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Part A - Submission by the Planning Authority Moreland City Council

Planning Scheme Amendment C174 Implementation of the Moreland Heritage Gap Study

29 April 2019

TRIM: D19/66510

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1. Introduction

1. This document forms the 'Part A' submission to the Panel of the Moreland City Council (**Council**) which is the Planning Authority for Amendment C174 (**the Amendment**) to the Moreland Planning Scheme.
2. The Panel has directed Council to provide its 'Part A' submission by 29 April 2019 and to address a number of matters in its submissions as listed below:
 - 2.1 Common issues that apply across multiple places or precincts such as property value, development potential and building condition.
 - 2.2 Individual places and precincts which separate local significance threshold issues from heritage citation issues.
3. A response to each direction is provided in Sections 3 to 7 of this submission.
4. Council's 'Part B' submission will be provided at the Panel Hearing on 6 May 2019 and will address the following matters set out in the Panels directions dated 12 April 2019. These are:
 - 4.1 A summary of the key issues raised in submissions.
 - 4.2 Response to evidence.
 - 4.3 Council's final position on the Amendment.

2. Overview of Amendment C174

5. The Amendment as exhibited sought to implement the recommendations of the *Moreland Heritage Gap Study 2017 (MHGS 2017)* and introduce the Heritage Overlay (**HO**) on a permanent basis to 80 individual sites, four heritage precincts, three serial listings and 10 precinct extensions in Brunswick, Brunswick East, Brunswick West, Coburg, Coburg North, Glenroy, Fawkner, Fitzroy North, Oak Park, Pascoe Vale and Pascoe Vale South.
6. The Amendment as exhibited proposed to:
 - 6.1 Amend the Schedule to Clause 43.01 of the Moreland Planning Scheme to apply the HO to 80 individual places, four heritage precincts, three serial listings and 10 precinct extensions.
 - 6.2 Amend the Schedule to Clause 43.01 of the Moreland Planning Scheme to rename two heritage precincts.
 - 6.3 Amend the Schedule to Clause 43.01 of the Moreland Planning Scheme to delete 39 heritage places.
 - 6.4 Introduce the '*The Moreland Heritage Exemptions Incorporated Plan 2017*' as an Incorporated Document under Clause 72.04 of the Moreland Planning.
 - 6.5 Amend Clause 22.06 (Heritage) of the Moreland Planning Scheme to make reference to '*The Moreland Heritage Gap Study 2017*', and '*The Moreland Heritage Exemptions Incorporated Plan 2017*'.
 - 6.6 Rectify anomalies to correct minor errors in the Schedule to Clause 43.01 and Clause 22.06 of the Moreland Planning Scheme.
- 7 A list of the properties proposed to be included in the HO and formally exhibited is provided at **Appendix 1**.

3. Background to Amendment

3.1 Heritage Studies in Moreland

8. Over the past twenty years a number of heritage studies have been undertaken in the area that is now defined as the City of Moreland. Each study made recommendations for appropriate statutory planning protection as well as other recommendations, controls, policies and guidelines to encourage the conservation of the identified heritage places and precincts.
9. Based on these previous studies, the Moreland Local Heritage Places Review 2008 (**MLHPR**) identified that there were 285 places with potential significance. These properties, in addition to a handful of properties recommended by Council Officers and Planning Panels Victoria were assessed by the Preliminary Heritage Stage 1 Assessment and MHGS **2017** as per the recommendation of the MLHPR.
10. The North of Bell Street Heritage Study 2010 (**NBS**) recommended that Council develop a permit exemptions policy to reduce potentially unnecessary permit applications for various types of development. It recommended that the appropriate form for this policy is an Incorporated Document to the Moreland Planning Scheme.

3.2 Moreland Heritage Gap Study

11. Council engaged heritage consultants, Context, to prepare the MHGS **2017**. The purpose of the MHGS **2017** was to assess individual places and precincts within the City of Moreland identified as having potential heritage significance and to determine whether they satisfied the threshold of local significance and would justify inclusion in the HO. The MHGS **2017** was drafted in two stages.

Stage 1 MHGS

12. Stage 1 comprised of a preliminary assessment of over 400 individual places and 12 potential precincts (containing 365 properties), as well as potential extensions to seven current HO precincts. This list was based on recommendations from earlier strategic heritage work, Planning Panel recommendations, community nominations and Council Officer knowledge.
13. The preliminary assessment was completed in May 2016 and focused on a desktop review with some limited fieldwork to produce a revised list of places that were likely to meet the

threshold for local heritage significance. A comparative review of each place and precinct against those already included in the HO was also undertaken in the preparation of this list.

14. Stage 1 recommended the following places for detailed assessment in Stage 2:
 - 14.1 148 individual places;
 - 14.2 Three serial listings;
 - 14.3 10 potential precincts; and
 - 14.4 10 potential extensions to existing HO precincts.

