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## **Part B (2) - Submission by the Planning Authority Moreland City Council**

Planning Scheme Amendment C208more  
Implementation of the Heritage Nominations Study

**3 May 2022**

**TRIM: D22/74984**

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# 1. Introduction

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1. This submission is made by Moreland City Council (Council). Council is the Planning Authority for Amendment C208more (the Amendment) to the Moreland Planning Scheme (Planning Scheme).
2. My name is Nia Kolokas. I am a Senior Strategic Planner at Moreland City Council (Council) and I will be presenting Council's submission to the Panel on Amendment C208more.
3. I will be assisted throughout the submission by Angela Schirripa, Principle Strategic Planning at Moreland City Council.
4. Expert evidence in relation to the heritage merits of 151A Lygon Street Brunswick East will be presented by Dr Kim Roberts of GML Heritage.
5. Expert evidence in relation to 413 Gaffney Street Brunswick East will be provided by Dr Luke James of Extent Heritage Pty Ltd.
6. This submission forms Part B (2) of Council's Submission to the Panel. Part A was circulated as directed by the Panel on the 22 February 2022 and provides the strategic justification for the Amendment and overview of the Amendment process undertaken.
7. Part B (1) of Council's submission was presented to Panel on 1 March 2022, with a right of reply presented on 3 March 2022 responding to Submissions 29, 30, 33, 38 and 43 (Council's Part C1 submission).
8. This Part B (2) submission will address issues raised by Submissions 21 and 42 received as part of the public exhibition of the Amendment.
9. Council's Part B (2) Submission will be presented in the following format:
  - Brief overview of the Amendment
  - Summary of common key issues discussed in Part B (1) relevant to Submissions 21 & 42
  - Responses to issues raised in Submissions 21
  - Response to issues raised in Submission 42
10. It is not Council's intention to run through the strategic justification and the process that was undertaken for the Amendment except where relevant to a key issue. A detailed assessment is contained within Council's Part A submission.
11. Furthermore, the common key issues discussed in Council's Part B (1) will not be re-addressed in detail today.

## 2. Overview

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13. The Amendment sought to implement the findings of the Moreland Heritage Nominations Study 2020 (MHNS) and Moreland Heritage Gap Study 2019 (MHGS) by introducing a heritage overlay (HO) on a permanent basis to 45 individual places, 1 serial listing, 7 new precincts and 3 precinct extensions in Brunswick, Brunswick East, Brunswick West, Coburg, Coburg North, Fitzroy North, Glenroy, Oak Park, Pascoe Vale and Pascoe Vale. The exhibited Amendment also sought to rectify a number of mapping anomalies of the Moreland Heritage Overlay and update the significance of 6 HO listings.
14. The Amendment as exhibited proposed to:
  - Amend Clause 15.03-1L (Heritage in Moreland) of the Moreland Planning Scheme to make reference to the *Moreland Heritage Nominations Study, 2020*.
  - Amend the Schedule to Clause 43.01 (Heritage Overlay) to introduce the Heritage Overlay to 45 new individual places, 1 serial listing, 7 new precincts and 3 precinct extensions and include a reference to their associated Statement of Significance Incorporated Plan.
  - Amend the Schedule to Clause 43.01 (Heritage Overlay) to introduce a separate Statement of Significance Incorporated Plan to four (4) existing individual places and two (2) existing precincts.
  - Amend the Schedule to Clause 43.01 (Heritage Overlay) to delete the Heritage Overlay from 5 existing individual places.
  - Amend the Schedule to Clause 72.04 (Documents Incorporated in this Planning Scheme) to include the Statements of Significance of all heritage places, serial listing, precincts and precinct extensions listed above and referenced in the updated *Moreland Heritage Exemptions Incorporated Plan 2020*.
  - Amend Planning Scheme Maps 2HO, 6HO, 7HO, 8HO, 9HO, 10HO, 11HO, 12HO, 14HO and 15HO in line with the above changes and to rectify mapping anomalies.
15. On 12 August 2020, Council resolved to write to the Minister for Planning to seek Authorisation to prepare the Amendment, and following receipt of the Minister's Authorisation, proceed to public exhibition in accordance with Section 19 of the *Planning and Environment Act 1987* (the Act).
16. On 9 July 2021, the Department of Environment, Land, Water and Planning (DELWP) confirmed that Council was granted authorisation to prepare and exhibit Amendment C208more subject to conditions.
17. The Amendment was exhibited from 13 August 2021 to 1 October 2021, in accordance with Section 19 of the Act.
18. A total of forty four (44) submissions were received to the Amendment, forty one (41) during the exhibition period and three (3) late submissions.
19. On 8 December 2021, Council resolved to request the Minister for Planning to appoint a Panel in accordance with Part 8 of the Act to consider submissions.

