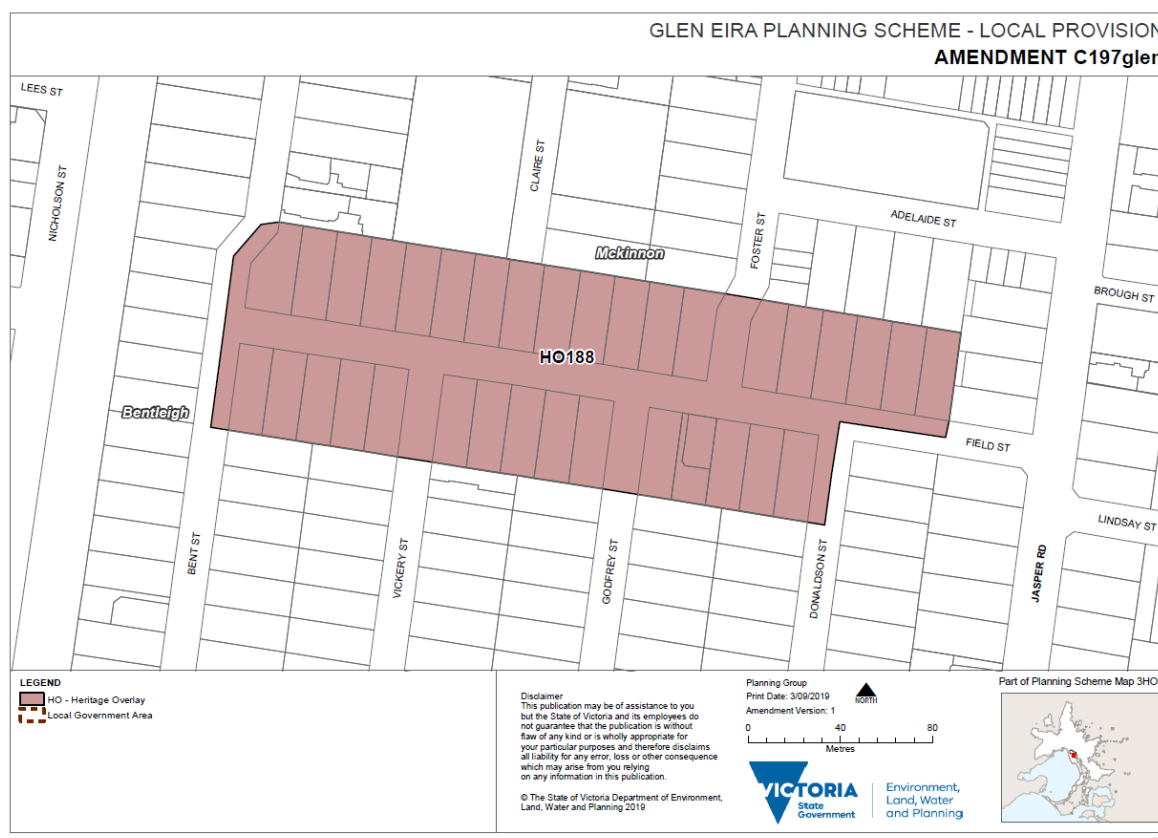


‘Part A’ Submission for the Planning Authority – Glen Eira City Council

Amendment No:	C197glen to the Glen Eira Planning Scheme
Location:	Nos 1-37, 2-30 Field Street Bentleigh Nos 235 and 237 Jasper Road and 26 Donaldson Road, Bentleigh
Proposal:	<ul style="list-style-type: none">- Amend the Schedule to Clause 43.01 - Heritage Overlay to include HO188;- Amend Schedule 4 to Clause 43.02 - Design and Development Overlay to remove reference to the Field Street character area;- Amend Schedule 3 Clause 43.05 - Neighbourhood Character Overlay to remove reference to the Field Street character area;- Amend the Schedule to Clause 72.04 to include the Statement of Significance for HO188;- Amend Map No.3HO to apply a Heritage Overlay HO188.- Amend Map No.3NCO to delete the Neighbourhood Character Overlay- Schedule 3 (NCO3).- Amend Map No.3DDO to delete the Design and Development Overlay- Schedule 4 (DDO4).
Proponent:	Glen Eira City Council
Date of Hearing:	22 September 2020