Stage 2 Study

15. Stage 2 involved the full research of the places identified during Stage 1 as well as additional places identified during fieldwork. The 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.
16. The Stage 2 study comprised of historical research, field work (site visits) and assessment of potential heritage places by comparing them to similar significant places in the City of Moreland. It confirmed that 82 places satisfied the threshold of local significance, and the significance at the local level of three serial listings, four new precincts and 10 precinct extensions.

Council adoption of the MHGS

17. At the Council meeting on 6 December 2017 a report was considered, and the following resolution was made:

That Council:

1. *Adopts the draft Moreland Heritage Gap Study 2017 (MHGS), at Attachment 4 to this report.*
2. *Requests authorisation from the Minister for Planning in accordance with section 8A of the Planning and Environment Act 1987 to prepare and exhibit an amendment to the Moreland Planning Scheme to implement the Moreland Heritage Gap Study 2017 as follows:*
 - a) *Add 95 individual heritage places, 4 heritage precincts, 10 heritage precinct extensions and 3 serial places (listed in Attachment 1 to this report) to the Heritage Overlay on a permanent basis.*
 - b) *Update the Local Planning Policy Framework at Clause 22.06-6 to include the Moreland Heritage Gap Study 2017 as a policy reference.*
 - c) *Consolidate 6 currently individually heritage places into new serial listings, in the Schedule to the Heritage Overlay.*

- d) *Rectify anomalies including minor corrections to the Schedule to the Heritage Overlay and to Clause 22.06 of the Moreland Planning Scheme.*
 - e) *Introduce an Incorporated Plan to the schedule at Clause 81 to exempt minor matters from requiring a permit in a Heritage Overlay.*
3. *Upon receipt of the Minister's authorisation, prepares and exhibits the amendment to the Moreland Planning Scheme, to implement the Moreland Heritage Gap Study 2017 recommendations.*
 4. *Requests that the Minister for Planning use his powers of intervention to apply interim heritage controls for properties identified in the Moreland Heritage Gap Study (2017) in accordance with section 20(4) of the Planning and Environment Act 1987 for a period of 12 months while the planning scheme amendment for permanent controls is underway.*

3.3 Amendment C173 – Interim heritage controls

18. On 13 February 2018, Council requested the Minister for Planning to exercise his powers pursuant to 20(4) of the *Planning and Environment Act 1987* to apply interim heritage controls for properties identified in the MHGS **2017**.
19. Amendment C173 sought to:
 - 19.1 Apply the interim heritage overlay on an interim basis to 78 individual sites, 4 heritage precincts, 3 serial listings and 10 precinct extensions identified in the MHGS **2017**.
 - 19.2 Delete 35 heritage places (places transferred into a serial listing or precinct).
 - 19.3 Extend the interim heritage controls for two sites (1/197 The Avenue and 26 Walsh Street, Coburg).
20. The interim heritage controls were approved on 14 January 2019 and gazetted on 24 January 2019. They are due to expire on 31 December 2019.

3.4 Authorisation

21. On 31 July 2018 Council sought authorisation from the Minister for Planning to prepare and exhibit the Amendment.
22. In response to the authorisation, the Department for Environment, Land, Water and Planning (**DELWP**) requested on 7 August 2018 that Council review the places included in the MHGS and Amendment, namely places that had:
 - 22.1 Been demolished;
 - 22.2 Existing planning permits; and
 - 22.3 Been renovated or extended and no longer meet thresholds of significance.

23. A further request for information was received from DELWP on 12 September 2018. This request required Council to undertake:
- 23.1 Further comparative analysis of the proposed precincts against existing heritage precincts;
 - 23.2 An additional assessment of the proposed precincts to justify their inclusion where few or zero significant properties are included; and
 - 23.3 Provide more details to justify the proposed precinct boundaries.
24. On 23 October 2018, in response to this request, a formal response was provided to DELWP. This was the result of a further review of the MHGS **2017** by Context that recommended the following properties be removed from the Amendment due to these places having lower integrity and/or better comparative examples already in the HO:
- 24.1 6 Bank Street, Brunswick.
 - 24.2 5-13 Bennie Street, Brunswick.
 - 24.3 5 & 7 Carnarvon Road, Brunswick.
 - 24.4 44 De Carle Street, Brunswick.
 - 24.5 103 Donald Street, Brunswick.
 - 24.6 5 Fraser Street, Brunswick.
 - 24.7 17-25 Howard Street, Brunswick.
 - 24.8 272 & 274 Brunswick Road, Brunswick.
 - 24.9 75 Hope Street, Brunswick.
 - 24.10 41 & 43 Mountfield Street, Brunswick.
 - 24.11 15 Howard Street, Brunswick.
 - 24.12 39 Holmes Road, Brunswick East.
25. A further place, an electrical substation at Elm Grove, Brunswick East, was also considered for removal in response to DELWP's request. The substation is located within the area affected by the East Brunswick Village Development Plan and the *East Brunswick Village Development Plan Report (2012)*, approved by Council on 4 October 2012. The issue of procedural fairness was considered for this heritage place as Council had previously made a series of planning decisions for the East Brunswick Village site that relied on the demolition of the substation. Adjoining landowners to the heritage place have

designed and submitted development applications based upon prior planning decisions and Council endorsed development plans that do not specifically require retention of the substation.

