

**Banyule Planning Scheme Amendment C165bany  
Updated Heritage Overlay**

**Panel Report**

*Planning and Environment Act 1987*

**5 September 2022**

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### 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 PE 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 PE 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 PE Act]

### *Planning and Environment Act 1987*

Panel Report pursuant to section 25 of the PE Act

Banyule Planning Scheme Amendment C165bany

**5 September 2022**

A handwritten signature in black ink, appearing to read 'Ian Gibson', with a long horizontal line extending to the right.

Ian Gibson, Chair

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## Glossary and abbreviations

Council	Banyule City Council
HO	Heritage Overlay
MSS	Municipal Strategic Statement
PE Act	<i>Planning and Environment Act 1987</i>
PPF	Planning Policy Framework

## Overview

### Amendment summary

The Amendment	Banyule Planning Scheme Amendment C165bany
Common name	Heritage Overlay Update
Brief description	<p>The Amendment implements the recommendations of the <i>Banyule Heritage Study 2020</i> (RBA Architects and Conservation Consultants) by:</p> <ul style="list-style-type: none"> <li>- applying the Heritage Overlay (HO) on a permanent basis to 21 individual heritage places</li> <li>- introducing the <i>Banyule Heritage Study 2020</i> as a background document</li> <li>- introducing Statements of Significance as incorporated documents for the 21 heritage places being added to the HO</li> <li>- reducing the extent of the HO for the existing heritage place HO82 'Taruna House'.</li> </ul>
Subject land	22 places across Banyule City
Planning Authority	Banyule City Council
Authorisation	1 November 2021
Exhibition	7 February to 18 March 2022
Submissions	<p>Submissions were received from:</p> <ol style="list-style-type: none"> <li>1. James Nevile and G McHarg (support if changes made)</li> <li>2. James McWhinney (opposed)</li> <li>3. Murray and Georgia White (support if changes made)</li> <li>4. Susan Sheehan (opposed)</li> <li>5. Dermot Cannon (support if changes made)</li> <li>6. Peter Sward (opposed)</li> <li>7. A G Leiminger and J F Ikonomou (opposed)</li> <li>8. Deborah Salins (support)</li> </ol>

### Panel process

The Panel	Ian Gibson (Chair)
Directions Hearing	Video conference, 22 June 2022
Panel Hearing	Video conference, 11 August 2022
Site inspections	Unaccompanied, 17 July 2022
Parties to the Hearing	Ms Nicola Rooks, Strategic Planner, Banyule City Council, who called expert evidence on heritage, from Anthony Hemingway of RBA Architects and Conservation
Citation	Banyule Planning Scheme PSA C165bany [2022] PPV
Date of this report	5 September 2022

## Executive summary

Banyule Planning Scheme Amendment C165bany (the Amendment) seeks to implement the recommendations of the *Banyule Heritage Study 2020* (RBA Architects and Conservation Consultants) by applying the Heritage Overlay on a permanent basis to 21 individual heritage places. It introduces the *Banyule Heritage Study 2020* as a background document, as well as Statements of Significance as incorporated documents for the 21 heritage places being added to the Heritage Overlay. The Amendment also reduces the extent of the Heritage Overlay for the existing heritage place HO82 'Taruna House' to reflect changes resulting from a recent planning permit.

Exhibition of the Amendment led to eight submissions, one of which supported the Amendment. Two of the seven objecting submissions were withdrawn as a result of a Council resolution at its 9 May meeting. Following further inspections of one of the properties subject to a submission, Council and its heritage consultant recommended removal of the property from the Amendment. Discussions with the other submitters continued throughout the Panel process, leading to the withdrawal of two of the remaining submissions, leaving two objectors. The unresolved submissions related to HO206 Graceburn, 38 Quinn Street, Heidelberg and HO207 Beddison/Swift House, 5 Crown Road, Ivanhoe.

The discussions with owners led to modifications to the controls proposed under the Schedule to the Heritage Overlay, and to the Statements of Significance and citations. The Panel supports these changes, on the basis that they simplify the planning permit process and provide greater accuracy in the citations.

The key issues raised in objecting submissions include:

- there have been a range of internal and external alterations to the places
- the proposed inclusion of tree controls is inappropriate
- the property is not within a streetscape or an area that has any cohesive heritage significance
- the dwelling is not of sufficient local heritage significance as to warrant an individual HO control
- the dwelling is not associated with any particularly prominent owners, builders or architects, and cannot reasonably be considered to be of particular social, architectural or historic significance
- there are other comparable examples of Federation style dwellings in Banyule, and the inclusion of this property would not add significantly to the stock of representative Federation style timber dwelling
- the Heritage Overlay would create an unreasonable impediment to the ongoing enjoyment of the home.

The Panel has reviewed the report on which the Amendment is based - the *Banyule Heritage Study 2020* (RBA Architects and Conservation Consultants) – and has concluded that it was completed in a rigorous and professional manner, is consistent with the advice in Planning Practice Note 1 - *Applying the Heritage Overlay* (August 2018) and addresses the policy objectives in the Planning Scheme and the *Banyule Council Plan 2021-2025*. The Amendment is therefore strategically justified.

The Panel concludes:

HO206 Graceburn, 38 Quinn Street, Heidelberg has sufficient heritage significance to justify the HO, with a refinement to the Schedule to Clause 43.01 and the Statement of Significance to clarify changes that have been made to the place.

HO207 Beddison/Swift House, 5 Crown Road, Ivanhoe has sufficient heritage significance to justify the HO, with a refinement to the Schedule to Clause 43.01 and the Statement of Significance to remove reference to two trees and the interior, and clarify changes that have been made to the place.

The modifications to Schedule controls developed during the Amendment process should be adopted.

The refinements to Statements of Significance developed during the Amendment process should be adopted.

The Panel concludes that Council should prepare and adopt a revised version of the citations in the *Banyule Heritage Study* report, include all the modifications proposed by Mr Hemingway in his evidence. It should clearly state that it includes revisions, and is dated as the current relevant version.

### **Recommendations**

Based on the reasons set out in this Report, the Panel recommends that Banyule Planning Scheme Amendment C165bany be adopted as exhibited, subject to the following:

- 1 For 38 Quinn Road, Heidelberg (HO206):**
  - a). amend the Statement of Significance to remove reference to the general garden setting.**
  - b). remove internal alterations and tree controls from the Schedule to the Heritage Overlay.**
- 2 For 5 Crown Road, Ivanhoe (HO207):**
  - a). amend the Statement of Significance to:**
    - Remove reference to two trees and the interior as significant items**
    - Provide clarity about non-original items.**
  - b). remove internal alterations and tree controls from the Schedule to the Heritage Overlay.**

With regard to all places in the Amendment:

- 3. Amend the Heritage Overlay Schedule controls as shown in Appendix B.**
- 4. Amend Statements of Significance as shown in Table 3.**
- 5. Adopt a revised version of the *Banyule Heritage Study 2020* report including updated citations to reflect changes.**

# 1 Introduction

## 1.1 The Amendment

The purpose of the Amendment is to implement the recommendations of the *Banyule Heritage Study 2020* (RBA Architects and Conservation Consultants) by applying the Heritage Overlay (HO) on a permanent basis to 21 individual heritage places, introducing the Banyule Heritage Study 2020 as a background document and introducing Statements of Significance as incorporated documents for the 21 heritage places being added to the Heritage Overlay.

The Amendment also reduces the extent of the Heritage Overlay for the existing heritage place HO82 'Taruna House' to reflect changes resulting from a recent planning permit.

