

**Boroondara Planning Scheme Amendment C341boro  
12 – 14 Tannock Street, Balwyn North**

**Panel Report**

*Planning and Environment Act 1987*

**8 July 2021**

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### How will this report be used?

This is a brief description of how this report will be used for the benefit of people unfamiliar with the planning system. If you have concerns about a specific issue you should seek independent advice.

The planning authority must consider this report before deciding whether or not to adopt the Amendment.

[section 27(1) of the *Planning and Environment Act 1987* (the PE Act)]

For the Amendment to proceed, it must be adopted by the planning authority and then sent to the Minister for Planning for approval.

The planning authority is not obliged to follow the recommendations of the Panel, but it must give its reasons if it does not follow the recommendations. [section 31 (1) of the PE Act, and section 9 of the *Planning and Environment Regulations 2015*]


If approved by the Minister for Planning a formal change will be made to the planning scheme. Notice of approval of the Amendment will be published in the Government Gazette. [section 37 of the PE Act]

### *Planning and Environment Act 1987*

Panel Report pursuant to section 25 of the PE Act

Boroondara Planning Scheme Amendment C341boro41boro

8 July 2021

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Gabby McMillan, Chair

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## Appendix A Document list

### Glossary and abbreviations

|                      |  |
|----------------------|--|
| Council              | Boroondara City Council  |
| Draft Heritage Study | draft <i>Balwyn and Balwyn North Heritage Study (incorporating Deepdene and Greythorn)</i> prepared by Built Heritage completed in June 2014 |
| PE Act               | <i>Planning and Environment Act 1987</i>   |
| Thematic History     | <i>Thematic Environment History (City of Boroondara) 2012</i>  |

## Overview

### Amendment summary

|                    |  |
|--------------------|--|
| The Amendment      | Boroondara Planning Scheme Amendment C341boro  |
| Common name        | 12 – 14 Tannock Street, Balywn North   |
| Brief description  | Introduction of heritage controls  |
| Subject land       | 12 – 14 Tannock Street, Balywn North   |
| Planning Authority | Boroondara City Council  |
| Authorisation      | 7 September 2020   |
| Exhibition         | 3 December 2020 – 1 February 2021  |
| Submissions        | Number of Submissions: 35 Opposed: 6 and 9 submissions seeking changes to the Amendment. |

### Panel process

|                        |   |
|------------------------|---|
| The Panel              | Gabby McMillan  |
| Directions Hearing     | Video conference, 12 May 2021   |
| Panel Hearing          | Video conference, 15 – 16 June 2021   |
| Site inspections       | Unaccompanied, 23 May and 14 June 2021  |
| Parties to the Hearing | Boroondara City Council represented by Nick Brennan<br>Jacqui Alexander<br>Christina Branagan<br>Sandra Alexander, represented by Jacqui Alexander<br>Robin Boyd Foundation, represented by Tony Isaacson |
| Citation               | Boroondara PSA C341boro [2021] PPV  |
| Date of this report    | 8 July 2021   |

## Executive summary

Boroondara Planning Scheme Amendment C341boro (the Amendment) seeks to introduce a heritage control on land at 12-14 Tannock Street Balwyn North. Specifically, the Amendment proposes to:

- amend the Schedule to Clause 43.01 (Heritage Overlay) to include HO928
- introduce a new Map No. 5HO to apply a permanent Heritage Overlay HO928 on the subject site
- amend the Schedule to Clause 72.04 to introduce a new Statement of Significance for 12-14 Tannock Street, Balwyn North.

Key issues raised in submissions included:

- the fact that Council was pursuing the Amendment, despite abandoning the *Balwyn and Balwyn North Heritage Study (incorporating Deepdene and Greythorn)* in 2015
- changes had been made to the property and it no longer represented the original design
- the Amendment would detrimentally impact property value
- the property should be placed under more rigorous heritage controls.

The Amendment follows earlier work by Council in its draft *Balwyn and Balwyn North Heritage Study (incorporating Deepdene and Greythorn)* completed in June 2014. In 2015 Council resolved to abandon of that study. The subject site was identified in that earlier study as a candidate for heritage protection.

It is apparent that Council initiated the Amendment in response to strong community support for the protection of this property. The Council relied on its previous heritage work and a more recent site specific review completed by Mr Simon Reeves to support the Amendment.

It would have been preferable to incorporate this property into a broader heritage study of Balwyn and Balwyn North, rather than assessing it as an individual property. However, the Panel is required to consider the merits of the Amendment having regard to relevant heritage policy and the criterion in Planning Practice Note 1- Applying the Heritage Overlay.

The Panel considers that the house at 12-14 Tannock Street is of local heritage significance. The original post-war house, designed by Robin Boyd in 1948 is still legible. The key features of the house, including a large plate glass window and batten shade structures are still present. While the house has been extended on two occasions, both of these extensions were designed by Robin Boyd. The house provides an example of how simple post-war houses could sympathetically evolve over time to suit the changing needs of the family.