26. Given Council's previous planning considerations of the area, and the role of Elm Grove in providing localised access to abutting properties, as well as connecting to a proposed pedestrian route at its southern end, it was not considered appropriate to pursue a Heritage Overlay for the substation.
27. Authorisation was subsequently granted on 30 October 2018. The authorisation was subject to the following conditions:
 - a) *Ensure all amendment documents are consistent with the Ministerial Direction on Form and Content of Planning Schemes, in particular the Schedule to Clause 43.01.*
 - b) *Remove individual places from the amendment as per those listed in the council's letter of 23 October 2018 and email of 29 October 2018 provided in response to the Department's requests for further review of the study via email of 7 August 2018 and letter of 12 September 2018.*
 - c) *Amend the Schedule to Clause 43.01 to identify those precincts where an Incorporated Plan is applied.*
 - d) *Ensure continuity of the name of the proposed Incorporated Document within amendment documents and Clauses.*
 - e) *Provide a copy of the Incorporated Document for exhibition.*
28. DELWP also recommended that during the exhibition process, Council consider providing further justification for the location of precinct boundaries, particularly where non-contributory properties on the edge of precincts had been included.
29. The location of precinct boundaries was reviewed by Context and were found to meet the threshold of local significance. The proposed new precincts did not contain any non-contributory properties at their edges.
30. Council Officers made changes to the Amendment documentation in line with the authorisation conditions and revised documentation was submitted to DELWP with the notice of preparation to exhibit the Amendment.
31. One of the proposed precinct extension (Coonans Hill) contained non-contributory properties at its edges. However, these properties are surrounded by contributory properties that form part of the existing Coonans Hill precinct and have been included to

ensure that any development of these properties does not impact on the cultural heritage significance of the precinct or adjacent 'significant' or 'contributory' heritage places.

3.5 Exhibited Amendment

32. The Amendment was publicly exhibited from 22 November 2018 until 25 January 2019 (approximately nine weeks) in accordance with section 19 of the *Planning and Environment Act 1987* (the **Act**). The exhibition of the Amendment included:
- 32.1 Direct notification to affected owners and occupiers where the HO was proposed to be applied and immediately adjoining residents;
 - 32.2 Notice to relevant referral authorities, prescribed Ministers and community groups.
 - 32.3 Public notice in the Moreland and Northern Leader local newspapers on 19 and 20 November 2018 respectively and in the Government Gazette on 22 November 2018.
 - 32.4 CityNews articles on 3 and 4 December 2018 and 14 and 15 January 2019.
 - 32.5 Information was available on the Council website including all Amendment documentation and a property address search function with interactive map which allowed users to understand the proposed changes on particular properties;
 - 32.6 Amendment documentation was made available at the following locations for the duration of the exhibition period:
 - Moreland Civic Centre - 90 Bell Street, Coburg
 - Brunswick Citizens Service Centre - 233 Sydney Road, Brunswick
 - Brunswick Library - 233 Sydney Road, Brunswick
 - Campbell Turnbull Library - 220 Melville Road, Brunswick West
 - Coburg Library - Corner of Victoria and Louisa Streets, Coburg
 - Fawkner Library - 77 Jukes Road, Fawkner
 - Glenroy Citizens Service Centre - 796N Pascoe Vale Road, Glenroy
 - Glenroy Library - 737 Pascoe Vale Road, Glenroy
 - 32.7 All owners and occupiers of properties proposed to be included in the HO were invited to attend one-on-one consultation sessions held in early December 2018. Twenty-three (23) affected property owners met with Council Officers from the Strategic Planning Unit and the heritage consultants that prepared the Study. Each consultation session offered an opportunity to discuss the Amendment and what it would mean for their property, as well as find out more about the planning amendment process.

- 32.8 Officers were also available for additional meetings and phone calls to discuss the Amendment with members of the community.
33. A total of 35 submissions were received in response to the formal exhibition of the Amendment. Of the 35 submissions received:
- 33.1 Two submissions supported the Amendment;
- 33.2 Thirty-three objected to the Amendment, or suggested changes to the Amendment.

