

27 November 2023

Submission on behalf of the Planning Authority
Amendment C394boro to the Boroondara Planning Scheme

Boroondara City Council Submission: Part A

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Introduction

1. This submission is made on behalf of Boroondara City Council (**Council**).
2. Council is the Planning Authority for Amendment C394boro (**Amendment**) to the Boroondara Planning Scheme (**Scheme**). Council has prepared and is the proponent of this Amendment.
3. As exhibited, the Amendment proposes to apply the Heritage Overlay to two individual heritage places and three heritage precincts on a permanent basis.
4. Submissions have been received for all affected properties and are noted at **Attachment 1**. No changes are recommended to the Amendment in response to submissions received.

Panel directions

5. This submission responds to Direction 7 of the Panel Directions issued on 15 November 2023 (**Panel Directions**) directing Council to circulate its 'Part A' submission by 12 noon on Monday, 27 November 2023 and specifies the items to be included in its submission.
6. Accordingly, this 'Part A' submission includes the following items in accordance with the Panel Directions:
 - 6.1 background to the Amendment including chronology of events;
 - 6.2 strategic context and assessment;
 - 6.3 an explanation of how the original Mont Iris Estate and Environs Precinct proposed to be included in Amendment C333boro was identified; and
 - 6.4 a summary of issues raised in submissions, including an explanation of which (if any) of those issues have been resolved and how.

7. In addition to this Part A submission, Council will, at the hearing:
 - 7.1 present a Part B submission, which will address the key issues raised in submissions, Council's response to the matters raised in evidence, and its final position on the Amendment; and
 - 7.2 call expert heritage evidence from Jim Gard'ner of GJM Heritage in relation to the *Independent Review: Mont Iris Estate & Environs Precinct (2022)* report prepared by GJM Heritage (**GJM Review**) and the Amendment.
8. No other party to the hearing has indicated an intention to call evidence.

Background to Amendment

Heritage assessments and preliminary consultation

9. The Mont Iris Estate and Environs Precinct originally formed part of Amendment C333boro, which sought to implement the outcomes of the Glen Iris Gap Study. Amendment C333boro proposed to implement the recommendations of the Glen Iris Heritage Gap Study by including 15 individual heritage places and four heritage precincts in the Heritage Overlay, on a permanent basis.
10. The proposed Mont Iris Estate and Environs Precinct (HO901) was one of the four heritage precincts recommended in the Glen Iris Heritage Gap Study and progressed through Amendment C333boro. The proposed precinct was recommended on the basis of heritage advice from Context Pty Ltd, which concluded the precinct met Criterion A (historical significance), Criterion D (architectural significance) and Criterion E (aesthetic significance) in accordance with *Planning Practice Note 1 - Applying the Heritage Overlay (PPN1)*.
11. The Amendment was publicly exhibited from 12 February to 12 March 2021. On 6 September 2021, the Urban Planning Delegated Committee (**UPDC**) resolved to request the appointment of an independent panel to consider

submissions to Amendment C333boro. A Panel hearing considered submissions over four days from 29 November to 3 December 2021.

12. The Panel Report was received by Council on 20 January 2022, and considered the amendment to be well founded, strategically justified and consistent with the relevant Ministerial Directions. Accordingly, the Panel recommended adoption of the amendment subject to several changes. One of the recommendations related to the Mont Iris Estate and Environs Precinct.
13. The Panel recommended the proposed precinct be abandoned due to a lack of coherence and a high degree of non-contributory properties in some sections that undermined the overall integrity of the precinct. The panel recommended a further review of the precinct, recognising there are coherent parts of the precinct warranting inclusion in the Heritage Overlay. Any further strategic work would then be implemented as part of a separate planning scheme amendment process.
14. This is detailed in full, in the UPDC report for the meeting held on 2 May 2022. At that meeting, the UPDC resolved to:
 - 14.1 Undertake a further heritage assessment of the Mont Iris Estate and Environs Precinct to determine whether one or more smaller precincts and any individually significant properties can be identified as meeting the threshold for inclusion in the Heritage Overlay.
 - 14.2 Request retention of the current interim Heritage Overlay over the Mont Iris Estate from the Minister for Planning.
 - 14.3 Upon completion of heritage assessments of the Mont Iris Estate and Environs Precinct, write to the Minister for Planning to request:
 - (a) Authorisation to prepare an amendment(s) to the Boroondara Planning Scheme in accordance with sections 4B and 8A(4) of the *Planning and Environment Act 1987* (Act) to apply the Heritage Overlay to identified properties.

