

Planning and Environment Act 1987

Panel Report

Greater Geelong Planning Scheme Amendment C354

9 Bridge Road, Barwon Heads

4 April 2017

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Panel Report pursuant to section 25 of the Act

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A handwritten signature in black ink, appearing to read 'Lucinda Peterson', written over a light blue horizontal line.

Lucinda Peterson, Chair

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List of Abbreviations

BHA	Barwon Heads Association
DELWP	Department of Environment, Land, Water and Planning
HO	Heritage Overlay
LPPF	Local Planning Policy Framework
SPPF	State Planning Policy Framework
VCAT	Victorian Civil and Administrative Tribunal

Overview

Amendment Summary

The Amendment	Greater Geelong Planning Scheme Amendment C354
Common name	9 Bridge Road, Barwon Heads
Brief description	The Amendment proposes to apply a permanent Heritage Overlay to the property at 9 Bridge Road, Barwon Heads and apply specific tree controls to the Cypress tree
Subject site	9 Bridge Road, Barwon Heads
The Proponent	Greater Geelong City Council
Planning Authority	Greater Geelong City Council
Authorisation	1 August 2016
Exhibition	25 August to 26 September 2016
Submissions	Number of Submissions: 76 Opposed: 1

Panel Process

The Panel	Lucinda Peterson
Directions Hearing	8 November 2016
Panel Hearing	3 March 2017
Site Inspections	Unaccompanied, 24 January 2017
Appearances	<p>Greater Geelong City Council represented by Peter Smith, Co-ordinator Strategic Implementation who called evidence in heritage from Ms Louise Honman</p> <p>Mr R and Mr F Thomas represented by Ms Shelley Fanning of Coastal Planning Pty Ltd who called evidence in heritage from Dr Leo Martin</p> <p>Barwon Heads Association represented by Ms Sandra Gatehouse</p> <p>Mr Ross Harrison</p> <p>Mr Richard Hastings</p>
Procedural issues	<p>Prior to the Hearing Mr David King of Kings Lawyers, acting for Mr Brad Gravell, advised the Panel they would not be attending the Hearing and sought leave to circulate a further written submission on 28 February 2017. The Panel agreed to this request and advised parties to the Hearing who subsequently received the written submission. Expert witness reports of Mr Rob Galbraith (Arborist) and Lovell Chen (Heritage) were also circulated. These witnesses were not called by Mr King to appear at the Hearing.</p>
Date of this Report	4 April 2017

Executive Summary

(i) Summary

Greater Geelong Planning Scheme Amendment C354 (the Amendment) proposes to apply a permanent Heritage Overlay to the property at 9 Bridge Road, Barwon Heads and apply a permanent tree control to the mature cypress tree in the front of the property. The permanent Heritage Overlay would replace the interim control which was introduced through Amendment C271.

In response to the exhibition of the Amendment, 76 submissions were received including one opposing the Heritage Overlay and the remaining submissions in support. The key issues raised in the Amendment include:

- whether a Heritage Overlay is justified for 9 Bridge Road, Barwon Heads
- whether tree controls are justified for the cypress tree in the front yard of the site, given its condition
- whether the application of the Heritage Overlay will undermine the planning policy and strategic outcome for the site given the site's zoning and proximity to Barwon Heads activity centre.

The Panel considered all submissions as well as four heritage assessments prepared by separate heritage consultants. All of the heritage assessments found 9 Bridge Road, Barwon Heads is of historic and aesthetic significance at a local level, albeit with some diverging views on the use of particular heritage criteria and correction of some historical information.

The Panel also considered the policy context of the Amendment and has found that there is strong policy support in the planning scheme to apply the Heritage Overlay where it is justified and an expectation in local planning policy that increased residential density and diversity must take into account unique site characteristics such as heritage.

The Panel concludes:

- the land, house and cypress tree at 9 Bridge Road, Barwon Heads is of aesthetic and historic significance and warrants inclusion within the Heritage Overlay.
- the condition of the cypress tree does not comprise its landmark contribution or significance to the site. The tree should be included in the Heritage Overlay under 'tree controls.'
- the application of the Heritage Overlay on 9 Bridge Road does not compromise the overall strategic policies for the Barwon Heads township.
- the exhibited statement of significance should be amended to:
 - remove reference to early photographs and Criterion C
 - remove reference to aesthetic significance as part of the work of Geelong based architect AJ Derrick (Criterion A)
 - amend the contribution of AJ Derrick's architecture practice to the period 1887-1892
 - delete reference to architectural significance given changes made to the building
 - include additional historical information pertaining to the Thomas family.

(ii) Recommendations

Based on the reasons set out in this Report, the Panel recommends that Greater Geelong Planning Scheme Amendment C354 be adopted as exhibited subject to the following:

Replace the exhibited Statement of Significance for 9 Bridge Road, Barwon Heads with the following Statement of Significance:

What is significant?

The house and cypress tree (Cupressus Macrocarpa) at 9 Bridge Road, Barwon Heads comprising a late Victorian cottage built c.1890, and including the modifications made to the place up until c1930 is significant. Significant elements include the single storey gabled roof forms clad in corrugated sheet metal roofing, rendered chimneys, timber bargeboards with timber vertically-slatted gable infill and timber finials, timber weatherboard wall cladding and the mature cypress tree. The siting and substantial setback of the house and the open front garden are also significant aspects of the place.

How is it significant?

The house and cypress tree at 9 Bridge Road, Barwon Heads is of local historic and aesthetic significance to the City of Greater Geelong.

Why is it significant?

9 Bridge Road is historically significant as a result of its early date of construction (c1890) and its association with the initial development of the township of Barwon Heads. It is one of a relatively small group of nineteenth century timber houses and public buildings that have survived to enable interpretation of the first settlement in the township. This historic significance is embodied in the late Victorian design elements of the house.