Introduction

1. Glen Eira City Council (Council) is the Planning Authority for Amendment C197glen (Amendment) to the Glen Eira Planning Scheme (Scheme). Council has prepared and is the proponent of the Amendment.
2. This 'Part A' submission is prepared in accordance with the Panel's Directions letter dated 8 July 2020.
3. This submission addresses the following matters in accordance with direction 10 of the Directions:
 - A copy of the Authorisation and summary of any conditions of authorisation and how those conditions have been met;
 - Background, including a chronology of events for the Amendment;
 - Strategic context and assessment;
 - Relevant planning policies and controls including the key elements of Neighbourhood Character Overlay – Schedule 3 (NCO3) and Design and Development Overlay – Schedule 4 (DDO4), their existing and proposed mapping extent and schedule changes as exhibited;
 - Issues identified in submissions;
 - Any suggested changes to the Amendment in response to submissions;
 - Other amendments that may be under preparation or recently approved that may impact on the Amendment and any current permit applications that may impact on the Amendment application; and
 - Any other strategic material that Council intends to rely upon in support of the Amendment that has not yet been provided, or that might assist the Panel in its consideration of the Amendment.
4. In addition to this submission, at the hearing schedule for 8 September 2020 via videoconference, Council will:
 - Present its 'Part B' submission that will address Council's responses to the matters raised in the submissions received as part of the amendment; and
 - Call and rely on expert heritage evidence from Mr Simon Reeves of Built Heritage Pty Ltd.
5. The Amendment seeks to apply the Heritage Overlay (HO188) to the Field Street Precinct (map shown below) and remove the existing Neighbourhood Character Overlay – Schedule 3 (NCO3) and Design and Development Overlay – Schedule 4 (DDO4).



Map 1: Proposed HO188

6. Specifically, the Amendment amends the following:
- Amend the Schedule to Clause 43.01 - Heritage Overlay to include HO188;
 - Amend Schedule 4 to Clause 43.02 - Design and Development Overlay to remove reference to the Field Street character area;
 - Amend Schedule 3 Clause 43.05 - Neighbourhood Character Overlay to remove reference to the Field Street character area;
 - Amend the Schedule to Clause 72.04 to include the Statement of Significance for HO188;
 - Amend Map No.3HO to apply a Heritage Overlay HO188.
 - Amend Map No.3NCO to delete the Neighbourhood Character Overlay-Schedule 3 (NCO3).
 - Amend Map No.3DDO to delete the Design and Development Overlay-Schedule 4 (DDO4).
7. Council pursues the Amendment as exhibited, except for requesting that the Panel consider a modification to retain the aforementioned NCO3 and DDO4 for the three properties at 26 Donaldson Street, Bentleigh and 235 and 237 Jasper Road, Bentleigh (denoted with a star on Map 2 on the following page). These properties were not included in the proposed HO but as a response to submissions, Council has reviewed the proposal and wishes to retain the NCO3 and DDO4 until a heritage review of this area outside of Field Street can be performed at a later date.
8. The current extent of the NCO3 and DDO4 is shown on the map below



Map 2: Existing NCO and DDO (note properties identified with a star are proposed to be retained within these overlays)

