

**MELTON PLANNING SCHEME
AMENDMENT C71
HERITAGE AMENDMENT**

PANEL REPORT

JANUARY 2009

**MELTON PLANNING SCHEME
AMENDMENT C71
HERITAGE AMENDMENT**

PANEL REPORT



Helen Martin, Chair



Renate Howe, Member

JANUARY 2009

Contents

1. SUMMARY.....	6
2. BACKGROUND.....	9
2.1 The Amendment	9
2.2 The Panel.....	9
3. WHAT IS PROPOSED?	12
3.1 The nature of the area	12
3.2 Details of the Amendment.....	13
4. PLANNING CONTEXT	14
4.1 Legislated principles	14
4.2 Policy framework.....	14
4.2.1 State Planning Policy Framework	14
4.2.2 Local Planning Policy Framework	15
4.3 Planning scheme provisions.....	15
4.3.1 Heritage Overlay (Clause 43.01)	15
4.4 Heritage guidelines and planning practice note	17
4.4.1 Local Government Heritage Guidelines 1991	17
4.4.2 VPP Practice Note on Applying the Heritage Overlay	18
4.5 Other planning strategies	20
4.5.1 Melton Heritage Study.....	20
5. IDENTIFICATION OF ISSUES	23
5.1 Summary of issues.....	23
5.2 Issues dealt with in this Report.....	25
6. GENERAL ISSUES	26
6.1 Heritage and the Local Planning Policy Framework.....	26
6.1.1 What is the issue?	26
6.1.2 Policy context of the issue	26
6.1.3 Submissions	27
6.1.4 Discussion.....	27
6.1.5 Conclusions and recommendation	28
6.2 Basis for application of the Heritage Overlay.....	28
6.2.1 What is the issue?	28
6.2.2 Policy context of the issue	28
6.2.3 Evidence and submissions	29
6.2.4 Discussion.....	33
6.2.5 Conclusions and recommendation	35
6.3 Historical and scientific significance and the Heritage Overlay	35
6.3.1 What is the issue?	35
6.3.2 Policy context of the issue	35
6.3.3 Evidence and submissions	38
6.3.4 Discussion.....	39
6.3.5 Conclusion	41
6.4 Role of building condition in heritage decision making.....	41
6.4.1 What is the issue?	41
6.4.2 Policy context of the issue	41
6.4.3 Evidence and submissions	42

6.4.4	Discussion.....	42
6.4.5	Conclusion and recommendation	44
6.5	Effect of heritage listing on property values or development potential	44
6.5.1	What is the issue?	44
6.5.2	Policy context of the issue	44
6.5.3	Evidence and submissions	44
6.5.4	Discussion.....	44
6.5.5	Conclusions and recommendations	45
6.6	Proposed incorporated document.....	45
6.6.1	What is the issue?	45
6.6.2	Policy context of the issue	46
6.6.3	Evidence and submissions	46
6.6.4	Discussion.....	46
6.6.5	Conclusion and recommendations	48
6.7	Amendments to exhibited mapping	48
6.7.1	What is the issue?	48
6.7.2	Policy context of the issue	48
6.7.3	Evidence and submissions	49
6.7.4	Discussion.....	49
6.7.5	Conclusion and recommendation	50
6.8	Format of the HO Schedule	50
6.8.1	What is the issue?	50
6.8.2	Policy context of the issue	50
6.8.3	Evidence and submissions	50
6.8.4	Discussion.....	51
6.8.5	Conclusion and recommendation	51
6.9	Notification of owners and occupiers	51
6.9.1	What is the issue?	51
6.9.2	Policy context of the issue	51
6.9.3	Evidence and submissions	52
6.9.4	Discussion.....	52
6.9.5	Conclusion	52
6.10	Circulation of expert evidence	53
6.10.1	What is the issue?	53
6.10.2	Policy context of the issue	53
6.10.3	Evidence and submissions	53
6.10.4	Discussion.....	53
6.10.5	Conclusion	54
7.	INCLUSION OF INDIVIDUAL PROPERTIES UNDER THE HO	55
7.1	HO124 (Citation 477), Grave, Ruin & Archaeological Site, Former 'Greenhills' Pastoral Station, 36-49 O'Connell Avenue, Toolern Vale - Submission 1.....	55
7.1.1	Description.....	55
7.1.2	Statement of significance.....	55
7.1.3	Evidence and submissions	56
7.1.4	Discussion.....	56
7.1.5	Conclusion and recommendation	56
7.2	HO14 (Citation 005), 'Glencoe', 518-610 & 572-618 Blackhill Road & 134- 166 Ryans Lane, Toolern Vale - Submissions 2 & 15.....	57
7.2.1	Description.....	57
7.2.2	Statement of significance.....	57
7.2.3	Evidence and submissions	57
7.2.4	Discussion.....	58
7.2.5	Conclusions and recommendation	59

7.3	HO114 (Citation 391), 'Rocklands' Homestead & Farm, 619-653 Hopkins Road, Truganina - Submission 3	60
7.3.1	Description.....	60
7.3.2	Statement of significance.....	60
7.3.3	Evidence and submissions	60
7.3.4	Discussion.....	61
7.3.5	Conclusion and recommendation	61
7.4	HO112 (Citation 372), House & Outbuildings, 65-543 Greigs Road, Truganina - Submission 4	61
7.4.1	Description.....	61
7.4.2	Statement of significance.....	61
7.4.3	Evidence and submissions	62
7.4.4	Discussion.....	63
7.4.5	Conclusions and recommendation	64
7.5	HO106 (Citation 298), House, 1200-1220 Mt Cottrell Road, Melton South - Submission 5.....	65
7.5.1	Description.....	65
7.5.2	Statement of significance.....	65
7.5.3	Evidence and submissions	65
7.5.4	Discussion.....	65
7.5.5	Conclusion and recommendation	70
7.6	HO27 (Citation 035), House & Outbuilding, 310-360 Gisborne-Melton Road, Toolern Vale - Submission 6.....	71
7.6.1	Description.....	71
7.6.2	Statement of significance.....	71
7.6.3	Evidence and submissions	71
7.6.4	Discussion.....	71
7.6.5	Conclusion and recommendation	72
7.7	HO22 (Citation 024), 'Kuloomba', 2203 Diggers Rest-Coimadai Road, Toolern Vale - Submission 7	72
7.7.1	Description.....	72
7.7.2	Statement of significance.....	72
7.7.3	Evidence and submissions	72
7.7.4	Discussion.....	76
7.7.5	Conclusion and recommendation	77
7.8	HO110 (Citation 359), Kerr Farm site, 1780-1882 Boundary Road, Mt Cottrell - Submission 8	78
7.8.1	Description.....	78
7.8.2	Statement of significance.....	78
7.8.3	Evidence and submissions	78
7.8.4	Discussion.....	79
7.8.5	Conclusion and recommendation	81
7.9	HO49 (Citation 080), Former Army Radio Station, 107-207 Diggers Rest- Coimadai Road, Diggers Rest - Submission 9.....	81
7.9.1	Description.....	81
7.9.2	Statement of significance.....	81
7.9.3	Evidence and submissions	81
7.9.4	Discussion.....	82
7.9.5	Conclusion and recommendation	82
7.10	HO105 (Citation 293), Mt Cottrell Road Stockyards & Ruins, 1476-1570 Mt Cottrell Road, Mt Cottrell - Submission 10.....	83
7.10.1	Description.....	83
7.10.2	Statement of significance.....	83
7.10.3	Evidence and submissions	84

7.10.4	Discussion.....	85
7.10.5	Conclusion and recommendation.....	85
7.11	HO98 (Citation 263), House 'Nerowie', 155 Nerowie Road, Parwan – Submission 11.....	86
7.11.1	Description.....	86
7.11.2	Statement of significance.....	86
7.11.3	Evidence and submissions	86
7.11.4	Discussion.....	87
7.11.5	Conclusion and recommendation.....	88
7.12	HO60 (Citation 136), 'Mt Aitken' Site & Ruin, 740-794 Mt Aitken Road, Diggers Rest – Submission 12	89
7.12.1	Description.....	89
7.12.2	Statement of significance.....	89
7.12.3	Evidence and submissions	90
7.12.4	Discussion.....	93
7.12.5	Conclusion and recommendation.....	94
7.13	HO24 (Citation 029), Farm Complex, 1229-1279 Gisborne-Melton Road, Toolern Vale – Submission 13	95
7.13.1	Description.....	95
7.13.2	Statement of significance.....	95
7.13.3	Evidence and submissions	95
7.13.4	Discussion.....	96
7.13.5	Conclusion and recommendation.....	96
7.14	HO74 (Citation 199), 'Parklea', 148-200 Abey Road, Melton South – Submission 14.....	97
7.14.1	Description.....	97
7.14.2	Statement of significance.....	97
7.14.3	Evidence and submissions	97
7.14.4	Discussion.....	98
7.14.5	Conclusions.....	99
7.15	HO11 (No citation), 'Exford Homestead' (balance), 255-605 Exford Road, Melton South & HO12 (No citation), 'Strathtulloh Homestead' (balance), 1402-1600 Greigs Road, Melton South – Submission 16.....	99
7.15.1	Description.....	99
7.15.2	Statement of significance.....	99
7.15.3	Evidence and submissions	100
7.15.4	Discussion.....	100
7.15.5	Conclusion and recommendation.....	101
7.16	HO67 (shown as HO66 in Vol 6) (Citation 175), House, 488-514 Bulmans Road, Melton – Submission 17	101
7.16.1	Description.....	101
7.16.2	Statement of significance.....	101
7.16.3	Evidence and submissions	101
7.16.4	Discussion.....	103
7.16.5	Conclusion and recommendation.....	105
7.17	HO34 (Citation 044), 126-196 McCorkells Road, Toolern Vale – Submission 19.....	105
7.17.1	Description.....	105
7.17.2	Statement of significance.....	105
7.17.3	Evidence and submissions	105
7.17.4	Discussion.....	107
7.17.5	Conclusion and recommendation.....	108

7.18	HO61 & HO62 (Citations 144 & 146), 'Mt Kororoit', 2-88 Mt Cottrell Road, Melton & 2-88 Leakes Road, Plumpton, Submission 25	108
7.18.1	Description.....	108
7.18.2	Statement of significance.....	108
7.18.3	Evidence and submissions	109
7.18.4	Discussion.....	109
7.18.5	Conclusion and recommendations	109
7.19	HO55 (Citation 199), 974-1048 Melton Highway, Plumpton - Submission 26.....	110
7.19.1	Description.....	110
7.19.2	Statement of significance.....	110
7.19.3	Evidence and submissions	110
7.19.4	Discussion.....	114
7.19.5	Conclusion and recommendation.....	115
7.20	HO43 (Citation 067), The Diggers Rest Hotel, 1434-1466 Old Calder Highway, Diggers Rest - Submission 27	115
7.20.1	Description.....	115
7.20.2	Statement of significance.....	115
7.20.3	Evidence and submissions	116
7.20.4	Discussion.....	117
7.20.5	Conclusion and recommendation.....	118
8.	RECOMMENDATIONS.....	119

Appendices

APPENDIX A	LIST OF SUBMITTERS.....	122
------------	-------------------------	-----

1. Summary

Amendment C71 to the Melton Planning Scheme, prepared by the Shire of Melton, proposed to implement the recommendations of the *Shire of Melton Heritage Study 2007* (the Melton Heritage Study) by including 113 individual places in the Schedule to the Heritage Overlay (HO). It also proposed to amend planning scheme maps and introduce new maps as required, to introduce an incorporated plan to Melton Cemetery (HO69) and to ensure that sites included on the Victorian Heritage Register are mapped accurately and the schedule provisions are correct.

Council later proposed to include the statements of significance for all places in Amendment C71 as an incorporated document under the planning scheme. The Panel required all affected owners to be notified of this proposal and given an opportunity to respond. No comments this issue were received.

Twenty-seven submissions were received on Amendment C71, including two late submissions during the Hearing period. Of the total, six were from referral authorities, signifying either support for or no objection to the Amendment.

A number of submissions suggested corrections to the statement of significance for the relevant place. Others asked for the area of land included under the HO to be reduced to exclude specific features and/or to lessen the impact on the property. Ten submissions wanted a place removed from the HO altogether, most claiming that the place in question did not have the heritage values attributed to it in the study. Some of these submissions also questioned aspects of the methodology used in the Melton Heritage Study.

A major focus of concern in expert evidence and in discussions at the Hearing involved the inclusion under the HO of places of historical or scientific (archaeological) significance, particularly where these contained relatively scarce or deteriorated fabric and thus little direct evidence of their importance. Amongst other things, it was suggested that the HO should not be used for sites of archaeological potential, because these were already dealt with under the Heritage Act.

Other issues raised included matters not relevant to determining whether a place should be listed under the HO, including the perceived effects of heritage listing on property values or future development plans, the poor

condition of buildings or other significant components of the place, or a preference on the part of the owners not to have their property covered by the overlay.

The Shire of Melton supported deletion of three places from the overlay: HO11 and HO12, on the grounds that no sites of potential archaeological significance had been identified on the land; and HO34, on the grounds that changes to the property since the completion of the Melton Heritage Study had removed most of the original fabric and greatly reduced its heritage values.

Council acknowledged that some statements of significance required changes to reflect information provided by submitters or expert witnesses, and undertook to do this. It also proposed to amend the mapping of a number of sites to reduce the area so as to cover the significant components of sites, together with an appropriate curtilage around them.

The Panel has concluded that the Melton Heritage Study met and often exceeded the expectations of a local heritage study and generally formed a good basis for the application of heritage controls. It also concluded that it is legitimate for places of historical or scientific significance to be included under the HO, providing their significance is established and there is some remaining fabric or other physical components (such as potential archaeological deposits) to be managed under the overlay.

Council's proposals concerning amended mapping and changes to the statements of significance for some places are endorsed, and the Panel has recommended several other changes that should be made to the statements and/or the maps. Council's intention to correct an error in some statements of significance by substituting AHC criterion G1 (social value) for E1 (aesthetic value) is also supported.

The Panel undertook accompanied inspections of five places that were the subject of submissions and presentations and viewed a number of others from the nearest road.

The Panel accepts Council's advice concerning HO11 and HO12 and concurs with its assessment of HO34. Accordingly, deletion of all three from the HO is recommended.

On the basis of submissions, inspections and subsequent consideration, the Panel has recommended that two further places – HO67 and HO106 – should be deleted from the HO. While both have some historical significance, they do not meet the threshold for architectural significance and Amendment C71

contains better examples of the historical events with which they are associated.

The Panel has recommended that incorporated plans be prepared for three places – HO60, HO110 and HO112 – to assist their future heritage management and minimise the need for permits for current land uses.

Although the matter was not raised in any submission, the Panel is concerned that the Melton Planning Scheme contains very little reference to the heritage of the Shire, either in terms of strategic support for its conservation or in relation to guidance for future decision making. It has recommended that this should be addressed as a matter of some urgency.

2. Background

2.1 The Amendment

Amendment C71 to the Melton Planning Scheme, as exhibited, proposed to:

- implement the recommendations of the *Shire of Melton Heritage Study* 2007 (the Melton Heritage Study) by including 113 individual places in the Schedule to the Heritage Overlay (HO), amending planning scheme maps and introducing new maps as required and introducing an incorporated plan to HO69, Melton Cemetery; and
- alter the planning scheme maps and the Schedule to the HO so that sites included on the Victorian Heritage Register are mapped accurately and the schedule provisions are correct.

The planning authority is Melton Shire Council and the proponent is also the Shire.

2.2 The Panel

This Panel was appointed under delegation on the 29 September 2008 pursuant to Sections 153 and 155 of the *Planning and Environment Act 1987* to hear and consider submissions in respect of the Amendment.

The Panel consisted of:

- Chairperson: Helen Martin; and
- Member: Renate Howe.

Procedural issues

After exhibition of the Amendment, Melton Shire determined to include the statements of significance – extracted from the citations for each building proposed for inclusion under the HO – as an incorporated document in the Melton Planning Scheme. The Panel required the Council to advise all affected property owners of its intention, to enable submissions on this matter to be made before the Hearings commenced.

Hearings and inspections

A Directions Hearing was held on 27 October 2008 at Melton. The Panel Hearing was held on from 8 to 10 December 2008 at Melton.

The Panel inspected all the properties that were the subject of presentations at the Hearing and viewed most of the other properties on which submissions were made (the exceptions being those not visible from a public road). Accompanied visits were made to the following locations:

- 2203 Diggers Rest-Coimadai Road, Toolern Vale;
- 740-794 Mt Aitken Road, Diggers Rest;
- 148-200 Abey Road, Melton South;
- 126-196 McCorkells Road, Toolern Vale; and
- 1788-1882 Boundary Road, Mt Cottrell.

Exhibition

The amendment was exhibited between 22 May 2008 and 25 July 2008. Notices were placed in the local newspapers on 20 May 2008 and the Government Gazette on 22 May 2008, and letters were sent to all owners of properties affected by the Amendment.

Submissions

A total of 25 submissions were received as a result of exhibition. Of these, six were from referral authorities, signifying either support for or no objection to the Amendment.

As a result of the additional notification required by the Panel, two late submissions and requests to be heard were received. The Shire of Melton accepted these submissions and referred them to the Panel, even though neither referred directly to the reason that the additional notice had been given, i.e. the proposal to incorporate the relevant statements of significance from the Melton Heritage Study in the planning scheme.

Appendix 1 contains a list of all written submissions about the Amendment.

The Panel has considered all written and oral submissions and all material presented to it in connection with this matter.

The Panel heard the parties listed in Table below.

Table 1

Submittor	Represented By
Melton Shire Council	Mr Terry Montebello, solicitor, of Maddocks, who called the following witnesses: <ul style="list-style-type: none"> • Mr David Moloney, Heritage consultant • Ms Sera-Jane Peters, Heritage advisor

Submittor	Represented By
G. Adams Enterprises Pty Ltd	Ms Juliet Forsyth, of Counsel, instructed by Ms Zoe Damos, of Deacons, who called the following witness: <ul style="list-style-type: none"> Mr Alan Willingham, Architectural historian, conservation architect & heritage consultant
Rinker Australia Pty Ltd	Mr Lloyd Elliot, Urbis Australia Pty Ltd
BRD Group Pty Ltd	Ms Fiona Slechten, Tomkinson Pty Ltd
Mr J Morton	Mr David Morton
Mr J & Mrs S Galea	Mr Andrew Gray, ARG Planning Pty Ltd
Mount Souvenir Pty Ltd	Mr Ian McLeod, who called the following witnesses: <ul style="list-style-type: none"> Mr David Bick, Architectural historian & conservation architect Mr Nick Kulkulka, Building surveyor
Owners of Diggers Rest Hotel	Mr Peter Barber, Urban Edge Consultants Pty Ltd
Estate of M Robinson	Mr Keith Altmann

Further directions

At the close of the Hearing on 10 December 2008 the Panel made the following directions:

- Council should provide its comments on the effects of recent changes to 126-196 McCorkells Road, Toolern Vale on the heritage significance of the property, as soon as possible following the accompanied site inspection on 16 December;
- Council should provide its comments as soon as possible on the late submission and presentation made by Mr Peter Barber on behalf of the owners of the Diggers Rest Hotel; and
- The Panel would accept a further written submission from Mr Oman on behalf of Orbal Marketing Pty Ltd, who had made a late submission and requested to be heard, but was overseas at the time of the Hearings. The date for receipt of this submission was subsequently set as 7 January 2009. An opportunity for Council comment would be provided if a supplementary submission were received.

3. What is proposed?

3.1 The nature of the area

The Shire of Melton's website describes the area as follows:

The Shire of Melton provides an urban-rural lifestyle to approximately 96,000 residents, and is growing fast.

....

Located at the juncture of a major development triangle and a transport hub, Melton provides easy access to local, national and international markets.

The Shire of Melton is within 35 minutes of several major transport hubs, including Melbourne International airport, Avalon airport (a full scale freight dedicated airport), Melbourne port (the largest container port in Australia) and Geelong Port.

This is of great benefit to most industries and in particular the food and thoroughbred-breeding industries that rely upon the freshness of products, or minimal disturbance to valuable livestock.

The major thrust of recent industrial development within the north and west of Melbourne has been around the Western Ring Road. Melton is 15 minutes west of the Western Ring Road via the freeway.

The development of the Deer Park Bypass in the next 5 years will directly connect Melton to the Western Melbourne Freeway system and the major industrial hub of Melbourne.

The long term view by economic geographers is that the Melbourne-Geelong link will provide greatest input in driving the Nation's economy.

The Shire consists of the former Shire of Melton, the Diggers Rest district of the former Shire of Bulla and the Exford district of the former City of Werribee.

An outline of the key features of the Shire, in regard to its history and heritage, is given in section 4.5 below, in the discussion of the Melton Heritage Study.

3.2 Details of the Amendment

Amendment C71 primarily proposes to implement the recommendations of the Melton Heritage Study by:

- including 113 individual places in the schedule to the HO in the Melton Planning Scheme;
- amending existing HO maps numbers HO7, HO8, HO9 and HO12;
- inserting new HO maps numbers HO1, HO2, HO3, HO4, HO5, HO10, HO13 and HO14; and
- introducing an incorporated plan to the Melton Cemetery (HO69).

The Amendment also proposes to:

- Alter the planning scheme maps and the schedule to the HO in the Melton Planning Scheme so that sites of State significance, currently listed on the Victorian Heritage Register (VHR) are correctly identified in the scheme by:
 - correcting mapping errors found with HO2 and HO3 so that mapping accurately reflects the VHR; and
 - including four individual places – HO9, HO10, HO11, HO12 – into the schedule to the HO.
- Amend the schedule to the HO to allow for prohibited uses to be considered for places HO1, HO2, HO3 and HO4.

At the Directions Hearing on 27 October 2008, Council notified the Panel of its intention to request that the Panel also consider and approve the following changes to the exhibited Amendment:

- substituting amended maps, in cases where Council had either reached an agreement with submitters or where there were errors in the exhibited mapping or where Council was content to allow a lesser area than that originally mapped to be set out as the HO;
- including the Shire of Melton Heritage Study Volume 6 – Citations 002-477 – which contains the statements of significance for each place to be included in the HO – as an incorporated document at Clause 81 of the Melton Planning Scheme; and
- making minor amendments to the schedule to the HO, relating to the location of details about components of the heritage place to which specific controls apply.

4. Planning context

This section identifies the existing strategic context within which issues associated with Amendment C71 must be considered, together with any proposed changes to it.

The relevant documents that provide the context for considering Amendment C71 are as follows:

- The objectives of the *Planning & Environment Act 1987*;
- The State Planning Policy Framework (SPPF);
- Melton Planning Scheme – Local Planning Policy Framework (LPPF);
- The *Local Government Heritage Guidelines* (Department of Planning & Housing 1991) and the Victoria Planning Provisions (VPP) Practice Note on *Applying the Heritage Overlay* (February 1999); and
- The Shire of Melton Heritage Study – Stage 2 (2007).

The relevant policies and studies are briefly summarised below.

4.1 Legislated principles

The *Planning & Environment Act 1987* contains an objective at 4[1] [b]:

To conserve and enhance those buildings, areas and other places which are of scientific, aesthetic, architectural or historical interest, or otherwise of special cultural value.

4.2 Policy framework

4.2.1 State Planning Policy Framework

Clause 15.11 provides for the conservation of places that have natural, environmental, aesthetic, historic, cultural, scientific or social significance or other special value important for scientific or research purposes.

The general implementation provisions of this clause require planning authorities to identify, conserve and protect places of natural or cultural value from inappropriate development. Places to be protected include:

Sites associated with European discovery, exploration and settlement of Victoria; and important buildings, structures, parks, gardens, sites, areas, landscapes, towns and other places associated with the historic and cultural development of Victoria, including places associated with

pastoral expansion, gold mining, industrial development and the economic expansion and growth of Victoria.

The clause provides that planning authorities should have regard to the Local Government Heritage Guidelines when preparing planning schemes or amendments to assist the conservation and enhancement of places, sites and objects of non-Aboriginal cultural heritage values.

The Panel considers there is substantial support in both the Planning and Environment Act and the SPPF for the application of planning provisions aimed at protecting places of local heritage significance, as is proposed by Amendment C71.

4.2.2 Local Planning Policy Framework

Municipal Strategic Statement

The Municipal Strategic Statement (MSS) in the Melton Planning Scheme contains the following objective, as part of Clause 21.03, Planning visions and objectives for Melton.

Areas of Historical, Cultural and Environmental Significance

To protect and enhance areas of environmental, historical and cultural significance and sensitivity.

There is no heritage policy in Clause 22 – Local Policies.

Amendment C71 does not propose any changes or additions to the LPPF.

The issue of the need for strategic support for the application of the Heritage Overlay and for guidance in the exercise of discretion under its provisions is discussed in section 6.1 below.