Specifically, the Amendment proposes to:

- Amend the Schedule to Clause 43.01 (Heritage Overlay) to include 21 individual heritage places on a permanent basis.
- Amend Planning Scheme Maps 3HO, 7HO, 12HO, 13HO, 15HO, 16HO, 19HO and 20HO to include 21 individual places on the HO on a permanent basis.
- Amend the Schedule to Clause 72.04 (Documents Incorporated in this Planning Scheme) to include the Statements of Significance for 21 places on the Heritage Overlay.
- Amend the Schedule to Clause 72.08 (Background Documents) to include the 'Banyule Heritage Study 2020'.
- Amend the Schedule to Clause 43.01 (Heritage Overlay) and Planning Scheme Map 15HO to remove 581 Upper Heidelberg Road, Heidelberg Heights from the curtilage for HO82.

**Table 1** Exhibited heritage places and submissions received

HO Reference	Place	Criteria*	Submission Number
HO199	Mother of God Catholic Church, 56 Wilfred Road, Ivanhoe East	A, E	5
HO200	Green Mount Court (block of 16 flats), 110 Maltravers Road, Eaglemont	A, E	
HO201	Royd, 61-63 Mount Street, Eaglemont	A, E	4
HO202	Lobbs' Tearooms (former) and Diamond Valley Learning Centre, 1 Diamond Creek Road, Greensborough	A, B, D, G	
HO203	Stubbley's Hay and Grain Store (former), 96-104 Main Street, Greensborough	A, B, E	
HO204	Collins House, 45 Bronte Street, Heidelberg	A, E	
HO205	Welsh House, 4 Eton Court, Heidelberg	A, E	
HO206	Graceburn, 38 Quinn Street, Heidelberg	A, E	7
HO207	Beddison/Swift House, 5 Crown Road, Ivanhoe	A, E	1
HO208	2nd Ivanhoe Scout Hall, 8A Wallace Street, Ivanhoe	A, D, G	
HO209	Willis House, 10 Gruyere Crescent, Ivanhoe East	A, E	3
HO210	Purcell House, 17 Hartlands Road, Ivanhoe East	A, E	



HO211	Yann House, 21 Keam Street, Ivanhoe East	A, E	
HO212	Crittenden House, 30 Longstaff Street, Ivanhoe East	A, E	
HO213	Hilliard House, 6 Quandolan Close, Ivanhoe East	A, E	
HO214	St George Peace Memorial Church, 47 Warnccliffe Road, Ivanhoe East	A, G, E	
HO215	Okalyi House, 66 Old Eltham Road, Lower Plenty	A, E	
HO216	Lindsay Edward House, 149 Old Eltham Road, Lower Plenty	A, E	2
HO217	Vera Knox House, 46 Panorama Street, Lower Plenty	A, E	6
HO218	English House, 50-52 Philip Street, Lower Plenty	A, E	
HO219	Uglow House, 79 Buena Vista Drive, Montmorency	A, E	

\* Model criteria specified in Planning Practice Note 1: *Applying the Heritage Overlay*, August 2018 (see Chapter 2.4)

## 1.2 Background

The Explanatory Report provided the background to the Amendment:

The amendment proposes to implement the recommendations of the *Banyule Heritage Study 2020* (adopted 20 September 2021) by applying the Heritage Overlay to 21 individual heritage places in the Banyule Planning Scheme.

The aim of the municipal-wide Banyule Heritage Study 2020 was to identify and assess potential heritage places and provide recommendations for their protection. Council engaged heritage consultants RBA Architects and Conservation Consultants to prepare the Heritage Study in 2020. The study included community consultation that invited nominations of potentially significant properties. It then considered preliminary assessments of 200 potential heritage places and, subsequently, a detailed assessment of the most significant (priority) individual places identified in the study. The study recommended 21 individual places for inclusion on the HO in the Banyule Planning Scheme. The majority of recommended places are post World War 2 and include a high proportion of modernist houses. Places include 16 residential properties, two churches, two community buildings and one commercial building.

The Heritage Study was prepared in accordance with Heritage Victoria guidelines, the Australia ICOMOS Charter for Places of Cultural Heritage Significance (the Burra Charter) and Practice Note 01 - Applying the Heritage Overlay (August 2018). The recommended places are considered to meet the requirements and threshold for local protection through the HO.

The exhibited Amendment included a range of controls under the Schedule to the Heritage Overlay. These included tree controls recommended for eight places and limited internal controls for nine places.

One of the places in the Amendment, the Mother of God Catholic Church at 56 Wilfred Road, Ivanhoe East, currently has interim heritage controls introduced by Amendment C163bany on 11 November 2021, and expire on 1 December 2022. Interim controls for the remaining 20 places were introduced by Amendment C164bany, and these also expire on 1 December 2022.

The Amendment also proposes to reduce the extent of HO82 'Taruna House', which currently applies to 579 and 581 Upper Heidelberg Road, Heidelberg Heights. The land at 581 Upper Heidelberg Road, Heidelberg Heights has been redeveloped and no longer contributes to the heritage significance of HO82, so there is no longer a need for it to be included in the Heritage Overlay.

## 1.3 Procedural issues

### Withdrawn submissions

Prior to the Directions Hearing, two objecting submissions were withdrawn as a result of a Council resolution of 9 May 2022. These related to 10 Gruyere Crescent, Ivanhoe (Submission 3) and the Mother of God Catholic Church at 56 Wilfred Road, Ivanhoe East (Submission 5).

Following the Directions Hearing on 22 June 2022, Council informed the Panel that its heritage consultant had reviewed the property at 46 Panorama Avenue, Lower Plenty, and proposed to remove it from the Amendment. This related to Submission 6, with the submitter expressing a willingness to take no further part in the Hearing process on the basis that it was no longer relevant.

On 18 and 20 July 2022, Council advised the Panel that Submissions 2 and 4 had been withdrawn, relating to 149 Old Eltham Road, Lower Plenty and 61-63 Mount Street Eaglemont. This followed further discussions between the submitters, Council and Council's heritage consultant, with agreement between the parties to modify the relevant Statements of Significance and citations.

The role of the Panel is to consider the exhibited Amendment, and any proposed post-exhibition changes.

A test that the Panel applies is to ensure that changes would not be likely to generate any further submissions if they were to be re-exhibited. In this case, the withdrawal of one property at 46 Panorama Avenue, Lower Plenty is a relatively minor change within the Amendment, without significantly undermining its integrity in protecting the heritage of Banyule City. The modifications to the Statements of Significance and citations for the places relating to the four withdrawn submissions provide greater accuracy and depth to assist with consideration of future planning permit applications, and so enhance the Amendment.

The Panel therefore supports these changes, which it considers to be practical refinements to the Amendment.

The remaining two properties with objecting submissions – relating to 5 Crown Road, Ivanhoe and 38 Quinn Street, Heidelberg – are considered in Chapters 3 and 4 of this report.

### Hearing

On 24 June 2022, Council sought advice from the Panel regarding the requirement for a Council decision on changes to the Amendment, and on steps to take if all submissions are resolved. Following advice from the Panel, Council responded on 27 June 2022 that a formal Council resolution is not needed following negotiations with submitters, that negotiations are continuing with two of the submitters, and that two further submissions are not likely to be resolved or withdrawn.

On 20 July 2022, Council informed the Panel that Submissions 2 and 4 had been withdrawn. It requested that the matter be considered "on the papers", on the basis that the remaining two objecting submissions had not requested to be heard at the Hearing. The Panel responded that it proposed a short Hearing to enable the Panel to ask questions of Council and the expert witness, and this was conducted by video conference on 11 August 2022.

