

**Melton Planning Scheme Amendment C231melt
City of Melton Heritage Assessment Project 2020/21**

Panel Report

Planning and Environment Act 1987

13 July 2023

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 Panels Victoria acknowledges the Wurundjeri Woi Wurrung People as the traditional custodians of the land on which our office is located. We pay our respects to their Elders past and present.

Planning and Environment Act 1987

Panel Report pursuant to section 25 of the PE Act

Melton Planning Scheme Amendment C231melt

City of Melton Heritage Assessment Project 2020/21

13 July 2023



Alison McFarlane, Chair

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Glossary and abbreviations

2007 Heritage Study	<i>Shire of Melton Heritage Study, 2007</i>
2020/21 Heritage Assessment	<i>City of Melton Heritage Assessment Project 2020/21</i>
740 Building	740-794 Mount Aitken Road, Diggers Rest
796 Building	796-830 Mount Aitken Road, Diggers Rest
Amendment	Melton Planning Scheme Amendment C231melt
Council	Melton City Council
D	Document
Dustday Investments	<i>Dustday Investments Pty Ltd v Minister for Planning [2015] VSC 101</i>
G Adams	G Adams Enterprises Australia Pty Ltd
Planning Scheme	Melton Planning Scheme
Planning Panels Victoria	PPV
PPN01	<i>Planning Practice Note 01: Applying the Heritage Overlay, August 2018 (updated 13 June 2023)</i>
Prime Equity	Prime Equity Group Pty Ltd

Overview

Amendment summary	
The Amendment	Melton Planning Scheme Amendment C231melt
Common name	City of Melton Heritage Assessment Project 2020/21
Brief description	Implements City of Melton Heritage Assessment Project 2020/21 by applying the Heritage Overlay to five places in Diggers Rest, Toolern Vale and Kurunjang
Subject land	<ul style="list-style-type: none"> - 1809-1859 Gisborne-Melton Road, Kurunjang - Units 1-6 and 8-18, 117 Diggers Rest-Coimadai Road, Diggers Rest - Bridge over Toolern Creek, Kurunjang - 115-131 Napier Street, 480-580, 726-738, 740-794 and 796-830 Mount Aitken Road, Diggers Rest - 332 Benson Road, Toolern Vale
Planning Authority	Melton City Council
Authorisation	9 August 2022
Exhibition	10 November to 12 December 2022
Submissions	Prime Equity Group (opposing) G. Adams Enterprises Australia Pty Ltd (opposing)

Panel process	
The Panel	Alison McFarlane
Directions Hearing	Video, 11 May 2023 and 8 June 2023
Panel Hearing	Video, 14 and 15 June 2023
Site inspections	Accompanied, 24 May 2023
Parties to the Hearing	Melton City Council represented by Greg Tobin of Harwood Andrews Lawyers who called expert evidence on: <ul style="list-style-type: none"> - heritage from Adam Mornement of Lovell Chen Prime Equity Group represented by Edward Mahony of Best Hooper Lawyers G Adams Enterprises Australia Pty Ltd represented by Nick Tweedie SC and Serena Armstrong of counsel, instructed by Rhodie Anderson of Rigby Cooke Lawyers, who called evidence on: <ul style="list-style-type: none"> - heritage from Bryce Raworth of Bryce Raworth Heritage and Conservation - structural engineering from Shane Leonard from Philip Chun Building Code Consulting
Citation	Melton PSA C231melt [2023] PPV
Date of this report	13 July 2023

Executive summary

Melton Planning Scheme Amendment C231melt (the Amendment) seeks to implement the recommendations of the *City of Melton Heritage Assessment Project 2020/21* (2020/21 Heritage Assessment), prepared by Lovell Chen Architects and Heritage Consultants, into the Melton Planning Scheme.

The 2020/21 Heritage Assessment assessed nine places identified in the *Melton Heritage Study, 2007* as 'conservation desirable' and eight places listed as 'might be considered worthy of heritage protection in a future study'. Of those, five places were recommended for the Heritage Overlay and are the subject of the Amendment. These are:

- The Oaks Homestead at 1809-1859 Gisborne-Melton Road, Kurunjang (HO138)
- Diggers Rest Army Housing Estate at Units 1-6 and 8-18, 117 Diggers Rest-Coimadai Road, Diggers Rest (HO139)
- Minns Road Bridge over Toolern Creek, Kurunjang (HO140)
- Soldier Settlement Housing at 115-131 Napier Street, 480-580, 726-738, 740-794 and 796-830 Mt Aitken Road, Diggers Rest (HO141)
- Hillview house at 332 Benson Road, Toolern Vale (HO142).

Protecting locally significant heritage places is an objective of the Planning Policy Framework. The Amendment is responsive to this objective by seeking to protect places of potential heritage significance identified in the *Melton Heritage Study, 2007* and further assessed in the 2020/21 Heritage Assessment. This underpins the strategic justification for the Amendment.

Two submissions were received following public exhibition. The submissions opposed the application of the Heritage Overlay to the Diggers Rest Army Housing Estate (HO139) and Mount Aitken Estate Soldier Settlement Housing (HO141).

Prior to the commencement of the Hearing, the owners of the Diggers Rest Army Housing Estate withdrew their opposition to the Amendment subject to modest changes to the Heritage Overlay Schedule and accompanying Incorporated Plan agreed to by Melton City Council. These changes provide scope for future use and development of the site to assist its conservation and are supported by the Panel.

The Amendment purported the Mount Aitken Estate Soldier Settlement Housing had heritage significance warranting protection because it is linked with the break-up of pastoral estates in Melton, which is a theme in Melton's thematic environmental history. The *Melton Heritage Study, 2007* confirms the most important period in the break-up of pastoral estates was early in the twentieth century. In this period, large pastoral estates were broken-up in hundreds of lots and catalysed population growth and development. In contrast, the mid-century subdivision of Mount Aitken Estate, the only one of its kind facilitated by the post-World War II Soldier Settlement Scheme, played a very minor role in the break-up of pastoral estates and is not historically important to Melton. Consequently, applying the Heritage Overlay to the Mount Aitken Estate Soldier Settlement housing is not strategically justified as is not supported by the Panel.

Recommendations

Based on the reasons set out in this Report, the Panel recommends that Melton Planning Scheme Amendment C231melt be adopted as exhibited subject to the following:

1. Amend the Heritage Overlay Schedule for HO139 to:
 - a) replace the address of the land with '19-115 Diggers Rest-Coimadai Road'
 - b) replace 'no' with 'yes' under 'Prohibited uses permitted?'
2. Amend the Incorporated Plan *Diggers Rest Army Housing Estate Heritage Design Guidelines and Permit Exemptions* as shown in Appendix D.
3. Amend the Heritage Overlay mapping for HO139 as shown in Figure 3.
4. Delete the HO141 listing from the Heritage Overlay Schedule and the associated Planning Scheme Map.
5. Delete '*Statement of Significance: 115-131 Napier Street, 480-580, 726-738, 740-794 and 796-830 Mt Aitken Road, Diggers Rest "Mt Aitken Soldier Settlement Housing" June 2022*' from the Schedule to Clause 72.04 (Documents Incorporated in this Planning Scheme).

1 Introduction

1.1 The Amendment

(i) Amendment description

The purpose of the Melton Planning Scheme Amendment C231melt (the Amendment) is to implement the recommendations of the *City of Melton Heritage Assessment Project 2020/21* (2020/21 Heritage Assessment), prepared by Lovell Chen Architects and Heritage Consultants, into the Melton Planning Scheme (Planning Scheme).

The Amendment proposes to apply the Heritage Overlay (HO) to five places as follows.

- The Oaks Homestead at 1809-1859 Gisborne-Melton Road, Kurunjang (HO138)
- Diggers Rest Army Housing Estate at Units 1-6 and 8-18, 117 Diggers Rest-Coimadai Road, Diggers Rest (HO139)
- Minns Road Bridge over Toolern Creek, Kurunjang (HO140)
- Soldier Settlement Housing at 115-131 Napier Street, 480-580, 726-738, 740-794 and 796-830 Mt Aitken Road, Diggers Rest (HO141)
- Hillview house at 332 Benson Road, Toolern Vale (HO142).

The Amendment also proposes to amend the Schedule to Clause 72.04 to incorporate the following documents into the Planning Scheme:

- *Statement of Significance: 1809-1859 Gisborne-Melton Road, Kurunjang*, “The Oaks Homestead”, June 2022
- *Statement of Significance: Unit 1-6, Unit 1-18, 117 Diggers Rest-Coimadai Road, Diggers Rest*, “Diggers Rest Army Housing Estate” June 2022
- *Diggers Rest Army Housing Estate Heritage Design Guidelines and Permit Exemptions*.
- *Statement of Significance: Bridge over Toolern Creek, Kurunjang*, “Minns Road Timber Bridge”, June 2022
- *Statement of Significance: 115-131 Napier Street, 480-580, 726-738, 740-794 and 796-830 Mt Aitken Road, Diggers Rest* “Mt Aitken Soldier Settlement Housing”, June 2022
- *Statement of Significance: 332 Benson Road, Toolern Vale* “Hillview”, June 2022.

1.2 Background

Melton City Council (Council) provided a summary of the background to the Amendment and chronology of events in its Part A submission. The Panel has summarised this in Appendix B.

1.3 Procedural issues

Structural engineering evidence for G Adams Enterprises Australia Pty Ltd

Seven business days before the Hearing was scheduled to commence (email correspondence dated 2 June 2023), Rigby Cooke Lawyers advised the parties that G Adams Enterprises Australia Pty Ltd (G Adams) proposed to call Mr Leonard of Philip Chun Building Compliance to give structural engineering evidence. Council advised on 5 June 2023 that it opposed this proposal.

The Panel convened a Directions Hearing on 8 June 2023 to consider two issues. Firstly, procedural fairness issues arising from the proposal to call an additional witness. Secondly, the

relevance of the evidence to the Amendment. After hearing submissions on the issues, the Panel agreed to accept the evidence on the basis it was satisfied the condition of the building may be relevant to the Amendment. Parties were informed of the Panel's decision in writing (D14).

For procedural fairness, the Panel provided Council the opportunity to call like evidence or additional time to respond to Mr Leonard's witness statement. Council decided not to call an additional expert and did not seek additional time to make its submissions.