### 3. Common Key Issues raised in submissions

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20. Council's Part B (1) responded to common key issues raised in submissions. Submitter 21 and 42 included in their submissions a number of these issues relating to:

- Financial Implications and Property Values
- Development Restrictions (or potential)
- Maintenance and repairs of heritage places
- Heritage Grants and Support

21. Below is a summary of the response to these issues in Council's Part B (1) submission.

#### **Financial Implications and Property Values**

22. Council acknowledges that financial aspects and conditions are of considerable concern to property owners. However, the question is whether they are a valid consideration when identifying heritage places and protecting them through the introduction of the HO.

23. Council's Part B (1) submission outlines that the private financial impacts for property owners are not relevant economic matters when considering an amendment to the Planning Scheme and are more relevant when seeking an application for a planning permit. This submission included a number of Panel discussion and conclusions supporting this view, summarised as:

- *Panels have consistently held that whenever there may be competing objectives relating to heritage and other matters, the time to resolve them is not when the Heritage Overlay is applied but when a decision must be made under the Heritage Overlay (such as a planning permit application). The only issue of relevance in deciding whether to apply the Heritage Overlay is whether the place has heritage significance.*<sup>1</sup>
- *The question of personal economic impact or potential constraint on development are seen as matters for the next stage of the planning process i.e. at the time a permit is applied for.*<sup>2</sup>
- *The Panel takes the view that that there is a two stage planning process in relation to management of heritage places – the objective identification of heritage significance (the current stage); and, second, ongoing management of the place having regard to such matters such as the economics of building retention and repair, reasonable current day use requirements etc. (consideration of permits for development).*<sup>3</sup>
- *The social and economic effects most likely to be relevant at the Amendment stage are those of a broad community nature rather than of a personal kind.*<sup>4</sup>

24. While Council acknowledges financial impacts may be considered if they overlap with, or translate into public economic effects, it submits the financial matters raised in these submissions are expressed on a site basis and not at a broader community level.

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<sup>1</sup> Panel in Amendment C58 to the Ballarat Planning Scheme – page 51

<sup>2</sup> Panel in Amendment C53 to the Frankston Planning Scheme – page 19

<sup>3</sup> Panel in Amendment C6 to the Southern Grampians Planning Scheme – Page 20

<sup>4</sup> Panel in Amendment C207 to the Melbourne Planning Scheme – page 23

25. The Panel for C198 to the Yarra Planning Scheme provides a useful decision when a heritage overlay was proposed in an area of growth and when submitters financial concerns are focused on personal nature:

*The submissions put before the Panel did not provide evidence of any adverse indirect social or economic effects likely to impact on the relevant neighbourhoods or the municipality as a whole from approval of the Amendment. The Panel does not accept that the extension of an HO to a relatively small additional area has the potential to undermine significantly the revitalisation of a nearby commercial strip.*

*The Panel supports the views of many previous panels that the key consideration in determining whether or not an HO should be applied – in pursuit of the objective in the Act and the provisions of the SPPF and LPPF – is the heritage significance of the place. An owner's opposition to an HO, on grounds such as impediments to development, costs or impact on property prices, does not of itself constitute a reason to exclude a place providing its heritage significance has been shown to meet the appropriate threshold.*

*Application of an HO does not prohibit development, but instead requires the heritage significance of a place to be taken into account when determining what is appropriate on a particular site. The analysis discussed in the social and economic impacts report demonstrates that significant development has taken place in recent years both within and outside HOs in the City of Yarra.'*