4.3 Planning scheme provisions

4.3.1 Heritage Overlay (Clause 43.01)

Amendment C73 to the Melton Planning Scheme, introduced by the Minister for Planning on 17 April 2008, applied interim heritage controls to 116 places. Amendment C71 seeks to apply the HO to most of these places on a permanent basis.

The Heritage Overlay requires a permit to do any of the following:

- Subdivide land;
- Demolish or remove a building;

-
- Construct a building or construct or carry out works, including:
 - Domestic services normal to a dwelling if the services are visible from a street (other than a lane) or public park;
 - A rainwater tank if the rainwater tank is visible from a street (other than a lane) or public park;
 - A fence;
 - Road works and street furniture [other than specified works];
 - A domestic swimming pool or spa and associated mechanical and safety equipment;
 - A pergola or verandah, including an open-sided pergola or verandah to a dwelling with a finished floor level not more than 800mm above ground level and a maximum building height of 3 metres above ground level;
 - A deck, including a deck to a dwelling with a finished floor level not more than 800mm above ground level;
 - Non-domestic disabled access;
 - Bicycle pathways and trails.
 - Externally alter a building by structural work, rendering, sandblasting or in any other way;
 - Construct or display a sign;
 - Externally paint a building if the schedule to this overlay identifies the heritage place as one where external paint controls apply;
 - Externally paint an unpainted surface;
 - Externally paint a building if the painting constitutes an advertisement;
 - Internally alter a building if the schedule to this overlay identifies the heritage place as one where internal alteration controls apply;
 - Carry out repairs and routine maintenance which change the appearance of a heritage place or which are not undertaken to the same details, specifications and materials;
 - Remove, destroy or lop a tree if the schedule to this overlay identifies the heritage place as one where tree controls apply [Exemptions apply to address safety issues.]

The Heritage Overlay controls do not impact on routine maintenance, or internal works or renovations [except where the schedule requires it] and specifically, the following minor works do not require a permit:

- repairs or routine maintenance, which do not change the appearance of a heritage place. The repairs must be undertaken to the same details, specifications and materials;

-
- Anything done in accordance with an incorporated plan specified in a schedule to this overlay.

Before deciding on an application, Council will be required to consider the decision guidelines outlined in sub-clause 43.01-5. These include:

- The State and Local Planning Policy Frameworks;
- The significance of the heritage place and whether the proposal will adversely affect the natural or cultural significance of the place;
- Any applicable statement of significance, heritage study and any applicable conservation policy;
- Whether the location, bulk, form or appearance of the proposed building will adversely affect the significance of the heritage place;
- Whether the location, bulk, form and appearance of the proposed building is in keeping with the character and appearance of adjacent buildings and the heritage place;
- Whether the demolition, removal or external alteration will adversely affect the significance of the heritage place;
- Whether the proposed works will adversely affect the significance, character or appearance of the heritage place;
- Whether the proposed subdivision will adversely affect the significance of the heritage place;
- Whether the proposed subdivision may result in development which will adversely affect the significance, character or appearance of the heritage place;
- Whether the proposed sign will adversely affect the significance, character or appearance of the heritage place;
- Whether the lopping or development will adversely affect the health, appearance or significance of the tree.

4.4 Heritage guidelines and planning practice note

4.4.1 Local Government Heritage Guidelines 1991

As noted above, Clause 15.11 of the SPPF provides that planning authorities should have regard to the Local Government Heritage Guidelines. These guidelines were prepared some years before the introduction of the new-format planning schemes and the Victoria Planning Provisions, but contain useful advice on the preparation of heritage amendments and the conservation of Victoria's post-contact cultural heritage.

In relation to heritage amendments, the Guidelines indicate the following expectations:

That all places proposed for planning scheme protection are documented in a manner which clearly substantiates their scientific, aesthetic, architectural or historic interest, or other special cultural value. The documentation ... must include a Statement of Significance. The Department may request further supporting information where it is considered that the:

- *Statement of Significance or documentation justifying the amendment fails to sufficiently establish the scientific, aesthetic, architectural or historic interest, or other special cultural value; or*
- *The approach taken to identifying heritage places for planning scheme protection lacks rigour.*

That heritage amendments will be in a 'plain-English' and 'user-friendly' format in accordance with Department standards. ...

That in the preparation of any major heritage amendment, consideration will be given to the general effect of the amendment in terms of the overall planning of the municipality and the achievement of Council's strategic planning objectives.

That in the case of amendments applying to an extensive list of heritage places, the Department expects the Council to have given some consideration to supporting measures (e.g. advice, guidelines, policies etc) to provide assistance to the community, to effectively administer the proposed controls and to ensure the consistent and justifiable application of discretion under the planning scheme.

The Guidelines recommend the use of planning policies and guidelines to:

- *assist in coming to an appropriate decision on a planning application;*
- *ensure that discretion under the planning controls is exercised in a consistent manner;*
- *assist permit applicants to have some idea as to what will be considered favourably by the council and what will not; and*
- *ensure support for council's actions should it be necessary to justify a decision before the Administrative Appeals Tribunal [now VCAT].*

4.4.2 VPP Practice Note on Applying the Heritage Overlay

The practice note, published in February 1999, gives guidance about the use of the Heritage Overlay in new-format planning schemes.

It advises that places included in the heritage overlay should include any place that:

- is listed on the Register of the National Estate;
- has been recommended for planning scheme protection by the Heritage Council;
- is listed on the Register of the National Trust of Australia (Victoria), provided the significance of the place can be shown to justify the application of the overlay;
- is identified in a local heritage study, provided the significance of the place can be shown to justify the application of the overlay.

It goes on to say:

All places that are proposed for planning scheme protection, including places identified in a heritage study, should be documented in a manner that clearly substantiates their scientific, aesthetic, architectural or historical interest or other special cultural or natural values.

...

The heritage process leading to the identification of the place should be undertaken with rigour. The documentation for each place should include a statement of significance that clearly establishes the importance of the place.

In discussing the need to use recognised heritage criteria for the assessment of the heritage values of places, the Practice Note refers to the criteria adopted by the [former] Australian Heritage Commission (AHC) for the Register of the National Estate and to those used by Heritage Victoria. It then outlines the AHC criteria in detail, but comments that other sets of criteria, including those used by the Victorian Heritage Council and those set out in the 1991 Local Government Heritage Guidelines 'may be acceptable'.

The Practice Note includes advice for the preparation of a heritage overlay schedule.

It describes a 'heritage place' as follows:

A heritage place could include a site, area, building, group of buildings, structure, archaeological site, tree, garden, geological formation, fossil site, habitat or other place of natural or cultural significance and its associated land.

4.5 Other planning strategies

4.5.1 Melton Heritage Study

The Shire of Melton Heritage Study was carried out in two stages, from 2001-2002 and from 2003-2006, by a study team lead by Mr David Moloney. Ms Sera-Jane Peters, the Shire of Melton's Heritage Advisor, was also involved in the later stages of the study. Council adopted the five volumes of the final report, *Shire of Melton Heritage Study – Stage 2* (the Melton Heritage Study) in May 2007.

The thematic environmental history (Vol 2) found that Melton had a unique history and a very distinctive heritage, which was generally not well appreciated. Some of the characteristic places, such as pastoral homesteads, were exceptional but others, such as dry stone dams, were not currently regarded as heritage places. By contrast, the types of places commonly recognised as 'heritage' by the public, such as relatively intact 19th Century small houses, are particularly scarce in Melton compared to most other areas, for important historical reasons.

The environmental history identified the following principal themes in the history of the Shire of Melton:

- Exploration
Hume and Hovell visited the Melton district and reported favourably on the suitability of the grasslands of the volcanic plains for sheep grazing, motivating an early visit from John Batman. Important remnants from the landscape of that time are the River redgums along some of the creeks, isolated specimens of casuarinas on the plains, and the 'Melton Mallee' and eucalyptus woodlands in the north of the Shire.
- The Aboriginal people: post-contact history
The Aboriginal heritage of the area is commemorated in place names. Some accounts of early conflicts and of Aboriginal burials on local properties exist but the exact sites have not been identified.
- The pastoral era
Areas in the Shire, including John Aitken's run near Diggers Rest, were among the very first parts of the Port Phillip District to be settled by Europeans. The pastoral industry dominated the Shire's 19th Century history. Evidence of this era includes early pastoral homesteads, dry stone dams and walls, and an unusual number of isolated graves.
- Transport
Victoria's earliest and most important inland roads passed through Melton, including the road to Portland and later the roads to the goldfields at Ballarat and Castlemaine/Bendigo. Small wayside

settlements were established to service travellers. In later years, the railways to the goldfields followed similar routes. They also stimulated the timber, dairy and chaff-production industries. Surviving places from the gold era include bridges, fords, hotels, a store, and ruins and archaeological places.

- Farming

Some farms were established in the mid-1800s, but after some initial success, a run of bad seasons and poor markets saw most of them fail, especially in the lower rainfall areas. Some evidence, mostly ruinous, survives of these pioneering small farmers, as well as the homestead complexes of some of the more successful larger farmers/small pastoralists of the era.

The break up of the pastoral estates at the start of the 20th Century was described as 'a turning point in the history of the Shire'. Most subdivisions were voluntary, but some were through compulsory acquisition by the Government's Closer Settlement Board.

Technological innovation allowed the second wave of farmers to prosper, developing a major chaff industry, as well as dairying. The early 20th Century homesteads resulting from this movement represent 'the largest single type of heritage places in the Shire'. These were described as 'mostly unprepossessing weatherboard buildings', but regarded as 'crucial' to the history of the Shire.

- Community

Relevant places include local facilities such as roads, bridges, and water supply infrastructure, State services such as schools and a courthouse, and community buildings such as churches, sports clubs and a Mechanics Hall, as well as decorative plantings and memorials.

- Horses, hounds and hares

The Shire has a long history of hunting, greyhound coursing, racing and horse breeding. Places include the remnants of stone hare enclosures.

- Other industries

These included timber getting and radio transmission and reception, for which the region was particularly well suited). Related places include the beam radio receiving station at Rockbank, identified as of State heritage significance, and the Army radio complex at Diggers Rest.

- Water and fire

Water is a major theme in the history of Melton, both in terms of the effect of drought on agricultural activities and of attempts to improve water infrastructure for stock and settlers on farms and for wider public

supply. Places include dry stone dams on farms, underground tanks and cisterns, as well as larger weirs and dams.

Bushfires, especially during the second half of the 20th Century, destroyed many buildings from the early days of the Shire. Toolern Vale was affected particularly badly.

- Satellite city

In the 1960s, Melton was declared as Melbourne's first 'satellite city'. Extensive suburban development led to a major increase in population. The Civic Centre is the major place representing this theme.

These principal historic themes formed the basis of a Municipal Statement of Post-Contact Cultural Heritage Significance, which the Melton Heritage Study envisaged would be incorporated in the Municipal Strategic Statement in the Melton Planning Scheme.

The study recommended places for the Victorian Heritage Register and the HO, and identified a number of other places which it classified as either 'conservation desirable' or 'might be considered worthy of heritage protection in a future study'. It also listed historical and potential archaeological places. The methodology used in the study is discussed in section 6.2 below, and its recommendations are dealt with, as appropriate, in other parts of this report.

Recommendations – divided into high, medium and low priorities – included preparing a planning scheme amendment to implement the study, additional planning and heritage management issues for Council, heritage incentives and a public awareness program.

5. Identification of issues

5.1 Summary of issues

Issues raised in submissions

From the submissions to the Amendment, the Panel identified a number of key issues that need to be addressed. These can be summarised as follows:

- challenges to the nature and degree of significance attributed to particular places by the Melton Heritage Study;
- queries about aspects of the methodology used in the study;
- corrections to details contained in the citations for individual properties in the Melton Heritage Study, particularly regarding the assessment of the condition of places;
- notification of changes that have occurred to places since the preparation of the citations;
- concerns about the use of the HO to identify areas of potential archaeological significance;
- requests to have particular features or areas removed from the mapped area and/or to have tree controls removed from the Schedule to the HO;
- requests to have the extent of the HO mapping reduced to accord more closely with the location of identified heritage assets;
- process issues concerning notification of Amendment C71 and circulation of expert witness reports;
- concerns about the expected impact of the HO controls on the property, including limitations on farming or extractive industry operations, reductions in property values, obligations to maintain uneconomic structures, and impediments to extension of dwellings or redevelopment of properties – particularly in areas within the Urban Growth Boundary.

Issues from the Strategic Assessment Guidelines

The purpose of the Strategic Assessment Guidelines is to provide a consistent framework for the evaluation of a proposed planning scheme amendment and the outcomes it produces.

The Guidelines require the Panel to consider:

- Is an amendment necessary?

-
- Does the Amendment comply with the requirements of the Planning & Environment Act?
 - Does the Amendment support or implement the SPPF?
 - How does the Amendment support or implement the LPPF, and specifically the MSS?
 - Does the Amendment make proper use of the VPP?
 - How does the Amendment address the views of relevant agencies?
 - Have the resource and administrative implications of the Amendment for the responsible authority been properly considered?

The Panel has considered the response to the Strategic Assessment Guidelines included in the exhibited Explanatory Report for the Amendment, together with submissions on the guidelines from Council. The Panel endorses Council's response and considers that no issues are raised by an assessment against the Strategic Assessment Guidelines.

Ministerial Directions

The Minister has made a direction under Section 12(2)(a) that contains the following requirement:

Direction No 9 Metropolitan Strategy

In preparing a planning scheme amendment a planning authority must:

- *Have regard to the Metropolitan Strategy.*
- *Include in the explanatory report discussion of how the amendment addresses the following matters:*
 - *What aspects, if any, of the Metropolitan Strategy are relevant?*
 - *How does the Metropolitan Strategy affect the amendment?*
 - *Is the amendment consistent with any directions and policies in the Metropolitan Strategy?*
 - *Does the amendment support, give effect to or assist the implementation of the Metropolitan Strategy or can it be reasonably modified to do so?*
 - *Will the amendment compromise the implementation of the Metropolitan Strategy?*

The Amendment complies with the Directions.

Compliance with Practice Notes

The following Practice Notes are relevant to the consideration of this Amendment:

-
- Applying the Heritage Overlay.

The consistency of Amendment C71 with the practice note and other heritage guidance is discussed in Section 6.2 below.

5.2 Issues dealt with in this Report

The Panel considered all written submissions, as well as submissions presented to it during and after the Hearing. In addressing the issues raised in those submissions, the Panel has been assisted by the information provided to it as well as its observations from inspections of specific sites.

This Report deals with the issues under the following headings:

- General issues concerning to the justification for the Amendment and/or issues raised in relation to more than one property, including:
 - strategic support for the Amendment;
 - the basis for application of the HO (the Melton Heritage Study);
 - particular issues relating to the application of the HO to sites of historical and/or scientific (archaeological) value;
 - the role of building condition in heritage decision making;
 - the effect of heritage listing on property values and development potential;
 - Melton Shire's proposal to incorporate the statements of significance for all places on the schedule in the planning scheme;
 - Proposed amendments to exhibited mapping;
 - Format of HO schedule;
 - Notification of owners and occupiers; and
 - Circulation of expert witness reports.
- Issues relating to individual properties that were the subject of submissions.

6. General issues

6.1 Heritage and the Local Planning Policy Framework

6.1.1 What is the issue?

The Panel needs to be satisfied that the Local Planning Policy Framework (LPPF) in the Melton Planning Scheme provides strategic support for the application of the Heritage Overlay to the places contained in Amendment C71.

6.1.2 Policy context of the issue

The Local Government Planning Guidelines include the following advice:

... in the case of amendments applying to an extensive list of heritage places, the Department expects the Council to have given some consideration to supporting measures (e.g. advice, guidelines, policies etc) to provide assistance to the community, to effectively administer the proposed controls and to ensure the consistent and justifiable application of discretion under the planning scheme.

Clause 21.03-2 of the Melton Planning Scheme identifies key land use planning objectives. These include:

Areas of Historical, Cultural and Environmental Significance

To protect and enhance areas of environmental, historical and cultural significance and sensitivity.

This is the only reference to historical or cultural values in the MSS. There is no local heritage policy in Clause 22, to guide the exercise of discretion in making planning decisions under the overlay.

The Melton Heritage Study, adopted by Council in May 2007, made a series of recommendations for preserving and enhancing the heritage of the Shire, including:

Review the Municipal Strategic Statement, and the Local Planning Policy Framework, and any other land-use strategy plans, in the light of the recommendations of the Shire of Melton Heritage Study.

Prepare and adopt general and local heritage policies in the Planning Scheme to support and implement the objectives and recommendations of this Heritage Study.

The study (Vol 1, pp.36-40) contained a Municipal Statement of Post-Contact Cultural Heritage Significance. It proposed that this should be incorporated in the MSS at Clause 21 as a high priority action (6-12 months). Developing and incorporating a municipal heritage policy and local policies – presumably area-based – should be implemented within the same time frame, along with the addition of the recommended places to the HO.

6.1.3 Submissions

The question of strategic support for the amendment was not raised in any of the submissions, but was identified by the Panel as an issue.

6.1.4 Discussion

Mr Montebello's opening submission on behalf of Melton Shire Council referred to the objective in the MSS (sub-clause 21.03-2, quoted above) and noted that Melton Council does not have any other local policy specific to heritage matters. The submission advised that 'it was expected that a heritage policy will be developed in due course at a later time'.

The Panel requested more information about the proposed timing for developing and incorporating a heritage policy and also about Council's intentions regarding expansion of the treatment of heritage in the MSS.

Ms Peters stated that the MSS was currently being reviewed but she was not aware of whether the addition of any material relating to heritage was under consideration.

In his closing address, Mr Montebello advised that a check of the current draft of the revised MSS had shown that the recommendations of the Melton Heritage Study had not yet been reflected in it. This oversight had been drawn to the attention of the responsible officer(s) and would be addressed.

The Panel acknowledges that the current MSS format preferred by the Department of Planning & Community Development (DPCD) may not allow as expansive a treatment of the Shire's heritage values as the statement set out in the Melton Heritage Study. It is also aware that DPCD is currently reviewing the form and content of the Local Planning Policy Framework in planning schemes in Victoria. This may lead to an amalgamation of Clauses 21 and 22, that is, MSS and Local Policy.

Nevertheless the principle remains that a stronger statement of strategic support for the conservation of Melton's heritage and more guidance about its management under the Melton Planning Scheme are warranted.

6.1.5 Conclusions and recommendation

The Panel has concluded that the current MSS in the Melton Planning Scheme provides sufficient justification for the identification and protection of places under the Heritage Overlay.

However, it is highly desirable that the MSS should contain a statement that encapsulates the key themes in Melton's history and the way in which the places listed under the HO reflect these themes. A heritage management policy would also be beneficial, to give an indication of how Council is likely to exercise its discretion in making decisions under the overlay.

Council should proceed as a matter of some urgency to strengthen the treatment of heritage in the MSS – preferably as part of the current MSS review – and to develop and incorporate a heritage policy in Clause 22.

6.2 Basis for application of the Heritage Overlay

6.2.1 What is the issue?

The Panel needs to be satisfied that the Melton Heritage Study provides sufficient justification for the application of the HO to the places proposed for listing.

6.2.2 Policy context of the issue

Policy guidance for the application of the HO is provided in the Local Government Heritage Guidelines and in the PPN on applying the heritage overlay.

Both documents take a broad view of a heritage place, in line with the Planning & Environment Act. The PPN says:

A heritage place could include a site, area, building, group of buildings, structure, archaeological site, tree, garden, geological formation, fossil site, habitat or other place of natural or cultural significance and its associated land.

In relation to heritage amendments, the Guidelines set out the level of documentation required for all places proposed for planning scheme protection. This must include a statement of significance.

The key advice from the PPN in the context of Amendment C71 includes:

- The places to be listed under the HO include any place that is identified in a local heritage study 'provided the significance of the place can be shown to justify application of the overlay'.
- Places proposed for listing:

... should be documented in a manner that clearly substantiates their scientific, aesthetic, architectural or historical interest or other special cultural or natural values.

...

The heritage process leading to the identification of the place should be undertaken with rigour. The documentation for each place should include a statement of significance that clearly establishes the importance of the place.

- Recognised heritage criteria should be used for the assessment of the heritage values of places, such as the AHC criteria and those used by Heritage Victoria.

Places included in Amendment C71 have been assessed using the AHC criteria, which also inform the criteria used by the Heritage Council of Victoria at the State level.

These criteria – now known as the HERCON criteria (since they were adopted under the auspices of the national heritage convention of chairs of State heritage councils and directors of heritage) – have been modified recently to obtain more coordination between national and State criteria, but remain substantially the same. The AHC criteria, relevant at the time of the study, have been used in Amendment C71 and adapted to the local level.

6.2.3 Evidence and submissions

Several submissions (numbers 11, 12, 15, 19) referred to the methodology of the study and challenged the basis on which it had determined that particular places were of heritage significance. In some cases, this related to whether the place reached the threshold for listing (i.e. local significance), while in others it applied to details in the statements of significance.

Mr Moloney's expert witness report included a summary of the methodology of the Melton Heritage Study. He explained that it was carried out in conformity with the standard Heritage Victoria brief for local heritage

studies. In addition, the Melton study required surveys of historical and archaeological places and of dry stone walls.

Stage 1 of the Melton Heritage Study examined 650 places and identified 475 as being of potential heritage significance. These were identified through sources including published histories and earlier heritage studies, a community workshop and historic maps.

The 475 places included a number of dry stone walls, but it was decided later to commission a separate study on these structures. This ran concurrently with Stage 2 of the Melton Heritage Study. A draft report has been submitted and it is expected that when this is finalised, it will form the basis of a separate amendment. Some dry stone walls were included in Amendment C71, but these were mostly related to other heritage places, such as homesteads.

Mr Montebello noted the recent statewide amendment (VC50), which extended Clause 52.37 to include controls on all dry stone walls constructed before 1940. He advised that Melton had chosen to 'opt out' of this provision (by not nominating any area to which it applied in the schedule to the clause), preferring to put forward a specific amendment in 2009.

Mr Moloney, in describing the methodology of the Melton Heritage Study, said that the Stage 1 total of potential places was reduced in Stage 2, initially to 200 and then to the 115 places that were documented and recommended for inclusion in the HO. Seven places were assessed as of State significance and recommended for listing on the VHR, as well as under the HO.

Mr Moloney described the manner in which the reduction in the number of places was done as 'an iterative process, using a number of methods and criteria'. These included assessment of the documentation by a heritage architect and a horticultural historian, as well as ongoing consultation with owners and the local historical society. The potential places were also correlated with the principal historic themes identified in the study, to ensure coverage of all major themes and key types of places.

Budget constraints meant that not all places of potential heritage significance could be documented and assessed. Mr Moloney referred to the schedules to Volume 1 of the study that list places whose conservation is 'desirable' (57 places), others that might be considered in a future amendment (22 places) and historic sites and potential archaeological sites (61 places).

Mr Moloney said the study team used the principles of *The Burra Charter: Charter for the Conservation of Places of Cultural Significance* (Australia ICOMOS, 1999) as the basis of its assessments. The Burra Charter defines

cultural significance by aesthetic, historic, scientific, social and spiritual values. The Planning & Environment Act also includes architectural values.

The determination of heritage significance for each place was based on the AHC criteria and the *Application Guidelines for the Register of the National Estate* (1990). Mr Moloney told the Panel that where places are listed against more than one criterion, they were assessed as achieving local significance against each of them. The statements of significance identify the level of significance against each value and for the site overall.

Following completion of the Melton Heritage Study, Council undertook a 3-month informal public exhibition of the places proposed for listing under the HO. Copies of draft citations were sent to all affected owners. Ms Peters, appointed as Heritage Advisor at this time, undertook liaison with owners and peer-reviewed the study. She carried out a substantial number of site inspections and recommended changes to a number of citations. Mr Moloney also notes that, as a result:

... two places in poor condition, or demolished, were removed from the final list of places included in Amendment C71.

Mr Moloney advised the Panel that he had identified an error in the use of AHC criteria in some citations. Criterion E1 (generally used to represent aesthetic significance) had been shown in some Statements of significance as the criterion relating to social significance, which should have been G1. He tabled a document that showed the changes proposed. These included a few cases where he now thought that aesthetic value should be added, though it had not been listed previously.

The Panel also queried why the team had mostly used AHC criterion D2 for architectural value, rather than the more usual criterion for aesthetic value (E1). Mr Moloney explained that the team had generally regarded D2 as being more appropriate than E1. In a note provided to the Panel after the Hearing, he said:

I omitted to say that this was because most of the places regarded as having architectural significance in the Shire of Melton were significant for their 'representative' value, rather than for their original design qualities. We felt that Criterion D2 was the appropriate one for representative values. We did also use Criterion E1 where a place was (or was also) assessed as being significant for its original design quality.

Mr Moloney, in response to another Panel question, said that post-war immigration had not been identified as a theme in Melton. There was some Italian and Maltese settlement, and a Prickly pear plantation had been one of the sites on the long list. Interwar development was also not a theme,

though a number of places proposed were from that period. Mr Moloney's evidence on one of these properties indicated that many of them were late 'infills' on blocks created by the subdivisions of the major pastoral estates. No places had been proposed for listing as representing the 'satellite city' theme, because they were considered too recent.

