

**Date:** 12 February 2023

**Bayside Planning Scheme  
Amendment C192bays**

**Part A Submission on behalf of Bayside City Council**

Planning Panels Victoria

## INTRODUCTION

1. These submissions are made on behalf of Bayside City Council (**Council**), the Planning Authority for Amendment C192bays (**Amendment**) to the Bayside Planning Scheme (**Planning Scheme**).
2. As exhibited, the Amendment proposes to apply the Heritage Overlay to 59 individual places and 1 group listing located throughout the municipality of Bayside, as listed in the table at **Attachment 1 (Heritage Places)**.
3. The Amendment implements the recommendations of the *City of Bayside Post-War Modern Residential Heritage Study* (GJM Heritage, July 2022) (**Heritage Study**) in respect of the Heritage Places.
4. More specifically, the Amendment seeks to make the following changes to the Planning Scheme:
  - 4.1. Amend Clause 15.03-1L (Heritage conservation) to include the Heritage Study as a policy document;
  - 4.2. Amend the Schedule to Clause 43.01 (Heritage Overlay) and Bayside Planning Scheme Maps 01HO, 02HO, 03HO, 04HO, 05HO to apply the Heritage Overlay to the Heritage Places;
  - 4.3. Amend the Schedule to Clause 72.04 (Documents Incorporated in this Planning Scheme) to include the Statements of Significance for the proposed 59 individual heritage places and 1 proposed group listing; and
  - 4.4. Amend the Schedule to Clause 72.08 (Background Documents) to include the Heritage Study.
5. The Heritage Places are situated at various locations across the municipality within the suburbs of Beaumaris, Black Rock, Brighton, Brighton East, Cheltenham, Hampton and Sandringham.
6. In response to exhibition of the Amendment, 34 submissions (including one late submission) were received. A summary of submissions, and the Council delegate's response to issues raised in submissions, including the Council delegate's proposed post-exhibition changes, is set out in the Response to Submissions Table at **Attachment 2**.
7. Council intends to call evidence from the following heritage experts in support of its submissions to the Panel:
  - 7.1. Mr Gard'ner of GJM Heritage, who together with others from GJM Heritage prepared the Heritage Study; and
  - 7.2. Ms Schmeder of Landmark Heritage, who has undertaken a peer review of the Heritage Study.
8. The Council delegate's response to submissions has been informed by the expert advice of these heritage experts.

## PANEL DIRECTIONS

9. This submission responds to the Panel's Directions dated 29 November 2023 which require Council's Part A submission to address:
  - 9.1. A summary of the physical context of the subject land and surrounds;
  - 9.2. The background to the Amendment including a chronology of events;

- 9.3. A summary of the conditions of authorisation and how they have been met;
- 9.4. A summary of the strategic context, including:
  - a. Relevant planning policies and controls;
  - b. Any other recently approved or upcoming amendments that might impact on the Amendment;
- 9.5. A summary of any permit applications or recently granted permits that might impact on the Amendment;
- 9.6. A summary of the issues raised in submissions, including an explanation of which (if any) of those issues have been resolved and how.
- 10. Council's Part B submission will respond to expert evidence, expand upon the Council delegate's response to issues raised in submissions, and address Council's final position on the Amendment.

## CONTEXT

### Physical Context

- 11. The properties affected by the Amendment are located throughout the City of Bayside, within Beaumaris, Black Rock, Brighton, Brighton East, Cheltenham, Hampton and Sandringham.
- 12. The physical context of each property varies, however, all properties are located in residential areas – all properties are zoned Neighbourhood Residential Zone – Schedule 3 (**NRZ3**), except for 19 Olympic Avenue, Cheltenham, which is zoned General Residential Zone – Schedule 1 (**GRZ1**).
- 13. All properties are affected by a Design and Development Overlay (**DDO**) Seventeen (17) properties are within DDO1 'Building Height Control – Coastal'. One property is within DDO2 'Building Height Control – Inland Areas', and the remaining properties are within DDO3 – 'Building Height Control for Non-Residential Buildings in the Inland Minimal Residential Growth Area'.
- 14. Five properties are within a Special Building Overlay (**SBO**), which is land liable for flooding and 39 properties are within the Vegetation Protection Overlay - Schedule 3 (**VPO3**), which is the Beaumaris and Black Rock Native Vegetation Areas.

### Heritage Context - Overview of Post-War Modern Residential Heritage in the City of Bayside

- 15. Clause 02.03-4 of the Planning Scheme provides the following overview of heritage in the City of Bayside:

*Bayside has a rich and varied heritage, starting with the Bunurong Aboriginals and later European settlement through to the twenty first century.*

*Bayside's post-contact heritage reflects progressive phases of development from the time of Henry Dendy's Special Survey in the 1840s through to contemporary infill development. An extensive range of heritage places of national, state and local significance remain to tell the story of Bayside, its people and their aspirations. These places are intrinsically valuable but also make an important contribution to the social, environmental and economic quality of life in Bayside.*

- 16. Clause 02.03-4 goes on to specify Council's strategic directions for heritage:

*The Council recognises that the city's heritage places exist in a dynamic context. In particular, there is constant pressure to adapt and develop heritage places to suit contemporary lifestyles. Therefore Council seeks to:*

- *Protect and maintain the integrity of heritage places in accordance with the accepted conservation standards of the ICOMOS Burra Charter whilst accommodating the needs of current inhabitants.*
- *Facilitate uses, that are not detrimental to the area and would otherwise be prohibited where the nature and built form of the heritage place requires a greater range of options.*

17. Volume 2 of the Heritage Study comprises a detailed contextual history of Post-War Modernism in the City of Bayside. It builds on the thematic history contained in the *City of Bayside Heritage Review* (Allom Lovell & Associates, 1999) and the *City of Bayside Inter-War and Post War Heritage Study* (Heritage Alliance, 2008).
18. In summary:
- 18.1. The City of Bayside (formally the municipalities of Brighton and Sandringham) experienced significant change between 1945 and 1975;
- 18.2. In 1945, suburban residential development was concentrated in Brighton and parts of Brighton East in the north, and along the coastal fringe of Port Phillip Bay in Hampton, Sandringham and Black Rock to the west. There was also some limited development along the Nepean Highway and around railway stations to the east. The balance of the land (approximately one third of the total area of the former municipalities of Brighton and Sandringham) was predominantly farm land with golf courses in the central area and a large undeveloped tract of land in Beaumaris to the south;
- 18.3. In 1975, the former municipalities of Brighton and Sandringham were completely urbanised, as a result of the rapid subdivision and development of under-developed parts of suburban Melbourne from the late 1940s onwards. This included a concentration of post-war residential development in Beaumaris, as a result of the subdivision of the aforementioned large undeveloped tract of land;
- 18.4. The post-war aspiration of suburban home ownership reached its peak in the 1960s in Melbourne's middle ring suburbs, and Beaumaris, Brighton East, Hampton East, Highett and Cheltenham demonstrate this residential growth;<sup>1</sup>
- 18.5. After World War 2, a severe shortage of building materials and labour, government restrictions on home building, and a booming population led to the emergence of two contrasting lower-resource housing types – a conventional, austere type and a Modern type;
- 18.6. Public authorities, private development companies and individuals created residential subdivisions dominated by the conventional, austere type through the 1950s and 1960s in suburbs such as Brighton East, Hampton East, Highett and Cheltenham. It is characterised by an L-shaped plan, tile-clad hipped roof, and brick or timber veneer;
- 18.7. The Modernist house type offered a radical alternative to the conventional post-war housing type. It was driven by young architects and designers embracing the Modernist architectural movement, who shunned the conservative house forms and sought to address housing demands in an affordable but contemporary manner, experimenting with lightweight materials and simple construction methods;

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<sup>1</sup> Heritage Study, Volume 2, Section 2 – The Post-War Bayside Landscape

- 18.8. The Modernist house type, with its flat or shallow roof, box-like forms and generous glazing flourished in the 1950s and 1960s and came to embody the forward-looking optimism of the post-war era.<sup>2</sup>
19. The Heritage Places are a reflection of this context and associated characteristics and themes.
20. The characteristics of post-war Modernist housing will be addressed in further detail in the expert evidence of Mr Gard'ner and Ms Schmeder.

## BACKGROUND TO THE AMENDMENT

### Chronology of Events

21. The chronology of events at **Attachment 3** sets out the procedural history of the Amendment, including previous heritage studies and previous and concurrent planning scheme amendments.

### Bayside Heritage Action Plan

22. As set out in the chronology, in or around 2007, Council engaged Heritage Alliance to prepare the *City of Bayside Inter-War and Post-War Heritage Study 2008 (2008 Heritage Alliance Study)*. In summary:
  - 22.1. Volume 1 reviewed the 47 Inter-War properties that were previously identified as being of local heritage significance in *Bayside Heritage Review* (Allom Lovell and Associates, 1999) (**1999 Heritage Study**), but were yet to be included in the Heritage Overlay on a permanent basis. Of those 47 properties, Heritage Alliance recommended that 29 properties be included in the Heritage Overlay;
  - 22.2. Volume 1 also identified eight new heritage precincts which were recommended for inclusion in the Heritage Overlay;
  - 22.3. Volume 2 contained data sheets and citations for 69 additional places from the Inter-War, Post-War and other eras which were recommended for inclusion in the Heritage Overlay; and
  - 22.4. Volume 2 also contained a list of 120 additional places which were considered to be of potential local significance.
23. Council has only implemented the 2008 Heritage Alliance Study in part –
  - 23.1. In December 2007, Council resolved to seek authorisation to prepare a planning scheme amendment to apply the Heritage Overlay on a permanent basis to the 29 Inter-War properties identified in Volume 1 of the 2008 Heritage Alliance Study.
  - 23.2. In June 2008, Council resolved to seek authorisation to prepare a planning scheme amendment to apply the Heritage Overlay on a permanent basis to three of the eight new heritage precincts identified in Volume 1 of the 2008 Heritage Alliance Study.
  - 23.3. In September 2010, Amendment C75 (Part 1) was approved and gazetted, applying the Heritage Overlay to 27 of those 29 Inter-War properties, and two of those three heritage precincts.
24. In June 2008, following a public consultation process in relation to the 2008 Heritage Alliance Study, Council also resolved to take no further action in respect of the 69 additional places and remaining heritage precincts recommended for inclusion in the Heritage Overlay in Volumes 1 and 2 the 2008 Heritage Alliance Study, and the 120 additional places identified as being of potential local significance in Volume 2 of the 2008 Heritage Alliance Study.

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<sup>2</sup> Heritage Study, Volume 2, Section 3 – Housing in the Post-War Period.

25. Between 2008 and 2017, Council undertook various strategic planning projects in respect of local heritage, albeit not in relation to the Post-War Modern period.
26. In July 2017, Council adopted the *Heritage Action Plan* (Bayside City Council, 2017). Council also resolved to commence preparation of a Mid-Century Modern Heritage Study with a particular focus on the Beaumaris area, and request that the Minister apply the Heritage Overlay on an interim basis to Mid-Century Modern houses in Beaumaris that were identified in the 2008 Heritage Alliance Study but which Council had previously resolved not to take action on.
27. In September 2017, Council submitted Amendments C158 and C159 to the Minister. The amendments sought to apply the Heritage Overlay on an interim basis to 51 Mid-Century Modern residential properties in Beaumaris based on the 2008 Heritage Alliance Study.
28. However, in April 2018, in response to significant community opposition, Council resolved to:
  - 28.1. Not proceed with the preparation of a Mid-Century Modern Heritage Study, and abandon its request that the Minister apply the Heritage Overlay on an interim basis to Mid-Century Modern residential properties in Beaumaris;
  - 28.2. Seek voluntary nominations from property owners of Mid-Century Modern properties in Beaumaris and Black Rock for investigation to ascertain heritage significance of the property; and
  - 28.3. Develop a process to support the inclusion of suitable Mid-Century Modern properties in a Heritage Overlay through a voluntary nomination process.
29. In 2019, Council undertook the voluntary nomination process, engaging Context to prepare the *Bayside Mid-Century Modern Heritage Study – Residential Places 2020* and *Bayside Mid-Century Modern Heritage Study – Council owned Places 2020* (**2020 Heritage Studies**).
30. In April 2020, Council requested that the Minister exercise his powers under section 20(4) of the Act to prepare, adopt and approve Amendment C178bays, to apply the Heritage Overlay to 19 properties identified in the 2020 Heritage Studies as a result of the voluntary nomination process.
31. In May 2020, the Minister wrote to Council to express concern in relation to the voluntary nomination process. The Minister noted that as a planning authority, Council has a responsibility under the Act to ensure that buildings, areas and other places of scientific, aesthetic, architectural or historical interest are conserved. The Minister advised that the voluntary nomination approach is not appropriate to protect places of heritage significance. The Minister requested that Council:
  - 31.1. Review, update and implement the 2008 Heritage Alliance Study;
  - 31.2. Seek authorisation to prepare a planning scheme amendment to apply the Heritage Overlay to the properties identified in the above review process; and
  - 31.3. Ensure that the heritage study and review is undertaken by a suitably qualified and experienced heritage expert, with expertise in the field of Inter-War and Post-War heritage.<sup>3</sup>
32. In response to the correspondence from the Minister, Council amended the heritage action plan to remove any reference to a voluntary nomination approach. In June 2020, Council adopted the revised *Heritage Action Plan* (Bayside City Council, 2020) (**Heritage Action Plan**).
33. The purpose of the Heritage Action Plan is to:

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<sup>3</sup> Letter from the Hon Richard Wynne MP, Minister for Planning, 24 May 2020.

- 33.1. Identify and assess positive heritage measures already employed by Council;
  - 33.2. Identify opportunities to improve the protection, management and promotion of the Council's heritage assets (including public and private buildings, parks, gardens, public spaces, objects and other features); and
  - 33.3. Identify and prioritise Council's future heritage work program over a 15 year period.<sup>4</sup>
34. The Heritage Action Plan was developed in accordance with the *Municipal Heritage Strategies: A Guide For Councils* (Heritage Victoria, October 2012), which recommends using the following themes to assist with the identification of issues and opportunities for heritage planning:
- 34.1. Knowing (identification, assessment and documentation of heritage places);
  - 34.2. Protecting (statutory protection, policy development, appropriate management);
  - 34.3. Supporting (assistance, advice and incentives to help conserve heritage places); and
  - 34.4. Communicating and promoting (measures to raise awareness and appreciation of the heritage of the area).<sup>5</sup>
35. Relevantly, the Heritage Action Plan specifies the following 'high priority actions' (1-5 years):

***Bayside Mid-Century Modern Heritage Study***

*Undertake a municipal wide heritage assessment of mid-century modern architecture within Bayside.*

***Review of the Inter-War and Post-War Heritage Study***

*Undertake a review of the Bayside Inter-War and Post-War Heritage Study to ensure that properties identified as being of heritage significance are appropriately protected.*

*As this is expected to be a municipal wide heritage study, it is anticipated that the project be split into stages to ensure the project is manageable. For example:*

- *Prioritise investigation of residential places*
- *Investigate Major Activity Centres*
- *Investigate Neighbourhood Activity Centres.*<sup>6</sup>

36. These actions are responsive to the Minister's correspondence dated 24 May 2020, and as discussed below, are implemented by way of the Heritage Study.

**The Heritage Study**

37. In December 2020, Council engaged GJM Heritage to undertake the Heritage Study.
38. The scope of the Heritage Study was to review and assess residential properties constructed within the City of Bayside that were constructed in the Modern architectural style during the post-war period (1945 to 1975), and to determine whether they satisfy the threshold for local significance and therefore warrant inclusion in the Heritage Overlay.<sup>7</sup>
39. The Heritage Study is a direct implementation of the abovementioned high priority actions:

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<sup>4</sup> Heritage Action Plan, page 3.  
<sup>5</sup> Heritage Action Plan, page 3.  
<sup>6</sup> Heritage Action Plan, page 12.  
<sup>7</sup> Heritage Study, Volume 1, page 7.



- 39.1. Firstly, it comprises a municipal wide heritage assessment of residential properties within the City of Bayside that were constructed in the post-war period (1945 to 1975) and constructed in the Modern architectural style; and
- 39.2. Secondly, as part of the preparation of the Heritage Study, GJM Heritage undertook a review of properties constructed between 1945 and 1975 that were identified and assessed in the 2008 Heritage Alliance Study (among other previous heritage studies).<sup>8</sup>
40. The Heritage Study involved a review of documentation, desktop fieldwork, on-site fieldwork, detailed heritage assessments, community consultation and preparation of Citations and Statements of Significance.
41. The methodology adopted for the Heritage Study is described in Volume 1 of the Heritage Study and addressed in the expert evidence of Mr Gard'ner and Ms Schmeder. In summary, the methodology is consistent with *Planning Practice Note 1: Applying the Heritage Overlay* (August 2018) (**PPN1**) and the principles of *The Burra Charter: the Australia ICOMOS Charter for Places of Cultural Significance, 2013 (The Burra Charter)*. In accordance with PPN1, the Heritage Study involved the completion of historical, physical and comparative analysis of each place in order to establish if the place meets one or more of the heritage criteria set out in PPN1, being:
- 41.1. **Criterion A:** Importance to the course or pattern of our cultural or natural history – historical significance.
- 41.2. **Criterion B:** Possession of uncommon, rare or endangered aspects of our cultural or natural history – rarity.
- 41.3. **Criterion C:** Potential to yield information that will contribute to understanding our cultural or natural history – research potential.
- 41.4. **Criterion D:** Importance in demonstrating the principal characteristics of a class of cultural or natural places or environments – representativeness.
- 41.5. **Criterion E:** Importance in exhibiting particular aesthetic characteristics – aesthetic significance.
- 41.6. **Criterion F:** Importance in demonstrating a high degree of creative or technical achievement at a particular period – technical significance.
- 41.7. **Criterion G:** Strong or special association with a particular community or cultural group for social, cultural or spiritual reasons. This includes the significance of a place to Indigenous peoples as part of their continuing and developing cultural traditions – social significance.
- 41.8. **Criterion H:** Special association with the life or works of a person, or group of persons, of importance in our history – associative significance.<sup>9</sup>
42. The detailed heritage assessment and community consultation process resulted in the following findings and recommendations:
- 42.1. *Eighty-seven (87) places are assessed as being of local individual significance and warrant inclusion in the Heritage Overlay (listed in Section 4.1). This amounts to 159 individual properties (including individual flats and units in a complex) being recommended for inclusion in the Heritage Overlay.*

<sup>8</sup> Refer to the Heritage Study, Volume 1, page 8.

<sup>9</sup> PPN1.



- 42.2. *One (1) group is identified as being of local significance. The houses at 2, 4, 8, 9, 10, 15, 18 and 19 Bellaire Court, Beaumaris were constructed by builder Martin Sachs between 1962-68. They were all owned by Sachs, who subsequently on-sold them following development, and they exhibit similar aesthetic characteristics to one another. The eight (8) residences are considered to be of local significance as a group (listed in Section 4.2).*
- 42.3. *Forty-five (45) places have been found not to meet the threshold of local individual significance and do not warrant inclusion in the Heritage Overlay (listed in Section 4.3).*
- 42.4. *Two (2) potential precincts were found not to meet the threshold of local significance and do not warrant inclusion in the Heritage Overlay (listed in Section 4.4).<sup>10</sup>*

### Council Resolution and Delegation

- 43. At its meeting on 19 July 2022, Council resolved to:
  - 43.1. Note the submissions, written statements and requests to be heard received in relation to the draft Heritage Study;
  - 43.2. Note the Heritage Study;
  - 43.3. Seek authorisation to prepare the Amendment to apply the Heritage Overlay on a permanent basis to the Heritage Places;
  - 43.4. Seek authorisation to prepare a planning scheme amendment to apply the Heritage Overlay on an interim basis to the Heritage Places;
  - 43.5. Authorise the relevant delegated officer to make any editorial or minor changes to the Amendment documentation prior to seeking authorisation, if necessary;
  - 43.6. Exhibit the Amendment subject to any conditions imposed by the Minister; and
  - 43.7. Note that, where submissions request changes to the Amendment, request that a Panel be appointed to consider those submissions.
- 44. At the same meeting, Council also resolved:
  - 44.1. That specific properties (which were identified in the Heritage Study as warranting inclusion in the Heritage Overlay) do not meet the relevant threshold for inclusion in the Heritage Overlay; and
  - 44.2. To write to the Minister and the State Opposition Spokesperson for Planning to advocate for heritage reforms.
- 45. Council's delegates have subsequently considered each of the submissions, determined to refer all submissions to the Panel for consideration, and provided a response in respect of each submission as part of this Part A submission for the Panel's consideration, which is contained in the Response to Submissions Table at **Attachment 2**.
- 46. Where the Response to Submissions Table states that changes are required, those changes are proposed post-exhibition changes which form part of Council's advocacy position in this Panel hearing process.