9 Bridge Road is historically significant for its association with prolific Geelong architect A J Derrick who is credited with the design of the house; but also a prominent member of Wesley Church Geelong and the architect of Wesleyan churches in Barwon Heads, Wallington, Ocean Grove and Drysdale. Derrick's successful practice in Geelong contributed a significant number of buildings in the area during 1887 – 1892. Derrick's later career as founding secretary of the Central Methodist Mission at Wesley Church, Melbourne resulted in his life being memorialised in a stained glass window at Wesley Church, Yarra Street Geelong.

The cypress tree (the remaining one of a pair planted in c1930s) is historically significant as part of the landscape of the early twentieth century phase of the house under the proprietorship of Thomas family. (Criterion A.)

9 Bridge Road is historically significant for its long association with the Thomas family who owned the property from 1901 to 1992 and used it for holiday purposes. The historical significance of the house is therefore also embodied in the early 20th century changes made to the house under the custodianship of the Thomas family. William Charles Thomas was the founder of W C Thomas & Sons, a successful and highly regarded milling company with mills in Murtoa, Beaufort,

Ballarat, Newport and throughout the Wimmera and Mallee in Victoria. W C Thomas & Sons were significant exporters to the UK, South Africa and various Asian countries. W.C.Thomas is an important figure as an early adopter of the eight-hour day in the milling industry, a Councillor and later President of the Shire of Ripon and a lay preacher of the Methodist Church. His son, W.C.F. Thomas was also a prominent agriculturalist who was appointed by the Commonwealth Government to represent the employers' interests at the International Labour Conference of the League of Nations in Geneva in 1924 and 1930. On 3 July 1926, W.C.F Thomas was awarded the Order of the British Empire – Commander (Civil) [C.B.E], for services to the Dried Fruits Board. (Criterion H)

9 Bridge Road and the cypress tree (Cupressus Macrocarpa), are aesthetically significant for their prominent raised siting and landmark qualities at the end of Hitchcock Avenue.

As a late Victorian dwelling, 9 Bridge Road demonstrates the surviving design qualities from 1890, together with the changes made to the place until c.1930. The house is a representative example of late Victorian architecture in Barwon Heads, a style characterised by the architectural form of main gable roof and intersecting gabled wings decorated with timber slats and finials, horizontal weatherboard cladding, corrugated iron roof cladding and a cement rendered chimney with terracotta pots. Whilst having undergone extensions and alterations from the 1930s to the 1990s, the house still retains its late Victorian form. When compared with other nineteenth century houses surviving in Barwon Heads (and on the HO), 9 Bridge Road is comparable in terms of its integrity given that such changes to beach houses were commonplace and exhibited by almost all other examples of nineteenth century houses. (Criterion E)

1 Introduction

1.1 The Amendment

(i) Amendment description

The Amendment proposes to apply a permanent Heritage Overlay to the property at 9 Bridge Road, Barwon Heads and apply permanent tree controls to the mature cypress tree in the front of the property.

(ii) Purpose of the Amendment

The Amendment provides permanent inclusion of the property 9 Bridge Road, Barwon Heads in the Heritage Overlay, which is currently subject to an interim Heritage Overlay control, introduced by Amendment C271 to the Greater Geelong Planning Scheme.

The purpose of the Amendment is to formally recognise the heritage value of the site and apply heritage controls to manage change to the site, having regard to its significance.

(iii) The subject site

The subject site at 9 Bridge Road, Barwon Heads comprises a 954 square metre rectangular allotment on the south-west corner of the main Hitchcock Avenue / Bridge Road intersection. A single storey double gabled weatherboard house is located on a rise and setback towards the rear of the property and a large cypress tree (*Cupressus Macrocarpa*) is located towards the front of the property. The site is located to south of, and across the road from, the main Hitchcock Avenue shopping strip and is zoned Residential Growth Zone. The Amendment applies to all of the land shown in Figure 1.



Figure 1 Aerial photo of 9 Bridge Road, Barwon Heads

1.2 Background to the proposal

A planning permit application (PP1669-2015) was lodged for 9 Bridge Road, Barwon Heads to construct a three-storey building comprising three shops on the ground floor, three dwellings at the first and second floors and a rooftop terrace. As a result of the development, the dwelling would be required to be demolished and the cypress tree removed. Council received more than 100 objections in response to the application.

The planning permit application is subject to an application for review by the Victorian Civil and Administrative Tribunal (VCAT), lodged on behalf of the owner against Council's failure to decide within the prescribed time under section 79 of the *Planning and Environment Act 1987* (the Act). The VCAT Hearing is scheduled to commence on 3 July 2017.

In light of the application, Barwon Heads Association (BHA) commissioned RBA Architects and Conservation Consultants to review and assess the site's heritage values. Given the findings of this assessment, that the place is of potential local significance, the BHA requested Council seek interim heritage protection with a view to introducing a permanent individual Heritage Overlay to the site.

In response to this request, Council commissioned Context Pty Ltd to peer review the RBA report, and found that the property at 9 Bridge Road, Barwon Heads is of local historic, architectural and aesthetic significance to the City of Greater Geelong.

Council requested the Minister for Planning to use his powers under section 20(4) of the Act to apply an interim Heritage Overlay to the site, under Amendment C271. The request was granted and the interim Heritage Overlay is due to expire on 22 December 2017.

Amendment C354 was then prepared and exhibited to apply a permanent Heritage Overlay.

1.3 Summary of issues raised in submissions

In response to exhibition, 76 submissions were received, including one opposing the Heritage Overlay and the remaining submissions in support. The key issues raised in the submissions are briefly summarised as follows:

Submissions in support:

- The Heritage Overlay will contribute toward preserving the cultural identity of Barwon Heads
- 9 Bridge Road is part of a declining group of early Barwon Heads places
- Landmark qualities of the site should be preserved
- The place has individual aesthetic and historic significance
- The proposed development under application PP 1669-2015 is out of character with Barwon Heads
- The house and cypress tree should be retained.