## 1.4 Summary of issues raised in submissions

The submissions are categorised as follows:

- Submission supporting the Amendment
- Two objecting submissions withdrawn regarding the following properties as a result of a Council resolution of 9 May 2022:
  - 10 Gruyere Crescent, Ivanhoe
  - Mother of God Catholic Church at 56 Wilfred Road, Ivanhoe East
- One submission withdrawn following a proposal to remove 46 Panorama Avenue, Lower Plenty from the Amendment
- Two submissions withdrawn for the following properties after further discussions with submitters before the Hearing:
  - 61-63 Mount Street, Eaglemont
  - 149 Old Eltham Road, Lower Plenty
- Two objecting submissions not resolved for the following properties:
  - 38 Quinn Street Heidelberg
  - 5 Crown Road, Ivanhoe.

The issues raised in the unresolved submissions include:

- The current **external paint colour** is not original (Submission 1)
- There have been a range of **internal and external alterations** (Submissions 1 and 7)
- The proposed inclusion of **tree controls** is inappropriate (Submission 1)
- The property is **not within a streetscape** or an area that has any cohesive heritage significance (Submission 7)
- The dwelling on the property is **not of sufficient local heritage significance** as to warrant an individual Heritage Overlay control (Submission 7)
- The dwelling is **not associated with any particularly prominent owners, builders or architects**, and cannot reasonably be considered to be of particular social, architectural or historic significance (Submission 7)
- There are **other comparable examples** of Federation style dwellings in Banyule, and the inclusion of this property would not add significantly to the stock of representative Federation style timber dwelling (Submission 7)
- The Heritage Overlay would create an **unreasonable impediment** to the ongoing enjoyment of the home (Submission 7).

## 1.5 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
- HO206: 38 Quinn Street, Heidelberg
- HO207: 5 Crown Road, Ivanhoe
- Other heritage places.

## 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 (the Municipal Strategic Statement)

The Amendment supports the MSS, particularly:

- **Clause 21.03 Cultural Heritage**, which seeks 'To protect, conserve and enhance places and precincts that contribute to Banyule's cultural heritage'.

#### Clause 22 (Local Planning Policies)

The Amendment supports:

- **Clause 22.06 Cultural Heritage Conservation Policy**, which applies to all properties affected by a Heritage Overlay in Banyule.

This policy:

- Implements the Vision for Banyule in Clause 21.02, responds to the key issues and builds on the MSS objectives and strategies for heritage in Clause 21.03 ...
- Implements the recommendations of heritage studies, in particular the *Banyule Heritage Strategy 2013*, the *Banyule Heritage Places Study 1999* and *Banyule Heritage Places Review 2012* and gives effect to the development guidelines for heritage precincts within Banyule.
- Recognises the importance of the conservation of heritage places in contributing to environmental, economic and social sustainability.
- Is intended to assist the consideration of permit applications or amendments sought or granted under Clause 43.01. Application requirements are given where appropriate.

## 2.2 Other relevant planning strategies and policies

### (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.

### (ii) Council Plan 2021-2025

The Amendment is consistent with the *Banyule Council Plan 2021-2025*, in particular Strategy 6 under the theme of "Strengthen our Well-Built City". This includes a strategy to "Preserve and enhance Banyule's valued heritage, local character, and its significant trees".

The Annual Action Plan for 2021/22 included the following commitment:

Action 3.6.2: Finalise the Banyule Heritage Study and progress a planning scheme amendment to protect properties of heritage value.<sup>1</sup>

## 2.3 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.

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<sup>1</sup> Banyule City Council, Council Plan 2021-2025, p. 65

## 2.4 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).

## 2.5 Banyule Heritage Study

The preparation of the Banyule Heritage Study was described by Council:

On 29 October 2018, Council adopted the Banyule Thematic Environmental History providing a framework to assist future heritage studies. The Thematic Environmental History was a preliminary step to the Banyule Heritage Study 2020 (the Heritage Study).

In February 2020, Council engaged RBA Architects and Conservation Consultants to undertake a municipal-wide heritage study.

There are currently 190 places and precincts already protected by the HO in the Banyule Planning Scheme. The aim of the Heritage Study was to identify and assess additional places of heritage significance and provide recommendations for their protection.

The Heritage Study was conducted in two stages:

- Stage 1 included community engagement in February and March 2020 seeking nominations from the community for potential heritage places and the initial assessment of 200 potential heritage places to determine a priority list. Places considered in Stage 1

were a combination of community nominated places, places identified by Council and places identified by the heritage consultants.

- Stage 2 involved detailed assessments of 22 individual priority places and was completed in July 2021.

The Heritage Study was prepared in accordance with Heritage Victoria guidelines, the Australia ICOMOS Charter for Places of Cultural Heritage Significance (the Burra Charter) and its guidelines. The study comprised of historical research, field work (site visits) and comparative assessment.

Of the 22 places assessed at Stage 2, 21 were found to be of local heritage significance and recommended for inclusion on the HO in the Banyule Planning Scheme.

In August 2021, the property owners of recommended places were advised that the Heritage Study would be considered at a Council Meeting on 20 September 2021.

At the Ordinary Council meeting on 20 September 2021, the report was adopted and Council resolved to prepare an Amendment.

The Panel considers that the report has been completed in a rigorous and professional manner. It is based on a variety of original sources, as well as site visits and discussions with property owners. It is consistent with the advice in Planning Practice Note 1, addresses the policy objectives in the Planning Scheme and the *Banyule Council Plan 2021-2025*, and provides a strong basis for the Amendment.

Discussions with property owners following the adoption of the *Banyule Heritage Study 2020* led to a significant number of refinements to the citations within the study. The Panel considers that the changes provide useful updates based on changes made to the places since the publication of the report, as well as additional information largely resulting from discussions between the heritage consultants and the owners. While there are a substantial number of changes proposed, they are all modifications that enhance the study. The Panel supports them.

## **2.6 Discussion and conclusion**

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 PPF, and is consistent with the relevant Ministerial Directions and Practice Notes. The Amendment is well founded and strategically justified, and the Amendment should proceed subject to addressing the more specific issues raised in submissions as discussed in the following chapters.



### 3 HO206: 38 Quinn Street, Heidelberg

#### Exhibited Statement of Significance



#### What is significant?

Graceburn at 38 Quinn Street, Heidelberg, is significant. The house was constructed between 1905 and 1906, likely by Charles Rouch for its long-term original occupants, Edward and Alice Rouch.

The significant elements are the house's broadly symmetry, gambrel roof, red-brick chimney, raised return verandah with small central gable and squared timber posts, projecting gable wing (north), walls of painted weatherboard, entrance door, timber-framed and double-hung sashes, faceted bay windows, and all external timber decoration.

Later additions to the house are not significant.

The general garden setting is complementary to Graceburn; however, specific landscape elements, including plantings, garage and tennis court, are not significant.

#### How is it significant?

Graceburn is of local historical and aesthetic significance to the City of Banyule.