Mr Riordan queried Mr Moloney about the way in which assessments had been carried out, in particular whether the study team had visited each property. He also put the view that Council should be able to produce written approval from owners to confirm that they had consented to the inspections.

Mr Moloney said that he had visited as many of the properties as he could gain access to. In most cases, this involved driving up to the house and asking to be allowed to look around and take photographs for the purpose of the heritage study. Where gates were locked or occupants were unwilling, he took photographs from the road or from adjoining properties. In a small number of cases, places that could not be viewed were still included in the Amendment, on the basis of their historical importance as established from the documentary evidence.

The photographs were then supplied to the specialist members of the team:

- *A list of places of potential architectural significance was provided to the architectural historian, who listed those which were definite, possible, or non inclusions from an architectural perspective.*
- *The horticultural historian was provided with a selection of places of potential horticultural significance, and viewed photographs and conducted fieldwork on a selection of those.*

Two expert witnesses raised issues about specific sites that query aspects of the methodology of the study.

Mr Bick, in relation to the thresholds used to assess historical significance, put the view that the break up of the large pastoral estates was not an event of significance in itself. Mr Moloney referred to the thematic history, which had described this as a turning point in the history of the Shire.

Mr Bick also suggested that the comparative analysis was not extensive enough, in the sense of explaining why the places put forward for listing were 'better' than other examples in the Shire. Mr Moloney pointed out that each citation in the study lists comparable places included in Amendment C71 and also those not recommended for listing.

Mr Willingham challenged the basis of identification of places, which he said was mainly from secondary sources and was 'rebutted' by primary source material that he had uncovered about the specific site with which he was concerned. Mr Moloney pointed to the extensive research that underpinned the study and to the use of early maps and plans, as well as secondary sources.

In response to a Panel question about whether a 'group' listing of thematically related places had been considered – for example, for places related to the break up the various pastoral estates – Mr Moloney said that this might have been a good option, but was not one that the study team was aware of at the time as being available to them.

Other issues raised in submissions, evidence or presentations related specifically to the identification of places of historical or archaeological significance and these are dealt with in the following section (6.3).

6.2.4 Discussion

The Panel notes that the study was carried out in accordance with the standard brief supplied by Heritage Victoria, with additional work being commissioned on historic archaeological sites and dry stone walls. The explanation of the methodology provided by Mr Moloney is consistent with accepted practice for local heritage studies, including the way in which permission was sought for site inspections.

The informal exhibition period, allowing for consultation with owners and corrections to citations, while not specifically required by the brief, also represents good heritage practice.

The Panel considers that the thematic environmental history is well researched and relevant and that the themes it identifies give a clear indication of what is important about Melton's history and how this is expressed in surviving places of potential heritage significance.

The individual histories for each place proposed for listing are much more extensive than has been the case for many other heritage studies we have reviewed.

The thematic history and the individual histories provide evidence of the extent to which primary sources have been utilised to identify significant places. Of course, given the resources normally available for a local heritage study, an in depth examination of one site will often be capable of turning up more detailed information than the study was able to do.

The Panel does not consider that any of the submissions or the expert evidence presented at the Hearing undermine the overall basis of the Melton Heritage Study as a credible document on which to base decisions about listing of places under the HO.

The Panel also recognises the difficulties presented by an area such as Melton, where the built fabric was always sparse and seldom grand. As a result, places proposed for the HO on the basis of the studies and assessments undertaken often appear quite modest and would not necessarily warrant listing, at least for their architectural qualities, in other localities. However, the statements of significance relate them effectively to the themes identified in the thematic history and to appropriate AHC criteria.

The comparative examples given in each citation assisted the Panel to identify other comparable places in the Amendment and the reasons for exclusion of other places of similar style or representing the same themes. However, it would have been useful to have photographs of the latter places, to enable a more detailed comparison with those under consideration.

One area where the Panel had reservations was the number of criteria cited for most of the places (five or more in some cases), which is not necessary and may be difficult sustain if the significance of a place is challenged.

Also of interest is the fact that the 'iterative process' that Mr Moloney described meant that some places assessed as having historical significance were not put forward for listing, as a result of being too altered or in at least one case in too poor condition, to qualify against other heritage values.

Mr Moloney, in his presentation to the Panel, showed photographs of a number of places that had not been proposed for listing and gave an explanation about why they were not of sufficient merit. One of these was a 1907 weatherboard Victorian style house. It was excluded because it had a rear extension and the verandah had been altered. After queries from the Panel, Mr Montebello advised that it had historical significance but not enough aesthetic value to make it representative.

This is not normal practice; it is unusual for places evaluated as being 'significant' at the local level not to be proposed for the HO. In saying that, we recognise that the function of the Panel is not to advise about what places from a long list should have been put forward for heritage protection, but rather to assess the merits of those that have been proposed. However, it has created some issues for our later evaluation of individual places, which are discussed in section 7.

The Panel accepts that the use of AHC criterion E1 rather than G1 for social significance was an error. As the statements of significance clearly say that the places in question have social significance, correcting the mistake will not alter the content of the statements. However, the proposal by Mr Moloney to add criteria for some places is not supported.

Although endorsing the use of the AHC/HERCON criteria in local heritage studies, the Panel is strongly of the opinion that a new set of guidelines should be prepared to advise on their application at the local level, as recommended by a number of previous Panels and the Ministerial Advisory Committee on Heritage Provisions in Planning Scheme (2007).

6.2.5 Conclusions and recommendation

The Panel has concluded that the Melton Heritage Study meets and often exceeds the expectations of a local heritage study and generally forms a good basis for the application of heritage controls. This does not prevent us from differing from the study on the merits of a small number of individual sites, on which separate recommendations are given in the relevant sections.

The Panel recommends that:

The use in the statements of significance of AHC criterion E1 in relation to social significance (instead of G1, as it should be) should be corrected for HO18, HO29, HO30, HO31, HO32, HO36, HO38, HO57, HO61, HO62, HO68, HO69 and HO124.

6.3 Historical and scientific significance and the Heritage Overlay

6.3.1 What is the issue?

Issues of historic and scientific significance in relation to Amendment C71 mainly focused on the application of the HO to sites that do not have much remaining fabric, especially sites related to early settlement and the gold rush era.

The Panel needs to be satisfied that the AHC criteria were applied appropriately and with rigour in assessing local heritage significance.

6.3.2 Policy context of the issue

The objective of the Planning & Environment Act concerning heritage, quoted in section 4.1 above, includes 'scientific' and 'historical' as two of the possible types of values of heritage places.

The *Heritage Act 1995* provides, amongst other things, for protection of archaeological places. The Advisory Committee on heritage provisions in planning schemes described the controls as follows:

Protection of non-Aboriginal archaeological relics in Victoria is currently achieved through the Heritage Act. That Act defines an archaeological relic as an archaeological deposit – or an artefact, remains or material associated with an archaeological deposit – which relates to non-Aboriginal settlement or visitation of Victoria and which is 50 or more years old. An archaeological site is defined as the area in which archaeological relics are situated.

Heritage Victoria maintains a register – the Victorian Heritage Inventory (VHI) – which lists known archaeological relics and sites. Relics located within registered archaeological sites are deemed to be the property of the Crown.

Unregistered archaeological sites are also protected by the Heritage Act. Discovery of relics must be reported to the Executive Director of Heritage Victoria. Consent is required to uncover, expose, deface, damage, buy or sell an archaeological relic or to excavate any land for the purpose of discovering such relics.

It noted that:

Relatively few sites of historic archaeological significance – other than those associated with surviving buildings or fabric – are included under the HO in Victorian planning schemes.

The report concluded that, although the primary responsibility for historic archaeological sites lay with Heritage Victoria:

Planning authorities should also be able to identify and evaluate places of potential archaeological significance – through local heritage studies and/or specific archaeological studies – and add them to the HO through the usual process.

The Advisory Committee's recommendations included: expanding the SPPF and the 'head clause' of the HO to make reference to historic archaeological sites as well as those of Aboriginal origin; providing for the identification of places as historic archaeological sites in the schedule to the HO; including appropriate decision guidelines in the HO; and providing advice on applying the HO to archaeological places in appropriate VPP practice notes.

Policy and guidance for the selection of sites for inclusion in the HO is given the SPPF (quoted above in section 4.2). Planning authorities are required to identify, conserve and protect places of natural or cultural value from inappropriate development. Pertinent to Amendment C 71 is that the examples given of the types of places to be protected include sites associated

with early European discovery and pastoral expansion and places of Aboriginal cultural heritage significance and historical and archaeological sites.

The VPP Practice Note on applying the HO has a wide definition of a 'heritage place', which does not necessarily have to be a building or structure but 'a place of natural or cultural significance and its associated land.' The PPN lists archaeological sites as one example of a heritage place, but does not offer any specific advice with regard to the application of the HO to such sites.

The standard brief issued by Heritage Victoria for municipalities and consultants undertaking local heritage studies requires research for the Environmental History, amongst other things, to:

- *provide information on places of potential significance for which physical evidence may be negligible or non-existent such as historic and archaeological sites.*

and

In preparing the Thematic Environmental History the consultant should identify maps, plans and other documents that may show the location of early buildings, structures, elements and activities that may be of potential heritage significance. Buildings, structures, elements and activities shown on these early plans should be further evaluated during the heritage study process for their potential heritage significance, including archaeological importance.

The requirements of the consultant in later stages of the study include:

Historical archaeology report

Drawing from the research undertaken as part of the Thematic Environmental History, field-work etc, the consultant will be required to prepare a brief report which:

- *identifies areas of archaeological sensitivity for which an archaeological management plan should be undertaken; and*
- *make recommendations for inclusion of places in the Heritage Inventory, the Heritage Register or the Heritage Overlay as appropriate.*

The management recommendations for historical archaeological places will have regard to the full range of heritage values and criteria.

The Heritage Council of Victoria and Heritage Victoria have recently issued *Guidelines for Conducting Archaeological Surveys* (2008), mainly for use by historical archaeological consultants.

The Heritage Council has also prepared draft *Guidelines for Assessing Planning Permit Applications* in the Heritage Overlay (February, 2007), which set out guidelines for archaeological sites in Section 15 to 'ensure the appropriate identification and conservation of historical archaeological places'.

Sites included in Amendment C71 have been assessed according to relevant AHC criteria, adapted to the local level. Those most relevant to historical values are criteria A4, B2 and H1, and for archaeological values, criterion C2, as shown below. (The insertions in brackets are the Panel's substitutions of terms or descriptions relevant to the local level, rather than the level of the national estate). The criteria read:

A place [is] included in the [the heritage overlay] if it has significance or other special value for future generations as well as for the present community because of:

CRITERION A. Its importance in the course, or pattern, of [the Shire of Melton's] natural or cultural history.

A4. Importance for association with events, developments, or cultural phases which have had a significant role in the human occupation and evolution of the nation, State, region or community.

CRITERION B. Its possession of uncommon, rare or endangered aspects of [Melton's] natural or cultural history.

B2. Importance in demonstrating a distinctive way of life, custom, process, land-use, function or design no longer practiced, in danger of being lost or of exceptional interest.

CRITERION H. Its special association with the life or works of a person, or group of persons, of importance to [Melton's] natural or cultural history.

H1. Importance for close associations with individuals whose activities have been significant within the history of the nation, State or region.

...

CRITERION C. Its potential to yield information that will contribute to an understanding of [Melton's] natural or cultural history.

C2. Importance for information contributing to a wider understanding of human occupation of [the Shire of Melton]

6.3.3 Evidence and submissions

A number of submissions and expert evidence raised the issue of applying the HO to places which are assessed as being of historical or scientific significance, but where there is little fabric remaining to illustrate this significance. Submissions included Mr Montebello on behalf of Council and

Ms Forsyth in relation to HO60. The issue was raised in evidence given on behalf of the Council by Mr Moloney and Sara-Jane Peters and in evidence given by Mr Willingham (regarding HO60) and Mr Bick (regarding HO22).

Submissions put forward the argument that places without physical remnants related to their historical significance did not warrant listing under the HO.

Some presenters mentioned duplication with protection of archaeological places under the Heritage Act and implied that archaeological potential was not a matter that should be addressed by local heritage studies. Other submissions were critical of what they saw as the lack of substantial evidence for archaeological significance or the 'potential' for archaeological places to yield useful information.

6.3.4 Discussion

In relation to the heritage significance of archaeological sites the Panel agrees that duplication of the controls of the Heritage Act is not desirable. However, the Panel noted that while sites listed in the Inventory were adequately protected, there was uncertainty around those that were not listed. It is also aware that most areas of Victoria have not been subject to systematic investigation to identify sites of archaeological potential, so the Inventory cannot be taken to be a complete or comprehensive list.

The Terms of Reference for the Advisory Committee on heritage provisions in planning schemes included consideration of applying the Heritage Overlay to places of archaeological significance. The Advisory Committee report found that the current provisions:

... provide no link between Planning Schemes and the provisions of the Heritage Act regarding the protection of archaeological relics and sites.

As noted above, the Committee's report discusses a number of options in overcoming this lack of linkage.

Heritage Victoria has also addressed the linkage issue by recently issuing draft guidelines on assessment of applications under the HO.

The survival of scant heritage fabric associated with the earliest pastoral settlements in the Shire of Melton is an important context for Amendment C71.

In the past, it has been unusual for sites of historic archaeological significance, other than those associated with surviving buildings or fabric, to be included under the HO. However, as we have seen, the Advisory

Committee recommended that planning authorities should be able to identify and evaluate places of potential archaeological significance and add them to the HO. Heritage Victoria's standard brief for local heritage studies encourages identification of places of potential archaeological significance.

Panel accepts that in Amendment C71 there will be places where historic archaeological significance has not yet been assessed, given the complexity of research required. However, in some cases, the threshold of the probability of or potential for historic archaeological significance has been adequately established.

Apart from archaeological places, there will be other sites of historical significance whose heritage fabric has been substantially changed – either through alteration or deterioration. These present some difficulties in assessing their significance in deciding whether to list them under the HO and in their subsequent heritage management.

The Advisory Committee report on heritage provisions in planning schemes commented about such places (summary, p.xxiii):

It is clear that most of the controls and decision guidelines in the Heritage Overlay derive from the tradition of conservation of built heritage fabric, primarily for its aesthetic values. The broadening of commonly accepted heritage criteria to include social value or historic values associated with important people and events raises issues about what should be controlled in order to preserve the significance of these places.

The Committee is aware that conserving heritage places significant for their historical and social value has sometimes been difficult to achieve under the current structure of the Heritage Overlay. It is particularly the case where extant fabric is limited. Efforts need to be made to identify such places and include them in the schemes where they have elements that require management.

The Advisory Committee underlined the importance of statements of significance in understanding what is important and why, and also said (p.2-89)

There may be a role for incorporated plans to customise planning provisions for places where standard controls over any changes to the fabric are not appropriate or not adequate as a means of preserving the significance of the place.

In view of the difficulties of managing historically significance places under the current provisions of the HO – especially places with very little heritage

fabric, or where the fabric is not intact or is significantly deteriorated – the Panel believes that these places should achieve a high level of importance, at the local level, in order to justify their listing.

6.3.5 Conclusion

The Panel has concluded that there is substantial support in the SPPF and the VPP Practice Note for applying heritage protection to the potentially historically significant archaeological sites that have been proposed in Amendment C71. There is also support for listing other historically significant places under the HO.

The individual properties mentioned in submissions on these issues are discussed in section 7.

6.4 Role of building condition in heritage decision making

6.4.1 What is the issue?

The distinction between the intactness of a heritage place and its condition, and the way in which each is considered in heritage decision-making is not well understood.

6.4.2 Policy context of the issue

The report of the Advisory Committee on heritage provisions in planning schemes (summary, p. xviii) stated:

Intactness and structural integrity and condition of fabric

This issue relates to whether structural integrity (or condition) and intactness of a building should be criteria in the assessment of significance. Submissions supported the notion that intactness (which is sometimes referred to as 'integrity') and condition (or structural integrity) should be considered differently.

The Committee concludes that, while intactness can be relevant in an assessment of significance, condition or structural integrity should not influence the inclusion of a place in a Heritage Overlay. The Committee recognises, however, that structural integrity or condition may be a relevant consideration at the time a planning permit is sought.

However, the discussion in the body of the report noted that:

*... heritage studies use intactness as a key test and means by which buildings are distinguished/graded. It is a moderating factor in assessing **significance** but may be less critical if the place has historical rather than aesthetic/architectural values. The critical issue is whether changes have*

significantly compromised the presentation and/or significance of the building.
[Panel's emphasis]

6.4.3 Evidence and submissions

Several submissions put forward the argument that the places to which they referred were in poor condition, so did not warrant listing under the HO. In some cases, these submissions challenged assessments in the statements of significance about the condition of the relevant places.

Mr Montebello stated in his opening submission:

In Council's submission, the condition (or structural integrity) of a particular building may be of relevance at the time a planning permit is sought. However, it should not influence the decision of the planning authority as to whether a building should be included in a Heritage Overlay.

Mr Moloney described how places were selected for inclusion in Amendment C71. This was, as he said, an 'iterative' process, firstly identifying places of historical significance then assessing their other heritage values (if any). He showed photographs of some of the places considered for inclusion, but then rejected. The reasons for exclusion included lack of intactness of the places, particularly houses. In response to Panel questioning, Mr Montebello advised that these places all had historical significance but were not considered to have sufficient aesthetic / architectural value to warrant being included under the HO.

Mr Montebello asked Mr Moloney whether it was appropriate for condition to be referred to in the statement of significance, rather than in the 'description' section of the citation. Mr Moloney responded that the statements of significance probably should not include comments regarding the condition of the place.

6.4.4 Discussion

The Panel endorses the view of the Advisory Committee that intactness and condition should be treated separately. A place should be listed under the HO on the basis of its significance – in relation to the threshold of local significance, as discussed in section 6.2 above.

If a place is intact but the heritage fabric is in poor condition, it may still warrant listing if its significance can be established. If restoration of the building or works is not feasible, or if other planning considerations are determined to over-ride the desirability of its retention, a permit may subsequently be granted to remove or demolish it. In such a case, the permit

may be issued with a condition requiring measurement and photographic recording of the building or item.

If a place has been altered to such an extent – including by removal of fabric that it no longer demonstrates the heritage qualities it might otherwise have possessed, it may not qualify for listing. This must be assessed against the values for which it has been identified, e.g. aesthetic/architectural, historical, technological, scientific or social. Intactness may be less significant for places proposed for their historical, technological, scientific or social value than for aesthetic/architectural significance (as noted by the Advisory Committee).

In relation to the role of intactness in selection of places for inclusion in the HO, the Panel notes that eight places proposed for listing under the HO have been assessed as having historical significance alone, mostly against more than one AHC criterion. In only four cases do these contain houses, all of which are considered to be of architectural ‘interest’ but not sufficiently intact to be of aesthetic / architectural significance. These few exceptions appear to confirm the evidence of Mr Moloney that houses that were not substantially intact were generally not proposed for listing, unless there was a very strong case for doing so on historical grounds.

The Panel also notes that nearly all the houses proposed for listing are described as being in good condition, and most of the rest as either fair to good, or fair. Two were assessed as fair to poor (one noted as undergoing restoration works, one now demolished/destroyed) and only one as poor. This implies that poor condition – possibly because it can be related to diminished integrity – may also have played a part in the selection process.

With regard to the inclusion of statements relating to the condition of a place in the statement of significance, the Panel notes that some early statements of significance for the Victorian Heritage Register do include commentary about condition. However, VHR statements using the current format of ‘what is significant?’, ‘how is it significant?’ and ‘why is it significant?’ do not do so. The Panel considers that this represents current good heritage practice.

There will be cases, however, where it is necessary for the purposes of effective future management under the HO to acknowledge that heritage places are ruins or that the existing fabric is incomplete, altered or damaged. These are likely to be places with strong historical, scientific or social values, where the intactness or condition of fabric is irrelevant to, or outweighed by their significance for other reasons.

6.4.5 Conclusion and recommendation

The Panel has concluded that the primary determinant of whether a place should be listed under the HO is whether it can be shown to possess heritage significance at the local level against the nominated values and criteria. Intactness may influence whether or not the place crosses the threshold for significance. Condition is only likely to be relevant where it has caused the place to lose the heritage values it may otherwise have possessed.

The Panel recommends that:

Reference to the condition of places should be deleted from the statements of significance in the proposed incorporated document (Melton Heritage Study Volume 6), except where acknowledgement of current condition is necessary to aid future heritage management of the place.

6.5 Effect of heritage listing on property values or development potential

6.5.1 What is the issue?

The potential impacts of heritage listing on property values or on development options for a property are sometimes cited to oppose inclusion of a place under the HO.

6.5.2 Policy context of the issue

No advice on these issues is contained in any of the documents relating to planning scheme amendments.

6.5.3 Evidence and submissions

Two submissions raised concerns about the effects of heritage listing on property values and several referred to the potential of HO controls to impede future development plans for a place.

6.5.4 Discussion

The Panel notes, from previous experience, that the available evidence on the impact of heritage listing on property prices is inconclusive and often contradictory. However, the effect on property values is not a matter to be taken into account at the amendment stage. The question to be answered by the Panel is whether the significance of each place has been established to the extent required to justify its listing under the HO.

Similar comments apply to the impact of listing on intentions for future changes of land use or development of the property.

The Panel notes that where subdivision is concerned, there will usually be other permit triggers in the planning scheme, in addition to the requirements of the HO. The same will often be the case for redevelopment proposals. In the context of the Shire of Melton, this will be particularly true for properties that fall within the Urban Growth Boundary, either now or in the future.

The submission of the Growth Areas Authority on Amendment C71 is of interest in relation to this issue. It stated:

The proposed amendment supports the identification, conservation, protection and management of cultural heritage in Melton and is consistent with the purpose of the Melton Growth Area Framework Plan 2006 and Clause 12.02.2 of the Melton Planning Scheme. As such, the Growth Areas Authority generally supports the proposed planning scheme amendment.

In deciding on a permit application, the responsible authority will need to weigh up the relative importance of protecting the place for its heritage values *versus* its desired role in meeting the objectives of any other planning provisions that may apply. Even if the HO is the only permit trigger, the decision guidelines of the overlay require the responsible authority to take into account the general decision guidelines at Clause 65, which bring in a wider range of considerations.

6.5.5 Conclusions and recommendations

The Panel has concluded that the potential impact of heritage listing on property values and/or on the development potential of a place are not relevant considerations when evaluating whether a place should be included under the HO. Decisions should be based on the heritage significance of the place.

6.6 Proposed incorporated document

6.6.1 What is the issue?

After exhibition of Amendment C71, Melton Shire determined to include the statements of significance – extracted from the citations for each place proposed for inclusion under the HO – as an incorporated document in the Planning Scheme.

The Panel needs to be satisfied that the proposed incorporation of the statements of significance is appropriate.

6.6.2 Policy context of the issue

The Advisory Committee on heritage provisions in planning schemes recommended that statements of significance for places listed under the HO should be included in an incorporated document.

6.6.3 Evidence and submissions

The Panel required the Council to advise all affected property owners of its intention to incorporate the statements of significance, to enable submissions on this matter to be made before the Hearings commenced. Two late submissions were received, but neither referred to this issue. No presentations to the Hearing, other than Council's, addressed the proposal to incorporate the statements of significance.

Mr Montebello, for Council, quoted the advice in the *VPP Practice Note - Incorporated and Reference Documents* to support the proposal to incorporate the statements of significance. He pointed out that the decision guidelines of the HO now provide that a responsible authority must have regard to any applicable statement of significance and that it will be used as guide in the exercise of discretion in determining any application triggered by the HO. Therefore statements of significance should be incorporated, to enable efficient administration of the scheme and to ensure that they are given appropriate weight.

6.6.4 Discussion

The Panel has already indicated in its Directions letter that it considers incorporation of statements of significance in the planning scheme to be good heritage practice. It ensures that the basis on which places have been assessed as of local heritage significance is clearly articulated and publicly available, as well as supporting the role of the statement of significance in guiding decisions about future management of the heritage place.

Prior to making its direction requiring further notification, the Panel was aware that the statements of significance proposed for incorporation had been supplied previously to owners and comments had been sought on them. Where statements had been amended as a result of submissions or other considerations, copies had also been sent to owners. Nevertheless, the Panel considered that incorporation of the statements should not occur as a post-exhibition process, without the intent to incorporate being specifically

advised to affected parties. This has now occurred and no submissions on this matter were received.

The structure of the statements of significance in the Melton Heritage Study is slightly different from that used, for example, for the VHR ('what is significant?', 'how is it significant?' and 'why is it significant?'). However, the Panel considers the statements of significance from the study, though rather long and discursive, set out clearly the heritage values attributed to the place, the particular fabric or areas that are considered to be significant, the reasons for the significance and the level at which it is assessed as being significant.