- (b) The removal of the interim Heritage Overlay from properties not part of the new precinct(s) or not identified for individual significance.
- 15. The peer review of the Mont Iris Estate and Environs Precinct was investigated and completed in October 2022 by GJM Heritage in response to the Council resolution. This is reflected in the GJM Review, which is a background document to the Amendment.
- 16. The GJM Review was undertaken in accordance with PPN1 and established heritage practice. GJM Heritage determined three precincts and two individual properties warranted heritage protection.

Exhibited Amendment

- 17. On 12 December 2022, Council wrote to the Minister for Planning and sought authorisation to prepare and exhibit Amendment C394boro.
- 18. On 27 April 2023, the Amendment was authorised under delegation from the Minister for Planning.
- 19. The Amendment was formally exhibited under section 19 of the Act from 15 June to 27 July 2023. Notice of the Amendment was:
 - 19.1 made available, including all exhibited documents on Council's website and on the Department of Transport and Planning (**Department**) website;
 - 19.2 sent to all affected and adjoining property owners and occupiers;
 - 19.3 sent to all parties who submitted feedback during the preliminary consultation period (including a note that the feedback previously submitted would not formally be considered as a submission to the Amendment);
 - 19.4 sent to key stakeholders, including local community groups, historical societies and traders associations and groups;

- 19.5 sent to prescribed Ministers and public authorities; and
 - 19.6 published in *The Age* on 14 June 2023 and in the Victorian Government Gazette on 15 June 2023.
20. The Amendment documentation, as exhibited, comprised the following documents:
- 20.1 the Explanatory Report;
 - 20.2 the Notice of Preparation of an Amendment;
 - 20.3 the Instruction Sheet;
 - 20.4 proposed clauses and schedules, including:
 - Schedule to the Heritage Overlay (Clause 43.01);
 - Schedule to Clause 72.04 - Documents Incorporated in the Planning Scheme, including the Statement of Significance for each of the proposed Heritage Overlays as exhibited Incorporated Documents; and
 - Schedule to Clause 72.08 - Background Documents, including the GJM Review.
 - 20.5 revised planning scheme maps to reflect the ordinance changes (HO954, HO955, HO956, HO957, HO958);
 - 20.6 Statements of Significance for the HO954, HO955, HO956, HO957 and HO958; and
 - 20.7 the GJM Review.

Submissions

21. Council received 23 submissions in response to the exhibition of the Amendment. Of the 23 submissions received:
- 21.1 nine submissions supported the Amendment;

21.2 three submissions partially supported the Amendment; and

21.3 11 submissions objected to the Amendment.

Consideration of submissions and request to the Minister

22. Council officers and Council's heritage consultants considered the submissions and did not recommend any substantive changes to the Amendment.

23. Council officers did, however, recommended minor changes to:

23.1 remove the fence and garage from the 'Contributory Fence/Garage' column in the GJM Review and the Statement of Significance for 10 Munro Avenue, Glen Iris; and

23.2 remove the garage from the 'Contributory Fence/ Garage' column in the GJM Review and the Statement of Significance for 44 Dent Street, Glen Iris

on the basis of the submissions and review by GJM Heritage.

24. On 16 October 2023, the UPDC resolved to:

24.1 receive and note the submissions to Amendment C394boro (Attachment 1) to the Boroondara Planning Scheme in accordance with section 22 of the Act;

24.2 endorse the officers' response to submissions and recommended changes to the Amendment as shown at Attachment 2;

24.3 request that the Minister for Planning appoint a Planning Panel under section 153 of the Act to consider all submissions to the Amendment;

24.4 refer the Amendment and all submissions to a Planning Panel in accordance with section 23(1) of the Act;

- 24.5 authorise the Director Urban Living to undertake minor administrative changes to the Amendment and associated planning controls that do not change the intent of the controls.
25. On 16 October 2023, the Panel was provided with the following:
- 25.1 a summary of all submissions and the corresponding Council officers' response to submissions (as endorsed by the UPDC); and
- 25.2 the GJM Review with post-exhibition changes highlighted.