Submission opposing:

- The statement of significance is inaccurate
- Tree controls will unreasonably delay or prevent suitable remedial works
- The Heritage Overlay is being proposed for an ulterior purpose

- Consideration of the Heritage Overlay should be based on the principle of net community benefit
- The Heritage Overlay may undermine the purposes and objectives of the planning scheme
- The application of the Heritage Overlay is unfair.

The Panel has considered all written submissions made in response to the exhibition of the Amendment as well as further submissions, evidence and other material presented to it prior to and during the Hearing, and observations from the site visit.

The Panel has reviewed a large volume of material. The Panel has had to be selective in referring to the more relevant or determinative material in the report. All submissions and materials have been considered by the Panel in reaching its conclusions, regardless of whether they are specifically mentioned in the report.

This report deals with the issues under the following headings:

- Planning context
- Consideration of issues

2 Planning context

Council provided a response to the Strategic Assessment Guidelines as part of the Explanatory Report and in its submission to the Hearing.

The Panel has reviewed Council's response and the policy context of the Amendment, and has made a brief appraisal of the relevant zone and overlay controls and other relevant planning strategies.

2.1 Policy framework

(i) State Planning Policy Framework

Council submitted that the Amendment is supported by the following clauses in the SPPF:

Clause 11.14-1 Localised Planning Statements *"To protect and enhance the valued attributes of the distinctive areas of the Bellarine Peninsula"* (and other areas).

The policy guidelines state that planning must consider where relevant the *Bellarine Peninsula Localised Planning Statement* (Victorian Government, 2015). Within this document, Policy objective 4 is relevant:

To protect, preserve and enhance built heritage, cultural and urban character values and preserve the individual identity and role of townships" with relevant strategies including:

Protect the character of local conservation precincts, places, objects and sites and heritage areas on the Bellarine Peninsula.

Clause 15.01-5 Cultural identity and neighbourhood character has an objective "to recognise and protect cultural identity, neighbourhood character and a sense of place."

Clause 15.03-1 Heritage conservation contains the objective "to ensure the conservation of places of heritage significance" and includes the strategy to "Identify, assess and document places of natural and cultural heritage significance as a basis for their inclusion in the planning scheme."

(ii) Local Planning Policy Framework

Council submitted that the Amendment supports the following local planning objectives:

Clause 21.06-4 *Neighbourhood character* includes objectives to *"Manage the impact of urban change on existing neighbourhoods"*, *"Ensure new development responds to existing neighbourhood character"*, *"Protect areas with a significant garden character"* and *"Protect areas with views to significant landscape features."*

Relevant strategies include *"Acknowledge that neighbourhood character in the Increased Diversity Areas will adapt and evolve over time, particularly within and on the edges of activity centres, whether land use and development will intensify."*

Clause 21.06-5 *Heritage and identity* includes an objective *"to conserve and enhance individual places and areas of pre and post contact cultural heritage significance."*

Clause 21.14 applies to *The Bellarine Peninsula*. In relation to Barwon Heads, policies include maintaining a compact urban form and avoiding outward sprawl, restricting new commercial development to Hitchcock Street and north and south of Bridge Road and that development complements the character of Barwon Heads. The Barwon Heads Structure Plan applies.

Clause 22.09 *Cultural Heritage* applies to all properties within the Heritage Overlay and would guide decision-making on 9 Bridge Road, Barwon Heads, should a Heritage Overlay be applied. A key objective is “to encourage the retention of culturally significant and contributory heritage places within Heritage Overlay areas.”

Clause 22.63 *Increased Housing Diversity Areas* applies to 9 Bridge Road, which is located within the Residential Growth Zone. Objectives include evolving the character of these areas through more intensive development, and ensure that streetscape character in heritage areas is maintained. The Policy basis explains:

Instead of applying a ‘one size fits all’ approach, medium density development should be achieved through a range of housing typologies that best reflect the local context. Increased residential densities will be achieved through a mix of different building forms and scales. New housing in the form of units, townhouses, terrace housing and apartments will depart from the traditional detached housing. In doing so it will respond to unique characteristics of an area such as heritage, significant vegetation, topography and views, which may reduce the development potential. (Council emphasis)

...

For areas of heritage significance, new development should balance the preservation and restoration of the identified heritage place and other opportunities for new housing.

Design objectives encourage sympathetic design responses when addressing unique site characteristics such as heritage places.

The Panel has considered the policy context of the Amendment and considers there is strong policy in both the SPPF and LPPF that places of identified cultural heritage significance should be recognised and protected.

The Panel understands that Council, through its policies, particularly Clause 22.63, also contemplates development in heritage areas/places in the Increased Housing Diversity Areas and expects to manage these issues. In this context, the Panel considers that the Amendment does not undermine policy direction that promotes the strategic direction increased diversity and density.

2.2 Planning scheme provisions

(i) Zoning

9 Bridge Road is located within the Residential Growth Zone. The purpose of the zone is to:

- To provide housing at increased densities in buildings up to and including four storey buildings.

- To encourage a diversity of housing types in locations offering good access to services and transport including activity centres and town centres.
- To encourage a scale of development that provides a transition between areas of more intensive use and development and other residential areas.

Under Schedule 3 to the Residential Growth Zone, additional setback requirements apply to places within the Heritage Overlay.

(ii) Overlays

The Heritage Overlay is the planning tool that identifies, protects and manages change to places of local cultural heritage significance.