Some errors and omissions in specific statements of significance were brought to the attention of Council and the Panel through the exhibition and the hearing process for Amendment C71. These are dealt with in section 7 below.

In preparing this report, the Panel has become aware that several places included in Amendment C71 do not have statements of significance in Volume 6. In one case, HO116, House, 1967-1987 Melton Hwy, Rockbank, this seems to be an oversight, as the statement of significance for this place is included in citation 407 in the Study (Vol. 5, p.264) – although the address given is 1/6 Judd Court. The other C71 places with no statements of significance are associated with properties listed on the VHR. These are HO11, Exford Homestead (balance) and HO12, Strathtulloh Homestead (balance).

There also appear to be several places already listed on the HO (apart from those on the VHR) for which no statements of significance have been included in the proposed incorporated document. These are: HO5, Christ (Anglican) Church, Unitt Street, Melton; HO6, Presbyterian Church, Yuille Street, Melton; and HO8, Melton Viaduct, over the Melton Weir, Melton South.

It is desirable that statements of significance for all places listed under the HO – not just those arising from Amendment C71 – should be included in the incorporated document in due course (which might require a change of title, if some of them do not derive from the Melton Heritage Study).

6.6.5 Conclusion and recommendations

The Panel has concluded that incorporation of statements of significance for all places listed under the HO is good heritage practice.

The Panel recommends that:

Subject to changes recommended in relation to individual properties, the statements of significance for all places in the adopted Amendment C71 should be included in an incorporated document under Clause 81, as proposed by Council.

Statements of significance for any places that do not currently have them, including those places already on the HO, should be developed as soon as possible and incorporated through a future amendment.

6.7 Amendments to exhibited mapping

6.7.1 What is the issue?

The Panel needs to consider whether the amended mapping proposed by Council is appropriate in the light of the particular heritage values of the places to which it applies.

6.7.2 Policy context of the issue

The Planning Practice Note on Applying the Heritage Overlay advises:

How is a building, tree or feature on a large parcel of land listed and mapped?

The Heritage Overlay applies to both the listed heritage item and its associated land (refer Clause 43.01 - Scope). It is usually important to include land surrounding a building, structure, tree or feature of importance to ensure that any new development does not adversely affect the setting or context of the significant feature. In most situations, the extent of the control will be the whole of the property (for example, a suburban dwelling and its allotment).

However, there will be occasions when the control should be reduced in its extent so that it does not apply to the whole of the property. Examples might include:

- a homestead on a large pastoral property where only the buildings and their immediate surroundings are important but not the remainder of the property*

- a significant specimen 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.

Where a heritage place does not encompass the whole of the property, care should be taken to show the most accurate parcel of land affected by the control. For instance, if a homestead is affected by the Heritage Overlay, but not the whole of the farm, a polygon should be allocated to the area of affected buildings and associated land. The wording to describe the Heritage Place in the schedule should be specific to identify the area covered by the overlay control.

The Advisory Committee on heritage provisions in planning schemes recommended:

Mapping of the extent of heritage significance on large properties and/or complex sites should reflect the statement of significance and include all components identified as contributing to the significance of the site. This may include the broader setting of buildings or works and/or spaces between major elements. The mapping should be tailored to the location of significant components and should not simply cover the extent of the relevant title or property boundary.

6.7.3 Evidence and submissions

Various submissions requested changes to the extent and/or boundaries of the mapping of the heritage place, as shown in the exhibited Amendment C71. These are discussed in section 7 below.

Mr Montebello, for Melton Shire, advised that amended mapping was proposed in cases where Council had either reached an agreement with submitters, where there were errors in the exhibited mapping or where Council was content to allow a lesser area than originally mapped to be set out as the HO. He tabled a schedule listing those properties affected and giving reasons for the proposed the changes, as well as aerial photographs showing the revised mapping.

6.7.4 Discussion

In all, 20 places are affected by Council's proposals to reduce the extent of the area mapped in the exhibited Amendment C71. Ten of these are places subject to submissions and are discussed in more detail in section 7.

The reductions appear generally to be sensible and defensible, in terms of the advice given above from the PPN and the Advisory Committee.

Mr Moloney, in his evidence during the Hearing, indicated that he was satisfied that the revised mapping did not prejudice the ability of Council to protect the heritage values of the relevant places.

6.7.5 Conclusion and recommendation

The Panel has concluded that reduction in the extent of mapping of some heritage places, as suggested by Council, is appropriate. (Recommendations concerning mapping of places on which there were submissions are given in section 7.)

Changes should be made to the extent of the area mapped under the HO for places HO19, HO20, HO33, HO54, HO66, HO68, HO91 and HO94, as proposed by Council in Appendix 1 to its submission.

6.8 Format of the HO Schedule

6.8.1 What is the issue?

Council is proposing to change to the presentation of the HO schedule from that exhibited in Amendment, to respond to the advice of DPCD. The Panel must be sure that these changes are policy neutral and do not require further notification.

6.8.2 Policy context of the issue

The model schedule included in the PPN on Applying the Heritage Overlay shows the way in which the information in the schedule should be presented. Where the provisions of a column in the schedule, such as identification of fences or outbuildings that are not exempt from notice, or internal alteration controls, do not apply to the whole place, a notation is included in the column to indicate the specifics of the control.

DPCD has now advised Councils that this information should be included in the 'heritage place' column rather than the column relating to the specific provision.

6.8.3 Evidence and submissions

Mr Montebello, for Council, submitted that the exhibited schedule to the HO should be amended to reflect a preferred methodology of DPCD to place the description of trees subject to control in the 'heritage place' column rather

than the 'tree controls apply?' column. It appeared from the subsequent discussion that this also applied to the other specific controls and provisions in the schedule to the HO. Mr Montebello said that a 'track changes' version of the schedule would be supplied to the Panel, but this has not been sighted.

In his closing submission, Mr Montebello also identified a number of additional changes to controls in the schedule to respond to matters raised by submitters. These are dealt with in section 7 in regard to the specific places.

6.8.4 Discussion

The Panel is satisfied that the changes to the format of the schedule to the HO, as described by Mr Montebello, do not alter the content of the exhibited controls.

6.8.5 Conclusion and recommendation

The Panel has concluded that changes to the format of the exhibited schedule to meet the requirements of DPCD are policy neutral and will not disadvantage owners of listed heritage places.

The Panel recommends that:

Presentation of information in the schedule to the HO relating to the application of specific controls should be amended to accord with the format required by DPCD.

6.9 Notification of owners and occupiers

6.9.1 What is the issue?

Council is required to give notice of a proposed amendment to the planning scheme to the owners and occupiers of land that it believes may be materially affected by the amendment. One owner of a place proposed for listing under the HO told the Panel that he had not received notification of Amendment C71.

6.9.2 Policy context of the issue

The Planning & Environment Act at section 19 requires that:

(1) A planning authority must give notice of its preparation of an amendment to a planning scheme —

...

- (b) *to the owners (except persons entitled to be registered under the **Transfer of Land Act 1958** as proprietor of an estate in fee simple) and occupiers of land that it believes may be materially affected by the amendment;*

Section 19 (5) provides:

- (5) *The failure of a planning authority to give a notice under subsection (1) does not prevent the adoption or approval of the amendment by the planning authority or its submission to or approval by the Minister.*

6.9.3 Evidence and submissions

The submitter, Mr Smith, was the owner of the Diggers Rest Hotel (HO43) a place proposed by Amendment C71 for listing under the HO. The place was a commercial property previously occupied and run by a licensee, a tenant of the owner(s). The owner stated that, whatever notice may have been received by the licensee, no separate advice had been sent to his address, which was registered with Council.

Ms Peters checked the distribution list for notice of Amendment C71 and found that the advice had been sent to Mr Smith, care of the hotel at its address, rather than at the address Council held for the owner.

6.9.4 Discussion

The failure to advise the owner directly is regrettable and the Panel encourages Council to ensure that its distribution lists are accurate in future.

However, the Panel notes that Mr Smith became aware of Amendment C71 in time to participate in the Hearing.

6.9.5 Conclusion

The Panel has concluded that, given that Mr Smith was a party to the Hearing process for Amendment C71, he may have been inconvenienced by the failure of Council to advise him directly, but he was not materially disadvantaged.

6.10 Circulation of expert evidence

6.10.1 What is the issue?

A submitter who is presenting to a Panel may be disadvantaged if expert witness evidence is presented to which that person has not had prior access and a chance to prepare a response.

6.10.2 Policy context of the issue

The Panel's Directions letter of 5 November 2008 required Council to send copies of the reports of its expert witnesses to all listed parties to the Hearing by 28 November 2008.

6.10.3 Evidence and submissions

Mr Riordan, in his presentation to the Panel, pointed out that he had not received copies of the reports of Council's expert witnesses prior to the Hearing.

6.10.4 Discussion

The Panel notes that Ms Peters expert evidence applied to only one property, so was not relevant to Mr Riordan's presentation.

The failure of Council to supply Mr Riordan with a copy of Mr Moloney's expert witness report arose from two causes:

- Mr Riordan's request to be heard was received after the Panel's Directions letter was circulated, so he was not listed as a party; and
- his original submission dealt with general issues and did not provide an address for the property he had purchased, so the Panel did not make the connection with the specific heritage place.

The Panel takes responsibility for not advising Council that Mr Riordan should be added to the circulation list.

However, the citation for the property had been provided to Mr Riordan previously and the Melton Heritage Study was available for public inspection. In addition, Mr Riordan was present at the Hearing for a considerable time prior to making his presentation and had the opportunity to consult a public copy of the expert witness report.

Mr Moloney presented his evidence specific to the subject property immediately prior to Mr Riordan's presentation. Mr Riordan, therefore, had

the benefit of that information and a chance to cross-examine the witness prior to making his own presentation.

The general issues raised by Mr Riordan have been discussed in section 6.2 above. Those concerning the specific property will be dealt with in section 7 below.

The Panel notes that there were two late submissions that were also not added to the list of parties. However, these submissions were received after the date for circulation of expert witness reports and the issues raised about specific properties were not, therefore, addressed by either of Council's experts in their reports.

6.10.5 Conclusion

The Panel has concluded that given the nature of the issues addressed by Mr Riordan, the fact that he had had previous access to the citation for the property and that he had the opportunity to hear and cross-examine Mr Moloney on his evidence, Mr Riordan was not substantially disadvantaged by not receiving the expert witness report prior to the Hearing.

7. Inclusion of individual properties under the HO

7.1 HO124 (Citation 477), Grave, Ruin & Archaeological Site, Former 'Greenhills' Pastoral Station, 36-49 O'Connell Avenue, Toolern Vale – Submission 1

7.1.1 Description

Established early in 1837 'Greenhills' was one of the earliest and largest (40,000 acres) pastoral runs in the district and in 1841 the largest population centre in the now Shire of Melton. 'Greenhills' was founded by John Hunter Patterson and the run had a continuing association with local identities. The main 'Greenhills' homestead, associated buildings and potential archaeological sites are located at 1260-1398 Diggers Rest–Coimadai Road, Toolern Vale (see HO36 Citation 55).

Following a recent subdivision, sites associated with 'Greenhills' have been separated from the main property and require separate heritage protection. The associated sites are a fenced grave thought to be the resting place of a young woman who died in the 1840s or 1850s and whose identity is unknown, a putative sheep wash, a drainage channel and pit, a of scatter of handmade bricks and a stone fireplace. Across a gully there are the ruinous remains of the shearers' quarters, a masonry building approximately 10 metres by 4.5 metres.

7.1.2 Statement of significance

The Melton Heritage Study assessed these sites as being significant for their association with the early pastoral and social life of the historically important 'Greenhills' station and as having the potential to provide understanding of early pastoral life and practices in Melton and Victoria.

They are the only known surviving buildings and works dating to the early mid nineteenth century era of the property and are historically significant (AHC A4, B2). The grave, which is rumoured to be that of one of John Batman's daughters or a governess on the station, is socially significant to the local community and has been well-tended over the years (AHC G1, shown in error as E1 in the study). The ruin and archaeological site are of scientific significance (AHC C2) and have the potential to provide information on early pastoral practices, in particular sheep washing, and contribute to understanding the early pastoral industry in Melton and Victoria.

7.1.3 Evidence and submissions

One submission was received concerning this place.

It supported the application of the HO but queried whether the size of the overlay could be reduced.

Evidence was given by Mr Moloney of the importance of the grave site over a long period of time in community memory, as a reminder of the perils of early pastoral life.

This submission was supported by Council and as a result of a site visit and discussions with the landowner, a reduction in the extent of the overlay was recommended.

7.1.4 Discussion

The Panel did not inspect this site.

It was the Panel's view that these sites, in conjunction with the main 'Greenhills' station (HO34) are important to an understanding of pastoral life in the period of early settlement in Melton and Victoria.

The mapping of scattered sites is a complex undertaking and the proposed reduction in the overlay is more precise and does not compromise the heritage significance of the sites. There has been no further submission from the owners in response to the proposed reduction. The Panel is satisfied that the sites have the potential for archaeological investigation and further research on early pastoral life.

7.1.5 Conclusion and recommendation

The Panel has concluded that the grave, ruin and archaeological site, formerly part of 'Greenhills' pastoral station, at 36-49 O'Connell Avenue, Toolern Vale (HO124) are a place of heritage significance to the Shire of Melton and should be retained on the HO on a permanent basis, subject to the changes shown below.

The Panel recommends that:

For place HO124 – grave, ruin and archaeological site, formerly part of 'Greenhills' pastoral station, at 36-49 O'Connell Avenue, Toolern Vale – the mapping should be amended as proposed by Council.

7.2 HO14 (Citation 005), 'Glencoe', 518-610 & 572-618 Blackhill Road & 134-166 Ryans Lane, Toolern Vale – Submissions 2 & 15

7.2.1 Description

'Glencoe' in Blackhill Road and Ryans Lane, Toolern Vale is a 19th Century farm complex including a Victorian style bluestone homestead and dairy/horse stall, a fowl house, a dry stone pig pen, extensive dry stone walls and Norfolk Island pine trees.

7.2.2 Statement of significance

The Melton Heritage Study assessed the homestead at 'Glencoe', the bluestone dairy/horse stall and the timber fowl house as architecturally significant (AHC D2). The fowl house, the dry stone pig pen and the extensive system of dry stone walls were considered to be scientifically significant (AHC F1). The property was also assessed as having historical significance (AHC A4 & H1) for its association with the Beaty family, an early and prominent Melton pastoral family, and as one of the oldest houses in the Shire. Overall, the property was considered to be of local significance.

7.2.3 Evidence and submissions

This property was the subject of two submissions. The first pointed out some errors in the citation regarding the location and age of dry stone walls and also requested that the curtilage from the walls (the area to be included in the HO) should be specified.

The second submission thanked the Shire for instigating the Melton Heritage Study. It also challenged the accuracy of some points contained in the citation. The writer was concerned that owners could be held liable for alleged changes to properties that were actually the result of incorrect descriptions in the citation / statement of significance. Issues were raised about the thoroughness of the methodology used in the study to document places of potential heritage significance. There was also a query about whether the obligations imposed by listing of a boundary wall applied equally to owners on both sides.

Mr Moloney, in his evidence to the Panel, advised that:

- the mapping for this property had been amended to reflect the advice from submitters about the location of dry stone walls and to reduce the curtilage to five metres on either side of the centre line of the walls;

- the northern wall, claimed by the submitters to have been built in the 1960s and 1970s, could well date from that time, but its rough construction – a fence/wall with stones pushed up into a heap rather than being laid – provided an interesting contrast to the well-built earlier walls. It also contributed to the major significant cultural landscape of dry stone walls along Blackhill Road. He said that he preferred that it should remain under the HO, but it could be excluded without reducing the significance of the others on the property; and
- he had visited the property and the owner gave him permission to look around and take pictures. Dr David Rowe, who assessed the architectural significance of properties in the study, had worked from the 17 photographs of this place supplied to him by Mr Moloney.

Council tabled copies of the exhibited mapping and the proposed changes.

Ms Peters confirmed that all owners of properties that have boundary walls that are identified as heritage places in Amendment C71 were notified and that the control applies equally to both abutting properties.

Mr Riordan, in his presentation, reiterated his concerns about incorrect information being used for future decision-making. He considered that the 'broken-backed verandah' mentioned in the citation was clearly a later addition, as the supports for the original verandah were still visible underneath. The fowl house outbuilding had been described as having a vertically boarded door, which was not the case. He also noted that there is a dry stone wall near the house that should have been included and a number of other significant items that apparently were not observed.

Mr Montebello, in his closing submission, said that Council would like to reinspect this property before making changes to the statement of significance to address the errors identified by Mr Riordan. If the owner did not consent to an inspection, the corrections should be made in any event.

7.2.4 Discussion

The Panel did not inspect this property, although it did drive down Blackhill Road and view the general area.

Neither of the submissions queried the heritage significance of the place. However, they did point out errors in the mapping and the statement of significance.

Council is proposing to amend the mapping for this property to delete the areas where walls no longer exist. The Panel notes Mr Moloney's preference for retaining the newer northern wall in the area covered by the HO, and the

fact that neither of the submissions on this property asked for this wall to be deleted from the overlay area. The Panel accepts that it contributes to the heritage character of the broader area of Blackhill Road. It should, however, be noted in the statement of significance that this wall is of lesser heritage value than the older walls on the property.

With regard to inaccuracies identified by Mr Riordan in the statement of significance, the Panel believes it would be desirable for Council's representatives to make a further inspection of the property, in the company of the owner, to ensure that the details of the house and other heritage components are described accurately.

The Panel notes, additionally, that the statement of significance says that the property remains in the ownership of a descendant of the Beaty family. This may also need to be amended.

7.2.5 Conclusions and recommendation

The Panel has concluded that 'Glencoe' is a place of heritage significance to the Shire of Melton and should be retained under the HO on a permanent basis. The HO should apply to the areas shown in the amended mapping.

The citation for the property should be amended, following a further inspection by Council's representatives if possible, to ensure that the significant features of the homestead and other heritage components are described accurately.

The Panel recommends that:

For HO14 – 'Glencoe', 518-610 & 572-618 Blackhill Road & 134-166 Ryans Lane, Toolern Vale – corrections should be made to the citation as identified in this report and the mapping should be amended as proposed by Council.

7.3 HO114 (Citation 391), 'Rocklands' Homestead & Farm, 619-653 Hopkins Road, Truganina – Submission 3

7.3.1 Description

'Rocklands' homestead and farm includes a Victorian style bluestone main house and a predominantly 19th Century garden, in a rural setting defined by dry stone walls, stands of gum and Cypress trees and a stone lined dam.

7.3.2 Statement of significance

The Melton Heritage Study assessed the main house as architecturally significant (AHC D2). The complex of dry stone walls near the homestead, the outbuildings, stands of gums, garden surrounds and visual connections to the dam and surrounding farmland were considered to contribute to the significant setting of the place. The homestead and farm were also assessed as historically significant (AHC A4, B2 & H1), as the most substantial of the few early farming era dwellings remaining in the part of the Shire south of the Western Highway and east of the Werribee River, as well demonstrating of the themes of drought, fire and the importance of water. Its ongoing links with the pioneer Hopkins family were also considered significant. Overall, the property was considered to be of local significance.

7.3.3 Evidence and submissions

There was one submission on this property. It did not object to the inclusion of the property under the HO, but identified some errors in the citation, including matters relating to the details of the Duncan family and the description of trees (one of which was noted to have died).

Mr Moloney, in his expert witness evidence, told the Panel that the corrections had been raised by the submitter prior to exhibition and he believed that they had all been incorporated into the exhibited version of the citation.

Mr Montebello advised that after a site visit by Council representatives and discussions with the owner, it was now proposed to reduce slightly the area of the HO on this property. Mr Moloney indicated that he was satisfied that the reduced extent was still sufficient to preserve the heritage significance of the property. Council also proposed to amend the statement to refer to one Cypress tree rather than two.

7.3.4 Discussion

The Panel did not inspect this property.

The Panel notes Mr Moloney's advice that the corrections requested by the submitter were included in the exhibited documentation. It also notes and endorses the proposed changes to the mapping.

7.3.5 Conclusion and recommendation

The Panel has concluded that 'Rocklands' is a place of heritage significance to the Shire of Melton and should be retained under the HO on a permanent basis. The HO should apply to the areas identified in the amended mapping tabled at the Hearing.

The Panel recommends that:

For HO114 – 'Rocklands', 619-653 Hopkins Road, Truganina – the statement of significance, the schedule and the mapping should be amended as proposed by Council.

7.4 HO112 (Citation 372), House & Outbuildings, 65-543 Greigs Road, Truganina – Submission 4

7.4.1 Description

The house and outbuildings at Greigs Road, Truganina are a Federation style small farm complex including a weatherboard main house and outbuildings of similar design, a driveway flanked by eucalypts and Peppercorn trees, and a rural setting.

7.4.2 Statement of significance

The Melton Heritage Study assessed the main house as architecturally significant (AHC D2 & E1) and concluded that the Federation style outbuilding and tree-lined drive contributed to the significance of the place. The property was also considered to be historically significant (AHC A4 & B2), as one of the more substantial and intact farm houses and complexes that were built in the early 20th Century on land that had formed part of the Clarke's 'Rockbank' estate. Overall, the property was assessed as of local significance.

7.4.3 Evidence and submissions

There was one submission concerning this property. It stated that the owners had no objection to the Heritage Overlay being applied to the house and outbuilding, but wanted the tree controls removed. The submission put the view that the trees along the driveway were not significant and did not stand out as a significant element of the history of the property. The dwarf Sugar gums, which comprise most of the avenue, had been planted for firewood rather than as specimen trees. Lopping had affected their condition and they now presented a safety risk. The submission enclosed an arborist's report that concluded that the trees were of poor quality and in poor health.

In her presentation to the Panel, Ms Slechten, stated on behalf of the owners that the trees have been coppiced, are showing the effects of dieback and are still being cut. She tabled photographs as evidence of the historical lopping of the trees for firewood and confirmed that the owners want to be able to continue to use them for this purpose. She said that owners have no objection to the tree controls being retained for the Peppercorn trees near the house.

Ms Slechten contended that the statement of significance for the property does not adequately describe the reason for the inclusion of the trees in the citation. In addition, Council had not provided evidence that the current trees are the same as those shown on the 1916 map.

Ms Slechten also pointed out that the property is part of one of the new investigation areas to be assessed for possible urban growth as Melbourne develops towards a population of five million people. In this context, she considered that the retention of the trees would prejudice the future development of the land.

The owners, through Ms Slechten, also requested that the listing of the property in the schedule to the HO should be restricted to the title containing the house and outbuildings – Part CA 25 – rather than the address of the whole contiguous property.

Mr Moloney, in his expert evidence, contended that the trees are a significant feature of the property, particularly visually, and that both the house and the tree-lined avenue were shown on an Army ordnance survey map of 1916. Even if the present trees do not date from pre-1916 they carry on the avenue identified in the historical document, they are appropriate to the period of the house and they represent species that were widely planted in the district, having been found to be hardy in a dry climate.

He considered that it was 'highly unlikely' that this particular avenue had been planted for firewood, citing expert advice that the key benefits of the dwarf Sugar gum variety related to its attractive appearance and fast growth rate.

7.4.4 Discussion

The Panel viewed this property from the gate from Greigs Road. In doing so, we noted that the front entrance gives the name of the property as 'Peppercorn Rise' and the address as Lot 63.

The inspection confirmed that the dwarf Sugar gums have indeed been cut – fairly roughly – and some are showing the effects of drought. Nevertheless, they contrast with the open surrounding land and make a contribution to visual amenity.

As noted in section 6.4 above, the condition of a heritage place or a component of a place – in this case the dwarf Sugar gums – is not a major determinant of whether they should be included under the HO, nor is the fact that some are considered to be potentially dangerous. The overlay provides that a permit is not needed to remove, destroy or lop a tree if it presents an immediate risk of personal injury or damage to property. A permit can also be granted to remove trees assessed as risks, even if the danger is not immediate.

The question of how the designation of the trees as having heritage significance might affect future development of the land is not relevant to the present considerations. As discussed in section 6.5, this is a matter for decision at the time that a change of land use is contemplated.

The Panel, in considering the proposed application of the HO, needs to be satisfied that the statement of significance substantiates the heritage significance of the dwarf Sugar gums. It also has to consider whether the significance of the trees, if any, justifies constraining their established use for firewood, to the extent that would occur under the overlay.

The statement of significance for HO112 says of the trees:

Established c.1910, the significance of the place is enhanced by the long drive flanked by mature eucalypts and peppercorn trees and the rural setting.

In the schedule to Clause 43.01 in the Melton Planning Scheme, the listing for this property includes, in the column 'Tree controls apply' the following statement:

Yes - mature eucalypts & peppercorn trees flanking the long drive, and peppercorn trees with the house yard (rear of dwelling).