The Panel concludes:

- that it would have been preferable to incorporate this property into a broader heritage study of Balwyn and Balwyn North, rather than assessing it as a site-specific amendment
- the Amendment still needs to be assessed on its merits, regardless of the process preceding the Amendment
- the repainting of the dwelling and alterations to the driveway do not detract from the heritage significance of the building
- that the extensions to the house, also designed by Robin Boyd, contribute to the heritage significance of the building

- development opportunity, building alterations and maintenance requirements will not be unreasonably impacted by the introduction of the Heritage Overlay
- the Heritage Overlay will not result in unreasonable adverse social or economic impacts or delivery of housing land supply
- property value and financial implications are not relevant when assessing heritage significance or when deciding whether to apply a Heritage Overlay
- the house at 12-14 Tannock Street is of local significance and should be included in the Heritage Overlay
- more rigorous controls have not been justified
- no change is required to the exhibited Heritage Overlay or exhibited Statement of Significance.

### **Recommendations**

Based on the reasons set out in this Report, the Panel recommends that Boroondara Planning Scheme Amendment C341boro be adopted as exhibited.

# 1 Introduction

## 1.1 The Amendment

### (i) Amendment description

The purpose of the Amendment is to introduce a heritage control on the land at 12-14 Tannock Street, Balwyn North.

Specifically, the Amendment proposes to:

- amend the Schedule to Clause 43.01 (Heritage Overlay) to include HO928
- introduce a new Map No. 5HO to apply a permanent Heritage Overlay HO928 to the subject land
- amend the Schedule to Clause 72.04 to introduce a new Statement of Significance for 12-14 Tannock Street, Balwyn North.

### (ii) The subject land

The Amendment applies to land at 12-14 Tannock Street, Balwyn North.

The site is within an established residential area and is developed with a dwelling designed by Robin Boyd.

## 1.2 Background

The draft *Balwyn and Balwyn North Heritage Study (incorporating Deepdene and Greythorn)* (Draft Heritage Study) was completed in June 2014. That study identified 26 properties and four precincts to be included in the Heritage Overlay. The house at 12-14 Tannock Street, Balwyn North was one of these 26 properties.

On 7 September 2015, Council resolved that it would not proceed with the Draft Heritage Study.

On 20 March 2017, Council resolved to undertake a peer review of the Draft Heritage Study. However, the peer review specifically excluded post-World War 2 properties<sup>1</sup> from its consideration. Stages 1 and 2 of that peer review process culminated in Amendment C276 and Amendment C318 to the Boroondara Planning Scheme respectively. These two amendments have been approved and gazetted.

On 17 August 2020 Council resolved to seek interim heritage protection for the site and to seek authorisation for an amendment to introduce permanent heritage controls.

The initial request for interim heritage protection was denied, however a second request for interim protection was made after Council received an application for Report and Consent for Demolition under Section 29A of the *Building Act 1993* in May 2021.

The Amendment relies on the assessment completed in the Draft Heritage Study and more recent updates to the citation prepared in November 2020, prior to exhibition of the Amendment.

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<sup>1</sup> Defined by Council as buildings which have been constructed in 1946 or later.

## 1.3 Procedural issues

The Robin Boyd Foundation circulated an 'expert witness statement' from Professor Phillip Goad. Professor Goad declared that he was a Board member of the Robin Boyd Foundation. On that basis, the Panel wrote to parties prior to the Hearing and indicated that it proposed to treat Professor Goad as a lay witness given his lack of independence. At the Hearing, no parties opposed this approach.

Council called Simon Reeves as an expert witness. In his statement, Mr Reeves also indicated that he had previously been a member of the Robin Boyd Foundation. At the Hearing the Panel asked Mr Reeves the nature of his involvement and the time passed since he had been a member. Mr Reeves could not recall how long it had been since his membership had lapsed, but indicated that the purpose of the membership was to receive information and news. The Panel noted this and indicated that it would treat Mr Reeves as an expert, noting his prior involvement in the Draft Heritage Study. No parties at the Hearing opposed this approach.

The owners of the site made a submission to the Amendment and were represented by lawyers at that time. The owner did not become party to the Hearing. In order to confirm the owner received notice of the Hearing, the Panel wrote to the owner's advocate and directly to the current owner to advise that the Hearing was proceeding. The Panel did not receive a response from the owner.

## 1.4 Summary of issues raised in submissions

### (i) Planning Authority

The key issue for Council was the strategic justification for the Amendment.

### (ii) Individual submitters or groups of submitters

The key issues for submitters were:

- the fact that Council was pursuing the Amendment, despite abandoning the *Balwyn and Balwyn North Heritage Study (incorporating Deepdene and Greythorn)* in 2015
- changes had been made to the property and it no longer represented the original design
- the Amendment would detrimentally impact on property value
- the property should be placed under more rigorous heritage controls.

These submissions have not been resolved.

## 1.5 The Panel's approach

The Panel has assessed the Amendment against the principles of net community benefit and sustainable development, as set out in Clause 71.02-3 (Integrated decision making) of the Planning Scheme.

The Panel considered all written submissions made in response to the exhibition of the Amendment, observations from site visits, and submissions, evidence and other material presented to it during the Hearing. It has reviewed a large volume of material, and 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
- Strategic matters
- Changes to the property
- Development opportunity
- Property value and financial implications
- Significance of the place.

## 2 Planning context

### 2.1 Planning policy framework

Council submitted that the Amendment is supported by various clauses in the Planning Policy Framework, which the Panel has summarised below.

#### Victorian planning objectives

The Amendment will implement section 4(1)(d) of the *Planning and Environment Act 1987* (the Act) 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
- balance the present and future interests of all Victorians.