Chronology of Events

26. A chronology of events relating to the Amendment is set out below.

Date	Event
May - June 2019	Preliminary consultation - Municipal-Wide Heritage Gap Study Volume 7: Glen Iris
March 2020	Council sought authorisation to prepare and exhibit Amendment C333boro to the Boroondara Planning Scheme.
September 2020	Authorisation granted.
February - March 2021	Amendment C333boro exhibited.
September 2021	UPDC considered a report on the outcomes of public exhibition and resolved to refer all submissions received to a Planning Panel for consideration.
Commencing week of 29 November 2021	Amendment C333boro - Planning Panel Hearing
2 May 2022	Amendment C333boro - UPDC - Consideration of panel report. UPDC resolved to carry out a peer review of the recommendation to include the Mont Iris Estate and Environs Precinct in the Heritage Overlay.
October 2022	GJM Heritage completed peer review of the Mont Iris Estate and Environs Precinct as recommended by the Independent Planning Panel for Amendment C333boro.
December 2022	Amendment C394boro - Council sought authorisation to prepare and exhibit an amendment to the Boroondara Planning Scheme to implement the recommendations arising from the peer review.

Date	Event
27 April 2023	Authorisation granted.
15 June 2023 to 27 July 2023	Public exhibition of Amendment C394boro
16 October 2023	UPDC considered a report on the Amendment and resolved to refer all submissions received to a Planning Panel for consideration.
14 November 2023	Directions Hearing.
15 November 2023	Directions issued by Planning Panels Victoria

Strategic context and assessment

27. The strategic context and assessment of the Amendment is set out in the Explanatory Report exhibited with the Amendment and provided to the Panel. This section provides an overview of the strategic basis of the Amendment.
28. A response to the strategic issues raised in submissions, and more particularly, those that questioned the strategic merit of particular aspects of the Amendment, will be addressed further in Council's 'Part B' submission.
29. The Amendment is consistent with State and Local policy.
30. Section 4 of the Act sets out the objectives of planning in Victoria. The Amendment is consistent with the following objective:
 - (1)(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;
31. The Amendment will meet this objective by ensuring the heritage significance will be considered in future development proposals at affected properties. The Heritage Overlay is the appropriate planning mechanism to protect the heritage values of the precincts and individual properties as a permit will be required for building and works, including demolition that could affect the significance of the precincts and individual properties.

Plan Melbourne 2017-2050

32. The Amendment also supports the outcomes and directions sought by *Plan Melbourne 2017-2050*. Direction 4.4 'Respect Melbourne's heritage as we build for the future', which notes that:

Heritage will continue to be one of Melbourne's competitive strengths, contributing to its distinctiveness and liveability and attracting visitors, new residents, and investors. Heritage is an important component of Victoria's tourism industry and benefits the economy.

33. Policy 4.4.1 'Recognise the value of heritage when managing growth and change', notes that:

There will need to be continuous identification and review of currently unprotected heritage sites and targeted assessments of heritage sites in areas identified as likely to be subject to substantial change.

34. The amendment will not compromise the implementation of *Plan Melbourne*.

Planning Policy Framework

35. The strategic justification for the Amendment is grounded in the Planning Policy Framework.
36. The Amendment implements the objectives and strategies of Clause 15.03 (Heritage) by including properties that contribute to the heritage significance of Boroondara.
37. Clause 15.03-1S (Heritage conservation) seeks to ensure the conservation of places of heritage significance through the following strategies:
- Identify, assess and document places of natural and cultural heritage significance as a basis for their inclusion in the planning scheme.