### Authorisation of the Amendment

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<sup>10</sup> Heritage Study, Volume 1, page 14

47. On 24 October 2022, the Minister authorised the preparation of the Amendment subject to the following conditions:
1. *Update the Explanatory Report and Instruction Sheet having regard to the enclosed DELWP officer marked up versions and clarify that the amendment proposes to partly implement the recommendations of the Post-War Modern Residential Heritage Study 2022.*
  2. *Update all proposed statements of significance in accordance with Appendix A to Planning Practice Note 1: Applying the Heritage Overlay and consider:*
    - a. *replacing references such as ‘no significance’ or ‘sympathetic’ with ‘contributory’ or ‘non-contributory’ when referring to the significance of heritage elements.*
    - b. *Clarifying whether references to ‘later’ additions or alterations contribute to the significance of the heritage place.*
    - c. *Clarifying whether ‘sympathetic’ additions contribute to the significance of the heritage place for HO797.*
    - d. *Clarifying ambiguous references, such as ‘severe presentation’ in HO797.*
    - e. *Clarifying which trees contribute to the significance of the heritage place, noting that Clause 62.02 provides planning permit exemptions for gardening and the removal of vegetation.*
  3. *Update proposed Clause 15.03-1L (Heritage conservation) and Schedule to Clause 72.08 (Background Documents) to italicise the proposed reference as follows ‘City of Bayside Post-War Modern Residential Heritage Study (GJM Heritage, 2022)’.*
  4. *In the proposed Schedule to Clause 43.01 (Heritage Overlay):*
    - a. *Update the ‘Heritage place’ column to include reference to the statements of significance for each proposed heritage place as required by Clause 43.01-5.*
    - b. *Update the ‘External paint controls apply?’ column to replace ‘maintain[ing] original white painted external walls’ with ‘Yes’ for HO801.*
    - c. *Update the ‘Tree controls apply?’ column to clearly identify the specific trees of significance and consider:*
      - i. *Clarifying or removing references to ‘remnant’, ‘front garden’, ‘mature’, ‘sp.’, ‘native’ and ‘vegetation’, these terms are ambiguous and applied inconsistently.*
      - ii. *Citing the number and location of the significant trees, where appropriate.*
      - iii. *Including the tree species’ scientific names and in parentheses the common name.*
    - d. *Update the ‘Outbuildings or fences not exempt under Clause 43.01-4’ column to clearly identify the elements of heritage significance, including:*
      - i. *Clarify references to any integrated heritage elements such as letter boxes, carports, and planters and included in parentheses in accordance. For example: ‘[principal heritage item] (including integrated letterbox)’.*
      - ii. *Remove the plurality of ‘garage’ to remain consistent with what is described in the statement of significance for HO796.*

- iii. *Specify whether the heritage building is a carport or a garage for HO807.*
  - iv. *Replace the term 'driveway walls' to a clearer and consistent description, such as 'front fence' for HO819.*
  - v. *Replace 'rear carports' with 'triple carport (rear)' for clarity and readability for HO842.*
  - vi. *Replace 'garages' with 'double garage' to remain consistent with the statement of significance for HO843.*
  - vii. *Remove reference to rock edge garden bed for HO844 as it does not constitute an out-building or fence.*
  - viii. *Clarify whether 'Carports' refers to a double carport or two separate carport structures for HO845.*
- e. *Review blank cells in the 'Outbuildings or fences not exempt under Clause 43.01-4', 'External paint controls apply?' and 'Internal alteration controls apply?' columns to provide appropriate inputs as required by the Ministerial Direction on the Form and Content of Planning Schemes and consistent with the relevant statement of significance.*
5. *Update the proposed entry for 'Hellier House – 19 Gramatan Avenue, July 2022' in the Schedule to Clause 72.04 (Incorporated Documents) to include reference to the suburb.<sup>11</sup>*
48. All conditions of authorisation were satisfied by way of drafting changes prior to exhibition of the Amendment, as confirmed by the Department of Transport and Planning via email on 9 August 2023.

## THE AMENDMENT

49. The Amendment was exhibited between 7 September and 19 October 2023.
50. As exhibited, the Amendment proposes to apply the Heritage Overlay to 59 individual places and 1 group listing located throughout the municipality of Bayside, otherwise referred to as the Heritage Places.
51. The Amendment implements the recommendations of the Heritage Study in respect of the Heritage Places and is responsive to both the Minister's correspondence dated 24 May 2020 and the above mentioned high priority actions in the Heritage Action Plan.
52. More specifically, the Amendment seeks to make the following changes to the Planning Scheme:
- 52.1. Amend Clause 15.03-1L (Heritage conservation) to include the Heritage Study as a policy document;
  - 52.2. Amend the Schedule to Clause 43.01 (Heritage Overlay) and Bayside Planning Scheme Maps 01HO, 02HO, 03HO, 04HO, 05HO to apply the Heritage Overlay to the Heritage Places;
  - 52.3. Amend the Schedule to Clause 72.04 (Documents Incorporated in this Planning Scheme) to include the Statements of Significance for the proposed 59 individual heritage places and 1 proposed group listing; and
  - 52.4. Amend the Schedule to Clause 72.08 (Background Documents) to include the Heritage Study.

<sup>11</sup> Letter of Authorisation dated 24 October 2022.

53. The Heritage Places are situated at various locations across the municipality within the suburbs of Beaumaris, Black Rock, Brighton, Brighton East, Cheltenham, Hampton and Sandringham.

## STRATEGIC CONTEXT AND ASSESSMENT

54. In preparing a planning scheme amendment, a planning authority must have regard to the Minister's directions.<sup>12</sup>
55. We address each strategic consideration set out in the *Minister's Direction No. 11 Strategic Assessment of Amendments* (18 October 2013, amended 30 July 2018) and explained in *Planning Practice Note 46 Strategic Assessment Guidelines* (September 2022, updated 9 June 2023) in turn.

### Why is the Amendment required?

56. The Amendment is required in order to partly implement the recommendations of the Heritage Study, by applying the Heritage Overlay on a permanent basis to the Heritage Places, which were identified in the Heritage Study as meeting the threshold for local heritage significance and warranting inclusion in the Heritage Overlay.
57. Assessed against the recognised heritage criteria in PPN1 (the 'HERCON criteria'), the Heritage Places meet the requirements and thresholds for local protection through the Heritage Overlay.
58. The HERCON criteria relevant to each Heritage Place are set out in the respective Statements of Significance and Citations.
59. The Heritage Overlay is the appropriate planning mechanism to protect the heritage values of the Heritage Places. The Heritage Overlay requires a planning permit for buildings and works and demolition. The introduction of this permit trigger will ensure that the local heritage significance of the Heritage Places is protected by requiring an assessment against the Heritage Overlay and relevant policy provisions.

### Does the Amendment implement the objectives of planning in Victoria?

60. The Amendment implements the following objectives of planning in Victoria:<sup>13</sup>
- (a) *to provide for the fair, orderly, economic and sustainable use, and development of land;*
  - ...
  - (c) *to secure a pleasant, efficient and safe working, living and recreational environment for all Victorians and visitors to Victoria;*
  - (d) *to conserve and enhance those buildings, areas or other places which are of scientific, aesthetic, architectural or historical interest, or otherwise of special cultural value;*
  - ...
  - (f) *to facilitate development in accordance with the objectives set out in paragraphs (a)...(c), (d)...*
  - (g) *to balance the present and future interests of all Victorians.*
61. By applying the Heritage Overlay to the Heritage Places, the Amendment facilitates the recognition, conservation and enhancement of those place which are of local significance to

<sup>12</sup> *Planning and Environment Act 1987* (Vic) s 12(2)(a).

<sup>13</sup> These objectives are identified in s 4(1) of the P&E Act.

the City of Bayside, including aesthetic, architectural and historical interest. As summarised in Volume 2 of the Heritage Study:

*Surviving houses from the mid-1940s to the mid-1970s are historic evidence of the suburban boom that transformed what is now the City of Bayside after the end of World War II. The many surviving Modernist houses reflect the optimism of the post-war period and the belief that the ideals of Modern architecture could overcome not only the building constraints of the time, but also the social and physical constraints of the country's past in order to forge a new direction for the post-war Australian community. These places make a significant contribution to the character and history of the City of Bayside.<sup>14</sup>*

62. The Heritage Places are representative of this historical period in the City of Bayside, and the Amendment will ensure that their local heritage significance is recognised, conserved and enhanced.
63. The Amendment also provides for the orderly and sustainable use and development of land by introducing a permit trigger for particular development activities, including (broadly) subdivision, demolition, and buildings and works, thereby ensuring that future development is properly assessed in the context of the local significance of the relevant Heritage Place.
64. This represents an appropriate balancing of the present and future interests of all Victorians – namely the conservation and enhancement of places of established local significance, and the facilitation of development in accordance with the requirements of the Heritage Overlay.

#### **Does the Amendment address any environmental, social and economic effects?**

##### Environmental effects

65. The Amendment will not generate any detrimental impact on the environment.
66. Environmental sustainability benefits are afforded by the retention of heritage places through maintenance, restoration and re-use of buildings.
67. Furthermore, the Amendment will make a positive contribution to the built environment by providing for the conservation and enhancement of places of local heritage significance.

##### Economic effects

68. The Amendment is not expected to have any adverse economic impacts. According to previous Panel decisions and judicial authority, the economic effects that must be considered in this regard are economic impacts on the broader community, not personal financial implications or individual private financial impacts.<sup>15</sup> As the Panel stated in relation to Amendment C388boro:

*The PE Act refers to the economic impact of a planning scheme amendment and the Planning Scheme seeks integrated decision making. In both contexts, planning is asked to consider impact at a broader or net community level. Neither extend to individual private financial impact.<sup>16</sup>*

69. In this sense, the conservation and enhancement of places with local heritage significance can stimulate economic growth through the restoration and re-use of buildings, by maintaining and increasing the visual amenity of residential communities, and contributing to the valued character of the area.

<sup>14</sup> Heritage Study, Volume 2, page 26.

<sup>15</sup> *Boroondara C266 (PSA)* [2018] PPV 63 at page 23 and *Boroondara C388boro (PSA)* [2023] PPV 39 (13 July 2023) at page 16.

<sup>16</sup> *Boroondara C388boro (PSA)* [2023] PPV 39 (13 July 2023) at page 16.

70. Further, the application of the Heritage Overlay does not prohibit development, subdivision or demolition, but rather requires a planning permit to be obtained. Routine maintenance and repairs that do not alter the appearance of a building do not require a planning permit under the Heritage Overlay.

#### Social effects

71. The Amendment will produce social benefits for the City of Bayside and the greater community by protecting and enhancing heritage assets for current and future generations. The conservation and enhancement of places with local heritage significance plays an important role in defining local identity, provides a link to the past and creates a sense of place by adding to the character and interest of the municipality.

#### **Does the Amendment address relevant bushfire risk?**

72. The Amendment does not impact upon bushfire risk. The subject land is not within a Bushfire Prone Area or subject to a Bushfire Management Overlay, and the Amendment does not create or increase any bushfire hazard.

#### **Does the Amendment comply with all relevant Minister's Directions?**

73. The Amendment complies with the following Ministerial Directions:
- 73.1. *Ministerial Direction on the Form and Content of Planning Schemes;*
  - 73.2. *Ministerial Direction 9: Metropolitan Planning Strategy;* and
  - 73.3. *Ministerial Direction 11: Strategic Assessment Guidelines.*

#### ***Ministerial Direction on the Form and Content of Planning Schemes***

74. The Amendment complies with the *Ministerial Direction on the Form and Content of Planning Schemes*.

#### ***Ministerial Direction 9: Metropolitan Planning Strategy***

75. Plan Melbourne<sup>17</sup> is the metropolitan planning strategy which identifies a vision for the future growth of Melbourne. The vision is implemented through outcomes, directions and policies.

76. The Amendment is consistent with the following directions and policies.

#### *Direction 4.4 – Respect Melbourne's heritage as we build for the future.*

77. Under Outcome 4 which seeks that "Melbourne is a distinctive and liveable city with quality design and amenity", Direction 4.4 recognises that heritage:

- 77.1. will continue to be one of competitive strengths for Melbourne;
- 77.2. contributes to the city's distinctiveness and liveability;
- 77.3. is an important component of Victoria's tourism industry; and
- 77.4. benefits the economy.

78. Direction 4.4 also acknowledges that the process of protecting new heritage is just as important as conserving current heritage assets.

<sup>17</sup> *Plan Melbourne 2017-2050: Metropolitan Planning Strategy* (Department of Environment, Land, Water and Planning, 2017) and *Plan Melbourne 2017-2050: Addendum 2019* (Department of Environment, Land, Water and Planning, 2019).



Policy 4.4.1 – Recognise the value of heritage when managing growth and change

79. This policy recognises that decisions must be based on an appreciation of Melbourne’s past as well as planning for of its future needs. To ensure that the value of heritage is protected, there must be “continuous identification and review of currently unprotected heritage sites” as well as “targeted assessments of heritage sites in areas identified as likely to be subject to substantial change.”
80. The *Plan Melbourne 2017-2050 Implementation Plan (Plan Melbourne Implementation Plan)* seeks to implement this policy by “ensuring heritage conservation values are considered in urban renewal precincts and other places across the city.”<sup>18</sup>

Policy 4.4.3 – Stimulate economic growth through heritage conservation

81. This policy recognises that heritage is fundamental to Melbourne’s cultural economy. It recognises that rehabilitation and re-use of old buildings and places creates opportunities for investment and jobs as well as contributing to community and historical identity.

Policy 4.4.4 – Protect Melbourne’s heritage through telling its stories

82. This policy provides that “there is more to heritage than place”. Heritage involves telling and protecting stories which shape Melbourne’s development and create a sense of place and community.

**Ministerial Direction 11: Strategic Assessment Guidelines**

83. The Amendment is consistent with *Ministerial Direction 11: Strategic Assessment Guidelines*.
84. Broadly, the Amendment:
  - 84.1. supports the Planning Policy Framework for reasons set out below;
  - 84.2. makes proper use of the Victorian Planning Provisions through the use of the Heritage Overlay to protect areas of local heritage significance; and
  - 84.3. is consistent with the PPN1 as discussed below.

**How does the Amendment support or implement the Planning Policy Framework?**

85. Clause 15.03-1S (Heritage Conservation) seeks to ensure the conservation of places of heritage significance. The Amendment supports and implements this objective because the application of the Heritage Overlay to the Heritage Places will:
  - 85.1. Provide for the conservation and enhancement of places that are of local heritage significance;
  - 85.2. Encourage appropriate development that respects places with identified heritage values;
  - 85.3. Provide for the retention of elements that contribute to the importance of a heritage place;
  - 85.4. Encourage the conservation and restoration of contributory elements of a heritage place;
  - 85.5. Ensure an appropriate setting and context for heritage places is maintained or enhanced; and

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<sup>18</sup> Action 69.



- 85.6. Support adaptive reuse of heritage buildings where their use has become redundant.
86. Clause 15.03-1L (Heritage Conservation) applies to all properties affected by the Heritage Overlay. It is comprised of various demolition strategies, subdivision strategies, restoration strategies, alterations and additions strategies and policy guidelines, new buildings in residential precincts strategies, commercial precincts strategies, front fence strategies and policy guidelines, car parking strategies and policy guidelines, ancillary services strategies and general policy guidelines. By applying the Heritage Overlay to the Heritage Places, the Amendment will give effect to these strategies and policy guidelines in the statutory planning process.

### **How does the Amendment support or implement the Municipal Planning Strategy?**

87. The Amendment supports Clause 02.03-4 (Built Environment and Heritage).
88. In relation to urban and building design, Clause 02.03-4 provides that Council seeks to “Achieve built form and public realm design that conserves and enhances valued urban character and heritage places.” By applying the Heritage Overlay, the Amendment will conserve and enhance the Heritage Places, thus contributing to the achievement of this objective.
89. In relation to heritage, Clause 02.03-4 acknowledges that:

*Bayside has a rich and varied heritage, starting with the Bunurong Aboriginals and later European settlement through to the twenty first century.*

*Bayside’s post-contact heritage reflects progressive phases of development from the time of Henry Dendy’s Special Survey in the 1840s through to contemporary infill development. An extensive range of heritage places of national, state and local significance remain to tell the story of Bayside, its people and their aspirations. These places are intrinsically valuable but also make an important contribution to the social, environmental and economic quality of life in Bayside.*

*The Council recognises that the city’s heritage places exist in a dynamic context. In particular, there is constant pressure to adapt and develop heritage places to suit contemporary lifestyles. Therefore Council seeks to:*

- *Protect and maintain the integrity of heritage places in accordance with the accepted conservation standards of the ICOMOS Burra Charter whilst accommodating the needs of current inhabitants.*
- *Facilitate uses, that are not detrimental to the area and would otherwise be prohibited where the nature and built form of the heritage place requires a greater range of options.*

90. The application of the Heritage Overlay will ensure the integrity of the Heritage Places is protected and maintained in accordance with the Burra Charter, whilst accommodating the needs of current inhabitants by not prohibiting development, but rather, ensuring that development proposals are assessed against the requirements and decision guidelines of the Heritage Overlay and relevant planning policy.

### **Does the Amendment make proper use of the Victoria Planning Provisions?**

91. The Amendment makes proposer use of the Victoria Planning Provisions by:
- 91.1. Amending Clause 15.03-1L (Heritage Conservation) to include the Heritage Study as a policy document;

- 91.2. Amending the Schedule to Clause 43.01 (Heritage Overlay) and Planning Scheme Maps 01HO, 02HO, 03HO, 04HO, 05HO to apply the Heritage Overlay to the Heritage Places;
  - 91.3. Amending the Schedule to Clause 72.04 (Documents Incorporated in this Planning Scheme) to include the Statements of Significance for the Heritage Places; and
  - 91.4. Amending the Schedule to Clause 72.08 (Background Documents) to include the Heritage Study.
92. This represents a proper use of the Heritage Overlay and associated planning policy provisions. The Heritage Overlay is the appropriate planning mechanism to protect places of local heritage significance.

**How does the Amendment address the views of relevant agencies?**

93. The following prescribed Ministers and agencies were notified of the Amendment:
- 93.1. The Minister for Water;
  - 93.2. The Minister for Energy and Resources;
  - 93.3. The Minister for Agriculture;
  - 93.4. The Department of Transport and Planning; and
  - 93.5. Heritage Victoria.
94. Following notification of the Amendment, Council did not receive any responses from prescribed Ministers or relevant agencies.

**Does the Amendment address the requirements of the *Transport Integration Act 2010*?**

95. The Amendment and the application of the Heritage Overlay to the Heritage Places will not have an impact on the transport system.

**What impact will the Amendment have on the administrative costs of the responsible authority?**

96. The Amendment is not expected to have a significant impact on the resources and administrative costs of Council in its capacity as responsible authority.
97. The application of the Heritage Overlay will likely increase the number of planning permit applications received, but this increase is not anticipated to be significant in the context of the numerous other places and precincts throughout the municipality which are already included in the Heritage Overlay. Furthermore, Council will receive application fees which will assist with the costs associated with assessing planning permit applications.

**Does the Amendment comply with PPN1?**

98. PPN1 provides that the Heritage Overlay should be applied to places identified in a local heritage study, provided that the significance of the place can be shown to justify the application of the overlay. It also provides that the documentation for each place shall include a statement

of significance that clearly establishes the importance of the place and addresses the heritage criteria.

99. PPN1 adopts the following methodology for assessing heritage significance:
- 99.1. The recognised heritage criteria (otherwise known as HERCON criteria) are used to establish heritage value (refer above);
  - 99.2. The threshold to be applied to assess significance is either 'State Significance' or 'Local Significance'. 'Local Significance' include places that are important to a particular community or locality; and
  - 99.3. To meet the threshold of either 'State Significance' or 'Local Significance', some comparative analysis is required to substantiate the significance of each place, drawing on other similar places within the study area, including those previously included in a heritage register or overlay.
100. The Amendment complies with PPN1 – the Heritage Places each demonstrate sufficient heritage value to satisfy one or more HERCON criteria and meet the threshold of local heritage significance set out in PPN1, for the reasons articulated in the Citations and Statements of Significance contained in Volume 3 of the Heritage Study. The Statements of Significance for the Heritage Places have been prepared in accordance with PPN1 and are proposed to be incorporated in the Planning Scheme consistent with the requirements of PPN1.

#### **RECENT AMENDMENTS AND PLANNING OR BUILDING PERMITS**

101. Responsive to the Panel's directions, this section identifies:
- 101.1. Recently approved or upcoming amendments that might impact on the Amendment; and
  - 101.2. Recently submitted permit applications, or recently granted permits, that might impact on the Amendment.

#### **Amendments**

102. As at the date of this submission, there are no approved or upcoming amendments that will have any material impact on the Amendment (beyond the interim HO amendments identified in the chronology).
103. In terms of other heritage-related amendments, Amendment C194bays, which proposes to apply the Heritage Overlay to an individual site at 31-33 Eliza Street, Black Rock, has been adopted by Council and submitted to the Minister for approval. This amendment does not concern post-war heritage.

## Planning Permits and Building Permits

104. The following planning permits and building permits have been issued in respect of individual Heritage Places:

| Address                           | Permit No.                                    | Preamble  | Date of issue    | Status   |
|-----------------------------------|---|---|------------------|--|
| 21 Dudley Street, Brighton        | PP 5/2018/517/1                               | <i>Construction of a roof deck in a Design and Development Overlay Schedule 1 (DDO1)</i>  | 23 January 2019  | Permit extended – development must commence by 23 January 2024 and be completed by 23 January 2026 |
| 165-167 Tramway Parade, Beaumaris | PP 5/2022/48/1                                | <i>Demolition of the existing heritage building, construction of four (4) dwellings on a lot within a Heritage Overlay and the removal of native vegetation within a Vegetation Protection Overlay Schedule 3</i> | 14 November 2023 | Condition 1 plans submitted to Council and awaiting endorsement                                    |
| 9 Wolseley Grove, Brighton        | PP/5/2023/256/1                               | <i>Construction of a front fence within a Heritage Overlay (HO841)</i>  | 27 June 2023     | Under construction   |
| 9 Wolseley Grove, Brighton        | Building Permit No. CBS-U 68108/7986052958252 | <i>Additions &amp; Alterations to Dwelling, Garage &amp; Partial Demolition Works</i>   | 18 November 2022 | Under construction   |
| 13 Fifth Street, Beaumaris        | Building Permit No. 6387755058889             | <i>Construction of Dwelling and Alterations to Garage</i>   | 18 May 2023      | Under construction   |

## SUMMARY OF ISSUES RAISED IN SUBMISSIONS

105. In response to exhibition of the Amendment, 34 submissions (including one late submission) were received. Of those submissions, four submissions support the Amendment and 30 submissions oppose the Amendment (whether on a site-specific or more general basis).
106. The common issues raised in submissions are:
- 106.1. The property does not meet the threshold of local heritage significance due to the extent of alterations;
  - 106.2. The property does not meet the threshold of local heritage significance due to the lack of intactness and/or state of disrepair;
  - 106.3. The relevant Citation and Statement of Significance are poorly researched and fail to establish that the property meets the threshold of local heritage significance;
  - 106.4. The application of the Heritage Overlay will lead to a reduction in property value;
  - 106.5. The application of the Heritage Overlay will lead to financial burden for property owners, including costs associated with planning permit applications, home insurance and repairs and maintenance, and property owners should be compensated for these added costs;
  - 106.6. The application of the Heritage Overlay impinges upon the rights of property owners;

- 106.7. The application of the Heritage Overlay unfairly restricts future development opportunities;
  - 106.8. The Amendment process is flawed (unfair, multiple failed attempts to apply the Heritage Overlay, uncertainty; lack of public consultation and engagement);
  - 106.9. Other properties identified in the Heritage Study and other similar properties in the neighbourhood have not been nominated for inclusion in the Heritage Overlay; and
  - 106.10. A voluntary nomination approach is more appropriate.
- 107. Site-specific issues raised in submissions are summarised in the Response to Submissions Table at **Attachment 2**.
  - 108. The Council delegate's response to both common and site-specific issues raised in submissions is set out in the Response to Submissions Table at **Attachment 2**.
  - 109. Council's Part B submissions will expand upon the Council delegate's response to these issues, having regard to the expert evidence submitted to the Panel.