### **Development Restrictions/Potential**

*Submission Number 21 – The building has development potential.*

*Submission Number 42 – The proposed heritage listing ignores the important fact that this property is in a local activity centre with RGZ designation. The council cannot have it both ways, where an area is designated for density housing to support population growth (which I support in part), but then decide on heritage listing a property within that Residential Growth Zone that does allow/follow RGZ goals and objectives.*

26. Submission Number 42 argued that the property 413 Gaffney Street Pascoe Vale is in a Residential Growth Zone and located in a local activity centre, both of which direct growth and increase housing outcomes, of which, this purpose should outweigh the application of a heritage overlay. This property is also affected a Schedule 23 of Design and Development Overlay (DDO23) that directs a scale of buildings up to 4 storeys.
27. The role and function of Moreland's Neighbourhood Centres (NC) is described in the Strategic Directions of the Municipal Planning Strategy at Clause 2.03-1 – Settlement as:
- *Provide a mix of uses to serve the daily and weekly shopping and service needs of the local community.*
  - *They generally include (or have the potential to include) shops, a supermarket, small service businesses, coffee shops, medical/health clinics, public transport and limited community services.*
  - *Accommodate an increase in density and scale of built form appropriate to their role in the Activity Centre Hierarchy but at a lesser intensity and scale to the larger centres of the Coburg, Brunswick and Glenroy.*

28. Submission 21 outlined that the heritage overlay should not be applied to the building at 151A Lygon Street Brunswick East as the building had development potential. This property is in a Commercial 1 Zone and affected by Design and Development Overlay – Schedule 19 (DDO19), an overlay that provides built form guidance for development along the Lygon Street corridor of the Brunswick Activity Centre (BAC).

29. It is worth outlining that DDO19 recognises the heritage values of the Brunswick Activity Centre through policy guidance and a purpose that states:

*To ensure development is designed to respect the form, design and context of buildings of individual heritage significance.*

30. Council's Part B (1) submission outlines that it is not uncommon for heritage places to be located within areas designated for growth, the HO will not prohibit development applications consistent with the applicable zone and DDO controls, and, future development applications are not a matter for consideration as part of this Amendment. These sentiments are supported by numerous Panels sited in Council's Part B (1) submission and summarised as:

- *The heritage overlay informs decision makes what is significant, but not how development should respond to that significance by way of a built form response.<sup>5</sup>*
- *The heritage overly does not prohibit demolition, alterations and additions, it provides a mechanism to manage the significant heritage of a place and consider the heritage policies through the planning permit application process, along with other polices relating to urban consolidation, urban design, sustainable development and environmental performance.<sup>6</sup>*
- *The need to balance competing objectives is not uncommon in planning. It is rarely required that one objective must be abandoned to allow another one to be achieved. The Panel is satisfied that the proposed provisions would not prevent new housing that would both contribute to housing diversity policies and the heritage values. Applying the Heritage Overlay decision guidelines and local policies would enable all relevant objectives to be considered when determining the most appropriate outcome for planning applications.<sup>7</sup>*

31. Importantly, the HO does not prohibit the construction of new buildings or alterations to existing buildings nor does it preclude demolition.

32. Council's local heritage policy (at Clause 15.03 of the Scheme) supports demolition of 'non-contributory' places provided there is a replacement building and partial demolition in certain circumstances, such as:

*Encourage retention of contributory or significant heritage fabric required to maintain the original streetscape appearance.*

...