Prime Equity Group Pty Ltd

By email correspondence dated 7 June 2023, Prime Equity Group Pty Ltd (Prime Equity) advised it no longer sought to:

- circulate or rely on any heritage evidence
- participate in the Hearing and requested its submissions be taken as read unless the Panel had further questions of it.

The Panel had no questions of clarification for Prime Equity following receipt of its submissions.

Potential conflict of interest of Mr Mornement

Mr Mornement gave heritage evidence for Council. Mr Mornement is a Principal and Director of Lovell Chen who prepared the 2020/21 Heritage Assessment. G Adams questioned whether Mr Mornement had a conflict of interest in presenting his evidence given this required him to provide an opinion of work carried out by his own company.

There are different types of expert witnesses. They include an expert who worked on a report or project on which the Amendment is founded, often referred to as the content expert. Another is an expert who had no previous role with the Amendment, often referred to as a peer expert. The Panel understands Mr Mornement had a role in preparing 2020/21 Heritage Assessment and is a content expert in this matter.

The role of content expert and peer expert should not be confused with whether an expert is independent.

Planning Panels Victoria (PPV) Practice Note 1 (Expert evidence) explains that an expert witness:

- has a paramount duty to PPV and not to the party retaining the expert
- has an overriding duty to assist PPV on matters relevant to the expert's expertise
- is not an advocate for a party to a proceeding.

An independent witness is someone who meets these criteria irrespective of whether they are a content or peer expert.

The Panel considers that Mr Mornement acted independently when appearing as an expert witness.

1.4 The Panel's approach

Two submissions were received opposing the Amendment. The submissions opposed the application of the Heritage Overlay to the Diggers Rest Army Housing Estate (HO139) and Mount Aitken Estate Soldier Settlement Housing (HO141).

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. The Panel has 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, background and strategic justification
- Diggers Rest Army Estate Housing
- Mount Aitken Estate Soldier Settlement Housing.

Any reference to Melton in this report refers to the Melton municipality.

1.5 Limitations

The Amendment proposes to apply the Heritage Overlay to five places, however submissions related to only two of these places. The Panel's role is to consider unresolved issues in the submissions referred to it. For this reason, the Panel has not assessed or reached conclusions on the specific merit of Heritage Overlay 138, 140 or 142. The Panel has made general conclusions on the strategic justification for the Amendment in Chapter 2.

2 Planning context, background and strategic justification

2.1 Planning context

This chapter identifies planning context relevant to the Amendment. Appendix A highlights key imperatives of relevant provisions and policies.

Table 1 Planning context

Source	Relevant references
Victorian planning objectives	- section 4(1)(d) of the PE Act
Planning Policy Framework	- 15.03-1S (Heritage conservation) - Clause 21.07-3 (Heritage)
Other planning strategies and policies	- Plan Melbourne Outcome 4, Direction 4.4, Policies 4.4.1 and 4.4.4 - <i>Shire of Melton Heritage Study, 2007</i> - <i>City of Melton Heritage Assessments Project 2018</i> - <i>City of Melton Heritage Strategy 2017-20218</i>
Planning scheme provisions	- Heritage Overlay
Planning scheme amendments	- Melton Planning Scheme Amendment C71 - Melton Planning Scheme Amendment C198melt
Ministerial Direction	- Ministerial Direction 11 (Strategic Assessment of Amendments)
Planning Practice Note	- <i>Planning Practice Note 1: Applying the Heritage Overlay</i> , August 2018 (updated 13 June 2023) (PPN01)

2.2 Overview of heritage studies

The *Shire of Melton Heritage Study, 2007* (the 2007 Heritage Study) identified and assessed places of cultural heritage significance in two stages. Stage 1 involved preparation of a thematic history of post-contact settlement and development for the whole of the municipality and identified places of potential cultural significance. Stage 2 assessed and documented 191 places of cultural heritage significance. Of these:

- 113 places were recommended for inclusion in the Heritage Overlay (as listed in Schedule 1 of the 2007 Heritage Study)
- 7 places were recommended for inclusion on the Victorian Heritage Register (Schedule 2)
- 57 places were listed identified as 'Conservation Desirable' (Schedule 3A)
- 22 places were listed as 'might be considered worthy of heritage protection in a future study' (Schedule 3B)
- 61 'Historical and Potential Archaeological Places' were identified (Schedule 4).

The 2007 Heritage Study explained:

Places listed as Conservation Desirable contribute to the character of the study area. Some have not been researched due to the constraints of the study brief and therefore there is insufficient information to assess if they demonstrate the required criteria for inclusion in the planning scheme as individual places. Others are highly altered, but there may be

opportunities for restoration and/or reconstruction that could elevate their heritage significance. It is recommended that the assessment of these places be included in a future review of this Heritage Study.

The 22 places listed in Schedule 3B as ‘worthy of heritage protection in a future study’ did not meet the relevant assessment criteria and significance thresholds to warrant inclusion in the Heritage Overlay. However, the study noted:

But with inevitable losses of existing heritage places, and with developments in understanding heritage and changing criteria, they might be reassessed in a future Heritage Study.¹

Melton Planning Scheme Amendment C71 was gazetted in August 2010 and applied the Heritage Overlay to places listed in Schedules 1 and 2, subject to removing some properties following the recommendations of the Panel.

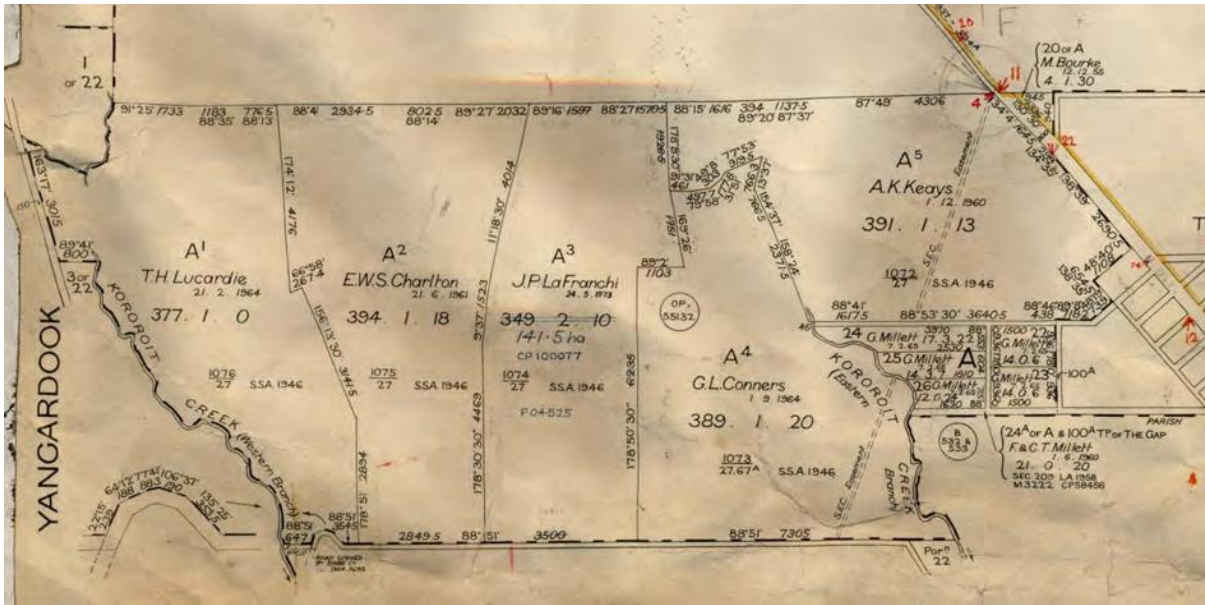
The 2007 Heritage Study informed the direction of further strategic and heritage assessment work. Relevant to the current Amendment, the following places (Table 2) were listed in Schedule 3A and Schedule 3B:

Table 2 Amendment C231melt places identified in 2007 Heritage Study

2007 Heritage Study		Proposed Heritage Overlay	Place
Number	Schedule		
034	3A	Heritage Overlay 138	Oaks Homestead, 1809-1895 Gisborne-Melton Road, Kurunjang
080	3A	Heritage Overlay 139	Diggers Rest Army Housing Precinct, Diggers Rest-Coimadai Road
222	3A	Heritage Overlay 140	Minns Road Timber Bridge
143	3A	Heritage Overlay 141	Corvette, 638 Mount Aitken Road, Diggers Rest (Connor’s original post-World War II Soldier Settlement house (Figure 1))
134	3B	Heritage Overlay 141	Boomera Gate No. 1 House, Mount Aitken Road, Diggers Rest (Charlton’s original post-World War II Soldier Settlement house (Figure 1))
135	3B	Heritage Overlay 141	Original Boomera House, Mount Aitken Road, Diggers Rest (Lucardie’s original post-World War II Soldier Settlement house (Figure 1))
142	3B	Heritage Overlay 141	Menindee House, Mount Aitken Road, Diggers Rest (LaFranchi’s original post-World War II Soldier Settlement house (Figure 1))
001	3A	Heritage Overlay 142	Hillview, 332 Benson Road, Toolern Vale

¹ D18b, pdf 77

Figure 1 Mount Aitken Estate Post-World War II Soldier Settlement Subdivision



Source: D16e, p4d

Council prepared and adopted the *City of Melton Heritage Strategy 2017-2018* on 18 September 2017. It provides a strategic framework for the identification, conservation and monitoring of heritage assets, sites and features in the municipality, via a series of themes, goals, objectives and actions. A key action under Theme 2 (protecting and managing) is:

Continue to implement recommendations from the Melton Heritage Study 2007, including:

- Review schedules of heritage places identified for further investigation in the Melton Heritage Study 2007.
- Undertake documentation and assessment of places listed in the Conservation Desirable Schedule in the Melton Heritage Study 2007.

The *City of Melton Heritage Assessments Project 2018* assessed 13 places identified in the 2007 Heritage Study. These sites were selected for assessment due to their location in the Urban Growth Zone and susceptibility to redevelopment. Of the 13, ten were listed in Schedule 3A and two were listed in Schedule 3B. A further property was added to the study following receipt of a development application. This assessment formed the basis of Planning Scheme Amendment C198melt which was gazetted in May 2021.

The 2020/21 Heritage Assessment assessed nine places listed in Schedule 3A and eight places listed in Schedule 3B. Of those, five places were recommended for the Heritage Overlay and are the subject of the Amendment.