The purpose of Clause 43.01 *Heritage Overlay* is:

- *To implement the State Planning Policy Framework and the Local Planning Policy Framework, including the Municipal Strategic Statement and local planning policies.*
- *To conserve and enhance heritage places of natural or cultural significance.*
- *To conserve and enhance those elements which contribute to the significance of heritage places.*
- *To ensure that development does not adversely affect the significance of heritage places.*
- *To conserve specifically identified heritage places by allowing a use that would otherwise be prohibited if this will demonstrably assist with the conservation of the significance of the heritage place.*

The Heritage Overlay comprises a schedule with a list of heritage places and a collection of Heritage Overlay maps. The overlay triggers the requirement for a planning permit for demolition, external alterations, additions, external painting on previously unpainted surfaces and subdivision. The Schedule to the Heritage Overlay also nominates circumstances where additional paint controls, internal controls and tree controls may apply and whether public notification is required to make changes to a particular fence or outbuilding.

The Panel finds the Heritage Overlay is the appropriate Victoria Planning Provisions tool to apply to places of identified cultural heritage significance.

2.3 Ministerial Directions and Practice Notes

(i) Ministerial Directions

Council submitted that the Amendment meets the relevant requirements of Ministerial Direction 11 *Strategic Assessment of Amendments* and Ministerial Direction on the *Form and Content of Planning Schemes* under section 7(5) of the Act. Council also submitted that Ministerial Direction 17 *Localised Planning Statements* is relevant.

The Panel finds that the Amendment meets the requirements of the above Ministerial Directions and that these have been considered in the preparation of the Amendment.

(ii) Planning Practice Notes

Planning Practice Note 1 (PPN01) *Applying the Heritage Overlay* provides guidance regarding the criteria to be used when assessing places for consideration for inclusion within the Heritage Overlay.

The Practice Note requires the process leading to the identification of the place needs to clearly justify the significance of the place as a basis for its inclusion. The documentation for each place must include a statement of significance that clearly establishes the importance of the place and addresses specific heritage criteria.

Thresholds to be applied should be either of 'State significance' or 'Local significance'. 'Local significance' includes those places that are important to a particular community or locality.

The Practice Note provides specific guidance to drafting the Schedule to the Heritage Overlay including how to apply tree controls, external paint controls, internal alterations, identify aboriginal heritage places and allow consideration of prohibited uses.

The Panel finds that the Council has prepared the Amendment consistent with the advice of the Practice Note.

2.4 Discussion

In response to submissions, at the Hearing Council expanded upon the strategic planning context of the Amendment, particularly in relation to the expectation of the planning scheme to recognise and protect fabric of cultural heritage significance. This is a consistent theme through the SPPF, LPPF and the localised planning statement for the Bellarine Peninsula. The Panel notes that the planning scheme, as reflected in the site's zone (Residential Growth Zone) contemplates increased development on and within 400 metres of the shopping strip. Clause 22.63 *Increased Housing Diversity Areas* contemplates changes to heritage places and there is a clear expectation by Council that development and heritage can be managed together.

The Panel considers the Amendment is consistent with the policy and provisions in the planning scheme.

2.5 Conclusion

The Panel concludes that the Amendment is supported by, and implements, the relevant sections of the State and Local Planning Policy Framework, and is consistent with the relevant Ministerial Directions and Practice Notes. The Amendment is well founded and strategically justified, and the Amendment should proceed subject to addressing the more specific issues raised in evidence as discussed in the following chapter.

3 Consideration of issues

3.1 The place

9 Bridge Road, Barwon Heads contains a single storey weatherboard dwelling sited on the corner of Bridge Road and Hitchcock Avenue. The house is symmetrical, comprising two gable ends, tri-part windows with sashes, corrugated iron roof and one of the original chimneys remains. A contemporary deck with a low wooden balustrade is located to the front of an enclosed verandah. A large cypress tree is located within the front setback.



Figure 2 View of 9 Bridge Road, Barwon Heads from Bridge Street
(Source: Context Pty Ltd)

The exhibited Statement of Significance is as follows:

What is significant?

The house and cypress tree (Cupresses Macrocarpa) at 9 Bridge Road, Barwon Heads comprising a late Victorian cottage built c.1890, and including the modifications made to the place up until c.1930s is significant. Significant elements include the single storey gabled roof forms clad in corrugated sheet metal roofing, rendered chimneys, timber bargeboards with timber vertically-slatted gable infill and timber finials, timber weatherboard wall cladding, verandah, mature cypress tree. The siting and substantial setback of the house and the open front garden are also significant aspects of the place.

How is it significant?

The house and cypress tree at 9 Bridge Road, Barwon Heads is of local historic, architectural and aesthetic significance to the City of Greater Geelong.

Why is it significant?

9 Bridge Road is historically significant as a result of its early date of construction (c.1890) and its association with the initial development of the township of Barwon Heads. It is one of a relatively small group of nineteenth century timber houses and public buildings that have survived to enable the interpretation of the first settlement in the township. This historic significance is embodied in the late Victorian design elements of the house.

9 Bridge Road is historically significant for its association with prolific Geelong architect AJ Derrick who is credited with the design of the house, but also a prominent member of Wesley Church Geelong and the architect of the Wesleyan churches in Barwon Heads, Wallington, Ocean Grove and Drysdale. Derrick's successful practice in Geelong contributed the largest number of buildings in this area during 1860 – 1900. Derrick's later career as founding secretary of the Central Methodist Mission at Wesley Church, Melbourne resulted in his life being memorialised in a stained glass window at Wesley Church Yarra Street Geelong (Criterion A).

9 Bridge Road is historically significant for its long association with the Thomas family who owned the property from 1901 to 1992 and used it for holiday purposes. The historical significance of the house is therefore also embodied in the early 20th century changes made to the house under the custodianship of the Thomas family. William Charles Thomas was the founder of WC Thomas & Sons, a successful and highly regarded milling company with mills in Murtoa, Beaufort, Ballarat, Newport and throughout the Wimmera and Mallee in Victoria. WC Thomas is an important figure as an early adopter of the eight-hour day in the milling industry, a Councillor and later President of the Shire of Ripon and a lay preacher of the Methodist Church. (Criterion H).

