

Report to the Future Melbourne (Planning) Committee

Agenda item 6.2

Planning Scheme Amendment C258 - Heritage Policies Review and West Melbourne Heritage Review

18 February 2020

Presenter: Emma Appleton, Acting General Manager Strategy, Planning and Climate Change

Purpose and background

1. The purpose of this report is to provide an assessment of the independent planning panel's recommendations regarding Amendment C258 Heritage Policies Review and West Melbourne Heritage Review (Amendment) and to recommend that the Future Melbourne Committee seeks Council adoption of the Amendment with changes.
2. The purpose of the Amendment is to provide clarity and certainty about the protection of heritage assets by updating the heritage policies in the Planning Scheme. It also adopts the contemporary heritage category system which is used by a majority of other Councils.
3. The Amendment proposes to replace the existing A to D heritage gradings with a new Significant/Contributory system; to revise the two heritage policies in the Melbourne Planning Scheme; to introduce new Statements of Significance for the existing six large heritage precincts and to implement the recommendations of the 'West Melbourne Heritage Review 2016' by introducing new heritage places in West Melbourne.
4. Following public exhibition, Amendment C258 was considered by a panel. The panel considered a total of over 100 submissions. The panel issued its report in May 2019 (Attachment 2).

Key issues

5. The panel recommended that the Amendment be adopted with some material changes. The panel's recommendations and management's response to these are in Attachments 3, management's recommended changes to the Amendment documents are in Attachment 4 and the panel's recommended changes to the policies and management's response are in Attachment 5. The Amendment documentation proposed for adoption is Attachment 6.
6. Some key panel recommendations are not supported by management. These are:
 - 6.1. The deletion of the 'significant' grading from the Heritage Policy. This would remove the policy requirements that afford a greater level of protection to significant buildings than contributory buildings.
 - 6.2. Reviewing the classification of all significant places and allocating them to either an 'Individual Heritage Place' category if they are outside a precinct, or 'Contributory' category if they are within a precinct. This new system, which was not debated during the hearing, would transform the original Amendment and result in downgrading all significant properties in heritage precincts to contributory status reducing their level of protection. The introduction of any new heritage system requires detailed research and consultation with all councils and local communities across the State.
 - 6.3. Abandoning the classification of some streetscapes as 'Significant', which could undermine the heritage protection provided by this classification.
7. In response to concerns regarding the gradings of particular properties, further work has been undertaken which has revealed that a small percentage of heritage properties were omitted from the exhibited Amendment C258 Heritage Places Inventory. It is proposed that the properties that were omitted from the exhibited Inventory, as well as those with a C grade in precincts in City North and those with a D grade in individual overlays, should all retain their existing gradings while management undertakes a separate future amendment to apply the conversion methodology to these properties.

Recommendation from management

8. That the Future Melbourne Committee recommends Council:
 - 8.1. Adopts Amendment C258 as shown in Attachment 6 of the report from management.
 - 8.2. Submits the adopted Amendment to the Minister for Planning for approval.
 - 8.3. Authorises the General Manager Strategy, Planning and Climate Change to make any further minor editorial changes to the amendment documents prior to submitting to the Minister for Planning for approval.
 - 8.4. Notes that a new amendment will be prepared to convert the remaining A to D graded properties to the Significant / Contributory classification system.

Attachments:

1. Supporting Attachment (Page 3 of 3826)
2. Panel report (Page 5 of 3826)
3. Management response to panel recommendations (Page 208 of 3826)
4. Draft amendment documents showing managements recommended changes (Page 266 of 3826)
5. Draft heritage policies showing all recommendations made by Panel and those rejected by management (Page 1206 of 3826)
6. Amendment C258 documents for adoption (Page 1230 of 3826)

Supporting Attachment

Legal

1. Section 29(1) of the *Planning and Environment Act 1987* (the Act) provides that after complying with Divisions 1 and 2 of the Act in respect of a planning scheme amendment, the planning authority may adopt the Amendment with or without change.
2. The decision to adopt the Amendment cannot be made under delegation.

Finance

3. Under section 6 of the *Planning and Environment (Fees) Regulations 2016* a fee is to be paid when requesting the Minister approve an amendment and give notice in the Government Gazette of approval of an amendment. Once the Amendment is approved, a notice will also be required to be placed in a newspaper circulating in the local area. These costs are provided for in the 2019–20 budget.

Conflict of interest

4. No member of Council staff, or other person engaged under a contract, involved in advising on or preparing this report has declared a direct or indirect interest in relation to the matter of the report.

Health and Safety

5. In developing this proposal, no Health and Safety issues or opportunities have been identified.

Stakeholder consultation

6. In early 2015, community consultation and targeted stakeholder consultation was undertaken in conjunction with heritage consultants Lovell Chen and engagement specialist Capire Consulting Group to inform the drafting of the statements of significance and the revised local policies. This consultation included community workshops and heritage walks in each of the six large heritage precincts outside the Capital City Zone, meetings with resident groups and their associated planning and heritage groups, online engagement through Participate Melbourne and meetings with key internal and external stakeholders.
7. From mid-December 2015 to mid-February 2016, further community engagement was undertaken on the draft statements of significance and draft heritage policies.
8. Amendment C258 was exhibited in accordance with the Act from 30 March to 12 May 2017, it was re-exhibited between 7 December 2017 and 29 January 2018 with corrections to the Inventory following a Heritage Gradings Data Audit. Further notice was given at the direction of panel to properties affected by other upcoming heritage amendments from 3 October to 26 October 2018 as they had not been directly notified previously. A total of over 100 submissions were received.
9. Public panel hearings were held by an independent panel appointed by the Minister for Planning over 20 days and concluded on 19 February 2019. All submissions to amendment C258 were referred to and considered by the panel and submitters were invited to attend the hearings and address the panel.

Relation to Council policy

10. The Amendment is a 2016–17 Annual Plan initiative and addresses three actions in Council's adopted *Heritage Strategy 2013*.
11. The protection of heritage is one of the objectives of planning in Victoria. Section 4(1)(d) of the Act is: "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."

12. Council's Municipal Strategic Statement has a number of Objectives and strategies relating to heritage protection. Clause 21.06-2 includes the following:
- *Objective 1 To conserve and enhance places and precincts of identified cultural heritage significance.*
 - *Strategy 1.1 Conserve, protect and enhance the fabric of identified heritage places and precincts.*
 - *Strategy 1.2 Support the restoration of heritage buildings and places.*
 - *Strategy 1.3 Maintain the visual prominence of heritage buildings and landmarks.*
 - *Strategy 1.4 In heritage precincts protect heritage buildings, subdivision patterns, boulevards and public open space.*
 - *Strategy 1.5 Protect the significant landscape and cultural heritage features of the City's parks, gardens, waterways and other open spaces.*
 - *Strategy 1.6 Within heritage precincts and from adjoining areas protect buildings, streetscapes and precincts of cultural heritage significance from the visual intrusion of new built form both.*
 - *Strategy 1.7 Protect the scale and visual prominence of important heritage buildings, landmarks and heritage places, including the Shrine of Remembrance, Parliament House and the World Heritage Listed Royal Exhibition Building and Carlton Gardens.*
 - *Strategy 1.8 Maintain cultural heritage character as a key distinctive feature of the City and ensure new development does not damage this character.*

Environmental sustainability

13. The identification, conservation and integration of the heritage fabric can reduce building demolition and new construction waste and conserve the embodied energy of existing buildings.