#### **PROPOSED POST-EXHIBITION CHANGES TO AMENDMENT**

- 110. In response to issues raised in submissions and having regard to expert advice in relation to the same, Council proposes to delete the following properties from the Amendment by way of post-exhibition changes:
  - 110.1. 13 Fifth Street, Black Rock;
  - 110.2. 9 Wolseley Grove, Brighton;
  - 110.3. 9 Bellaire Court, Beaumaris;
  - 110.4. 175-177 Tramway Parade, Beaumaris;
  - 110.5. 27 Bolton Avenue, Hampton; and
  - 110.6. 78 Scott Street, Beaumaris.
- 111. Council also proposes to adopt Mr Gardner's recommended changes to the Statements of Significance and Citations in respect of the following Heritage Places:
  - 111.1. 19 Haywood Street, Beaumaris, to include reference to the introduction of stacked stone cladding, and to replace reference to 'Brighton' with 'Beaumaris' in respect of Criterion D;
  - 111.2. 82 Reserve Road, Beaumaris, to delete HERCON Criterion H and to reflect recent alterations to the property'
  - 111.3. 15 Mariemont Avenue, Beaumaris, to reflect recent alterations to the property; and
  - 111.4. 1-4/Gillard Street, Brighton East, to reflect recent alternations to the property.

112. The rationale for these proposed post-exhibition changes is set out in the Response to Submissions Table at **Attachment 2**.<sup>19</sup>
113. Council notes that:
- 113.1. Ms Schmeder also recommends that 78 Scott Street, Beaumaris be removed from the Amendment, but does not recommend that any other Heritage Place be removed; and
- 113.2. Some of Ms Schmeder's recommended changes to the Statements of Significance and Citations are consistent with Mr Gard'ner's recommendations, however Ms Schmeder also recommends some additional changes to the Statements of Significance and Citations.
114. Council invites the Panel to consider Ms Schmeder's recommendations as part of its consideration of submissions, but does not propose to incorporate Ms Schmeder's recommendations in its post-exhibition changes at this point in time.
115. A 'Day 1' version of the Amendment documentation will be circulated to the Panel and parties in accordance with the Panel's directions.
116. Council reserves the right to propose further post-exhibition changes in response to submission and expert evidence presented during the course of the Panel hearing.

## **CONCLUSION**

117. This concludes Council's Part A submissions.
118. Council's Part B submission, to be made during the hearing, will provide a more detailed response to issues raised in submissions and matters raised in expert evidence.

12 February 2023

**HARWOOD ANDREWS**  
on behalf of  
Bayside City Council

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<sup>19</sup> We note that Council's Response to Submissions Table considers Mr Gard'ner's advice (appended to his expert witness statement). Mr Gard'ner's recommended changes to the Statements of Significance and Citations were expanded in his expert witness statement and Council supports those additional recommendations in its proposed post-exhibition changes outlined at paragraph 111.

**LIST OF ATTACHMENTS**

**Attachment 1 – List of Heritage Places**

**Attachment 2 – Response to Submissions Table**

**Attachment 3 – Chronology**



## ATTACHMENT 1

| <b>AMENDMENT C192BAYS – HERITAGE PLACES</b> |                                   |
|---|-----------------------------------|
| 1.  | 1 Reid Street, Beaumaris          |
| 2.  | 11 Summerhill Road, Beaumaris     |
| 3.  | 11-13 Lang Street, Beaumaris      |
| 4.  | 12 Bolton Street, Beaumaris       |
| 5.  | 14 Cromer Road, Beaumaris         |
| 6.  | 142 Reserve Road, Beaumaris       |
| 7.  | 15 Hume Street, Beaumaris         |
| 8.  | 15 Mariemont Avenue, Beaumaris    |
| 9.  | 16 Surf Avenue, Beaumaris         |
| 10.   | 165-167 Tramway Parade, Beaumaris |
| 11.   | 166 Tramway Parade, Beaumaris     |
| 12.   | 171 Tramway Parade, Beaumaris     |
| 13.   | 175-177 Tramway Parade, Beaumaris |
| 14.   | 18 Hutchison Avenue, Beaumaris    |
| 15.   | 19 Gramatan Avenue, Beaumaris     |
| 16.   | 19 Haywood Street, Beaumaris      |
| 17.   | 2 Clonmore Street, Beaumaris      |
| 18.   | 2 High Street, Beaumaris          |
| 19.   | 21 Vardon Avenue, Beaumaris       |
| 20.   | 23 Clonmore Street, Beaumaris     |
| 21.   | 24 Balcombe Park Lane, Beaumaris  |
| 22.   | 25 Oak Street, Beaumaris          |
| 23.   | 28 Towers Street, Beaumaris       |
| 24.   | 40 Anita Street, Beaumaris        |
| 25.   | 50 Gareth Avenue, Beaumaris       |
| 26.   | 50 Wells Road, Beaumaris          |

|     |  |
|-----|--|
| 27. | 56 Cloris Avenue, Beaumaris                      |
| 28. | 78 Scott Street, Beaumaris                       |
| 29. | 82 Reserve Road, Beaumaris                       |
| 30. | 86 Dalgetty Road, Beaumaris                      |
| 31. | 53 Scott Street, Beaumaris                       |
| 32. | 19 Florida Avenue, Beaumaris                     |
| 33. | 9 Gray Court, Beaumaris                          |
| 34. | 13 Fifth Street, Black Rock                      |
| 35. | 242 Beach Road, Black Rock                       |
| 36. | 3 Seaview Crescent, Black Rock                   |
| 37. | 344 Beach Road, Black Rock                       |
| 38. | 3 Exon Street, Brighton                          |
| 39. | 40 Sussex Street, Brighton                       |
| 40. | 45 Hanby Street, Brighton                        |
| 41. | 48 Hanby Street, Brighton                        |
| 42. | 6 Norwood Avenue, Brighton                       |
| 43. | 21 Dudley Street, Brighton                       |
| 44. | 25 Chatsworth Avenue, Brighton                   |
| 45. | 3 Roslyn Street, Brighton                        |
| 46. | 51 Lynch Crescent, Brighton                      |
| 47. | 56A Dendy Street, Brighton                       |
| 48. | 7 Roosevelt Court, Brighton East                 |
| 49. | 1 Sara Avenue, Brighton East                     |
| 50. | 2 Davey Avenue Brighton East, Brighton East      |
| 51. | 32 Clonaig Street and Meyer Court, Brighton East |
| 52. | 9 Wolseley Grove, Brighton                       |
| 53. | 14 Fairway Avenue, Cheltenham                    |
| 54. | 19 Olympic Avenue, Cheltenham                    |

|            |  |
|------------|--|
| <b>55.</b> | <b>27 Bolton Avenue, Hampton</b>   |
| <b>56.</b> | <b>22 Harold Street, Sandringham</b>   |
| <b>57.</b> | <b>28 Gladstone Street, Sandringham</b>  |
| <b>58.</b> | <b>Unit 1-4, 16 Gillard Street, Brighton East</b>                              |
| <b>59.</b> | <b>Unit 1-6, 16 Clive Street, Brighton East</b>                                |
| <b>60.</b> | <b>2, 4, 8, 9, 10, 15, 18 and 19 Bellaire Court, Beaumaris (Group Listing)</b> |

## Amendment C192Bays – Post War Modern Residential Heritage – Exhibition Submissions / Delegate’s Response

\*Where reference is made to ‘Council’ in this response table, it is a reference to the Delegate, The Director of Planning and Amenity, Bayside City Council.

| No. | Submission   | Property Address                       | Delegate’s Response   |
|-----|--|--|---|
| 1   | Support  |  | The submitter’s support is noted by Council.  |
| 2   | <p>Oppose</p> <p>Objection in respect of <b>16 Gillard Street, Brighton East.</b></p> <p>The submitter has provided Heritage Opinion by Dr Aron Paul of Trethowan Architecture which asserts that (in summary):</p> <ul style="list-style-type: none"> <li>• The citation has not adequately demonstrated the property is significant historically, aesthetically, or representatively.</li> <li>• The materials and detailing are typical rather than distinctive of a c.1960s-70s apartment block (11 Tooronga Road, Malvern East cited as an example utilising similar materials and detailing).</li> <li>• There are characteristics of Modernist residential design that are lacking in the subject site, including integration with landscape or special siting of the building within it.</li> <li>• The building is not cantilevered over the carpark or landscape (the front car park created by a void between walls and the units carports are not integrated). The glazing is not “particularly expansive”. The vertical battens are “idiosyncratic rather than characteristic of Modernist design”. As a result, the building does not meet the threshold for representativeness.</li> <li>• The Comparative Analysis has not compared the property to other Modernist buildings on the HO, including 51 Lynch Crescent, Brighton and 21 Vardon Avenue, Beaumaris.</li> <li>• The citation has not established the local significance of David Sapir, architect.</li> </ul> | 1-4/16 Gillard Street<br>Brighton East | <p>The submitter’s objection is noted by Council.</p> <p><b>Council’s position is that the property at 16 Gillard Street, Brighton East is significant and should be permanently included within the Heritage Overlay. No changes to the Amendment are proposed.</b></p> <p>Council has considered the advice of the heritage experts engaged by Council as part of its consideration of the issues raised in submissions.</p> <p>GJM have recommended no changes be made, citing that:</p> <ul style="list-style-type: none"> <li>• The place holds representative elements of post-war modern architecture and design.</li> <li>• The Malvern example cited in the submission demonstrates less ‘architectural finesse’ compared to 16 Gillard Street, Brighton East.</li> <li>• It is not necessary for a Heritage place to meet all the HERCON criteria to be considered significant.</li> <li>• Comparative Analysis did not reference the examples at 51 Lynch Crescent, Brighton and 21 Vardon Avenue, Beaumaris, which were not in the Heritage Overlay at the time of the assessment. They are now included in Interim Heritage Overlays as a result of the recommendations of the Post-War Modern Residential Heritage Study.</li> <li>• Following a site visit on 18 December 2023, GJM have confirmed that the property remains highly intact to its period of construction.</li> </ul> <p>Ms Schmeder recommended that no changes be made to the controls proposed by the Amendment but has suggested some changes be made to the drafting of the Statement of Significance, citing that:</p> <ul style="list-style-type: none"> <li>• The Citation and SoS should be updated to reflect the appropriate level of intactness/integrity, note the new door and replace figure 2.</li> </ul> |

|    |  |                             |  |
|----|--|-----------------------------|--|
|    | <ul style="list-style-type: none"> <li>• The place does not have a high level of integrity.</li> <li>• The streetscape façade has been subject to major changes with removal of the doorway, replacement of the window at ground level, and new brick panel at ground level under new windows. The current streetscape façade deviates from the “original design” included in the citation. The archway over the driveway has been reconstructed and the letter boxes replaced.</li> <li>• Multi-storey flat development was less popular than single-storey unit development and the property has not been strata titled as the owners live in the front two-storey portion of the property. It is therefore not reflective of the historical pattern of post-war development dominant in Bayside.</li> </ul> |                             | <ul style="list-style-type: none"> <li>• Expand the comparative analysis to include other similar flats from this era and style.</li> </ul> <p>Council supports the recommendations of its experts to include the place in the Heritage Overlay as proposed by Amendment C192bays. Council invites the Panel to consider the Ms Schmeder’s recommendations for modifications to the Statement of Significance as part of its consideration of submissions.</p>   |
| 3a | <p>Oppose</p> <p>Objection in respect of <b>13 Fifth Street, Black Rock</b>.</p> <p>Matters raised by Submitter 3 in relation to this property include:</p> <ul style="list-style-type: none"> <li>• Financial implications of homeowners as a result of the Heritage Overlay.</li> <li>• The implications of the Heritage Overlay and that its application will impede owners’ ability to make changes to their property in response to climate change and making their homes more eco-friendly.</li> <li>• The Heritage Overlay process is an encroachment on property rights.</li> <li>• There has been mass uncertainty amongst property owners.</li> <li>• That there is a lack of clear criteria to assess heritage.</li> </ul>  | 13 Fifth Street, Black Rock | <p>The submitter’s objection is noted by Council.</p> <p><b>Council proposes that the property at 13 Fifth Street, Black Rock should be removed from Amendment c192bays.</b></p> <p>Council has considered the advice of the heritage experts engaged by Council as part of its consideration of the issues raised in submissions.</p> <p>GJM have recommended to the place be removed from the Heritage Overlay, citing that:</p> <ul style="list-style-type: none"> <li>• Substantial works have taken place and so little original material now remains that its integrity has been reduced such as to warrant its removal from the Heritage Overlay.</li> </ul> <p>Ms Schmeder recommended no changes be made, citing that:</p> <ul style="list-style-type: none"> <li>• Some of the matters raised in submission 3a are not relevant to whether a property’s heritage significance.</li> <li>• A place does not have to be an exemplary example of post-war modern design to meet the threshold for heritage protection.</li> <li>• The changes made are minor and overall, the redevelopment is a sensitive design that respects the original house and does not detract from its heritage value.</li> </ul> <p>Council’s response to other matters raised in the submission is set out below.</p> |

|    |   |                                       |  |
|----|---|---------------------------------------|--|
|    |   |                                       | <p>Under the <i>Planning and Environment Act 1987</i>, Council has a responsibility for heritage conservation, as part of Section 4(1)(d), ‘to conserve and enhance those buildings, areas or otherwise of special cultural value.’ This is not a responsibility individually allocated to Bayside City Council. All other Victorian Councils must uphold this responsibility by preparing heritage studies and introducing the Heritage Overlay on properties identified as heritage significant.</p> <p>The application of the Heritage Overlay does not restrict the property owner from making modifications to ensure their home is environmentally friendly, energy efficient, accessible, and safe. General maintenance, repair and replacement of failed elements (roofing, rainwater goods, windows, doors etc) on a like-for-like basis do not require a permit. Changes that alter the appearance and fabric of the building will require approval (either a through a planning permit or a streamlined VicSmart permit). Furthermore, many heritage homes can be retrofitted to be more sustainable and energy efficient, and extending their useful life.</p> <p>Applying the Heritage Overlay is a practice that is undertaken internationally. Council’s heritage consultant has prepared the Study in accordance with <i>Planning Practice Note 1: Applying the Heritage Overlay</i> alongside the principles of the ICOMOS Burra Charter ‘Understanding and assessing cultural significance’ Practice Note. This includes a well-documented and robust set of criterion to measure heritage.</p> <p>Council supports the recommendation of GJM to remove the place from the Heritage Overlay as a result of the impact of works on the integrity of the place.</p> <p>Council acknowledges that Ms Schmeder does not recommend removal of the place from the Heritage Overlay, and it invites the Panel to consider the Ms Schmeder’s evidence as part of its consideration of submissions.</p> |
| 3b | <p>Oppose</p> <p>Objection in respect of <b>82 Reserve Road, Beaumaris</b></p> <p>The matters raised by the submitter include:</p> <ul style="list-style-type: none"> <li>Concerns that the heritage process infringes on fundamental property rights included in <i>The Universal Declaration of Human Rights, The Australian</i></li> </ul> | <p>82 Reserve Road,<br/>Beaumaris</p> | <p>The submitter’s objection is noted by Council.</p> <p><b>Council’s position is that the property at 82 Reserve Road, Beaumaris is significant and should be permanently included within the Heritage Overlay. Due to changes made to the property, Council proposes that the SoS and Citation be amended to delete Criterion H and to reflect recent alterations made to the property.</b></p>  |

*Constitution and, The Victorian Charter of Human Rights and Responsibilities.*

- Concerns that the application of the Heritage Overlay infringe on the owner's ability to use, enjoy, dispose of and benefit from their property and prohibit the property owners ability to develop, alter or demolish their properties.
- Concerns that the application of the Heritage Overlay will negatively impact their property value.
- Concern that council should have a grant funding scheme to assist owners take care of these places.

The submitter also states that the current heritage protection approach is ineffective in achieving the desired goals of historic heritage conservation as heritage listing private properties without the consent and compensation of the owners fails to ensure the genuine preservation of these place and may lead to neglect, deterioration, or even demolition by neglect.

The submitter objects to the heritage significance of the property, specifically referring to the following matters:

- The contextual history, historical themes and place history are generic and not place-specific. The limited details provided on John Kirk raises questions in respect of the property's historical significance. Kirk has limited significance to Bayside and there is no evidence of him having a meaningful career as an architect.
- The description of the property contains inaccuracies, as there is no integrated carport even though this is stated in the Study.
- The property has asbestos inside and out and a leaking roof.
- Key features of the property have been changed, including the enclosure of the carport, rendering face bricks, clearing gardens, demolishing the letterbox and removing the concrete driveway.

Council has considered the advice of the heritage experts engaged by Council as part of its consideration of the issues raised in submissions.

GJM have recommended that the place be retained in the Heritage Overlay but that the Citation and SoS be amended to delete Criterion H and reflect recent alterations, citing that:

- Due to new information provided, 82 Reserve Road, Beaumaris, no longer meets the threshold of Criterion H.
- The changes that have occurred to the property since its initial assessment, including cladding face bricks with fibre cement sheeting (GJM dispute the assertion that the bricks have been rendered), have not fundamentally altered the original design intent or legibility of the house or diminished its intactness to the extent that it no longer should be included in the Heritage Overlay. The Statement of Significance and associated Citation should be updated to reflect the alterations.

Ms Schmeder recommended that the place be retained in the Heritage Overlay but that the Citation and SoS be amended to delete Criterion H, citing that:

- The voluntary listing method was discredited by state government.
- The comparative analysis is sufficient.
- John Kirk's association with Bayside would be better reflected in Criterion A, rather than Criterion H.
- The changes made to the building (enclosing the carport and installing boards over the brickwork) are reversible and the design is still legible.

Council's response to other matters raised in the submission is set out below.

Protecting heritage places does not undermine any application of the *Universal Declaration of Human Rights*, *The Australian Constitution*, nor the *Victorian Charter of Human Rights and Responsibilities*. Rather, applying the Heritage Overlay is a practice that is undertaken internationally. GJM have prepared the Study in accordance with *Planning Practice Note 1: Applying the Heritage Overlay* alongside the principles of the ICOMOS Burra Charter 'Understanding and assessing cultural significance' Practice Note.

The application of the Heritage Overlay does not restrict the property owner from making modifications to ensure their home is environmentally friendly, energy efficient, accessible, and safe. General maintenance, repair and



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| <ul style="list-style-type: none"> <li>• The Comparative Analysis is inadequate and does not adequately reference similar homes in the study area that are comparable and already included in the heritage register.</li> <li>• Kirk is an unknown, unregistered architect and Beaumaris does not possess any special association with John Krik. The submitter states that Kirk only designed one house which he resided in with his family until 1975 when his children moved away. There is no record or evidence of a meaningful career as an architect, and he does not have a unique association with Bayside.</li> </ul> <p>The submitter strongly urges Council to abandon Amendment C192bays and propose a more voluntary, incentive-based approach to heritage conservation in Bayside. The submitter then refers to recommendations made within the following Reports for Council to consider:</p> <ul style="list-style-type: none"> <li>• The Panel Report for Amendment C258ston, in which properties were excluded from the Heritage Overlay due to "...found deficiencies in local significance, insufficient consultation with affected property owners..." The Panel recommended removing some places from the amendment for these reasons.</li> <li>• The Productivity Commission's 2006 report on Conservation of Historic Heritage Places, which critiques the current system of heritage identification and provides recommendations for improving performance and outcomes.</li> <li>• The Parliament of Victoria's interim report on the inquiry into protections within the Victorian Planning Framework which examined heritage protection in Victoria.</li> <li>• Council's own submission made to the Inquiry into The Protections Within The Victorian Planning Framework.</li> </ul> |  | <p>replacement of failed elements (roofing, rainwater goods, windows, doors etc) on a like-for-like basis do not require a permit.</p> <p>Changes that alter the appearance and fabric of the building will require approval (either a through a planning permit or a streamlined VicSmart permit). Furthermore, many heritage homes can be retrofitted to be more sustainable and energy efficient and extending their useful life.</p> <p>In response to the submitters concerns regarding property value, Council notes that property values are not a planning matter and is generally not a relevant consideration under the <i>Planning and Environment Act 1987</i> or the Bayside Planning Scheme. It is noted that property value can go up and down for a number of reasons (including but not limited to):</p> <ul style="list-style-type: none"> <li>• The quality of the building/dwelling</li> <li>• The location and size of the building/dwelling</li> <li>• Market conditions and seasonal fluctuations;</li> <li>• Amenity;</li> <li>• The state of neighbouring properties;</li> <li>• Building use;</li> <li>• Rental return; and</li> <li>• Economic conditions.</li> </ul> <p>It is therefore difficult to isolate the specific effects of a heritage listing and whether a Heritage Overlay alone impacts the property value.</p> <p>The era, condition, and style of heritage features, along with the cost of maintenance, as well as other significant qualities offered by the property, and the target market's personal taste are all factors influencing property price. If heritage features are in excellent condition/restoration, easily maintained and do not reduce functionality or involve long-term costs, they are likely to increase the property's value.</p> <p>Council does not currently have a funding or grant scheme in place to assist owners of heritage properties.</p> <p>With regard to notification, Council has consulted over and above the requirements mandated in the <i>Planning and Environment Act</i>. This has included community engagement on both the findings of the draft Study (from 7 February</p> |
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– 30 April 2022) and through the public exhibition process of this Planning Scheme Amendment (6 September – 19 October 2023). Council communicated as required with affected landowners and community members by:

- Letter to property owners including draft Statement of Significance and information brochure;
- Email to project subscribers and key stakeholders with information on the draft Post-War Modern Residential Heritage Study assessment and engagement process;
- Information published on Council website, Have Your Say website and e-newsletter, This Week in Bayside (Average 9,500 recipients);
- Information published in Let's Talk Bayside magazine (41,000 recipients);
- Site inspections with GJM Heritage and property owners, where consent was provided;
- 1:1 meetings with Council officers (available over the phone, in person and online via video conference);
- Printed materials available on request
- Letters to property owners informing them of when the amendment was authorised by the Minister for Planning.

Council notes the Reports cited by the submitter and their disagreement with the approach taken to heritage list properties. Council has taken the approach that it is responsible to undertake under the *Planning and Environment Act 1987* and has had a heritage study prepared by a suitably qualified expert.

The Post-War Modern Residential Heritage Study follows three previous attempts (2007, 2017, 2018) by Council to conduct studies and planning scheme amendments to identify mid-century modern properties for potential heritage protection and introduce heritage controls (interim and permanent). This includes the adoption of an untried voluntary approach to heritage protection which was not supported by the Minister for Planning as it was considered the process did not adequately fulfil Council's responsibilities under the *Planning and Environment Act 1987*. Instead, the Minister advised that Council should undertake a more detailed study to ensure appropriate protections exist, resulting in the preparation of the Post-War Modern Residential Heritage Study.