3.6 Post Exhibition

34. Council Officers considered the submissions and recommended a number of changes to the Amendment, including:
- 34.1 Removing four (4) places from the Amendment and the MHGS following further investigation by Context based on additional information provided by the landowners.
- 34.2 Reducing the extent of the HO for one (1) place to capture the most significant features of the site.
- 34.3 Changing the heritage grading of two (2) heritage places from contributory to non-contributory based on additional information provided by the landowners.
35. Council Officers also recommended a number of changes to the exhibited MHGS and amendment documentation to reflect the above changes as well as to correct minor errors identified during the exhibition process.
36. A summary of changes is provided at Section 7.
37. On 13 March 2019, Council considered a report summarising and responding to the submissions, it was resolved:

That Council:

- 37.1 *Notes the summary of submissions to Amendment C174 to the Moreland Planning Scheme at Attachment 1 to this report.*
- 37.2 *Endorses the response to submissions outlined in this report and included in Attachment 1 to this report, to form the basis of Council's submission to an Independent Planning Panel.*
- 37.3 *Endorses the Moreland Heritage Gaps Study 2019 as shown at Attachments 2, 3, 4 and 5 for consideration by an independent Panel.*

- 37.4 *Endorses the proposed changes to the Moreland Heritage Exemptions Incorporated Plan 2017; and other Amendment documentation at Attachment 1 and discussed in Section 3 of this report.*
 - 37.5 *Requests the Minister for Planning to appoint an independent Panel in accordance with Part 8 of the Planning and Environment Act 1987 to consider Amendment C174 and associated submissions.*
 - 37.6 *Authorises the Director City Futures to make any further changes to Amendment C174 that may be required as part of Council's submission to the Panel and any changes to the relevant documents to correct errors and grammatical changes.*
 - 37.7 *Notify all submitters of this resolution.*
38. On 14 March 2019, Council formally requested the Minister for Planning to appoint a Panel for the Amendment.
39. A summary of the key issues raised in the submissions is provided in Section 6.

4. Chronology of Events

40. A chronology of events is set out at **Appendix 2**.

5. Strategic Context and Assessment

Why is the Amendment required?

41. The Amendment is required to implement the *Moreland Heritage Gaps Study 2019* by including the properties identified in the Study within the HO.
42. The Study identifies heritage precincts and individual properties in Moreland for inclusion in the Heritage Overlay to the Moreland Planning Scheme. These places have been predominantly identified as part of past heritage studies conducted for Moreland. The study confirms their heritage status and significance.
43. The significance of the precincts and individual properties were assessed against the standard criteria contained in Practice Note 01 *Applying the Heritage Overlay* (September 2012) and were considered to meet the requirements and threshold for local protection through the Heritage Overlay.
44. The Heritage Overlay is the appropriate planning mechanism to protect the heritage values of these properties as the Heritage Overlay requires a permit to be granted for building and works, including demolition, that could affect the significance of these precincts and individual properties.
45. The Amendment is also required to introduce the *Moreland Heritage Exemptions Incorporated Plan 2017 (Incorporated Plan)* into the Moreland Planning Scheme. The Incorporated Plan will assist Council to meet its statutory obligations for the management of local heritage into the future.
46. The Incorporated Plan would apply to all properties in an identified heritage precinct, to exempt minor matters from requiring a planning permit, and provide greater exemptions for non-contributory properties, subject to conditions. The inclusion of the plan will:
 - 46.1 Provide greater force and effect to the Heritage Overlay, through the provision of conditions that need to be met in order to benefit from the relevant exemption.
 - 46.2 Assist in the efficient processing of planning applications through streamlining the administration of the Heritage Overlay. This will ease the burden of on both landowners and Council by reducing potentially unnecessary permit applications.
 - 46.3 Ensure that whilst areas of Moreland included within a Heritage Overlay are increased, planning permit applications to be assessed by the City Development branch are not unnecessarily increased.