#### Planning Policy Framework

The Amendment supports:

- **Clause 15.01-5S** (Neighbourhood character) which seeks to recognise, support and protect neighbourhood character, cultural identity, and sense of place.
- **Clause 15.03-1S** (Heritage conservation) which seeks to ensure the conservation of places of heritage significance. Relevant strategies are:
  - Identify, assess and document places of natural and cultural heritage significance as a basis for their inclusion in the planning scheme.
  - Provide for the protection of natural heritage sites and man-made resources and the maintenance of ecological processes and biological diversity.
  - Provide for the conservation and enhancement of those places which are of, aesthetic, archaeological, architectural, cultural, scientific, or social significance.
  - Encourage appropriate development that respects places with identified heritage values.
  - Retain those elements that contribute to the importance of the heritage place. Encourage the conservation and restoration of contributory elements.
  - Ensure an appropriate setting and context for heritage places is maintained or enhanced.

#### Clause 21 (the Municipal Strategic Statement)

The Amendment supports the MSS by:

- Clause 21.04-5 (Built Heritage and Environment) by identifying and protecting individual places of cultural value.

#### Clause 22 (local planning policies)

The Amendment supports local planning policies by:

- Clause 22.03-2 (Heritage Policy) by protecting all significant heritage fabric including elements that cannot be seen from the public realm.

## 2.2 Other relevant planning strategies and policies

### (i) Plan Melbourne

*Plan Melbourne 2017-2050* sets out strategic directions to guide Melbourne's development to 2050 to ensure it becomes more sustainable, productive and liveable as its population approaches 8 million. It is accompanied by a separate implementation plan that is regularly updated and refreshed every five years.

Plan Melbourne is structured around seven Outcomes, which set out the aims of the plan. The Outcomes are supported by Directions and Policies, which outline how the Outcomes will be achieved. The following are relevant to the Amendment:

- **Outcome 4:** Melbourne is a distinctive and liveable city with quality design and amenity
  - **Direction 4.4:** Respect Melbourne's heritage as we build for the future
    - **Policy 4.4.1:** Recognise the value of heritage when managing growth and change
    - **Policy 4.4.4:** Protect Melbourne's heritage through telling its stories.

### (ii) Local Heritage Action Plan

The Heritage Action Plan was adopted by Council on 2 May 2016. It establishes a framework to guide Council's heritage work program as it relates to the identification, protection, management and promotion of Boroondara's heritage assets.

The Amendment is consistent with 'ongoing' priority action OAR26:

Prepare and implement heritage controls to properties identified as 'individually significant' in the Balwyn, Balwyn North and Deepdene Heritage Study.

### (iii) Thematic History referenced in local policy

The *Thematic Environment History (City of Boroondara) 2012* (Thematic History) is referenced at Clause 21.04 of the Planning Scheme. The Thematic History was referred to by Mr Reeves in his evidence statement by way of background. It was prepared by Mr Reeves just before he was engaged to prepare the Draft Heritage Study in 2012.

The Thematic History identifies<sup>2</sup> that:

In the post-war period, prominent Melbourne architects and firms have continued to undertake some of their best and most well-known commissions within the boundaries of the study area. The celebrated Robin Boyd (1919-1971) made an early and significant contribution to the study area when he designed his own house in Riversdale Road, Camberwell in 1946; he went on to undertake most of his other early commissions in the surrounding suburbs: the Pettigrew House in Studley Park (1945) and the Dainty Frocks factory in Church Street, Hawthorn (1946; demolished) – both designed in association with his early partners Frank Bell and Kevin Pethebridge – and, later, under his own name, a series of smart modernist houses in the Balwyn area for the Dunstan (1949), Wood (1950), Harbig (1951; demolished) and Gillison (1952) families. This strong local association continued after 1953, when Boyd entered into partnership with Roy Grounds and Frederick Romberg. The firm of Grounds, Romberg & Boyd (later Romberg & Boyd) went on to design many more houses – again, mostly located in Studley Park (eg for the Wilson, Haughton-James, Cowen, Clemson, Date, Lawrence and Purves families) and North Balwyn (eg for the

<sup>2</sup> Chapter 9.3.2 (Designing fine buildings – The work of prominent Melbourne Architects) page 230

Brown, Latchford and John Boyd families) and as well as at least two others in Glen Iris, and renovations to Hector Crawford's house in Mont Albert Road, Canterbury.

## 2.3 Planning scheme provisions

The Heritage Overlay purposes are:

- 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 requires a planning permit to demolish, subdivide, build or carry out works. The Heritage Overlay enables its Schedule to specify additional controls for specific trees, painting previously unpainted surfaces, internal alterations and an incorporated plan (which may exempt buildings and works and other changes from requiring a planning permit). The Schedule may also identify if a place can be considered for uses that are otherwise prohibited, subject to a planning permit.

## 2.4 Ministerial Directions and Practice Notes

### Ministerial Directions

The Explanatory Report discusses how the Amendment meets the relevant requirements of:

- Ministerial Direction 11 (Strategic Assessment of Amendments)
- Ministerial Direction (The Form and Content of Planning Schemes pursuant to section 7(5) of The Act) – referred to as Ministerial Directions 7(5) in this Report.

That discussion is not repeated here.

### Planning Practice Note 1 – Applying the Heritage Overlay (August 2018)

Planning Practice Note 1 provides guidance about using the Heritage Overlay. It states that the Heritage Overlay should be applied to, among other places:

Places identified in a local heritage study, provided the significance of the place can be shown to justify the application of the overlay.