Background

9. A chronology of key events relevant to the Amendment forms Attachment A (page 12 of 13) of Council's submission.
10. Council's 'Council and Community Plan 2017-2021' is the strategic framework for Council's plans and activities. Theme One 'Liveable and Well Designed' includes a number of strategic planning commitments over the four-year period. Commitment Two (2) is to 'encourage development that benefits the community'. Council will "review our heritage places and provide stronger development guidelines to preserve and enhance Glen Eira's heritage buildings and precincts." This review of Field Street Precinct contributes to Council's commitment.
11. On 23 May 2019, Council instructed Built Heritage Pty Ltd to prepare a fee proposal for the preparation of a heritage assessment of Field Street, Bentleigh. The significance of the precinct was assessed against the standard criteria contained within *Planning Practice Note 01 Applying the Heritage Overlay (August 2018)* and is considered to meet the requirements and threshold for local protection through the Heritage Overlay.
12. On 14 June 2019, Council refused Planning Application No. GE/DP-32582/2019 for 'the demolition of an existing dwelling and construction of two dwellings and a fence' at 12 Field Street Bentleigh. Reasons for refusal included failure of the proposal to respond to the key neighbourhood character objectives within the Neighbourhood Character Overlay and not respecting or enhancing the identified neighbourhood

character. Refer to Attachment B for a copy of the site plan, front elevation and the Notice of Refusal.

13. As part of this planning application, there were 27 objections from neighbouring residents and landowners, with most calling for maintaining the existing character of the street and a number of objections requesting a review of this area for heritage significance.
14. On 3 July 2019, a draft preliminary assessment was submitted to Council by Built Heritage on the Field Street area and close surrounds.
15. On 8 August 2019 the Built Heritage submits a final version of the heritage citation for the Field Street Precinct to Council.
16. At the Council meeting on 24 September 2019, Council resolved to adopt the heritage citation (Attachment C) and to seek authorisation from the Minister for Planning to prepare and exhibit the Planning Scheme Amendment. The Citation for Field Street Precinct confirms the precinct meets the threshold for local significance and satisfies Criterion A (historic significance) and Criterion E (aesthetic significance).
17. Amendment 197 is required to replace the existing NCO and DDO with the Heritage Overlay (HO188) in the planning scheme.

Ministerial authorisation and interim controls

18. Interim heritage controls were lodged as part of Amendment C202 on 3 October 2019. To date, no decision has been made on these.
19. Authorisation to prepare and exhibit Amendment C197 was given to Council on 7 November 2019.

Exhibition

20. The exhibition period was open from 30 January to 2 March 2020 and comprised:
 - Sending letters to owners and occupiers of all affected properties, prescribed ministers and other relevant authorities and stakeholders;
 - Notice in the Moorabbin/Glen Eira Leader local newspaper;
 - Notice of the Amendment in the Government Gazette;
 - Uploading the Amendment documentation on Council's and the Department's websites; and
 - A hard copy was available at the Town Hall.
21. The Amendment documentation as exhibited comprised:
 - The explanatory report;
 - Notice of preparation of an amendment;
 - The instruction sheet;
 - Proposed clauses and schedules, specifically the Schedule to clause 43.01 (Heritage Overlay) and the Schedule to clause 72.04 (Incorporated Documents);
 - Proposed planning scheme maps; and

- Field Street Precinct Heritage Citation HO188, prepared by Simon Reeves, Built Heritage Pty Ltd, dated 8 August 2019.
22. In response to the exhibition, Council received ten submissions:
- 8 submission supported the Amendment;
 - 1 submission had 'no comment' (Environmental Protection Authority) and
 - 1 submission objected to the Amendment.