2.3 Strategic justification

(i) Evidence and submissions

Council explained Clause 21.07-3.1 of its Municipal Strategic Statement provides a contextual overview of heritage issues in the City of Melton. It states:

The City of Melton is the boundary between two tribes of the Kulin nation: the Wurundjeri to the east of the Werribee River and the Wathaurong on the west side of the Werribee River. The remnant grassland landscape, river and creek valleys and volcanic cones of the City provide reminders of indigenous stewardship and occupation of the land. The names of creeks and locations, such as Djerriwarrh, Toolern and Kororoit are testament to the

continuing relationship of indigenous people with this area. Evidence of pre-contact Aboriginal occupation of the landscape is concentrated around watercourses and on the high rises above the plain, and is mainly demonstrated in artefact scatters.

The City of Melton was first settled by European pastoralists in the 1830s and 1840s, attracted to the extensive volcanic grasslands, deep creeks and easy access to ports at Melbourne and Geelong. Most of the City was taken up by three large pastoral holdings, Exford, Greenhills and Rockbank. These properties left a legacy of elegant homesteads and outbuildings, dry stone walls, dams, historic roads, fords and bridges. In the late nineteenth century smaller farmers moved into the area, as the large estates were broken up. These settlers created small dairy holdings, took up cropping and processed chaff, planted shelter belts, built wooden homesteads and constructed more dry stone walls.

The dry-stone wall landscape of the City is expressive of both the natural history of the volcanic creation of the area and the cultural history of its human modification.

Identification and planning around heritage assets in the early stages of Precinct Structure Planning is critical in ensuring cultural values are protected and enhanced.

Council adopted the Shire of Melton Heritage Study in May 2007 and the Melton Dry Stone Walls Study in August 2011 which identified and assessed places of cultural heritage significance.

The key heritage issues for Melton are set out at Clause 21.07-3.2. These are:

- Recognising and retaining the City's cultural heritage which creates an important sense of local identity for existing and future residents.
- Protecting recognised sites and precincts that are of national, state and local level significance.
- Integrating heritage features into future urban development and planning for growth areas.
- Protecting dry stone walls in developing urban areas.

Council submitted Clause 21.07-3.4 (Implementation), informs the strategic justification for the Amendment. That clause relevantly provides:

Scheme implementation

Applying the Heritage Overlay to places of identified heritage significance, such as sites in the Shire of Melton Heritage Study, or any other relevant heritage studies.

Further strategic work

Reviewing and update the Shire of Melton: Environmental History 2007 to identify places which could be included in future gap studies.

Assessing Conservation Desirable sites in Shire of Melton Heritage Study Volume 1 2007 and make recommendations for protection under a Heritage Overlay.

Reviewing the environmental history from the Melton Heritage Study 2007 to ensure consistency with Victoria's Framework of Historical Themes which now forms the basis of heritage studies in Victoria.

Council submitted the Amendment would have positive environmental, economic and social benefits, noting:

- environmental sustainability benefits result from the retention of heritage places through maintenance, restoration and re-use of buildings
- conservation and enhancement of places with local heritage significance can stimulate economic growth by increasing the attractiveness of future residential communities that are planned to surround those places
- the Heritage Overlay does not prohibit development, subdivision or demolition (where allowed by the underlying zoning), but rather requires a planning permit to be obtained
- routine maintenance and repairs that do not alter the appearance of a building do not require a planning permit under the Heritage Overlay

- conservation and enhancement of places with local heritage significance plays an important role in defining local identity, provides a link to the past and creates a sense of place by adding to the character and interest of the municipality.

(ii) Discussion and conclusion

Protecting locally significant heritage places is an objective of the Planning Policy Framework and Council's Municipal Strategic Statement. The Amendment responds to this objective by seeking to protect places of potential heritage significance identified in the 2007 Heritage Study and further assessed in the 2020/21 Heritage Assessment for present and future generations.

For the reasons set out in this report, the Panel is not satisfied the Mount Aitken Estate Soldier Settlement housing has been demonstrated to be a place of heritage significance to Melton, having regard to the Planning Policy Framework and PPN01. It therefore follows, this part of the Amendment is not strategically justified and should not proceed.

In relation to the Diggers Rest Army Housing Estate, for the reasons set out in this report, the Panel concludes that this part of the Amendment:

- is supported by, and implements, the relevant sections of the Planning Policy Framework
- is consistent with the relevant Ministerial Directions and Practice Notes
- is well founded and strategically justified and should proceed.

3 Diggers Rest Army Housing Estate

Exhibited Statement of significance



What is significant?

The Diggers Rest Army Housing Estate was established by the Australian military in the post-war period within the former Diggers Rest transmitting station site. The Former Army Radio Station (included as Heritage Overlay 49 in the Schedule to the Heritage Overlay of the Melton Planning Scheme) dates from 1944 and is the only significant wartime building remaining at the Diggers Rest station. The housing estate is a group of detached single-storey residences constructed in the 1950s and 1960s on the south side of Diggers Rest-Coimadai Road and within the site to the north of the Former Army Radio Station to house married military personnel working at the station site.

How is it significant?

The Diggers Rest Army Housing Estate is of local historical and representative significance to the City of Melton.

Why is it significant?

Together with the Former Army Radio Station (HO49), the Diggers Rest Army Housing Estate is historically significant for its association with the Australian military use of the Diggers Rest transmitting station in the post war period. The Diggers Rest radio transmitting station and Rockbank receiving station were established in 1942 for the US military command and transferred to the Australian Army in 1943. The Former Army Radio Station (HO49) is the last remaining wartime building at the Diggers Rest site. In the post-war period, the Diggers Rest site was used for international communications by the Australian military as well as during the 1956 Olympic Games. The Diggers Rest Army Housing Estate was constructed to house married military personnel working within the site. Housing was also constructed in the early 1960s for military personnel associated with the Rockbank receiving station, however these buildings no longer survive. The Diggers Rest Army Housing Estate is a unique example in the municipality demonstrating the importance and development of defence housing in Australia in the immediate post war period. **(Criterion A)**

The Diggers Rest Army Housing Estate is a predominantly intact group of residences dating from the late 1950s and early 1960s which clearly demonstrate the characteristics of post-war defence housing. The housing estate is a consistent group of residences with common features and details. In connection with the Former Army Radio Station (HO49) located immediately south of the housing estate, the residences provide clear evidence of the post-war development of the Diggers Rest radio transmitting station in the context of the development of defence housing in Australia in the immediate post-war period. **(Criterion D)**

3.1 Background

The Amendment proposes to:

- amend the Heritage Overlay mapping and schedule to apply the Heritage Overlay (HO139) to the former Diggers Rest Army Housing Estate located at Units 1-6 and 8-18, 117 Diggers Rest-Coimadai Road, Diggers Rest
- amend the Schedule to Clause 72.04 (Documents Incorporated in this Planning Scheme) to list:
 - *Statement of Significance: Unit 1-6, Unit 8-18, 117 Diggers Rest-Coimadai Road, Diggers Rest, "Diggers Rest Army Housing Estate", June 2022*
 - *Diggers Rest Army Housing Estate Heritage Design Guidelines and Permit Exemptions, June 2022* which sets out heritage design guidelines for development to ensure that the identified heritage values of the place are conserved and exemptions from permit requirements set out at Clause 43.01-3.

The *Diggers Rest Army Housing Estate Heritage Design Guidelines and Permit Exemptions, June 2022* sets out heritage design guidelines for development to ensure that the identified heritage values of the place are conserved. It also provides exemptions from permit requirements in the Heritage Overlay.

3.2 The issue

The issue is whether the Heritage Overlay should be applied to the former Diggers Rest Army Housing Estate (HO139).

3.3 Evidence and submissions

Prime Equity originally opposed the Amendment on the basis the dwellings do not hold any individual heritage significance or significantly contribute to the heritage value of the former Army Radio Station listed as Heritage Overlay 49.

Following discussions with Council, Prime Equity advised it supported the Heritage Overlay, subject to:

- permitting prohibited uses on the land through the Heritage Overlay Schedule
- amending the Incorporated Plan as proposed by Council (Appendix D).

Prime Equity submitted the Incorporated Plan will ensure the identified values of the heritage place are conserved but with some flexibility to enable sensible and responsible development to occur to assist in conserving the heritage place.

Mr Mornement supported Council's proposed changes to the Incorporated Plan.

With the agreement with Prime Equity in place, Council submitted there were two unresolved issues regarding HO139:

- the property address
- the curtilage of the Heritage Overlay.

In relation to the property address, Council submitted '19-115 Diggers Rest-Coimadai Road' would be consistent with Council's Geographic Information System and rate databases and is preferred over '107-207 Plumpton Road' as suggested by Prime Equity and shown on 'VicPlan'.

In relation to mapping, Mr Mornement recommended Heritage Overlay 139 exclude land that does not contribute to the cultural heritage values of the Army Housing Estate as shown in Figure 2 and Figure 3. Council did not support this recommendation because the re-alignment:

- would result in an unusual, irregular boundary to the overlay
- follows the current fence lines that do not reflect any legal or title boundary
- is inconsistent with the exhibited Amendment which itself had been reviewed by the Department of Transport and Planning prior to exhibition.

Figure 2 Exhibited extent of Heritage Overlay 139



Source: www.mapshare.vic.gov.au/VicPlan

Figure 3 Recommended reduction to extent of Heritage Overlay 139



Source: D4, Figure 9

Prime Equity submitted there is no justification for reducing the extent of the Heritage Overlay as recommended by Mr Mornement and that it should remain as exhibited. Prime Equity noted any proposal for the redevelopment of the land within the extent of the overlay as exhibited can be tested as part of any planning permit application for a prohibited use or otherwise, and the impact on the cultural significance of the heritage place of that proposed use and development can be tested at that time.

3.4 Discussion

The Panel acknowledges Prime Equity Group no longer opposes the Heritage Overlay subject to changes to Heritage Overlay Schedule and Incorporated Plan agreed by Council. On this basis, the Panel has not undertaken detailed enquiries into the matters raised by this submitter.

The Panel is satisfied that it is appropriate for the Heritage Overlay Schedule to permit prohibited uses at the Diggers Rest Army Housing Estate to assist in its conservation. This will broaden potential future uses of the site beyond the narrow list permissible under the Green Wedge Zone. This is consistent with guidance in PPNO1 which supports making a prohibited use permissible where the *“normally available range of permissible uses is insufficient to provide for the future conservation of the building”*.