The Panel accepts Mr Moloney's evidence that the 1916 map confirms the existence for over 90 years of an avenue of trees along the driveway, and that the species that now compose it are appropriate to the era of development of the house and outbuildings. It also accepts that, in view of the history of the place as an early 20th Century farm homestead, that the dwarf Sugar gums contribute to the heritage character and significance of the place.

However, we are concerned about the implications of the HO in terms of the owners' ongoing use of the dwarf Sugar gums for firewood. While this could be addressed as a permit issue, it has the potential to become quite repetitive and time consuming for both parties. A more efficient course of action would be for Council to work with the owners to develop and approve a simple incorporated plan that allows limited cutting for firewood, as well as removal of badly damaged or diseased specimens and their replacement by new plants of the same species. This should be able to be achieved prior to submission of the amendment for approval by the Minister.

With regard to the address shown in the schedule to the HO for heritage place HO112, the Panel notes that Council appears to have used the same address convention for all properties listed, i.e. the whole property (presumably as identified for rating purposes) rather than an individual title. This could have implications for planning certificates and other official information relating to the whole property. Therefore, where a heritage place is contained within a title or a group of titles that is smaller in area than the whole property, there may be benefits in being more specific about the address for the listing.

7.4.5 Conclusions and recommendation

The Panel has concluded that the property known as 'Peppercorn Rise' at 65-543 Greigs Road, Truganina (HO112) is a place of heritage significance to the Shire of Melton and should be retained in the HO on a permanent basis. The dwarf Sugar gums along the driveway contribute to the heritage significance of the place.

No change should be made to the mapping of the place or to the tree controls in the schedule. However, in recognition of established patterns of use, limited cutting of the dwarf Sugar gums as a source of firewood for domestic use should be permitted. To this end, Council should work with the owners to develop an incorporated plan outlining the future management of the trees.

The Panel recommends that:

For HO112 – 65-543 Greigs Road, Truganina – an incorporated plan should be prepared and approved, setting out the future management of the dwarf Sugar gum trees along the driveway.

7.5 HO106 (Citation 298), House, 1200-1220 Mt Cottrell Road, Melton South – Submission 5

7.5.1 Description

The place is a late Victorian weatherboard house, with extensions and additions.

7.5.2 Statement of significance

The Melton Heritage Study assessed the house as architecturally significant (AHC D2) and historically significant (AHC B2) as one of the few remaining early 20th Century cottages built as a result of the subdivision of the 'Exford' estate by the Closer Settlement Board in 1907 and for its association with the Cochrane family. Overall, the house was assessed as of local significance.

7.5.3 Evidence and submissions

The submission concerning this property stated that the house claimed to be of heritage value was in very poor condition and infested by white ants. The letter contained photographs that were tabled by Council at the Hearing.

Mr Moloney, in his expert evidence, pointed out that the submission referred to the condition of the house rather than its heritage significance. He noted that no expert evidence had been presented to challenge the assessed heritage significance of the place.

7.5.4 Discussion

The Panel was unable to view this house, as it is not visible from the road. Mr Moloney confirmed that the authors of the Melton Heritage Study did not have an opportunity to inspect it either, other than from an adjoining property. No inspection by Council representatives has occurred since.

The photographs tabled show a weatherboard house with a transverse gable at the front (rather than the hipped roof that is more typical of Victorian dwellings) and other gabled roof forms behind. It has at least one face brick chimney, apparently of a similar age to the house. The front verandah, which was shown as partially enclosed in the photograph in the Melton

Heritage Study, has since been reopened and a corrugated iron tank installed on the left of the front door. Windows on side of the house are not original and some weatherboards are hanging loose.

It is not possible to identify from the photographs what part of the fabric shown, if any, represents the Melton South house that the statement of significance says was transported to the site in 1951 and added to the existing house.

The statement of significance identifies the place as having architectural significance (AHC D2) and historical significance (AHC A4). It states that:

It demonstrates original design qualities of a Late Victorian style and has significant rear additions that demonstrate the early historical evolution of the building.

As discussed in section 6.2 above, AHC criterion D2 was used in the Melton Heritage Study to apply to buildings – particularly dwellings – that were considered to be representative of their type (e.g. late Victorian farm cottages) rather than possessing significant aesthetic or design qualities in their own right.

The explanatory notes for this criterion in the Application Guidelines for the Register of the National Estate state:

A place must clearly represent the period, method of construction, techniques, way of life, etc. of its Type. The place must enhance our understanding of the class of resources of which it is part. It should reflect the major characteristics of its Type, or demonstrate the variation which occurs within the Type, or demonstrate the evolution of the Type over time, or be transitional between that Type and others.

A place may be significant because it is characteristic of either an unusual, or a widely practiced Type, style or method of construction. It may have been innovative or influential, or it may have been traditional or vernacular; the significance of the place is determined by considering it within its context.

The inclusion guidelines for D2 read:

A place may be entered ... for its representative value if one or more of the following apply:

- it can be regarded as a particularly good example of its Type, by virtue of the combination of characteristics most indicative of the Type, or a significant variation of the type equally well;*

- *it is one of a number of similar places which are all good examples of a Type, but has a higher [national estate] value by virtue of its integrity, condition, association with other significant places or setting;*
- *it is part of a group of places which collectively include a range of variation within a Type*
- *it represents a seminal or optimal development of the Type.*

The exclusion guideline states:

A place may not be eligible under this criterion if it is not representative of the characteristics which make up an established Type of place or variant of a Type.

As discussed in section 6.2 above, the short-list of places proposed for inclusion under the HO in the Melton Planning Scheme was derived from a staged, or iterative, assessment.

If a place was found to have historical significance at the local level or above, it was then assessed against other AHC criteria to determine if it possessed additional values. Where properties contained dwellings, these usually had to be assessed as sufficiently intact to be representative of their type and/or to be aesthetically significant in their own right, in order for the place to be proposed for listing. One exception was HO15, a house classified as only of architectural 'interest', but listed because of its historical connection with the Beaty family (AHC H1) as well as its more general historic significance (A4). A house in Melton West (HO67) and another at Exford (HO101) were also assessed as of architectural 'interest' only, but again, these properties were listed against two criteria for historical significance (A4 & B2).

In view of the inclusion and exclusion criteria given in the AHC Guidelines, the Panel is not persuaded that the house at 1200-1220 Mt Cottrell Road, Melton South has been correctly assessed as being of local significance against AHC criterion D2. In our view, the house does not demonstrate the original design features of the Victorian architectural style it is said to represent and it has been severely modified by the addition of another house. It is, therefore, neither representative nor substantially intact.

In comparative terms, a house in Melton (HO87) assessed as of architectural 'interest' only appears from its photograph in the Melton Heritage Study to be considerably more intact and more recognisable as a Victorian weatherboard cottage than does this one.

However, there remains the question of whether the Mt Cottrell Road house is sufficiently rare in the Shire of Melton context to merit listing under the HO on criterion B2 alone. This criterion is:

Importance in demonstrating a distinctive way of life, custom, process, land use, function or design no longer practised, in danger of being lost, or of exceptional interest.

The AHC Application Guidelines for B2 include:

Explanatory Notes

This criterion applies to places which characterise past human activities which are now rare, endangered or uncommon, by virtue of their being:

- few in number originally;*
- few in number due to subsequent destruction;*
- susceptible to rapid depletion due to changed practices or other threats; or*
- outstanding example of uncommon human activity.*

The inclusion and exclusion guidelines, which need to be interpreted to apply them to the local level, are as follows:

Inclusion guidelines

Scarcity may be the result of historical process (i.e. few of such places were ever made) or of subsequent destruction or decay. However, rarity must be demonstrated to be more than simply absence of survey information.

Rarity in some cases may apply to the survival of the combination of characteristics and the place as a whole may lack integrity.

Rarity at regional or State level must be assessed in the context of its distribution and abundance in other regions or States. Rarity in one location when compared with abundance in another may or may not give the place national estate significance, depending on the cultural context.

Exclusion guidelines

Rarity at local or regional or State level does not necessarily confer national estate value, unless such rarity has particular cultural significance.

Places deemed to be uncommon due to lack of research/survey may subsequently be found not to be eligible under this criterion. Evidence of rarity will usually be required.

Potential threat to a currently numerous class of place will not be regarded as valid grounds for inclusion within this criterion.

On the Panel's reading there is only one house in the HO schedule that has been included under the single criterion of B2. This is HO87, the Melton house mentioned above, which is of architectural 'interest' only, but was considered to be worthy of inclusion under the HO because of its rarity.

The statement of significance says that the historical significance of 1200-1220 Mt Cottrell Road derives from it being one of the few remaining early 20th Century cottages built as a result of the subdivision of the 'Exford' estate by the Closer Settlement Board in 1907, as well as for its association with the Cochrane family. Unusually for a property identified in the Melton Heritage Study as having historical significance, criterion A4 has not been used in this case.

Mr Moloney told the Hearing that he had not known of the existence of the house until he saw it from an adjoining property. This means, presumably, that it had not been identified through the historical research he undertook prior to his field inspections.

After consulting the Melton Heritage Study, the Panel has found two other Victorian style houses (HO100 – which Mr Moloney's evidence indicates has since been demolished – and HO102) and two Edwardian style properties (HO73 & HO101) that represent the Closer Settlement Board subdivision of the 'Exford' estate and are included in Amendment C71. Two of these – HO73 and HO102 – have been assessed as historically significant (A4 & B2) and architecturally significant (D2). HO101, as noted above, is listed as historically significant against two criteria (A4 & B2), but only of architectural 'interest'.

The Melton Heritage Study (Vol 5, p.165) lists two other surviving houses as also being constructed on lots formed from the 'Exford' subdivision. These were not included in Amendment C71. One was described as 'of only moderate integrity'. No details are given of the other, which the report says is 'barely visible from the road, among plantings'.

On this basis, the assessment that the property at Mt Cottrell Road is a rare example of an early 20th Century cottage built as a result of the break up of the 'Exford' estate appears have some justification.

Further analysis shows that there are now 15 Victorian style weatherboard houses proposed for permanent listing under the HO. Of these, at least two are much larger and more elaborate than the Mt Cottrell Road house. Most of the others are much more recognisably 'Victorian' than subject property.

Only two of the Victorian style properties are in Melton South. This seems to indicate that Victorian style houses are not numerous in the municipality as a whole, and certainly not in Melton South.

The Panel has noted above that the 'iterative' selection process used in the Melton Heritage Study appears to have meant that, at least where they contained a house, places assessed as having local historical significance usually needed also to be significant against some other value – architectural, archaeological/scientific, social – before they were proposed for listing. This is confirmed by the comparative analysis for this property.

Given that the Panel does not consider this house to be representative against criterion D2, there seem to be three options with regard to it:

- Delete it from the HO, on the grounds that it does not possess sufficient of the features of the 'type' it is said to represent and that there are three other properties proposed for listing that demonstrate the break up of the 'Exford' estate.
- Retain it under the HO on the basis of its relative rarity, but amend the statement of significance to recognise that the house of architectural 'interest' rather than significance.
- Retain the interim heritage controls for this property until such time as Council's representatives have had an opportunity to carry out a thorough inspection. If the HO is deemed appropriate, the application of permanent controls could form part of a future amendment.

After consideration, the Panel is of the opinion that house at Mt Cottrell Road should not be retained under the HO on a permanent basis. It does not possess sufficient architectural significance for listing, being neither representative nor substantially intact. While it may be relatively rare, there are other examples in Amendment C71 of houses built in the same period on the Closer Settlement Board's 'Exford' subdivision.

7.5.5 Conclusion and recommendation

The Panel has concluded that the house at 1200-1220 Mt Cottrell Road, Melton South (HO106) is not sufficiently representative of the 'type' it is said to represent or sufficiently intact to meet the threshold for architectural significance (AHC D2). While it is relatively rare, the Panel considers that the other houses proposed for listing under the HO to represent the development of the Closer Settlement Board's 'Exford' subdivision better demonstrate the characteristics of farm properties of that era.

The Panel recommends that:

HO106 – the house at 1200-1220 Mt Cottrell Road, Melton South – should be deleted from the HO.

7.6 HO27 (Citation 035), House & Outbuilding, 310-360 Gisborne-Melton Road, Toolern Vale – Submission 6

7.6.1 Description

The property at Gisborne-Melton Road contains a Victorian style rendered brick dwelling, a rear outbuilding and Cypress trees and has a rural setting.

7.6.2 Statement of significance

The Melton Heritage Study assessed the house as being architecturally significant (AHC D2) and concluded that the rear outbuilding and the mature Cypresses contributed to the significance of the place. The property was considered to be historically significant (AHC A4) for its association with the McPherson family and as an example of a homestead build by a successful larger farmer, of which there were few in the northern part of the Shire. It also reflected the prominence of Scottish settlers in the farming history of the Shire. Overall, the property was assessed as of local significance.

7.6.3 Evidence and submissions

There was one submission concerning this place. The owners of the property stated that, although they had no intention of changing the character of the place, they did not want it covered by the HO. They were uncomfortable with the limitations that would be placed on the home and worried about the effect on property values.

Mr Moloney, in his expert evidence, noted that the submission does not relate to the heritage significance of the place.

7.6.4 Discussion

The Panel viewed this property from the road reserve, outside the fence. This inspection revealed that the house accords with the description given in the statement of significance. It presents as a substantially intact Victorian style house in an attractive treed setting.

The Panel acknowledges that the HO does place obligations on owners. However, if no major changes to a property are contemplated, these are not likely to be onerous.

As discussed in section 6.5, the impact of the HO on property values is not relevant to the assessment of the significance of a heritage place.

7.6.5 Conclusion and recommendation

The Panel has concluded that the house and outbuilding at 310-360 Gisborne-Melton Road, Toolern Vale (HO27) represent a place of heritage significance to the Shire of Melton and should be retained under the HO on a permanent basis.

7.7 HO22 (Citation 024), 'Kuloomba', 2203 Diggers Rest–Coimadai Road, Toolern Vale – Submission 7

7.7.1 Description

The property at 'Kuloomba' consists of a late Federation style weatherboard house, outbuildings and sheds, and a number of cypress and eucalypt trees.

7.7.2 Statement of significance

The Melton Heritage Study assessed the house as architecturally significant (AHC D2). The property was considered to be historically significant (A4) as an example of the houses built following the breakup of the 'Greenhills' and 'Melton Park' pastoral estates. The mature Cypresses and eucalypt trees and the outbuildings and farm sheds were assessed as contributing to the significance of the place. Overall, the property was assessed as of local significance.

7.7.3 Evidence and submissions

One submission was received concerning this property. It made the following points:

- the mature Cypresses noted in the statement of significance were dying and were removed in 2007 after notification to and consultation with Council. The circular water tank had also been removed in 2007, as it was located on top of the title boundary;
- the mapping polygon for HO22 was an unusual shape, applying to land in two different titles, for no apparent reason;
- a letter from lawyers on behalf of the owners, enclosed with the submission, claimed that:

- the historical significance of the building was insufficient to justify imposition of the HO;
 - it was 'unreasonable, impracticable and uneconomic to restore the building to modern living condition' and restoration was uneconomic given the costs versus the value of the property;
 - the assessments in the statement of significance that the building was in good condition and 'substantially intact' were incorrect;
 - the siting of the house did not comply with the Building Code of Australia, which provides that drainage needs to be diverted away from buildings;
 - the Cypress trees were in poor condition and were unsuited to the dry local conditions, and the owners wanted to replace them with natives.
- The lawyers' letter also referred to a building condition report obtained from Mr Kulkulka, which allegedly said that the house 'is in poor condition, is not habitable and should be demolished'.

Mr Moloney, in his expert statement, put the view that the place was significant for the reasons explained in the statement of significance and that no evidence had been provided in the submission to support the contrary assertion. He told the Hearing that the house was a good example of its type, it reflected the major characteristics of the architectural type and embodied the history of occupation of the property. He considered it was substantially intact, except for the rear additions. He acknowledged that the outbuildings were in poor condition.

In his evidence, he noted that the condition of place is a secondary consideration in assessing its significance. The cost of restoration was also not a major factor, nor was the economic impact of the HO (though it could actually add value to a property).

Mr Moloney said that the later additions to the rear of the house did not contribute to its significance and he did not envisage that there would be any objection to a permit to demolish and replace them.

Mr Bick, in cross-examination, suggested to Mr Moloney that the statement of significance did not justify the application of heritage controls on this property. Mr Moloney responded that the break up of the pastoral estates was a major theme in Melton's history, and indeed for Australia as a whole, and the place was significant because it represented this theme. Mr Bick also said that there were other houses remaining from the subdivision of the 'Melton Park' estate and that five of these were proposed for heritage

controls. Mr Moloney pointed out that there is no requirement to list just one of a type.

Ms Peters advised that Council was now proposing to amend the mapping to restrict the area to within a single land title. She suggested that the references to the conifers and the tank, which had now been removed from the site, should be deleted from the statement of significance and tree controls for this place should be removed from the schedule.

Mr McLeod told the Panel that no member of the owner's family had ever had any intention of restoring the house or outbuildings.

We consider that the house is now in very poor condition, potentially unsafe, is no longer liveable. We consider the outbuildings to be dilapidated. We also consider the house and outbuildings to have no heritage value of any real significance and that the proposed heritage overlay is not justified.

Mr McLeod called Mr Bick to provide evidence regarding the heritage significance of the place and Mr Kulkulka to report on the condition of the building and the estimated cost of its restoration.

Mr Bick, in his expert evidence, said that he did not consider that the statement of significance substantiated the importance of the place, although he did not dispute the facts contained in the citation. The break up of the large estates, in his view, was no more significant than for the smaller ones. The house was not a rare or unusual example, or 'one of a few'. It was not a rare building type or an unusually good example. The building had not been shown to be significant in the context of the municipality.

With regard to the statement of significance, Mr Bick said that the features listed for the house were characteristic of the late Federation style and were very common. There was a difference between being a representative of a type and being significant. He considered that the subdivision was not of historical significance of itself and thought that the reference to the Barrie family should be expanded to explain why they were held to be important.

Mr Bick noted that the front window of the house might be a later addition or a replacement, because the window lobes had different detailing and pointed out that the windows of the bathroom, on the eastern side, had been inserted during a 1950s addition to the house. He said that the impression given by the Melton Heritage Study that this house was better than the average in the context of equivalent houses in Melton was mistaken. It was originally only four rooms, plus a utility room at the back. It may even have been moved onto the property from somewhere else.

In Mr Bick's view, the laundry and the accommodation building (the origins of which were not known) were not valuable in themselves and the latter was in very poor condition.

Mr Bick tabled copies of a number of photographs and statements of significance from the Melton Heritage Study, depicting the houses built between 1900 and about 1920 that were proposed for inclusion under the HO. He claimed that they were all comparable with 'Kuloomba'. The Panel, in considering these examples, put to him that many of them were either earlier, later, or smaller than 'Kuloomba' and that there appeared to be very few Federation style houses overall. Mr Bick responded that this house does not show any more of the heritage of Melton than any of the others.

In response to a suggestion from Mr Montebello that the citation for the place should be seen in the context of the Melton Heritage Study, Mr Bick responded that the statement of significance had to justify the significance, rather than simply refer to heritage criteria. A reader should not have to interpret the facts to see what the significance was. While not challenging the fact that the period represented by this property was important in the Shire's history, but he did not think there was anything about this place that demonstrated it sufficiently for it to need to be listed under the HO.

Mr Montebello, in response to Mr Bick's point about the house not being rare or unusual enough to warrant listing, pointed out that AHC criterion D2 does not require places to be rare. They can be representative of a widely practiced type or style.

Mr Kulkulka presented detailed evidence on the condition of the property but did not address its heritage significance. He said the rear extensions to the house were in generally poor condition, one chimney was unsafe as a result of a past fire in it and needed stabilisation, and the foundations had been damaged as a result of inadequate stormwater drainage. Because the house was so low to the ground, the floorboards would have to be raised to replace the stumps. Overall, he concluded that the house was 'salvageable' but would need a lot of work and cost a lot of money: at least \$200,000 for restoration and \$300,000-\$400,000 to upgrade to modern standards.

The shed (the accommodation building) was more or less collapsing and would have to be pulled apart to rebuild, Mr Kulkulka believed.

7.7.4 Discussion

The Panel made an accompanied inspection of this property, with Mr McLeod and Ms Peters.

The inspection confirmed that the house is, as described in the statement of significance, a weatherboard dwelling in a late Federation style. While not as large as it appears in the photograph in the Melton Heritage Study, it is more substantial than many of the other houses of its era that the Panel has inspected in the course of this Amendment. There are several additions to the rear and, as Mr Bick pointed out, two windows in the eastern side that are probably not original.

The inspection also covered the timber laundry and the two roomed accommodation building, which appears to be two buildings joined together. The condition of the accommodation building is poor, while that of the laundry is fair. The Panel notes that the statement of significance does not refer specifically to these buildings, nor indicate that the modern carport is not significant. A barn on the property, of later construction, is not proposed to be included in the area covered by the HO.

The Panel noted that the condition of the rear of the house – the later additions – is poorer than that of the original section. The drainage issues mentioned in the submission and in Mr Kulkulka's report, along with the foundation problems, were also apparent.

With regard to the architectural significance claimed for the place in the statement of significance, the Panel considers that it is a good representative example of the late Federation style, appropriately referenced to AHC criterion D2. Approximately 10 houses of this general style are proposed in Amendment C71 for listing under the HO – certainly not an excessive number for a Shire the size of Melton.

The statement of significance also assessed the place as having historical significance, related to the subdivision of the 'Greenhills' and later 'Melton Park' estates. The thematic environmental history (Vol 2) identifies the break up of the pastoral estates as a major theme in Melton's history, a point reiterated by Mr Moloney in his evidence concerning this house. 'Greenhills' was one of the earliest and largest of all the estates. 'Melton Park' represented the first division 'Greenhills', but was itself a pastoral property of considerable size.

The Panel has consulted the list of places proposed for inclusion under the HO in Amendment C71. Like Mr Bick, we have found five places related to

'Melton Park'. However, one of these is the 'Melton Park' homestead itself (HO17) and another is the former manager's residence (HO16), both of which predated the subdivision of the property.

Of the three examples of farm homesteads built on lots created from the subdivision of 'Melton Park', one is the house on Cornwall Park stud (HO19 – formerly 'Gnotuk Park'), which is described as being of 'an unusual Federation style' and the other is a Victorian style property (HO67) which the Panel considers should be deleted from the HO. On this basis, the Panel believes that 'Kuloomba' does have the historical significance attributed to it in the Melton Heritage Study.

With regard to the other points raised in the submission, presentations and expert witness reports, the fact that the present owner does not have any intention of restoring the house does not impact on its heritage significance, nor does its current condition. Nevertheless, the Panel notes that – contrary to the view attributed to him in the lawyers' letter accompanying the original submission – Mr Kulkulka assessed the place in his expert evidence before the Hearing as 'salvageable'. His estimate of restoration costs appears to the Panel to be realistic.

The changes proposed by Council to the statement of significance, the schedule and the mapping are appropriate, though the Panel considers that an explanation of the contribution (if any) of the laundry and the accommodation building to the heritage significance of the place should be added to the statement.

7.7.5 Conclusion and recommendation

The Panel has concluded that 'Kuloomba', 2203 Diggers Rest–Coimadai Road, Toolern Vale (HO22) is a place of heritage significance to the Shire of Melton and should be retained in the HO on a permanent basis, subject to the following recommendations.

The Panel recommends that:

For HO22 – 'Kuloomba', 2203 Diggers Rest–Coimadai Road, Toolern Vale – the statement of significance should be amended to remove reference to the tank and the Cypress trees and to include more details of those outbuildings that contribute to the significance of the place; tree controls should be deleted from the schedule; and the mapping should be amended as proposed by Council.

7.8 HO110 (Citation 359), Kerr Farm site, 1780-1882 Boundary Road, Mt Cottrell – Submission 8

7.8.1 Description

The Kerr Farm site was settled in 1856 and comprised approximately 91 acres. The site includes the substantial ruin of a dwelling (an original 3 roomed rubble and stone structure); the surviving remnants of a crudely constructed cottage fence and gate; and a substantial complex of dry stone wall stockyards, paddocks and boundary fences in various conditions. The wall on Boundary Road is approximately 800 metres long, the wall on the northern boundary approximately 250 metres long and there are about 270 metres of internal walls. There is also a probable shallow dam with 5 bluestone steps, as well as a hollowed out rock and a cobbled area to the northwest of the house.

The Kerr family was associated with the dairy farm until 1916 and were actively involved in the local community. Their family history reflects the difficulties of farming in a remote community, especially the modest house, painstakingly constructed stone fences and the difficulties in providing an adequate water supply. Tragedy struck when six children of the family died of diphtheria, probably due to isolation and poor sanitary conditions.