Strategic context and assessment

23. This section provides an overview of the Amendment's strategic basis, supplementing the detail set out in the exhibited explanatory report.
24. Council submits the key focus of the Panel with respect to this Amendment (and in response to the submissions received) relates to the requirements of the Heritage Overlay and the Planning Practice Note 1 (Applying the Heritage Overlay) (PPN1).
25. The PPN1 states the following places should be included in a Heritage Overlay:
- *Places identified in a local heritage study, provided the significance of the place be shown to justify the application of the overlay.*
26. Specifically, the PPN1 describes the threshold for determining places of significance for historical or social reasons:
- *...is that it has 'something' to be managed. This 'something' is usually tangible but it may, for example be an absence of built form or the presence of some other special characteristic.*
27. The PPN1 details the process and goes on to say:
- *The heritage process leading to the identification of the place needs to clearly justify the significance of the place as a basis for its inclusion in the Heritage Overlay. The documentation for each place shall include a statement of significance that clearly establishes the importance of the place and addresses the heritage criteria.*
28. Council submits that these are the key matters a Panel should consider in assessment the Amendment.
29. Council also submits the following policy forms the framework for the Panel's determination in this hearing:
- The 'overarching objective' relating to heritage conservation set out at s4(1)(d) of the **Planning and Environment Act 1987**:
 - i. *... to conserve and enhance those building, areas or other places which are of scientific, aesthetic, architectural or historical interest or otherwise of special cultural value.*
 - Direction 4.4 of Plan Melbourne (2017-2050) to 'respect our heritage as we build for the future', which recognises the contribution heritage places make to Melbourne's distinctiveness and liveability and advocates for the protection of Melbourne's heritage places. Policy 4.4.1 recognises the need for 'continuous identification and review of currently unprotected heritage sites...'

- The Planning and Policy Framework at clause 15.03-1S of the Scheme, in particular the overarching objective of ensuring ‘the conservation of places of heritage significance’ that should to be achieved through strategies including to:

Identify, assess and document places of natural and cultural heritage significance as a basis for their inclusion in the planning scheme.

...

Provide for the conservation and enhancement of those places which are of, aesthetic, archaeological, architectural, cultural, scientific, or social significance, or otherwise of special cultural value.

- The Local Planning Policy Framework in the Scheme on the importance of heritage in the City of Glen Eira including:
 - the objective under clause 21.10-2 being ‘to identify, protect, enhance and promote understanding of Glen Eira’s heritage’ through strategies such as:
 - i. *protect places identified as having architectural, cultural or historical significance.*
 - ii. *Ensure sympathetic redevelopment and renovation of areas and places identified as having architectural, cultural or historic significance in the municipality.*
 - iii. *Enhance knowledge and popular understanding of Glen Eira’s architectural, cultural and historic heritage.*
 - The objectives under clause 22.01 including to:
 - i. *Protect places identified as having architectural, cultural or historic significance and which demonstrate the various eras of Glen Eira’s development; and*
 - ii. *Encourage retention, preservation and restoration of all significant contributory places within the City of Glen Eira;*
- ‘Commitment two’ of Council’s *Council and Community Plan 2017-2021* being to ‘encourage development that benefits the community’. It states Council will “review our heritage places and provide stronger development guidelines to preserve and enhance Glen Eira’s heritage buildings and precincts”;
- Planning Practice Note 91 (Using the Residential Zones), introduced on 24 December 2019, stating:
 - It is important to understand the differences between neighbourhood character and heritage.
 - While all areas have a history or a heritage, not all areas are historically significant. Heritage significance is determined by recognised criteria set by Commonwealth, state and local agencies, with reference to the Burra Charter.
 - The Heritage Overlay (HO) should be used where the objective is to conserve the existing building or buildings.

...

- The application of the HO and underlying residential zoning should be consistent with the strategic intent outlined in the MPS and PPF.
 - For example, if an area is zoned for housing change, a planning authority must satisfy itself that this is compatible with the conservation of existing buildings otherwise a direct conflict between the purpose of the zone and the overlay will be created making it difficult to interpret and apply the controls.
30. The recognised HERCON criteria for assessment of heritage values of a heritage place, as set out in the PPN1 are:
- 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 additions (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).