#### Why is it significant?

Graceburn is of historical significance as a commodious timber residence constructed during the early Federation period for, and likely by, the Rouch family – locally well-known owners of a Heidelberg timber mill. It illustrates an important pattern in the growth and consolidation of Heidelberg; the establishment of large-scale, often distinctive, dwellings within sizeable holdings by the affluent that were subdivided decades later, particularly as the area underwent more intensive growth in the wake of the Second World War. The survival of Graceburn following the 1956 sale of its originally expansive grounds and their subsequent development appears uncommon for Banyule. In most cases, the original house was demolished as part of the breakup. More generally, few timber buildings from the early 1900s remain in the municipality, particularly those that illustrate the Federation Bungalow style, of which the residence is

a relatively early example. Graceburn's continued prominence to the public realm, engineered as part of its subdivision, assists in marking it out as a building of some note. When viewed within the broader context of surrounding postwar and contemporary dwellings, the house's Federation character can evoke contemplation of an earlier phase in the evolution of the locale, allowing for an interpretation of the residence as the erstwhile centrepiece of a large property. **(Criterion A)**

Graceburn is of aesthetic significance as a largely intact and considerable instance of the more infrequently seen Federation Bungalow style, which referenced established and emergent domestic design trends – prefacing the wholesale embracement of the bungalow over a decade later. Its overall restrained character is indicative of the more relaxed bungalow mode, while the still widespread penchant for the picturesque is met subtly in the pleasing composition of the façade and north elevation. In combination, the dominant gambrel roof, raised verandah and (the less typical) near symmetry of the façade endow Graceburn with a stately character. An effect heightened by the employment of solid decorative timber elements to the verandah creating a screen-like effect, which encourages the strong interplay of light and shadow to the façade. The pronounced utilisation of timber throughout the house also reflects the pervading influence of the Arts & Crafts movement in the period and its interest in 'honest' and 'natural' materials. **(Criterion E)**

## (i) The issues

The issues are:

- Have the recent modifications to the place diminished its heritage significance?
- Does the heritage value of the property justify its inclusion in the HO (HO206)?

## (ii) Evidence and submissions

Submission 7 opposed the Amendment.

A summary of the reasons presented by the submitter, and the Council response, is shown in Table 2.

**Table 2** 38 Quinn Street, Heidelberg: Submission and Council response

Submission 7	Banyule Council response
The property is not within a streetscape or an area that has any cohesive heritage significance. Inclusion in the Heritage Overlay would therefore have very limited effect in terms of preserving local heritage character	It is not suggested that the place is part of a precinct. Graceburn was built some 50 years before more intensive suburban development occurred in the area (for instance, its holdings were subdivided in 1956). Graceburn is a rare and largely intact surviving example of an early phase of development
The dwelling on the property is not of sufficient local heritage significance as to warrant an Heritage Overlay control. The citation is out of date and does not consider recent alterations and additions made to the building (the owners were mid-way through alterations when notified of the Amendment in November 2021)	The house has been comprehensively researched, its fabric assessed, and a comparative analysis undertaken which outlines its significance
The dwelling is not associated with any particularly prominent owners, builders or architects	A place does not need to be associated with prominent people for it to be of heritage significance

There are other comparable examples of dwellings in Banyule and surrounding areas which are already protected by the Heritage Overlay	Graceburn is distinguished from the much of the mainstay of Federation period housing. The comparative analysis outlines that there is no ready comparison for this place in the municipality
The inclusion of the property in a Heritage Overlay would create an unreasonable impediment to the ongoing enjoyment of the home and the owners' ability to modify it to meet their family's changing needs and aspirations over time	The introduction of a Heritage Overlay does not preclude change being undertaken, especially to the rear parts, if they are sympathetic

In its Part B submission, Council argued that the dwelling has been assessed in accordance with Planning Practice Note 1, noting that *"the methodology employed by the Heritage Study was rigorous and in accordance with best practice, including industry accepted standards and practices and the Practice Note. It involved staged analysis comprising a preliminary and then detailed assessment"*.

Council called evidence on heritage from Mr Hemingway of RBA Architects and Conservation.

Mr Hemingway reiterated the Council position as presented to the Council meeting of 9 May 2022 (which had considered submissions to the Amendment).

### Reinstatement of recent modifications

There have been several recent modifications to Graceburn, including window replacement, removal of the frieze and associated detailing, and changes to the verandah.

Council outlined its version of the process that led to the changes:

- Council sent two letters to the owners, dated 24 August 2021 and 5 October 2021, advising of the Banyule Heritage Study and Council's intention to seek interim and permanent heritage controls (the 24 August 2021 letter was 'returned to sender')<sup>2</sup>.
- A building permit was issued by a private building surveyor on 3 February 2022.
- Council considered that a Section 29a of the Building Act 1993 demolition consent application should have been made to Council before any demolition occurred.
- Interim controls requested of the Minister for Planning in October 2021 had not been approved until 7 April 2022 – these would have triggered the need for a planning permit.
- Advice provided to Council is that the heritage elements removed should be reinstated to protect the heritage integrity of this property.

The Part B submission referred to the evidence of Mr Hemingway regarding the impact of the recent modifications:

- Changes to the windows have slightly reduced the intactness of Graceburn however they have not diminished its heritage value to a significant degree
- The removal of most of the frieze and associated timber detailing between the posts to the front verandah could be accurately reinstated
- The original detailing of the verandah is distinctive and is integral to the attributed heritage significance of the place. Without it being reinstated, there would be some diminution of Graceburn's heritage significance.<sup>3</sup>

<sup>2</sup> Note that Submission 7 refers to November 2021 as the first date on which the owners were informed of the Amendment

<sup>3</sup> Council Part B Submission, p. 11

At the Hearing, Council confirmed that it was confident that the reinstatement of key heritage elements would occur.

As noted by Mr Hemingway, the changes diminish the heritage value of the place, unless they are reinstated. He reported on a site inspection on 11 May 2022 with Council officers:

Extensive discussions were held with the owners and their architect about the works which the building surveyor had approved prior to the interim heritage controls being gazetted.

I discussed options and provided guidance on a heritage-sensitive approach to their proposal and encouraged reinstatement of the original verandah detailing at the site meeting. I also provided these comments and recommendations formally to Council.

Only the description section of the citation has subsequently been revised. A paragraph was inserted to outline the works that had been undertaken to the time of my inspection.

Whilst the window configuration to the room at the northwest corner of the front verandah has been modified, these overall do not compromise the integrity of the place, although this change is not readily reversible. Similarly, the replacement of the original upper single pane sashes with two windows (one to the north and another to the front/west elevation) does not reduce the integrity of the place, in part as this change is readily reversible.

Whilst the intactness of Graceburn has been reduced slightly by these changes, they have not diminished its heritage value to a significant degree.

The issue of the removal of most of the frieze and associated timber detailing between the posts to the front verandah remains in abeyance. It is not clear if it is possible to force the reinstatement of these items or if the owners will voluntarily do so. An accurate reconstruction would be possible based on photographs and the template that provided the remaining original section to the southern return so that there would not be any negative effect on the heritage significance.

The original detailing of the verandah is distinctive and is integral to the attributed heritage significance of the place. Without it being reinstated, there would be some diminution of Graceburn's heritage significance.

### **Unreasonable impediment to enjoyment of the home**

Council provided a response to Submission 7 regarding the impact of a Heritage Overlay on the enjoyment of the home, citing Panel reports for Latrobe Amendment C14, Glenelg Amendment C89 and Boroondara Amendment C274 Part 2, which conclude that applying the Heritage Overlay may restrict the development potential of a property, but this is not a justification for recommending against its application.

### **(iii) Discussion**

The Panel has considered the status of 38 Quinn Street, Heidelberg on the basis of the information presented to it. Submission 7 provides relatively general comments about the heritage significance of the property, so details were explored at the Hearing with those present at the Hearing, including Mr Hemingway and Council officers.