*Support partial demolition of a heritage place, if either:*

- *The fabric proposed to be removed does not contribute to the heritage significance of the place.*

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<sup>5</sup> Panel for Amendment C134 to Moreland Planning Scheme – page 29

<sup>6</sup> Panel for Amendment C387 to Melbourne Planning Scheme – pages 13-15

<sup>7</sup> Panel for Amendment C150 to the Boroondara Planning Scheme – pages 9-11

- *The removal will enhance the significance of the place or facilitate conservation outcomes in accordance with the provisions of this policy.*
- *The extent of demolition will not result in facadism.*

33. This policy also supports new buildings, alterations and additions provided they do not adversely affect the heritage significance of the existing heritage place and guidance on how to design new vehicle access and accommodation, outbuildings, front fences, shopfronts, external materials, signage, and ancillary equipment as referenced in Council's Part B (1) submission.
34. It is also worth acknowledging that a 6 storey mixed use development (MPS/2018/202)<sup>8</sup> that included and considered the heritage values of 151A Lygon Street Brunswick East was recently supported by VCAT (P1462/2019)<sup>9</sup>. The approved design included integration of the heritage elements of 151A Lygon Street Brunswick East in a manner that had satisfied Council prior to the hearing. This demonstrates that heritage buildings can be incorporated in larger mixed use development. A copy of the VCAT decision P1462/2019 has been included at Attachment 1.
35. The successful integration of heritage buildings in a more intensive development appropriate for the scale of the activity centre can be seen throughout the Brunswick Activity Centre and within Moreland's Neighbourhood Centres. The table below lists a few examples in these activity centres of approved and constructed developments that have integrated the original heritage building.

<b>Brunswick Activity Centre</b>	
29 Sydney Road Brunswick	Seven storey building containing 31 dwellings and two commercial premises that integrates the heritage building in the design
115 Lygon Street Brunswick East	Four storey building containing two dwellings and two commercial premises that integrates the heritage building in the design
240-250 Lygon Street Brunswick East	Seven storey building containing 95 dwellings and four commercial premises that integrates the heritage building in the design
<b>Neighbourhood Centre</b>	
1 Barkly Street Brunswick	Six three storey dwellings constructed behind a heritage house
67-69 Melville Road Brunswick West	Three storey building containing eight dwellings that integrates the heritage building in the design
145 Union Street Brunswick West	Four double storey dwellings have been constructed behind the heritage house

### **Maintenance and repairs of heritage places**

36. Council's Part B (1) submission outlines that routine repairs or maintenance that do not change the appearance of the heritage place and use the same materials and specifications do not require planning consent.

<sup>8</sup> Planning application number

<sup>9</sup> VCAT reference number



37. Council's Moreland Heritage Exemptions Incorporated Plan provides further planning permit exemptions for minor works to enable owners to make minor changes to their properties without requiring planning permission depending on the heritage grading of their property.
38. Council's heritage policy at Clause 15.03-1L also supports external alterations and extensions, providing they do not adversely affect the heritage significance of the place, particularly in relation to the front of the building and the view from the public realm.

#### **Heritage grants and support**

39. Council currently does not offer any applicable grants to preserve or reconstruct features of heritage places. In understanding that funding can help support the management of local heritage assets, Council has committed to investigate incentives in the current 2021-22 Council Action Plan at Action 72:

*72) Investigate financial incentives to encourage maintenance of heritage buildings*

### 3 151A Lygon Street Brunswick East

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40. The Moreland Heritage Gap Study 2019 (MHGS) prepared by Context Pty Ltd (now known as GML Heritage) identified 151A Lygon Street Brunswick East as being locally significant to Moreland.
41. Council's Part A submission includes background information relating to this study and 151A Lygon Street Brunswick East, including a chronology of events that led to the application of the HO specific to this place.

#### **Amendment C174more – Implementation of the MHGS**

42. Amendment C174more was administered in 2018/2019 and sought to implement the findings of the MHGS by applying a HO to all places and precincts identified as meeting the threshold for local significance, including 151A Lygon Street Brunswick East.
43. A Panel hearing for Amendment C174more was conducted in May 2019, with the Panel concluding that the Moreland Heritage Gap Study applied an appropriate methodology and assessment to demonstrate sufficient local significance to justify the Heritage Overlay. The Panel also concluded that the Amendment was strategically justified and should proceed subject to addressing some specific issues raised in submissions.
44. An extract of Panel's conclusions on the Heritage Gap Study approach and Amendment C174more is included below:

#### **'3.2 Heritage Gap Study Approach**

*The Heritage Gap Study was prepared by heritage consultants, Context, in two stages*