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|                  |   |                                   | <p>Council supports the recommendations of GJM and Ms Schmeder to include the place in the Heritage Overlay as proposed by Amendment C192bays but to amend the Statement of Significance and Citation to delete Criterion H and reflect recent alterations.</p>   |
| <p><b>3c</b></p> | <p>Oppose</p> <p>Objection in respect of <b>9 Wolseley Grove, Brighton</b></p> <p>Submitter 3 states that:</p> <ul style="list-style-type: none"> <li>• There have been major alterations over the years and there is little significant heritage fabric remaining.</li> </ul> <p>1980s changes are noted as:</p> <ul style="list-style-type: none"> <li>• Replacement of austere brick front façade walls with windows and glass doorways.</li> </ul> <p>2022/23 changes are noted as:</p> <ul style="list-style-type: none"> <li>• Removal of eastern courtyard</li> <li>• Removal of three large trees</li> <li>• Garden structure dismantled.</li> <li>• Removal of front brick fence</li> <li>• Removal of integrated carport</li> <li>• Removal of dark stained/painted timber fascias.</li> <li>• Replacement of original timber windows</li> <li>• Removal of non-original timber letterbox.</li> </ul> | <p>9 Wolseley Grove, Brighton</p> | <p>The submitter's objection is noted by Council.</p> <p><b>Council proposes that the property at 9 Wolseley Grove, Brighton, be removed from Amendment c192bays.</b></p> <p>Council has considered the advice of the heritage experts engaged by Council as part of its consideration of the issues raised in submissions.</p> <p>GJM have recommended that the place be removed from the Heritage Overlay, citing that:</p> <ul style="list-style-type: none"> <li>• Due to substantial works that have recently been undertaken at the place, there is so little original material remaining that its integrity has been reduced such as the place should be removed from the Heritage Overlay.</li> </ul> <p>Ms Schmeder recommended the place be retained in the Heritage Overlay but that the Citation and SoS be amended to reflect the changes made, citing that:</p> <ul style="list-style-type: none"> <li>• The heritage impact of the recent works require consideration but overall, they are sympathetic to the house, with effort take to retain the same street presence, and do not diminish the heritage significance of the place.</li> <li>• The changes, particularly to the eastern side additions, should be recorded in the Citation and noted as non-contributory.</li> </ul> <p>Council supports the recommendations of GJM to remove the place from the Heritage Overlay as the place no longer meets the threshold for heritage protection.</p> <p>Council acknowledges that Ms Schmeder recommends that the place be retained in the Heritage Overlay as proposed by Amendment C192bays and it invites the Panel to consider the Ms Schmeder's evidence as part of its consideration of submissions.</p> |

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| <p>4</p> | <p>Oppose</p> <p>The submitter has made submissions in objection to the application of a Heritage Overlay permanently upon <b>82 Reserve Road, Beaumaris</b>.</p> <p>The matters raised by the submitter include:</p> <ul style="list-style-type: none"> <li>Concern that the heritage process infringes on fundamental property rights included in <i>The Universal Declaration of Human Rights</i>, <i>The Australian Constitution</i> and, <i>The Victorian Charter of Human Rights and Responsibilities</i>.</li> <li>Concerns that the application of the Heritage Overlay infringe on the owners ability to use, enjoy, dispose of and benefit from their property and prohibit the property owners ability to develop, alter or demolish their properties.</li> <li>Concerns that the application of the Heritage Overlay will negatively impact their property value.</li> </ul> <p>The submitter also states that the current heritage protection approach is ineffective in achieving the desired goals of historic heritage conservation as heritage listing private properties without the consent and compensation of the owners fails to ensure the genuine preservation of these place and may lead to neglect, deterioration, or even demolition by neglect.</p> <p>The submitter objects to the heritage significance of the property, specifically referring to the following matters:</p> <ul style="list-style-type: none"> <li>The contextual history, historical themes and place history are generic and not place-specific. The limited details provided on John Kirk raises questions in respect of the property’s historical significance. Kirk has limited significance to Bayside and there is no evidence of him having a meaningful career as an architect.</li> </ul> | <p>82 Reserve Road, Beaumaris</p> | <p>The submitter’s objection is noted by Council.</p> <p>Refer to Council’s response in respect of submission 3b (same property) above.</p> <p>In addition to the matters outlined in response to submission 3b, Council responds as follows.</p> <p>The estimated order of costs is noted. The condition of the property, planning panels have consistently deduced that it is not a relevant consideration in the application of the Heritage Overlay, as cited recently in Maribyrnong C172 (2023), Yarra C245 (2020) and Boroondara C386 (2023).</p> <p>The panel report for Maribyrnong C172 concludes that:</p> <p><i>“The Panel finds issues of building condition, development opportunity, building alterations, maintenance, property value and financial implications are not relevant when assessing the heritage significance of an individual place or a precinct. These matters can be considered at the permit application stage.”</i></p> |
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- The description of the property contains inaccuracies, as there is no integrated carport even though this is stated in the Study.
- The property has asbestos inside and out and a leaking roof.
- Key features of the property have been changed, including the enclosure of the carport, rendering face bricks, clearing gardens, demolishing the letterbox and removing the concrete driveway.
- The Comparative Analysis is inadequate and does not adequately reference similar homes in the study area that are comparable and already included in the heritage register.
- Kirk is an unknown, unregistered architect and Beaumaris does not possess any special association with John Krik. The submitter states that Kirk only designed one house which he resided in with his family until 1975 when his children moved away. There is no record or evidence of a meaningful career as an architect and he does not have a unique association with Bayside.

The submitter strongly urges Council to abandon Amendment C192bays and propose a more voluntary, incentive-based approach to heritage conservation in Bayside. The submitter then refers to recommendations made within the following Reports for Council to consider:

- The Panel Report for Amendment C258ston, in which properties were excluded from the Heritage Overlay due to "...found deficiencies in local significance, insufficient consultation with affected property owners..." The Panel recommended removing some places from the amendment for these reasons.
- The Productivity Commission's 2006 report on Conservation of Historic Heritage Places, which critiques the current system of heritage identification and provides

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|   | <p>recommendations for improving performance and outcomes.</p> <ul style="list-style-type: none"> <li>• The Parliament of Victoria's interim report on the inquiry into protections within the Victorian Planning Framework which examined heritage protection in Victoria.</li> <li>• Council's own submission made to the Inquiry Into The Protections Within The Victorian Planning Framework.</li> </ul>  |                              |   |
| 5 | <p>Objection in respect of <b>19 Haywood Street, Beaumaris.</b></p> <p>The submission asserts:</p> <ul style="list-style-type: none"> <li>• A significant renovation occurred in 1987 involving the entire back end of the property being demolished and a new addition constructed.</li> <li>• Substantial works occurred to the front of the house, including installation of stacked stone cladding beside the front door and above the master bedroom window. These features are not original.</li> <li>• Internal alterations were undertaken.</li> <li>• The property is not located in a traditional heritage area.</li> <li>• Other Clarke Hopkins Clarke properties are not recommended (2 Ballara Court, Brighton; 14 Cavell Court, Beaumaris; 2 Ramsay Street, Brighton; 25 Billson Street, Brighton East).</li> <li>• 19 and 54 Haldane Street, 1 Hutchinson Street, 9 Coreen Avenue, and 132 Tramway Parade, Beaumaris are similar to the subject property but have been removed from the amendment at the July 2022 Council Meeting.</li> </ul> | 19 Haywood Street, Beaumaris | <p>The submitter's objection is noted by Council.</p> <p><b>Council's position is that the property at 19 Haywood Street, Beaumaris is significant and should be permanently included within the Heritage Overlay. Council proposes that the 'Intactness/Integrity' section of the SoS and Citation be amended to include reference to the introduction of the stacked stone cladding.</b></p> <p>Council has considered the advice of the heritage experts engaged by Council as part of its consideration of the issues raised in submissions.</p> <p>GJM have recommended that the place be retained in the Heritage Overlay but that the 'Intactness/Integrity' section of the SoS and Citation be amended to include reference to the introduction of the stacked stone cladding, citing that:</p> <ul style="list-style-type: none"> <li>• The changes made to the place do not diminish any heritage significance.</li> <li>• Other Clarke Hopkins Clarke designed residences have either been demolished or substantially altered to the extent that their heritage significance has been lost. This enhances the heritage value of the place as a remaining, substantially intact example of a Clarke Hopkins Clarke designed residence.</li> </ul> <p>Ms Schmeder recommended to include the place in The Heritage Overlay and to amend the 'Intactness/Integrity' section of the SoS and Citation to include reference to the introduction of the stacked stone cladding and to consider noting other Clarke Hopkins Clarke designs as comparative analysis, citing that:</p> <ul style="list-style-type: none"> <li>• The changes made to the place do not diminish any heritage significance.</li> <li>• Whilst the comparative analysis is sufficient, including other Clarke Hopkins Clarke examples would strengthen the Citation and SoS.</li> </ul> |

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|   |   |                             | <ul style="list-style-type: none"> <li>Intactness of the street and area are not relevant as the house has been assessed as an individual place, not as part of a precinct.</li> </ul> <p>Council further notes 19 and 54 Haldane Street, 1 Hutchinson Street, 9 Coreen Avenue and 132 Tramway Parade, Beaumaris did not form part of Amendment C192bays as per the Council resolution at its 19 July 2022 Council meeting. As to the decision made on 19 July 2022 to remove 45 places from the Study, this was a decision made by Councillors. The scope of Amendment C192bays is confined to the properties which are proposed to be included in the Heritage Overlay on a permanent basis pursuant to the Amendment. It is beyond the scope of Amendment C192bays to consider whether other properties should or should not be included in the Heritage Overlay.</p> <p>Council supports the recommendations of GJM and Ms Schmeder to retain the place in the Heritage Overlay as proposed by Amendment C192bays but to amend the 'intactness/integrity' section of the SoS and Citation to include the stacked stone cladding as a non-contributory element of the place.</p> |
| 6 | <p>Objection in respect of <b>86 Dalgetty Road, Beaumaris</b>.</p> <p>Elements included in submission 6 were:</p> <ul style="list-style-type: none"> <li>Significant renovations to the property have detracted from Heritage Significance, including the following changes to the property from 2016: <ul style="list-style-type: none"> <li>Addition of 2 new bathrooms</li> <li>Addition of 2 new bedrooms</li> <li>Addition of a laundry</li> </ul> </li> <li>No site visit has been undertaken by Heritage specialists.</li> <li>Compulsory Heritage Listings are strongly against owners wishes.</li> <li>There is an impact on property value.</li> <li>There is significant financial burden, including insurance premiums for heritage properties.</li> <li>No compensation has been offered from government to mitigate financial burden.</li> <li>Impacts owners' rights to make changes to their property.</li> </ul> | 86 Dalgetty Road, Beaumaris | <p>The submitter's objection is noted by Council.</p> <p><b>Council's position is that the property at 86 Dalgetty Road, Beaumaris is significant and should be permanently included within the Heritage Overlay. No changes to the Amendment are proposed.</b></p> <p>Council has considered the advice of the heritage experts engaged by Council as part of its consideration of the issues raised in submissions.</p> <p>GJM have recommended to include the place in the Heritage Overlay as proposed by Amendment C192bays, citing that:</p> <ul style="list-style-type: none"> <li>The changes discussed in the submission were known by GJM when including the place into the Post-War Modern Heritage Study.</li> <li>It is acknowledged that in the 2008 City of Bayside Inter-war &amp; Post-War Heritage Study, the property formed part of the 'Mariemont Avenue Precinct'. In the intervening period, following consideration of changes to properties, it was GJM's view that the precinct no longer existed.</li> </ul> <p>Ms Schmeder recommended to include the place in the Heritage Overlay as proposed by Amendment C192bays, citing that:</p>                 |

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|   |  |   | <ul style="list-style-type: none"> <li>The changes discussed in the submission were know by GJM when including the place into the Post-War Modern Heritage Study.</li> </ul> <p>Council further notes that as part of Council’s previous engagement undertaken in 2022 on the Study, and in preparation of the Panel Hearing, Council made requests to all property owners to undertake site visits where consent was given. Whilst the property owners of 86 Dalgetty Road, Beaumaris have not provided their consent to undertake an on-site inspection, it is common practice to assess the merits of a potentially significant place from the public realm.</p> <p>Whilst it is understood that the submitter is strongly opposed to compulsory heritage listings, it is noted that Council has previously undertaken a voluntary heritage nomination approach which was not supported by the Minister for Planning. The Minister considered the process did not adequately fulfil Council’s responsibilities under the <i>Planning and Environment Act</i> 1987. Instead, the Minister advised that Council should undertake a more detailed study to ensure appropriate protections exist, resulting in the preparation of the Post-War Modern Residential Heritage Study.</p> <p>Council does not currently have a funding or grant schemes in place to assist owners of heritage properties.</p> <p>The Heritage Overlay does not restrict the property owner from making modifications to their home. General maintenance, repair and replacement of failed elements (roofing, rainwater goods, windows, doors etc) on a like-for-like basis do not require a permit. Changes that alter the appearance and fabric of the building will require approval (either a through a planning permit or a streamlined VicSmart permit).</p> <p>Council supports the recommendations of GJM and Ms Schmeder to include the place in the Heritage Overlay as proposed by Amendment C192bays.</p> |
| 7 | <p>Oppose</p> <p>Objection in respect of <b>13 Fifth Street, Black Rock</b>.</p> <p>Submitter 7 states that:</p> <ul style="list-style-type: none"> <li>Financial implications of homeowners as a result of the Heritage Overlay.</li> </ul> | <p>13 Fifth Street<br/>Black Rock<br/>Owner</p> | <p>The submitter’s objection is noted by Council.</p> <p>Refer to Council’s response to submission 3 (same property) above.</p>   |



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|   | <ul style="list-style-type: none"> <li>• The implications of the Heritage Overlay and that its application will impede owners' ability to make changes to their property in response to climate change and making their homes more eco-friendly.</li> <li>• Encroachment on property rights</li> <li>• Uncertainty for homeowners</li> <li>• A lack of clear criteria to assess heritage.</li> </ul> <p>Submitter 7 notes that the house is undergoing a substantial renovation with permits issued prior to the study being completed.</p> <p>The submission also asserts that:</p> <ul style="list-style-type: none"> <li>• The house is a style and type of Chancellor and Patrick that was celebrated or promoted by the firm.</li> <li>• Previous changes to the house include addition of rooms to the front of the house, changes to front windows, removal of volcanic rock retaining walls, garage door alterations and addition of fences. A detailed list has been provided.</li> </ul> |     |  |
| 8 | <p>Support</p> <p>Submitter 8 states that:</p> <ul style="list-style-type: none"> <li>• The submitter has an interest in ensuring significant heritage is protected.</li> <li>• This amendment also strongly aligns with the mission of the National Trust to <i>champion Victoria's diverse heritage, embrace the complexity of the past, and inspire connections to place for the benefit of current and future generations.</i></li> <li>• The Study provides a robust example of Mid-Century Moder and Post-War places in Bayside.</li> <li>• Much of Melbourne's post-war ad mid-century moder places remain unprotected.</li> <li>• The submitter raised concern regarding the 28 properties removed from the 19 July 2022 Council Meeting without noting any heritage specialist or</li> </ul>  | All | The submitter's support is noted by Council. |

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|                 | <p>statutory evidence indicating the removed places were not significant. The submitter suggests re-including the 28 removed properties into Amendment C192bays.</p>   |   |  |
| <p><b>9</b></p> | <p>Oppose</p> <p>Objection in respect of <b>15 Mariemont Avenue, Beaumaris.</b></p> <p>The matters raised by the submitter include:</p> <ul style="list-style-type: none"> <li>• There have been substantial changes to the property, including the windows, balcony, stairwell, front door location, volcanic rock retaining wall and driveway location.</li> <li>• There are perceived financial implications for maintaining the place.</li> <li>• The application of the Heritage Overlay would result in a \$300,000 reduction in property value.</li> <li>• Restrictions on development and environmentally friendly changes.</li> <li>• Contradictory information was stated in the 2007 Heritage Study which states the following:<br/> <i>“The Mariemont Ave houses are of more interest as a cohesive group, rather than individual specimens. Taken individually, they can mostly be considered as representative examples of the work of their respective architects or styles, rather than particularly outstanding ones...”</i></li> </ul> | <p>15 Mariemont Avenue,<br/>Beaumaris</p> | <p>The submitter’s objection is noted by Council.</p> <p><b>Council’s position is that the property at 15 Mariemont Avenue, Beaumaris is significant and should be permanently included within the Heritage Overlay. No change to the Amendment is proposed.</b></p> <p>Council has considered the advice of the heritage experts engaged by Council as part of its consideration of the issues raised in submissions.</p> <p>GJM have recommended to include the place in the Heritage Overlay as proposed by Amendment C192bays, citing that:</p> <ul style="list-style-type: none"> <li>• The changes discussed in the submission were known at the time of the assessment and the house remains substantially intact to its period of construction and retains the ability to be clearly understood and appreciated as an example of a 1950s house built in the Post-War Modernist style.</li> <li>• It is acknowledged that in the 2008 City of Bayside Inter-war &amp; Post-War Heritage Study, the property formed part of the ‘Mariemont Avenue Precinct’. In the intervening period, following consideration of changes to properties, it was GJM’s view that the precinct no longer existed.</li> <li>• The place was assessed in its own right irrespective of other houses in the precinct.</li> </ul> <p>Ms Schmeder recommended to include the place in The Heritage Overlay and add information about the shift forward of the window wall and to note that the place has a “relatively high” level of integrity.” into the Citation and SoS, citing that:</p> <ul style="list-style-type: none"> <li>• The changes discussed in the submission do not diminish the heritage significant of the place.</li> <li>• The cited Heritage Alliance Study in the submission deduced that 15 Mariemont Avenue, Beaumaris, is significant in its own right.</li> <li>• While the house retains enough of its form and key original features to be of local significance, it is recommended that the Citation to be amended to add information about the shift forward of the central</li> </ul> |

window all and associated relocation of the front door over one bay and to note that the house has a 'relatively high' level of integrity.

Council notes that property values are not a planning matter and is generally not a relevant consideration under the *Planning and Environment Act 1987* or the Bayside Planning Scheme. It is noted that property value can go up and down for a number of reasons (including but not limited to):

- The quality of the building/dwelling
- The location and size of the building/dwelling
- Market conditions and seasonal fluctuations;
- Amenity;
- The state of neighbouring properties;
- Building use;
- Rental return; and
- Economic conditions.

It is therefore difficult to isolate the specific effects of a heritage listing and whether a Heritage Overlay alone impacts the property value. The era, condition, and style of heritage features, along with the cost of maintenance, as well as other significant qualities offered by the property, and the target market's personal taste are all factors influencing property price. If heritage features are in excellent condition/restoration, easily maintained and do not reduce functionality or involve long-term costs, they are likely to increase the property's value.

The application of the Heritage Overlay does not restrict the property owner from making modifications to ensure their home is environmentally friendly, energy efficient, accessible, and safe. General maintenance, repair and replacement of failed elements (roofing, rainwater goods, windows, doors etc) on a like-for-like basis do not require a permit. Changes that alter the appearance and fabric of the building will require approval (either a through a planning permit or a streamlined VicSmart permit). Furthermore, many heritage homes can be retrofitted to be more sustainable and energy efficient, and extending their useful life.

Furthermore, general maintenance, repair and replacement of failed elements (roofing, rainwater goods, windows, doors etc) on a like-for-like basis do not

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|                  |   |  | <p>require a permit. Changes that alter the appearance and fabric of the building will require approval (again, either a through a planning permit or a streamlined VicSmart permit). Further, it is noted that the Study has not recommended internal controls be applied to any of the identified properties. That means that any changes to the house internally would not require a planning permit for heritage reasons.</p> <p>Council supports the recommendations of GJM and Ms Schmeder to include the place in the Heritage Overlay as proposed by Amendment C192bays. Council invites the Panel to consider the Ms Schmeder's recommendations in relation to amendments to the SoS and Citation as part of its consideration of submissions.</p>  |
| <p><b>10</b></p> | <p>Oppose</p> <p>Objection in respect of <b>56 Cloris Avenue, Beaumaris.</b></p> <p>Submitter 10 asserts there have been substantial changes, including an additional second level, carport turned into a room, exterior colour change.</p> | <p>56 Cloris Avenue,<br/>Beaumaris</p> | <p>The submitter's objection is noted by Council.</p> <p><b>Council's position is that the property at 56 Cloris Avenue, Beaumaris is significant and should be permanently included within the Heritage Overlay. No change to the Amendment is proposed.</b></p> <p>Council has considered the advice of the heritage experts engaged by Council as part of its consideration of the issues raised in submissions.</p> <p>GJM have recommended to include the place in the Heritage Overlay as proposed by Amendment C192bays, citing that:</p> <ul style="list-style-type: none"> <li>• The changes discussed in the submission have been noted in the Citation and SoS and are relatively superficial and easily reversible.</li> </ul> <p>Ms Schmeder recommended to include the place in the Heritage Overlay as proposed by Amendment C192bays, citing that:</p> <ul style="list-style-type: none"> <li>• The changes discussed in the submission have been noted in the Citation and SoS and do not diminish the heritage significant of the place.</li> </ul> <p>Ms Schmeder has also recommended that GJM determine if the front fence was originally of cement bricks as stated in the Citation, or timber as noted in the 1961 building permit plans, and the Citation be amended if necessary.</p> |

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|                  |  |   | <p>Council supports the recommendations of GJM and Ms Schmeder to include the place in the Heritage Overlay as proposed by Amendment C192bays. Council invites the Panel to consider the Ms Schmeder's recommendations in relation to further investigation of front fence and consequential amendments to the SoS and Citation as part of its consideration of submissions.</p>   |
| <p><b>11</b></p> | <p>Oppose</p> <p>Objection in respect of <b>19 Bellaire Court, Beaumaris.</b></p> <p>Submitter 11 asserts:</p> <ul style="list-style-type: none"> <li>• The application of the Heritage Overlay impacts property value.</li> <li>• There are financial implications for heritage property owners.</li> <li>• Council should allow rate rebates, permit fees removed and allocate budget for maintenance for those properties listed in the Heritage Overlay.</li> <li>• There has been a lack of support from property owners for this amendment.</li> <li>• Concern over the lack of engagement from council.</li> <li>• There have been failed previous attempts from Council to heritage list post-war properties.</li> </ul> | <p>19 Bellaire Court,<br/>Beaumaris</p> | <p>The submitter's objection is noted by Council.</p> <p><b>Council's position is that the property at 19 Bellaire Court, Beaumaris is significant and should be permanently included within the Heritage Overlay. No change to the Amendment is proposed.</b></p> <p>Council has considered the advice of the heritage experts engaged by Council as part of its consideration of the issues raised in submissions.</p> <p>GJM have recommended to include the place in the Heritage Overlay as proposed by Amendment C192bays, citing that:</p> <ul style="list-style-type: none"> <li>• The points made in the submission are not relevant to a place's heritage significance.</li> </ul> <p>Ms Schmeder recommended to include the place in the Heritage Overlay as proposed by Amendment C192bays, citing that:</p> <ul style="list-style-type: none"> <li>• The extent of public notification has been more than what is required.</li> <li>• The points made in the submission are not relevant to a place's heritage significance.</li> </ul> <p>Council notes that property values are not a planning matter and is generally not a relevant consideration under the <i>Planning and Environment Act 1987</i> or the Bayside Planning Scheme. It is noted that property value can go up and down for a number of reasons (including but not limited to):</p> <ul style="list-style-type: none"> <li>• The quality of the building/dwelling</li> <li>• The location and size of the building/dwelling</li> <li>• Market conditions and seasonal fluctuations;</li> <li>• Amenity;</li> <li>• The state of neighbouring properties;</li> <li>• Building use;</li> <li>• Rental return; and</li> </ul> |

- Economic conditions.