The citation in the Heritage Study provides a compelling case for inclusion of the place in the Heritage Overlay. It is clearly of historical significance to the Heidelberg area (Criterion A), illustrating an important pattern in the growth and consolidation of the area – *“large-scale, often distinctive, dwellings within sizeable holdings... Graceburn's continued prominence to the public realm, engineered as part of its subdivision, assists in marking it out as a building of some note.”*<sup>4</sup>

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<sup>4</sup> RBA Architects and Conservation Consultants, *Banyule Heritage Study*, 2020, Citation 7, p. 2

Submission 7 outlined four arguments questioning the heritage significance of the place:

- Lack of cohesion within the neighbourhood – in this case, the Panel accepts the alternative view that the place is not part of a heritage precinct, and is not presented as such within the Amendment.
- Recent alterations and additions have diminished the heritage significance of the place – the Panel agrees that the modifications have impacted on heritage significance, but that they have not diminished the historical significance of the place (Criterion A), while the aesthetic significance has been reduced but not totally reversed.
- The dwelling is not associated with any particularly prominent owners, builders or architects – the exhibited Statement of Significance does not refer to Criterion H: *“Special association with the life or works of a person, or group of persons, of importance in our history (associative significance)”*. The Panel therefore considers that associative significance is not relevant in this case.
- There are comparable examples of dwellings in Banyule and surrounding areas which are already protected by HOs – the Panel considers that the place is clearly of historical significance, so warrants heritage protection irrespective of whether there are other examples.

### **Reinstatement of recent modifications**

The recent modifications have undermined the heritage significance of the place, leading to uncertainty about whether it meets the requirements of Criterion E: Aesthetic significance. At the Hearing, Council suggested that it would be appropriate for the Panel to accept the likelihood that key elements impacting on the aesthetic significance of the place would be reinstated, either through voluntary action by the owners or through enforcement action initiated by Council.

The Panel is not able to make a judgement on whether the reinstatement will take place – irrespective of whether it is carried out voluntarily or following Council action. It has therefore reviewed the material available to it to determine whether the place meets the threshold required for Criterion E on the basis of this information, which covers the 2020 *Banyule Heritage Study* and subsequent updates.

On this basis, the Panel considers that the original citation provides a strong case for retaining aesthetic significance as one of the criteria. Any detailed information on the implications of the recent modifications come from Council and Mr Hemingway, who maintain that the threshold for Criterion E continues to be met. The Panel accepts that this is the case, despite the diminution in aesthetic significance as a consequence of the alterations.

Mr Hemingway and Council have proposed that the citation should be modified. They recommended that reference to the general garden setting should be removed from the Statement of Significance under ‘What is significant’, while the following should be added to the citation under ‘Description’:

Since the original inspection, changes were undertaken to the front of the building. The principal modification was the window configuration to the room at the north end of the front verandah – the single window to the west (front) elevation has been removed and infilled, and the paired windows to the north elevation (side) have been replaced with a single window (with a multi-paned upper sash). In addition, the original upper single pane sashes to the northern bay window of the façade and the paired windows to the gable end on the north elevation have been replaced with a multi-paned type (potentially reversible). The timber frieze and associated elements between the posts have been mostly removed (possibly on a temporary basis) from the front verandah.

The Panel supports these changes, which provide a more accurate description of the current state of the dwelling.

#### **Unreasonable impediment to enjoyment of the home**

The Panel agrees that applying the Heritage Overlay to a place does not preclude buildings, works or demolition of a property, but ensures that heritage elements are respected. It aligns with other Planning Panels, who have concluded that the focus in the Amendment process should be on the protection of heritage values, while other considerations are possible in subsequent planning permit processes.

It therefore considers that implementation of the Heritage Overlay does not represent an unreasonable impediment to enjoyment of the home.

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

The Panel concludes:

- HO206 Graceburn, 38 Quinn Street, Heidelberg has sufficient heritage significance to justify the Heritage Overlay, with a refinement to the Schedule to the Heritage Overlay and the Statement of Significance to clarify changes that have been made to the place.

The Panel recommends:

1. **For 38 Quinn Street, Heidelberg (HO206):**
  - a) **amend the Statement of Significance to remove reference to the general garden setting**
  - b) **remove internal alterations and tree controls from the Schedule to the Heritage Overlay.**



## 4 HO207: 5 Crown Road, Ivanhoe

### Exhibited Statement of Significance



#### What is significant?

Beddison/Swift House at 5 Crown Road, Ivanhoe is significant. It was designed in 1962 by the architectural practice of (Guilford Marsh) Bell & (Neil) Clerehan to a brief provided by the related Beddison and Swift families, joint owners of the property, for a multi-generational dwelling. Construction occurred the year after.

The significant elements are the cuboid and interlinked single-storey 'unit' and rear two-storey 'block', flat roofs, steel decking cladding, white-painted fascia, the sunken courtyard, carport, stained timber square posts and beams, walls of 'Jay Besser' brick, rear double-height timber 'verandah', and original fenestration (mainly timber-framed full-height French windows and sheeted Mountain Ash plywood doors).

The Lemon-scented gum (*Corymbia citriodora*) in the courtyard and front garden (north) are significant trees as is likely the mature Prickly-leaved Paperbark (*Melaleuca styhelioides*), also in the front garden (south). The native/indigenous whole-site landscape treatment, compact gravel driveway, post box, concrete panel crossover and basalt kerbing complement the Beddison/Swift House.

Some original elements in the interior are also of significance, specifically hardwood timber floorboards, internal walls lined with timber battens or plastered, and the open timber staircase.

Later additions are not significant.

#### How is it significant?

Beddison/Swift House is of local historical and aesthetic significance to the City of Banyule.

#### Why is it significant?

Beddison/Swift House is of historical significance as one of the relatively small numbers of designs undertaken by the progressive – if uneasy and fleeting – partnership of Bell & Clerehan. Their architectural response to the atypical request of the clients for multi-generational living was elegantly simple and direct,

revolving around a one-storey 'unit' for the older Beddisons at the front of the property with an attached two-storey 'block' for the younger Swifts family to the rear. Neil Clerehan, then consolidating his reputation as one of Melbourne's leading modernists and architectural commentators, was largely responsible for the design. Such architect-crafted expressions of a 'modern' lifestyle still compromised only a minority of developments in the municipality during the early 1960s and are emphatic illustrations of the lifestyle and aesthetic shifts occurring at the time. More broadly, Beddison/Swift House reflects the pronounced engagement with professional architects by owners of undeveloped, sloping property along the Birrarung/Yarra River banks in the Ivanhoe area, commencing in the postwar years, which endowed the locale with a distinctive layer of modernist design. **(Criterion A)**

Beddison/Swift House is of aesthetic significance as a refined and largely intact example of Bell & Clerehan's work, which exemplified the classicised and minimalist currents of international modernism in the early 1960s. It is now the foremost example of their oeuvre in Banyule. The two finely proportioned, pared-back cuboid forms that comprise the plan share an urbane carport and sunken courtyard with feature gum. The distinct volumes of the residences are offset from each other, an aspect heightened by contrasting solid-to-void ratios, with the frontage of the 'unit' featuring symmetrically arranged full-height French windows against the planar backdrop of the rear 'block', which is only punctured by a single entrance door. This relationship is reversed to the rear, with more generous glazing provided to the 'block' to capitalise on the available views. Beddison/Swift House's material palette of pale brown brick and darkly stained timber unifies the design and harmonises the building within its well-landscaped site. Overall, the effect is serene and understated, attributes that continue into the interior. **(Criterion E)**

## (i) The issue

The issue is:

- Does 5 Crown Road, Ivanhoe have sufficient heritage value to justify applying the Heritage Overlay (HO207)?

## (ii) Evidence and submissions

Submission 1 would support the Amendment, if:

- external paint controls were amended or excluded
- the large Lemon-scented gum in the courtyard of the building was be excluded.

Submitter 1 noted the property has had a range of internal and external alterations.