Minor amendments to the Incorporated Plan Diggers Rest Army Housing Estate Heritage Design Guidelines and Permit Exemptions provide scope for future use and development of the site to assist its conservation and simplify the approvals process for development that will not impact on the heritage significance of the site.

Regarding the property address, the Panel notes there is inconsistency between Council’s records and the VicPlan database. The Panel’s recommendation reflects Council’s preferred street address

for the land. It would be ideal for Council and the Department of Transport and Planning to agree on the correct address of the land, particularly as the Planning Scheme mapping layers are based on VicPlan.

In relation to mapping extents, PPN01 states:

The Heritage Overlay applies to both the listed heritage item and its associated land. It is usually important to include land surrounding a building, structure, tree or feature of importance to ensure that any development, including subdivision, does not adversely affect the setting, context or significance of the heritage item.

The land surrounding the heritage item is known as a curtilage and will be shown as a polygon on the Heritage Overlay map. In many cases, particularly in urban areas and townships, the extent of the curtilage will be the whole of the property for example, a suburban dwelling and its allotment.

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

Examples of situations where a reduction in the curtilage and polygon may be appropriate include:

- A homestead on a large farm or pastoral property where it is only the house and/or outbuildings that is important. In most cases with large rural properties, the inclusion of large areas of surrounding farmland is unlikely to have any positive heritage benefits or outcomes.
- A significant tree on an otherwise unimportant property.
- A horse trough, fountain or monument in a road reservation.
- A grandstand or shelter in a large but otherwise unimportant public park.

The exhibited extent of Heritage Overlay 139 appears arbitrary and not matched to any site features. The retracted extent recommended by Mr Mornement follows existing fence lines, and while not based on legal or title boundaries, is a practical limit to the area of heritage significance in this instance.

3.5 Conclusions and recommendations

The Panel concludes:

- The Diggers Rest Army Housing Estate has sufficient heritage significance to justify the Heritage Overlay (HO139).
- It is appropriate for the Heritage Overlay Schedule to permit prohibited uses for land in the Heritage Overlay (HO139) to assist in conserving the heritage place.
- Minor amendments to the Incorporated Plan *Diggers Rest Army Housing Estate Heritage Design Guidelines and Permit Exemptions* provide scope for future use and development of the site to assist its conservation.
- The Heritage Overlay Schedule should accurately address the Diggers Rest Army Housing Estate at '19-115 Diggers Rest-Coimadai Road', consistent with Melton City Council's records.
- The extent of the Heritage Overlay (HO139) should be limited to land that contributes to the heritage values of the Diggers Rest Army Housing Estate as shown in Figure 3.

The Panel recommends:

1. **Amend the Heritage Overlay Schedule for HO139 to:**
 - a) **replace the address of the land with '19-115 Diggers Rest-Coimadai Road'**

- b) replace 'no' with 'yes' under 'Prohibited uses permitted?'
- 2. Amend the Incorporated Plan *Diggers Rest Army Housing Estate Heritage Design Guidelines and Permit Exemptions* as shown in Appendix D.
- 3. Amend the Heritage Overlay mapping for HO139 as shown in Figure 3.

4 Mount Aitken Estate Soldier Settlement Housing

Exhibited Statement of significance



What is significant?

The four soldier settlement houses on Mount Aitken Road and one on Napier Street, Diggers Rest are part the post-World War II farm settlement scheme for ex-servicemen. The small farming allotments were formerly part of the Mount Aitken pastoral estate and were acquired by the State Government in 1947. Five men who had served in various roles during World War II successfully applied to occupy the allotments – A1, A2, A3, A4 and A5. The farmhouses of this scheme were of a standard type, typically modest single-storey weatherboard construction, stepped frontages and entry porches. The subject residences are understood to have been constructed to the standard designs by architects Buchan, Laird and Buchan, and were constructed in the early 1950s. The five soldier settlement properties were acquired as freehold by ex-servicemen during the 1960s and 1970s, indicating the requirements of the scheme had been satisfied.

How is it significant?

Mount Aitken Estate Soldier Settlement Housing is of local historical, rarity and representative significance at a local level to the City of Melton.

Why is it significant?

The Mount Aitken Estate Soldier Settlement Housing is of local historical significance demonstrating the break-up of large nineteenth century pastoral estates in the municipality, and the twentieth century shift to small farm holdings. The soldier settlement houses are also of historical significance, illustrating post-war soldier settlement schemes in Melton. **(Criterion A)**

The five soldier settlement houses constructed in the early 1950s on Mount Aitken Road and Napier Street are of local significance for their rarity as one of a small number of remaining examples of post-war soldier settlement in the municipality. **(Criterion B)**

The five soldier settlement houses on Mt Aitken Road and Napier Street are of local representative significance for their demonstration of the key characteristics of standard soldier settlement housing. This includes their modest, single-storey weatherboard construction, often double or triple fronted, and with verandahs and brick chimneys. The designs were provided by the architects Buchan, Laird and Buchan for the Solider Settlement Commission. **(Criterion D)**

4.1 Background

The Amendment proposes to:

- amend the Heritage Overlay Schedule and maps to apply the Heritage Overlay (HO141) to a series of five houses at:
 - 480-580 Mount Aitken Road, Diggers Rest (Figure 4)
 - 726-738 Mount Aitken Road, Diggers Rest (Figure 5)
 - 740-794 Mount Aitken Road, Diggers Rest (the 740 Building) (Figure 6)
 - 796-830 Mount Aitken Road, Diggers Rest (the 796 Building) (Figure 7)
 - 115-131 Napier Street, Diggers Rest (Figure 8)
- amend the Schedule to Clause 72.04 (Documents Incorporated in this Planning Scheme) to list *Statement of Significance: 115-131 Napier Street, 480-580, 726-738, 740-794 and 796-830 Mt Aitken Road, Diggers Rest "Mt Aitken Soldier Settlement Housing" June 2022.*

G Adams opposed the Amendment as it relates to the 740 Building and 796 Building.

Figure 4 480-530 Mount Aiken Road



Source: D5, Figure 10

Figure 5 726-738 Mount Aiken Road



Source: D5, Figure 9

Figure 6 740-794 Mount Aiken Road



Source: D5, Figure 9

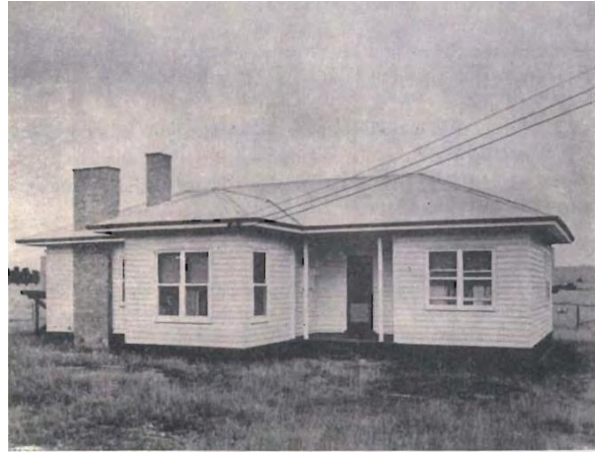
Figure 7 796-830 Mount Aiken Road



Source: D5, Figure 1

Figure 8 115-131 Napier Street

Source: D5, Figure 11

Figure 9 Settler's house Sunbury 1952

Source: D5, Figure 12

The 2020/21 Heritage Assessment states the City of Melton was subject to several subdivision schemes that aimed to break-up large pastoral estates and encourage settlement by way of small-scale farming. The first of these was the Closer Settlement Scheme. This was followed by the Soldier Settlement Acts enacted following World War I (1914-18) which enabled Victorian state governments to purchase pastoral land and subdivide it for purchase for farming purposes by veterans. The Soldier Settlement Scheme of the post-World War II (1939-45) period was refined to provide more support to new farmers, including bigger blocks of land, with housing and fences supplied.

Post-World War II Soldier Settlement Scheme housing was a standard type, typically modest single-storey weatherboard construction, with stepped frontages and entry porches (Figure 9). The Mount Aitken Estate Soldier Settlement Housing is understood to have been constructed to the standard designs by architects Buchan, Laird and Buchan, and were constructed in the early 1950s.

4.2 The issues

The issues are whether:

- the post-World War II Soldier Settlement housing is a recognised and important theme in the history of Melton
- the comparative analysis demonstrates the buildings are important examples of post-World War II Soldier Settlement housing
- the 740 Building and 796 Building are sufficiently intact and have sufficient integrity to warrant inclusion in the Heritage Overlay
- the condition of the 796 Building warrants application of the Heritage Overlay
- applying the Heritage Overlay to post-World War II Soldier Settlement housing will result in a net community benefit and is strategically justified.

4.3 Thematic association

(i) Evidence and submissions

Council submitted:

The soldier settlement houses have a clear association with soldier settlement and more particularly post WWII soldier settlement period.

The historical importance of the soldier settlement houses is established through the Melton Heritage Study.

The Melton Heritage Study (amongst other statewide heritage materials) evidence the association of dwellings such as these to the historical period, noting that the VHR Guidelines 2022 do not require significance to be obvious from the heritage fabric.²

Council relied on the evidence of Mr Mornement who stated farming and pastoralism are themes central to an understanding of the municipality as described in 2007 Heritage Study:

The 'break-up' of the pastoral estates and the revival of farming in Australia around the turn of the twentieth century had an especially profound effect on the Shire of Melton. Throughout the nineteenth century many locals had blamed the huge pastoral estates for holding back the development of Melton, and the demise of these estates did indeed prove a boon to local development. It saw the rise of Melton's nationally acclaimed hay and chaff industry, and the construction of new roads, bridges and schools. Most of the estate break-ups were voluntary, but the government's Closer Settlement estates were an historically important expression of a major Australian historical movement that also motivated the earlier Selection Acts and the later Soldier Settlement Acts. Two of the first, largest and most publicized of the Closer Settlement estates – the Overnewton and the Exford estates – were located in Melton Shire.