It is therefore difficult to isolate the specific effects of a heritage listing and whether a Heritage Overlay alone impacts the property value. The era, condition, and style of heritage features, along with the cost of maintenance, as well as other significant qualities offered by the property, and the target market's personal taste are all factors influencing property price. If heritage features are in excellent condition/restoration, easily maintained and do not reduce functionality or involve long-term costs, they are likely to increase the property's value.

With regard to financial implications that may be caused by the application of the Heritage Overlay, it is noted that general maintenance, repair and replacement of failed elements (roofing, rainwater goods, windows, doors etc) on a like-for-like basis do not require a planning permit. Changes that alter the appearance and fabric of the building will require approval (either a through a planning permit or a streamlined VicSmart permit). Further, it is noted that the Study has not recommended internal controls be applied to any of the identified properties. That means that any changes to the house internally would not require a planning permit for heritage reasons.

Council has consulted over and above the requirements mandated in the *Planning and Environment Act*. This has included community engagement on both the findings of the draft Study (from 7 February – 30 April 2022) and through the public exhibition process of this Planning Scheme Amendment (6 September – 19 October 2023). Council communicated as required with affected landowners and community members by:

- Letter to property owners including Statement of Significance and information brochure;
- Email to project subscribers and key stakeholders with information on the Post-War Modern Residential Heritage Study assessment and engagement process;
- Information published on Council website, Have Your Say website and e-newsletter, This Week in Bayside (Average 9,500 recipients);
- Information published in Let's Talk Bayside magazine (41,000 recipients);
- Site inspections with GJM Heritage and property owners, where consent was provided;

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|    |   |                             | <ul style="list-style-type: none"> <li>• 1:1 meetings with Council officers (available over the phone, in person and online via video conference);</li> <li>• Printed materials available on request;</li> <li>• Letters to property owners informing them of when the amendment was authorised by The Minister for Planning.</li> </ul> <p>The Post-War Modern Residential Heritage Study follows three previous attempts (2007, 2017, 2018) by Council to conduct studies and planning scheme amendments to identify mid-century modern properties for potential heritage protection and introduce heritage controls (interim and permanent). This includes the adoption of an untried voluntary approach to heritage protection which was not supported by the Minister for Planning as it was considered the process did not adequately fulfil Council's responsibilities under the <i>Planning and Environment Act 1987</i>.</p> <p>Instead, the Minister advised that Council should undertake a more detailed study to ensure appropriate protections exist, resulting in the preparation of the Post-War Modern Residential Heritage Study. The failure to adopt Heritage studies in the past is not generally a consideration when assessing the heritage significance of a place.</p> <p>Council supports the recommendations of GJM and Ms Schmeder to include the place in the Heritage Overlay as proposed by Amendment C192bays.</p> |
| 12 | <p>Oppose</p> <p>Objection in respect of <b>9 Bellaire Court, Beaumaris</b>.</p> <p>The submitters state:</p> <ul style="list-style-type: none"> <li>• The place does not meet the threshold of significance to garner heritage protection.</li> <li>• Substantial changes to the subject property remove heritage significance.</li> <li>• There is a lack of strategic justification for group listed properties.</li> </ul> <p>Group listings should not be used as a 'de facto way of including properties' in Heritage Overlays.</p> | 9 Bellaire Court, Beaumaris | <p>The submitter's objection is noted by Council.</p> <p><b>Council's position is that the property at 9 Bellaire Court, Beaumaris should be removed from Amendment C192bays.</b></p> <p>Council has considered the advice of the heritage experts engaged by Council as part of its consideration of the issues raised in submissions.</p> <p>GJM have recommended to remove the place from the Heritage Overlay, citing that:</p> <ul style="list-style-type: none"> <li>• The changes discussed in the submission (particularly the façade render) means the place no longer meets the threshold for Heritage protection.</li> <li>• While it is acknowledged that the building was rendered prior to the exhibition of Amendment C192bays, GJM's view on the impact of these</li> </ul>  |

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|    |  | <p>works has changed over time having regard to their involvement in Amendment C148moro.</p> <p>Ms Schmeder recommended to include the place in the Heritage Overlay as proposed by Amendment C192bays, citing that:</p> <ul style="list-style-type: none"> <li>• The changes discussed in the submission have not diminished the heritage significance.</li> <li>• The house is still recognisable as one of Martin Sach’s designs and should be retained in the Bellaire Court Group Listing.</li> </ul> <p>Council notes the findings from a recent amendment (c148moro) which concluded that on properties such as this, certain renders can remove key elements that contribute to the heritage significance.</p> <p>Council notes the submitters disagreement with the use of group listings. The group listings approach can be applied as a means of protecting shared significant elements that contribute to the street character and heritage elements of the respective places and has been considered appropriate and in alignment with the Planning Practice Note 1 in this instance.</p> <p>Council supports the recommendations of GJM to remove the place from the Heritage Overlay having regard to the impact of the works on the significance of the place.</p> <p>Council acknowledges that Ms Schmeder recommends that the place be retained in the Hertiage Overlay as proposed by Amendment C192bays. Council invites the Panel to consider the Ms Schmeder’s evidence as part of its consideration of submissions.</p> |
| 13 | <p>Oppose</p> <p>Objection to entire amendment.</p> <p>The submitter states that:</p> <ul style="list-style-type: none"> <li>• The Heritage listing system is unfair, unjust and an abuse of power.</li> <li>• Previous attempts for council to heritage list this era of properties have been abandoned.</li> </ul> | <p>The submitter’s objection is noted.</p> <p>The submission is a general submission (it does not relate to a specific place).</p> <p><b>Council’s position on the submission is that no change to the Amendment is required.</b></p> <p>Council has considered the advice of the heritage experts engaged by Council as part of its consideration of the issues raised in submissions.</p>   |



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|  | <ul style="list-style-type: none"> <li>• There is a loss of property value without compensation.</li> <li>• Concerned that properties affected by Amendment C192bays have not been inspected by a heritage consultant.</li> <li>• Maribyrnong and Glen Eira have recently rejected some heritage overlays from their recent heritage amendments.</li> </ul> | <p>GJM have considered the submission and noted that the matters raised in the submission are not related to heritage matters.</p> <p>Ms Schmeder does not recommend any changes in response to this submission, noting that the process followed by Council has been necessary and council's have obligations under the Planning and Environment Act 1987 to identify and protect places of local heritage significance.</p> <p>Council further notes that under the <i>Planning and Environment Act 1987</i>, Council has a responsibility for heritage conservation, as part of Section 4(1)(d), 'to conserve and enhance those buildings, areas or otherwise of special cultural value.' This is not a responsibility individually allocated to Bayside City Council. All other Victorian Councils must uphold this responsibility by preparing heritage studies and introducing the Heritage Overlay on properties identified as heritage significant.</p> <p>GJM have prepared the Study in accordance with <i>Planning Practice Note 1: Applying the Heritage Overlay</i> alongside the principles of the ICOMOS Burra Charter 'Understanding and assessing cultural significance' Practice Note. This includes a well-documented and robust set of criterion to measure heritage.</p> <p>Council notes that property values are not a planning matter and is generally not a relevant consideration under the <i>Planning and Environment Act 1987</i> or the Bayside Planning Scheme. It is noted that property value can go up and down for a number of reasons (including but not limited to):</p> <ul style="list-style-type: none"> <li>• The quality of the building/dwelling</li> <li>• The location and size of the building/dwelling</li> <li>• Market conditions and seasonal fluctuations;</li> <li>• Amenity;</li> <li>• The state of neighbouring properties;</li> <li>• Building use;</li> <li>• Rental return; and</li> <li>• Economic conditions.</li> </ul> <p>It is therefore difficult to isolate the specific effects of a heritage listing and whether a Heritage Overlay alone impacts the property value. The era, condition, and style of heritage features, along with the cost of maintenance, as</p> |
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|    |   |                            | <p>well as other significant qualities offered by the property, and the target market's personal taste are all factors influencing property price. If heritage features are in excellent condition/restoration, easily maintained and do not reduce functionality or involve long-term costs, they are likely to increase the property's value.</p> <p>Whilst Council does not currently have a funding or grant scheme in place to assist or compensate owners of heritage properties, an action from the Heritage Action Plan 2020 is to investigate opportunities to further support owners of heritage properties. Council may waive fees for planning permits if the Heritage Overlay is the only requirement for a permit.</p> <p>As part of Council's previous engagement undertaken in 2022 on the Study, and in preparation of the Panel Hearing, Council made requests to all property owners to undertake site visits where consent was given. Whilst not all property owners have provided their consent to undertake an on-site inspection, it is common practice to assess the merits of a potentially significant place from the public realm.</p> <p>The decisions made by Glen Eira and Maribyrnong Councils is noted. Upon receipt of the Panel Report, Bayside City Council must also a decision and submit this decision to the Minister for Planning. The preparation of this Study and planning scheme amendment process undertaken to date has been in accordance with the <i>Planning and Environment Act 1987</i>.</p> |
| 14 | <p>Oppose</p> <p>Objection in respect of <b>9 Wolseley Grove, Brighton</b></p> <p>Submitter 14 states that:</p> <ul style="list-style-type: none"> <li>• There have been major alterations over the years and there is little significant heritage fabric remaining.</li> <li>• The property does not been Criterion D as it is mostly not in original condition.</li> <li>• The place does not meet criterion E, as the significant aesthetic features have been demolished.</li> <li>• The streetscape view reflects no significant heritage fabric.</li> </ul> | 9 Wolseley Grove, Brighton | <p>The submitter's objection is noted by Council.</p> <p>Refer to Council's response in respect of submission 3c (same property) above.</p>   |

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|    | <p>1980s changes are noted as:</p> <ul style="list-style-type: none"> <li>• Replacement of austere brick front façade walls with windows and glass doorways.</li> </ul> <p>2022/23 changes are noted as:</p> <ul style="list-style-type: none"> <li>• Removal of eastern courtyard</li> <li>• Removal of three large trees</li> <li>• Garden structure dismantled.</li> <li>• Removal of front brick fence</li> <li>• Removal of integrated carport</li> <li>• Removal of dark stained/painted timber fascias</li> <li>• Replacement of original timber windows</li> <li>• Removal of non-original timber letterbox.</li> </ul>   |                            |  |
| 15 | <p>Oppose</p> <p>Objection in respect of <b>28 Towers Street, Beaumaris.</b></p> <p>The submitter states:</p> <ul style="list-style-type: none"> <li>• The process is 'undemocratic' and removes personal choice from the owners.</li> <li>• There are financial implications on property owners.</li> <li>• The application of the Heritage Overlay will reduce the property value.</li> <li>• The house is in poor condition, including: <ul style="list-style-type: none"> <li>- Rotted timber window frames, fascias and awning.</li> <li>- Corroded metal decked roof</li> <li>- Internal damage to ceilings, walls and skirting due to water ingress.</li> <li>- Foundational subsidence</li> </ul> </li> </ul> <p>The submitter provided an estimated order of cost to repair the property, to the total order of cost being \$560,000</p> | 28 Tower Street, Beaumaris | <p>The submitter's objection is noted by Council.</p> <p><b>Council's position is that the property at 28 Tower Street, Beaumaris is significant and should be permanently included within the Heritage Overlay. No change to the Amendment Is proposed.</b></p> <p>Council has considered the advice of the heritage experts engaged by Council as part of its consideration of the issues raised in submissions.</p> <p>GJM have recommended to include the place in the Heritage Overlay as proposed by Amendment C192bays, citing that:</p> <ul style="list-style-type: none"> <li>• Planning Panels have consistently found that building condition is generally not a matter for consideration in determining whether a property should be included in the Heritage Overlay unless the poor condition has degraded the intactness of a property to such a degree that its values can no longer be appreciated or rectification will require the introduction of new fabric that will undermine its assessed significance.</li> <li>• While the repair works reflect a considerable undertaking given the lack of maintenance to the property over many years, it is GJM's view that they can be undertaken in a manner that is respectful of the identified heritage values of the place and will not compromise its assessed significance.</li> </ul> |

Ms Schmeder recommended to include the place in the Heritage Overlay as proposed by Amendment C192bays, citing that:

- While the maintenance works required are substantial, the condition of the building is not in such disrepair as to make the house structurally unsound.
- Panel reports have held that the amendment stage should only consider the heritage significance of the place and condition should be assessed as part of any further planning permit.
- It is not necessary to upgrade existing elements of the house to meet current National Construction Code unless the owner undertakes extensive alterations or additions to the house (enlarging the house >25%).

Council further notes that the process to applying the Heritage Overlay that Council has followed is in accordance with *Planning Practice Note 1: Applying the Heritage Overlay* alongside the principles of the ICOMOS Burra Charter 'Understanding and assessing cultural significance' Practice Note.

It is noted that general maintenance, repair and replacement of failed elements (roofing, rainwater goods, windows, doors etc) on a like-for-like basis do not require a planning permit. Changes that alter the appearance and fabric of the building will require approval (either a through a planning permit or a streamlined VicSmart permit). Further, it is noted that the Study has not recommended internal controls be applied to any of the identified properties. That means that any changes to the house internally would not require a planning permit for heritage reasons.

Under the *Planning and Environment Act 1987*, Council has a responsibility for heritage conservation, as part of Section 4(1)(d), 'to conserve and enhance those buildings, areas or otherwise of special cultural value.' This is not a responsibility individually allocated to Bayside City Council. All other Victorian Councils must uphold this responsibility by preparing heritage studies and introducing the Heritage Overlay on properties identified as heritage significant.

It is important to again note that property value can go up and down for a number of reasons (including but not limited to):

- The quality of the building/dwelling
- The location and size of the building/dwelling

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|    |        |                          | <ul style="list-style-type: none"> <li>• Market conditions and seasonal fluctuations;</li> <li>• Amenity;</li> <li>• The state of neighbouring properties;</li> <li>• Building use;</li> <li>• Rental return; and</li> <li>• Economic conditions.</li> </ul> <p>It is difficult to isolate the specific effects of a heritage listing and whether a Heritage Overlay alone impacts the property value. The era, condition, and style of heritage features, along with the cost of maintenance, as well as other significant qualities offered by the property, and the target market's personal taste are all factors influencing property price. If heritage features are in excellent condition/restoration, easily maintained and do not reduce functionality or involve long-term costs, they are likely to increase the property's value.</p> <p>Concerns regarding the condition of the place are noted. The condition of a place does not impact the significance of a heritage place. However, condition may be a relevant consideration for when a planning permit may be sort for demolition or redevelopment of the place, if a Heritage Overlay were applied permanently.</p> <p>Planning panels have consistently deduced that it is not a relevant consideration in the application of the Heritage Overlay, as cited recently in Maribyrnong C172 (2023), Yarra C245 (2020) and Boroondara C386 (2023).</p> <p>The panel report for Maribyrnong C172 concludes that:</p> <p><i>“The Panel finds issues of building condition, development opportunity, building alterations, maintenance, property value and financial implications are not relevant when assessing the heritage significance of an individual place or a precinct. These matters can be considered at the permit application stage.”</i></p> <p>Council supports the recommendations of GJM and Ms Schmeder to include the place in the heritage overlay as proposed by Amendment C192bays.</p> |
| 16 | Oppose | 1 Reid Street, Beaumaris | The submitter's objection is noted by Council.  |

Objection in respect of **1 Reid Street, Beaumaris**

The submitter states the following:

- There is a limited market interest in this type of property.
- Daughter has a disability, and this property was an investment for her future
- This is the third attempt to put a Heritage Overlay on the property.
- Substantial changes have occurred to the place.
- Dwelling is in a significant state of disrepair.
- 1 Reid Street is the only house on street to have been chosen which is 'a departure from what a Heritage Overlay is supposed to represent'.
- Time and cost of planning permits
- Home insurance will increase with a Heritage Overlay
- Owners stripped of their right to develop as they wish.
- Concern that the heritage process infringes on fundamental property rights included in *The Universal Declaration of Human Rights*, *The Australian Constitution* and, *The Victorian Charter of Human Rights and Responsibilities*.

**Council's position is that the property at 1 Reid Street, Beaumaris is significant and should be permanently included within the Heritage Overlay. No change to the Amendment is proposed.**

Council has considered the advice of the heritage experts engaged by Council as part of its consideration of the issues raised in submissions.

GJM have recommended to include the place in the Heritage Overlay as proposed by Amendment C192bays, citing that:

- Notable changes are noted in 'intactness/integrity' on 1 Reid Street, Beaumaris Citation and SoS.
- The maintenance and repair works can be undertaken in a manner that is respectful of the place and will not compromise its heritage values.

Ms Schmeder recommended to include the place in the Heritage Overlay as proposed by Amendment C192bays, citing that:

- The repairs and works undertaken allow the place to retain its original form, appearance and integrity.
- The condition of the property does not impact on the heritage significance of the place and should be considered at planning permit stage.

Council notes that property values and matters of the private market are not a planning matter and is generally not a relevant consideration under the *Planning and Environment Act 1987* or the Bayside Planning Scheme.

It is noted that property value can go up and down for a number of reasons (including but not limited to):

- The quality of the building/dwelling
- The location and size of the building/dwelling
- Market conditions and seasonal fluctuations;
- Amenity;
- The state of neighbouring properties;
- Building use;
- Rental return; and
- Economic conditions.

It is therefore difficult to isolate the specific effects of a heritage listing and whether a Heritage Overlay alone impacts the property value. The era, condition, and style of heritage features, along with the cost of maintenance, as well as other significant qualities offered by the property, and the target market's personal taste are all factors influencing property price. If heritage features are in excellent condition/restoration, easily maintained and do not reduce functionality or involve long-term costs, they are likely to increase the property's value.

The submitters concern regarding resale is noted, however this is not a matter that can be considered under the *Planning and Environment Act*.

Concerns regarding the condition of the place are noted. The condition of a place does not impact the significance of a heritage place. However condition may be a relevant consideration for when a planning permit may be sort for demolition or redevelopment of the place, if a Heritage Overlay were applied permanently.

With regard to the costs associated with the application of the Heritage Overlay, it is noted that general maintenance, repair and replacement of failed elements (roofing, rainwater goods, windows, doors etc) on a like-for-like basis do not require a permit. Changes that alter the appearance and fabric of the building will require approval (either a through a planning permit or a streamlined VicSmart permit). Further, it is noted that the Study has not recommended internal controls be applied to any of the identified properties. That means that any changes to the house internally would not require a planning permit for heritage reasons.

Whether a property is surrounded by other heritage significant places or not is not relevant when considering if a place ought to be included in the Heritage Overlay as an individually significant place. As per *Planning Practice Note 1: Applying the Heritage Overlay*, the application of the Heritage Overlay can be on individual properties, as a heritage precinct or as a group listing.