Ministerial directions

31. The Amendment is consistent with the requirements of the following Ministerial directions:
- Ministerial Direction on the Form and Content of Planning Schemes under section 7(5) of the Planning and Environment Act 1987;
 - Ministerial Direction No. 9 – Metropolitan Planning Strategy;
 - Ministerial Direction No. 4.4 of Plan Melbourne: Respect Melbourne’s Heritage as we build for the future;
 - Ministerial Direction No. 11 – Strategic Assessment of Amendments; and
 - Ministerial Direction No. 15- Planning Scheme Amendments.

Current planning controls

32. The land is within the Neighbourhood Residential Zone – Schedule 1 (NRZ1).
33. The current planning controls that apply to the precinct are the Neighbourhood Character Overlay – Schedule 3 (NCO3) and the Design and Development Overlay – Schedule 4 (DDO4). Details of the objectives of these two overlays are outlined below.
34. The NCO3 objectives are:
 - To ensure that new buildings and works reflect the statement of neighbourhood character of the area.
 - To encourage retention of older dwellings that contribute to the valued character of the area.
 - To maintain the established pattern of front and side setbacks in the street.
 - To ensure that new dwellings or extensions to existing dwellings respect the dominant building height, form, façade articulation, materials and roof forms of the streetscape.
 - To ensure that the use of design detail in new buildings complements, rather than mimics, that of the predominant building styles in the street.
 - To maintain the pattern of low or visually permeable front fencing that creates a sense of openness in the streetscape and allows views of dwellings and into front gardens, and complements the building era and style.
 - To minimise the loss of front garden space due to car parking and driveways, and minimise the dominance of car parking structures in the streetscape.
35. The DDO4 design objectives are:
 - To maintain the character of low front fences that allows unimpeded views to front gardens and dwellings.
 - To ensure that front and side fences within the building frontage complement the design and materials of the preferred neighbourhood character, prevailing style and scale in the overlay area and the building on the lot.
36. The NCO is used when an area exhibits specific characteristics that need to be protected or changed to achieve a preferred character and the DDO relates to specific design and development outcomes sought (specifically for front fences). The HO is used when a place has cultural heritage value and the objective is to conserve the existing building or buildings.
37. With respect to Field Street, a heritage consultant has confirmed that the proposed precinct meets the threshold for local heritage significance. The HO is the appropriate planning mechanism to protect the heritage values of this precinct as the HO requires a planning permit to be granted for buildings and works, including demolition, that could affect the significance of the precinct.
38. In applying the HO to Field Street, it was considered appropriate to remove the existing NCO and DDO as these controls are an unnecessary additional layer of control to the HO.



Map 3: Current NCO3 and DDO4 boundaries

39. Attachment D – the Schedule changes as exhibited.

Key issues raised in submissions and any changes to the Amendment

40. A detailed summary of, and response to the submissions received in response to exhibition forms part of Council's meeting agenda dated 9 June 2020.

41. The key issues raised in the submissions received are summarised as:

- a. Support the proposed heritage overlay
- b. Consider including applying the heritage overlay to the other properties that exist in the current Neighbourhood Character Overlay
- c. Some properties already have significant modifications to the original fabric and should not be included in the proposed Heritage Overlay

42. Council will respond to these issues in its 'Part B' submission.

43. At the ordinary meeting on 9 June 2020, Council considered the submissions together with the Council officers' response to submissions, and resolved that Council:

- *receives the submissions;*
- *notes the summary of received submissions and the comments/recommendations provided by the planning officer and heritage consultant (Attachment 3);*
- *revises Planning Scheme Amendment C197 to retain the NCO and DDO for the properties at 26 Donaldson Street, Bentleigh, and 235 and 237 Jasper Road, Bentleigh;*
- *requests the Minister for Planning to appoint a Planning Panel to consider Submissions received during the exhibition period for Amendment C197 in accordance with Section 23 of the Planning and Environment Act 1987; and*