Planning and Environment Act 1987

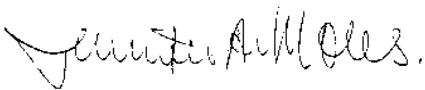
Panel Report

Melbourne Planning Scheme Amendment C258 Heritage Policies Review

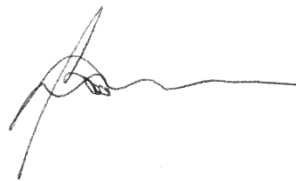
21 May 2019

Planning and Environment Act 1987

Panel Report pursuant to section 25 of the Act
Melbourne Planning Scheme Amendment C258
Heritage Policies Review
21 May 2019



Jenny Moles, Chair



Ray Tonkin, Member



Gaye McKenzie, Member

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List of Abbreviations

BLC	Bennett’s Lane Custodian Pty Ltd and associated companies
CCZ	Capital City Zone
CCZ5	Schedule 5 to the Capital City Zone
CMP	Conservation Management Plan
CRA	Carlton Residents Association Inc.
DDO	Design and Development Overlay
DELWP	Department of Environment, Land, Water and Planning
HIS	Heritage Impact Statement
HO	Heritage Overlay
LPPF	Local Planning Policy Framework
MSS	Municipal Strategic Statement
NEIC	Parkville National Employment and Innovation Cluster
Planning Scheme/Scheme	Melbourne Planning Scheme
PPN01	Planning Practice Note 1: Applying the Heritage Overlay, July 2015, and as amended in August 2018
SoS	Statement of Significance
VCAT	Victorian Civil and Administrative Tribunal
VHR	Victorian Heritage Register compiled under <i>Heritage Act 2017</i>
WMHR	West Melbourne Heritage Review

Overview

Amendment summary

The Amendment	Melbourne Planning Scheme Amendment C258
Common name	Heritage Policies Review
Brief description	The Amendment implements the recommendations of the <i>'Heritage Review 2016'</i> and the <i>'West Melbourne Heritage Review'</i>
Subject land	All land within the Melbourne municipal area affected by existing Heritage Overlays and properties proposed for inclusion in Heritage Overlays in West Melbourne, together with properties proposed for inclusion in Heritage Overlays under other proposed amendments.
Planning Authority	Melbourne City Council
Authorisation	21 December 2016
Exhibition and notice	Exhibited 30 March to 12 May 2017 (First Round) Part re-exhibited 7 December 2017 to 29 January 2018 (Second Round) Further notice to properties affected by other heritage amendments from 3 October to 26 October 2018 (Third Round)
Submissions	Number of submissions: 112

Panel process

The Panel	Jenny Moles (Chair), Gaye McKenzie, Ray Tonkin
Directions Hearings	At Planning Panels Victoria, 1 June 2018, 19 September 2018, 7 November 2018 and 14 January 2019
Panel Hearing	Planning Panels Victoria, 6,7,8,10,13,14,15,27,28,31 August 2018, 3,4,5 September 2018, 12 November 2018 (procedural matter only) and 11,12, 13,15,18,19 February 2019
Site inspections	Unaccompanied inspections of multiple sites, 30 July 2018 and 19 February 2019
Appearances	See Appendix B
Citation	Melbourne PSA C258 [2019] PPV
Date of this Report	21 May 2019

Executive summary

(i) Summary

Melbourne Planning Scheme Amendment C258 (the Amendment) seeks to modernise and provide certainty in heritage policy and protection in the City of Melbourne. The Amendment draws on several streams of foundational work in relation to heritage undertaken by the Council over a four year period involving extensive public consultation. The work has involved a *Heritage Policies Review*, a heritage gradings review, development of new Statements of Significance for large heritage precincts, revising the Heritage Inventory incorporated in the Scheme, and undertaking and implementing the *West Melbourne Heritage Review*. The West Melbourne Heritage Review was initially proposed to be processed through Amendment C272 but was later combined with Amendment C258, in response to advice from the Department of Environment, Land, Water and Planning (DELWP).

The Amendment proposes to:

- include revised heritage policy at Clause 22.04 and Clause 22.05 of the Scheme
- introduce 20 new heritage places and amend descriptions of existing heritage places in West Melbourne in the schedule to Clause 43.01
- incorporate Statements of Significance for individual places in West Melbourne
- replace the existing Heritage Inventory to reflect the new grading system of Significant/Contributory/Non-Contributory
- incorporate six new heritage precinct Statements of Significance
- amend Planning Scheme maps affecting West Melbourne properties.

The Amendment was authorised by DELWP on 21 December 2016 subject to conditions, which the Council satisfied. It was placed on public exhibition from 30 March to 12 May 2017, attracting 85 submissions. Due to the identification in submissions of a large number of omissions and errors in the exhibited Inventory, changes were made to remedy those errors and it was placed on public exhibition for a second time from 7 December 2017 to 29 January 2018. This attracted a further 13 submissions. The Council resolved to refer all submissions to a Panel on 20 February 2018 and resolved to support further changes to the Amendment documentation at the Hearing.

Additional late submissions were subsequently referred to the Panel by the Council before its Hearings commenced.

The Panel was appointed under delegation on 26 March 2018 to consider the referred submissions.

An initial Directions Hearing was held on 4 June 2018, further Directions Hearings were later held, and main Hearings were held over 20 days, concluding on 19 February 2019.

As the Hearings progressed, it became apparent that additional submitters wished to participate in the Hearing as a result of new Heritage Overlays being applied to their properties through parallel Amendment processes. These submitters were not amongst the late submitters whose submissions had been referred earlier to the Panel, as they had not received the initial notice of the Amendment.

This inclusion of these new submitters resulted in several legal issues being raised, which required further procedural Hearings to ensure the Panel's obligations to afford natural justice were met. The outcome of the procedural issues was the referral of an additional six submissions to the Panel and the continued participation of some of these additional submitters in the remaining days of the Hearing. These issues are summarised in Chapter 1.3 of this report.

The key issues raised in submissions and at the Hearing related to:

- Whether the Amendment is strategically justified.
- The methodology used to convert the old letter grading system of A-D for heritage places to the new classification system, and the application of the new system to submitter properties.
- The need to review the heritage policies and their content further.
- Continued errors in the revised Heritage Inventory.
- The suitability of the precinct Statements of Significance.
- The conduct of the West Melbourne Heritage Review and the classifications given to properties in that area.
- Submissions objecting to the new grading of properties in existing Heritage Overlays.

The Panel has considered all written submissions together with submissions and evidence presented at its Hearing. The Panel acknowledges the considerable effort expended by groups and individuals in making submissions to the Amendment. While the names of all submitters may not appear in the Report, the matters they raised have been considered and dealt with by the Panel. The Panel has inspected many of the places which were the subject of submissions.

The Panel accepts the Council submissions that the review of the heritage policies was necessary, given advice from DELWP that it would no longer approve amendments using the existing letter grading system.

It is also accepted that a heritage policy review in relation to the Capital City Zone (CCZ) is especially required as the existing policy provides little guidance to applicants and decision makers in relation to development applications affecting heritage places in that zone. The Panel accepts the evidence that, especially in the CCZ, new forms of large-scale development which overhang or loom over heritage places, or result in only heritage facades being retained, are becoming more common. It agrees with the Council submissions that in many instances these represent poor heritage outcomes.

The Panel is recommending that separate policies be retained for land inside and outside the CCZ. Even though the content of the two policies is largely the same, there are some important differences, specifically in the area of concealment of additions and higher parts of new buildings. Also, the nature and intensity of development in the CCZ is very different to that in the surrounding suburbs. These matters can be better dealt by way of separate policies.