The cypress tree (the remaining one of a pair planted in c1930s) is historically significant as part of the landscape of the early twentieth century phase of the house under the proprietorship of Thomas family. (Criterion A)

Early photographs in the possession of the Thomas family are significant as an associated collection and have the potential to further illuminate aspects of the property's evolution. (Criterion C)

As a late Victorian dwelling, the single storey house at 9 Bridge Road is architecturally significant in demonstrating the surviving design qualities from 1891, together with the changes made to the place in c.1930. The house is a representative example of late Victorian architecture in Barwon Heads, a style characterised by the architectural form of main traversing gable roof and intersecting gabled wing decorated with timber seats and finial, horizontal weatherboard cladding, corrugated iron roof cladding and a cement rendered chimney with terracotta pots. The early nineteenth century changes made to the place by the Thomas family, including the addition of the gabled wing and front verandah (subsequently enclosed), are representative of the types of modifications made to coastal holiday retreats. (Criterion D)

*9 Bridge Road and the cypress tree (*Cupresses Macrocarpa*) are aesthetically significant for their prominent raised siting and landmark qualities at the end of Hitchcock Avenue. The house is aesthetically significant as part of the work of Geelong based architect AJ Derrick whose modest Carpenter Gothic churches at Wallington, Ocean Grove, Barwon Heads and Drysdale are connected stylistically to the architecture of 9 Bridge Road.*

Whilst having undergone extensions and alterations from the 1930s to the 1990s, the house still retains its late Victorian gable roofed form, decorative gable ends and its symmetrical composition as a result of alterations carried out in the 1930s. When compared with other nineteenth century houses surviving in Barwon Heads (and on the HO), 9 Bridge Road is comparable in terms of its integrity given that such changes to beach houses were commonplace and exhibited by almost all other examples of nineteenth century houses. (Criterion E)

3.2 Issues

Issues raised in this Amendment for the Panel to consider include:

- Is 9 Bridge Road, Barwon Heads of sufficient cultural heritage significance and integrity to warrant inclusion within the Heritage Overlay?
- Given its condition, does the cypress tree warrant inclusion within the Schedule to the Heritage Overlay to apply tree controls?
- Is the Heritage Overlay strategically justified, having regard to the existing zoning and other policies in the planning scheme that encourage higher density development in this area?

3.3 Evidence and submissions

All submissions made to the Amendment, with the exception of one, supported the Amendment.

Opposing submission and evidence

In the written submissions for the owner (Submission 26), Kings Lawyers opposed the application of the Heritage Overlay on the site. The submission questioned the accuracy and appropriateness of the statement of significance, considered the building's integrity has been compromised, the building is not representative of 19th century architecture and the property does not have any special association with the life or work a person important in the history of Barwon Heads. The cypress tree is a poor specimen, a health and safety risk and therefore tree controls should not apply.

A Heritage Assessment prepared by Lovell Chen was circulated as evidence prior to the Hearing. The Assessment reviewed previous heritage assessments and undertook comparative analysis with 11 Grove Road, 31 Ozone Road, 29 Seaview Avenue, 21 Bridge Road, 47 Bridge Road and 8 Ramsgate Street. The Assessment found:

On the basis of the limited comparative analysis undertaken in the preparation of this report, it is noted that the threshold of local significance is unusually low in the Barwon Heads area. It is unlikely that an unremarkable interwar bungalow such as that at 47 Bridge Road would be seen to be of sufficient significance to warrant an individual heritage overlay controls elsewhere in the municipality.

That said, the assessment found 9 Bridge Road dates from the early phase of development of Barwon Heads, is legible and intact to its c.1920 state and survives in a "valued early

landscape". The place compares with similar examples in the Heritage Overlay and *"has some significance at a local level."*

The Lovell Chen assessment recommended the following changes to the statement of significance:

- Criteria C should not apply (which refers to the contribution of early photographs of the site in providing important background information).
- The longstanding relationship between the Thomas family and dwelling does not affect the significance of the place and no association is evident in the fabric.
- There is no relationship between aesthetic significance as part of the catalogue of AJ Derrick's designs.
- Reference to AJ Derrick's contribution to the architecture of the Geelong district between 1860 and 1890 is inaccurate, given he was born in 1862. This should be amended as his practice began in 1885.
- Given the changes to the building, there is no architectural distinction attributed to the place.

In response to the findings of the Lovell Chen report, the Kings submission called for the statement of significance to be replaced with a version prepared by Lovell Chen.

Evidence was also tendered by arboriculturalist Mr Rob Galbraith on the cypress tree. Mr Galbraith was not called to give evidence in person. In his evidence, Mr Galbraith found the tree is over-mature, hazardous and, although it has a life expectancy of 15-20 years, over this time its amenity value would be compromised as the tree would continue to suffer major branch collapse until the whole tree starves and dies.

In light of this evidence, Mr King submitted the significance of the house did not depend on the tree and safety issues outweigh the significance of the tree. He submitted imposing tree controls would be inconsistent with section 4(c) *"to secure a pleasant, efficient and **safe working, living and recreational environment for all Victorians and visitors to Victoria**"* (Mr Kings' emphasis).

The Kings submission considered the intension of the Amendment is to prevent the development of 9 Bridge Road. Although the submission accepted that heritage values of the site have been established, he submitted the proposed Heritage Overlay would compromise, and is in conflict with, the zoning of the site and policy objectives that encourage increased densities in and around the activity centre, citing in particular clauses 21.07 (Economic development and employment) and 21.14 (The Bellarine Peninsula). The submission considered given the significance is at the lower end, competing policies need to be balanced and a decision made on the basis of which policy response (heritage or development) provides the greater community benefit.

It was submitted that the benefits of demolition and redevelopment of a site such as this one could have a net community benefit through an increase housing choice, increase in employment opportunities during construction and increase in vibrancy at a key gateway to the city centre. The heritage issues on the other hand could be dealt with by the erection of a plaque.