Historically the break-up of the pastoral estates was a turning point in the Shire's history. In heritage terms, it left a legacy of the single largest type of heritage place in the Shire: a set of predominantly weatherboard early twentieth-century farming dwellings. Most (but not all) of these were small, in keeping with the social origins of the movement, particularly on the Closer Settlement estates. However, many that remain around the Shire today are the larger examples, the poorer ones being more altered or deteriorated, and having been less valued for their heritage qualities.³

Mr Mornement considered the five residences proposed for inclusion in HO141 collectively represent the theme of Soldier Settlement in the municipality and demonstrate the continued importance to the municipality of the break-up of pastoral estates well into the twentieth century.

G Adams submitted the starting point for an assessment of local heritage significance is a robust identification of what things (or themes) are of significance to the relevant local area. That process enables the importance of a place to be evaluated in the context of what is, or is not, of importance to the history of the municipality.

G Adams noted the heritage themes and sub-themes in the 2007 Heritage Study relevant to Mount Aitken Estate Soldier Settlement are:⁴

Pastoralism (Chapter 3)

- The squatting Era
- Pastoralism in the Late Nineteenth Century
- Pastoralism in the Twentieth Century

² D16, para 93

³ D18b, pdf 34

⁴ D20, para 27

Farming (Chapter 4)

- The 1850s
- The 1860s to 1890s
- The 1890s to World War Two

Community

- Aitkens Gap
- Diggers Rest

G Adams said Lovell Chen’s original work and Mr Mornement’s subsequent assessment had mistaken the content and conclusions of the 2007 Heritage Study. It submitted:

Neither soldier settlement schemes in general, nor post-World War II soldier settlement schemes in particular, are identified as an individual theme or themes in that study. Such schemes are simply events that are referred to within the identified theme “Break-up of the Pastoral Estates”.

However, the Study states expressly that the theme “Break-up of the Pastoral Estates” relates to “the ‘break-up’ of the pastoral estates and the revival of farming in Australia **around the turn of the twentieth century**” (our emphasis).

To the extent that the post-World War II soldier settlement schemes contributed to the break-up of the estates they did so well after the “turn of the twentieth century”.⁵

G Adams noted the original Mount Aiken Estate had an area of around 3,800 acres. The estate was broken-up between 1912 and 1927 and parts of it were sold to a variety of different owners at different times. The ‘break up’ appears to have been done for private reasons and not related to either the Closer Settlement Scheme or post-World War I Soldier Settlement Scheme. By the time the government acquired an area of 1,523 acres for the post-World War II Soldier Settlement Scheme in 1947, the estate had already been well and truly broken-up and had not been part of such an estate for 20 to 30 years.

G Adams submitted the 2020/21 Heritage Study did not amend or update the heritage themes of importance to the City of Melton, nor does it provide sufficient justification or argument to support the recognition of any new themes. The study assumed that as a government settlement scheme that took place on land forming part of a pastoral estate it is important and warrants protection.

G Adams concluded:

The failure to properly identify or apply the existing themes or to adequately justify a new theme is a fundamental flaw that has consequences both for the subsequent comparative analysis and for the assessment against each of the identified Hercon criteria. Specifically, the importance of this theme to the heritage of Melton has not been established and thus the Council’s expert’s conclusion that it meets the threshold for local heritage significance is flawed.⁶

Contrary to the submissions of G Adams, Mr Raworth’s evidence stated:

Postwar soldier settlement schemes are a facet of the broader array of government sponsored settlement schemes that occurred in the twentieth century, which it is acknowledged are an important theme in the history of Melton.⁷

⁵ D20, para 30-32

⁶ D20, para 45

⁷ D37, para 37

(ii) Discussion

PPN01 provides the framework for assessing heritage significance and justifying application of the Heritage Overlay to a place. The criteria relied on by Council to justify the Heritage Overlay for the Mt Aitken Soldier Settlement Housing are:

- Criterion A: importance to the course or pattern of our cultural or natural history (historical significance)
- Criterion B: possession of uncommon, rare or endangered aspects of our cultural or natural history (rarity)
- Criterion D: importance in demonstrating the principal characteristics of a class of cultural or natural places or environments (representativeness).

Implicit in each criterion is that there is ‘something’ of local significance to be managed.

The ‘things’ of importance to Melton are set out in the thematic environmental history prepared as part of the 2007 Heritage Study. Under the theme of ‘farming’, the break-up of pastoral estates is recognised as important to Melton. The 2007 Heritage Study states:

- the break-up of the pastoral estates and the revival of farming in Australia around the turn of the twentieth century had an especially profound effect on the Shire of Melton and was a catalyst for the local development
- the estate break-ups were mostly voluntary, but State legislators also fostered the changes through the Closer Settlement Act and later Soldier Settlement Acts
- in heritage terms, the break-ups left a legacy of predominantly weatherboard early twentieth century dwellings.

At the Hearing, parties agreed the Mount Aitken Estate subdivision was the only post-World War II Soldier Settlement Act subdivision in Melton. This is an important fact not reflected in the 2017 Heritage Study. It is also not recognised in the 2020/21 Heritage Assessment which suggested the Mount Aitken properties were a “*rare example*” of extant and intact post-World War II Soldier Settlement dwellings rather than the only example. Given the identified ‘rarity’ of the Mount Aitken Estate lots, it would have been prudent for Council and its consultants to carry out a more detailed assessment of post-World War II Soldier Settlement development in Melton to determine its relative importance to the break-up of pastoral estates, or an alternative theme.

Based on the information before the Panel, it has not been demonstrated that post-World War II Soldier Settlement development is an important phase or significant to the break-up of pastoral estates in Melton. It was simply something that took place on a small scale at only one location. Though post-World War II Soldier Settlement development may be significant elsewhere in Victoria, it was not a transformative event or an important phase to Melton’s history. There is nothing in the thematic environmental history or 2020/21 Heritage Assessment suggesting the five lots created by this mid-century Soldier Settlement Act subdivision, as the only one of its kind, had an enduring effect on Melton’s population, settlement or economy, further confirming its lack of importance to Melton.

Conversely, the 2007 Heritage Study is explicit that the most important period of the break-up of pastoral estates was early in the twentieth century when very large estates were broken into hundreds of lots. The consequences of these earlier subdivision are described and quantified in detail in the 2007 Heritage Study. For example, the Closer Settlement Board subdivided the

Overnewton Estate into 79 farms⁸ in 1905 and within two years 129 residents were living on the estate with 3,451 stock and 1,454 acres cultivated⁹. Similarly, the Closer Settlement Board divided the Exford Estate into 40 farms in 1907¹⁰ that were set aside for British immigrants¹¹. The impact of the early twentieth century subdivisions is summarised in the 2007 Heritage Study as:

The Shire was transformed by the Closer Settlement and Soldier Settlement Acts of the early twentieth century. New roads were surveyed and 'macadamised', and the occasional bridge was thrown up (eg, the Bridge Road concrete bridge south of Melton). The establishment of new primary schools at places such as Sydenham West, Exford, Melton South, and Melton Park reflect the emergence of whole new communities. Some of Melton's most historically celebrated residents, such as international trap shooter Hector Fraser, were amongst the new settlers. Other sons of the new farmers are commemorated on memorials of the world wars. (Panel underline)

There is no information or context to explain why post-World War II Soldier Settlement Housing is historically important to Melton or to strategically justify Heritage Overlay 141.

Additional issues raised by G Adams are discussed in Chapters 4.4 to 4.6, but do not alter the Panel's position that Heritage Overlay 141 is not strategically justified.

4.4 Comparative analysis

(i) Evidence and submissions

Mr Mornement acknowledged the comparative analysis in the exhibited citation for HO141 was limited. He noted PPN01 directs:

To apply a threshold, some comparative analysis will be required to substantiate the significance of each place. The comparative analysis should draw on other similar places within the study area, including those previously included in a heritage register or overlay.

Mr Mornement's evidence supplemented the exhibited citation with new work. Mr Mornement's additional analysis stated:

A number of nineteenth century pastoral estates in the municipality were broken up and sold in the early twentieth century. Many of these estates were administered under the Closer Settlement Acts, and the Soldier Settlement Acts, which were enacted to provide greater access to farming land in Victoria...the break-up of these pastoral properties into smaller farms resulted in a 'revival' in farming in Melton.

Parts of the Overnewton and Exford Estates were subdivided in the early twentieth century, with similar processes occurring at Melton Park from the 1920s and the Mount Aitken Estate in the 1940s. The Rockbank estate, owned by W J T Clarke, was also subdivided in this period but not through the Closer Settlement Board.

These smaller farming allotments were progressively sold through the twentieth century, resulting in population increases in the district, as farmers and ex-servicemen were encouraged to take up land.

Mr Mornement provided a list of five comparative places in the Heritage Overlay associated with the Closer Settlement Scheme. These were:

- HO55, house in Plumpton associated with the Overnewton Estate subdivision of 1905-06
- HO58, house in Hillside associated with the Overnewton Estate subdivision of 1905-06

⁸ D18b, pdf 738

⁹ D18b, pdf 763

¹⁰ D18b, pdf 1080

¹¹ D18b, pdf 1080

- HO73, house in Melton South resulting from the sale of the Exford Estate
- HO102, house in Mount Cottrell associated with the Exford Estate
- HO123, farmhouse complex associated with the Overnewton Estate.

Given the 2007 Heritage Study states Melton was transformed by the Closer Settlement and Soldier Settlement Acts of the early twentieth century, Mr Mornement said the comparative examples “*might be regarded as an underrepresentation*”¹².

Based on his additional research Mr Mornement recommended the exhibited citation be amended as follows (amendments italicised):

There are a number of examples of earlier soldier settlement schemes in Melton, but the Mount Aitken Estate Soldier Settlement Housing is a *rare example of a post-World War II soldier settlement estate in the municipality. It demonstrates the continued importance to the municipality of the break-up of pastoral estates well into the twentieth century.*¹³

Council submitted it is notable that Mr Mornement’s research did not identify any post-World War II Soldier Settlement houses within the Heritage Overlay in Melton, reflecting Council’s understanding that the Mount Aitken Estate Soldier Settlement dwellings would be the first. The Amendment would therefore improve representation of the break-up of the pastoral estates in the Heritage Overlay by extending coverage to a later period. Council submitted:

It is difficult to imagine a site performing more favourably on a comparative analysis than a category of buildings that are currently entirely absent from the Heritage Overlay.¹⁴

G Adams was highly critical of the comparative analysis in the 2021 study. G Adams submitted this was “*not actually a comparative analysis at all*”¹⁵ because it did not assess the relative significance of proposed places with its comparators. Mr Mornement’s additional comparative analysis equally made no attempt to compare the existing Heritage Overlay places with the properties now sought to be included. This was contrary to the advice of the Melbourne C387melb Panel which said “*simply providing a list is not sufficient*”¹⁶.