7.8.2 Statement of significance

The Melton Heritage Study identified the ruinous former Kerr dairy farm complex as a substantial relic of small farming practices, construction and lifestyle in the dry Werribee plains area and for its association with events in the life of the Kerr family. It is assessed as historically significant as expressive of a farming era and way of life that is not longer practised (AHC B2) and the use of walls to manage the dairy farm by enclosing small areas is also of significance (AHC D2). It is of scientific significance (AHC C2) for its potential to provide information about early farming practises in the region and of social significance (AHC G1) for its interpretative and educative potential regarding the small farming lifestyle in the 19th Century in the Melton area.

7.8.3 Evidence and submissions

One submission was received on this property, on behalf of the family that had owned it since 1924. It opposed including the farm under the HO.

The submission said that:

- the proposed HO110 would adversely affect farming practices;

- the amount of land included in the overlay was excessive;
- the majority of dry stone walls on the farm had been bulldozed many years ago and that most had been repaired and altered since; and
- inclusion in the overlay would significantly devalue the land 'due to the proposed restrictions being placed on the property'.

Support for fears of possible devaluation was submitted from a real estate agent and a gas distribution company.

The submission also queried the significance of the association with Kerr family and claims in the citation that two graves of the children who died in the diphtheria epidemic were located on the site.

In relation to the condition of the dry stone walls Mr Moloney said that all of the dry stone walls in the Melton area had either undergone change or deteriorated over the years, but could still be read for their historical and landscape significance. At the Hearing, Ms Peters informed the Panel that following a site inspection with the owner Council now proposed to reduce the overlay to a 5 metre curtilage around each wall. A map showing the amended area was tabled.

Mr David Morton, who represented the submitter at the Panel hearing, presented photographic evidence of the deteriorated condition of the dry stone walls and of the remains of the house. He emphasised that although the Council proposed to reduce the mapped area, the family was still opposed to the inclusion of the site under the HO.

He emphasised the uncertainty in relation to the future zoning of the land and the negative impact of the HO on current farming operations and future development. The historical significance of the Kerr family was questioned as well as the possibility of the existence of the children's graves.

7.8.4 Discussion

The Panel made an accompanied inspection of this site, with the submitter.

This showed that, other than the perimeter walls, the items regarded as significant are located in the centre of the property. They are not physically linked but the distances between them are relatively short.

The Panel makes no ruling on the possible devaluation of the site if included in the HO or the effect the overlay might have on its future development potential. As discussed in section 6.5 above, these issues are not relevant to the assessment of heritage significance.

No substantial evidence was submitted to demonstrate that the proposed HO would adversely affect farming practices, though Mr Morton mentioned that the it had been the practice of the owners and sharefarmer to drive machinery over the low/collapsed walls to reach different parts of the property, and that they had considered removing a part of one of these walls to allow better access.

The inspection showed that the property is being used actively for cropping, on a rotational basis with grazing, and that even after the proposed reduction in extent, some of the cultivated land will lie within the HO area. Although it would be an extreme interpretation to require a permit under the HO for cropping, the Panel feels that this property is one where uncertainties about the effect of the HO on farming operations could be addressed through a simple incorporated plan (as suggested by Mr Montebello for another place included in Amendment C71).

In relation to historic heritage significance, it is the Panel's view that the remnants of the former dairy farm are significant in demonstrating the history of farming life and techniques in the region and are of historical significance at the local level.

The comparative study in the statement of significance notes that this site is one of the few remaining intact small farms from the early period and that the number and variety of dry stone walls that have survived is significant.

On inspection the Panel noted that although many walls have been bulldozed and altered, what remains is still substantial and that the internal walls are valuable in understanding small farming techniques before World War 1. The lack of water and the innovative responses of early settlers are also evident on the site.

It is of scientific significance in its potential for further research on small farms in the region in this period. The site also has local social heritage significance in relation to the Kerr family, especially their experience of isolation and hardship. Whether or not some of the children's graves exist on the site does not impact on the site's social heritage significance.

The Panel agrees with the submitter that the extent of coverage initially proposed was excessive. It considers that Council's proposed reduction of the overlay to a 5 metre curtilage around each wall or other significant component is appropriate and will protect the heritage value of the place.

7.8.5 Conclusion and recommendation

The Panel has concluded that the Kerr farm site at 1780-1882 Boundary Road, Mt Cottrell (HO110) is a place of heritage significance to the Shire of Melton and should be retained under the HO on a permanent basis, subject to the recommendations below.

The Panel recommends that:

For HO110 – the Kerr farm site, 1780-1882 Boundary Road, Mt Cottrell – the mapping should be amended as proposed by Council and a simple incorporated plan should be developed and approved to minimise the impact of the HO on ongoing farming operations.

7.9 HO49 Former Army Radio Station, 107-207 Diggers Rest-Coimadai Road, Diggers Rest – Submission 9

7.9.1 Description

The building, part of the former Army Radio Station complex, is a large bow-roofed Nissan hut style construction dating from 1943.

7.9.2 Statement of significance

The Melton Heritage Study assessed the place as historically significant (A4, B2 & H1) as the only significant war-time building remaining at the Army's Diggers Rest and Rockbank radio transmitting and receiving stations, which were established in 1942 for the United States' military command in Melbourne. The building was also considered to be architecturally significant (AHC D2) and a rare surviving example of this type of building. Overall, it was assessed as of local significance.

7.9.3 Evidence and submissions

There was one submission relating to this place. It stated that the 'shed' was only in fair condition and made no valuable contribution to the heritage of the Diggers Rest settlement. Due to its location away from any main thoroughfare, it was unlikely to be appreciated by passers by. Furthermore, retention of the building would constrain efficient and comprehensive redevelopment of the site.

Mr Moloney, in his expert evidence, pointed out that it is not necessary for a place to be visible to the public to have heritage significance. He continued:

The significance of the building in the Statement of Significance relates primarily to the historical significance of the place during the Second

World War and also to its probable rarity as a structural type. The question of its heritage contribution to the local area is also evident in as much as Diggers Rest, with Rockbank, was found to have exceptional advantages for radio transmission and reception, and the Shire of Melton and Melbourne's western plains consequently hosted major early international commercial and defence radio facilities.

Mr Moloney also noted that the impact of the proposed HO on the future development of the place had no bearing on its heritage significance.

Council advised that, following a site inspection by Ms Peters, it proposes to reduce the extent of the mapping to exclude the majority of the non-significant items on the site, including most of the newer building attached to the rear of the large bow-roofed property. A part of this rear extension has been retained in the mapped area, in order to provide curtilage to the significant building.

7.9.4 Discussion

The Panel viewed this place from the nearby roads. The scale and unusual design of the building were readily apparent.

The building was formerly part of an Army base at Diggers Rest. The inspection showed that other components of this complex still exist, including 18 houses that are listed in Schedule 3 of Vol 1 of the Melton Heritage Study as 'conservation desirable'. They provide a context for the radio station building.

The Panel considers that the large Nissan-hut style building demonstrates the architectural characteristics attributed to it in the statement of significance, and that the statement substantiates the historical significance of the place.

Reducing the mapped area to exclude non-significant items on the site is endorsed.

7.9.5 Conclusion and recommendation

The Panel has concluded that the former Army Radio Station at 107-207 Diggers Rest-Coimadai Road, Diggers Rest (HO49) is a place of heritage significance to the Shire of Melton and should be retained under the HO on a permanent basis.

The Panel recommends that:

For HO49 – the former Army Radio Station at 107-207 Diggers Rest-Coimadai Road, Diggers Rest – the mapping should be amended as proposed by Council.

7.10 HO105 (Citation 293), Mt Cottrell Road Stockyards & Ruins, 1476-1570 Mt Cottrell Road, Mt Cottrell – Submission 10**7.10.1 Description**

The Mt Cottrell Road site includes stock-yards, dam (a possible sheep-wash) house ruin, dry stone walls and underground water-storage tank. It includes an approximately 200 metre long complex of largely intact dry stone walls. There is a long (approximately 90m) fence joining the main yard area to a narrow dam (around 55m long), which is partly lined in fieldstones and is contained within dry-stone walls on its eastern and western sides. The site also includes the ruins of a well-constructed and substantial rubble bluestone building, most likely the original house. Among other remaining elements on the property are a number of internal dry stone walls.

7.10.2 Statement of significance

The Melton Heritage Study assessed this site as an unusual complex of dry stone walls, stone farmhouse ruins and plantings (Peppercorns and Sugar gum trees) while the partly dry stone walled dam was a characteristic feature of the Melton area. These features date back to the beginnings of freehold farming settlement in the Melton district in the 1850s. The dry stone walls were of varying integrity and condition, but overall substantially intact.

The context of the site, in particular the dry stone walls along Mount Cottrell Road and Greigs Road, enhanced its significance. These elements contributed to the historical significance of the site at the local level (AHC A4, B2, D2) for its potential to demonstrate changes in small farming and the importance of water management in this dry district. The site was also of historical significance for its association with George Scarborough, an early and noted settler of Port Phillip and the Melton region and as the site of Melton's first Pound, 1854-57.

The dry stone walls and sheep yard were of scientific importance (AHC C2) as having the potential for further research on the evidence of early farming practices in the region. The place has also been recommended for inclusion in the Victorian Heritage Inventory because of its possible archaeological significance.

7.10.3 Evidence and submissions

There was one submission on this site.

It generally accepted HO105 but objected to the inclusion of an internal L-shaped dry stone wall, on the basis that it would restrict the future use of the site for the purpose of extractive industry. The main reason given was 'inconsistency with the zone provisions and the intended use of the land'.

At the Hearing Mr Elliot, the owners' representative, advised that an application was about to be submitted, under the interim heritage controls, to demolish the middle L-shaped wall. Mr Montebello said that, considering the importance of the extractive resources on the property, Council's view was that a permit should be issued. This would be subject to conditions, including the owners allowing access for Council representatives to undertake a full recording of the wall and, possibly, for the rocks to be removed to a designated place for storage and reuse. Mr Elliot, following this statement from Council, withdrew his submission on the Amendment and elected not to present to the Panel.

Mr Bick's expert evidence on this site, circulated prior to the Hearing, concluded that of the three areas mapped on HO105, the L-shaped wall was the least significant. It was an isolated remnant and 'did not show much about the past use of the land.' Mr Bick stated there were numerous dry stone walls in Melton and that HO controls 'should only be applied cautiously and with strong well-established justification.'

Ms Peters, in her written expert witness report, pointed out that the owners' objection related to inconsistency with the zone provisions and proposed use, but not to the heritage significance of the place. Ms Peters said that the internal walls, while not built with the skill of external walls, were nevertheless 'an important indicator of farming practices in Melton and the small scale of these early enterprises.'

In response to the suggestion in the submission that the ruin may not be the remains of a residential building, Ms Peters referred to rate book evidence and the existence of the nearby well. She also referred to the rate books to establish the occupation of the site by the Scarborough family, well known in the district.

Ms Peters agreed that there were many dry stone walls in Melton, but outlined the threats to them from subdivision and demolition.

The Mount Cottrell walls have not yet been compromised by subdivision or industry and so the landscape relationship between the walls and the

sheep yards, the house ruins and the Mount Cottrell volcano, the source of the stone, can be readily seen, interpreted and documented.

Mr Bick and Ms Peters did not present to the Hearing, because the submission on behalf of the owners was withdrawn.

Mr Montebello, in his closing submission, suggested that the Panel should recommend removal of the HO over the central wall (the L-shaped wall) in HO105, but retention of the other two areas covered.

7.10.4 Discussion

The Panel viewed this site from the Greigs Road and Mt Cottrell Road frontages.

The inspection revealed that the boundary wall extending south from Greigs Road appeared to be lower and less substantial than those along the road frontages. The unusual complex of walls around the stockyards and the ruins of the building were clearly visible. The internal L-shaped wall could not be seen from our viewpoints.

The Panel considers that the property overall demonstrates the historical values and archaeological potential attributed to it in the statement of significance and in Ms Peters' evidence.

The Panel has no influence over the decisions of Council as a responsible authority regarding properties included under the HO (whether on an interim or permanent basis). In the light of the advice received on Council's position, the Panel decided to make no finding on the heritage significance of the L-shaped wall.

On our reading, the 'L' shaped wall is not mentioned specifically in the statement of significance, so no changes are required there. The mapping will need to be amended to remove the polygon relating to this wall.

7.10.5 Conclusion and recommendation

The Panel has concluded that the Mt Cottrell Road stockyards and ruins, 1476-1570 Mt Cottrell Road, Mt Cottrell (HO105) is a place of heritage significance to the Shire of Melton and should be retained in the HO on a permanent basis, subject to the change recommended below.

The Panel recommends that:

For HO105 – Mt Cottrell Road stockyards and ruins, 1476-1570 Mt Cottrell Road, Mt Cottrell – the mapping should be amended as proposed by Council.

7.11 HO98 (Citation 263), House ‘Nerowie’, 155 Nerowie Road, Parwan – Submission 11

7.11.1 Description

The property is a brick building in the Victorian Picturesque style, now used as a house. A weatherboard dairy and a Stone pine plantation, associated with the house, are located across the municipal boundary in the Shire of Moorabool.

7.11.2 Statement of significance

The Melton Heritage Study assessed the property as architecturally significant (AHC D2 & E1), as well as historically significant (AHC B2 & H1) for its connection with the Staughton family, for whom it was built. Overall, it was assessed as of local significance.

The statement of significance included in Volume 6 – the proposed incorporated document – for this property has been amended to recognise the church-like nature of the main room.

7.11.3 Evidence and submissions

There was one submission concerning this property. It noted that the basis for listing seemed to be a belief that the structure was a dwelling on land once owned by John Staughton and believed to have been built by or for the Staughton family in the 1900s. It also queried the description of the style of the building.

The submission stated that the structure was not built as a dwelling, as there was no evidence of bedrooms, bathrooms or a kitchen in the original part and there was a chapel at the southern end – which was not mentioned in the citation. It was believed that the chapel ceiling had been brought out from England. A house, which had once stood close to the structure, had been removed many years ago.

The submission noted that when Ms Peters, as Council’s heritage advisor, had inspected the property, she agreed that it was more like a place of

worship than a dwelling. She thought the verandahs were not original but had probably been added later, as had the brick extension containing bedrooms and a bathroom.

A request was made for the extent of mapped area to be reduced, as it included a lot of structures of no heritage value (including some outside the Shire of Melton).

The submission supported protection of sites of heritage significance, provided the basis on which they were identified and assessed was correct.

Mr Moloney, in his expert witness report, said that as a result of the submission, he had been commissioned by the Shire of Melton to undertake further research on this property. This included an internal inspection, which allowed him to examine the details of the 'chapel', which include stained-glass window, statue niches, an apse-like end, and classical pilasters. He had concluded that it was not a building with a dedicated religious use, but rather a 'multi-purpose' room for worship or recreation, as required.

Mr Moloney advised that citation had been revised to reflect his view that the building had probably been erected as an extension of the Staughton's original weatherboard dwelling (since removed) and had been used for a variety of purposes, including religious worship.

He noted that the Shire had agreed to reduce the area of the mapping, as requested, and had also determined to apply internal alteration controls in the schedule to the HO over the 'chapel' part of the building. He was satisfied that the reduced area was appropriate to the protection of the heritage significance of the place.

The owner had been sent a copy of the new statement of significance (as included in Vol 6, proposed to be incorporated in the planning scheme) and advised of the proposed internal alteration controls in September 2008, but no further submission had been received.

Mr Montebello told the Panel that this was the only place for which internal controls were proposed in Amendment C71.

7.11.4 Discussion

The Panel viewed this property from the north, from the gate on a gravel access road off Nerowie Road.

The place, as described in the statement of significance, is a large and unusual building, now used as a dwelling. It has a steeply pitched gable roof, face brick walls and dichromatic brick chimneys. The Panel agrees with

Ms Peters' assessment that the verandah may be a later addition, as is the brick extension under the verandah roofline on the north-east corner.

The Panel's view of the site did not allow it to see the 'chapel' on the south side, but it is mentioned in the submission and its characteristics are described in the submission and in Mr Moloney's evidence.

On the basis of its own observations and the information provided, the Panel is satisfied that the property has the architectural and historical significance attributed to it in the statement of significance.

With regard to the question of internal alteration controls, the PPN on Applying the Heritage Overlay advises:

Applying internal alteration controls

The schedule can nominate whether internal alteration controls are to apply over specified buildings. [Internal alteration] controls are implemented by including a 'yes' in the Internal Alteration Controls Apply? column. This provision should be applied sparingly and on a selective basis to special interiors of high significance. The statement of significance for the heritage place should explain what is significant about the interior and why it is important.

The Panel considers that, in the context of the Shire of Melton, this building is significant enough to warrant interior alteration controls and that the statement of significance explains what is significant and why.

7.11.5 Conclusion and recommendation

The Panel has concluded that the building, now a house known as 'Nerowie', at 155 Nerowie Road, Parwan (HO98) is a place of heritage significance to the Shire of Melton and should be retained under the HO on a permanent basis. The amended citation, included in Volume 6 of the Melton Heritage Study (the proposed incorporated document) is appropriate, as are the reductions in the area mapped and the application of internal alteration controls to the significant interior features.

The Panel recommends:

For HO98 – 'Nerowie', 155 Nerowie Road, Parwan – the mapping should be amended as proposed by Council and internal alteration controls should be added to the schedule, to apply to the chapel-style main room of the building.

7.12 HO60 (Citation 136), 'Mt Aitken' Site & Ruin, 740-794 Mt Aitken Road, Diggers Rest – Submission 12

7.12.1 Description

The 'Mount Aitken' site and ruin is located on the remains of the extensive 'Mount Aitken' pastoral run which dates from the occupation of land in the Port Phillip district by settlers from Tasmania in the 1830s and was settled by John Aitken. It is located approximately 2.5 kilometres south of Mount Aitken. There are few physical remains of the period of early settlement on the site although it is thought that by the mid 19th Century the pastoral station probably included:

- a rendered masonry homestead dwelling;
- a sapling and timber woolshed;
- an iron building;
- another two room stone building;
- early timber stable and coach house;
- several early wooden huts;
- dry stone walling; and
- an early pastoral track through the site.

What remains is: a ruined building which has walls constructed of bluestone and sedimentary stone and an internal chimney at the south end; remains of a water tank; foundations of a building; and other building fabric and dry stone walls. There are several rows of mature conifer plantings with some eucalypts between them, located to the south of the ruin. The proposed HO60 covers the whole of the site.

7.12.2 Statement of significance

The Melton Heritage Study assessed this place as being potentially of State significance, as the site of one of the earliest pastoral settlements in the Port Phillip district. The detailed statement of significance identifies it as a major 19th Century pastoral run and stud property, of at least local heritage significance, because of its historical and archaeological significance in the early European settlement of the Port Phillip/Melbourne district. Explorer and pastoralist John Aitken was identified as the first European to settle in what is now the Shire of Melton and the settlement at Mount Aitken as the 'first inland occupation of sheep country'. He was a famous sheep breeder, contributing to the development of the Merino sheep industry, and a popular local citizen. Aitken's interest and expertise in stud livestock breeding was

further developed after 1858 by his manager Henry Beattie, who died at Mount Aitken in 1906.

The site is also of historical significance as a place of first contact encounters between the Aboriginal and European peoples which began cordially but became increasingly tense. The statement of significance refers to accounts of violent clashes between Aitken and local aborigines.

Although there are few physical remains of early settlement, they are important given the scarcity of other recorded physical evidence of early settlement and culture contact in the Port Phillip district. However, the original purpose and date of the ruin on site is not known at this stage.

The statement of significance identifies the site as historically significant possibly at State and certainly at the local level (AHC A4, B2, D2 and H1) as a place of early settlement and Aboriginal culture contact, and for its association with John Aitken and Henry Beattie.

The site is also identified as of scientific significance for its contribution to the development of the Merino wool industry and sheep and stock breeding. It is also of scientific significance for its archaeological values and research potential (AHC C2), which could contribute to a wider understanding of the European occupation of this part of Australia.

7.12.3 Evidence and submissions

One submission was received in regard to this property.

The submission opposed the application of permanent heritage controls through Amendment C71, on the basis that the heritage significance of the site has not been sufficiently established and that the proposed extent of HO60 – which covers the entire property – was excessive. The HO would be burdensome and onerous for a large farming property.

The boundaries of the HO were described as entirely arbitrary, as some of the buildings and much of the land associated with the Mount Aitken property were outside the mapped area. In addition, the submission claimed that what now exists on the property could not in any significant way add to an understanding of the early pastoral settlement of the area by John Aitken, nor the early development of the Port Phillip District. Further, there was no evidence that the remaining relics dated from Aitken's period, which ended in 1858.

It was also argued that the use of the HO to protect probable archaeological significance was unnecessary as there is a separate statutory process under the Heritage Act that deals with archaeological sites.

The Council submitted that the heritage study assessment was sufficient to justify introduction of the HO, but that there might be some scope to reduce the extent of coverage of the overlay. The Panel was informed that there had been difficulties due to the lack of access to the site for inspection, which had made it hard to assess archaeological issues and also the appropriate extent of mapping.

Mr Montebello, for Council, also noted that in a somewhat similar case, the Corangamite C6 Panel had recommended an incorporated plan be developed for the property, to ensure that items of significance were protected but that minimal interruption was caused to normal farming operations. He suggested that such a plan should be developed and approved for this site.

Two opposing views were put to the Panel in expert evidence by heritage experts Mr Willingham on behalf of the submitter and by Mr Moloney on behalf of the Shire of Melton.

Mr Willingham submitted that there were many other properties that demonstrated early pastoral life in the Port Phillip region and in the Melton area, especially the homesteads at Exford and Strathulloh. Both of these were of State significance and listed on the VHR.

Mr Willingham considered that the statement of significance overestimated Aitken's importance as a pioneering settler, although his role in fostering the Victorian sheep industry was not in dispute. Mr Willingham maintained that Aitken was one among many arrivals from Tasmania and New South Wales who settled in the district in the early period. While he may have been the only settler for a few months, he would quickly have found himself surrounded by neighbours. Mr Willingham also questioned the claim made in Mr Moloney's expert witness statement that that Aitken 's run was the 'first inland run in Port Phillip'.

Mr Willingham also submitted that John Aitken had been incorrectly described as John C Aitken. This was accepted by Mr Moloney who informed the Panel that the 'C' should be removed from the statement of significance.

Mr Willingham had undertaken extensive research into survey drawings of Mount Aitken pastoral holdings in the mid 19th Century, especially the plans prepared in 1860 by RC Bagot, surveyor, held in the Public Records Office. Mr Willingham commissioned a surveyor to prepare a compiled plan, which

showed boundaries and the locations of buildings recorded in Bagot's two survey plans, superimposed on the present cadastre. This compiled plan was of assistance to the Panel. Mr Willingham concluded that there was insufficient documentary evidence to be certain of the location and nature of the physical settlement and building developments at 'Mount Aitken' and that the stone building cannot be accurately dated.

In relation to the issue of culture contact, Mr Willingham questioned the evidence in the statement of significance, especially in relation to the use of secondary sources to document violent clashes between Aitken and the Indigenous occupants of the area.

Mr Willingham concluded (p.29) that the site:

is virtually devoid of any physical evidence which can be unequivocally linked either to John Aitken, a notable early settler and pastoralist at Port Phillip, or to Henry Beattie, a noted breeder of livestock.

He said that HO60 should be rejected in its current form.

In his submission, Mr Moloney emphasised the significance of 'Mount Aitken' as a site of early settlement, which predated the 'Exford' and 'Strathulloh' homesteads. Given the claim that the historical and scientific significance of the place had not been established, he had undertaken further research and analysis. He drew the Panel's attention to further evidence of buildings and other aspects of the property contained in a 4th year thesis on the 'Mount Aitken' site. This was undertaken by P Kerr and G Nikolajuk, in the Architecture School at Melbourne University in 1963. It included significant photographs which, compared with the present situation, demonstrated the deterioration in fabric over the last forty years.

Mr Moloney emphasised that the issue of dating and existence of buildings could only be resolved by archaeological study and research. Although the provisions of the Heritage Act apply to archaeological places, this by itself does not provide sufficient protection to a site of this nature. It was Mr Moloney's view that the Melton Heritage Study's assessment was sufficient to justify introduction of the HO. Although there might be some scope to reduce the extent of coverage of the overlay in future, the lack of access to the site for inspection had made it difficult to assess archaeological issues and the appropriate extent of mapping.

As a result of his further research Mr. Moloney recommended that a number of minor amendments be made to the statement of significance.

Ms Forsyth, in summing up the presentation on behalf of submitters, said that the HO had been applied on an arbitrary basis, as some of the Aitken

buildings and much of the land he had owned was outside the area proposed for listing. Council's representatives responded that much of the land is outside the Shire of Melton.

Ms Forsyth also reiterated Mr Willingham's view that a site listed for its scientific/archaeological potential needed to be capable of yielding important information, and it had not been demonstrated that this site could do so.

7.12.4 Discussion

The Panel inspected this site with Ms Forsyth, Ms Peters and representatives of the owners. The inspection showed that the land is used for grazing and that the items of potential heritage significance are distributed fairly widely across the property.