- Provide for the conservation and enhancement of those places which are of aesthetic, archaeological, architectural, cultural, scientific or social significance.
- 38. The Municipal Planning Strategy (**MPS**) further acknowledges the significant contribution heritage assets make to Boroondara's character.
- 39. The Amendment is consistent with and implements the strategic direction outlined in the MPS at Clause 02.03-4 to "protect all individual places, objects and precincts of cultural, aboriginal, urban and landscape significance".
- 40. The Amendment is also consistent with and implements Clause 15.03-1L (Heritage in Boroondara), which seeks to "preserve 'significant' heritage places, protecting all significant heritage fabric including elements that cannot be seen from the public realm".
- 41. The Amendment therefore implements the objectives and strategies of both Boroondara's MPS and the Planning Policy Framework.

Boroondara Community Plan 2021-31

- 42. The *Boroondara Community Plan 2021-31* sets out the 10-year vision for Boroondara's future based on values, aspirations and priorities important to the community, and includes the Council Plan 2021-25.
- 43. The Amendment implements the Strategic Objective of Theme 4 of the Plan, to "Protect the heritage and respect the character of Boroondara, while facilitating appropriate, well-designed development".
- 44. Specifically, the Amendment implements Strategy 4.1 - "Boroondara's heritage places are protected through ongoing implementation of heritage protection controls in the Boroondara Planning Scheme."

Minister's Directions

- 45. The Amendment complies with the requirements of the following Minister's Directions:
 - 45.1 Ministerial Direction on the Form and Content of Planning Schemes;

- 45.2 Ministerial Direction No. 9 Metropolitan Planning Strategy;
- 45.3 Ministerial Direction No. 11 Strategic Assessment of Planning Scheme Amendments; and
- 45.4 Ministerial Direction No. 15 The Planning Scheme Amendment Process.

Planning Practice Note 1: Applying the Heritage Overlay

- 46. Finally, the Amendment is consistent with PPN1, which provides guidance about the application of the Heritage Overlay.
- 47. The Amendment meets the requirements of PPN1, in that:
 - 47.1 the recognised criterion has been adopted in the assessment of the heritage values of each place;
 - 47.2 detailed comparative analysis has been undertaken to substantiate the significance of the places; and
 - 47.3 for each of the heritage places, a statement of significance has been prepared using the three-part format of 'What is significant?'; 'How is it significant?' and 'Why is it significant?'.

Identification of Original Mont Iris Estate and Environs Precinct

- 48. The Mont Iris Estate and Environs Precinct was originally identified as a precinct within the Glen Iris Heritage Gap Study, which formed the basis of Amendment C333boro.
- 49. The first stage of the Glen Iris Heritage Gap Study was a survey of the entire suburb, with the exception of properties already in the Heritage Overlay. The survey was carried out by bicycle and on foot to ensure that each individual property could be viewed and considered for its potential heritage value.

50. Properties of potential individual significance were noted and photographed, and streetscapes with consistent and intact built form were noted as part of potential precincts. Groups of buildings adjoining an existing precinct of a seemingly similar character were also noted as potential precinct extensions.
51. The Mont Iris Estate and Environs Precinct was identified as part of the survey of the suburb. The precinct, as proposed in Amendment C333boro, is illustrated below.



52. Individual histories were prepared for precincts identified within the study. The histories covered the background to the original subdivision and/or most important period(s) of development, the chronology of development (construction) in the precinct, details of any properties considered to be particularly important, any particularly important people associated with its foundations (e.g., developers, architects, builders, important early residents), and changes to the precinct over time.

GJM Review

Overview of the GJM Review

53. The GJM Review was an independent review of the Mont Iris Estate and Environs Precinct Heritage Citation and Statement of Significance which had been prepared by Context and Trethowan Architecture as part of the Glen Iris Gap Study. It progressed in two stages, namely:
- 53.1 **Stage 1** – a review of the citation and Panel report followed by a site-walk of the precinct in July 2022. The findings of Stage 1 are summarised in section 3 of the GJM Review. It notes that this stage agreed with the Amendment C333boro Panel that there is a lack of cohesiveness within parts of the-then proposed Mont Iris Estate and Environs Precinct. GJM identified three discrete precincts and two individual places for further assessment, being the High Street North Precinct, Dent Street Precinct, Tower Hill Estate Precinct, 7 Fuller Avenue and 33 Fuller Avenue, Glen Iris.
- 53.2 **Stage 2** – detailed heritage assessments for the properties and precincts identified in Stage 1. The assessments arising from Stage 2 are contained within Appendix 1 of the GJM Review.
54. Mr Gard'ner's evidence statement will provide further particulars of the GJM Review and the recommendations contained therein.