##### **Stage 1**

*The Stage 1 study considered properties from a list prepared by Council, based on recommendations from earlier strategic heritage work, recommendations from Planning Panels, community nominations and council officer knowledge. It included over 400 individual places, 12 potential new precincts comprising 365 properties, and seven potential extensions to existing heritage precincts.*

*The study recommended that 148 individual places, three serial listings, 10 potential precincts and 10 potential extensions to existing heritage precincts be assessed in further detail through a Stage 2 study.*

##### **Stage 2**

##### *Methodology*

*The Stage 2 study assessed the recommended Stage 1 individual places and precincts to determine if they have sufficient local significance to justify the Heritage Overlay. The study applied the following methodology and actions:*

- *Australia ICOMOS Charter for Places of Cultural Heritage Significance (the Burra Charter) and its guidelines, in line with Heritage Victoria guidelines*
- *Planning Practice Note 1 (Applying the Heritage Overlay)*
- *Planning Panel reports and the Advisory Committee for the Review of Heritage Provisions in Planning Schemes, August 2007*
- *Guidelines for using the Hercon criteria and significance thresholds, Heritage Victoria and the Queensland Heritage Council*
- *Historic research – including primary and secondary sources*

- *Fieldwork – including on-site inspections of open space places and excluding internal inspections*
- *Comparative analysis which compared the proposed place or precinct with:*
  - *local area properties (Brunswick, Brunswick East, Brunswick West, Coburg and Pascoe Vale South) in the Heritage Overlay*
  - *properties in the Heritage Overlay in other parts of the municipality where there were insufficient local area comparative examples*
- *Recommendations to apply the Heritage Overlay – in line with Planning Practice Note 1*
- *Review of existing Heritage Overlay places.*

#### **Outcomes**

*The Stage 2 study confirmed that 81 places satisfied the threshold for local significance and 63 places did not. It resulted in the 2017 Heritage Gap Study report with detailed heritage citations.*

#### **(i) Finding**

*The Panel finds that the Heritage Gap Study has applied an appropriate methodology for initially identifying candidate sites and assessing whether they have sufficient local significance to justify the Heritage Overlay.*

### **3.3 Policy support**

#### **(i) Evidence and submissions**

*Council submitted that the Amendment is consistent with relevant policies and strategies because it proposes to apply the Heritage Overlay to land identified in the Heritage Gap Study as having sufficient local significance to justify the Heritage Overlay. It explained that the land is recognised for its heritage value but is currently unprotected (beyond the interim Heritage Overlay). Council added that the Amendment will reinforce local planning policy by referencing the Heritage Gap Study in the Planning Scheme. It considered the Heritage Overlay to be the most appropriate mechanism for recognising and protecting the heritage significance of identified places and precincts.*

#### **(ii) Discussion and finding**

*Clause 15.03-1S of the Planning Policy Framework supports the Amendment because it seeks to conserve places of heritage significance. Council's approach to identifying, assessing and documenting places of heritage significance aligns with strategies sought in that clause. Similarly, direction 4.4 and associated policies 4.4.1 and 4.4.4 in Plan Melbourne also support the Amendment.*

*The Panel finds that the Amendment is consistent with relevant policies and strategies.*

### **3.4 Site selection**

...

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

*The Panel can appreciate why some of the properties identified at the Hearing, which were not recommended for the Heritage Overlay by the Heritage Gap Study, may be strong candidates for further assessment. At face value, some of these properties present themselves as superior examples when compared to some of the properties selected through the Study.*

*Site selection was relevant during the earlier stage of the Heritage Gap Study. At this stage of the process, the key considerations are whether the Amendment faithfully translates the recommendations of the Heritage Gap Study and whether each precinct,*

*listing or place has sufficient heritage significance to justify the Heritage Overlay. Whether a particular property has been included or excluded, does not diminish the integrity of heritage places assessed through the Heritage Gap Study. Each place is assessed on its own merits and against comparable examples.*