The Panel also considers it appropriate to include City North under the same policy regime as the rest of the CCZ. This responds to previous Panel recommendations.

The Panel considers that the wording of the new policies, subject to the Panel's recommended further changes, will better assist in guiding decisions about heritage places and defining preferred heritage outcomes.

The Amendment has provided the opportunity to correct anomalies and errors in the Heritage Places Inventory as part of the process of adding new places and new gradings. The submissions made to the Panel were persuasive that further corrections are needed, and it has recommended these be done prior to the adoption of the Amendment.

The Amendment will also see Statements of Significance for each heritage place included as an incorporated document. Some of these require updating and this can be done as part of planned future reviews of existing precincts and individual places. In the case of those prepared for West Melbourne, the Panel believes these need to be reviewed, and possibly condensed, before adoption. The Panel believes that all Statements of Significance should be drafted in the manner recommended in the relevant DELWP Planning Practice Note. The new Statements of Significance for the six large precincts require little further revision.

The Panel has recommended one principal change to the Amendment. It recommends that the proposed classification system for heritage places be altered. This recommendation is in response to concerns about the gradings conversion methodology and other submissions. The Panel is recommending that heritage places should be either classified as an 'Individual Heritage Place' - for properties outside precincts - or as a 'Contributory Place' - where located in and contributing to the values of a heritage precinct or other grouping. The Panel recommends that the designation 'Significant' should not be used. The Panel considers that this approach is consistent with the DELWP Planning Practice Note. The Panel recommends, for reasons also set out in the Report, that properties with no heritage value in precincts should be classified as a 'Non-contributory property' rather than 'Non-contributory place'.

This classification approach addresses the concerns of the many submitters whose properties with a low grading ('C' or 'D') under the existing letter grading system were proposed to be included in a new category of 'Significant'. This was seen to be an upgrade of the assessed heritage value of their property, albeit this was not intended by the Council, and it would have seen the application of a more stringent management regime in terms of the policies.

The Panel does not consider this recommended change to the Amendment transformative as the definition of Individual Heritage Place would be essentially the same as Significant Heritage Place. What is lost by this change is the ability to signify the relative value of heritage places, including that some of the heritage places which are contributory to a precinct are 'significant' in terms of their contribution. The Panel considers that if there is a desire by Council to recognise the varying levels of heritage value of places, this can be done through the relevant Statement of Significance.

The Panel has considered all submissions relating to individual properties and their classifications. Except in the case of some properties in West Melbourne, they are places already in Heritage Overlays and the new grading is as a consequence of the conversion methodology (subject to some limited errors). The Panel believes that classifying them as either an Individual Heritage Place or a Contributory Place in a precinct will likely address most submitters' concerns. In relation to those submitters, not in West Melbourne, who wanted

their properties removed from the Heritage Overlay, this was not a matter the Panel can deal with.

Subject to revisions being made to the policies, the Inventory, and the Statements of Significance for individual places in West Melbourne and the large precincts, together with resolving the relationship of the new Inventory addresses to the schedule to Clause 43.01 and the Planning Scheme maps, the Panel supports the adoption of the Amendment. More detailed recommendations are set out below. They have been re-ordered from the body of the Report.

(ii) Recommendations

Based on the reasons set out in this Report, the Panel recommends that Melbourne Planning Scheme Amendment C258 be adopted as exhibited subject to the following:

GENERAL RECOMMENDATIONS:

- 1. That the local policies be adopted, based on the Panel versions at Appendix D.**
- 2. That the classification of all Significant places both outside and within precincts be reviewed and the places allocated to either an Individual Heritage Place or Contributory Heritage Place category.**
- 3. That the Council consider adding Non-contributory properties in precincts to the Inventory.**
- 4. That the grading of 'Significant' be deleted from the Heritage Inventory.**
- 5. That the two-level grading of streetscapes be abandoned; streetscape gradings be deleted from the Inventory; and, if there is a desire to continue to recognise valuable streetscapes, consider adding valuable streetscapes as important elements in the Statements of Significance for precincts or by affording them their own precinct status.**
- 6. That, in light of Recommendations 2 and 4, all Statements of Significance be reviewed to ensure that they adequately reflect the level of importance of the place and of its elements.**
- 7. That the Inventory be further reviewed before adoption in consultation with residents' groups and other relevant submitters for accuracy of place entry.**
- 8. That the Council consider how best to resolve any discrepancy in the way places are identified in the Inventory and the schedule to Clause 43.01, and consider adding more usual street addresses and second addresses for corner properties as 'also known as' addresses to some properties in the Inventory.**
- 9. That the definitions for the categories of Individual Heritage Place, Contributory Heritage Place and Non-contributory property be revised generally as shown in Appendix D.**
- 10. That the Statements of Significance for the six large heritage precincts, as revised by the Council at its meeting on 20 February 2018, with the additions recommended by Ms Brady in her evidence to the Panel, be adopted.**

11. That the Statements of Significance for the places identified in the West Melbourne Heritage Review be reviewed and re-drafted as necessary to comply with the format recommended in PPN01.
12. That the Heritage Inventory be amended to remove places that are not covered by the Heritage Overlay.
13. That, before progressing the Amendment further, the Council reviews the extent of inconsistency between heritage places as depicted on the Planning Scheme maps, the addresses in the schedule to Clause 43.01 and the proposed Heritage Inventory, and determines the availability of an appropriate statutory path to overcome the inconsistencies.

INDIVIDUAL PLACE RECOMMENDATIONS:

West Melbourne Review area

14. That the agreed incorporated plan for the Melbourne Assessment Prison at 317 Spencer Street, West Melbourne, be included in the Planning Scheme via this Amendment.
15. That the Statement of Significance for the Melbourne Assessment Prison at 317 Spencer Street, West Melbourne, be amended generally in accordance with Mr Gard'ner's evidence at the Panel Hearing.
16. That the Melbourne Assessment Prison at 317 Spencer Street, West Melbourne be included in the Heritage Places Inventory as an Individual Heritage Place.
17. That Amendment C258 delete reference to Festival Hall, unless it is accepted that the Amendment can be used to give effect to its inclusion in a Heritage Overlay under section 56 of the *Heritage Act 2017*.
18. That the proposed designation of the two properties at 159-163 Roden Street, West Melbourne as a heritage precinct not proceed.
19. That the two properties at 159-163 Roden Street, West Melbourne be designated as an Individual Heritage Place in the Heritage Inventory.
20. The Statement/s of Significance for the properties at 159-163 Roden Street, West Melbourne be revised to appropriately recognise the physical characteristics that are of importance to the place.
21. That the Heritage Inventory be amended to identify 164 – 184 Roden Street (Briscoe and Co ironmongers warehouse complex) as Contributory to the North and West Melbourne Heritage Precinct.
22. That the Significant gradings attached to buildings in the terrace row at 37 – 49 Hawke Street, West Melbourne be deleted.
23. That the Heritage Inventory be amended to identify the terrace row 37 – 49 Hawke Street as Contributory to the Precinct.