In its Part B submission, Council proposed to remove internal controls and tree controls, and amend the Statement of Significance and citation to clarify modifications at the rear of the property. It also proposed retention of external paint controls, referencing comments of the heritage consultants:

The paint control is not proposed to facilitate the retention of the existing paint colour but rather promote a sympathetic approach in keeping with the original colour/finish.  
Recommend retaining paint controls to facilitate a sympathetic approach to the timberwork in keeping with original design.

Mr Hemingway referred to a follow-up site inspection in June 2022, with the following findings:

The site inspection confirmed the high level of intactness of the exterior of the building and allowed for an appreciation of the refined detailing (use of Roman brickwork, recessed fascia below the roof ['shadow-line'], continuity of roof structure of the single storey section and the carport) than had been possible from the public realm and available photographs.

It confirmed the assessment that the design was highly resolved, specific to the requirements of the original occupants, and elegant. The latter aspect – derives from an abstracted classicism, which is a hallmark of one of the architect's works, Guilford Bell. Other elements are, however, more indicative of Neil Clerehan's work, such as the



prominence, stripped-back detailing and aesthetic (creating a permeable screen) of the carport.

A revised citation was prepared.

The Statement of Significance was revised to remove reference to two trees and the interior as significant items. Further clarity about non-original items was also provided.

The description was updated to more accurately reflect the current circumstances and revisions related to the roof, brickwork, doors, and carport.

Given the degree of changes that had occurred to the interior, reference to the interior was truncated.

The previously recommended internal and tree controls were removed.

Mr Hemingway concluded that the building is of a high level of significance and warrants the application of a Heritage Overlay.

### **(iii) Discussion**

The Panel considers that the case for applying the Heritage Overlay to Beddison/Swift House, 5 Crown Road, Ivanhoe has been thoroughly presented in the citation, while Submission 1 did not oppose its inclusion.

The issues of the inclusion of internal and tree controls would be removed by modifying the Amendment accordingly, while the proposed changes to the Statement of Significance and citation meet many of the concerns outlined in Submission 1.

The remaining issue is whether external paint controls are justified. The Panel notes that the dwelling is not painted in its original colour, but accepts the case that a sympathetic approach relating to the heritage of the building is appropriate for any future permit application. It supports the case for retaining external paint controls.

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

The Panel concludes:

- HO207 Beddison/Swift House, 5 Crown Road, Ivanhoe has sufficient heritage significance to justify the HO, with a refinement to the Schedule to the Heritage Overlay and the Statement of Significance to remove reference to two trees and the interior, and clarify changes that have been made to the place.

The Panel recommends:

#### **2 For 5 Crown Road, Ivanhoe (HO207):**

##### **a) amend the Statement of Significance to:**

- **Remove reference to two trees and the interior as significant items**
- **Provide clarity about non-original items.**

##### **b) remove internal alterations and tree controls from the Schedule to the Heritage Overlay.**

## 5 Other heritage places

### 5.1 Schedule controls

#### (i) The issue

The issue is:

- Are the proposed changes to the controls in the Heritage Schedule justified?

#### (ii) Background

The exhibited Amendment included a substantial number of places in addition to 38 Quinn Street, Heidelberg and 5 Crown Road, Ivanhoe. As noted above, two of the submissions were withdrawn before the Council meeting of 5 May 2022 that considered submissions, while others were withdrawn before the Directions Hearing and the Hearing. Many of these were resolved through proposed alterations to the exhibited Amendment, either through proposed changes to the controls proposed in the Heritage Overlay Schedule or the Statements of Significance, or through revisions to the full citations in the Heritage Study.

#### (iii) Evidence and Submission

Council submitted that internal controls should be removed from two properties after considering submissions related to:

- HO199: Mother of God Catholic Church, 56 Wilfred Road, Ivanhoe East
- HO207: Beddison/Swift House, 5 Crown Road, Ivanhoe (as discussed in Chapter 4 of this report).

Council found it appropriate to limit the planning permit trigger for the internal controls by clearly identifying sections of the places affected by the control. It proposed to clarify the internal controls to seven of the eight properties where internal controls were proposed to be retained:

- HO205: Welsh House, 4 Eton Court, Heidelberg - limited to east wing passageway, living room, and family room
- HO210: Purcell House, 17 Hartlands Road, Ivanhoe East - limited to hall, study, living and family rooms
- HO213: Hilliard House, 6 Quandolan Close, Ivanhoe East - limited to living room timber ceiling
- HO215: Okalyi House, 66 Old Eltham Road, Lower Plenty - limited to entry, study, living, dining and family rooms
- HO216: Lindsay Edward House, 149 Old Eltham Road, Lower Plenty - limited to ground floor ceilings and entrance hall hanging stairs
- HO218: English House, 50-52 Philip Street, Lower Plenty - limited to living room mud-brick fireplace and inglenook
- HO219: Uglow House, 79 Buena Vista Drive, Montmorency - limited to living area timber linings and joinery.

Council cited a similar approach that had been adopted by other Councils, notably Glen Eira and Moonee Valley, aiming to list significant internal elements in the Heritage Overlay Schedule to ensure the control is limited to those elements.

Further, it proposed to remove tree controls from nine properties, on the basis that they would result in a duplication of existing vegetation controls that apply to these properties. These include:

- HO199: Mother of God Catholic Church at 56 Wilfred Road, Ivanhoe East
- HO201: Royd, 61-63 Mount Street, Eaglemont
- HO202: Lobbs' Tearooms (former) and Diamond Valley Learning Centre, 1 Diamond Creek Road, Greensborough
- HO205: Welsh House, 4 Eton Court, Heidelberg
- HO207: Beddison/Swift House, 5 Crown Road, Ivanhoe
- HO210: Purcell House, 17 Hartlands Road, Ivanhoe East
- HO212: Crittenden House, 30 Longstaff Street, Ivanhoe East
- HO214: St George Peace Memorial Church, 47 Warncliffe Road, Ivanhoe East
- HO215: Okalyi House, 66 Old Eltham Road, Lower Plenty.

Submission 3, which related to Willis House, 10 Gruyere Crescent, Ivanhoe East, was withdrawn on the basis of a number of changes to the controls and citation, including a request to clarify that the HO only pertains to the exterior of the house and laundry. As a consequence, several changes were proposed by Council and supported by Mr Hemingway, including the addition of the laundry block under 'Outbuildings or fences not exempt under Clause 43.01-4' in the Heritage Overlay Schedule.

A further change was proposed to include the basalt retaining walls at Crittenden House, 30 Longstaff Street, Ivanhoe East, in the Schedule, in line with the Statement of Significance.

In summary, the changes proposed to 'Outbuildings or fences not exempt under Clause 43.01-4' in the Heritage Overlay Schedule are as follows:

- HO209: Willis House, 10 Gruyere Crescent, Ivanhoe East – addition of laundry block
- HO212: Crittenden House, 30 Longstaff Street, Ivanhoe East – addition of basalt retaining walls.

#### **(iv) Discussion**

The Panel supports all the proposed modifications to the Heritage Overlay Schedule. In the case of internal controls, the changes clarify the heritage elements that are to be protected, while the removal of tree controls remove duplication in the Planning Scheme. Further, the addition of 'Outbuildings and fences' controls to two properties provide protection for key aspects of the places.

The modifications to the exhibited Heritage Overlay Schedule controls are shown in the Panel preferred version in Appendix B.

#### **(v) Conclusions and recommendations**

The Panel concludes:

- The modifications to the Heritage Overlay Schedule controls developed during the Amendment process should be adopted.