- 46.4 Assist Council to continue to meet the heritage obligations set out in the *Planning and Environment Act 1987*, the State Planning Policy Framework and the *Aboriginal Heritage Act 2006*.
- 47 The Amendment will also ensure Council meets its deliverables under the *Council Action Plan 2017-2018 (Council Action Plan)* and the *Moreland Heritage Action Plan 2017-2050 (the Heritage Action Plan)*.
- 48 The Council Action Plan implements the *Council Plan 2017-21* and identifies the following deliverables under 'Key Priority 1' to 'Enhance liveability, affordability and sustainability by guiding growth and excellence in urban design and development':
- 48.1 Cap: 34 – Protect Moreland's Heritage via implementation of the Heritage Action Plan – Heritage Gap Study and Amendment.
- 49 The Heritage Action Plan was endorsed by Council on 14 June 2017. The purpose of the Heritage Action Plan is to assist Council to meet its heritage obligations as set out in various legislation and provides several principles, objectives and strategies to achieve this purpose in an integrated way. It specifically sets out the following actions to be delivered:
- 49.1 *Reference K1 - Commission heritage expert assistance to undertake a detailed assessment of confirmed potential heritage places, Moreland Heritage Gap Study – based on the preliminary assessment completed May 2016.*
- 49.2 *Reference P1 – Prepare a planning scheme amendment to introduce the places identified and assessed in the Moreland Gap Study 2017 into the Moreland Planning Scheme, via application of the Heritage Overlay.*
- 49.3 *Reference P4 – Prepare an Incorporated Plan that sets out the permit exemptions from the provisions of the Heritage Overlay for minor matters on non-contributory heritage places to streamline the planning process for heritage places in accordance with Clause 43.01-2.*
- 49.4 *Reference P5 – Prepare a Planning Scheme Amendment to introduce the Incorporated Plan into the Moreland Planning Scheme.*

How does the Amendment implement the objectives of planning in Victoria?

50. The Amendment implements the following objectives listed under Section 4 (1) of the Planning and Environment Act 1987:
- 50.1 *“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;”* and
- 50.2 *“to balance the present and future interests of all Victorians.”*

51. The Study has identified properties which hold local heritage significance to the City of Moreland. The heritage value of each property and precinct has been documented in their respective heritage citations.
52. The Incorporated Documents seeks to refine the Heritage control permit requirements based on a set criterion, to assist in streamlining heritage applications. This will aid in the efficient processing of planning applications so that those which meet the criteria, do not require assessment. It will also contribute to greater effectiveness of the HO control, by providing increased certainty for a range of minor proposals within areas of significance.

How does the Amendment address any environmental, social and economic effects?

Environmental Effects

53. The amendment is not considered to generate any detrimental impact on the environment. The environmental sustainability benefits afforded by the retention of heritage places through maintenance, restoration and re-use are considered environmentally responsible and can have significant resources in the longer term.

Economic Effects

54. The amendment is expected to have no adverse economic impacts. The protection of architectural and historically significant buildings can have economic benefits, especially in residential areas where period homes and former industrial and commercial buildings are sought for restoration and investment.
55. An economically sustainable outcome may be achieved through the retention, conservation and adaptation of heritage places where it contributes to local and regional economic benefits.
56. Heritage controls do not prohibit development, subdivision or demolition but require that a planning permit be obtained to ensure that heritage values of a place are not jeopardised. A planning permit is not required under the Heritage Overlay to carry out routine maintenance and repairs that do not change the appearance of the heritage place.

Social Effects

57. The amendment will make a positive contribution to the Moreland and greater community. Buildings, landscapes and other places of heritage value provide a link to our past.

Heritage places also add character, appeal and interest to our city while contributing to the quality of life and cultural identity of the local community.

58. Respect for our cultural heritage involves retaining and managing places that have importance to us as community. The inclusion of new places in the heritage overlay will ensure the preservation of Moreland's history for present and future generations.

Does the Amendment comply with the requirements of any Ministerial Direction applicable to the Amendment?

59. The Amendment complies with the following Ministerial Directions:

- 59.1 *Ministerial Direction – The Form and Content of Planning Schemes pursuant to Section 7(5) of The Act.*
- 59.2 *Ministerial Direction No. 9 - Metropolitan Planning Strategy.*
- 59.3 *Ministerial Direction No. 11 – Strategic Assessment of Amendments.*
- 59.4 *Ministerial Direction No. 15 – The Planning Scheme Amendment Process.*

Direction: The Form and Content of Planning Schemes

60. The Amendment complies with Ministerial Direction – The Form and Content of Planning Schemes. The amendment documentation is considered to conform with The Form and Content of Planning Schemes direction, including Annexure 1, Annexure 2 and Annexure 3.

Direction 9: Metropolitan Strategy

61. The Amendment complies with Ministerial Direction 9 – Metropolitan Planning Strategy which applies to *Plan Melbourne 2017-2050 (Plan Melbourne)*. The Amendment supports Directive 4.4 of Plan Melbourne which is to 'recognise the value of heritage in managing growth and change.'
62. Directive 4.4 specifically identifies the importance of continuous identification and review of currently unprotected sites; the contribution heritage makes to Melbourne's distinctiveness and liveability; and advocates for the protection of Melbourne's heritage places.
63. The Amendment supports Policy 4.4.1 by seeking to apply the HO on sites which have been identified to hold local cultural significance following a comprehensive review that has been based on accepted heritage conservation principles and practices.

64. Similarly, the Incorporated Plan will provide a means to better encourage appropriate development in the context of ongoing and increased development in Heritage areas. Developments can therefore be better facilitated. This is particularly with respect to minor types of applications where, minimum requirements can determine acceptable outcomes that will not need to be assessed.