24. That the property at 152 – 160 Miller Street, West Melbourne be included in the Heritage Inventory as an Individual Heritage Place and the designation as Significant be removed.
25. That the Statement of Significance for 152-160 Miller Street, West Melbourne be reviewed to ensure that it reflects the conclusions and recommendations of the Amendment C207 Panel.
26. That the Council correct the mapping and Inventory listings for the properties at 210 and 138-140 Stanley Street, West Melbourne, before the Amendment is adopted by the Council.
27. That the Heritage Inventory be amended to replace the Significant designation of 101–107 Rosslyn Street, West Melbourne with Individual Heritage Place.
28. That the Statement of Significance for 101 – 107 Rosslyn Street, West Melbourne be amended to appropriately reflect what is of value about the place.
29. That the Heritage Inventory be amended to designate 62 Walsh Street, West Melbourne as Contributory.
30. That the designations of Contributory and Significant be deleted from the Heritage Places Inventory for the properties at 437 and 441 Spencer Street, West Melbourne and be replaced with the designation Individual Heritage Place for the pair.
31. That the Heritage Inventory, Heritage Overlay map and the Schedule to Clause 43.01 be amended to delete reference to 488-494 La Trobe Street, West Melbourne and proposed HO1190.
32. That the property at 17-37 Abbotsford Street, West Melbourne, be designated as an Individual Heritage Place in the Heritage Inventory.
33. That 28 Batman Street, West Melbourne be deleted from the Heritage Inventory.
34. That the property at 2 Hawke Street, West Melbourne should be removed from the Heritage Places Inventory.

Central City

35. That the listing of 655 & 661–667 Bourke Street, Melbourne (former Hudson's Store) be deleted from the Heritage Inventory and 655 Bourke Street, Melbourne, be listed as an Individual Heritage Place in the Heritage Inventory.
36. That the Heritage Places Inventory be amended to record 650 Elizabeth Street, Melbourne as Contributory.
37. That 543-547 Elizabeth Street, Melbourne, be recorded as Contributory in the Heritage Places Inventory.
38. That the Council adopt the Incorporated Plan for The Walk Arcade, Bourke Street, Melbourne agreed with the submitter and amend the Planning Scheme accordingly.

- 39. That 313-317 and 323-325 Bourke Street, Melbourne, be identified as Individual Heritage Places in the Incorporated Plan and Heritage Places Inventory.**

Carlton

- 40. That the Heritage Places Inventory be amended to include the building at 15-17 Lincoln Square South, Carlton as 'Contributory' to the Lincoln Square South Heritage Precinct (HO1122).**
- 41. That the Heritage Places Inventory be amended to include 90-104 Berkeley Street Carlton, as an Individual Heritage Place.**
- 42. That the University of Melbourne properties in precincts be re-graded in the Inventory as Contributory and those outside precincts as Individual Heritage Place, and, where possible, current errors and anomalies identified by Mr Raworth in his evidence for the University of Melbourne at the Panel Hearing should be corrected.**
- 43. That reference in the Inventory to streetscape gradings associated with the University of Melbourne properties should be deleted as for all other places.**
- 44. That, with the exception of the vacant land at 150-154 Pelham Street, the MBS properties in the Little Pelham Street Precinct (HO1121), Carlton be identified as Contributory in the Heritage Inventory.**
- 45. That the Heritage Inventory record 45 Pitt Street, Carlton as Contributory.**

East Melbourne

- 46. That 'St Peter's Eastern Hill at 453-479 and 13-19 Gisborne Street, East Melbourne be recorded as an Individual Heritage Place (or given a VHR designation if used) in the Heritage Inventory.**

Kensington

- 47. That 52-112 Elizabeth Street, Kensington be removed from the Heritage Inventory.**
- 48. That 5 Bruce Street, Kensington be recorded as Contributory in the Heritage Inventory.**
- 49. That 19 Barnett Street, Kensington be removed from the Heritage Inventory.**
- 50. That the Heritage Inventory record 91 Barnett Street, Kensington as Contributory.**

North Melbourne

- 51. That 139-149 Flemington Road, North Melbourne, be recorded as Contributory in the Heritage Inventory.**
- 52. That Lost Dog's Home, 2 Gracie Street, North Melbourne be included as an Individual Heritage Place in the Heritage Inventory.**

53. That the Statement of Significance for the Lost Dogs Home, 2 Gracie Street, North Melbourne, be reviewed to ensure that it adequately reflects the elements of significance on the site.
54. That the Council complete a review of the heritage status of 2 (also known as 26) and 1-3 Youngs Lane (also known as 40A and 40B Molesworth Street), North Melbourne for inclusion in the Heritage Inventory.
55. That the Heritage Inventory be amended to include 4-6 Princess Street, North Melbourne, as Contributory.
56. That the Heritage Inventory be amended to include the Lort Smith Animal Hospital, 24 and 38 Villiers Street, North Melbourne as Contributory.
57. That the Heritage Inventory be amended to include 85-89 Sutton Street, North Melbourne as an Individual Heritage Place.
58. That the Heritage Places Inventory be amended to include 29 Stawell Street, North Melbourne as Contributory.

South Yarra

59. That 92 and 100 Domain Street, South Yarra and 129 Hope Street, South Yarra, be deleted from the Heritage Inventory.
60. That the Heritage Inventory be amended to include 322 Walsh Street, South Yarra as an Individual Heritage Place.
61. That the Heritage Inventory be amended to include 28 Marne Street, South Yarra as Contributory.

(iii) Further recommendations

The Panel makes the following further recommendations:

62. That the Council consider undertaking future work to divide larger precincts such as Carlton and South Yarra into smaller sub-precincts to better identify the particular character of those areas.
63. That the part of the Benevolent Asylum Estate at 552–568 Victoria Street, North Melbourne be included in any future review of the North Melbourne Heritage Precinct (HO3).
64. That the Council seek a review of the Statement of Significance adopted by Heritage Victoria and HCV for the St James Old Cathedral at 2-24 Batman Street, West Melbourne to recognise the cathedral bells as items of significance.
65. That, following this Amendment and a comprehensive review of the heritage values of the University of Melbourne campus buildings, including the preparation of an integrated Statement of Significance, the Council consider the application a precinct Heritage Overlay for the University of Melbourne Parkville campus, or a serial listing for campus buildings which might also extend to properties off campus.

- 66. That, following the further review work in Recommendation 65, the Council also consider the application of an Incorporated Plan to guide future conservation and development on the University of Melbourne Parkville campus and provide permit exemptions.**
- 67. That the Lost Dog's Home and the Council prepare an incorporated plan to establish the development potential along with conservation options for the site.**

1 Introduction

1.1 The Amendment

(i) Amendment description

The exhibited Explanatory Report describes Amendment C258 (the Amendment) as proposing to make the following changes to the Melbourne Planning Scheme (the Planning Scheme):

- Revises the content of the two local heritage policies, Clause 22.04 (Heritage Places within the Capital City Zone) and Clause 22.05 (Heritage Places outside the Capital City Zone). Both new policies have permit application requirements, and provisions relating to demolition, alterations, new buildings, additions, restoration and reconstruction, subdivision, vehicle accommodation, and services and ancillary works
- Modifies the Schedule to Clause 43.01 Heritage Overlay (HO) to introduce 20 new heritage places and revise the descriptions of five existing heritage places in West Melbourne
- Replaces an existing incorporated document: *'Heritage Places Inventory June 2016'* which grades heritage places using the A to D heritage grading system with a new incorporated document *'Melbourne Planning Scheme, Heritage Places Inventory 2017'* which grades all heritage places within a Heritage Overlay using the Significant/Contributory/Non-Contributory grading system
- Amends the Schedule to Clause 81.01 (Incorporated Documents) to introduce two new incorporated documents:
 - *'Melbourne Planning Scheme Amendment C258: Heritage Precinct Statements of Significance 2017'* which comprises the Statements of Significance currently included within Clause 22.04 (Heritage Places Within the Capital City Zone) and additional Statements of Significance for the six largest existing heritage precincts outside the Capital City Zone
 - *'West Melbourne Heritage Review 2016: Statements of Significance'*. The heritage gradings assessed under the *'West Melbourne Heritage Review 2016'* are included in the proposed *'Melbourne Planning Scheme, Heritage Places Inventory 2017'*¹
- Amends the Planning Scheme maps 5HO, 7HO and 8HO to introduce 20 new Heritage Overlays and revise the boundaries of eight existing Heritage Overlays, in West Melbourne.