#### **(iv) Findings**

*The Panel finds:*

- *The Amendment has included places, serial listings and precincts based on recommendations in the Heritage Gap Study.*
- *Excluding a place identified in the Heritage Gap Study from the Amendment:*
  - *does not affect the Amendment's strategic basis or its integrity*
  - *is a matter that can be considered through a separate process.*

#### **3.5 Property not identified in a previous study**

*The Panel finds that whether a property was identified in a previous study is irrelevant to whether a place has sufficient local significance to justify the Heritage Overlay.*

#### **3.6 Conclusions**

*For the reasons set out in the following chapters, the Panel concludes that the Amendment:*

- *is supported by, and implements, the relevant sections of the Planning Policy Framework*
- *is consistent with the relevant Ministerial Directions and Practice Notes*
- *is well founded and strategically justified*
- *should proceed subject to addressing the more specific issues raised in submissions as discussed in the following chapters.*<sup>10</sup>

45. It should be noted that Amendment C174more was split following the Panel's recommendations as a Section 39 defect in process VCAT appeal had been lodged relating to 151A Lygon Street Brunswick East:
- Amendment C174more Part 1 – All properties except 151A Lygon Street Brunswick East
  - Amendment C174more Part 2 – 151A Lygon Street Brunswick East
46. Splitting of the Amendment enabled the VCAT hearing to proceed uncompromised and enable the remainder of the Amendment to continue.
47. Amendment C174more Part 1 was approved and gazetted on 5 January 2021.
48. Amendment C174more Part 2 was abandoned to enable consideration of the proposed application of a permanent HO to 151A Lygon Street Brunswick East within Amendment C208more.

#### **Heritage Issues**

49. Submission 21 also outlined that 151A Lygon Street Brunswick East is a poor candidate for inclusion in the HO as follows:
- The building sits in isolation from any heritage context
  - Does not agree that the land meets the threshold for heritage significance.
50. The submission did not elaborate as to why 151A Lygon Street Brunswick East did not meet the threshold for heritage significance.

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<sup>10</sup> Pages 10-13

51. Submission 21 did however outline that the façade of 151A Lygon Street Brunswick East has been proposed to be retained in the redevelopment of a significantly larger parcel of land to address the significance of the building.
52. As mentioned earlier, 151A Lygon Street Brunswick East is within the Brunswick Activity Centre (BAC), with DDO19 directing design and built form guidance for the Lygon Street corridor of this activity centre, including acknowledging the heritage values of this aspect of the centre.
53. More broadly speaking, the BAC contains a large number of heritage places which add to the character of this activity centre. In some instances, the heritage buildings are grouped together. However, there are many examples of single heritage buildings surrounded by non-heritage buildings.
54. Submitter 21 suggests that the site does not sit within a heritage context. It is Council's view that the site does not sit in isolation from any heritage context. Looking beyond DDO19 at the spatial distribution of heritage around 151A Lygon Street Brunswick East, the map below clearly demonstrates that there are large areas of heritage places in this part of Brunswick/Brunswick East, including directly behind and opposite the site and within the same section of Lygon Street.



55. Nevertheless, 151A Lygon Street Brunswick East has been identified as being individually significant and having heritage significance in its own right. And as such, the fact that the adjoining properties on Lygon Street are not identified as having heritage significance is of no consequence. The MHGS findings and this Amendment are appropriately focused on the heritage values that are contained on this site.

### **Specific Heritage Issues to be addressed in Expert Witness Statement**

56. The next part of Council's submission will be provided by Dr Kim Roberts as a heritage expert. Dr Roberts is from GML Heritage the consultancy that undertook the assessment of this site (when they were formally named Context Pty Ltd) and made the recommendation that the place met the threshold for local significance to Moreland (as documented in the MHGS). Dr Roberts expert witness statement addresses the heritage merits of 151A Lygon Street Brunswick East.

## 4 413 Gaffney Street Pascoe Vale

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57. Submission 42 raises a number of issues with the heritage assessment and resultant significance of 413 Gaffney Street Pascoe Vale, summarised as:

- Only meets two of the eight HERCON criteria, should meet at least 4 of the criteria to be significant.
- The significance of features are overstated, such as the stone lined driveway and terraced landscaping, unique window forms and its triple fronted appearance.
- Extensions are visible from the side street

### Using the HERCON Criteria

58. Submission 42 questions the heritage merits of 413 Gaffney Street Pascoe Vale as it only met two of the HERCON criteria.