Comparison to the original proposed Mont Iris Estate and Environs Precinct

55. As noted above, while the GJM Review concluded that parts of the Mont Iris Estate and Environs Precinct lacked sufficient cohesion, it found that the area exhibited three precincts and two individual places which warranted inclusion within the Heritage Overlay.
56. On 20 November 2023, Council circulated the material requested by the Panel in accordance with Orders 5, 6 and 7 of the Panel's Directions.

57. This included the citation and statement of significance for the then proposed Mont Iris Estate and Environs Precinct and maps illustrating the proposed Heritage Overlays for this Amendment.
58. A comparison between the application of the Heritage Overlay proposed for this Amendment and what was proposed in Amendment C333boro, is summarised in the table below.

Amendment C394boro	Amendment C333boro (HO901)
HO954 – 7 Fuller Avenue, Glen Iris Proposed individually significant property	This property was identified within the HO901 precinct as a 'Significant' property within the precinct.
HO955 – 33 Fuller Avenue, Glen Iris Proposed individually significant property	This property was identified within the HO901 precinct as a 'Contributory' property within the precinct. The GJM Review, at page 4, notes: <i>The house at 33 Fuller Avenue is also considered to meet the threshold for individual significance and should be included in the Heritage Overlay as a site-specific Heritage Place. We note that the Panel recommended that 33 Fuller Avenue be re-categorised from 'Contributory' to 'Significant' within a potential future precinct as the 'house is an intact and imposing example of an interwar Old English revival home, with an architectural pedigree'.</i>
HO956 – Dent Street Precinct (6-28 and 40-60 Dent Street) Proposed precinct comprising 23 properties, of which 22 properties are 'Contributory' to the precinct and one	These properties were identified as the southern extent of the HO901 precinct. Under the HO901, the precinct extended further to the east and also included 62-74 Dent Street (with 64, 70 and 72 Dent Street identified as Non-contributory) within the proposed overlay.

Amendment C394boro	Amendment C333boro (HO901)
property (12 Dent Street) is 'Non-contributory'	It is also noted that in the proposed HO901, 12 Dent Street was identified as 'Contributory' however it has since been demolished and replaced with a new dwelling.
<p>HO957 – High Street North Precinct (127-141 High Street & 152 Summerhill Road)</p> <p>Proposed precinct comprising nine properties which are all 'Contributory' to the precinct</p>	<p>These properties were identified as the northern extent of the HO901 precinct. Under the HO901, the precinct extended further to the east and also included 145, 147 and 147A High Street within the proposed overlay (with 145 High Street identified as Non-contributory).</p> <p>It is also noted that in the proposed HO901, 133 and 152 High Street were identified as 'Significant' properties within the precinct.</p>
<p>HO958 – Tower Hill Estate Precinct (2-28 & 1-33 Tower Hill Road, 2-32 Munro Avenue, 142-146 High Street and 146A-148 High Street)</p> <p>Proposed precinct comprising 52 properties, of which one is 'Significant' to the precinct (148 High Street), 44 are 'Contributory' to the precinct and seven a 'Non-contributory' to the precinct.</p>	<p>These properties were identified within the eastern section of the HO901 precinct. Under the HO901, the precinct extended further to the east and included the properties on the eastern side of Munro Avenue as well as the property at 150 High Street (Non-contributory).</p> <p>It is also noted that in the proposed HO901, the precinct along Tower Hill Road extended further to the south and included the properties at 30 & 35 Tower Hill Road (Contributory) and the properties at 32-36 Tower Hill Road (Non-contributory).</p>

Issues identified in submissions

59. The UPDC report of 16 October 2023 included a detailed summary of issues raised in submissions, and the officers' response (provided as Attachment 1 to the UPDC Report of 16 October 2023). The common issues raised in opposing submissions are summarised as follows:

- 59.1 the area has undergone significant change, resulting in heritage protection being unjustifiable;
- 59.2 the recommendation to delete the Mont Iris Estate and Environs Precinct from Amendment C333boro set a precedent for no heritage protection being justified;
- 59.3 increased maintenance costs associated with the upkeep of heritage properties;
- 59.4 imposition of the Heritage Overlay on property owners without agreement and impacts on property rights;
- 59.5 increased regulatory burden associated with upgrading properties to current safety and structural integrity standards;

60. Site-specific issues raised in submissions are:

- 60.1 removal of the fence and garage from the 'Contributory Fence/Garage' column in the background document and Statement of Significance for 10 Munro Avenue, Glen Iris;¹ and
- 60.2 removal of the garage from the 'Contributory Fence/Garage' column in the background document and Statement of Significance for 44 Dent Street, Glen Iris.²

¹ Submission No. 1. and 7.

² Submission No. 24.

Proposed changes to the Amendment

61. At the 16 October 2023 UPDC meeting, a report was considered that summarised all submissions received to that point and provided a response to each of the points raised in those submissions.
62. In response, the UPDC resolved to endorse the officers' response to submissions and recommended changes to the exhibited Amendment and to refer all submissions received to a Planning Panel for consideration. The proposed changes to the Amendment are set out in the UPDC report and summarised in **Attachment 2** to this Part A submission.
63. Accordingly, Council considers that the site-specific issues raised in relation to 10 Munro Avenue (relating to the fence and garage) and 44 Dent Street (relating to the garage) have been resolved through Council's proposed changes to the Amendment. The balance of objecting submissions are considered to be unresolved.

Conclusion

64. This concludes Part A of Council's submission to the Panel.
65. The Part B submission will expand on the key issues raised by submitters.

List of Attachments

Attachment 1 – Heritage places affected by Amendment

Attachment 2 – Proposed changes to the exhibited Amendment documents

Attachment 1 – Heritage places affected by Amendment

Heritage Place	Property address	Criteria	HO number (Interim Heritage Overlay)	Submission No.
House	7 Fuller Avenue, Glen iris	A, D	HO954	
House	33 Fuller Avenue, Glen Iris	A, D, E	HO955	
Dent Street Precinct, Glen Iris	6-28 & 40-60 Dent Street, Glen Iris	A, D, E	HO956	Submission 1 supporting. Submissions 14, 15, 16, 17, 20, 22, 23 Submission 24 partially supporting.
High Street North Precinct, Glen Iris	127-141 High Street & 152 Summerhill Road, Glen Iris	A, D, E	HO957	
Tower Hill Estate Precinct, Glen Iris and Ashburton	2-28 & 1-33 Tower Hill Road, Glen Iris 2-32 Munro Avenue, Ashburton 142-146 High Street, Glen Iris 146A-148 High Street, Ashburton	A, D, E	HO958	Submission 1 supporting. Submission 12 opposing. Submissions 4, 13, 18 partially supporting.

Attachment 2 – Proposed changes to the exhibited amendment documents³

The Statements of Significance (proposed to be identified in the Schedule to Clause 72.04) for the following properties where changes are proposed since exhibition:

- 10 Munro Avenue, Glen Iris to remove the fence and garage from the 'Contributory fence/garage' column in the Statement of Significance;
- 44 Dent Street, Glen Iris to remove the garage from the 'Contributory fence/garage' column in the Statement of Significance.

These changes are shown in Attachment 3.3.2 of the UPDC Report of 16 October 2023.

The GJM Review (being the proposed background document to be listed in the Schedule to Clause 72.08) for the following properties where changes are proposed since exhibition:

- 10 Munro Avenue, Glen Iris to remove the fence and garage from the 'Contributory fence/garage' column in the GJM Review;
- 44 Dent Street, Glen Iris to remove the garage from the 'Contributory fence/garage' column in the GJM Review.

These changes are shown in Attachment 3.3.2 of the UPDC Report of 16 October 2023.

³ Only documents with proposed changes since exhibition are included in this attachment.