(ii) Purpose of the Amendment

The exhibited Explanatory Report for the Amendment provides the following advice with respect to the purpose of the Amendment:

¹ When first exhibited, the Amendment contained the Heritage Places Inventory June 2016. Another amendment (Amendment C324) which was gazetted on 24 May 2018, removed 35 Eastwood Street, Kensington, from the Heritage Overlay and the Inventory. That Amendment also incorporated the Heritage Places Inventory March 2018 into the Planning Scheme which was the same as the June 2016 Inventory except for the removal of that property. As the C258 Inventory dated 2017 was based on the 2016 Inventory, it wrongly retains the Eastwood Street property. This should be removed from the proposed Inventory when adopted.

Melbourne's heritage is highly valued by the community and it is important that there are clear guidelines for the assessment of applications affecting places in the Heritage Overlay. The Amendment is needed in order to update and improve heritage protection within the City of Melbourne.

In July 2014, Council sought comments from the community on its discussion paper 'Review of the Local Heritage Planning Policies in the Melbourne Planning Scheme.' This work identified the need to update the current heritage policies. A subsequent review of the local heritage policies was undertaken and this Amendment now implements the recommendations of that review.

The phasing out of the City of Melbourne's A to D heritage grading system is needed to comply with the Planning Practice Note No.1 'Applying the Heritage Overlay, September 2012' and the recommendations of recent Planning Panels.

The new Statements of Significance for the existing large heritage precincts in the Heritage Overlay, will provide local context for, and thereby assist in, the assessment of planning permit applications in these areas.

The 'West Melbourne Heritage Review 2016' was undertaken to assess the heritage significance of land in the West Melbourne Structure Plan area.

The 'West Melbourne Heritage Review 2016' included reviewing existing heritage places and identification of some additional places needing heritage protection. This Amendment is needed in order to implement the recommendations of the Review and protect the newly identified heritage places.

(iii) The subject land

The Amendment applies to all land within the Melbourne municipal area affected by a Heritage Overlay (

Figure 1) as well as specific properties in West Melbourne (Figure 2). It also potentially applies to properties proposed for inclusion in Heritage Overlays under concurrent Planning Scheme amendments (Amendments C271, C305 and C328) as discussed in Section 1.3 of this Report.

Figure 1: City of Melbourne affected sites

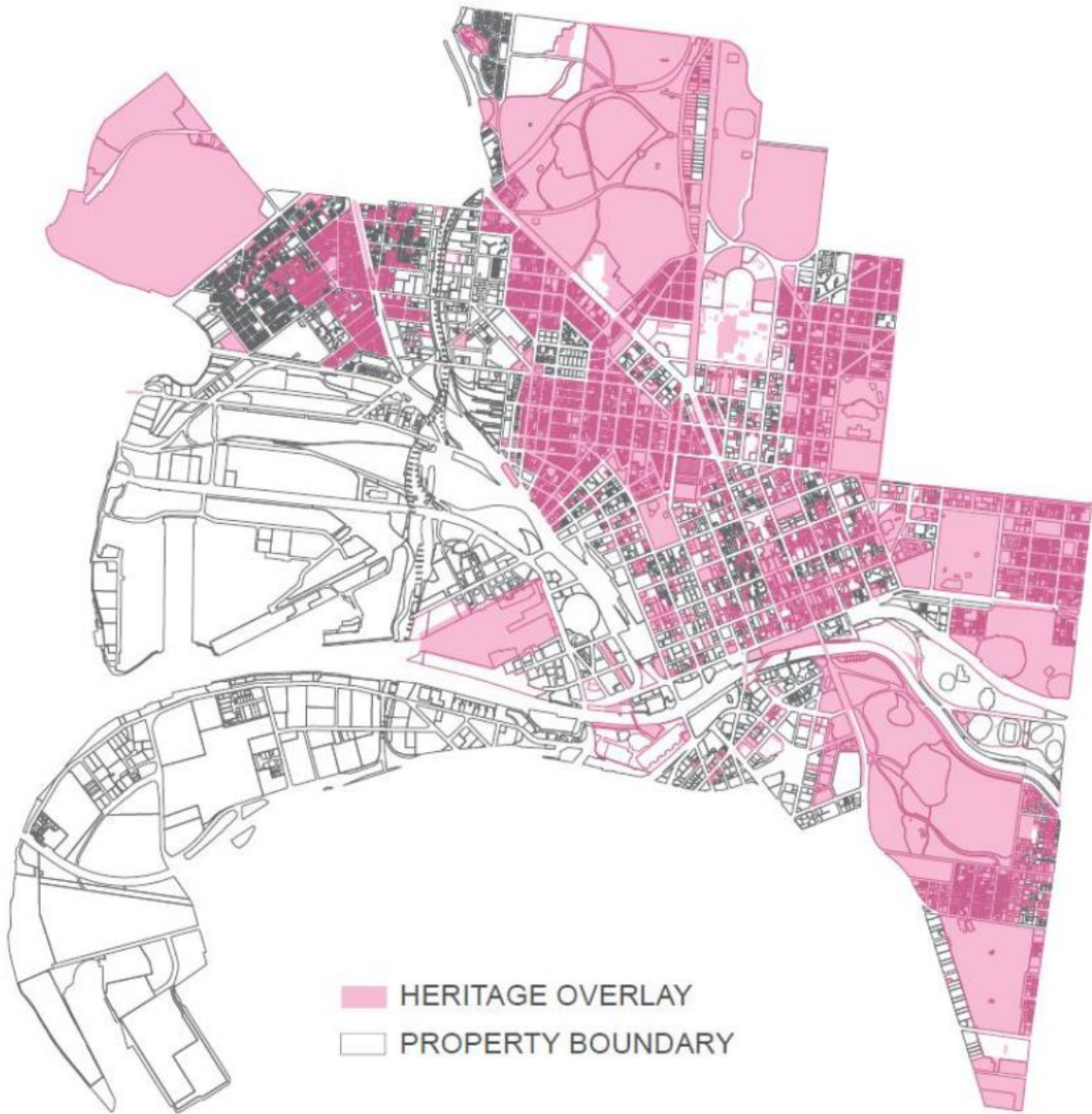
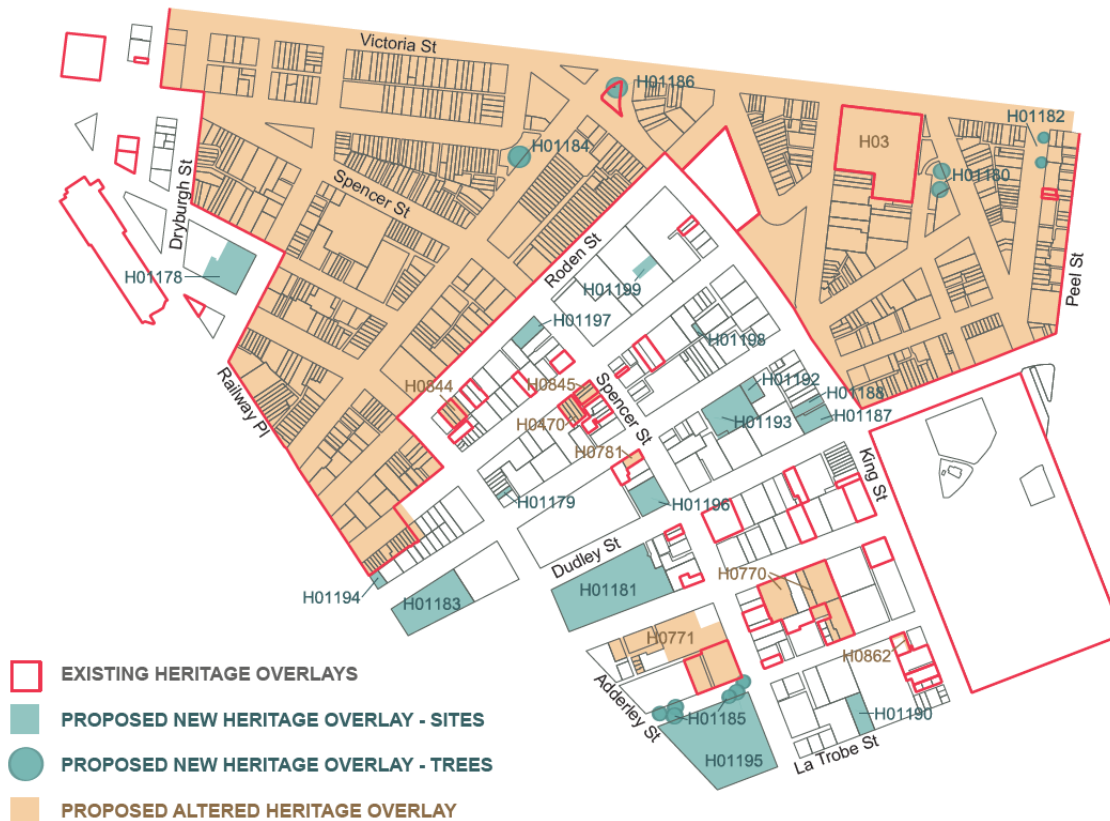