It was submitted the Amendment is unfair, with the property owner having purchased the property with no heritage controls and invested in plans for redevelopment and contradicts section 4(1)(a) of the Act

Supporting submissions and evidence

The main themes in supporting submissions included the importance of maintaining a coastal village character, sense of place and cultural identity, the heritage, historical and architectural significance of the house, the contribution of the cypress tree and concern at the rate of development of the town and loss of heritage.

Submissions included:

- 9 Bridge Road is a prominent and significant part of the cultural identity and character of Barwon Heads
- The place has landmark qualities
- Part of the first wave of development and one of the earliest surviving buildings in Barwon Heads
- The house and tree are last remnants of the iconic cypress avenue that lined Hitchcock Avenue on the 19th and 20th centuries.

Many of the submissions provided comment on the proposed development of the site and were concerned with the rate of development of the town and loss of heritage places within it.

Ms Gatehouse of the Barwon Heads Association (Submission 2) explained BHA commissioned the initial heritage assessment for 9 Bridge Road and the community has been strongly engaged in the process of the planning permit application and planning scheme Amendment. She submitted the Heritage Overlay is justified as demonstrated by the four expert opinions that all agree that the place has cultural heritage significance. The site *“reflects the Barwon Heads we grew up with”* and although it is not a perfect architectural example, it forms part of the fabric of the place and streetscape.

Ms Fanning (Submissions 64 and 65) submitted the site is a landmark site in Barwon Heads, and the house and tree epitomise the heritage of the low-lying seaside village. On the matter of potentially conflicting policies, she submitted that the full ambit of planning controls and policy apply to the site but that a balance to those conflicting objectives needs to be achieved in favour of net community benefit and sustainable development. Fundamentally, the issue of balance needs to be considered at the planning permit stage and need not be resolved now. The site meets the heritage criteria set out in the Practice Note and warrants inclusion in the Heritage Overlay.

Dr Martin, called by Ms Fanning to give evidence, considered although the house had undergone modification, it retains the elements of the original early dwelling and is broadly comparable with other early examples in Barwon Heads including 11 Grove Road and 31 Ozone Road, which are included within the Heritage Overlay. He agreed with the assessment of historical significance for association with architect and the Thomas family.

Dr Martin suggested changes to the Statement of significance to remove reference to Criteria C and photographs as they are not as they do not form part of the site and are not afforded protection under the Heritage Overlay, and remove reference to architectural

significance as the place is not architecturally significant given its original design had been compromised.

In response to questioning from Ms Gatehouse on the Lovell Chen assessment that the building is at the “lower end of significance”, Dr Martin considered that the built form reflects its history; buildings were modest as many were holiday homes and considered it was “modest” rather than of less significance.

Regarding the cypress tree, Dr Martin considered it contributes to the landmark quality of the site and tree controls should apply.

Mr Harrison (Submission 29) supported the Amendment and submitted that despite the changes to Barwon Heads, 9 Bridge Road had “*stood the test of time*”. As the site of one of the earliest developments in the township it is a “*visual tangible connection to early settlement.*” He submitted it is “*hard to explain the value of your history unless you have lived in a small township; every small fragment contributes.*” On the cypress tree, Mr Harrison submitted all trees need maintenance and, as acknowledged in the advice of Mr Galbraith, the tree has a substantial potential life expectancy of 25 years.

Mr Hastings (Submission 30) submitted both the building and Cypress tree give a sense of history. Retention of the house and tree through the Heritage Overlay will help convey the seaside feel of the place.

Council submission and evidence

Council explained 9 Bridge Road was initially identified as a 1930s interwar bungalow in the Stage 1 assessment of the ‘*Greater Geelong Outer Areas Heritage Study 2000*’. This initial identification was made due to changes to the building in 1930s to 1940s. While the dwelling was proposed to be part of the Flinders Heritage Precinct, in Stage 2 the precinct was reduced and the property fell outside the precinct.

Further research was undertaken within the community, which ascertained the building was constructed in the 1890s, during the first wave of development in Barwon Heads. As a result the community commissioned RBA Architects to undertake a formal heritage assessment. Council acknowledged that while the planning permit application for the development of the site was a catalyst for the heritage assessment however this does not negate the significance or need for the Amendment.

Council called Ms Honman who gave evidence that 9 Bridge Road is of local heritage significance for its historic, representative and aesthetic values. Having considered the evidence of Dr Martin and Lovell Chen, Ms Honman submitted a revised statement of Significance (Document 3) which:

- deleted Criterion C and reference to early photographs
- removed reference to architectural significance as the place was too compromised with changes to satisfy this criterion
- included additional historic information regarding the Thomas family
- amended dates of contribution of AJ Derrick’s architecture firm to Geelong and district.

Regarding integrity, she considered, despite the post 1930s changes to the building, there was a clear ability to read the place and compare it favourably with other places already included in the Heritage Overlay.

While Ms Honman accepted Mr Galbraith's evidence on face value regarding the condition of the cypress tree, she considered that its size, age, association and, as a remnant of the former Hitchcock cypress avenue, the tree control under the Heritage Overlay was warranted.

On the matter of policy, Council submitted that the application of the Heritage Overlay is not inconsistent with other policies and objectives of the planning scheme. It submitted that the Heritage Overlay does not conflict with policies that promote increased densities around activity centres and in the Residential Growth Zone and that in many cases these policies specifically require that careful consideration is given to heritage values and "*dampen the development expectations if such constraints exist.*" Council advised the Panel that they are in the process of reviewing the Barwon Heads Structure Plan, which commenced in the second half of 2016.

Council maintained that this matter is a "single issue" Amendment. Council submitted that it is an inherent role in planning to weigh up and balance competing policies in favour of net community benefit but this issue is more relevant to a planning permit application. This will be the time when the Residential Growth Zone and policies supporting higher density housing will need to be weighed against the Heritage Overlay and policies requiring respect for heritage and local character.