Direction 11 – Strategic Assessment of Amendments

65. The Amendment complies with Ministerial Direction 11 – Strategic Assessment of Amendments. A detailed strategic assessment is provided in the Explanatory Report (see **Appendix 3**). Generally, the Amendment:
- 65.1 Supports the Planning Policy Framework (**PPF**) and Local Planning Policy Framework (**LPPF**) by applying the HO to identified places of local cultural significance.
 - 65.2 Makes proper use of the Victoria Planning Provisions (**VPP**) through the use of the HO. The HO is the appropriate tool to protect buildings and precincts with heritage significance.

Direction 15 – The Planning Scheme Amendment Process

66. The Amendment complies with Ministerial Direction 15 – The Planning Scheme Amendment Process. The Amendment has been processed in accordance with the relevant timeframes and requirements.

How does the Amendment support or implement the Planning Policy Framework and any adopted State Policy?

67. A key theme of the PPF is to recognise the role of urban design, building design, heritage and energy and resource efficiency in delivering liveable and sustainable cities, towns and neighbourhoods.
68. More specifically, **Clause 15.01-S** seeks to recognise, support and protect neighbourhood character, cultural identity, and sense of place. This is achieved through ensuring development responds to its context and the valued features and characteristics of the local environment and place by emphasising heritage values and built form that reflect community identity.

69. **Clause 15.03-1S (Heritage Conservation)** of the PPF also seeks to ensure the conservation of heritage significance through the implementation of the following strategies:
- 69.1 *Identify, assess and document places of natural and cultural heritage significance as a basis for their inclusion in the planning scheme.*
 - 69.2 *Provide for the protection of natural heritage sites and man-made resources.*
 - 69.3 *Provide for the conservation, enhancement of those places that are of aesthetic, archaeological, architectural, cultural, scientific or social significance.*
 - 69.4 *Encourage appropriate development that respects places with identified heritage.*
 - 69.5 *Retain those elements that contribute to the importance of the heritage places.*
 - 69.6 *Encourage the conservation and restoration of contributory elements of a heritage place.*
 - 69.7 *Ensure an appropriate setting and context for heritage places is maintained or enhanced.*
 - 69.8 *Support adaptive reuse of heritage buildings where their use has become redundant.*
70. The Amendment is consistent with and supports the PPF through applying the HO to identified places of local cultural significance.

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

71. The Amendment supports the Municipal Strategic Statement (**MSS**) **Clause 21.03-4 (Urban Design, Built Form and Landscape Design)** which seeks to ‘ensure development responds and contributes to its context and any relevant heritage significance’.
72. More particularly, the Amendment supports Strategy 10.8 of **Clause 21.03-4** which aims to ensure the conservation and enhancement of heritage places. The Amendment does this through seeking to apply the HO to places identified as having local cultural significance.
73. The Amendment also supports and implements **Clause 22.06 (Heritage)** which applies to land covered by the HO. Clause 22.06 seeks to:
- 73.1 *To encourage the conservation and enhancement of all heritage places.*
 - 73.2 *To protect Moreland’s heritage places from inappropriate demolition, development or subdivision.*
 - 73.3 *To ensure that buildings and works respect the significance of the heritage place as identified in the Statement of Significance.*

6. Summary of Issues Raised in Submissions

74. In total thirty-five (35) submissions were received regarding the Amendment. Thirty-four submissions were received from affected landowners and occupiers. One (1) submission was received by the National Trust Australia (Victoria).
75. Of the thirty-five (35) submissions received:
- 75.1 Two (2) submissions supported the Amendment;
- 75.2 Thirty-three (33) objected to the Amendment.
76. Council considered the submissions at its meeting on 13 March 2019. The Council report contains a summary of submissions and Officer responses, endorsed by Council (see **Appendix 4**).
77. Below is an identification of what Council considers to be the main issues raised by submitters in their submissions.
78. The issues raised in submissions and Council's response will be elaborated further in Council's Part B Submission to the Panel.

Key Issues

79. The issues and grounds of objection raised by submitters vary and in many instances are site specific. There were however consistent themes which emerged across submissions including:

80. Questioning the Heritage Value of a Particular Site or Precinct

Twenty-nine (29) submissions raised concerns about the heritage value or a particular site or precinct. Most of these submissions considered that the site/precinct had undergone significant change that it no longer warranted heritage protection.

These submissions can be further summarised as follows:

- Level of significance/threshold issues (15 submissions);¹
- Building intactness/integrity (17 submissions);² and
- Issues with the Heritage Citation (Two submissions).³

¹ Submission Nos. 1, 7, 12, 13, 14, 15, 17, 19, 23, 25, 27, 28, 29, 32, 33.