Figure 2: West Melbourne affected sites



1.2 The Council and Panel process

The Amendment was prepared by the Melbourne City Council (the Council) as Planning Authority.

The Amendment was authorised by the Department of Environment, Land, Water and Planning (DELWP) on 21 December 2016 subject to the following conditions:

- (a) *Prior to exhibition of the Amendment:*
 - (i) *Modification to the Amendment documentation to include the changes proposed to be made by Melbourne Planning Scheme Amendment C272, using the significant/contributory system to identify significance for all properties affected by Amendment C272, as agreed to by council officers. Council is also encouraged to abandon Amendment C272.*
 - (ii) *The local policies be modified to include reference to the Statements of Significance.*
 - (iii) *The Explanatory Report be updated to address the policy changes proposed for the Capital City Zone (excluding Capital City Zone, Schedule 5), as a result of the changes proposed to Clause 22.04 – Heritage Places within the Capital City Zone.*
- (b) *As the proposed Amendment affects Crown land, Native Title Services Victoria should be given notice of the Amendment.*

In response to the authorising letter, the Council made the changes requested, resulting in Amendment C272 relating to implementation of the West Melbourne Heritage Review being abandoned and incorporated into Amendment C258.

The Amendment was first placed on public exhibition between 30 March 2017 and 12 May 2017, with 85 submissions received on a range of issues. Of those submissions, 29 related to potential omissions from or inaccuracies in the exhibited Heritage Inventory which prompted a Heritage Gradings Data Audit to be undertaken. As a result of this audit, a number of omissions and errors were rectified in the Heritage Inventory and it was resolved that this component of the Amendment should be re-exhibited.

The second round of public exhibition took place between 7 December 2017 and 29 January 2018. This attracted a further 13 submissions about the Amendment. A list of all submitters is included in Appendix A.

At its meeting of 20 February 2018, the Future Melbourne Committee of the Council resolved to refer all the submissions² to a Panel.

Also, at that meeting, the Council committee agreed that the form of the Amendment to be presented to the Panel would be the modified form in the officer report to Council subject to some further changes. The changes were set out in general terms in the Council's Part A submission as follows:

- (a) Changes have been made to the proposed heritage policies under Amendment C258 by altering the definitions, formatting, spelling and clarity; by strengthening language about expectations for management of heritage places; and by incorporating guidance and direction to address facadism, corner sites, development of non-contributory places, and a diverse range of building typologies.*
- (b) Changes have been made to the large precinct Statements of Significance in accordance with the recommendations of Council's expert heritage consultant, Lovell Chen, to improve the accuracy of information regarding the dates of buildings and events, and details of important individuals (amongst other matters). The large precinct Statements of Significance have also been amended to include details of the presence of pre-European indigenous Australian settlements.*
- (c) Changes have been made to the West Melbourne Heritage Review in accordance with the recommendations of Council's expert heritage consultant, Graeme Butler, to improve the accuracy of information regarding the dates of buildings and events, and details of important individuals (amongst other matters). This information has contributed to the readjustment of the assessed level of significance for heritage places in some instances.*

² A late submission received on 11 July 2017 was inadvertently not included in the main report to the Future Melbourne Committee for its meeting on 20 February 2018 which reported that 98 submissions had been received. It was the subject of a separate memo to the Committee dated 16 February 2018.

(d) *Changes have been made to the C258 Heritage Inventory to rectify errors and omissions that were identified in submissions³*

The further changes required by the Future Melbourne Committee of the Council were:

- *In proposed policies 22.04-5 and 22.05-5, the sentence "The demolition of a non-contributory place will generally be permitted" be deleted, on the basis that the suggested addition of this text post-exhibition was not strictly necessary, and that the responsible authority when assessing an application under the heritage overlay may be required to consider that a heritage place is 'contributory' or 'significant' despite there being no record in the heritage inventory for whatever reason, and so the new policy should not unduly limit such discretion.*
- *In proposed policy 22.04-7, deletion of the dot point "New additions must not build over or extend into the air space above the front or principal part of a significant or contributory building".*
- *Any further minor editorial changes authorised by the Acting Director, City Strategy and Place.*

So far as the second dot point is concerned, in response to assertions by some participants in the Panel Hearing that the version of the policies being presented to the Panel incorrectly retained this provision, Ms Brennan for the Council explained that the Council direction was in effect to remove a duplication.

The Panel to consider the Amendment was appointed under delegation from the Minister for Planning on 26 March 2018 and comprises Jenny Moles (Chair), Gaye McKenzie and Ray Tonkin.

A Directions Hearing was held by the Panel on 1 June 2018. Following the Directions Hearing, the Panel undertook an inspection of many of the sites which were the subject of submissions.

The Panel then met in the hearing rooms of Planning Panels Victoria on 6 August 2018 to hear submissions about the Amendment and related procedural matters. The Panel Hearing ran for 20 days to 19 February 2019 (excluding three further Directions Hearings).

As set out in Section 1.3, persons who were admitted to the proceeding as 'additional' submitters only in late August and September 2018, challenged the constitution of the Panel and the fairness of continuing the Panel Hearing. An application for recusal of the Panel was heard on 12 November 2018. The consideration of submissions about the merits of the Amendment was thus disrupted for some months with the principal Hearing only recommencing on 11 February 2019. That second part of the principal Hearing of the merits ran for six days.