- *refers all submissions to the Planning Panel for its consideration.*

Suggested changes to the Amendment in response to submissions

44. Council pursues the Amendment as exhibited, except to propose minor modifications to retain the NCO and DDO to three properties that submissions highlighted – 235 and 237 Jasper Road and 26 Donaldson Street, Bentleigh that are not proposed for inclusion in the HO.
45. Council's Part B Submission at the Panel Hearing will explain why Council made this decision.
46. Council has noted an error within the Council report from 9 June 2020 in relation to the address at 237 Jasper Road, Bentleigh. This address has been wrongly identified in the recommendations and the body of the report as 257 Jasper Road, Bentleigh. Therefore, the minutes from this Council meeting have noted the incorrect site.
47. The documentation, including the explanatory report, proposed mapping and existing mapping, that was submitted for authorisation and put on exhibition provided the correct address – 237 Jasper Road, Bentleigh. This demonstrates that there was an error when the report to Council was prepared. Council requests that the panel note the error and correct it.

Other amendments under preparation or recently approved

48. There are no other amendments under preparation or recently approved that will have any impact on this amendment.

Other strategic material

49. There is no other strategic material that Council intends to rely upon in support of the amendment that has not yet been provided.

Conclusion

50. The Part B submission will be presented to the Panel at the Panel Hearing commencing on 8 September 2020 and will include Council's final response to all issues raised in the submission.
51. In conjunction with the Attachments that form part of this submission, this completes the Part A Submission to the Panel for Glen Eira City Council.

Attachment A - Chronology of Key Events

Date	Event
27 June 2017	Glen Eira's 'Council and Community Plan 2017-2021' is endorsed. Commitment Two (2) is to 'encourage development that benefits the community'. Council will "review our heritage places and provide stronger development guidelines to preserve and enhance Glen Eira's heritage buildings and precincts."
23 May 2019	Built Heritage instructed by Council to prepare a fee proposal for the preparation of a heritage assessment of Field Street, Bentleigh.
28 May 2019	Built Heritage provide fee proposal for preparation of preliminary heritage assessment for Field Street.
14 June 2019	Council refused Planning Application No. GE/DP-32582/2019 for 'the demolition of an existing dwelling and construction of two dwellings and a fence' at 12 Field Street Bentleigh. Reasons for refusal included failure of the proposal to respond to the key neighbourhood character objectives within the Neighbourhood Character Overlay and not respecting or enhancing the identified neighbourhood character.
3 July 2019	A draft preliminary heritage assessment submitted to Council.
9 July 2019	Instructed by Council to proceed with preparation of a full precinct.
17 July 2019	Built heritage submits a final version of preliminary heritage assessment to Council.
6 August 2019	Built heritage submits a draft version of the heritage citation to Council.
8 August 2019	Built heritage submits final version of heritage citation to Council.
24 September 2019	Council resolved to adopt the Citation for Field Street Precinct and seek Authorisation for the Amendment.
3 October 2019	Interim controls were lodged with DELWP as part of Amendment C202glen.
7 November 2019	Authorisation to prepare and exhibit Amendment given.
30 January – 2 March 2020	Exhibition period.
19 March 2020	Planning conference scheduled for 26 March 2020 cancelled due to COVID 19- email sent to all submitters.
9 April 2020	Correspondence sent to submitters to postpone the scheduled Council meeting to consider submissions received.

9 June 2020	Officer report goes to Ordinary Council Meeting recommending Council consider submissions received and refer all submissions to the Planning Panel for its considerations. Unanimously supported.
7 July 2020	Directions hearing was held via videoconference.
31 August 2020	Letters sent to three properties notifying them of the intention to retain the NCO and DDO– 26 Donaldson and 235 and 237 Jasper Road, Bentleigh.
22 September 2020	Panel hearing scheduled for one day via videoconference.

Attachment B – 12 Field Street documentation

See separate document.

Attachment C – Field Street Precinct Citation

See separate document.

Attachment D – Schedule changes as exhibited

See separate document.