Protecting heritage places is not undermining or infringing on human or property rights. Rather, applying the Heritage Overlay is a practice that is undertaken internationally. Council's heritage consultant has prepared the Study in accordance with *Planning Practice Note 1: Applying the Heritage Overlay*

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|                  |   |  | <p>alongside the principles of the ICOMOS Burra Charter ‘Understanding and assessing cultural significance’ Practice Note.</p> <p>Council supports the recommendations of GJM and Ms Schmeder to include the place in the heritage overlay as proposed by Amendment C192bays.</p>  |
| <p><b>17</b></p> | <p>Oppose</p> <p>Objection in respect of <b>175-177 Tramway Parade, Beaumaris.</b></p> <p>Submission 17 asserts that the property has been subject to the following changes:</p> <ul style="list-style-type: none"> <li>• Bagging of the original cream brickwork</li> <li>• Installation of vertical timber cladding to the upper level</li> <li>• Installation of stone and associated landscaping treatments.</li> <li>• The application of the Heritage Overlay would reduce capabilities to subdivide and redevelop.</li> <li>• SoS is inaccurate.</li> <li>• Subject property doesn’t meet all the criteria that other properties do.</li> <li>• Choice of property to remain within the study when others were abandoned is arbitrary.</li> <li>• Perceived Significant financial loss.</li> </ul> | <p>175-177<br/>Tramway<br/>Parade,<br/>Beaumaris</p> | <p>The submitter’s objection is noted by Council.</p> <p><b>Council’s position is that the property at 175-177 Tramway Parade, Beaumaris should be removed from Amendment C192bays.</b></p> <p>Council has considered the advice of the heritage experts engaged by Council as part of its consideration of the issues raised in submissions. GJM have recommended to remove the place from the Heritage Overlay, citing that:</p> <ul style="list-style-type: none"> <li>• With the supply of historical plans in December 2023, it has been deduced that the changes noted in the submission are substantial and the place no longer meets the threshold for heritage protection.</li> </ul> <p>Ms Schmeder recommended to include the place in the Heritage Overlay as proposed by Amendment C192bays, citing that:</p> <ul style="list-style-type: none"> <li>• The changes noted by the submitter have already been identified by GJM.</li> </ul> <p>Ms Schmeder has also recommended that the SoS be amended to:</p> <ul style="list-style-type: none"> <li>• Correct the description of the block as one that slopes up from the street;</li> <li>• Note that the stacked-stone hard landscaping in the front setback was installed post-2013;</li> <li>• Record in the place history and SoS that this was a house plan from the Australian Women’s Weekly home planning service, customised for the first owners at the Myer Melbourne Home Planning Centre on 29 November 1958.</li> </ul> <p>Council further notes GJM prepared this Study and undertaken assessment of places in accordance with <i>Planning Practice Note 1: Applying the Heritage Overlay</i> which outlines the eight recognised heritage criteria (HERCON) to be used for the assessment of the heritage value of a heritage place. A property does not need to meet all criterion to be considered locally significant.</p> |



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|    |  | <p>As to the decision made on 19 July 2022 to remove 45 places from the Study this was a decision made by Councillors. The scope of Amendment C192bays is confined to the properties which are proposed to be included in the Heritage Overlay on a permanent basis pursuant to the Amendment. It is beyond the scope of Amendment C192bays to consider whether other properties should or should not be included in the Heritage Overlay.</p> <p>Council supports the recommendations of GJM to remove the place from the Heritage Overlay on the basis that the works undertaken mean that the place no longer meets the threshold for Heritage protection.</p> <p>Council invites the Panel to consider the Ms Schmeder's evidence as part of its consideration of submissions.</p>  |
| 18 | <p>Oppose</p> <p>Opposition to entirety of amendment</p> <p>Submitter 18 state the following:</p> <ul style="list-style-type: none"> <li>• The <i>Planning and Environment Act</i> is 'not fit for purpose'.</li> <li>• Lack of leadership and failure to discharge responsibilities by the State Government</li> <li>• No community faith in the current process</li> <li>• Submitter has attended several auctions for Heritage listed properties, where they sold well below the vendor's asking price.</li> <li>• Several previous studies have been abandoned by council.</li> <li>• Self-nomination of properties is a more fair and just process</li> <li>• These homes will not meet Environmentally Sustainable Design (ESD) requirements.</li> <li>• There are other ways to capture history, for example the National Trust documents older buildings on file.</li> </ul> | <p>The submitter's objection is noted.</p> <p>The submission is a general submission (not relating to a specific property).</p> <p><b>Council's position on the submission is that no change to the Amendment is required.</b></p> <p>Council has considered the advice of the heritage experts engaged by Council as part of its consideration of the issues raised in submissions.</p> <p>GJM have considered the submission and noted that the matters raised in the submission are not related to heritage matters.</p> <p>Ms Schmeder does not recommend any changes to the Amendment in response to the submission.</p> <p>The submitter's views of the <i>Planning and Environment Act</i> 1987 are noted. Under the <i>Planning and Environment Act</i> 1987, Council has a responsibility for heritage conservation, as part of Section 4(1)(d), 'to conserve and enhance those buildings, areas or otherwise of special cultural value.' This is not a responsibility individually allocated to Bayside City Council. All other Victorian Councils must uphold this responsibility by preparing heritage studies and introducing the Heritage Overlay on properties identified as heritage significant.</p> |

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|    |  |  | <p>Council has previously undertaken a voluntary heritage nomination approach which was not supported by the Minister for Planning. The Minister considered the process did not adequately fulfil Council's responsibilities under <i>the Planning and Environment Act 1987</i>. Instead, the Minister advised that Council should undertake a more detailed study to ensure appropriate protections exist, resulting in the preparation of the Post-War Modern Residential Heritage Study</p> <p>The Heritage Overlay does not restrict the property owner from making modifications to ensure their home is environmentally friendly, energy efficient, accessible, and safe. General maintenance, repair, and replacement of failed elements (roofing, rainwater goods, windows, doors etc) on a like-for-like basis do not require a permit. Changes that alter the appearance and fabric of the building will require approval (either a through a planning permit or a streamlined VicSmart permit). Furthermore, many heritage homes can be retrofitted to be more sustainable and energy efficient and extending their useful life.</p> <p>Alternative mechanisms such as documentation with the National Trust do not discharge Council's responsibility under the <i>Planning and Environment Act 1987</i> with regard to heritage protection.</p> |
| 19 | <p>Oppose</p> <p>Opposition to entirety of amendment</p> <p>Submitter 19 state the same as submitter 18:</p> <ul style="list-style-type: none"> <li>• The <i>Planning and Environment Act</i> is 'not fit for purpose'</li> <li>• Lack of leadership and failure to discharge responsibilities by the State Government</li> <li>• No community faith in the current process</li> <li>• Several previous studies have been abandoned by council.</li> <li>• Self-nomination of properties is a more fair and just process.</li> <li>• These homes will not meet Environmentally Sustainable design (ESD) requirements.</li> </ul> |  | <p>The submitter's objection is noted.</p> <p>The submission is a general submission (not relating to a specific property) and raises similar issues to submission 18.</p> <p>Refer to Council's response in respect of submission 18 above.</p>   |

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|    | <ul style="list-style-type: none"> <li>There are other ways to capture history, for example the National Trust documents older buildings on file.</li> </ul>   |                            |   |
| 20 | <p>Oppose</p> <p>Objection in respect of <b>56a Dendy Street, Brighton.</b></p> <p>Submission 20 asserts that:</p> <ul style="list-style-type: none"> <li>The submitters decided to sell their home due to the stress inflicted upon them by Amendment C192bays</li> <li>Forced Heritage is of no benefit to the community.</li> <li>Heritage listed houses are harder to sell</li> <li>There is no governmental support to cover the costs of the application of the Heritage Overlay.</li> </ul> | 56a Dendy Street, Brighton | <p>The submitter's objection is noted by Council.</p> <p><b>Council's position is that the property at 56a Dendy Street Brighton is significant and should be included into the Heritage Overlay. No change to the Amendment Is proposed.</b></p> <p>Council has considered the advice of the heritage experts engaged by Council as part of its consideration of the issues raised in submissions.</p> <p>GJM have recommended to include the place in the Heritage Overlay, citing that:</p> <ul style="list-style-type: none"> <li>The matters raised in the submission are not relevant to whether a property is heritage significant.</li> </ul> <p>Ms Schmeder does not recommend any changes to the Amendment in response to the submission.</p> <p>It is understood that the submitter is in objection of the heritage process. Council has previously undertaken a voluntary heritage nomination approach which was not supported by the Minister for Planning. The Minister considered the process did not adequately fulfil Council's responsibilities under the <i>Planning and Environment Act 1987</i>. Instead, the Minister advised that Council should undertake a more detailed study to ensure appropriate protections exist, resulting in the preparation of the Post-War Modern Residential Heritage Study. Listing heritage in Bayside ensures that significant heritage places are preserved.</p> <p>The application of the Heritage Overlay does not prohibit resale occurring, and that there are many other homes within Bayside already listed in the Heritage Overlay that have changed ownership over the years.</p> <p>Council supports the recommendations of GJM and Ms Schmeder to include the place in the Heritage Overlay as proposed by Amendment C192bays .</p> |

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| <p><b>21</b></p> | <p>Oppose</p> <p>Objection in respect of <b>11 Summerhill Road, Beaumaris.</b></p> <p>Submitter 21 asserts that:</p> <ul style="list-style-type: none"> <li>• The process has contributed to the severe stress that the owner is already under due to personal circumstances</li> <li>• The application of the Heritage Overlay is a cruel action from Council.</li> <li>• The process is undemocratic and unfair.</li> <li>• There are financial implications on owners.</li> <li>• The application of the Heritage Overlay will impact property value, specifically, an estate agent quote outlined a reduction in value of \$500,000.</li> <li>• Prior studies have been abandoned by council.</li> <li>• The property is not representative of the architect's better works and is not included in <i>The Architecture of Neil Clerehen</i> by H Edquist and R Black (1981).</li> <li>• The property has been significantly altered with the clunky addition of the granny flat on the ground floor.</li> <li>• The roof has been replaced due inadequate drainage.</li> <li>• There are major internal design deficiencies.</li> </ul> | <p>11 Summerhill Road, Beaumaris</p> | <p>The submitter's objection is noted by Council.</p> <p><b>Council's position is that the property at 11 Summerhill Road, Beaumaris is significant and should be included into the Heritage Overlay. No change to the Amendment is proposed.</b></p> <p>Council has considered the advice of the heritage experts engaged by Council as part of its consideration of the issues raised in submissions.</p> <p>GJM have recommended to include the place in The Heritage Overlay, citing that:</p> <ul style="list-style-type: none"> <li>• The changes made (including the granny flat) were known to GJM at the time of preparation of the SOS.</li> <li>• The lack of reference in a particular publication does not necessarily equate to lack of local level heritage significance although GJM identify a recent reference to the place in the <i>Survey of Post-War Built Heritage in Victoria</i>.</li> </ul> <p>Ms Schmeder recommended to include the place in The Heritage Overlay, citing that:</p> <ul style="list-style-type: none"> <li>• The property retains a high degree of integrity and the changes do not diminish the heritage significance of the place.</li> </ul> <p>The submitter previously informed Council that they will provide attachments to submission however these have not been received.</p> <p>The process to applying the Heritage Overlay that Council has followed is in accordance with the <i>Planning and Environment Act, Planning Practice Note 1: Applying the Heritage Overlay</i> alongside the principles of the ICOMOS Burra Charter 'Understanding and assessing cultural significance' Practice Note.</p> <p>The Post-War Modern Residential Heritage Study follows three previous attempts (2007, 2017, 2018) by Council to conduct studies and planning scheme amendments to identify mid-century modern properties for potential heritage protection and introduce heritage controls (interim and permanent). This includes the adoption of an untried voluntary approach to heritage protection which was not supported by the Minister for Planning as it was considered the process did not adequately fulfil Council's responsibilities under</p> |
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the *Planning and Environment Act 1987*. Instead, the Minister advised that Council should undertake a more detailed study to ensure appropriate protections exist, resulting in the preparation of the Post-War Modern Residential Heritage Study.

With regard to the costs associated with the application of the Heritage Overlay, it is noted that general maintenance, repair and replacement of failed elements (roofing, rainwater goods, windows, doors etc) on a like-for-like basis do not require a permit. Changes that alter the appearance and fabric of the building will require approval (either a through a planning permit or a streamlined VicSmart permit). Further, it is noted that the Study has not recommended internal controls be applied to any of the identified properties. That means that any changes to the house internally would not require a planning permit for heritage reasons.

Council notes that property values and matters of the private market are not a planning matter and is generally not a relevant consideration under the *Planning and Environment Act 1987* or the Bayside Planning Scheme. It is noted that property value can go up and down for a number of reasons (including but not limited to):

- The quality of the building/dwelling
- The location and size of the building/dwelling
- Market conditions and seasonal fluctuations;
- Amenity;
- The state of neighbouring properties;
- Building use;
- Rental return; and
- Economic conditions.

It is therefore difficult to isolate the specific effects of a heritage listing and whether a Heritage Overlay alone impacts the property value. The era, condition, and style of heritage features, along with the cost of maintenance, as well as other significant qualities offered by the property, and the target market's personal taste are all factors influencing property price. If heritage features are in excellent condition/restoration, easily maintained and do not reduce functionality or involve long-term costs, they are likely to increase the property's value.

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|           |   |                             | <p>Whilst the property may not have been mentioned in the book referred to in the submitters submission, Council does not consider that a lack of reference in a particular publication equates to a lack of local-level heritage significance.</p> <p>Council supports the recommendations of GJM and Ms Schmeder to include the place in the Heritage Overlay as proposed by Amendment C192bays.</p> |
| <b>22</b> | <p>Oppose</p> <p>Objection in respect of <b>13 Fifth Street, Black Rock</b>.</p> <p>Matters raised in the submission include:</p> <ul style="list-style-type: none"> <li>• Financial implications of homeowners in result of a Heritage Overlay applying to the property.</li> <li>• The Heritage Overlay infringes on owners' ability to make changes to address climate change</li> <li>• Encroachment on property rights</li> <li>• Uncertainty for homeowners</li> <li>• There is a lacking clear criteria to assess heritage</li> </ul> <p>Submitter 22 notes that the house is undergoing a substantial renovation with permits issued prior to the study being completed.</p> <p>The submission also asserts that:</p> <ul style="list-style-type: none"> <li>• The house is a style and type of Chancellor and Patrick that was celebrated or promoted by the firm.</li> <li>• Previous changes to the house include addition of rooms to the front of the house, changes to front windows, removal of volcanic rock retaining walls, garage door alterations and addition of fences. A detailed list has been provided.</li> </ul> | 13 Fifth Street, Black Rock | <p>The submitter's objection is noted by Council.</p> <p>Refer to Council's response in relation to submission 3a (the same property) above.</p>   |
| <b>23</b> | <p>Oppose</p> <p>Objection in respect of <b>27 Bolton Avenue, Hampton</b></p>   | 27 Bolton Avenue, Beaumaris | <p>The submitter's objection is noted by Council.</p> <p><b>Council's position is that the property at 27 Bolton Avenue, Hampton should be removed from the Amendment.</b></p>   |

A memorandum of advice provided by Bryce Raworth Pty Ltd asserts (in summary) that:

- The building is very altered, especially as viewed from the street.
- The carports, which present to the street, have been rebuilt, a room incorporated, and the brickwork bagged and painted.
- The landscaping has been altered and letterbox replaced (in different format to the original).
- Interiors have been altered (noting internal controls are not proposed).
- Bernard Joyce was a well-respected architect, but this house has not been seen as a key example of his work and has not been listed in Philip Goad's *The Modern House in Melbourne 1945-1975* or in the *Australian Encyclopedia of Architecture*.
- Spedding House reveals very little to the public realm and therefore the HO – if applied – will be managing elements that are not able to be appreciated by the Bayside community. Given this, only the highest and best and most intact examples would warrant heritage controls.
- Given the changes and limited visibility, the application of Criteria A, D and E are questioned.

Submission 23 also provided information on changes that have occurred to the property that include:

- A swimming pool was installed in the front yard, behind the carports, in c1968 then removed with pool installed in the rear in the 1970s.
  - Grey cement paving replaced earlier landscaping in the former pool area.
- An extensive single-storey addition was constructed to the rear of the property in 1974. This accommodated a large games room, sauna, bathroom, and bar. The carports were modified in the 1970s to accommodate an additional room. They were also bagged and painted in the 1990s and 2000s.

Building permit information was provided by Council to GJM in March 2022 and the changes identified were incorporated into the assessment at that time. On site access was subsequently provided to Council's heritage experts on 18 December 2023.

Council has considered the advice of the heritage experts engaged by Council as part of its consideration of the issues raised in submissions.

GJM have recommended to remove the place from the Heritage Overlay, citing that:

- Onsite access enabled GJM to understand the nature of changes and while the plan form and much of the detailing remains highly intact, a roughcast cementitious render has been applied to the entirety of the property, covering all original brickwork.
- GJM have formed the view that the rendering has adversely impacted the place's significance to the point where it no longer warrants inclusion in the proposed group listing.

Ms Schmeder recommended no changes are to be made and that the place be included in the Heritage Overlay as proposed by Amendment C192bays, citing that:

- The alterations made do not diminish the heritage significance of the place and the place still meets the threshold for local significance.
- The most visually intrusive change is the bagging and painting of the brickwork, but this could be removed by a future owner if desired.

Council supports the recommendations of GJM to remove the place from the Heritage Overlay given the place no longer meets the threshold for Heritage protection.

Council acknowledges that Ms Schmeder does not recommend that the place be removed from the Heritage Overlay. It invites the Panel to consider the Ms Schmeder's evidence as part of its consideration of submissions.

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|    | <p>Exterior of the house bagged and painted (1998 &amp; 2020).</p> <ul style="list-style-type: none"> <li>• The carport roof was replaced in 2008 and original timber uprights were also replaced (not like-for-like).</li> <li>• The original front brick shed is covered by a later wooden shed.</li> <li>• Original front door and surrounds replaced. Timber windows replaced with timber and safety glass; rear glazing now aluminium framed glass doors. Paving is not original.</li> <li>• The letterbox is not original. New front fencing installed.</li> </ul> <p>Landscaping has been modified.</p>  |                                  |   |
| 24 | <p>Oppose</p> <p>Objection in respect of <b>16 Gillard Street, Brighton East.</b></p> <p>Heritage Opinion provided by Dr Aron Paul of Trethowan Architecture asserts that (in summary):</p> <ul style="list-style-type: none"> <li>• The citation has not adequately demonstrated the property is significant historically, aesthetically, or representatively.</li> <li>• The materials and detailing are typical rather than distinctive of a c.1960s-70s apartment block (11 Tooronga Road, Malvern East cited as an example utilising similar materials and detailing).</li> <li>• There are characteristics of Modernist residential design that are lacking in the subject site, including integration with landscape or special siting of the building within it. The building is not cantilevered over the carpark or landscape (the front car park created by a void between walls and the units carports are not integrated).</li> <li>• The glazing is not “particularly expansive”. The vertical battens are “idiosyncratic rather than characteristic of Modernist design”. As a result, the building does not meet the threshold for representativeness.</li> <li>• The Comparative Analysis has not compared the property to other Modernist buildings on the HO,</li> </ul> | 16 Gillard Street, East Brighton | <p>The submitter’s objection is noted by Council.</p> <p>Refer to Council’s response to submission 2 (same property) above.</p> |



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|    | <p>including 51 Lynch Crescent, Brighton and 21 Vardon Avenue, Beaumaris.</p> <ul style="list-style-type: none"> <li>• The citation has not established the local significance of David Sapir, architect.</li> <li>• The place does not have a high level of integrity. The streetscape façade has been subject to major changes with removal of the doorway, replacement of the window at ground level, and new brick panel at ground level under new windows.</li> <li>• The current streetscape façade deviates from the “original design” included in the citation.</li> <li>• The archway over the driveway has been reconstructed and the letter boxes replaced.</li> </ul> <p>Multi-storey flat development was less popular than single-storey unit development and the property has not been strata titled as the owners live in the front two-storey portion of the property. It is therefore not reflective of the historical pattern of post-war development dominant in Bayside.</p>                 |  |  |
| 25 | <p>Oppose</p> <p>Opposition to entirety of Amendment.</p> <p>Submitter 25 states:</p> <ul style="list-style-type: none"> <li>• The amendment has divided the community.</li> <li>• Voluntary heritage program was deemed ‘not appropriate’ in accordance with Minister Wynne; however this should be reinvigorated with the current Minister as it is the fairest outcome</li> <li>• Heritage protection should be to look after ‘the best of the best’ not merely proportional representation.</li> <li>• There is no financial support for owners.</li> <li>• Property owners are traumatised and distressed.</li> <li>• Value of property is diminished.</li> </ul> <p>Council should advocate for a complete overhaul of the <i>Planning and Environment Act</i>, and <i>the Heritage Act</i></p> <ul style="list-style-type: none"> <li>• Other councils have protected other examples of Mid-Century Modern heritage, Bayside does not need to protect the ones present within the municipality.</li> </ul> |  | <p>The submitter’s objection is noted by council.</p> <p>This submission is a general submission (does not relate to a property).</p> <p><b>Council’s position is that no change to the Amendment is required in response to this submission.</b></p> <p>Council has considered the advice of the heritage experts engaged by Council as part of its consideration of the issues raised in submissions.</p> <p>GJM have considered the submission and noted that the majority of matters raised in the submission are not related to heritage matters. It further noted that a property isn’t required to be ‘unique’ to warrant inclusion in the heritage overlay and that the assessment was completed in accordance with PPN1 and well established heritage practice. It did not recommend any changes in response to the submission.</p> <p>Ms Schmeder did not recommend any changes in response to the submission.</p> |

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| <ul style="list-style-type: none"> <li>• There is no need for interim controls.</li> </ul> |  | <p>As the submitter states, Council has previously undertaken a voluntary heritage nomination approach which was not supported by the Minister for Planning. The Minister considered the process did not adequately fulfil Council's responsibilities under the <i>Planning and Environment Act 1987</i>. Instead, the Minister advised that Council should undertake a more detailed study to ensure appropriate protections exist, resulting in the preparation of the Post-War Modern Residential Heritage Study.</p> <p>A property isn't required to be considered "the best of the best" to warrant inclusion in the Heritage Overlay. A comparative analysis has been completed for each recommended property to demonstrate its significance when compared to other, similar properties in the municipality. In some instances, comparative analysis to properties outside of the Bayside municipality has been made within this Study.</p> <p>In response to the submitters concerns regarding property value, Council notes that property values are not a planning matter and is generally not a relevant consideration under the <i>Planning and Environment Act 1987</i> or the Bayside Planning Scheme. It is noted that property value can go up and down for a number of reasons (including but not limited to):</p> <ul style="list-style-type: none"> <li>• The quality of the building/dwelling</li> <li>• The location and size of the building/dwelling</li> <li>• Market conditions and seasonal fluctuations;</li> <li>• Amenity;</li> <li>• The state of neighbouring properties;</li> <li>• Building use;</li> <li>• Rental return; and</li> <li>• Economic conditions.</li> </ul> <p>It is therefore difficult to isolate the specific effects of a heritage listing and whether a Heritage Overlay alone impacts the property value.</p> <p>The era, condition, and style of heritage features, along with the cost of maintenance, as well as other significant qualities offered by the property, and the target market's personal taste are all factors influencing property price. If heritage features are in excellent condition/restoration, easily maintained and do</p> |
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|    |   |                                       | <p>not reduce functionality or involve long-term costs, they are likely to increase the property's value.</p> <p>Whilst the 'complete overhaul' of entire policy is outside of the scope of this amendment, Council has advocated to the State government to provide for planning and heritage reforms in the past. 10.1 PART D of the 19 July 2022 Council Meeting Minutes state that council:</p> <p>“ Writes to the Minister for Planning and the State Opposition Spokesperson for Planning, advocating for heritage reforms, reinforcing Council's position outlined in its submission to the Parliamentary Inquiry into the Protections within the Victorian Planning Framework and highlighting the fundamental flaws of the heritage amendment process...”</p> <p>It is still upheld that Council has a responsibility for heritage conservation, as part of Section 4(1)(d), 'to conserve and enhance those buildings, areas or otherwise of special cultural value.' This is not a responsibility individually allocated to Bayside City Council. All other Victorian Councils must uphold this responsibility by preparing heritage studies and introducing the Heritage Overlay on properties identified as heritage significant.</p> <p>Under the <i>Planning and Environment Act 1987</i>, all Councils have a responsibility for heritage conservation, as part of Section 4(1)(d), 'to conserve and enhance those buildings, areas or otherwise of special cultural value.' This is not a responsibility individually allocated to Bayside City Council. All other Victorian Councils must uphold this responsibility by preparing heritage studies and introducing the Heritage Overlay on properties identified as heritage significant.</p> <p>The application of interim heritage controls is standard practice when seeking permanent heritage controls to be brought into the planning scheme. This is to ensure no development or changes that may detract from the significance of these places is undertaken that would significantly impact the heritage significance of these places.</p> |
| 26 | <p>Oppose</p> <p>Opposition in respect of <b>78 Scott Street, Beaumaris</b></p> | <p>78 Scott Street,<br/>Beaumaris</p> | <p>The submitter's objection is noted by Council.</p>  |