G Adams submitted the comparative analysis completed by Council, Lovell Chen or Mr Mornement were all deficient when measured against PPN01 because they made no attempt to:

- identify the extent of post-World War II soldier settlement schemes in Melton, or the relative importance of those schemes to the history of Melton
- identify how many buildings there were, or are, in the municipality that are associated with post-World War II soldier settlement schemes in Melton
- undertake a proper comparative analysis that includes addressing the following questions:
 - does the subject place have a comparably significant history or historical associations?
 - is the subject place intact?
 - is the subject place architecturally or aesthetically distinguished?
 - is the subject place typical or does it stand out within the comparative group?

¹² D4, para 71

¹³ D4, para 75

¹⁴ D16, para 46

¹⁵ D16, para 51

¹⁶ D16, para 5

(ii) Discussion

Had the importance of post-World War II Soldier Settlement Housing been established, a robust comparative analysis would have been necessary to substantiate the significance of Heritage Overlay 141 relative to comparators. The comparative analysis in the 2020/21 Heritage Assessment and Mr Mornement's evidence statement is not sufficient in this regard because it simply provides a list and does not actively assess the Mount Aitken Estate Soldier Settlement Housing with comparator places resulting from the break-up of pastoral estates, including those from government sponsored housing schemes. The analysis should have looked outside the municipality for comparators if there was no other post-World War II Soldier Settlement Housing in the Melton municipality.

Had a proper comparative assessment been carried out as part of the 2020/21 Heritage Assessment, it would have prompted a more thorough analysis of the relative importance of post-World War II soldier settlement scheme housing to Melton's history. This is a significant deficiency of the current proposal and ultimately compromises the strategic justification for applying the Heritage Overlay to the Mount Aitken Estate Soldier Settlement housing.

4.5 Intactness and integrity**(i) Evidence and submissions**

Council submitted the terms 'intactness' and 'integrity' are related but not interchangeable. The Victorian Heritage Register (VHR) Guidelines 2022 draw out the difference as follows:

Integrity: Refers to the degree to which the heritage values of the place or object are legible and able to be understood and appreciated. For example, does it include all the elements necessary to express its significance? If considerable change to the intactness of a place or object has occurred (through changes to the fabric or setting, physical deterioration etc) the significant values may not be readily identifiable and the place or object may have low-level integrity. It should be noted that non-original fabric can contribute to the integrity of a place/object.

Drawing from commentary in previous Panel reports, Council explained:

- intactness relates to the wholeness of (or lack of alteration to) the place¹⁷
- integrity is a descriptor of the 'veracity' of the place as a meaningful document of the heritage from which it purports to draw its significance¹⁸
- the degree to which intactness impacts on a building's integrity requires the consideration of a number of factors and can be assisted by a comparative analysis of similar places¹⁹
- intactness may influence whether the place crosses the threshold for significance whereas condition is only likely to be relevant where it has caused the place to lose the heritage values it may otherwise have possessed.

Council submitted that a heritage place does not have to reach a high level of intactness to retain sufficient integrity to be locally significant in the context of the environmental and natural history of Melton. Unlike other municipalities where heritage places reflect historical periods of great

¹⁷ Northcote Bowl site (AC) [2010] PPV 39 (14 April 2010)

¹⁸ Northcote Bowl site (AC) [2010] PPV 39 (14 April 2010)

¹⁹ Melbourne C387melb (PSA) [2021] PPV 89 (10 November 2021)

wealth, many of Melton's buildings were the houses of poor farmers who worked marginal land in return for small incomes.

While Council agreed the 740 Building and 796 Building have reduced intactness, it does not follow they have lost their integrity just because certain features such as windows or chimneys have been removed or the buildings have been extended. This is especially so in the context of buildings that were *"constructed modestly and remain of modest stature, resting within largely unchanged physical environments to those when the buildings were constructed"*²⁰.

Council concluded:

The buildings retain sufficient fabric to assist our understanding and appreciation of the original use, era and design of the soldier settlement housing. Indeed, this is implicit in the expert witnesses being able to clearly read the original built form and articulate the later alterations.²¹

Mr Mornement's evidence acknowledged each residence subject to Heritage Overlay 141 had, to varying degrees, been modified. He explained:

Of the group, 115-131 Napier Street, 480-580 Mount Aitken Road and 796-830 Mount Aitken Road are the most intact.

It is considered that 740-794 and 726-738 Mount Aitken Road, while altered, remain legible as standardised weatherboard residences of the mid-twentieth century with multi-fronted primary elevations and hipped roofs clad in corrugated sheet metal.²²

In relation to the integrity, Mr Mornement considered it was significant that the five soldier settlement blocks survive as a cohesive group within an agricultural setting.

G Adams submitted the level of intactness and integrity of the 740 Building and 796 Building is not sufficient to justify applying the Heritage Overlay to either building. Furthermore, retention of the buildings will provide little, if any, contribution to the heritage and character of the area as they are effectively invisible from the public realm and unable to be viewed by the public.

Mr Raworth documented the changes to the five buildings subject to Heritage Overlay 141 as follows:

740-794 Mt Aitken Road ... is a triple fronted residence which has undergone substantial alterations. The roof cladding has been replaced, the chimney stack to the north has been removed (though the chimney breast remains) while the chimney to the west elevation has been almost completely removed, with only the lower courses of the chimney breast remaining. All the weatherboards have been replaced, while all the original timber framed windows have been replaced with larger aluminium framed windows. The front porch has been built out and the position of the entry door changed from the south side of the central bay to the west side. A verandah has been added to the north elevation.

796-830 Mt Aitken Road ... also has a triple fronted plan. While less altered than the neighbouring 740-794 Mt Aitken Road, it has also undergone works that appreciably impact its integrity and appearance. These include replacement of a majority of the windows, including all of those to the facade, with larger aluminium framed windows, as at 740-794 Mt Aitken Road. The brick chimneys have been overpainted. The house has been unoccupied for a number of years and is in a dilapidated condition.

726-738 Mt Aitken Road appears to have originally had the same triple fronted form as the two previous properties. Although I was only able to view the property from the street, it is clear that the dwelling has been significantly altered with the construction of a large addition to its front or south-east corner, fundamentally overwriting its appearance in terms of the

²⁰ D16, para 85

²¹ D16, para 86

²² D16d, p14

original triple fronted design. The chimney to the west elevation has been truncated and some windows appear to have been replaced. The original porch entry is no longer in evidence.

480-580 Mt Aitken Road ... as viewed from the street, appears to have a relatively good level of intactness, retaining its original roof form, windows, entry porch and wide brick chimney to the facade.

115-131 Napier Street ... as viewed from the street, also appears to retain a good level of intactness. Comparison with a 1952 photograph of a soldier settlement house in Sunbury shows that the overall form, windows and front porch remain unaltered, as are the chimneys (although overpainted).

Mr Raworth considered that only the dwellings which continue to demonstrate the architect designed qualities of the post-war Soldier Settlement Scheme should be considered for any overlay. As Soldier Settlement Scheme housing is typically modest, *“intactness is an essential determining factor”*²³.

(ii) Discussion

If post-World War II Soldier Settlement housing was historically important to Melton, it would be necessary to consider the intactness and integrity of the Mount Aitken Estate Soldier Settlement houses to determine if it warrants protection. The Panel’s consideration would have been assisted by a robust comparative analysis, however as discussed in Chapter 4.4, the comparative analysis prepared for proposed Heritage Overlay 141 was little more than a list.

The 740 Building and 796 Building are not intact. The modest design and simple materiality of post-World War II Soldier Settlement housing serve to highlight how the buildings have been altered since they were first constructed. This is especially so for the 740 Buildings which has been substantially modified and no longer retains the porch entry and chimney that are typical of post-World War II Soldier Settlement housing. These changes negatively impact the integrity of the 740 Building as a record of post-World War II Soldier Settlement housing and exclude it from being a candidate for the Heritage Overlay.

Alterations to the 796 Building largely impact windows where original timber framed windows have been replaced with larger aluminium framed windows. These alterations are less impactful on the integrity of the dwelling, which retains the typical post-World War II Soldier Settlement housing design and its original materiality. If post-World War II Soldier Settlement housing was important to Melton, the 796 Building would appear to be sufficiently intact and have sufficient integrity to warrant applying the Heritage Overlay, although this would need to be confirmed through comparative analysis.

While visibility from the public realm plays an important role in the community’s understanding and appreciation of heritage places, this must be considered relative to locational context. It is not uncommon for heritage places in rural areas to be less visible than those in urban areas. The low visibility of the 740 Building and 796 Building is not determinative in whether the Mount Aitken Estate Soldier Settlement Housing should be included in the Heritage Overlay.

²³ D5, para 39

4.6 Condition

(i) Evidence and submissions

Council and G Adams agreed condition was a relevant consideration at the listing stage consistent with the Supreme Court's determination in *Dustday Investments Pty Ltd v Minister for Planning [2015] VSC 101* (Dustday Investments) which related to the report of the Melbourne C207 Panel.

G Adams summarised the Melbourne C207 Panel's discussion on condition as follows:

The Panel...acknowledged two circumstances in which condition may be relevant, being:

- (a) *extreme cases of dilapidation where demolition is an inevitable outcome; and*
- (b) *where the renovations necessary for the building affect its heritage significance.*

Specifically with respect to the second category, the Panel stated:

We also consider that it is possible that condition may become relevant in the circumstances where the necessary renovations of a building, which is being considered for listing/retention, are so extensive that the original fabric of the building is in large measure lost and the form and nature of the heritage place would no longer be able to be appreciated. In that way, the significance of the place would be degraded. Again we would expect that the certainty threshold would be a very high one.²⁴

G Adams said the Supreme Court determined there was no error in law in taking this approach. The Court said:

It was open to the panel to give such weight to the competing considerations of heritage, social and economic effects as they affect the building and the land in such manner as it saw fit. Given that the building had heritage significance, it was open to the panel to adopt the position that it would only give weight in its report to the dilapidation of the building 'where demolition was an inevitable outcome', or where the case for demolition was 'irrefutable' or other like findings. It was open to the panel to adopt the position that in such circumstances, the community-wide costs and benefits of the demolition versus conservation outcomes would have to be clearly identified. There is no error of law in so doing.²⁵

Council submitted the following propositions maybe distilled from the decision in *Dustday Investments*.