The Panel recommends:

### **3. Amend the Heritage Overlay Schedule controls as shown in Appendix B.**

## 5.2 Statements of significance

### (i) The issue

A number of the submissions were resolved through proposed changes to the Statements of Significance.

The issue is:

- Are the proposed changes to the Statements of Significance justified?

### (ii) Evidence and Submission

Following the Hearing, Council provided a summary table of the changes proposed for several Statements of Significance that resulted from information provided in the submissions, discussions with the owners, observations during site visits and recent changes to the property (in the case of 38 Quinn Street, Heidelberg). It also proposed repair of typographical errors.

In summary, Council proposed that the following changes should be made to the exhibited Amendment:

**Table 3 Proposed changes to Statements of Significance**

HO	Name	Proposed change to Statement of Significance
199	Mother of God Catholic Church, 56 Wilfred Road, Ivanhoe East	Remove reference to the two elements of the interior relating to the ceiling framing and lining Remove references to the contribution of some aspects of the landscaping (front, rear/side sunken area, and an Atlas Cedar)
200	Green Mount Court (block of 16 flats), 110 Maltravers Road, Eaglemont	No change
201	Royd, 61-63 Mount Street, Eaglemont	Remove reference to three trees as significant items Provide clarity about non-original items, including details of the rear sections, parts of the front, and the retaining wall to the front boundary
202	Lobbs' Tearooms (former) and Diamond Valley Learning Centre, 1 Diamond Creek Road, Greensborough	Remove reference to English elms Correct typo in first paragraph under "why is it significant"
203	Stubley's Hay and Grain Store (former), 96-104 Main Street, Greensborough	No change
204	Collins House, 45 Bronte Street, Heidelberg	No change
205	Welsh House, 4 Eton Court, Heidelberg	Provide clarity regarding the internal controls
206	Graceburn, 38 Quinn Street, Heidelberg	Remove reference to garden setting

207	Beddison/Swift House, 5 Crown Road, Ivanhoe	Remove reference to two trees and the interior as significant items. Provide clarity about non-original items
208	2nd Ivanhoe Scout Hall, 8A Wallace Street, Ivanhoe	No change
209	Willis House, 10 Gruyere Crescent, Ivanhoe East	Remove the garage, the landscaping and trees as contributing to the significance of the place
210	Purcell House, 17 Hartlands Road, Ivanhoe East	Provide clarity regarding the internal controls Remove reference to specific trees
211	Yann House, 21 Keam Street, Ivanhoe East	No change
212	Crittenden House, 30 Longstaff Street, Ivanhoe East	No change to Statement of Significance as trees were not listed
213	Hilliard House, 6 Quandolan Close, Ivanhoe East	No change
214	St George Peace Memorial Church, 47 Warncliffe Road, Ivanhoe East	Remove reference to specific trees
215	Okalyi House, 66 Old Eltham Road, Lower Plenty	Provide clarity regarding the internal controls Include reference Gordon Ford
216	Lindsay Edward House, 149 Old Eltham Road, Lower Plenty	Amend to redefine the later additions as not being significant, as well as the much altered single storey laundry wing Make minor refinements to clarify details to the significant elements in 'why is significant' section Remove reference to the topography and landscape setting
217	Vera Knox House, 46 Panorama Street, Lower Plenty	Not applicable (property proposed to be withdrawn from Amendment)
218	English House, 50-52 Philip Street, Lower Plenty	Provide clarity regarding the internal controls
219	Uglov House, 79 Buena Vista Drive, Montmorency	No change

Source: Banyule City Council, Part B submission Attachment 1; Summary table of proposed changes to the exhibited Statements of Significance

Mr Hemingway recommended that the changes should be adopted as part of the Amendment.

### (iii) Discussion

While there are a substantial number of changes proposed, the Panel considers that they are warranted. They reflect the process of discussion that is common in Planning Scheme Amendments, with refinements resulting from additional research, submissions and negotiations.

The Panel's test is whether the changes could reasonably be expected to generate additional submissions if they were re-exhibited. In this case, it does not believe that this would occur, and therefore supports their inclusion in the Amendment.

An implication of the changes is the removal of Vera Knox House Statement of Significance from the exhibited Schedule to Clause 72.04: Documents Incorporated in this Planning Scheme.

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

The Panel concludes:

- The refinements to Statements of Significance developed during the Amendment process should be adopted.

The Panel recommends:

#### **4. Amend Statements of Significance as shown in Table 3.**

### **5.3 Citations**

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

Resolution of the submissions frequently involved modifications to the content of the citations in the *Banyule Heritage Study 2020* (RBA Architects & Conservation Consultants), particularly the details of the "Description" of several of the places. Some of the changes were not part of the Statements of Significance included in the Amendment, but are part of the report referenced in the exhibited Schedule to Clause 72.08 Background Documents.

The issue is:

- How should the refinements be included in the original report that formed the basis of the Amendment?

#### **(ii) Evidence and submission**

Mr Hemingway provided 'tracked changes' versions of all the citations in his evidence, showing proposed modifications in the original 2020 Banyule Heritage Study report. These covered the adjustments to Statements of Significance as exhibited in the Amendment, as well as clarifications and additions regarding the heritage of individual places, and repair of typographical errors.

In its conclusion, Council supported the adoption of all the revised citations.

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

The full citations provide important reference material for those applying for, and assessing, planning permit applications. The Panel considers that the refinements are valid, and do not transform the Amendment. Their inclusion within the reference document means that it better reflects the logic of heritage protection in Banyule.

#### **(iv) Conclusions and recommendation**

The Panel considers that Council should prepare and adopt a revised version of the citations in the *Banyule Heritage Study* report. This version should include all the modifications proposed by Mr Hemingway in his evidence. It should clearly state that it includes revisions, and is dated as the current relevant version.

This updating will require a modification to the exhibited Schedule to Clause 72.08, to refer to the updated version of the Banyule Heritage Study as a background document.

The Panel recommends:

- 5. Adopt a revised version of the *Banyule Heritage Study 2020* report including updated citations to reflect changes.**

## Appendix A Document list

No.	Date	Description	Provided by
1	22/6/2022	Advice from Council that it intends to withdraw the property at 46 Panorama Avenue, Lower Plenty from the Amendment	Banyule City Council
2	24/6/2022	Email seeking clarification regarding Submission 6 which was proposed be withdrawn from the Amendment following review by Council officers and its heritage consultant, querying whether the submitter wished to be further involved in the Panel process	Planning Panels Victoria
3	24/6/2022	Confirmation that the property relating to Submission 6 has been withdrawn from the Amendment following review by Council officers and its heritage consultant	Banyule City Council
4	24/6/2022	Council request for advice from the Panel regarding decision on changes to the Amendment, and on steps to take if all submissions are resolved	"
5	24/6/2022	Response from Planning Panels Victoria regarding the requirement of Council to make a decision on changes to the Amendment, and on steps to take if all submissions are resolved	Planning Panels Victoria
6	27/6/2022	Council agreement that a formal Council resolution is not needed following negotiations with submitters, advice that two submissions are not likely to be resolved or withdrawn, and assurance that Council will update its website regularly	Banyule City Council
7	28/6/2022	Directions Letter and Timetable	Planning Panels Victoria
8	18/7/2022	Email advice from Council that Submission 2 had been resolved, and Submission 4 was likely to be resolved	Banyule City Council
9	20/7/2022	Email request from Banyule City Council advising that Submission 4 had withdrawn their objection, and requesting that the matter be considered "on the papers"	"
10	21/7/2022	Email response to Council proposing a short Hearing, rather than consideration "on the papers"	Planning Panels Victoria
11	27/7/2022	Revised timetable for Panel Hearing	"
12	27/7/2022	Banyule City Council Part A submission	Banyule City Council
13	3/8/2022	Anthony Hemingway, RBA Architects and Conservation, <i>Amendment C165bany Expert Witness Statement – Heritage, July 2022</i>	"
14	8/8/2022	Banyule City Council Part B submission	"
15	11/8/2022	Summary table of proposed changes to the exhibited Statements of Significance	"