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|    | <p>Submitter 26 asserts that:</p> <ul style="list-style-type: none"> <li>• Substantially changed and does not have a sufficient intactness (due to works in 1980) to qualify for Criterion D and E</li> <li>• The property has no 'special cultural value' with the Dunlop-Perdieu Company subdivision.</li> <li>• The amendment will have negative financial consequence on the current owner.</li> <li>• There is no compensation being offered to owners of these properties.</li> </ul>   |                              | <p><b>Council's position is that the property at 78 Scott Street, Beaumaris should be removed from Amendment C192bays</b></p> <p>A site visit was undertaken by Council's heritage consultants on 18 December 2023.</p> <p>Council has considered the advice of the heritage experts engaged by Council as part of its consideration of the issues raised in submissions.</p> <p>GJM have recommended to remove the place from the Heritage Overlay, citing that:</p> <ul style="list-style-type: none"> <li>• Following the recent site inspection, GJM have formed the view that the changes made to the place mean the place no longer meets the threshold for Heritage protection.</li> </ul> <p>Ms Schmeder has also recommended that the place be removed from the Heritage Overlay, citing that:</p> <ul style="list-style-type: none"> <li>• The design lacks intactness and integrity to include in the heritage overlay.</li> </ul> <p>Council supports the recommendations of GJM and Ms Schmeder to remove the place from the Heritage Overlay on the basis that the changes made at the place, and the lack of intactness and integrity mean the place no longer meets the threshold for Heritage protection.</p> |
| 27 | <p>Oppose</p> <p>Opposition in respect of <b>19 Olympic Avenue, Cheltenham</b></p> <p>Submitter 27 states that:</p> <ul style="list-style-type: none"> <li>• The place is in a state of disrepair, including: <ul style="list-style-type: none"> <li>- The roof has been replaced and is still leaking and compromising the integrity of the roof and the ceiling in the dining and lounge areas.</li> <li>- Water stains on the ceiling</li> <li>- Costly rewiring is needed that the owner cannot afford at this time.</li> </ul> </li> </ul> | 19 Olympic Avenue, Beaumaris | <p>The submitter's objection is noted by Council.</p> <p><b>Council's position is that the property at 19 Olympic Avenue, Cheltenham is significant and should be included in the Heritage Overlay. No change to the Amendment is proposed.</b></p> <p>Council has considered the advice of the heritage experts engaged by Council as part of its consideration of the issues raised in submissions.</p> <p>GJM have recommended to include the place in the Heritage Overlay as proposed by Amendment C192bays, citing that:</p> <ul style="list-style-type: none"> <li>• Planning Panels have consistently found that the building condition is generally not a matter for consideration in determining whether a</li> </ul>  |

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| <ul style="list-style-type: none"> <li>- No new powerpoints can be installed, as wiring cannot be run through certain existing walls and slabs.</li> <li>- Roots from a dying tree impact plumbing</li> <li>- Timber rot</li> <li>- Window glass no longer fits into 'warped' window fittings.</li> <li>• There are major financial implications due to the condition of the property that is impacting the owner.</li> <li>• No upkeep has occurred since 1978.</li> <li>• Other Councils, such as Glen Eira, have abandoned Heritage studies due to backlash from the community.</li> <li>• Modifications have altered the exterior of the place.</li> <li>• The heritage listing process is unjust, impacts property owner rights and causing the owner stress.</li> <li>• There is a housing crisis and this heritage overlay impacts housing supply.</li> <li>• Council should try a voluntary approach to heritage listings.</li> </ul> |  | <p>property should be included in the Heritage Overlay unless the poor condition has degraded the intactness of the property to such a degree that its values can no longer be appreciated or rectification will require the introduce of such a degree of new fabric that it will undermine the assessed significance.</p> <ul style="list-style-type: none"> <li>• The required maintenance works can be undertaken in a manner that is respectful of the identified heritage values and will not compromise the assessed significance.</li> <li>• The external changes identified do not alter the original design intent or legibility of the house.</li> </ul> <p>Ms Schmeder recommended to include the place in the Heritage Overlay as proposed by Amendment C192bays, citing that:</p> <ul style="list-style-type: none"> <li>• The house is intact and the minor changes to the house to do not greatly impact on its heritage significance.</li> </ul> <p>Regarding concerns of condition of the place, Council notes that this does not generally diminish the heritage significance and that not all buildings are in perfect condition. The condition of the dwelling would then become a relevant consideration for when a planning permit may be sort for demolition or redevelopment of the place, if a Heritage Overlay were applied permanently.</p> <p>Planning Panels have consistently deduced that it is not a relevant consideration in the application of the Heritage Overlay, as cited recently in Maribyrnong C172 (2023), Yarra C245 (2020) and Boroondara C386 (2023).</p> <p>The panel report for Maribyrnong C172 concludes that:</p> <p><i>“The Panel finds issues of building condition, development opportunity, building alterations, maintenance, property value and financial implications are not relevant when assessing the heritage significance of an individual place or a precinct. These matters can be considered at the permit application stage.”</i></p> <p>It is noted that general maintenance, repair and replacement of failed elements (roofing, rainwater goods, windows, doors etc) on a like-for-like basis do not require a permit. Changes that alter the appearance and fabric of the building will require approval (either a through a planning permit or a streamlined</p> |
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VicSmart permit). Further, it is noted that the Study has not recommended internal controls be applied to any of the identified properties. That means that any changes to the house internally would not require a planning permit for heritage reasons.

The decisions made by Glen Eira and Maribyrnong Councils are also noted. In accordance with section 19 of the *Planning and Environment Act*, Council must consider the panel's report before deciding whether or not to adopt the amendment.

Council is of the consideration, in agreeance with its heritage consultant, that the external changes identified do not alter the original design intent or legibility of the house.

Protecting heritage places does not undermine property owner rights. Rather, applying the Heritage Overlay is a practice that is undertaken internationally. Council's heritage consultant has prepared the Study in accordance with *Planning Practice Note 1: Applying the Heritage Overlay* alongside the principles of the ICOMOS Burra Charter 'Understanding and assessing cultural significance' Practice Note.

The application of the Heritage Overlay upon properties through Amendment C192bays is not considered to impact Melbourne's housing supply. There are specific Planning controls within Bayside's Activity Centres and Housing Growth Areas to accommodate housing growth, and these have been prepared in alignment with the State Government policy, particularly Plan Melbourne 2017 - 2050.

Council has previously undertaken a voluntary heritage nomination approach which was not supported by the Minister for Planning. The Minister considered the process did not adequately fulfil Council's responsibilities under the *Planning and Environment Act 1987*. Instead, the Minister advised that Council should undertake a more detailed study to ensure appropriate protections exist, resulting in the preparation of the Post-War Modern Residential Heritage Study.

Council supports the recommendations of GJM and Ms Schmeder to include the place in the Heritage Overlay as proposed by Amendment C192bays.

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| <p><b>28</b></p> | <p>Oppose</p> <p>Opposition in respect of <b>165-167 Tramway Parade, Beaumaris</b><br/> Submitter 28 states:</p> <ul style="list-style-type: none"> <li>• There is an approved planning permit for demolition in a Heritage Overlay and development of 4 townhouses to this place.</li> <li>• Settled on property December 2021 with no heritage controls and were not expecting to receive heritage protection on this property when notified in February 2022.</li> <li>• Engineering reports indicated that the cost of repairs would exceed \$3m and have adverse financial implications for the owners.</li> </ul> | <p>165-167<br/> Tramway<br/> Parade,<br/> Beaumaris</p> | <p>The submitter's objection is noted by Council.</p> <p><b>Council's position is that the property at 165-167 Tramway Parade, Beaumaris is significant and should be included in the Heritage Overlay – unless demolition has occurred in accordance with Permit 2022/48/1 prior to Amendment C192bays proceeding further. No change to the Amendment is currently proposed.</b></p> <p>Council has considered the advice of the heritage experts engaged by Council as part of its consideration of the issues raised in submissions.</p> <p>GJM have recommended to include the place in the Heritage Overlay as proposed by Amendment C192bays, citing that:</p> <ul style="list-style-type: none"> <li>• While the condition of the property is very poor, it is not beyond repair and reconstruction in a manner that maintains the identified heritage values. condition of the building is not in such disrepair that the Heritage Overlay not be warranted.</li> <li>• Due to an active permit to demolish the place in a Heritage Overlay, the place should be excluded if it is demolished by the time the amendment proceeds.</li> </ul> <p>Ms Schmeder recommended to include the place in The Heritage Overlay, citing that:</p> <ul style="list-style-type: none"> <li>• The condition of the building is not in such disrepair that it cannot be repaired, and it is structurally sound and is very intact externally as noted in the Citation.</li> <li>• Due to an active permit to demolish the place in a Heritage Overlay, the place should be excluded if it is demolished by the time the amendment proceeds.</li> </ul> <p>Regarding the condition of the property, planning panels have consistently deduced that it is not a relevant consideration in the application of the Heritage Overlay, as cited recently in Maribyrnong C172 (2023), Yarra C245 (2020) and Boroondara C386 (2023).</p> <p>The panel report for Maribyrnong C172 concludes that:</p> |
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|    |  | <p><i>“The Panel finds issues of building condition, development opportunity, building alterations, maintenance, property value and financial implications are not relevant when assessing the heritage significance of an individual place or a precinct. These matters can be considered at the permit application stage.”</i></p> <p>Council notes that if the owners act on the permit prior to the hearing, the property should be removed from permanent heritage protection.</p> <p>Council supports the recommendations of GJM and Ms Schmeder to include the place in the Heritage Overlay as proposed by Amendment C192bays unless demolition occurs prior to the amendment proceeding.</p>     |
| 29 | <p>Support</p> <p>Support of entirety of amendment.</p> <p>Submitter 29 asserts that:</p> <ul style="list-style-type: none"> <li>• There is full support from Beaumaris Modern, who have have lobbied council for 20 years for a mid-century study</li> </ul> <p>Respects the outcome of the study and will appreciate the heritage protection applied</p>   | <p>The submitter’s support is noted by Council.</p>   |
| 30 | <p>Oppose</p> <p>Opposition to entirety of amendment.</p> <p>Submitter 30 asserts that:</p> <ul style="list-style-type: none"> <li>• The submitter, alongside the Liberal Government, made an election promises that they would ensure that Amendment C192bays be stopped.</li> <li>• Compulsory heritage listings are unfair, and a voluntary approach should be done instead</li> <li>• There are inconsistencies and inaccuracies in the citations.</li> </ul> <p>There is a strong financial impact on homeowners to maintain the place and retain the property’s resale value</p> | <p>The submitter’s objection is noted by Council.</p> <p><b>Council’s position in response to the submission is that no change to the Amendment is required.</b></p> <p>This submission is a general objection (does not relate to a specific property).</p> <p>It raises matters that generally do not relate to heritage merits.</p> <p>Council has considered the advice of the heritage experts engaged by Council as part of its consideration of the issues raised in submissions.</p> <p>GJM notes that while the submission refers to inaccuracies and inconsistencies in the Citations, it does not provide details of such. GJM do not recommend any changes in response to the submission.</p> |



Ms Schmeder does not recommend any changes in response to the submission and notes the process under PPN1.

Council notes the electoral promises made by MP Rosswell.

Council has previously undertaken a voluntary heritage nomination approach which was not supported by the Minister for Planning. The Minister considered the process did not adequately fulfil Council's responsibilities under the *Planning and Environment Act 1987*. Instead, the Minister advised that Council should undertake a more detailed study to ensure appropriate protections exist, resulting in the preparation of the Post-War Modern Residential Heritage Study.

Regarding the submitters concerns with the accuracy of Citations, any specific amendments should be presented to the Planning Panel for their consideration. The Planning Panel process is designed to be a forum where anyone can represent themselves, without needing to engage expert evidence or representation.

With regard to financial impacts associated with the application of the Heritage Overlay, it is noted that general maintenance, repair and replacement of failed elements (roofing, rainwater goods, windows, doors etc) on a like-for-like basis do not require a permit. Changes that alter the appearance and fabric of the building will require approval (either a through a planning permit or a streamlined VicSmart permit). Further, it is noted that the Study has not recommended internal controls be applied to any of the identified properties. That means that any changes to the house internally would not require a planning permit for heritage reasons.

In response to the submitters concerns regarding property value, Council notes that property values are not a planning matter and is generally not a relevant consideration under the *Planning and Environment Act 1987* or the Bayside Planning Scheme. It is noted that property value can go up and down for a number of reasons (including but not limited to):

- The quality of the building/dwelling
- The location and size of the building/dwelling
- Market conditions and seasonal fluctuations;
- Amenity;
- The state of neighbouring properties;

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|    |  |                            | <ul style="list-style-type: none"> <li>• Building use;</li> <li>• Rental return; and</li> <li>• Economic conditions.</li> </ul> <p>It is therefore difficult to isolate the specific effects of a heritage listing and whether a Heritage Overlay alone impacts the property value.</p> <p>The era, condition, and style of heritage features, along with the cost of maintenance, as well as other significant qualities offered by the property, and the target market's personal taste are all factors influencing property price. If heritage features are in excellent condition/restoration, easily maintained and do not reduce functionality or involve long-term costs, they are likely to increase the property's value.</p>   |
| 31 | <p>Oppose</p> <p>Opposition in respect of <b>21 Dudley Street, Brighton</b></p> <p>Submitter 31 stipulates:</p> <ul style="list-style-type: none"> <li>• The property is not a high-quality example or design of the post-war, mid-century modern eras.</li> <li>• The high front boundary wall was a particular characteristic of the building, the demolition of this wall diminished heritage significance.</li> <li>• There is a limited view from the streetscape of the place.</li> <li>• The place is not identified in Philip Goad's <i>The Modern House in Melbourne, 1945-1975</i></li> <li>• Alastair Knox is more well known for mudbrick homes present in the Shire of Nillumbik.</li> </ul> <p>There is an approved planning permit for works from 2018, specifically, the construction of a new dwelling on the site.</p> | 21 Dudley Street, Brighton | <p>The submitter's objection is noted by Council.</p> <p><b>Council's position is that the property at 21 Dudley Street, Brighton is significant and should be included in the Heritage Overlay. No change to the Amendment is proposed.</b></p> <p>Council has considered the advice of the heritage experts engaged by Council as part of its consideration of the issues raised in submissions.</p> <p>GJM have recommended to include the place in the Heritage Overlay as proposed by Amendment C192bays, citing that:</p> <ul style="list-style-type: none"> <li>• The place is a substantially intact, well-resolved and carefully detailed example of the Modernist residential typology remaining in the municipality.</li> <li>• The changes do not substantially diminish the legibility or significance of the place.</li> <li>• GJM agree that the dwelling does not have a strong street presence in the way Victorian, Edwardian and Interwar buildings often did but note this was a common feature of modernist places. GJM further note that a property's heritage significance does not solely rely on the visibility from the streetscape.</li> <li>• GJM acknowledge that the property was not identified in Phillip Goad's 1992 thesis but note that the thesis was not intended as a complete catalogue of Modernist properties. They opine that the lack of reference</li> </ul> |

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|    |   |                                    | <p>of a particular property in a particular publication does not necessarily equate to a lack of local-level heritage significance.</p> <ul style="list-style-type: none"> <li>GJM agree that Alistair Knox is best known for his mudbrick houses in the Eltham and surrounding suburbs, however, they note that this wasn't his sole approach to design and construction.</li> </ul> <p>Ms Schmeder recommended to include the place in the Heritage Overlay as proposed by Amendment C192, citing that the house is highly intact example of its type by a skilled designer.</p> <p>Ms Schmeder also recommends clarification of the extent of the tree controls and whether it is only the three Eucalypts in the front garden that are covered or also other mature trees in the backyard.</p> <p>Council further notes that the approval of planning permit 5/2018/517/1 allowed for the construction of a roof deck in a Design and development Overlay Schedule 1 (DDO1) in accordance with the endorsed plans. This permit did not grant approval for demolition of the existing dwelling, nor was it measured against the Heritage Overlay or any local heritage policy. On 11 January 2022 an extension of time was granted in which development must commence no later than 23 January 2023 and be completed no later than 23 January 2025. On 18 August 2023, a second extension of time was granted in which development must commence no later than 23 January 2023 and be completed no later than 23 January 2026.</p> <p>Council wishes to clarify that the application of the Heritage Overlay does not prohibit resale occurring.</p> <p>Council supports the recommendations of GJM and Ms Schmeder to include the place in the Heritage Overlay as proposed by Amendment C192bays. Council invites the Panel to consider Ms Schmeder's recommendations with respect to tree controls as part of its consideration of submissions.</p> |
| 32 | <p>Oppose</p> <p>Opposition in respect of <b>24 Bellaire Court, Beaumaris</b></p> | <p>4 Bellaire Court, Beaumaris</p> | <p>The submitter's objection is noted by Council.</p>   |

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| <p>Submitter 32 states the following:</p> <ul style="list-style-type: none"> <li>• The heritage importance of Bellaire Court and Martin Sachs is questionable, as neither are mentioned in <i>Volume 2, Contextual History: Post-War Modernism in the City of Bayside</i>.</li> <li>• The estate is a poor example of Criterion E and is not cohesive.</li> <li>• Alterations to the property include partial removal of asbestos eaves, construction of a small kitchen addition, replacement of some windows and doors, and replacement of the roof. These non-contributory alterations should be listed in the Statement of Significance and citation to avoid doubt.</li> <li>• A voluntary approach to heritage is more equitable.</li> <li>• Council has attempted and failed to adopt heritage studies in the past.</li> </ul> | <p><b>Council's position is that the property at 4 Bellaire Court, Beaumaris is significant and should be included into the Heritage Overlay. No changes to the Amendment are proposed.</b></p> <p>Council has considered the advice of the heritage experts engaged by Council as part of its consideration of the issues raised in submissions.</p> <p>GJM have recommended to include the place in the Heritage Overlay as proposed by Amendment C192bays, citing that:</p> <ul style="list-style-type: none"> <li>• The contextual History (Vol 2) of the study is intended to be broad and not a comprehensive history of every builder in Bayside in the relevant period.</li> <li>• The properties in Bellaire Court form a collection of post-war modernist properties.</li> <li>• The changes noted in the submission have been undertaken in a sensitive manner and the building continues to clearly demonstrate its original form and design intent and is still considered to contribute to the significance of the Bellaire Court Estate group.</li> </ul> <p>Ms Schmeder recommended to include the place in the Heritage Overlay as proposed by Amendment C192bays, citing that:</p> <ul style="list-style-type: none"> <li>• The contextual History (Vol 2) of the study is intended to be broad and not comprehensive.</li> <li>• The properties in Bellaire Court form a collection of post-war modernist properties</li> <li>• The changes noted in the submission do not impact on the heritage significance of the place.</li> </ul> <p>Council would also like to clarify that the application of the Heritage Overlay does not restrict the property owner from making modifications to their home. General maintenance, repair and replacement of failed elements (roofing, rainwater goods, windows, doors etc) on a like-for-like basis do not require a permit. Changes that alter the appearance and fabric of the building will require approval (either a through a planning permit or a streamlined VicSmart permit).</p> <p>Council has previously undertaken a voluntary heritage nomination approach which was not supported by the Minister for Planning. The Minister considered the process did not adequately fulfil Council's responsibilities under the</p> |
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|    |  |                                 | <p><i>Planning and Environment Act 1987</i>. Instead, the Minister advised that Council should undertake a more detailed study to ensure appropriate protections exist, resulting in the preparation of the Post-War Modern Residential Heritage Study.</p> <p>Council supports the recommendations of GJM and Ms Schmeder to include the place in the Heritage Overlay as proposed by Amendment C192bays.</p>   |
| 33 | <p>Support</p> <p>Support for entirety of amendment.</p> <p>Submitter 33 asserts that:</p> <ul style="list-style-type: none"> <li>• They fully support of amendment due to loss of heritage in Bayside.</li> <li>• Bayside Council is lacking in Heritage preservation compared to other municipalities.</li> </ul> <p>Mid-Century Modern dwellings should be preserved for future generations to enjoy.</p>   |                                 | <p>The submitter's support is noted by Council.</p>  |
| 34 | <p>Oppose</p> <p>Opposition in respect of <b>2 High Street, Beaumaris</b></p> <p>Submitter 34 asserts that:</p> <ul style="list-style-type: none"> <li>• The non-voluntary approach to apply the Heritage Overlay is unfair.</li> <li>• The property market is demanding more modern properties and this impacts the future saleability of 2 High Street.</li> <li>• There is no financial support from government to maintain the place, which creates financial burden for the owner.</li> </ul> | <p>2 High Street, Beaumaris</p> | <p>The submitter's objection is noted by Council.</p> <p><b>Council's position is that the property at 2 High Street, Beaumaris is significant and should be included into the Heritage Overlay. No change is proposed to the Amendment.</b></p> <p>Council has considered the advice of the heritage experts engaged by Council as part of its consideration of the issues raised in submissions.</p> <p>GJM have recommended to include the place in the Heritage Overlay, citing that:</p> <ul style="list-style-type: none"> <li>• The matters raised in the submission are not related to heritage matters.</li> </ul> <p>Ms Schmeder recommended to include the place in the Heritage Overlay, citing that:</p> <ul style="list-style-type: none"> <li>• The changes noted in the submission do not impact on the heritage significance of the place.</li> </ul> |

Council further notes the Post-War Modern Residential Heritage Study follows three previous attempts (2007, 2017, 2018) by Council to conduct studies and planning scheme amendments to identify mid-century modern properties for potential heritage protection and introduce heritage controls (interim and permanent). This includes the adoption of an untried voluntary approach to heritage protection which was not supported by the Minister for Planning as it was considered the process did not adequately fulfil Council's responsibilities under the *Planning and Environment Act 1987*. Instead, the Minister advised that Council should undertake a more detailed study to ensure appropriate protections exist, resulting in the preparation of the Post-War Modern Residential Heritage Study.

Council notes that property values and matters of the private market are not a planning matter and is generally not a relevant consideration under the *Planning and Environment Act 1987* or the Bayside Planning Scheme. It is noted that property value can go up and down for a number of reasons (including but not limited to):

- The quality of the building/dwelling
- The location and size of the building/dwelling
- Market conditions and seasonal fluctuations;
- Amenity;
- The state of neighbouring properties;
- Building use;
- Rental return; and
- Economic conditions.