The weight to be given to competing considerations such as conservation/heritage matters or social and economic effects is a matter for the Panel.

- Evidence of condition may be relevant to the Panel's task.
- It is open for a Panel to conclude that:
 - Weight should only be given the dilapidated condition of a building where demolition is inevitable or irrefutable, or some other standard.
 - There needs to be a high level of certainty that required works are so extensive that the form and nature the building is no longer able to be appreciated.
 - Issues of condition, the conservation works that may be required in the future, the costs of restoration and adaptive reuse are better assessed at the permit application stage when the proposed scheme of development will be known.²⁶

Council submitted similar propositions were affirmed by the Brimbank C227brim and Greater Geelong C422ggee Panels.

G Adams called Mr Leonard to give structural engineering evidence on the 796 Building. In Mr Leonard's opinion the dwelling is not suitable for occupation in its present state and requires

²⁴ D20, para 74-75

²⁵ D16, para 77

²⁶ D16, para 60

significant repair and reconstruction. These works would involve demolition and reconstruction with new materials because the existing building fabric is severely deteriorated.

G Adams submitted:

The evidence of Mr Leonard makes it clear that the 796 Building is currently uninhabitable, and in a severe state of dilapidation. To restore it to a position where it could be made habitable it would need to be, in essence, demolished and rebuilt. The original fabric would be lost. There would be no value to the community in a reconstructed version of what had been demolished.

G Adams further explained the condition of the building should be considered in the context of:

- the location of the 740 Building and 796 Building outside the urban growth boundary
- the 796 Building has not been occupied for more than two years and would require a permit to be used as dwelling
- there is no obligation under the Heritage Overlay to maintain the buildings and little prospect of the 796 Building being repaired
- the buildings are not well located for alternative uses to farming, and would require extensive modification to meet building code requirements for non-residential uses.

In response to Mr Leonard's evidence, Council submitted:

- the heritage significance of the building does not turn on its internal layout which will not be protected by applying Heritage Overlay 141
- the nature of works to make the building habitable are essentially outstanding repair and maintenance albeit required at the one-time to abate the impact of present management
- the cost estimate for repair is rudimentary
- there is no evidence before the Panel demonstrating the costs of repairing the building are incapable of yielding a viable economic outcome, or that the outcome would be any different to the ordinary expense of a homeowner maintaining their property.

In conclusion, Council submitted the Panel should follow the Greater Geelong C422ggee and Brimbank C227brim Panel findings that the condition of the building is not determinative when assessing whether the Heritage Overlay should be applied.

(ii) Discussion

The Panel has previously found that 796 Building does not meet the threshold for local heritage significance. However, it comments on whether building condition would have been relevant when assessing its significance or whether the Heritage Overlay should be applied.

Consistent with the discussions and conclusions of panels referenced by Council and G Adams, the Panel considers building condition would not be relevant to the proposed listing unless there was documented evidence that demolition was inevitable, and the building would not survive by the time the Amendment is gazetted. While it is clear to the Panel the 796 Building requires extensive repair, it is not at risk of imminent collapse. Moreover, the necessary repairs are entirely consistent with those periodically required for buildings predominantly constructed with timber and iron, both of which deteriorate with age and without maintenance.

Matters regarding future use of the land in the context of zoning and condition are relevant at the planning permit stage when a development proposal can be assessed against the broad suite of relevant planning policies including heritage.

4.7 Conclusions and recommendations

The Panel concludes:

- The most important period in the break-up of pastoral estates in Melton was early in the twentieth century.
- The Mount Aitken Estate Soldier Settlement Housing is the only example of post-World War II Soldier Settlement Scheme development in Melton. This subdivision played a very minor role in the break-up of pastoral estates and is not historically important to Melton.
- The comparative analysis prepared for the Mount Aitken Estate Soldier Settlement Housing is inadequate and does not demonstrate the buildings are important examples of post-World War II Soldier Settlement housing in Melton.
- The building at 740-794 Mount Aitken Road, Diggers Rest is not sufficiently intact or of sufficient integrity to justify the Heritage Overlay.
- While in very poor condition, demolition of the building at 796-830 Mount Aitken Road is not an inevitable outcome, and condition of building is not a determinative consideration to whether it should be included in the Heritage Overlay.
- Applying the Heritage Overlay to the Mount Aitken Estate Post-World War II Soldier Settlement Housing is not strategically justified.

The Panel recommends:

4. **Delete the HO141 listing from the Heritage Overlay Schedule and the associated Planning Scheme Map.**
5. **Delete ‘*Statement of Significance: 115-131 Napier Street, 480-580, 726-738, 740-794 and 796-830 Mt Aitken Road, Diggers Rest “Mt Aitken Soldier Settlement Housing” June 2022*’ from the Schedule to Clause 72.04 (Documents Incorporated in this Planning Scheme).**

Appendix A Document list

No.	Date	Description	Provided by
1	18/5/23	Panel Directions and Timetable Version 1	Planning Panels Victoria (Panel)
2	23/5/23	City of Melton Heritage Assessment Project 2020/21 Methodology Report, January 2022	Council
3	29/5/23	Part A Submission	Council
4	29/5/23	Witness Statement Adam Mornement	Council
5	5/6/23	Witness Statement Bryce Raworth	G Adams
6	5/6/23	Email to parties regarding structural engineering evidence	G Adams
7	5/6/23	Letter to parties regarding Shane Leonard witness statement	Council
8	6/6/23	Letter to parties regarding structural engineering evidence and second Directions Hearing	Panel
9	6/6/23	Letter to parties in reply to structural engineering evidence	G Adams
10	7/6/23	Advice to parties advising withdrawal of witness and appearance from the Hearing	Prime Equity
11	7/6/23	Email to parties in reply to structural engineering evidence with attachments <ul style="list-style-type: none"> - Dustday Investments Pty Ltd v Minister for Planning [2015] VSC 101 - Melbourne C387melb (PSA) [2021] PPV 89 (10 November 2021) Panel Report 	G Adams
12	7/6/23	Email to parties in reply to structural engineering evidence	Council
13	8/6/23	Witness Statement Shane Leonard	G Adams
14	9/6/23	Letter to parties and Timetable Version 2	PPV
15	13/6/23	Submission	Prime Equity
16	13/6/23	Part B Submission with attachments <ul style="list-style-type: none"> a. Planning Practice Note PPN01 b. VHR Criteria and Threshold Guidelines 2022 c. VHD Search 6 June 2023 d. Presentation Adam Mornement 	Council
17	13/6/23	Statement of evidence in reply Adam Mornement	Council
18	13/6/23	a. Shire of Melton Heritage Study Stage 1 Places of Potential Heritage Significance June 2002 b. Shire of Melton Heritage Study Stage 2	Council
19	14/6/23	Lovell Chen response to request for quotation Heritage Assessment Project 23 September 2019	Council
20	14/6/23	Outline of submissions with attachments	G Adams

No.	Date	Description	Provided by
		a. Title search 796-830 Mount Aiken Road	
		b. Title search 740-794 Mount Aiken Road	
		c. Crown Grant 23761 1847	
		d. Crown Grant 23762 1847	
		e. Crown Grant 23763 1847	
		f. Crown Grant 23821 1848	
		g. Application for Transfer to Torrens Title AP39635	
		h. Cancelled Certificate of Title Vol 3646 Fol 004	
		i. Cancelled Certificate of Title Vol 4734 Fol 689	
		j. Cancelled Certificate of Title Vol 5390 Fol 971	
		k. Cancelled Certificate of Title Vol 5842 Fol 388	
		l. Heritage Study Volume 4 extract full citation for HO60	
		m. Heritage Study Volume 6 extract Statement of Significance HO60	
		n. Maribyrnong C172mari (PSA) [2023] PPV 10 Panel Report	
		o. Melbourne C387melb (PSA) [2021] PPV 89 Panel Report	
21	15/6/23	Title bundle 480-580 Mount Aitken Road	Council

Appendix B Background and chronology of events

Date	Event
May 2007	2007 Heritage Study finalised
September 2017	City of Melton Heritage Strategy 2017-2021 adopted by Council
2020-2022	Heritage Assessment completed by Lovell Chen
18 July 2022	Council adopted 2020/21 Heritage Assessment and resolved to seek authorisation to prepare and exhibit the Amendment
9 August 2022	Authorisation to prepare the Amendment granted by the Minister for Planning
10 November to 12 December 2022	Public exhibition of the Amendment
24 April 2023	Council considered submissions received in response to exhibition and resolved to: <ul style="list-style-type: none"> - request the Minister for Planning establish an independent planning panel to consider unresolved submissions received in response to the Amendment in accordance with the <i>Planning and Environment Act 1987</i> - authorise the Chief Executive Officer to negotiate and resolve issues that are raised during the independent planning panel process before the Amendment being reported back to Council for consideration
11 May 2023	First Directions Hearing
8 June 2023	Second Directions Hearing
14 and 15 June 2023	Panel Hearings

Appendix C Planning context

C: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 15.03-1S** (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)

Clause 21.07-3.1 provides the following contextual overview of heritage issues in the municipality:

The City of Melton is the boundary between two tribes of the Kulin nation: the Wurundjeri to the east of the Werribee River and the Wathaurong on the west side of the Werribee River. The remnant grassland landscape, river and creek valleys and volcanic cones of the City provide reminders of indigenous stewardship and occupation of the land. The names of creeks and locations, such as Djerriwarrh, Toolern and Kororoit are testament to the continuing relationship of indigenous people with this area. Evidence of pre-contact Aboriginal occupation of the landscape is concentrated around watercourses and on the high rises above the plain, and is mainly demonstrated in artefact scatters.

The City of Melton was first settled by European pastoralists in the 1830s and 1840s, attracted to the extensive volcanic grasslands, deep creeks and easy access to ports at Melbourne and Geelong. Most of the City was taken up by three large pastoral holdings, Exford, Greenhills and Rockbank. These properties left a legacy of elegant homesteads and outbuildings, dry stone walls, dams, historic roads, fords and bridges. In the late nineteenth century smaller farmers moved into the area, as the large estates were broken up. These settlers created small dairy holdings, took up cropping and processed chaff, planted shelter belts, built wooden homesteads and constructed more dry stone walls.