Recent reviews of heritage decision-making have concluded that places of historic significance, where there is little fabric remaining to illustrate that significance, pose particular problems in listing decisions and in heritage management (as discussed in section 6.3).

This is the case in HO60. Assessment of the basis for listing this site is made more difficult for the Panel by the fact that the early settlement of the region means there are few official or contemporary written sources. For instance, in terms of culture contact, evidence of the Indigenous experience is of necessity one of oral tradition, though some indication can be gleaned from a variety of official or other written sources.

Given this situation, the Panel has been assisted by the extensive research undertaken by Mr. Moloney in the preparation of the Melton Heritage Study and for his expert evidence for the Panel hearing. The Panel finds that the historical importance of the Mount Aitken site as one of the earliest Port Phillip pastoral settlements has been established by this evidence and meets the AHC criteria for historical significance at the local level, as stated in the statement of significance (AHC A2). The Panel agrees with Mr Moloney's emphasis on the importance of Melton as part of the first region of the Port Phillip district to be settled by Europeans. Although Aitken was not the first inland European settler in Victoria, as claimed in the statement of significance, he was certainly one of the earliest and an important figure in the Melton district.

The mapping of the site and the significance of the extant fabric were thoroughly discussed in submissions and expert evidence. Further research is needed to establish if these are the buildings documented in the 1860 inventory, or directly associated with Aitken or Beattie. Even if no physical

evidence remains of the Aitken era, the Panel considers that the site is still of significance because of this association.

Although no archaeological evidence was presented at the hearing, the Panel is convinced that the site is of scientific significance at the local level and has the potential to yield information through archaeological investigation and research on the early period of settlement in the region. The site meets the criterion of AHC C2, as research undertaken for the Melton Heritage Study and the Hearing suggests a likelihood that the place contains information of historic value on the early settlement of the region.

In summary the Panel finds the site meets the listed AHC criteria for historical significance and scientific significance at the local level. It contributes to an understanding of the early settlement of the Melton district and of Port Phillip. The issue as to whether the site is of potential State significance is not one that the Panel can decide. This would need to be tested by an application to the Heritage Council.

The Panel was concerned that in the course of the Hearing it became clear that there were inaccuracies in the statement of significance and considers that the statement needs to be revised and edited.

On inspection, it was the Panel's view that, although the HO does not appear likely to have much impact on the use of the property for grazing, there may be a case for reducing the extent of HO. However, it does not support the submission that the interim controls remain in place until further investigation of HO boundaries has occurred, or Mr Montebello's suggestion that the southern part of the site could be omitted because the historical documentation did not indicate much of interest there.

The Panel believes that this property requires a conservation management plan (CMP), developed with input from an archaeologist. The plan should identify the significant above ground fabric on the site and the areas with archaeological potential. It should also establish the level of significance and determine appropriate boundaries and permit exemptions. Until such time as such a CMP is prepared and approved as an incorporated plan, the boundaries should remain as exhibited.

7.12.5 Conclusion and recommendation

The Panel has concluded that the 'Mt Aitken' site and ruin at 740-794 Mt Aitken Road, Diggers Rest (HO60) is a place of heritage significance to the Shire of Melton and should be retained in the HO on a permanent basis, subject to the recommendation that follows.

The Panel recommends that:

For HO60 – ‘Mt Aitken’ site and ruin at 740-794 Mt Aitken Road, Diggers Rest – corrections should be made to the citation to reflect the information provided at the Hearings for Amendment C71.

7.13 HO24 (Citation 029), Farm Complex, 1229-1279 Gisborne-Melton Road, Toolern Vale – Submission 13

7.13.1 Description

The property is a farm complex, comprising a weatherboard interwar Bungalow style house, a weatherboard cottage, a bluestone ruin, a brick garage, an underground brick tank and farm sheds.

7.13.2 Statement of significance

The Melton Heritage Study assessed the house and associated buildings as architecturally significant (AHC D2). It also concluded that the complex was historically significant (AHC A4 & B2), as the only 19th and early 20th Century farm complex remaining beside the Toolern Creek, as one of only two places in the Shire with evidence of three generations of farming houses and for its association with pioneering families in the Toolern Vale district and with the ‘Greenhills’ pastoral estate. Overall, it was assessed as of local significance.

7.13.3 Evidence and submissions

There was one submission applying to this place. The owners were concerned that the effect of the HO would be to deny them the opportunity to extend the house in the way that they wanted, that is, to replicate the design detail in order to make it look like one house. They commented that they had tried to preserve as much as possible in bringing both houses up to a habitable standard. The submission also put the view that the main house was not of a sufficient age for heritage listing, as it was only about 70 years old.

Mr Moloney, in his expert evidence, stated that the concerns regarding the ability to extend the house were not relevant to the assessment of its heritage significance. He also noted that the age of a place is not the sole determinant of its historical or architectural significance. He considered that the place was significant for the reasons set out in the statement of significance.

Mr Moloney told the Hearing that the complex – with buildings dating from different periods – shows the development of farming in the municipality and that such examples are now scarce.

Mr Montebello advised that, as a result of a site visit by its representatives, Council was now proposing to reduce the mapped area, to omit an outbuilding of no significance.

7.13.4 Discussion

The Panel was unable to identify this complex, which does not appear to be visible from the road.

The Panel agrees with Mr Moloney that the issue of management of a heritage place under the HO is a separate matter from determining whether a place has heritage significance.

The submission does not challenge the facts set out in the statement of significance, that is, the existence of the various components of the farm complex.

The photographs in the Melton Heritage Study (Vol 3, pp.95-106) show a modest but seemingly intact interwar Bungalow, a Victorian vernacular style weatherboard cottage that may have lost its chimney but otherwise appears to be intact, and a brick building described as a garage/former dairy.

On the basis of the photographs, the Panel considers that the buildings demonstrate the characteristics attributed to them in the statement of significance and the complex as a whole shows the evolution of a farm – specifically a dairy farm in this case – over the period from the middle of the 19th Century to the inter-war period of the 20th Century.

The proposed changes to the mapping to exclude an outbuilding that is not significant are supported.

With regard to the age of the main house, the Panel notes that interwar buildings are now commonly listed as places of heritage significance.

7.13.5 Conclusion and recommendation

The Panel has concluded that the farm complex at 1229-1279 Gisborne-Melton Road, Toolern Vale (HO24) is a place of heritage significance to the Shire of Melton and should be retained under the HO on a permanent basis.

The Panel recommends:

For HO24 – the farm complex at 1229-1279 Gisborne-Melton Road, Toolern Vale – amendments should be made to the mapping as proposed by Council.

7.14 HO74 (Citation 199), 'Parklea', 148-200 Abey Road, Melton South – Submission 14

7.14.1 Description

The 'Parklea' property includes an interwar Bungalow style weatherboard house, a corrugated iron barn and timber outbuildings, a tank stand, cypresses near the house and a driveway with an avenue of Peppercorn trees.

7.14.2 Statement of significance

The Melton Heritage Study assessed the house as architecturally significant (AHC D2) and concluded that the setting demonstrated important visual qualities. The place was also assessed as historically significant (AHC B2 & H1) as a relatively scarce example of an interwar farming property and for its association with the Robinson family. The outbuildings, tank stand, huts and plantings were considered to constitute noteworthy evidence of an earlier farming complex. Overall, it was assessed as of local significance.

7.14.3 Evidence and submissions

There was one submission regarding this property.

It indicated that the owners were concerned about the inclusion of the driveway and the flanking trees in the mapped extent of the heritage place. The trees were struggling to survive in the dry conditions and the need to retain them may be a handicap to future development. The owners would prefer the HO to be limited to the house and its immediate surrounds. However, they accepted that the outbuildings would be included also and through these could be incorporated in future development plans.

Mr Moloney, in his expert witness statement, stated that the objectors' issues could be considered through the normal planning permit process when and if the need arose. This would enable proper consideration of all the issues and all the options available.

Mr Moloney told the Hearing that Council wanted to retain the trees in the HO area. He also said that the house on the property is thought to be a State Savings Bank design. Only about seven interwar houses are proposed for listing under the HO through Amendment C71 and the Melton Heritage Study identified only about 14 in the Shire as a whole. Some represented late infill of the lots created by the break up of the pastoral estates. Mr Moloney conceded that interwar development is not a theme in the environmental

history, but considered that this might be because very little was happening in the area at the time.

Mr Altmann, for the owners, reiterated the concerns from the original submission in his presentation to the Panel. He showed photographs of the trees to establish their poor condition and put the view that 'their heritage value will be ephemeral and very short term'. He also requested that, regardless of any decisions regarding the trees, the driveway itself should not be identified as of heritage significance. The driveway, Mr Altmann explained, is concrete for a short section after crossing the ford, then crushed rock, then 'cobblestones' from a local source of stone. The owners were prepared to incorporate the cobblestones into another section of driveway near the house.

Concern was also expressed about retention of the outbuildings, which he said were older than the house and could date from shortly after 1900. Mr Altmann assessed them both, but particularly the barn (eastern building) as nearing the end of their structural life, without expenditure to render them structurally sound.

Mr Altmann outlined the development intentions for the property, which is covered by a Development Plan overlay. Proposals involve subdivision for standard density and some medium density housing to take advantage of its proximity to Melton railway station. A requirement to retain the driveway and the outbuildings would constrain development options. He said that the owners recognised that they could apply for a permit to demolish the outbuildings or cut down the trees, but they preferred them to be excluded from the HO.

7.14.4 Discussion

The Panel made an accompanied inspection of this property with the owners and Ms Peters.

The inspection revealed that the property is not accessed from Abey Road, but from the end of Fraser Street, Melton South through a streamside reserve along Toolern Creek. Despite its proximity to suburban development, the property retains the character of the homestead complex of a small farm.

It contains a substantially intact interwar weatherboard Bungalow, a corrugated iron barn and yards, a timber Victorian style cottage that may have been an earlier residence but is now attached to a large timber and iron shed/outbuilding, a tall roofed structure and windmill over a tank stand, shelter plantings around the house, a garden mainly comprised of succulents and a tree lined driveway that includes a ford across Toolern Creek. The

Peppercorn Trees along the drive and the Cypresses near the house were showing signs of dieback.

The Panel notes that neither the submission nor Mr Altmann's presentation provided any evidence to indicate that the trees, the outbuildings and the broader setting of the place were not of heritage significance. It also notes that the statement of significance for this place does not make any mention of the surface of the driveway.

The issues raised are matters relating to future management of the place. Consideration of any development application, under the strategic plans and other controls applying to the area, will involve weighing up its heritage significance – as a whole and for individual components – in the light of other planning objectives for the area. As discussed in section 6.5, these are not usually relevant considerations when deciding on whether a place should be listed on the HO.

The Panel considers that the property demonstrates the architectural, visual and historical values attributed to it in the statement of significance.

7.14.5 Conclusions

The Panel has concluded that 'Parklea' at 148-200 Abey Road, Melton South (HO74) is a place of heritage significance to the Shire of Melton and should be retained under the HO on a permanent basis. No change should be made to the mapping for this place.

7.15 HO11 (No citation), 'Exford Homestead' (balance), 255-605 Exford Road, Melton South & HO12 (No citation), 'Strathtulloh Homestead' (balance), 1402-1600 Greigs Road, Melton South – Submission 16

7.15.1 Description

These places are associated with the 'Exford' and 'Strathtulloh' homesteads, which are listed on the VHR.

7.15.2 Statement of significance

The Melton Heritage Study does not include statements of significance for these places.

7.15.3 Evidence and submissions

One submission was received concerning these properties. The submission noted that two HO places were proposed for each property: one to cover the extent of the VHR listing and the other to try to pick up archaeological remains related to them. However, the location of these relics was unknown. The submission put the view that the protection offered by the Heritage Act was sufficient and HO11 and HO12 were not needed.

Council later advised the submitters, in a letter dated 29 October 2008, that:

Following an inspection of these two properties, Council officers are satisfied that there are no sites of potential heritage significance within the areas proposed to be affected by these overlays. At its September 2008 meeting, Melton Shire Council was advised that the Planning Unit supported remove of HO11 and HO12 from the Heritage Overlay Schedule. ... This will be the position that Council takes regarding these two sites in its submission to the planning panel.

Watsons Pty Ltd, the submitters, subsequently advised the Panel that it had received Council's letter and 'based on our agreed position with Council, there is no need for us to be a party to the up coming panel hearing'.

Mr Montebello's opening submission stated that the submission concerning these places had been withdrawn.

7.15.4 Discussion

The Panel did not inspect these places.

While noting Mr Montebello's advice that the submission had been withdrawn, the Panel has concluded that Watsons' letter only withdrew their request to be heard, not the submission. In any case, a Panel conclusion and recommendation is required on these places in order to vary the exhibited Amendment by omitting them, as has Council proposed.

As far as the Panel can determine, the new-format planning scheme mapped substantial areas around 'Exford' and 'Strathulloh' homesteads as part of each heritage place. While the details and the chronology are unclear, it appears that the VHR extent of registration for 'Exford' and 'Strathulloh' homesteads was either always smaller or was subsequently reduced. As a result, Council decided to include the balance of the areas as separate places – of local significance only – in Amendment C71. The Explanatory Report, at Attachment A, states for each:

New addition to the Schedule and Overlay. Site previously formed part of HO2 ['Exford' or HO3, 'Strathtulloh']

There is no statement of significance for these balance areas as places of local significance – as opposed to the VHR statements of significance for the homesteads – and they were not addressed in expert evidence or other presentations at the Hearing. Therefore, the Panel has no alternative but to accept the advice of Council that they should be deleted from the HO.

7.15.5 Conclusion and recommendation

The Panel has concluded that, as advised by Council, there are no sites of potential heritage significance in the areas HO11 and HO12, previously proposed for listing on a permanent basis.

The Panel recommends that:

HO11 'Exford Homestead' (balance), 255-605 Exford Road, Melton South and HO12 'Strathtulloh Homestead' (balance), 1402-1600 Greigs Road, Melton South should be deleted from the HO.

7.16 HO67 (shown as HO66 in Vol 6) (Citation 175), House, 488-514 Bulmans Road, Melton – Submission 17

7.16.1 Description

The property is a small farm complex including a late Victorian style house, with outbuildings and trees.

7.16.2 Statement of significance

The Melton Heritage Study assessed the property as historically significant (AHC A4 & B2) as an example of a farm complex created in the subdivision of the 'Melton Park' and previously 'Greenhills' pastoral estates. The house was assessed as having architectural interest and the outbuildings and Cypress trees as contributing to the aesthetic interest of the place. Overall, it was assessed as of local significance.

7.16.3 Evidence and submissions

There was one submission concerning this property.

It stated that age alone does not create heritage value. It described the house as being in poor condition and subject to vandalism and the outbuildings as derelict and in worse condition than the house. The submission pointed out

that the property is not 'reasonably intact', as the statement of significance says, but is in fact clad in artificial brick. The trees were much younger than the house and should not be considered. The Cypress trees, which were held to 'contribute to the aesthetic interest of the place' were dying.

Mr Moloney, in his expert evidence, stressed the rarity of the place and the importance of its historical associations with the break up of the large pastoral estates. He described the house as 'an altered and unassuming example of a late Victorian style' and as 'reasonably intact' and said that, with 'Kuloomba' (HO22), 'which is larger and less typical, it is now the only significant remaining example of the break up of the "Melton Park" estate.' He considered that the outbuildings and trees contributed to the 'clear rural aesthetic' of the place.

Mr Moloney pointed out that the statement of significance assessed the house as of historical 'interest' only and acknowledged changes to it, including the fact that the verandah was not original. He considered that the opportunity existed to restore it appropriately, by removing the cladding and replacing the weatherboards – or restoring them in those areas where they survived – and restoring the verandah in an appropriate style.

Mr Moloney advised that, after an inspection by Ms Peters for Council, some minor changes have been made to the citation (including to the recent history of the property, as advised by the owners). Council considered that the schedule controls should be modified to delete the Cypress trees and to specify which outbuildings are considered significant: two weatherboard buildings and one vernacular barn/machinery shed. It supported retention of the tree controls to apply to the Sugar gums.

In response to a Panel query as to why the Sugar gums were not mentioned in the statement of significance, Mr Moloney said this was a mistake. He proposed to redraft the statement of significance to remove reference to the condition of the house and to refer to the Sugar gums.

Mr Moloney also told the Hearing that Dr David Rowe, who carried out the architectural assessments, had been reluctant to nominate this place for listing under the HO, because of extent to which it had been modified by the addition of the cladding and the changes to the verandah.

7.16.4 Discussion

The Panel viewed this property from the road reserve.

The house was a sorry sight, with the verandah collapsed, the front door missing and front windows broken. There was a hole in the artificial brick cladding on the front (showing weatherboards underneath) and the foundations had sunk. Only the roof and the chimneys seemed reasonably intact. The outbuildings could not be seen clearly, but appeared to be small in scale. The Sugar gums, as is traditional for this species, had been coppiced. The Cypress tree that is shown behind the house in the photograph in the Melton Heritage Study was no longer visible.

The role of building condition – as opposed to intactness – in heritage decision-making has been dealt with in section 6.4 above. That discussion is relevant to this property, as are some of the matters considered in relation to HO106, a Melton South house that also forms part of Amendment C71 (see section 7.5), which the Panel has recommended be deleted from the HO.

In the case of this Bulmans Road small farm complex, the Melton Heritage Study has already concluded that the house is too altered (not intact enough) to be architecturally significant, and has described it as of architectural ‘interest’. The property is being proposed for listing on the grounds of its historical significance (AHC A4 & B2).

The Panel accepts Mr Moloney’s advice that this is one of only a small number of properties dating from immediately after the break up of the ‘Melton Park’ estate. On our reading, two of the others included in Amendment C71 – HO22, ‘Kuloomba’ and HO19, the house at the Cornwall Park Stud (formerly ‘Gnotuk Park’) – are Federation style houses rather than Victorian style, which this one is. The third is ‘Kippenross’ (HO68), which is described in the Melton Heritage Study as ‘a predominantly intact and elaborate local example of a Late Victorian Picturesque style’ (Vol 4, p. 170) and ‘not typical of the small farms generally created as a result of the breakup of pastoral estates’ (Vol 4, p. 167).

The comparative analysis for the Bulmans Road property (Vol 4, p.167) also lists three other houses built on land subdivided from ‘Melton Park’. It notes that all three have been considerably altered and are not proposed for heritage controls.

Despite acknowledging the relative rarity of the type of place represented by the Bulmans Road house and outbuildings, the Panel shares Dr Rowe’s reported reservations about listing this farm complex under the HO.

The purpose of the HO is to conserve heritage fabric or other items or components of heritage significance, such as gardens, trees, spaces around or between buildings, or places of archaeological potential. If buildings are so deteriorated as to require major reconstruction works before they are usable, there may afterwards be very little historic fabric remaining to conserve. The place may retain some historical significance, but this will not reside in the fabric. For this reason, listing for historical significance alone usually requires a place to be of a high level of importance at the appropriate scale (i.e. to the Shire of Melton, in this case).

As we have seen, there are very few examples in C71 where places containing houses have been proposed for listing on the grounds of historical significance alone. Historical significance as the sole basis for listing applies mainly to smaller items – old stone cottages or outbuildings, dry stone constructions, trees or bridges. Sometimes the listing and the mapping cover only the item of interest and not the whole property or a large part of it.

Inclusion of a house in C71 usually means that it was assessed as meeting the threshold of significance in regard to some other value as well as historical significance. In most cases, this was architectural significance, on a representative basis (AHC D2).

Besides this property, Amendment C71 includes only four places containing houses where historical significance is the only basis for listing – HO15, HO33, HO87 and HO101. Most of these houses are assessed as of architectural ‘interest’. All appear to be in habitable condition, or noted as ‘undergoing restoration’, and to retain a substantial proportion of their heritage fabric (No submission was made in regard to any of these places).

The Melton Heritage Study has usually not proposed heritage listing of houses in poor or very poor condition, whatever their historical significance. This may imply recognition by the consultants of the difficulties of managing such places under the HO, if their restoration would require substantial loss of heritage fabric to bring them back to a habitable state.

The Panel’s conclusion in regard to this property is based on the selection principles demonstrated in the Melton Heritage Study. Given the methodology of the Study, which used historical documentation as a basis for identifying places of potential heritage significance, it would be expected that most of the nominated places would illustrate different phases or aspects of the history of the Shire. The ones selected for listing under the HO should be – and indeed are – a subset, those that best demonstrates that history and have the potential to do so on an ongoing basis.

7.16.5 Conclusion and recommendation

The Panel has concluded that, despite its relatively rarity in the context of the break up of the former 'Melton Park' estate, the house at 488-514 Bulmans Road, Melton (HO67) has been altered so much that its retention under the HO – as an example of a dwelling from that time and as a place, together with its outbuildings and setting, demonstrating that historical event – is no longer warranted, given that better examples exist and are included in Amendment C71.

The Panel recommends that:

HO67 – the house and outbuildings at 488-514 Bulmans Road, Melton – should be deleted from the HO.

7.17 HO34 (Citation 044), 126-196 McCorkells Road, Toolern Vale – Submission 19

7.17.1 Description

The property contains an interwar weatherboard house in the Bungalow style and previously included a remnant brick fireplace and chimney.

7.17.2 Statement of significance

The Melton Heritage Study assessed the place as architecturally significant (AHC D2) and the house and remnant fireplace and chimney as historically significant (AHC A4), for its association with the 'Greenhills' pastoral station and the McCorkell family. The property was also considered to be socially significant (cited in error in the study as AHC E1, rather than G1), as it had been identified at a community forum as a place of heritage significance to the local community. Overall, it was assessed as of local significance.

7.17.3 Evidence and submissions

There was one submission concerning this place.

It stated that the farm house dated from the early 20th Century, but this did not make it rare. It pointed out that the statement of significance described it as 'an interwar homestead Bungalow style, a design type that is not uncommon in the Melton Shire'. The submitter did not consider that this house was important in demonstrating a distinctive way of life, as required by the evaluation criterion, and had no aesthetic importance.

The submission also took issue with historical and social significance ascribed to the place. It put the view that the historical associations were 'vague', the ruin was 'just that' and the idea that it was socially significant because it was nominated at a community forum 'does not hold up'.

Mr Gray, for the owners, told the hearing that they had bought the property in 2004 and had made substantial alterations to the house and its surrounds. The remains of the remnant brick fireplace and chimney behind the house had now been removed. His clients had no intention of reducing the heritage significance of the property – they were simply unaware that it was held to be significant in any way.

Mr Gray outlined the recent changes to the house, including enclosing part of the front and side verandah, replacing the galvanised iron roof with Colorbond, replacing some of the roof trusses, replacing the windows and the front door, removing window hoods at the front, replacing all weatherboards, making major changes to the front verandah and constructing a new one at the side. He tabled photographs to illustrate the works that had been undertaken.

Mr Gray submitted that the house had been so significantly altered in the period between 2004 and 2007 that the statement of significance no longer provided a true description of the place. Its 'already moderate' architectural significance had been further diminished and the ruins no longer existed. He also noted that the extent of the overlay included the outbuildings / sheds which are not cited in the statement of significance. Some of these were said to be beyond repair and dangerous. He considered also that the AHC criteria on which the statement of significance was based were not adequately demonstrated to warrant the inclusion of the place under the HO.

Mr Moloney's expert witness report was prepared before Council became aware of the extent of changes to the house, so it refers to the property as it was when recorded in the Melton Heritage Study. He considered that the statement of significance was correct in attributing historical significance (AHC A4) to the place, because it was associated with the early pastoral era. The architectural significance (AHC D2) of the place was as a good representative example of an intact interwar Bungalow style house.

Mr Moloney acknowledged that criterion E1 had been used in error. This should have been G1 (social significance). This significance derived from the ruin being a place nominated by a knowledgeable member of the local community as the location of one of the settlers' or boundary riders' huts that were associated with 'Greenhills' pastoral station.

The Panel invited Council to provide written commentary on its view of the effect of changes to the house on the heritage significance of the place, after the accompanied site inspection arranged for the following week. This was provided in a letter dated 15 January 2009, enclosing a revised expert witness report from Mr Moloney.

Mr Moloney noted the extent and visibility of the changes to the house and concluded that some of the alterations may not be reversible. He continued:

The two key original reasons for the inclusion of this place in the Heritage Overlay no longer apply:-

- *Its association with the pastoral era (referred to in the historical and social significance) no longer survives;*
- *It is no longer of architectural significance as a 'representative' example of its type; it is no longer one of the best representative examples of its type in the Shire.*

I no longer support the inclusion of this place in Am C71.

Council's decision on this property was as follows:

In consideration of Mr Moloney's response, Council believes that the property should not be included in the heritage overlay. We would not be supportive of it being included in the schedule to the heritage overlay as its significance has been greatly affected by renovation and demolition.

7.17.4 Discussion

The Panel made an accompanied inspection of this property, with Mr Gray and Ms Peters.