It is therefore difficult to isolate the specific effects of a heritage listing and whether a Heritage Overlay alone impacts the property value. The era, condition, and style of heritage features, along with the cost of maintenance, as well as other significant qualities offered by the property, and the target market's personal taste are all factors influencing property price. If heritage features are in excellent condition/restoration, easily maintained and do not reduce functionality or involve long-term costs, they are likely to increase the property's value.

Council would also like to clarify that the application of the Heritage Overlay does not restrict the property owner from making modifications to their home. General maintenance, repair and replacement of failed elements (roofing,

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|  |  |  | <p>rainwater goods, windows, doors etc) on a like-for-like basis do not require a permit. Changes that alter the appearance and fabric of the building will require approval (either a through a planning permit or a streamlined VicSmart permit).</p> <p>Whilst Council does not currently have a funding or grant schemes in place to assist owners of heritage properties, an action from the Heritage Action Plan 2020 is to investigate opportunities to further support owners of heritage properties. Council may waive fees for planning permits if the Heritage Overlay is the only requirement for a permit.</p> <p>Council supports the recommendations of GJM and Ms Schmeder to include the place in the Heritage Overlay as proposed by Amendment C192bays.</p> |
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## ATTACHMENT 3

### AMENDMENT C192BAYS – CHRONOLOGY OF EVENTS

| Date                          | Event  |
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| February 1998                 | <p>Council engaged Allom Lovell and Associates to prepare the <i>Bayside Heritage Review 1999 (1999 Heritage Study)</i>, comprising:</p> <ul style="list-style-type: none"> <li>• A thematic history of the municipality;</li> <li>• A review of heritage structures, precincts and landscapes within the former Cities of Sandringham, Brighton and those parts of the former Cities of Moorabbin and Mordialloc which were then included in the City of Bayside;</li> <li>• A review of Andrew Ward's two previous heritage studies; and</li> <li>• Additional survey work undertaken by Allom Lovell &amp; Associates and John Patrick</li> </ul> |
| March 1999                    | <p>The 1999 Heritage Study was completed. The study recommended that 508 individual properties, 27 heritage precincts and 50 landscape elements be included in the Heritage Overlay.</p>   |
| July 2000                     | <p>Council resolved to prepare Amendment C6 to apply the Heritage Overlay to some properties, precincts and landscape elements identified in the 1999 Heritage Study.</p>  |
| July 2000                     | <p>Council considered Amendment C6 and resolved not to include 25 individual properties.</p>   |
| December 2000 – February 2001 | <p>Amendment C6 was exhibited. As exhibited, Amendment C6 sought to apply the Heritage Overlay to 217 properties, 13 precincts and 50 landscape areas identified in the 1999 Heritage Study</p>  |
| February 2001                 | <p>The Minister approved Amendment C13, which applied interim heritage controls to the land affected by Amendment C6.</p>  |
| December 2001                 | <p>Council abandoned Amendment C6 and requested that the Minister remove the related interim heritage controls.</p> <p>The Minister refused Council's request to remove the interim heritage controls.</p>   |



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| <p>2003</p>               | <p>Council prepared and exhibited Amendments C37 and C38, which again sought to apply the Heritage Overlay on a permanent basis to those properties, precincts and landscape elements affected by interim heritage controls (Amendment C13).</p> <p>Amendment C37 addressed individual properties, while Amendment C38 addressed heritage precincts.</p> <p>The Amendments also sought to remove a number of individual properties from the Heritage Overlay.</p> <p>Submissions in relation to Amendments C37 and C38 were referred to a Panel.</p> <p>Relevantly, the Panel found that:</p> <ul style="list-style-type: none"> <li>• Amendments C37 and C38 represented the outcome of a long process of heritage studies by the City of Bayside and its predecessors, the Cities of Brighton and Sandringham. Those studies resulted in the Heritage Overlay being applied to various individual properties and precincts on an interim basis. Amendments C37 and C38 were intended to replace the interim heritage controls with permanent heritage controls;</li> <li>• With the exception of a few examples, the Heritage Overlay should not be applied on a permanent basis to 47 individual buildings of the Inter-War period until Council undertook a more comprehensive study of building typologies of that era.</li> </ul>        |
| <p>March 2005</p>         | <p>Council resolved to:</p> <ul style="list-style-type: none"> <li>• split Amendment C37 into two parts, to create Amendment C37 (Part 2) in relation to the 47 Inter-War buildings;</li> <li>• adopt Amendments C37 (Part 1) and C38 with changes as recommended by the Panel; and</li> <li>• undertake to review the 47 Inter-War buildings the subject of Amendment C37 (Part 2).</li> </ul> <p>The 47 Inter-War buildings continued to be affected by interim heritage controls.</p>   |
| <p>Approximately 2007</p> | <p>Council engaged Heritage Alliance to prepare the <i>City of Bayside Inter-war and Post-war Heritage Study 2008 (2008 Heritage Alliance Study)</i> to:</p> <ul style="list-style-type: none"> <li>• Identify and assess individual buildings and precincts from the 1920s onwards, to determine whether they are suitable for inclusion in the Heritage Overlay (including the 47 Inter-War properties removed from Amendment C37); and</li> <li>• Identify and assess buildings of earlier construction periods not identified in the 1999 Heritage Study, to determine whether they are suitable for inclusion in the Heritage Overlay.</li> </ul> <p>Volume 1 of the 2008 Heritage Study reviewed the 47 Inter-War properties that were identified in the 1999 Heritage Study. Of those 47 individual properties, only 29 were recommended for inclusion in the Heritage Overlay.</p> <p>Volume 1 also identified eight new heritage precincts which were recommended for inclusion in the Heritage Overlay.</p> <p>Volume 2 contained data sheets and citations for 69 additional places from the Inter-War, Post-War and other eras which were recommended for inclusion in the Heritage Overlay.</p> <p>Volume 3 of the 2008 Heritage Alliance Study was to assess 120 additional places, but it was halted before its completion.</p> |

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| February 2006           | Amendment C37 (Part 1) was approved and gazetted.  |
| April 2006              | Amendment C38 was approved and gazetted  |
| July 2006               | <p>Council resolved to:</p> <ul style="list-style-type: none"> <li>• Note the draft 2008 Heritage Alliance Study; and</li> <li>• Abandon Amendment C37 (Part 2) on the basis that it be replaced with a new amendment following the completion of the 2008 Heritage Alliance Study.</li> </ul>   |
| December 2007           | <p>Council resolved to adopt a draft version of the 2008 Heritage Alliance Study, release the draft for public comment, and seek authorisation to prepare a planning scheme amendment to:</p> <ul style="list-style-type: none"> <li>• In respect of 29 of the 47 Inter-War properties identified in the 1999 Heritage Study, which were assessed and recommended for inclusion in the Heritage Overlay by the 2008 Heritage Alliance Study, apply the Heritage Overlay on a permanent basis; and</li> <li>• In respect of the remaining 18 individual places, remove the interim heritage controls.</li> </ul>  |
| Approximately 2007-2008 | <p>Council engaged Bryce Raworth Pty Ltd to prepare the <i>City of Bayside Review of Heritage Precincts</i> (March 2008) (<b>2008 Raworth Heritage Study</b>).</p> <p>The study reviewed seven heritage precincts which were originally identified in the 1999 Heritage Study and one additional heritage precinct, and recommended that six of those precincts be included in the Heritage Overlay.</p> <p>The study did not assess post-war dwellings but looked predominantly at Victorian and Edwardian era dwellings.</p>   |
| May 2008                | The public consultation process in relation to the draft 2008 Heritage Alliance Study was completed. A significant amount of submissions were received, many objecting to the application of the Heritage Overlay.   |
| June 2008               | <p>Council resolved to:</p> <ul style="list-style-type: none"> <li>• receive and note the final version of the 2008 Heritage Alliance Study that incorporated changes following the review of public submissions;</li> <li>• seek authorisation to prepare a planning scheme amendment to apply the Heritage Overlay on a permanent basis to three heritage precincts identified in the 2008 Heritage Alliance Study, and to apply interim heritage controls to those precincts in the meantime;</li> <li>• take no further action in respect of the 69 individual places, five remaining heritage precincts and 120 additional places identified in the 2008 Heritage Alliance Study;</li> <li>• cease the suspension of demolition permits for all properties in the 2008 Heritage Alliance Study with the exception of the three heritage precincts in respect of which permanent heritage controls would be pursued; and</li> <li>• advise Heritage Alliance that no further work was required in respect of the 120 additional places identified in the study.</li> </ul> |

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| September 2008     | <p>Council resolved to:</p> <ul style="list-style-type: none"> <li>• Adopt the final version of the 2008 Raworth Heritage Study;</li> <li>• Seek authorisation to prepare an amendment to apply the Heritage Overlay on a permanent basis to four precincts, and to include one individual property within the existing HO204, in accordance with the recommendations of the 2008 Raworth Heritage Study; and</li> <li>• Request that the Heritage Overlay be applied on an interim basis to the relevant precincts.</li> </ul>   |
| March – April 2009 | <p>Council prepared and exhibited Amendments C75 and C76. As exhibited:</p> <ul style="list-style-type: none"> <li>• Amendment C75 sought to remove the interim Heritage Overlay and apply the Heritage Overlay on a permanent basis to 29 individual properties and three new heritage precincts, and to remove interim heritage controls from 18 properties, in accordance with select findings and recommendations of the 2008 Heritage Alliance Study; and</li> <li>• Amendment C76 sought to apply the Heritage Overlay on a permanent basis to five new heritage precincts and one individual property (by including it in the existing HO204) in accordance with select findings and recommendations of the 2008 Raworth Heritage Study.</li> </ul>  |
| 28 July 2009       | <p>Council resolved to:</p> <ul style="list-style-type: none"> <li>• Abandon that part of Amendment C75 that related to 47-49 Victoria Street, Sandringham, 493-497 Balcombe Road, Beaumaris and the Mariemont Avenue Precinct; and</li> <li>• Refer the remaining submissions in relation to Amendments C75 and C76 to a Panel.</li> </ul> <p>Consequently, Amendment C75 was split into two parts –</p> <ul style="list-style-type: none"> <li>• Part 1 related to the 29 individual properties with interim heritage controls to be made permanent, the 18 individual properties with interim heritage controls to be removed, and two new heritage precincts; and</li> <li>• Part 2 related to 47-49 Victoria Street, Sandringham, 493-497 Balcombe Road, Beaumaris and the Mariemont Avenue Precinct.</li> </ul> |
| January 2010       | Amendment C75 (Part 2) was abandoned.   |
| February 2010      | The Panel recommended that Amendments C75 (Part 1) and C76 be adopted with modifications.   |
| April 2010         | Council resolved to adopt Amendments C75 (Part 1) and C76 with all modifications as recommended by the Panel and submit the amendments to the Minister for approval.  |
| September 2010     | <p>Amendments C75 (Part 1) and C76 were approved and gazetted:</p> <ul style="list-style-type: none"> <li>• Amendment C75 (Part 1) applied the Heritage Overlay to 27 individual properties and two heritage precincts on a permanent basis, and removed interim heritage controls from 18 properties on the basis that those properties did not warrant inclusion in the Heritage Overlay; and</li> <li>• Amendment C76 applied the Heritage Overlay on a permanent basis to five precincts and one individual property (by including that property in the existing HO204), and</li> </ul>   |

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|                    | removed interim heritage controls from one property which previously formed part of a heritage precinct on the basis that the property did not warrant inclusion in the Heritage Overlay.  |
| October 2010       | <p>Amendment C93 was approved and gazetted. The amendment removed the interim Heritage Overlay from the following properties and precinct which were the subject of Amendment C75 Part 2 (abandoned):</p> <ul style="list-style-type: none"> <li>• 493 - 497 Balcombe Road, Beaumaris (HO413);</li> <li>• 47 - 49 Victoria Street, Sandringham (HO620); and</li> <li>• Mariemont Avenue Precinct, Beaumaris (HO758).</li> </ul>  |
| February 2013      | <p>Amendment C82 was approved and gazetted.</p> <p>The amendment applied the Heritage Overlay to three heritage precincts and two individual places in Bayside's commercial centres/activity centres.</p>  |
| March – April 2015 | Amendments C135 and C137 are approved and gazetted, applying the Heritage Overlay to 453 New Street, Brighton and 9 Boxshall Street, Brighton respectively.  |
| July 2017          | Council resolved to adopt the <i>Bayside Heritage Action Plan</i> , commence preparation of a Mid-Century Modern Heritage Study with a particular focus on the Beaumaris area, and request that the Minister apply the Heritage Overlay on an interim basis to Mid-Century Modern houses in Beaumaris based on the 2008 Heritage Alliance Study (properties identified in the 2008 Heritage Alliance Study that Council had previously resolved not to take action on).  |
| September 2017     | Council submitted Amendments C158 and C159 to the Minister. The amendments sought to apply the Heritage Overlay on an interim basis to 51 properties (Mid-Century Modern houses) in Beaumaris based on the 2008 Heritage Alliance Study.   |
| April 2018         | <p>In response to significant community opposition, Council resolved to:</p> <ul style="list-style-type: none"> <li>• Not proceed with the preparation of a Mid-Century Modern Heritage Study, and abandon its request that the Minister apply the Heritage Overlay on an interim basis to Mid-Century Modern houses in Beaumaris pursuant to Amendments C158 and C159;</li> <li>• Seek voluntary nominations from property owners of Mid-Century Modern properties in Beaumaris and Black Rock for investigation to ascertain heritage significance of the property; and</li> <li>• Develop a process to support the inclusion of suitable Mid-Century Modern properties in a Heritage Overlay through a voluntary nomination process.</li> </ul>               |
| 2019               | <p>Council undertook a voluntary nomination process for Mid-Century Modern homes in Beaumaris and Black Rock.</p> <p>As part of that process, Council engaged Context to prepare the <i>Bayside Mid-Century Modern Heritage Study – Residential Places 2020</i> and <i>Bayside Mid-Century Modern Heritage Study – Council owned Places 2020 (2020 Heritage Studies)</i>, which assessed the nominated Council-owned and private residential properties.</p> <p>8 individual Council-owned properties and 9 individual residential properties were assessed as warranting inclusion in the Heritage Overlay. One residential property was found to have the potential to be of State significance and warrants inclusion in the Victorian Heritage Register.</p> |
| April 2020         | Council submitted Amendment C178bays to the Minister and requested that the Minister authorise, prepare and approve the Amendment. The amendment sought to apply the Heritage  |

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|                       | <p>Overlay to 19 properties identified in the 2020 Heritage Studies as a result of the voluntary nomination process.</p> <p>Council requested that the Minister use the exemption powers contained in section 20(4) of the Act, because of the voluntary nomination process that had been undertaken.</p>  |
| May 2020              | <p>In response to the Council's request for Amendment C178bays, the Minister wrote to Council to express concern in relation to the voluntary nomination process that Council had undertaken. The Minister's letter highlighted Council's responsibilities to ensure that places of scientific, aesthetic, architectural or historical interest are conserved in accordance with the <i>Planning and Environment Act 1987 (Vic)</i>.</p>   |
| June 2020             | <p>Council resolved to adopt the revised <i>Heritage Action Plan 2020</i>, which sets out a holistic approach to assessing and managing heritage, including prioritisation of:</p> <ul style="list-style-type: none"> <li>• The preparation of a Mid-Century Modern Heritage Study; and</li> <li>• A review of the Inter-War and Post-War Heritage Study (i.e. the 2008 Heritage Alliance Study) to ensure that properties identified as being of heritage significance are appropriately protected.</li> </ul>  |
| Early December 2020   | <p>Council engaged GJM Heritage to undertake the Heritage Study. The scope of the Heritage Study was to review and assess (where relevant) residential properties within the City of Bayside that were constructed in the Post-War period (defined as the period between 1945 and 1975) and constructed in the Modern architectural style.</p>   |
| 30 December 2020      | <p>The Minister wrote to Council to advise that the Minister has decided to approve Amendment C178bays with changes by applying the Heritage Overlay to the 19 properties on an interim basis until 30 November 2021.</p> <p>The Minister reminded Council of its resolution to prioritise the commencement of the Mid-Century Modern Heritage Study and Inter-War and Post-War Heritage Study and to implement this work through a full planning scheme amendment process.</p> <p>The Minister also stated that any extension of the interim controls to the 19 properties would be reviewed in light of the status of the abovementioned studies and any authorisation requests for permanent heritage controls.</p> |
| 11 February 2021      | <p>Amendment C178bays is gazetted.</p>   |
| 18 November 2021      | <p>Amendment C183bays is approved and gazetted. The amendment extends interim heritage controls in respect of those 19 properties identified via the voluntary nomination process.</p>   |
| January 2022          | <p>GJM Heritage completed the draft City of Bayside - Post-war Modern Residential Heritage Study (<b>Heritage Study</b>).</p>  |
| February 2022         | <p>Council submitted Amendment C188bays to the Minister. The amendment sought to apply the Heritage Overlay on an interim basis to 165-167 Tramway Parade, Beaumaris, after receiving notice of an application for a permit to demolish the building. The property was identified in the Heritage Study.</p>   |
| February – April 2022 | <p>Council undertook a public consultation process in relation to the draft Heritage Study.</p> <p>GJM Heritage made revisions to the draft Heritage Study in response to further information obtained via the public consultation process.</p>  |

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| June 2022        | Council held Delegated Committee Meetings to hear from property owners and key stakeholders affected by the draft Heritage Study.  |
| July 2022        | <p>GJM Heritage finalised the Heritage Study. The Heritage Study made the following findings and recommendations –</p> <ul style="list-style-type: none"> <li>• Eighty-seven (87) places are assessed as being of local individual significance and warrant inclusion in the Heritage Overlay. This amounts to 159 individual properties (including individual flats and units in a complex) being recommended for inclusion in the Heritage Overlay.</li> <li>• One (1) group is identified as being of local significance. The houses at 2, 4, 8, 9, 10, 15, 18 and 19 Bellaire Court, Beaumaris were constructed by builder Martin Sachs between 1962-68. They were all owned by Sachs, who subsequently on-sold them following development, and they exhibit similar aesthetic characteristics to one another. The eight (8) residences are considered to be of local significance as a group.</li> <li>• Forty-five (45) places have been found not to meet the threshold of local individual significance and do not warrant inclusion in the Heritage Overlay.</li> <li>• Two (2) potential precincts were found not to meet the threshold of local significance and do not warrant inclusion in the Heritage Overlay.</li> </ul> |
| 19 July 2022     | <p>Council resolved to:</p> <ul style="list-style-type: none"> <li>• Note the Heritage Study; and</li> <li>• Seek authorisation to prepare amendments to apply the Heritage Overlay (on an interim and permanent basis) to 59 properties and one group listing identified in the GJM Heritage Study (<b>Nominated Properties</b>),</li> </ul> <p>among other matters.</p>  |
| 12 August 2022   | Council wrote to the Minister seeking authorisation to prepare Amendment C192bays  |
| 24 October 2022  | The Minister wrote to Council to authorise the preparation of Amendment C192bays subject to conditions.  |
| 31 October 2022  | Council submitted Amendment C193bays to the Minister. The amendment sought to apply the Heritage Overlay on an interim basis to the Nominated Properties which are the subject of Amendment C192bays.  |
| November 2022    | <p>The Minister approved Amendment C193bays, subject to the removal of the following properties:</p> <ul style="list-style-type: none"> <li>• 13 Fifth Street, Black Rock, on the basis that a planning permit was issued in 2022 for substantial alterations and additions to the rear of the building and the application of an interim Heritage Overlay would result in additional planning permit triggers and raise issues of procedural fairness; and</li> <li>• 165-167 Tramway Parade, Beaumaris, on the basis that Amendment C188bays proposes to apply an interim HO to the site and is subject to a separate assessment by the Minister.</li> </ul>   |
| 30 November 2022 | The interim heritage controls which were applied pursuant to Amendment C178bays expired. The Minister declined to extend the interim heritage controls because the properties were voluntarily nominated for inclusion in the Heritage Overlay, and therefore the Minister considers that there is no imminent risk of harm to heritage fabric.  |

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| 2022-2023                     | <p>Council engaged GJM Heritage to undertake a peer review of the 2020 Heritage Studies.</p> <p>GJM Heritage finalised the peer review of the 2020 Heritage Studies, and the peer review is relied upon by Council in its preparation of proposed Amendment C196bays, which has not yet received Ministerial authorisation.</p>   |
| 10 January 2023               | <p>Council submitted Amendment C196bays to the Minister. The amendment seeks to apply the Heritage Overlay on a permanent basis to properties identified in the 2020 Heritage Studies and subsequently peer reviewed and recommended for inclusion in the Heritage Overlay by GJM Heritage. These properties generally comprise the properties which were affected by Amendment C178bays, being the interim heritage controls which expired on 30 November 2022.</p> <p>Amendment C196bays has not yet been authorised.</p> |
| 11 January 2023               | <p>Council submitted Amendment C197bays to the Minister. The amendment seeks to extend interim heritage controls in respect of those properties the subject of Amendment C196bays (noting that interim heritage controls expired in November 2022).</p> <p>Amendment C197bays has not yet been authorised.</p>  |
| February – March 2023         | <p>The Department of Transport and Planning (<b>DTP</b>) requested further information in relation to Amendments C196bays and C197bays.</p>   |
| 13 March 2023                 | <p>The Minister approved Amendment C188bays, which extended interim heritage controls in respect of 165-167 Tramway Parade, Beaumaris.</p>  |
| May 2023                      | <p>Council responded to DTP's request for further information in respect of Amendments C196bays and C197bays.</p>   |
| August 2023                   | <p>DTP confirmed that Council had satisfied the conditions of authorisation to prepare and exhibit Amendment C192bays.</p>  |
| 7 September – 19 October 2023 | <p>Amendment C192 bays was exhibited. 33 submissions were received.</p>   |
| 26 September 2023             | <p>Council submitted Amendment C200bays to the Minister. The amendment sought to extend interim heritage controls in relation to the Nominated Properties which are the subject of Amendment C192 (including 165-167 Tramway Parade, Beaumaris, but excluding 13 Fifth Street, Black Rock).</p>   |
| 30 October 2023               | <p>Council referred all submissions in relation to Amendment C192bays to a Panel.</p>   |
| 31 October 2023               | <p>A Panel was appointed to consider submissions in relation to Amendment C192bays.</p>   |
| 22 November 2023              | <p>Council receives a late submission in relation to Amendment C192bays and refers the submission to the Panel.</p>   |
| 23 November 2023              | <p>The Minister approved Amendment C200bays, extending interim heritage controls in relation to the Nominated Properties which are the subject of the Amendment (including 165-167 Tramway Parade, Beaumaris, but excluding 13 Fifth Street, Black Rock). The new expiry date is 11 October 2024.</p>   |