3.4 Discussion

The Panel has considered the background context of the 2000 Heritage Study and considers that the fact the place was not identified in that study, does not lessen its case for reassessment in light of new information. From time to time further evidence is uncovered, and in this case, that evidence has provided sound justification for inclusion within the Heritage Overlay. Furthermore, the Panel considers, although the place is not an (architecturally) outstanding example in the context of other places within the City of Greater Geelong, the context for comparative analysis is correctly the Barwon Heads township and surrounds. In this context, having considered the evidence, 9 Bridge Road compares very well.

On the matter of heritage significance, the Panel has considered the assessments of RBA Architects, Lovell Chen, Context Pty Ltd, the evidence of Dr Martin and Ms Honman and notes that all of them have found that 9 Bridge Road, Barwon Heads meets the threshold of local significance. The Panel is satisfied with the assessments and that a Heritage Overlay is warranted and meets the criteria of historic and aesthetic significance as a very early, surviving example of the first wave of development in Barwon Heads, it has demonstrated associations with architect AJ Derrick and the Thomas family and has significant landmark qualities within the township of Barwon Heads.

That said, the Panel considers that the statement of significance be should be amended to remove reference to criterion C, architectural significance, clarify the contribution of AJ Derrick as a historical association rather than aesthetic and correct factual information as

highlighted in the evidence of Dr Martin, Ms Honman and Lovell Chen. The Panel is satisfied with the revised statement of significance, tabled at the Hearing (Document 3) which addressed these issues.

Mr Galbraith's evidence provided a useful context to the condition and maintenance issues for the cypress tree. It remains however, that the landmark tree is evocative and makes a strong aesthetic contribution to the site in the foreseeable future and in this context tree controls are justified. The Panel notes that a planning permit is required to lop a tree however this does not apply if the tree is dangerous.

The Panel is cognisant that a planning permit application is currently under consideration to develop the site and that there were many submissions, which raised issues around the strategic context of the site including whether the zoning is appropriate, and expressed views on the planning permit application.

The Panel has not considered the planning permit application as this does not form part of the Amendment. The Panel also notes strategic work currently underway to review the Barwon Heads Structure Plan and its relationship to zoning. These issues however merely provide context for the Panel in relation to submissions. It is not for this Panel to make a recommendation regarding the future outcome of the Structure Plan Review or the planning permit application.

However on the matter of conflicting policies and planning scheme controls, the Panel refers to the Moonee Valley C164 Panel report (page 33) which considered this issue:

The Panel does not wholly agree with Council's position that tensions between Activity Centre planning and heritage protection issues need only be considered at the planning permit application stage.

...

As much as possible Council should ensure that their strategies (such as structure plans) and development controls recognise the heritage significance and attributes of these significant places.

If the place is so significant that it warrants protection and inclusion in a Heritage Overlay then 'strategic' planning should take this into account rather than maintaining or setting up policy and development controls, which have a very high likelihood of undermining the significance of the place. It is just not good enough to set up conflicting policy and then wait for the planning permit application to come in.

The Panel accepts a balance of issues need to be considered in the planning permit process but the strategic framework should be set up so that it is as integrated as possible. In absence of this approach, all too often the heritage place is lost or severely compromised to the extent that it no longer has the integrity to justify its inclusion within the Heritage Overlay.

The Panel notes that 9 Bridge Road is located in the Residential Growth Zone where the purpose is to plan for increased densities and height. There are examples however throughout Victoria where the Heritage Overlay is applied in activity centres or within the

Residential Growth Zone and the two controls are not necessarily mutually exclusive but are guided by clear policies. The Panel understands that Council, through its policies, particularly Clause 22.63, contemplates increased housing diversity but requires more nuanced response for development proposals on sites with unique characteristics, such as heritage. In response to development proposals at planning permit stage, balance may be achieved through design response or by trading off one issue over another depending on the circumstances at the time.

That said, the Panel notes that it is dealing with an Amendment and not a planning permit application. At this stage in the process of identifying and protecting the identified heritage value of 9 Bridge Road the Panel considers that the Heritage Overlay is consistent with the planning policy in the SPPF and LPPF and strategies for Barwon Heads.

3.5 Conclusions

The Panel concludes:

- The land, house and Cypress tree at 9 Bridge Road, Barwon Heads is of aesthetic and historic significance and warrants inclusion within the Heritage Overlay.
- The condition of the cypress tree does not comprise the landmark contribution or significance of the tree to the site. The tree should be included in the Heritage Overlay under 'tree controls.'
- The application of the Heritage Overlay on 9 Bridge Road does not compromise the overall strategic policies for the Barwon Heads township.
- The exhibited statement of significance should be amended to:
 - remove reference to early photographs and Criterion C
 - remove reference to aesthetic significance as part of the work of Geelong based architect AJ Derrick (Criterion A)
 - amend the contribution of AJ Derrick as 1887-1892
 - delete reference to architectural significance
 - include additional historical information pertaining to the Thomas family.

3.6 Recommendations

The Panel makes the following recommendation:

Replace the exhibited Statement of Significance for 9 Bridge Road, Barwon Heads with the following Statement of Significance:

What is significant?

The house and cypress tree (Cupressus Macrocarpa) at 9 Bridge Road, Barwon Heads comprising a late Victorian cottage built c.1890, and including the modifications made to the place up until c1930 is significant. Significant elements include the single storey gabled roof forms clad in corrugated sheet metal roofing, rendered chimneys, timber bargeboards with timber vertically-slatted gable infill and timber finials, timber weatherboard wall cladding and the mature cypress tree. The siting and substantial setback of the house and the open front garden are also significant aspects of the place.

How is it significant?

The house and cypress tree at 9 Bridge Road, Barwon Heads is of local historic and aesthetic significance to the City of Greater Geelong.