Planning Practice Note 1 specifies that documentation for each heritage place needs to include a Statement of Significance that clearly establishes the importance of the place and addresses the heritage criteria. It recognises the following model criteria (the Hercon criteria) that have been adopted for assessing the value of a heritage place:

- Criterion A:** Importance to the course or pattern of our cultural or natural history (historical significance).
- Criterion B:** Possession of uncommon rare or endangered aspects of our cultural or natural history (rarity).
- Criterion C:** Potential to yield information that will contribute to an understanding of our cultural or natural history (research potential).

- Criterion D:** Importance in demonstrating the principal characteristics of a class of cultural or natural places or environments (representativeness).
- Criterion E:** Importance in exhibiting particular aesthetic characteristics (aesthetic significance).
- Criterion F:** Importance in demonstrating a high degree of creative or technical achievement at a particular period (technical significance).
- 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).
- Criterion H:** Special association with the life or works of a person, or group of persons, of importance in our history (associative significance).

## 2.5 Discussion and conclusion

The Planning Scheme supports the protection of cultural heritage values. Clause 21.04-5 (Built Heritage and Environment) seeks to identify and protect places of cultural value. Council's Thematic History recognises the importance of the architect Robin Boyd, including his early commissions in the municipality which included a series of smart modernist houses in Balwyn.

As discussed in Chapter 7, the Panel considers that the house at 12-14 Tannock Street is of local heritage significance and its protection is strategically justified. While the house has been modified over time, the 1948 design and its key features are clearly legible. The fact that the house has been extended over time, according to later Robin Boyd designs, contributes to its significance.

For the reasons set out in the following chapters, the Panel concludes that the Amendment is supported by, and implements, the relevant sections of the Planning Policy Framework, 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 submissions as discussed in the following chapters.

## 3 Strategic matters

### 3.1 Issue

Whether the Amendment is:

- inconsistent with previous resolutions of the Council
- out of sequence with other broader heritage investigations.

### 3.2 Evidence and submissions

In written submissions, concerns were raised that the Amendment contradicted Council's earlier resolution to abandon the Draft Heritage Study in 2015. It was submitted that the Draft Heritage Study was not adopted by Council and therefore could not form the basis for the Amendment.

Other submitters welcomed the Amendment, submitting that it was timely to introduce heritage controls on the property. Several submitters supported more rigorous controls than what is proposed under the Amendment.

Council submitted that when it abandoned the Draft Heritage Study in 2015, it did not resolve that Balwyn properties should never be considered as having heritage significance. Council referred to its more recent decision to conduct a peer review of the Draft Heritage Study in 2017.

Council explained that the Amendment was progressed in response to community concerns:

In July 2020 Council was made aware of an online petition seeking to protect 12-14 Tannock Street, Balwyn North. The petition was hosted on change.org and was prompted by the proposed sale of the site.

The property had been identified in the 2015 draft study as having individual significance, and had been recommended for heritage protection prior to the study being abandoned.

Given the significant community concern around the potential loss of the subject property that was identified to have individual significance, on 17 August 2020 the UPSC [Urban Planning Special Committee] resolved to seek interim heritage protection of the property through the Minister for Planning and to request Ministerial authorisation to prepare and exhibit a planning scheme amendment for permanent heritage protection.

In oral submissions, Council indicated that it was less common for the Council to progress site specific heritage amendments. Council submitted it was more common for Council to conduct a broader heritage study in the lead up to an amendment process. Mr Brennan submitted that Council was due to commence work on a further Balwyn wide heritage study in the near future, which would consider post-war properties. However, in response to questions from the Panel, Mr Brennan indicated that the process could take up to two years.

### 3.3 Discussion

The Panel notes submitter concerns regarding Council's changeable approach to the protection of post-war heritage in the municipality. The Thematic History of the City, as referenced at Clause 22.04 of the Planning Scheme recognises the role of Robin Boyd in the post-war period. However, Council has resolved on several occasions to exclude post-war properties from its consideration of heritage protection.

The sequence of events leading to the Amendment is unusual. The Amendment was initiated in response to community support for the protection of this particular post-war property. Council have progressed the Amendment to protect an individual property. At the same time Council explained that it had also decided to advance a suburb wide assessment of post-war heritage in Balwyn and Balwyn North, based on its early Draft Heritage Study.

The Panel does not agree with submitters who say the Amendment cannot proceed due to earlier resolutions of Council. The Council is required to review its Planning Scheme on a regular basis, including its heritage policy. The fact that Council did not pursue the protection of post-war properties in the past, does not preclude it from doing so in the future as part of its strategic planning work.

The Panel considers that it would have been preferable to incorporate this property into a broader study of Balwyn and Balwyn North. This would be consistent with Council's usual strategic approach. However, the Panel is required to assess the merits of the proposed heritage controls regardless of the process which led to the Amendment. Ultimately, the Panel needs to determine whether the Amendment is strategically justified and meets the requirements in Planning Practice Note 1 – Applying the Heritage Overlay.

### **3.4 Conclusions**

The Panel concludes:

- that it would have been preferable to incorporate this property into a broader heritage study of Balwyn and Balwyn North, rather than assessing it as a site specific amendment
- the Amendment still needs to be assessed on its merits, regardless of the process preceding the Amendment.