The inspection confirmed the changes set out by Mr Gray in the supplementary submission tabled at the Hearing. The Panel also noted a new hipped roof over the rear of the house and the addition of a small front-facing gable on what had previously been the ridge of the hipped roof at the front of the house. All evidence of the brick ruin had disappeared.

The changes to the house have been so extensive that very little of the original heritage fabric remains and substantial new elements have been introduced into its roof profile. The Panel considers that the building no longer represents a good representative example of an interwar Bungalow.

The brick fireplace and chimney have been removed and the site levelled. Since it was the existence of these relics that was the major reason for the place being identified by the community as of local heritage significance, the social significance of the place (AHC G1) has also been reduced substantially.

The Panel agrees with Mr Moloney and with Council that the significance of the place has been so greatly affected by renovation and demolition that it does not warrant listing under the HO.

A copy of the Mr Moloney's evidence and Council's response (appropriately edited to remove reference to the other matters dealt with in the letter of 15 January 2009) should be sent to the submitters, via Mr. Gray.

7.17.5 Conclusion and recommendation

The Panel has concluded that the place at 126-196 McCorkells Road, Toolern Vale (HO34) has been altered to the extent that it no longer possesses the majority of the heritage values that were described in the statement of significance. It is therefore not a place of heritage significance to the Shire of Melton and should be removed from the HO.

The Panel recommends that:

HO34 – the house and ruin at 126-196 McCorkells Road, Toolern Vale
– should be deleted from the HO.

7.18 HO61 & HO62 (Citations 144 & 146), 'Mt Kororoit', 2-88 Mt Cottrell Road, Melton & 2-88 Leakes Road, Plumpton, Submission 25

7.18.1 Description

These two places form part of the 'Mt Kororoit' farm property. HO61 contains a bluestone cottage, a ruinous timber dwelling and dry stone walls. HO62 contains a group of Victorian style timber buildings including the main house, a detached cottage/kitchen, outbuildings and shearing shed. There are also dry stone walls, sheep holding yards and Peppercorn and palm trees.

7.18.2 Statement of significance

The Melton Heritage Study assessed both places as being architecturally significant (AHC D2 & E1) and the homestead as also having aesthetic significance. Several outbuildings around the homestead, including the pigsty or fowl house, were also architecturally significant. Both HO61 and HO62 were considered to be historically significant (AHC A4 for both, and also H1 for the Mt Kororoit farm homestead).

In the case of HO61, the historical significance was as an example of a rare bluestone cottage from the 19th Century era of the Selection Act. For HO62, it

was as a successful 19th Century large farm or small grazing enterprise. Both were also associated with the Moylan family. Both properties were considered to be socially significant (cited in error as AHC E1 in the study), as they were identified at a community forum as places of heritage significance to the local community. Overall, they were assessed as of local significance.

7.18.3 Evidence and submissions

There was one letter referring to these places. It requested advice from Council about the outcome of an earlier request to have the boundaries of the mapped area reduced.

Mr Montebello told the hearing that the extent of mapping for both places had been reduced to cover only the buildings and significant dry stone walls. He tabled plans showing the exhibited and amended versions of the mapping. He said that the owners had been notified of the changes but no further submission had been received.

Mr Moloney indicated that he considered that the reduced extent was appropriate to maintain the heritage significance of the place. He also said that the inspection by Council's representatives had revealed that the fowl house or pigsty, listed in the statement of significance for HO62, had been demolished. It was proposed to alter the statement accordingly.

7.18.4 Discussion

The Panel did not inspect these properties.

In the light of the information contained in the statement of significance the Panel is satisfied that this place demonstrates the values attributed to it. It notes advice provided by Mr Montebello and Mr Moloney and accepts that it is appropriate that statement of significance and the mapping be revised as proposed.

7.18.5 Conclusion and recommendations

The Panel has concluded that the bluestone cottage and ruinous timber dwelling at 2-88 Mt Cottrell Road, Melton (HO61) and the 'Mt Kororoit' farm homestead complex at 2-88 Leakes Road, Plumpton (HO62) are places of heritage significance to the Shire of Melton and should be retained in the HO on a permanent basis, subject to the changes noted below.

The Panel recommends that:

For HO61 – the bluestone cottage and ruinous timber dwelling at 2-88 Mt Cottrell Road, Melton and HO62 – amendments should be made to the mapping as proposed by Council.

For HO62 – ‘Mt Kororoit’ farm homestead complex, 2-88 Leakes Road, Plumpton – the statement of significance and the mapping should be amended as proposed by Council.

7.19 HO55 (Citation 199), 974-1048 Melton Highway, Plumpton – Submission 26

7.19.1 Description

The property at Melton Highway, Plumpton is a Victorian style weatherboard cottage, with Cypress trees, a dry stone wall, and a ‘Sunshine Harvester’ gate.

7.19.2 Statement of significance

The Melton Heritage Study assessed the place as being architecturally significant (AHC D2) and historically significant (AHC A4) as one of the few remaining small farmhouses from the Closer Settlement Board’s subdivision of the ‘Overnewton’ estate in 1904. The open rural setting, the mature Cypress trees planted as shelter belts, the stone wall and the gate were assessed as contributing to the historical and aesthetic significance of the place. Overall, it was assessed as being of local significance.

7.19.3 Evidence and submissions

There was one late submission concerning this property. It was accepted by Council and referred to the Panel.

The submission stated that the house had no local significance and had previously had a demolition order applying to it. The rock fence at the front was of absolutely no cultural significance and was inadequate as a property fence.

Mr Moloney told the Panel that he considered that this house was a prime example of the type of house built in the Federation period at the time of the break up of the pastoral estates. It may originally have had a verandah, but otherwise looked intact. He said that the loss of this house from the HO would be keenly felt. He considered that the stone wall contributed to the

place and it would be even more valuable if restored – particularly the section in front of the house.

The submitter was overseas during the Hearings and was unable to attend. The Panel agreed to accept a further written submission by 7 January 2009.

The supplementary submission, received on 30 December 2009, made the following points:

- the northern half of the house was added significantly later than the critical dates of c.1906-07, presumably in the 1930s, so the HO should not apply to it;
- the HO should be limited to the horizontal timber weatherboard on the south side of the house facing Melton Highway;
- the tree controls in the schedule should be turned off;
- the HO over the wall should be removed or, if the Panel did not support this, the area should be reduced to exclude places where the wall no longer exists;
- the HO should not apply to the Sunshine Harvester gate; and
- revisions were required to the statement of significance.

The supplementary submission stated that most of the weatherboard wall cladding and the steel roof cladding had been replaced since 1986, a well as all windows and window frames (the latter being replaced with aluminium). Only the front windows retained their original shape, while glass sliding doors had taken the place of windows on the western side. The verandah had had to be removed in 1993. The chimney had also been replaced.

With regard to the trees, the supplementary submission stated that the rectangular plantings around the house no longer existed. There were no Cypress trees on the northern side and half of the border on the east no longer existed. Four of the six Cypresses at the front had died and others were in poor shape due to the drought.

The submission stated that the Sunshine Harvester gate was the personal property of the present resident. It had been brought in and installed by the resident and would be taken away in due course.

With regard to the wall, the submission said that there was no post and wire or stone wall in front of the house. The fence at the front was wire and was constructed when the original dry stone wall was removed by a previous owner. 'Rubble consisting of large and small rocks was dumped alongside and on top of it.' A further 15 metres of the wall in the south-west corner had been demolished by the Melbourne & Metropolitan Board of Works to create an access road. A further 23 metre section of the wall was not located

on this property. The remaining cross section of the wall was of variable heights and the description in the statement of significance was not correct. The submitter put the view that, given the small area of wall remaining and the fact that its distance from the house diminished its contribution to the overall significance of the place, the walls should not be covered by the HO.

The supplementary submission contained photographs and a map illustrating the location of dry stones walls. The photographs showed an aluminium framed window, the two sliding doors in the western wall, the rear of the house (confirming the absence of trees on the northern side), the dead trees in front of the house and the wire fence with roughly piled rocks on the Melton Highway frontage.

Mr Moloney, in his evidence enclosed with the Council letter of 15 January 2009, responded to the points in the supplementary submission as follows:

- he did not support the proposal that the HO should be limited to the front façade of the house and this was not normal heritage practice. It was common for permits to be issued for appropriate alterations to the rear and sides of houses subject to HO controls. The alterations described in the submission appeared to be consistent with this practice;
- the alterations did not impact on the integrity of the place as the elements visible from the road – the house façade, including the roof form, cladding and fenestration, and the trees – were essentially intact. He added:

*Although the front verandah has been removed and there have been other minor changes to windows and steps, these would appear to be either appropriate or easily reversible. In particular, it is noted **that only the side and rear windows are aluminium**, and that the front windows retain their original dimensions and form.*

[Panel's emphasis]

The front view of this house presents an archetypal image of a small, period farm-house which strongly portrays the activity of the Closer Settlement Act in Melton Shire. It is one of the best and most publicly accessible (visible) examples of the houses associated with the break-up of the pastoral estates in the Shire ...

- he corrected the claim in the submission that the rectangular shape of the tree planting around the house was what made it historically significant:

It is true that the rectangular planting is indicative of their purpose as shelter planting, but it is the trees themselves, rather than their specific layout or pattern, that is of primary significance. The

historical evidence suggests that they were a direct result of an interesting provision of the Closer Settlement Board. They are thus rare evidence of the activity of the Closer Settlement Board. They also provide evidence of the general farming practice in that period, especially on the volcanic plains west of Melbourne.

It is accepted that some of the cypress shelter plantings have died due to the drought. This would have occurred at some time. The significance of this planting is such that long-term strategies for the conservation of trees should be considered in this case. These include treatment of individual trees, infill of gaps with the same species, gradual replacement of trees or, if warranted, block removal and replacement.

Notwithstanding this, those trees which do survive are an integral facet of the place. These, together with the location of the original shelter planting, should be retained in the proposed HO controls.

- the front dry stone wall is almost certainly expressive of the earlier, pastoral period of the property. The surviving parts of it were nearly, if not directly in front of the house and the remnants were integral to the history of the place. The surviving parts of the wall on the property should be retained in the HO. The description of the wall in the citation should be amended to reflect the recent partial demolition and any other changes to the remnant walls, after clarification of the extent of the front boundary of the subject site; and
- if Council was satisfied that the Sunshine Harvester gate was a recent addition and the property of the current tenant, this should be noted in the citation and reference to the gate removed from the statement of significance.

Council's letter to the Panel of 15 January 2009 made the following points:

- Council would prefer the whole house to be retained under the HO, but would rewrite the statement of significance to reflect the changes that have occurred at the rear of the property and to clarify the varying levels of significance of the different parts of the property;
- the death of some of the trees was acknowledged, but they were 'a crucial landscape element in the design of the farmstead' and those remaining should be included under the HO;
- the polygon covering the dry stone wall would be reduced to reflect the removal of part of the wall;
- Council accepted that the gate was not part of the heritage place. The statement of significance would be amended to make this clear and reference to the gate would be deleted from the schedule; and

- overall, the property was believed to be still a representative example of its type and a rare example of a closer settlement farm in Plumpton.

7.19.4 Discussion

The Panel viewed this property from the road reserve beside the Melton Highway.

The inspection showed that the house was a typical Victorian style cottage, though lacking its verandah. What would have been the floor of the verandah was now concrete, resting on a brick base. The Panel also noted that two of the windows in the western wall had been replaced with sliding doors. Some of the Cypresses at the front were dead or dying.

The Panel acknowledges the changes to the house, but agrees with the description in the statement of significance that it is 'a moderately intact example of an unassuming Victorian style' and with Council that it is still a representative example of its type.

With the exception of the aluminium framed front windows, the building appears to accord with the description in the statement and to demonstrate the original design qualities of the Victorian style attributed to it. [Note: Mr Moloney took the supplementary submission to say that only the side windows are aluminium. However, on our reading, all the windows are aluminium, but the front ones are in a style similar to the original timber framed windows and of the same proportions.]

The submissions did not challenge the historical significance of the house, apart from noting that the rear extension is from a later period. This is common for most historic houses and the photograph supplied by the submitter indicates that the scale, design and materials of the rear portion of the house are compatible with the front section.

With regard to the other issues raised by the submitter, the Panel considers that the mapping polygon for the house should not be reduced in size. The separate polygon covering the wall should be adjusted to exclude any area where the wall no longer exists. The citation should be amended to correct details concerning the windows, the chimney, the trees, the gate and the nature of the fence/wall in front of the house, as proposed by the submitter. The tree controls in the schedule should be retained for those Cypress trees that survive. In due course, a conservation management plan could be developed for the trees, to cover the matters outlined by Mr Moloney, and included in the overlay as an incorporated plan.

A copy of the Mr Moloney's evidence and Council's response (appropriately edited to remove reference to the other matters dealt with in the letter of 15 January) should be sent to the submitters.

7.19.5 Conclusion and recommendation

The Panel has concluded that the house at 974-1048 Melton Highway, Plumpton is a place of heritage significance to the Shire of Melton and should be retained under the HO on a permanent basis, subject to the following recommendation.

The Panel recommends:

For HO55 – the house at 974-1048 Melton Highway, Plumpton – the statement of significance should be amended to reflect information provided by the submitter and the extent of the mapping covering the dry stone walls should be reviewed, as recommended in this report.

7.20 HO43 (Citation 067), The Diggers Rest Hotel, 1434-1466 Old Calder Highway, Diggers Rest – Submission 27

7.20.1 Description

The Diggers Rest Hotel was established in 1852 and construction of a double-storey masonry building began in 1854, as the gold rushes to Bendigo and Mt Alexander gathered pace. As its name suggests it was an important stopping place for diggers on their way to the goldfields.

With the decline of the goldfields, the Diggers Rest Hotel remained as a stopping place for travellers and a social centre for the local community, with its location at the southern boundary of the town of Diggers Rest marking the transition between the built up area and the countryside. Although renovations and minor extensions were constructed over the years, at the time of the preparation of Amendment C71 it could still be read as a nineteenth century building using local materials and building techniques and as a functioning hotel.

Tragically, a major fire at the end of October 2008 caused extensive damage to the building, with only the walls and chimneys remaining.

7.20.2 Statement of significance

The Melton Heritage Study identified the Diggers Rest Hotel, on the road to the Mount Alexander diggings, as an example of one of the many wayside hotels established on routes to the gold fields. It was assessed as having

architectural significance demonstrating features of 19th Century vernacular architecture and the architecture of the inter-war period. The statement of significance also assessed the hotel as demonstrating a class of cultural places (AHC D2), as a rare wayside hotel associated with the gold rushes. It considered the place could of State significance in regard to its architectural values.

The site was identified as of potential archaeological significance (AHC C2) that could provide evidence that would contribute to an understanding of the gold rush era. The hotel was also of local social significance (AHC G1) as a place of recreation and community gathering.

7.20.3 Evidence and submissions

A late submission was received concerning this property. It was accepted by Council and referred to the Panel.

The submission, on behalf of the owners of the Hotel, opposed the inclusion of the place under the HO. It argued that, due to the recent fire, the proposed HO43 is no longer appropriate or required for the site. The extent of the damage was such that the building was considered to be structurally unsound and needed to be demolished. A detailed photographic survey of the building subsequent to the fire was submitted to the Panel. The submission put the view that without the hotel building the site would be of little heritage importance.

Whilst the site is arguably still of some historical and cultural interest, it is contended that this does not warrant a heritage overlay and that these are issues which could be readily addressed through, for example, a thorough photographic documentation of the past/present building, and incorporation of historical and cultural references in any future development on the site.

The Panel was informed that a planning permit application had been submitted to Council to make the damaged building safe through demolition of chimneys and installation of internal wall props. Council was in the process of approving this application when it was withdrawn. A new application, to demolish the whole building, had been foreshadowed. Council's representatives advised the Panel that such an application would be opposed.

Reports from an engineering firm and a registered building practitioner were submitted to the Panel to support the assessment that the hotel building needed to be demolished. It was claimed that this would enable swift

redevelopment to again provide an important meeting place for the community.

The Council's response (received 8 January 2009) to this late submission questioned the assertion in the submission that the building no longer had architectural or aesthetic value. Although the building had been greatly altered by the fire, it still met a number of AHC criteria and retained a high level of significance.

In relation to architectural significance, the Council response noted that in its gutted state the hotel more readily demonstrated 19th Century vernacular construction and design techniques. Its rarity as a surviving hotel structure from the period remained, as did its scientific potential and social significance. However, the site was no longer of potential State significance and the statement of significance would need to be revised.

7.20.4 Discussion

The Panel viewed the building from outside the safety fence.

The inspection confirmed that the Diggers Rest Hotel is now in a ruinous state. However, all the walls are still standing and the details of the construction of the masonry walls of the central two-storey section are clearly visible.

The time frame for approval of an amendment means that the question of whether a permit should be issued to demolish the building is likely to be resolved under the interim controls. Nevertheless, the Panel considers that its task is to assess whether the extant fabric of the hotel is still significant and meets the requirements for listing under the HO.

The Panel considers that the hotel, even in its damaged state, remains an historically important building. Architectural and construction details of the two remaining masonry walls, including hand made bricks and the stone and mortar walls remain of architectural and historical interest. The site is still of scientific interest in relation to the gold fields era and its history of social significance remains.

The Panel agreed with the Council submission that the preservation of a large amount of original material and an outstanding vernacular design offers future opportunities to restore the hotel and the site's significance for the community.

A copy of the Council's letter of 8 January 2009 concerning this place should be sent to the owners, care of Mr Barber.

7.20.5 Conclusion and recommendation

The Panel has concluded that the Diggers Rest Hotel, 1434-1466 Old Calder Highway, Diggers Rest (HO43) is a place of heritage significance to the Shire of Melton and should be retained under the HO, subject to the change recommended below.

The Panel recommends:

For HO43 – the Diggers Rest Hotel, 1434-1466 Old Calder Highway, Diggers Rest – the statement of significance should be revised as proposed by Council.

8. Recommendations

Based on the reasons set out in this Report, the Panel recommends:

- 1 Amendment C71 to the Melton Planning Scheme should be adopted subject to the following recommendations:**
 - a. Council should proceed as a matter of some urgency to strengthen the treatment of heritage in the MSS – preferably as part of the current MSS review – and to develop and incorporate a heritage policy in Clause 22.**
 - b. The use in the statements of significance of AHC criterion E1 in relation to social significance (instead of G1, as it should be) should be corrected for HO18, HO29, HO30, HO31, HO32, HO36, HO38, HO57, HO61, HO62, HO68, HO69 and HO124.**
 - c. Reference to the condition of places should be deleted from the statements of significance in the proposed incorporated document (Melton Heritage Study Volume 6), except where acknowledgement of current condition is necessary to aid future heritage management of the place.**
 - d. Subject to changes recommended in relation to individual properties, the statements of significance for all places in the adopted Amendment C71 should be included in an incorporated document under Clause 81, as proposed by Council.**
 - e. Statements of significance for any places that do not currently have them, including those places already on the HO, should be developed as soon as possible and incorporated through a future amendment.**
 - f. Changes should be made to the extent of the area mapped under the HO for places HO19, HO20, HO33, HO54, HO66, HO68, HO91 and HO94, as proposed by Council in Appendix 1 to its submission.**
 - g. Presentation of information in the schedule to the HO relating to the application of specific controls should be amended to accord with the format required by DPCD.**
 - h. For place HO124 – grave, ruin and archaeological site, formerly part of ‘Greenhills’ pastoral station, at 36-49 O’Connell Avenue,**

- Toolern Vale – the mapping should be amended as proposed by Council.**
- i. For HO14 – ‘Glencoe’, 518-610 & 572-618 Blackhill Road & 134-166 Ryans Lane, Toolern Vale – corrections should be made to the citation as identified in this report and the mapping should be amended as proposed by Council.**
 - j. For HO114 – ‘Rocklands’, 619-653 Hopkins Road, Truganina – the statement of significance, the schedule and the mapping should be amended as proposed by Council.**
 - k. For HO112 – 65-543 Greigs Road, Truganina – an incorporated plan should be prepared and approved, setting out the future management of the dwarf Sugar gum trees along the driveway.**
 - l. HO106 – the house at 1200-1220 Mt Cottrell Road, Melton South – should be deleted from the HO.**
 - m. For HO22 – ‘Kuloomba’, 2203 Diggers Rest–Coimadai Road, Toolern Vale – the statement of significance should be amended to remove reference to the tank and the Cypress trees and to include more details of those outbuildings that contribute to the significance of the place; tree controls should be deleted from the schedule; and the mapping should be amended as proposed by Council.**
 - n. For HO110 – the Kerr farm site, 1780-1882 Boundary Road, Mt Cottrell – the mapping should be amended as proposed by Council and a simple incorporated plan should be developed and approved to minimise the impact of the HO on ongoing farming operations.**
 - o. For HO49 – the former Army Radio Station at 107-207 Diggers Rest-Coimadai Road, Diggers Rest – the mapping should be amended as proposed by Council.**
 - p. For HO105 – Mt Cottrell Road stockyards and ruins, 1476-1570 Mt Cottrell Road, Mt Cottrell – the mapping should be amended as proposed by Council.**
 - q. For HO98 – ‘Nerowie’, 155 Nerowie Road, Parwan – the mapping should be amended as proposed by Council and internal alteration controls should be added to the schedule, to apply to the chapel-style main room of the building.**
 - r. For HO60 – ‘Mt Aitken’ site and ruin at 740-794 Mt Aitken Road, Diggers Rest – corrections should be made to the citation to reflect the information provided at the Hearings for Amendment C71.**

-
- s. For HO24 – the farm complex at 1229-1279 Gisborne-Melton Road, Toolern Vale – amendments should be made to the mapping as proposed by Council.
 - t. HO11 ‘Exford Homestead’ (balance), 255-605 Exford Road, Melton South and HO12 ‘Strathulloh Homestead’ (balance), 1402-1600 Greigs Road, Melton South should be deleted from the HO.
 - u. HO67 – the house and outbuildings at 488-514 Bulmans Road, Melton – should be deleted from the HO.
 - v. HO34 – the house and ruin at 126-196 McCorkells Road, Toolern Vale – should be deleted from the HO.
 - w. For HO61 – the bluestone cottage and ruinous timber dwelling at 2-88 Mt Cottrell Road, Melton and HO62 – amendments should be made to the mapping as proposed by Council.
 - x. For HO62 – ‘Mt Kororoit’ farm homestead complex, 2-88 Leakes Road, Plumpton – the statement of significance and the mapping should be amended as proposed by Council.
 - y. For HO55 – the house at 974-1048 Melton Highway, Plumpton – the statement of significance should be amended to reflect information provided by the submitter and the extent of the mapping covering the dry stone walls should be reviewed, as recommended in this report.
 - z. For HO43 – the Diggers Rest Hotel, 1434-1466 Old Calder Highway, Diggers Rest – the statement of significance should be revised as proposed by Council.
- 2 Other recommendations, not part of Amendment C71 are:
- a. Council should proceed as a matter of some urgency to strengthen the treatment of heritage in the MSS – preferably as part of the current MSS review – and to develop and incorporate a heritage policy in Clause 22.
 - b. Statements of significance for any places that do not currently have them, including those places already on the HO, should be developed as soon as possible and incorporated through a future amendment.

Appendix A List of Submitters

Submittor	Organisation (if any)
Mr M Drew	
Mr B & Ms S McPherson	
Ms W Bitans	
Ms F Slechten, Tomkinson Pty Ltd	On behalf of BRD Group Pty Ltd
Mr I Giblin, Pearce, Webster, Dugdales	Mr I Barrie
Ms C Caton & Mr D Portelli	
Mr I McLeod	Mt Souvenir Pty Ltd
John Morton	
[Indecipherable]	Prime Equity Pty Ltd
Mr L Elliot, Urbis Pty Ltd	On behalf of Rinker Australia Pty Ltd
Mr D Burr	Capstone Springs Pty Ltd
Mr P Beaumont, Deacons	On behalf of G Adams Enterprises Pty Ltd
Mr J & Mrs S Azzopardi	
Mr K Altmann, Keith Altmann & Associates	Estate of M Robinson
Mr G Riordan	Graeme Riordan & Associates Pty Ltd
Ms W Thies, Watsons	Wegg Pty Ltd & Wallermerriyong Pty Ltd
Mr R C Hansen	
Ms A Maudsley	Melbourne Water Corporation
Ms R Gray, ARG Planning	On behalf of J & S Galea
Mr D Miller	Dept of Sustainability & Environment
Mr B Brown	Country Fire Authority
Mr J Vassallo	City West Water
Mr B Sibahi	Vic Roads
Mr S Dunn	Growth Areas Authority
Mr S Carter, Carter Real Estate	On behalf of Hiro Pamamull Administrators Pty Ltd
Mr M Oman	Orbal Marketing Services Pty Ltd
Mr P Barber, Urban Edge Consultants	On behalf of the owners of the Diggers Rest Hotel