² Submission Nos. 2, 4, 5, 8, 9, 10, 11, 13, 15, 18, 20, 21, 23, 23, 24, 28, 33.

³ Submission Nos. 29, 31.

81. Financial Implications and Property Value

Sixteen (16) submissions raised concerns that application of the heritage overlay would result in property values decreasing and an increase in insurance and/or maintenance costs.⁴

82. Development Restrictions

Eleven (11) submissions raised concerns that the heritage overlay would unfairly restrict redevelopment or renovation opportunities on sites where it is proposed to be applied.⁵

83. Maintenance and Repairs of Heritage Places

Nine (9) submissions raised concerns that the heritage overlay would impact on their ability to undertake maintenance and repairs on their properties or that maintenance and repairs would be costly.⁶

84. Policy Issues

Two (2) submissions raised concerns that application of the heritage overlay on their properties conflicted with current local planning policies and controls.⁷

85. Infringement on Property Rights

Five (5) submissions raised concerns that the heritage overlay would infringe on their rights as property owners to further develop their properties.⁸

86. Public Exhibition and Consultation

Two (2) submissions raised concerns with the public exhibition process for the Amendment, namely that exhibition occurred over the Christmas/New Year period.⁹

Electrical Substation - Elm Grove

87. One submission questioned the removal of an electrical substation in Elm Grove, Brunswick East from the Amendment and requested that Council reinstate the heritage place into the Amendment.

⁴ Submission Nos. 3, 5, 10, 14, 17, 18, 19, 20, 22, 23, 24, 26, 27, 29, 32 and 34.

⁵ Submission Nos. 9, 10, 16, 17, 18, 20, 22, 23, 24, 29 and 34.

⁶ Submission Nos. 5, 9, 10, 13, 16, 19, 23, 26, and 27.

⁷ Submission Nos. 17 and 33.

⁸ Submission Nos. 5, 13, 16, 26 and 27.

⁹ Submission Nos. 14 and 30.

88. The electrical substation was considered for removal in response to DEWLP'S requests for further information as discussed in Section 3.4 above.
89. A condition of authorisation was that the substation be removed from the Amendment. Subsequently, the substation has not been included in any of the amendment documentation that has been prepared for the Amendment.
90. As the substation does not form part of the Amendment, it cannot be considered for inclusion in the HO as part of this process.

7. Post Exhibition Changes

91. In response to submissions, the following changes are proposed to the Amendment and were endorsed by Council at their meeting 13 March 2019. These changes include:

Submission No	Affected property address	Recommendation	Affected document
2	36 King Street, Fitzroy	Remove 36 King Street from the Amendment and the MHGS.	MHGS Schedule to Clause 43.01 (Heritage) Map 15HO
3	1/197 The Avenue, Coburg	Remove 1/197 The Avenue, Coburg from the Amendment and the MHGS.	MHGS Schedule to Clause 43.01 (Heritage) Map 12HO
4	273 Victoria Street, Brunswick	Reduce the extent of HO502 to apply only to that part of the building within 5 metres of the frontage.	Planning Scheme Map 14HO
5	17 Glenora Avenue, Coburg	Update the citation to include reference to cement as well as clay tiles as an original building material. Refer the submission to an Independent Panel.	MHGS
11	281 Glenlyon Road, Fitzroy North	Change the heritage grading of 281 Glenlyon Road, Fitzroy North from contributory to non-contributory.	MHGS Appendix 1, Incorporated Plan
15	18 Lowan Street, Brunswick East	Change the heritage grading of 18 Lowan Street, Brunswick from contributory to non-contributory.	MHGS Appendix 1, Incorporated Plan
17	233-239 Brunswick Road, Brunswick	Amend Map 1A, 1B and 3 of DD018 in relation to 233-239 Brunswick Road to: <ul style="list-style-type: none"> Identify the properties as individually significant. Remove building heights and street wall guidance. 	DDO18
19	2 McLean Street, Brunswick West	Remove 2 McLean Street, Brunswick West from the Amendment and the MHGS.	MHGS

Submission No	Affected property address	Recommendation	Affected document
			Schedule to Clause 43.01 (Heritage) Map 10HO
24	32 Passfield Street, Brunswick West	Remove 32 Passfield Street from the Amendment and the MHGS.	MHGS Schedule to Clause 43.01 (Heritage) Map 13HO
29	65 Union Street, Brunswick	Amend the citation to: <ul style="list-style-type: none"> • Correct errors in the statement of significance. In the first paragraph under 'Why is it significant' replace 'an example' with 'examples' and 'pre-1870' with 'pre-1880'. • Remove the recommendation to replace the front fence. 	MHGS
31	1 South Daly Street, Brunswick West	Remove the front fence controls by changing 'Yes – front fence' to 'No' in the column under 'Outbuildings and fences, which are not exempt etc.' for HO497.	MHGS Schedule to Clause 43.01
32	1 Temuka Avenue, Brunswick East	Make the following changes: <ul style="list-style-type: none"> • Change Volume 1 of the MHGS to remove 1 Temuka Avenue from the places excluded from further assessment and add to the places identified following further research (p.39 under 'Places assessed'). • Include reference to 5 Timaru Avenue as a variant of the 'Timaru' type in both Volume 1 (p.41) and in the citation (as it was inadvertently omitted). <p>No other change is proposed.</p>	MHGS