## 4 Changes to the property

### 4.1 The issue

The issue is whether changes to the property (including building extensions) have detracted from its heritage significance.

### 4.2 Evidence and submissions

In written submissions, several submitters indicated that the house had been altered and no longer represented the original Robin Boyd design. There were two key elements of concern raised in such submissions:

- that the repainting and alterations to the driveway had altered the house
- that the house had been extended on two occasions and therefore no longer reflected the 1948 design.

#### Repainting and driveway

Council submitted that the repainting and changes to the driveway did not alter the significance of the dwelling. It submitted that these changes did not detract from the heritage fabric.

Mr Reeves gave evidence on behalf of Council that:

Overpainting of a previously painted surface represents typical cyclical maintenance work for any building. In this case, it is not considered to be an alteration that has defaced or disfigured the building, nor compromised its ability to be interpreted as an example of Boyd's work. The current colour scheme is not considered to be unsympathetic or intrusive.

In relation to the alterations to the driveway, Mr Reeves gave evidence that:

The consultant does not concur that the driveway has been altered to the extent that it has "substantially changed the look of the house overall". When the current driveway configuration (Figure 1) is compared to the working drawings from Boyd's 1971 works (Figure 2), it is apparent that little has changed. The distinctive retaining walls of volcanic rock remain evident, although the wall along the left (north) side of the driveway has apparently been straightened, as the kink indicated on the 1971 plans is no longer evident. This is of no consequence: the rock wall had already been altered once during Boyd's period, when the new steps were formed in 1971. The most obvious change has been the replacement of the concrete finish to the driveway and footpath with recycled brick paving (in the former case, in a radial pattern). This potentially reversible change is not considered to be an unsympathetic or intrusive alteration that has "substantially changed the look of the house overall". If anything, the re-configuration of the driveway's north wall has served only to expose more of the building's façade to public view.

#### Extensions to the house

Council submitted that the extensions did not detract from the significance of the building. It submitted that the fact that Robin Boyd had designed both extensions, possibly made the building more significant.

In relation to the extensions, Mr Reeves gave evidence that the 1948 dwelling could still be interpreted. He gave evidence that:

The consultant [Mr Reeves<sup>3</sup>] does not concur that the house has been altered to an extent that the 1948 dwelling can no longer be interpreted. One of the most distinctive elements of the original house, namely its massive full-width plate glass window and slatted eaves (memorably recorded in photograph published in the *Australian Home Beautiful* in 1950; see Figure 3), still dominates the street frontage (Figure 4). The fact remains that, as the additions made in 1959 and 1971 were carefully conceived by Boyd himself, they contribute to the significance of the place rather than detract from it.

Professor Goad submitted<sup>4</sup> that the plate glass windows, battens and sunshades from the original 1948 design are still clearly evident. In response to questions during the Hearing, Professor Goad said that the cumulative additions designed by the same architect for the same family added to the significance. He submitted that it was a special dwelling as it explained how people lived in the post-war era and set a new standard in 1950s design.

### 4.3 Discussion

The Panel agrees that the alterations to the house do not detract from its heritage significance. The painting and alterations to the driveway are considered cosmetic alterations that do not detract from the 1948 design of the property.

The Panel agrees with evidence of Mr Reeves that the extensions designed by Robin Boyd, contribute to its significance. These extensions provide an example of how a dwelling can be expanded over time to respond to the changing needs of the family. The extensions also illustrate how such extensions can occur in a sympathetic manner, retaining the key elements from the 1948 design.

The Statement of Significance for the building does not specifically refer to the driveway. Instead, it refers to the hard landscape, including the rock retaining walls, paved pathways and timber steps. This is considered appropriate, given the driveway has been altered.

### 4.4 Conclusion

The Panel concludes that:

- the repainting of the dwelling and alterations to the driveway do not detract from the heritage significance of the building
- that the extensions to the house, also designed by Robin Boyd, contribute to the heritage significance of the building.

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<sup>3</sup> The Panel confirmed during the hearing that references to 'the consultant' in Mr Reeves' witness statement, was a reference to Mr Reeves

<sup>4</sup> As a lay witness

## 5 Development opportunity

### 5.1 The issue

The issue is whether development opportunity and maintenance requirements are unreasonably impacted by the proposed heritage protection.

### 5.2 Evidence and submissions

In written submissions, concerns were raised regarding the broader consequences of the Heritage Overlay on future development opportunities at the site. One submitter said that the Heritage Overlay would have adverse social and economic effects on the local area.

In response to questions from the Panel, Council submitted that the fact that the house sat over two lots was not significant in a broader planning policy context. Council submitted that it had already provided sufficient land for urban intensification and that the theoretical additional lot in this location was not required to meet its housing needs.

Mr Isaacson, on behalf of the Robin Boyd Foundation submitted that it was not appropriate to consider broader urban consolidation policies as part of this Amendment. In oral submissions he said this was not relevant to the Panel's consideration.

Ms Branagan submitted that Boroondara had already provided a wealth of accommodation, meeting its obligations for housing supply.

Professor Goad submitted that the heritage control would not inhibit the continued use of the dwelling as a family home. He submitted that:

... I believe that given the house's high external integrity and occupation for more than fifty years as a family home, a Heritage Overlay will not preclude the property's contemporary liveability nor preclude sympathetic internal alterations as required.