In February 2019, the Panel also inspected some additional properties and places referred to in the additional submissions.

Those who presented to the Panel at the Hearing are listed in Appendix B.

³ They were also set out in tracked form in Appendix A to the Council Part A submission.

1.3 Procedural issues

During the course of the Panel Hearing, several procedural issues were raised by submitters, which extended the Hearing far beyond the original timetable. Ultimately, these issues were resolved. They are set out briefly below.

1.3.1 Submissions on the hearing rule

On 5 September 2018, Day 13 of the Hearing, the Panel heard from a potential new party to the Hearing, Metro Pol Investment Pty Ltd (Metro Pol). Metro Pol sought to make a submission about the Amendment. Metro Pol has an interest in the site at 263-267 William Street, Melbourne, developed with the Metropolitan Hotel. At that time, the site had recently been included in an interim site-specific Heritage Overlay by Amendment C326 and was proposed to be included in permanent heritage controls by way of Amendment C328. As such, Metro Pol had an interest in Amendment C258, and the proposed changes to local heritage policy at Clause 22.04 in particular.

The Council agreed, on condition that the Hearing would not be delayed, to accept Metro Pol's submission and refer it to the Panel. The Panel initially agreed to the condition, however, having heard Metro Pol objections to it, removed any restrictions on their participation in the Hearing.

On 7 September 2018, the Panel received correspondence on behalf of Bennett's Lane Custodian Pty Ltd and an associated group of companies (BLC) and Notron Nominees Pty Ltd⁴ (Notron), who were both in a similar position to Metro Pol, in that they were to be included in a Heritage Overlay through Amendments C327 and C328 and wished to make submissions at the current Hearing. A Directions Hearing was then scheduled for 19 September 2018 to deal with the logistics of hearing from the new submitters. The Panel subsequently received correspondence from Planning Property Partners (PPP) representing a further three submitters, Formax Superannuation Pty Ltd (Formax), RMPH Holdings Pty Ltd (RMPH Holdings), and Henvik Investments Pty Ltd (Henvik)(referred to collectively as PPP Clients), also wishing to join the Hearing.

At the Directions Hearing on 19 September 2018, given the potential for even more submitters requesting to join the Hearing, the Council proposed that it would give further notice to all properties that were newly affected by a proposed Heritage Overlay by way of Amendments C271, C305 and C328, and refer any appropriate new submissions made by 26 October 2018 to the Panel. The Council submitted this was being done as a proactive, voluntary exercise and was not to be taken as indicating any irregularity in the original notice for the Amendment.

BLC submitted that the Hearing should be adjourned, and an interim Panel Report issued as referenced in s166(2) of the *Planning and Environment Act 1987* (the Act) which should note a failure of notice and formally recommend further notice. Alternatively, if the Hearing were to continue, the new submitters should not have any restrictions placed on their participation in the interests of procedural fairness, including they should be given an opportunity to re-examine all Council witnesses. Support for this position was given by the PPP Clients and Metro Pol.

⁴ Notron only participated in the principal procedural issues set out in Sections 1.3.1 and 1.3.2

After hearing these submissions, the Panel directed that the Council's proposed further notice take place, with a Directions Hearing set for 7 November 2018 once any additional submissions had been provided (Document 104). The Panel issued written advice and directions dated 21 September 2018 which amongst other things addressed the matter of whether a fair hearing could be afforded to late submitters.

At the 7 November 2018 Directions Hearing, the Council advised of the further submissions received (Document 91) and those which would be referred to the Panel (Document 93). This resulted in further parties joining the hearing, including Sydney Road Holdings Pty Ltd (Sydney Road Holdings) and self-represented submitter Natalie Reiter.

Various submissions were then made by Metro Pol and BLC, supported by PPP Clients and Sydney Road Holdings, that the Panel should clarify the extent of their participation in the Hearing that was allowed. These submissions were made on the basis that any restriction whatsoever on their ability to hear and examine Council's complete case, including all witnesses, was a breach of the Panel's duty to afford natural justice, more specifically the natural justice 'hearing rule'.

After inviting and hearing submissions on this contention from all parties, the Panel found again that the argument that they could not afford the additional submitters a fair hearing was not made out. It was said that the Panel's obligations were clear from s161(1)(b) of the Act. Instructive in applying these obligations was the decision by the Victorian Civil and Administrative Tribunal (VCAT) in *Thomson v Stonnington CC [2003]* VCAT 813. It is recorded by the Tribunal that the Panel in that case had continued a hearing despite being advised of a failure to give notice to all beneficiaries of a covenant to be varied or removed. The Tribunal commented that if the Panel had later denied the applicant the opportunity to cross-examine certain witnesses at the continued hearing, this would have amounted to a denial of natural justice, however the Panel had offered an unfettered right to cross-examine.

Accordingly, the Panel for the current Amendment directed there was no restriction on the participation of the new submitters, including cross-examination of recalled witnesses, and went further by committing to draw attention to any relevant fact, opinion or submission previously provided⁵ and not addressed in the Council's material.

When the Hearing later recommenced, Ms Brady and Ms Jordan only were recalled to give additional evidence and were made available for cross-examination about all of their evidence by new submitters and others. This was accepted as a satisfactory arrangement by those additional submitters who still sought to participate in the Hearing. Some additional submitters had, by that stage, withdrawn their request to make submissions; other late submitters relied only on written submissions.

1.3.2 Recusal application

At the conclusion of the 7 November Directions Hearing, Metro Pol foreshadowed orally that they wished to make an application for the Panel to recuse itself on the grounds of apprehended bias. A Procedural Hearing to hear the recusal request was then set down for

⁵ Also done in the Thomson case.

Monday 12 November 2018, with written grounds to be circulated by 8 November 2018 (Document 107).

The argument advanced by Metro Pol was that an apprehension of bias arose given the Panel had already heard from numerous other submitters in the absence of the new submitters and 'too much water had gone under the bridge' to be able to fairly inform the additional submitters about what had occurred. It was also said perceived bias arose in that two members of the Panel were financial members of the National Trust⁶ – a submitter to the Amendment. The third member of the Panel was said to be affected by perceived bias by association. Metro Pol extended its concern about apprehended bias in oral submissions - arguing that the Panel Chair's membership of the Heritage Council of Victoria⁷ (on which the National Trust is represented) was now as Deputy Chair of the Council, and the Panel Chair would be more significantly influenced by the National Trust members of the Council in the new role.

This issue of whether a fair hearing could be afforded to late entry submitters had earlier been addressed in the Panel ruling of 21 September 2018. It was reaffirmed in the Panel ruling of 4 December 2018.

Concerning the alleged perceived bias, the test for apprehended bias appears in the decision in *Ebner v Official Trustee in Bankruptcy [2000] 205 CLR 337*, the two components of which are:

- Identification of what may lead the judge (or juror) to decide a case other than on its merits
- A logical connection between the matter and the feared deviation from deciding the course on its merits.

In relation to Metro Pol's two grounds, the Panel found that no logical connection was made between these matters and how it would lead to a departure from impartial decision making. An assertion of mere association with the National Trust based on financial membership was not sufficient to establish apprehended bias without something more, as found in *Jinshan Investment Group Pty Ltd v Melbourne City Council & Ors [2015] VCAT 635*.