59. Practice Note 1 – Applying the Heritage Overlay outlines the HERCON criteria is a recognised and adopted model for heritage assessments across Australia and should be used for all new heritage assessment work. Council notes that no submission has raised an issue with using the HERCON criteria as an assessment model, however the method of how to use the criteria in making a final determination has been questioned.

60. Moreland Heritage Nominations Study 2020 outlines in its methodology at page 12 (and outlined in Dr James expert witness statement) that a place, serial listing or precinct need to meet at least one HERCON criterion to meet the threshold for local significance to Moreland and that meeting more than one criterion does not make a place more significant, it simply means that the place is significant for a variety of reasons.

61. This approach is commonly used and supported by Panel in the Heritage Provisions Review Final Report (2007):

*It is convenient to record here that there was some brief mention in discussions of the issue of whether, in applying criteria to identify values, it was appropriate to ascribe significance to a place if it scored well on a number of criteria but did not meet any one criterion completely. In our view the correct approach is that a place must 'pass' fully on at least one of the criteria to be afforded that particular value.<sup>11</sup>*

62. In a more recent Panel report for C100 to the Nillumbik Planning Scheme, the Panel conclusion substantiated the approach that only one HERCON criteria needs to be met to meet the threshold for local significance:

*As noted previously, values against different criteria cannot be treated as cumulative. To warrant inclusion under the HO, the place must be found to have unequivocal heritage significance at the local level against at least one criterion.<sup>12</sup>*

63. Similarly, the Moonee Valley Racecourse Redevelopment Advisory Committee outlined that each HERCON criteria is to be considered on their own merits and not one valued more than another:

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<sup>11</sup> Page 2-41 & 42

<sup>12</sup> Page 28

*Having regard to the criteria set out in Practice Note 1, it does not elevate one criterion above another. In other words, a place can be significant, meeting a variety of criteria or one criterion. The Practice Note does not place architectural and aesthetic significance above other criteria and there are cases where historical and social significance is strong and justifies formal recognition of cultural heritage significance.* <sup>13</sup>

**Specific Heritage Issues to be addressed in Expert Witness Statement**

64. The next part of Council's submission will be provided by Dr Luke James as a heritage expert. Dr James' expert witness statement addresses the heritage merits of 413 Gaffney Street Pascoe Vale.

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<sup>13</sup> Page 54



## 5 Final Position on the Amendment

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65. Amendment C208more seeks to implement the recommendations from the MHNS and MHGS prepared for Council by expert heritage consultants GML Heritage (formally Context Pty Ltd) and Extent Heritage.
66. Implementation of the recommendations of this study is part of Council's ongoing commitment to identify and protect the municipality's heritage fabric for current and future generations.
67. It further fulfils Council's statutory obligations as a responsible authority to implement the objectives of the Planning and Environment Act 1987, and to implement State and Local objectives, strategies in the Planning Policy Framework, Plan Melbourne and Municipal Planning Strategy as well as relevant guidelines and practice notes.
68. In Council's view, the MHNS and MHGS provide a comprehensive and robust analysis of the identified heritage significance of buildings and precincts within the municipality. In undertaking that exercise, a rigorous assessment of the identified heritage elements of each place has been very carefully documented.
69. Council appreciates the submissions that contest the heritage significance of the places recommended to be included in the HO. These submissions have assisted Council and its heritage consultants in providing a further assessment of the various sites and more rigorously applying the criteria of heritage significance.
70. In a number of cases it has resulted in the review of citations which further support and highlight the heritage value of the various buildings, the removal of some properties from the Amendment or a change in the heritage grading of others.
71. It is respectfully submitted that the Panel recommend approval of Amendment C208more with the changes supported by Council and proposed in this submission.

## 6 Attachments

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Attachment 1 - VCAT Order P1462 2019 - P & S Mirabella Pty Ltd v Moreland CC