### 5.3 Discussion

All planning scheme amendments must implement the objectives of planning in Victoria and respond to environmental, social and economic effects. The Panel is therefore required to consider how the Amendment would affect broader policy objectives, including those relating to economic effects, land supply and cultural heritage values.

The Panel accepts the submissions of Council, that its broader housing supply requirements can be achieved in other parts of the municipality.

The Panel agrees with Professor Goad that the house is still in a liveable condition. No internal controls are proposed, therefore ongoing refurbishments could be undertaken without a planning permit requirement under the Heritage Overlay. The Panel considers that the liveability of the dwelling would not be unreasonably restricted by the application of the Heritage Overlay.

### 5.4 Conclusions

The Panel concludes that:

- development opportunity, building alterations and maintenance requirements will not be unreasonably impacted by the introduction of the Heritage Overlay.

- the Heritage Overlay will not result in unreasonable adverse social or economic impacts or delivery of housing land supply.

## 6 Property value and financial implications

### 6.1 The issue

The issue is whether property value and financial implications are relevant when assessing heritage significance or when deciding whether to apply a Heritage Overlay.

### 6.2 Evidence and submissions

In written submissions, some concerns were raised in relation to the consequential implications of the Heritage Overlay.

Council submitted that:

Council cannot consider impacts on land values with respect to the application of heritage controls. Heritage controls are recommended to individual properties and precincts based on the technical assessment of a qualified heritage consultant based on the criteria set out in Practice Note 1: Applying the Heritage Overlay. Planning Panels for similar heritage amendments have consistently concluded that private economic effects, such as potential impacts upon land values or the individual financial circumstances of the landowner are outside the scope for consideration (e.g. Melbourne C207 Panel and Moreland C149 Panel). The Planning and Environment Act 1987 requires the consideration of broader, community-wide economic impacts. The application of a Heritage Overlay on any single property is unlikely to have such broad negative economic impacts.

### 6.3 Discussion

The Panel agrees with the submissions of Council. The impact of the Amendment on the value of the individual property is not a relevant consideration. Broader economic effects are relevant, these are discussed in Chapter 5.

### 6.4 Conclusion

The Panel concludes that:

- property value and financial implications are not relevant when assessing heritage significance or when deciding whether to apply a Heritage Overlay.

## 7 Significance of the place

### 7.1 Statement of Significance

#### Exhibited Statement of Significance

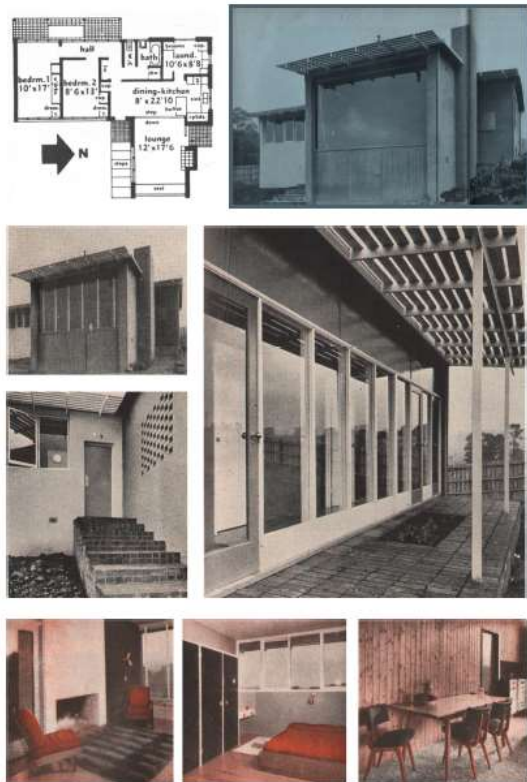


Figure 1: Indicative floorplan of original house (top left) and various early photographs  
Source: *Australian Home Beautiful*, October 1950

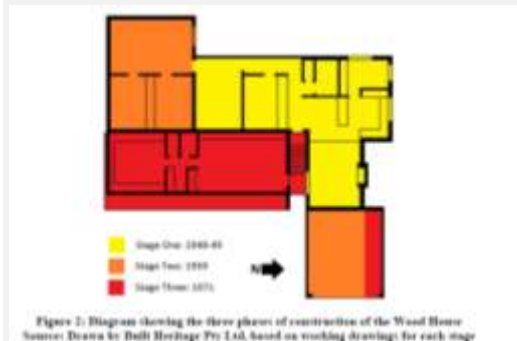


Figure 2: Diagram showing the three phases of construction of the Wood House  
Source: Drawn by Built Heritage Pty Ltd, based on working drawings for each stage

#### What is significant?

The former Wood House at 12-14 Tannock Street, Balwyn North, is a single-storey gable-roofed brick house with an elongated split-level plan that spreads across its double block. Designed by Robin Boyd for chemist Don Wood and his family, the house was realised in three stages built over more than 20 years: the original modest two-bedroom house (1948-49), expanded with garage and a bedroom/playroom wing (1959) and a further addition with en suite master bedroom and further living area (1971).

The significant fabric is designed as the entire exterior of the house (encapsulating all three stages designed by Robin Boyd), as well as hard landscaping to the extent of the rock retaining walls, paved pathways and timber steps as shown on Boyd's drawings.

#### How is it significant?

The former Wood House is of architectural, aesthetic and associative significance to the City of Boroondara.