The dry-stone wall landscape of the City is expressive of both the natural history of the volcanic creation of the area and the cultural history of its human modification.

Identification and planning around heritage assets in the early stages of Precinct Structure Planning is critical in ensuring cultural values are protected and enhanced.

Council adopted the Shire of Melton Heritage Study in May 2007 and the Melton Dry Stone Walls Study in August 2011 which identified and assessed places of cultural heritage significance.

Clause 21.07-3.1 goes onto identify key issues, objectives and strategies at sub Clauses 21.07-3.2 and 3.3. In addition, Clause 21.07-3.4, Implementation, informs the strategic justification of the present Amendment. That clause relevantly provides:

Scheme implementation

Applying the Heritage Overlay to places of identified heritage significance, such as sites in the Shire of Melton Heritage Study, or any other relevant heritage studies

Further strategic work

Reviewing and update the Shire of Melton: Environmental History 2007 to identify places which could be included in future gap studies.

Assessing Conservation Desirable sites in Shire of Melton Heritage Study Volume 1 2007 and make recommendations for protection under a Heritage Overlay.

Reviewing the environmental history from the Melton Heritage Study 2007 to ensure consistency with Victoria's Framework of Historical Themes which now forms the basis of heritage studies in Victoria.

C: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) Shire of Melton Heritage Study

The 2007 Heritage Study identified and assessed places of cultural heritage significance in the municipality. The study was commissioned by Council in two stages as follows:

- Stage 1
 - preparation of a thematic history of post-contact settlement and development of the study area (the whole of the municipality);
 - identification of all post-contact places of potential cultural significance in the study area;
 - estimation of the resources required to fully research, document, and assess the cultural significance of all the places identified in Stage 1;
- Stage 2:
 - assessment and documentation of the identified places of post-contact cultural significance against the Australian Heritage Commission's criteria;
 - review of the Thematic Environmental History;

- provision of recommendations for statutory registers; and
- provision of recommendations for a heritage conservation program for the study area.

The study comprises six volumes and was exhibited as part of Amendment C71 to the Melton Planning Scheme. The study (Volumes 1-6) is a reference document to Clause 21.07.

C: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. It 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.

C:4 Ministerial Directions, Planning Practice Notes and guides

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 (updated 13 June 2023)

PPN01 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.

PPN01 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).

Practitioner's Guide

A Practitioner's Guide to Victorian Planning Schemes Version 1.5, April 2022 (Practitioner's Guide) sets out key guidance to assist practitioners when preparing planning scheme provisions. The guidance seeks to ensure:

- the intended outcome is within scope of the objectives and power of the PE Act and has a sound basis in strategic planning policy
- a provision is necessary and proportional to the intended outcome and applies the Victoria Planning Provisions in a proper manner
- a provision is clear, unambiguous and effective in achieving the intended outcome.

Appendix D Diggers Rest Housing Estate Incorporated Plan

Council proposed [additions to exhibited Incorporated Document](#)

Council proposed ~~deletions to exhibited Incorporated Document~~

Diggers Rest Housing Estate Heritage Design Guidelines and Permit Exemptions

Incorporated Plan, ~~June 2022~~ [\[update\]](#)

Heritage place

These heritage design guidelines have been prepared for the Diggers Rest Army Housing Estate (Place ID. 80), identified as HO139 in the Schedule to the Heritage Overlay of the Melton Planning Scheme. The place is of local historical and representative significance to the City of Melton. The Diggers Rest Army Housing Estate, Diggers Rest-Coimadai Road, Diggers Rest, was constructed in the 1950s-60s to house married military personnel working within the Diggers Rest radio transmitting station. This precinct comprises the post-war residential subdivision comprising 17 single-storey brick residences, the open grassed quadrangle and the driveway entrance/internal roadway. The visual connection between the housing estate and the Former Army Radio Station (Heritage Overlay 49) also contributes to the significance of the place.

The heritage design guidelines have been prepared to guide development within the mapped extent of the heritage precinct to ensure that the identified heritage values of the place are conserved.

Demolition

Objectives

To encourage the retention of contributory buildings or elements that contribute to the significance of the precinct.

Guidelines

Discourage the demolition of contributory buildings or elements that contribute to the significance of the precinct.

Allow for partial demolition of contributory buildings, limited to the rear elevation only.

Allow for the demolition of non-attached outbuildings [and/or](#) carports.

Alterations and additions

Objectives

To encourage alterations and additions ~~that~~ [to](#) retain the consistent presentation of the housing estate and common architectural style, features and details of the heritage place.

To encourage alterations and additions to [contributory](#) buildings that are concealed as far as possible in views to the principal facade of the contributory buildings from either Diggers Rest-Coimadai Road or the internal roadway.

Guidelines

Discourage alterations that would change the features of ~~the~~ contributory buildings which clearly demonstrate the characteristics of post-war defence housing. This includes the simple form, single-storey brick veneer presentation of the dwellings, tile or corrugated steel-clad gable ended or hipped roofs and brick chimneys.

~~Allow for sensitive alterations and additions to the buildings. These should be visually recessive and located to the rear of the buildings, and preferably low scale/single storey.~~ Encourage alterations and additions to be sensitive to the contributory buildings, visually recessive, located to the rear of the contributory buildings and low scale/single storey.

~~Where additions to the rear of the buildings are visible, these should be clearly identifiable as new works.~~ Additions to the rear of the contributory buildings should be clearly identifiable as new works.

Discourage two-storey additions to the rear of the contributory buildings where the mass and bulk would be visually dominant.

Discourage new additions that project beyond the front facade of the contributory buildings.

Discourage new built form in the front setback.

~~Discourage change to the paired residential driveways or the addition of new crossovers/driveways.~~ Discourage change to the paired residential driveways.

Discourage the addition of new crossovers/driveways.

Discourage the introduction of front fences, to maintain the open nature of the residential precinct as it presents to the primary streetscape.

Infill development

Objectives

To encourage sensitive new development ~~that to~~ respects the heritage place through its setting, location, bulk, form, height, materials and appearance.

Guidelines

Discourage the replacement of contributory buildings with infill buildings.

Encourage any infill development to be sited on the two vacant allotments between units 6 and 8, 107-207 Plumpton Road, Diggers Rest.

Discourage the development of the two vacant allotments between units 6 and 8, 107-207 Plumpton Road, Diggers Rest with attached residences.

~~Where proposed,~~ Encourage infill development to ~~the two vacant allotments on Diggers Rest-Coimadaí Road to~~ respond to the scale, form, massing and materials of the contributory buildings within the precinct. This includes overall facade and building heights and roof form/pitch.

Encourage infill development ~~to vacant allotments~~ to reflect the consistent setbacks of the contributory buildings within the precinct from the front and side property allotment boundaries.

~~Discourage the development of the two vacant allotments on Diggers Rest-Coimadaí Road with attached residences.~~

Subdivision

Objectives

To discourage subdivision that would adversely affect the significance of the heritage place.

To encourage the retention of the housing estate planning and features that contribute to the significance of the heritage place, including the open grassed quadrangle, driveway entrance ~~and~~ internal roadway and the visual connection between the housing estate and Former Army Radio Station (HO49).

Guidelines

~~Discourage subdivision within the heritage precinct that would impact on the layout of the housing estate planning, including allotment size.~~ Discourage subdivision within the heritage precinct that would impact on the layout of the housing estate planning, including the perception of the housing estate as a series of single story dwellings on separate allotments.

Discourage the introduction of new residential allotments within the heritage precinct.

Discourage the consolidation of the two vacant allotments on Diggers Rest-Coimadai Road.

~~Encourage the retention of the housing estate planning that maintains one single storey dwelling per residential allotment.~~

Maintain the arrangement of the open grassed quadrangle, driveway entrance and internal roadway.

Permit exemptions

This section of the Incorporated Plan set out sets out permit exemptions from the provisions of the Heritage Overlay in accordance with Victoria Planning Provisions Clause 43.01-3. It applies only to the Diggers Rest Army Housing Estate (Place ID. 80), identified as HO139 in the Schedule to the Heritage Overlay of the Melton Planning Scheme. In accordance with Clause 43.01-3, no permit is required under the Heritage Overlay for works done in accordance with this section of the Incorporated Plan.

Demolition

Demolition of stand-alone outbuildings. This includes a carport, garage, shed or similar structure which is detached from the contributory buildings.

Domestic services normal to a dwelling, utility installations and rainwater tanks

The installation (and ~~or~~ associated demolition) of the following domestic services normal to a dwelling if visible from a street ~~(other than a lane) or public park~~ (including the driveway entrance an internal roadway) are permit exempt where:

- Air conditioners, cooling or heating systems and hot water services where the ancillaries and services are attached to the rear wall of the contributory building, or within the rear setback.
- Where attached to a side wall, or within a side setback, the ancillaries and services are set back 4 metres or more from the front facade of the contributory building.
- Rain water tanks where the tanks are located to the rear of the contributory building.

Fences

The demolition and construction of fences where the works involves timber paling fences to rear and/or side ~~property~~ allotment boundaries, with the replacement fence being of the same style, material and in the same location, and which does not exceed the height of the existing fence.

Repairs and routine maintenance

Repairs and routine maintenance works that change the appearance of a heritage place or are not undertaken to the same details, specifications and materials as existing are permit exempt where these works are only undertaken to the rear elevation ~~only~~ of the contributory buildings.

Outbuildings

Construction or extension of an outbuilding is permit exempt where the outbuilding is situated within the rear yard area of the allotment; the outbuilding does not extend beyond the line of the side elevations of the existing contributory building; the eave height of the outbuilding (from natural ground level) does not exceed the eave height of the contributory buildings; and the outbuilding is not attached to the existing building.

Pergolas, verandas and decks

Construction or extension of an open-sided pergola, verandah or deck, including those attached to an existing building, are permit exempt where the pergola/verandah/deck is to the rear of an existing contributory building; roofed pergolas or verandahs do not extend beyond the line of the side elevations of the existing contributory building; and where (from natural ground level) the top of the new structure does not exceed the eave height of the contributory buildings.