## Appendix B    Panel preferred version of the Heritage Overlay Schedule

PS map ref	Heritage place	External paint controls apply?	Internal alteration controls apply?	Tree controls apply?	Outbuildings or fences not exempt under Clause 43.01-4	Included on the Victorian Heritage Register under the Heritage Act 2017?	Prohibited uses permitted?	Aboriginal heritage place?
<b>HO194</b>	Houses 11 - 23 and 14 – 20 Toora Street, Ivanhoe 17 - 25 and 18 Young Street, Ivanhoe 19 - 21 Linton Street, Ivanhoe	Yes	No	No	No	No	No	No
<b>HO195</b>	Houses 10 - 36 and 17 - 23 Kenilworth Parade, Ivanhoe	Yes	No	No	No	No	No	No
<b>HO196</b>	Former Darebin Post Office 1041-1041A Heidelberg Road, Ivanhoe	Yes	No	No	No	No	No	No
<b>HO197</b>	Saxam Homestead 108 Diamond Creek Road, St Helena	Yes	No	No	No	No	No	
<b>HO199</b>	Mother of God Church 56 Wilfred Road, Ivanhoe East <b>Statement of Significance:</b> Mother of God Church Statement of Significance	Yes	<del>Yes</del> No	<del>Yes</del> No	No	No	No	No
<b>HO200</b>	Green Mount Court 110 Maltravers Road, Eaglemont <b>Statement of Significance:</b> Green Mount Court Statement of Significance	Yes	No	No	No	No	No	No

PS map ref	Heritage place	External paint controls apply?	Internal alteration controls apply?	Tree controls apply?	Outbuildings or fences not exempt under Clause 43.01-4	Included on the Victorian Heritage	Prohibited uses permitted?	Aboriginal heritage place?
						Register under the Heritage Act 2017?		
HO201	Royd 61-63 Mount Street Eaglemont <b>Statement of Significance:</b> Royd Statement of Significance	Yes	No	<del>Yes</del> No	No	No	No	No
HO202	Lobbs' Tearooms (former) and Diamond Valley Learning Centre 1 Diamond Creek Road, Greensborough <b>Statement of Significance:</b> Lobbs' Tearooms (former) and Diamond Valley Learning Centre Statement of Significance	No	No	<del>Yes</del> No	No	No	No	No
HO203	Stubbley's Hay and Grain Store (former) 96-104 Main Street, Greensborough <b>Statement of Significance:</b> Stubbley's Hay and Grain Store (former) Statement of Significance	Yes	No	No	No	No	No	No
HO204	Collins House 45 Bronte Street, Heidelberg <b>Statement of Significance:</b> Collins House Statement of Significance	Yes	No	No	No	No	No	No
HO205	Welsh House 4 Eton Court, Heidelberg <b>Statement of Significance:</b> Welsh House Statement of Significance	Yes	Yes – limited to east wing passageway, living room, and family room	<del>Yes</del> No	No	No	No	No

PS map ref	Heritage place	External paint controls apply?	Internal alteration controls apply?	Tree controls apply?	Outbuildings or fences not exempt under Clause 43.01-4	Included on the Victorian Heritage Register under the Heritage Act 2017?	Prohibited uses permitted?	Aboriginal heritage place?
HO206	Graceburn 38 Quinn Street, Heidelberg <b>Statement of Significance:</b> Graceburn Statement of Significance	Yes	No	No	No	No	No	No
HO207	Beddison/Swift House 5 Crown Road, Ivanhoe <b>Statement of Significance:</b> Beddison/Swift House Statement of Significance	Yes	<del>Yes</del> No	<del>Yes</del> No	No	No	No	No
HO208	2nd Ivanhoe Scout Hall 8A Wallace Street, Ivanhoe <b>Statement of Significance:</b> 2nd Ivanhoe Scout Hall Statement of Significance	No	No	No	No	No	No	No
HO209	Willis House 10 Gruyere Crescent, Ivanhoe East <b>Statement of Significance:</b> Willis House Statement of Significance	Yes	No	No	<del>No</del> Laundry block	No	No	No
HO210	Purcell House 17 Hartlands Road, Ivanhoe East <b>Statement of Significance:</b> Purcell House Statement of Significance	Yes	Yes – limited to hall, study, living and family rooms	<del>Yes</del> No	Carport	No	No	No

PS map ref	Heritage place	External paint controls apply?	Internal alteration controls apply?	Tree controls apply?	Outbuildings or fences not exempt under Clause 43.01-4	Included on the Victorian Heritage Register under the Heritage Act 2017?	Prohibited uses permitted?	Aboriginal heritage place?
HO211	Yann House 21 Keam Street, Ivanhoe East <b>Statement of Significance:</b> Yann House Statement of Significance	Yes	No	No	Front retaining wall	No	No	No
HO212	Crittenden House 30 Longstaff Street, Ivanhoe East <b>Statement of Significance:</b> Crittenden House Statement of Significance	Yes	No	<del>Yes</del> No	<del>No</del> Basalt retaining walls	No	No	No
HO213	Hiliard House 6 Quandolan Close, Ivanhoe East <b>Statement of Significance:</b> Hiliard House Statement of Significance	Yes	Yes – <u>limited to living room timber ceiling</u>	No	Front fence	No	No	No
HO214	St George Peace Memorial Church 47 Warnclyffe Road, Ivanhoe East <b>Statement of Significance:</b> St George Peace Memorial Church Statement of Significance	Yes	Yes	<del>Yes</del> No	No	No	No	No
HO215	Okalyi House 66 Old Eltham Road, Lower Plenty <b>Statement of Significance:</b> Okalyi House Statement of Significance	Yes	Yes – <u>limited to entry, study, living, dining and family rooms</u>	<del>Yes</del> No	No	No	No	No

PS map ref	Heritage place	External paint controls apply?	Internal alteration controls apply?	Tree controls apply?	Outbuildings or fences not exempt under Clause 43.01-4	Included on the Victorian Heritage Register under the Heritage Act 2017?	Prohibited uses permitted?	Aboriginal heritage place?
HO216	Lindsay Edward House 149 Old Eltham Road, Lower Plenty <b>Statement of Significance:</b> Lindsay Edward House Statement of Significance	Yes	Yes – <a href="#">limited to ground floor ceilings and entrance hall hanging stairs</a>	No	No	No	No	No
<del>HO217</del>	<del>Vera Knox House</del> <del>46 Panorama Street, Lower Plenty</del> <del><b>Statement of Significance:</b></del> <del>Vera Knox House Statement of Significance</del>	<del>Yes</del>	<del>No</del>	<del>No</del>	<del>No</del>	<del>No</del>	<del>No</del>	<del>No</del>
HO218	English House 50-52 Philip Street, Lower Plenty <b>Statement of Significance:</b> English House Statement of Significance	Yes	Yes – <a href="#">limited to living room mud-brick fireplace and inglenook</a>	<del>No</del>	No	No	No	No
HO219	Uglov House 79 Buena Vista Drive, Montmorency <b>Statement of Significance:</b> Uglov House Statement of Significance	Yes	Yes – <a href="#">limited to living area timber linings and joinery</a>	No	No	No	No	No