#### Why is it significant?

The house is architecturally and aesthetically significant as a notable achievement in modernist residential architecture. The original house was designed and built in 1948-49, when private homebuilding was still hampered by wartime restrictions on labour and building materials. Nevertheless, the house encapsulated many of the innovative ideas associated with the burgeoning

modernist movement, such as open-planning, split-level design and extensive glazing (most notably in this case, with an improbably large single-pane plate glass window). Its elongated plan form, low roofline and generous glazing also articulated a distinct housing form described by Boyd as the “Victorian” type, which prominently recurs in his early output (including plans that he prepared for the Small Homes Services) as well as in later works. The original house was extended to Boyd’s design in 1959 and again in 1971, providing evidence of the architect’s skill and sensitivity in making additions to his own work, simultaneously demonstrating a continuity of form, finishes and details while still being readily identifiable as later accretions. **(Criterion E; Criterion F)**

The house is significant for associations with eminent architect and writer Robin Boyd. Documented in late 1948, the house was one of the first projects undertaken by Boyd after he left the partnership of Kevin Pethebridge and Frank Bell, effectively embracing sole practice whilst employed as foundation director of the Small Homes Service. The house demonstrates rarity as one of relatively few surviving examples from this brief but seminal phase of Boyd’s career, prior to his celebrated partnership with Roy Grounds and Frederick Romberg. It is one of several outstanding early houses by Robin Boyd in the Balwyn and Balwyn North area, which, considered collectively, provide rare and valuable evidence of the innovation, boldness and fresh design approaches of a young architect on the cusp of an illustrious career. **(Criterion B; Criterion H)**

## 7.2 The issues

The issues are whether:

- the place is of local significance
- more rigorous controls are required.

## 7.3 Relevant policies, strategies and studies

### Planning Practice Note 1

Planning Practice Note 1 states that the Heritage Overlay should be applied to, among other places:

Places identified in a local heritage study, provided the significance of the place can be shown to justify the application of the overlay.

Planning Practice Note 1 includes criterion for the assessment of the value of a heritage place. In this instance, Council submitted that the following criterion are relevant:

- Criterion B:** Possession of uncommon rare or endangered aspects of our cultural or natural history (rarity).
- Criterion E:** Importance in exhibiting particular aesthetic characteristics (aesthetic significance).
- Criterion F:** Importance in demonstrating a high degree of creative or technical achievement at a particular period (technical significance).
- Criterion H:** Special association with the life or works of a person, or group of persons, of importance in our history (associative significance).

### Thematic History references in local policy

The Thematic History is referenced at Clause 21.04 of the Planning Scheme. The Thematic History was referred to by Mr Reeves in his evidence statement by way of background. It prepared by Mr Reeves just before he was engaged to prepare the Draft Heritage Study in 2012. As outlined in Chapter 2 of this report, the Thematic History recognises the role of prominent Melbourne architects, including Robin Boyd in the municipality. It recognises Robin Boyd’s earlier series of smart modernist homes in the Balwyn area.

## 7.4 Evidence and submissions

### Local significance

In written submissions, concerns were raised in relation to the lack of rigour in the assessment process. Submitters said that the house was not representative of Boyd's best work and that the Amendment represented a 'blind scramble' to list all Boyd homes as heritage property without any regard for the features of each house.

Submitters said that other houses in Boroondara were more representative of Boyd's work, including the 'Fortuna House' and the 'Gillison House'. Submitters said that Boyd's work was sufficiently represented in the Balwyn area and therefore no further controls were warranted.

In support of the Amendment, Mr Isaacson submitted that a comprehensive assessment had been completed, which included a comparative analysis of other Boyd houses in Boroondara.

Ms Alexander submitted that the house was a notable and intact version of Boyd's work during his solo career. She submitted that it was one of few the examples from Boyd's solo career and the open plan design, split levels and large plate glass windows were representative of the post-war era in Melbourne.

Ms Branagan submitted that this is an example of Boyd's earlier work. She submitted that this was akin to a concept design and influenced Boyd's later work in the area. She submitted that there were broader educational and cultural benefits of protecting the place. Ms Branagan submitted that the heritage controls had not kept up to reflect the current threats to post-war architecture. She submitted that there was a community expectation that heritage should be protected. She submitted that Balwyn was a mid century suburb and examples from that era should be protected.

Professor Goad submitted that the house was of local significance at a minimum. He suggested that it could be possibly of regional or State significance. He submitted that the house was an exemplar of what Boyd promoted at the time through the 'Age Small Home Service' as sensible good design. Professor Goad agreed that it was representative of Boyd's earlier solo work, before he travelled to Europe and was inspired by European ideas. Professor Goad submitted that Mr Reeves had correctly identified the place in his earlier Draft Heritage Study.

Council submitted that the house was of local significance. It relied on the evidence of Mr Reeves and the earlier Draft Heritage Study.

Mr Reeves gave evidence that the house is an excellent local example of Boyd's work. Mr Reeves gave evidence that:

The consultant defers to the comparative analysis in the citation (in both its original and expanded versions). This outlines why the subject building is considered an excellent local example of Boyd's work, and specifically why it is superior to the Pat Boyd House at 46 Fortuna Avenue, which, although comparable in many respects (namely, its date and the fact that it was extended in several phases also to Boyd's design), is cannot be as legibly interpreted as the subject property.

In establishing a case for local significance, it is not necessary to "prove" that the Wood House is superior to the Gillison House, which is an exceptionally important early example of Boyd's residential work that has been on the heritage overlay schedule since the 1990s.