Submission No	Affected property address	Recommendation	Affected document
33	159-165 Donald Street, Brunswick East	Change the statement of significant as detailed in the Officer response to submission provided at Appendix 4.	MHGS

92. Council Officers have also identified a number of errors through the course of the exhibition process and in responding to submissions. These errors are outlined in the table below and are proposed to be rectified through this process. Council endorsed these proposed changes at their meeting of 13 March 2019.

Description of Error	Affected Document	Change Proposed
Citation for 159-165 Donald Street, Brunswick East states 'No' in the table of recommendations for 'Prohibited Uses May be Prohibited.'	Heritage Citation – 159- 165 Donald Street, Brunswick East.	Update citation to state 'Yes' in the table of recommendations. This will ensure consistency with the Schedule to Clause 43.01.
Citation for 19 Balmoral Avenue, Brunswick East states 'Yes' in the table of recommendations for 'Outbuildings and Fences Exemptions.'	Heritage Citation – 19 Balmoral Avenue, Brunswick East.	Update citation to state 'No' in the table of recommendations. This will ensure consistency with the Schedule to Clause 43.01.
15 Woodlands Avenue, Pascoe Vale South is shown as a 'contributory' property within the Coonans Hill Precinct	Coonans Hill Precinct citation	Update citation to include 15 Woodlands Avenue, Pascoe Vale South in the list of non-contributory properties. The original house has been demolished.
Heritage grading of properties within serial listings has been omitted from the Incorporated Plan.	<i>Moreland Heritage Exemptions Incorporated Plan 2017</i>	Amend the following sentence on page 2 of the Incorporated Plan as follows (new text in bold): 'All individual places and places within a serial listing listed at Clause 43.01-2 are graded as 'Significant'.
The 'routine maintenance and repairs that do not result in an extension' exemption listed in table 1 of the Incorporated Plan is inconsistent with Clause 62.02-2 (General Exemptions)	<i>Moreland Heritage Exemptions Incorporated Plan 2017</i>	Delete. The Heritage Overlay only requires a planning permit for routine repairs and maintenance that change the appearance of a heritage place or which are not undertaken to the same details, specifications or materials. The Incorporated Plan provides exemptions for this permit

Description of Error	Affected Document	Change Proposed
of the Moreland Planning Scheme.		requirement in other sections of table 1.
30 Murray Street, Brunswick West has been omitted in error from Planning Scheme Map 13HO. This property was transferred from an individual heritage overlay (HO337) into the Closer Settlement Houses Serial Listing (HO540).	Planning Scheme Map 13HO	Amend Planning Scheme Map 13HO to correctly show that 30 Murray Street, Brunswick is affected by HO540.

93. An amended MHGS 2019 and Moreland Heritage Exemptions Incorporated Plan 2019 which incorporate the changes listed above were endorsed by Council at the 13 March 2019 Council meeting. The amended version of the MHGS and Incorporated Plan are provided at **Appendix 5 and 6**.

94. **Appendix 7** provides a copy of the following amendment documentation that has been amended according to the changes listed above:

Document No.	Amendment Document
1	Planning Scheme Map 10HO
2	Planning Scheme Map 12HO
3	Planning Scheme Map 13HO
4	Planning Scheme Map 14HO
5	Planning Scheme Map 15HO
6	Schedule to Clause 43.01
7	DDO18

8. Conclusion

95. Council has undertaken a thorough process to prepare the MHGS and Amendment C174 to the Moreland Planning Scheme.
96. Council's position to the Panel will rely on expert evidence provided by Context, as well as the Council Officer response to submissions included in the 13 March 2019 Council report.
97. Council's 'Part B' submission will be presented at the Panel Hearing on 6 May 2019.
98. This completes the Part A submission for Council.

9. List of Appendices

Appendix 1: List of Exhibited Properties

Appendix 2: Chronology of Events

Appendix 3: Explanatory Report

Appendix 4: Council Report with Responses to Submissions

Appendix 5: Revised *Moreland Heritage Gaps Study 2019*

Appendix 6: Revised *Moreland Heritage Exemptions Incorporated Plan 2019*

Appendix 7: Revised Amendment Documents