Why is it significant?

9 Bridge Road is historically significant as a result of its early date of construction (c1890) and its association with the initial development of the township of Barwon Heads. It is one of a relatively small group of nineteenth century timber houses and public buildings that have survived to enable interpretation of the first settlement in the township. This historic significance is embodied in the late Victorian design elements of the house.

9 Bridge Road is historically significant for its association with prolific Geelong architect A J Derrick who is credited with the design of the house; but also a prominent member of Wesley Church Geelong and the architect of Wesleyan churches in Barwon Heads, Wallington, Ocean Grove and Drysdale. Derrick's successful practice in Geelong contributed a significant number of buildings in the area during 1887 – 1892. Derrick's later career as founding secretary of the Central Methodist Mission at Wesley Church, Melbourne resulted in his life being memorialised in a stained glass window at Wesley Church, Yarra Street Geelong.

The cypress tree (the remaining one of a pair planted in c1930s) is historically significant as part of the landscape of the early twentieth century phase of the house under the proprietorship of Thomas family. (Criterion A)

9 Bridge Road is historically significant for its long association with the Thomas family who owned the property from 1901 to 1992 and used it for holiday purposes. The historical significance of the house is therefore also embodied in the early 20th century changes made to the house under the custodianship of the Thomas family. William Charles Thomas was the founder of W C Thomas & Sons, a successful and highly regarded milling company with mills in Murtoa, Beaufort, Ballarat, Newport and throughout the Wimmera and Mallee in Victoria. W C Thomas & Sons were significant exporters to the UK, South Africa and various Asian countries. W.C. Thomas is an important figure as an early adopter of the eight-hour day in the milling industry, a Councillor and later President of the Shire of Ripon and a lay preacher of the Methodist Church. His son, W.C.F. Thomas was also a prominent agriculturalist who was appointed by the Commonwealth Government to represent the employers' interests at the International Labour Conference of the League of Nations in Geneva in 1924 and 1930. On 3 July 1926, W.C.F Thomas was awarded the Order of the British Empire – Commander (Civil) [C.B.E], for services to the Dried Fruits Board. (Criterion H)

9 Bridge Road and the cypress tree (*Cupressus Macrocarpa*), are aesthetically significant for their prominent raised siting and landmark qualities at the end of Hitchcock Avenue.

As a late Victorian dwelling, 9 Bridge Road demonstrates the surviving design qualities from 1890, together with the changes made to the place until c.1930.

The house is a representative example of late Victorian architecture in Barwon Heads, a style characterised by the architectural form of main gable roof and intersecting gabled wings decorated with timber slats and finials, horizontal weatherboard cladding, corrugated iron roof cladding and a cement rendered chimney with terracotta pots. Whilst having undergone extensions and alterations from the 1930s to the 1990s, the house still retains its late Victorian form. When compared with other nineteenth century houses surviving in Barwon Heads (and on the HO), 9 Bridge Road is comparable in terms of its integrity given that such changes to beach houses were commonplace and exhibited by almost all other examples of nineteenth century houses. (Criterion E)

Appendix A Submitters to the Amendment

No.	Submitter
1	G Bade
2	Barwon Heads Association
3	M Bent
4	T Blomqvist
5	C Bridges
6	M Bridges
7	J Brooks
8	S Brown
9	A Butler
10	M Cairns
11	T Clayton
12	K Cole
13	D Dacomb
14	M Dallinger
15	T Dennis
16	D Dower
17	H Edwards
18	J Evans
19	R Evans
20	D & K Finlayson
21	A & A Gardner
22	S Gatehouse
23	J & F Gaylard
24	K Goudge
25	G Carey
26	Kings Lawyers on behalf of B Gravell
27	T Griffiths
28	D Gunn
29	R Harrison
30	R & P Hastings

No.	Submitter
31	C Hutton
32	M Irvine
33	W Jackson
34	S Jackson
35	S Jackson
36	L & D Jenkins
37	M Keating
38	A Kenter
39	M Kenter
40	W Kibbis
41	I Kibbis
42	A Kuebler
43	R Kuebler
44	M Malakellis
45	L Martin
46	H McCarthy
47	A Merewether
48	P Motteram
49	A Mullen-Walsh
50	D Myers
51	T P & N Nagle
52	P Oakley
53	J Paisley
54	S Paterson
55	B Reidy
56	J Robinson
57	J Romeril
58	V Ronaldson
59	B Roper
60	C Shady
61	S Shaw
62	A Smyth

No.	Submitter
63	V Strachan
64	R Thomas
65	F Thomas
66	D Tricky
67	S Tunnell-Jones
68	S Van Den Bosch
69	A Vile
70	J Wallace-Smith
71	G Wallace-Smith
72	A Webb
73	J Wheal
74	S Wickham
75	D Wilson
76	I Wilson

Appendix B Document list

No.	Date	Description	Tabled by
1	03/03/2017	Council submission	Mr Smith
2	03/03/2017	Victorian Civil and Administrative Order VCAT Ref. 1230/1996	Mr Smith
3	03/03/2017	Revised Statement of Significance	Ms Honman
4	03/03/2017	Ministerial Direction 17 'Localised Planning Statements'	Mr Smith
5	03/03/2017	Bellarine Peninsula Localised Planning Statement, September 2015	Mr Smith
6	03/03/2017	Clause 21.14 of Greater Geelong Planning Scheme titled 'The Bellarine Peninsula'	Mr Smith
7	03/03/2017	Clause 22.63 of Greater Geelong Planning Scheme titled 'Increased Housing Diversity Areas'	Mr Smith
8	03/03/2017	Barwon Heads Structure Plan Bulletin No. 3, October 2016	Mr Smith
9	03/03/2017	Submission	Ms Fanning
10	03/03/2017	Submission	Ms Gatehouse
11	7/03/2017	Post Hearing revised Statement of Significance	Mr Smith