In response to submitter concerns regarding the overrepresentation of Boyd's work in the area, Mr Reeves gave evidence that:

The heritage citation does not infer that Boyd's work is underrepresented in the Balwyn area. While Criterion B ("rarity") has been invoked, this is not because of any suggestion that Boyd's work is intrinsically rare in the study area, but, rather, that this specific house is Rare, as one of relatively few surviving examples of Robin Boyd's brief and only period in sole practice, between his partnerships of Associated Architects (1946-48) and Grounds, Romberg & Boyd (1953-60; later Romberg & Boyd). Significance has thus been ascribed on the basis that it is a particularly outstanding example of Boyd's work, amongst at least half a dozen projects that he undertook in the Balwyn and Balwyn North area, not to mention others elsewhere in the former City of Camberwell and in the broader City of Boroondara (ie, Hawthorn and Kew).

When an architect has been notably active within a particular locality, this circumstance can often contribute to the significance of his work therein, rather than detract from it. This is especially true when, as in Boyd's case, he was himself a local resident (living in Camberwell for a decade, encapsulating the very period in which the subject property was designed and built).

Mr Reeves gave evidence that the house was of regional or State significance.

### **More rigorous controls**

Several submitters suggested that more rigorous controls were justified. It was submitted that the garden and the setting of the house should also be included in the Heritage Overlay.

Council submitted that the hard landscaping would be protected if the Heritage Overlay was applied to the whole site. It submitted that a planning permit would be required for buildings and work; this would allow Council to consider the impact of such works on the setting of the heritage place.

Mr Reeves gave evidence that the garden did not warrant specific protection. He gave evidence that:

There are only two confirmed cases where Boyd engaged a professional landscape designer for a single private residential commission. Both involving John Stevens, these were the Pearce House in Vermont (1957-58) and the Myer House at Frankston (1958-59). Although another leading landscape designer of the day, Ellis Stones, was responsible for the garden at Boyd's Stone House at Heidelberg (1953), he was engaged directly by the owners themselves rather than by Boyd.

Extensive research by Tony Lee, founding Executive Director of the Robin Boyd Foundation, has not located any evidence (eg landscaping drawings, correspondence or oral testimony) that a professional landscape designer was engaged to prepare a garden scheme for the Wood House, in any of its three stages of development. Boyd's original working drawings (1948) do not indicate any development of the site around the house. Later drawings depict hard landscaping elements, such as the new concrete driveway and paths (1959) and subsequent driveway widening, new concrete steps, extension of concrete path to the street, and new timber sleeper steps (1971). However, none of these three sets of drawings indicate any proposed garden layout or plantings.

In the updated heritage citation, the aforementioned hard landscaping elements are already identified as elements of Boyd's design concept that should be protected as part of the proposed heritage overlay. The garden plantings, with which Boyd was not involved, are not.

## 7.5 Discussion

### Local significance

The Thematic History, referenced Clause 21.04 of the Planning Scheme, recognises the early contribution of Robin Boyd's work in the City of Boroondara. The Thematic History recognises that the municipality contains several of Robin Boyd's early commissions, which he worked on before he joined the partnership.

The Panel accepts the evidence of Mr Reeves that the house is of local significance. The house represents an example of Boyd's work early in his career before his partnership. The 1948 design is clearly legible and later extensions were designed by Boyd. The Panel considers that the house is an example of how post-war architecture can sympathetically evolve over time to accommodate the changing needs of a family.

The Panel accepts that the house meets criterion B, E, F and H in Planning Practice Note 1.

### More rigorous controls

The Panel does not accept that more rigorous garden controls are required. There was no evidence presented to suggest that the soft landscaping was of particular significance. The hard landscaping (excluding the driveway which has been altered) provides an important setting for the house and this is appropriately recognised in the Statement of Significance.

## 7.6 Conclusions

The Panel concludes:

- the house at 12-14 Tannock Street is of local significance and should be included in the Heritage Overlay.
- more rigorous controls have not been justified.
- no change is required to the exhibited Heritage Overlay or exhibited Statement of Significance.

## Appendix A Document list

| No. | Date       | Description  | Provided by                                |
|-----|------------|--|--|
| 1   | 15/05/2021 | Email from Equipe Lawyers confirm they are no longer receiving instructions from the owner | Paul Beeson of Equipe Lawyers              |
| 2   | 07/06/2021 | Professor Phillip Goad's witness statement   | Tony Isaacson of the Robin Boyd Foundation |
| 3   | 07/06/2021 | Council's Part A submission  | Nick Brennan on behalf of Council          |
| 4   | 07/06/2021 | Simon Reeves' expert witness statement   | Nick Brennan on behalf of Council          |
| 5   | 11/06/2021 | Council's Part B submission  | Nick Brennan on behalf of Council          |
| 6   | 15/06/2021 | Supplementary materials for hearing  | Christina Branagan                         |
| 7   | 15/06/2021 | Minister's letter of authorisation   | Nick Brennan on behalf of Council          |
| 8   | 16/06/2021 | Supplementary notes for hearing  | Jacqui Alexander                           |
| 9   | 16/06/2021 | Supplementary PowerPoint presentation for hearing  | Tony Isaacson of the Robin Boyd Foundation |
| 10  | 16/06/2021 | Revised supplementary materials for hearing  | Christina Branagan                         |