As to the later argument about the Panel Chair's membership of the Heritage Council in the new role as Deputy Chair, the Panel found:

The Panel does not consider that this association by the Chair with the National Trust by virtue of their common membership of the Heritage Council, appointed under the separate Heritage Act 2017, can be said to give rise to perceived bias. This again is the merest of association. The National Trust member of the Heritage Council and the alternative National Trust member are appointed by a process whereby the Minister selects from a list of three persons nominated by the Trust (section 10 of the Heritage Act). The members recommended by the Trust are not identified, nor do they act, as delegates or representatives of the Trust. Neither are they even required to be Trust members. How this

⁶ This matter had been declared at the original Directions Hearing with none of the then parties objecting to the Panel so constituted.

⁷ This was also declared at the original Directions Hearing.

association might lead the Chair to not impartially consider the matters before the Panel was not described. The Panel considers that the second Ebner test limb was not made out.

As to the assertion by Metro Pol that the Panel Chair now being Deputy Chair of the Heritage Council, rather than an alternative member as at the time of the initial Panel Directions Hearing, aggravates the problem of association between the Chair and the National Trust, 'because the Chair is in a leadership position' – this argument has no logical basis. If there was to be any increased influence from one to the other, it would surely be that the Chair would now have greater influence over the Trust members of the Heritage Council, rather than the Chair being more strongly influenced by them.

As no reasonable apprehension of bias would arise from the mere association of each Panel Member with the National Trust, the issue of tainting between Members of the Panel does not arise and does not need to be addressed.

The Panel considers that the argument that there would be apprehended bias if the Panel Hearing continued with the presently constituted Panel has not been made out.

The Panel's rulings and complete reasons were set out in writing on 4 December 2018.

Sometime after this ruling, Metro Pol withdrew from making any further appearance at the Hearing and relied on written submissions only.

1.3.3 Melbourne Business School

Melbourne Business School (MBS) raised a separate issue about documents (Documents 49 and 50) pertinent to the MBS submissions which were tabled by the Council only after MBS had finalised their submission to the Panel. MBS wrote to the Panel on 30 August 2018 arguing that they would be denied procedural fairness if the Council were allowed to rely on those documents without the content being tested or put to the witnesses for MBS. After hearing from the Council regarding this argument, the Panel made the following ruling in written directions dated 3 September:

The Panel agrees with the Melbourne Business School that the timing of presentation of the two documents after the Business School case was closed and without putting their content to the witnesses, is unfortunate.

The Panel nevertheless finds the contents of the documents relevant to its consideration of the Amendment.

In order to rectify any disadvantage to the Business School, the Panel offers them an opportunity to make further written submissions and provide an expert statement on this matter if they wish. They may also request to be heard further on this issue, noting that the Hearing schedule is being extended for other reasons.

The Business School must advise whether they wish to appear again at the Hearing as soon as practicable and any further written submissions and evidence must be circulated by no later than Wednesday 12 September.

King Wood Mallesons wrote again for MBS on 7 September 2018, requesting for a second time that the documents should not be received, and the Panel should revisit its directions of 3 September 2018. The letter said that if the documents were to be received, however, then the Council should be required to pay the MBS costs thrown away by reason of its conduct. The letter went on to say that if the documents were to be received, MBS would wish to call evidence and present for approximately two hours at the end of November 2018 (the Hearing already having been extended to this period for other reasons).

At the Directions Hearing of 19 September 2018, which related to the further conduct of the Panel Hearing and presentations by others, the MBS concerns were reiterated and again it was requested that the Council withdraw the documents or pay for costs thrown away by MBS (albeit the Panel cannot award costs as such).

MBS was subsequently scheduled to appear again and call evidence on Monday 18 February 2019. It withdrew its request for further submissions and evidence, however, when the Council advised that it had determined to review all 'C' graded places in the City North area which were included in heritage precincts (as was the matter of concern to MBS). This is discussed in Section 4.1 of this Report.

1.4 Background to the Amendment

The following background is drawn from the Council's Part A submission.

1.4.1 Heritage policies review

In early 2015, the Council engaged Lovell Chen, heritage consultants, to perform an extensive review of heritage policy and associated Statements of Significance. This was achieved through targeted community and stakeholder consultation work, carried out in partnership with engagement specialists Capire Consulting Group.

Community engagement was achieved through community workshops, heritage walks, meetings with residents and associated planning and heritage groups, online engagement through Participate Melbourne and meetings with key internal and external stakeholders.

The resultant draft new Statements of Significance and new local heritage policies were the subject of further consultation and 30 informal submissions were received about the draft material from various residents' associations and other organisations. The Statements and policies were then prepared for exhibition.

1.4.2 Preparation of C258 Heritage Inventory for exhibition

Lovell Chen was also engaged to prepare the new Heritage Inventory for the Amendment.

As described in the 'Methodology Report City of Melbourne Heritage Gradings Review, October 2015', Lovell Chen was initially provided with the letter gradings for places in Heritage Overlays from the Council's 'i-heritage database'. Lovell Chen subsequently requested 'a database containing property addresses and gradings (as matched by the i-heritage database) and the relevant Heritage Overlay numbers for properties within Heritage Overlay precincts. This was provided to Lovell Chen by the Council in June 2015 – though it excluded those properties already assessed under, or converted to, the revised gradings system under recent heritage reviews.

It was subsequently identified that this information was incomplete or inaccurate through enquiries made to the development team, including some gradings that were inconsistent with previous heritage studies. To rectify this, the Council undertook a review of the data from the source material, namely the Heritage Inventory incorporated into the Planning Scheme for the area outside the Hoddle Grid and Southbank, and the 'derived' gradings for the area within the Hoddle Grid and Southbank as documented in various heritage studies and amendments.

The discrepancies revealed by this review of the 'i-heritage' data resulted in 70 properties requiring additional gradings review. Lovell Chen completed this additional gradings review work in January 2017.

The Council's Part A submission further provides:

The following steps were involved in the drafting of the C258 Heritage Inventory in preparation for exhibition:

- (a) The first draft of the inventory was that endorsed by the Future Melbourne Committee on 5 July 2016. It listed all the properties that had been converted to the 'non-contributory' grading and also under the column titled 'Significant Streetscape' identified each property with a 'yes' or a 'no'.*
- (b) The next step was to comply with the Future Melbourne Committee resolution of 5 July 2016 requiring:
 - (i) 'The removal of buildings from the Heritage Inventory which are in the report described as 'non-contributory', to avoid the possibility of misinterpretation of this undefined term', and*
 - (ii) 'The order of buildings in the proposed Heritage Inventory reverting to the same order used currently, that is, buildings on each street in each suburb are grouped into odd and even street numbers'.**
- (c) Following a suggestion from a resident who submitted to the Future Melbourne Committee meeting of 5 July 2016, Council made the following further change to the proposed C258 Heritage Inventory:
 - (i) Rather than showing a 'yes' or 'no' for the significant streetscapes in the Inventory, this was changed to show the significant streetscapes as 'significant' and others as '-' to indicate that they have not yet been assessed for significance.**
- (d) Following discussions about the proposed C258 Heritage Inventory with the Department [DELWP] in late 2016, the Department advised that all of the recent heritage reviews in which gradings using the contemporary system had been identified (City North – C198, Arden Macaulay – C207, Kensington – C215), needed to be included in the C258 Heritage Inventory. This was because while these reviews had already been approved and incorporated into the Planning Scheme under the old letter grading system, the contemporary gradings of these reviews had never been exhibited. Hence,*

the Department advised that they should be exhibited as part of Amendment C258.

- (e) Further the Amendment C258 authorisation letter of 21 December 2016 required all of the heritage places in the West Melbourne Heritage Review to be included in the C258 Heritage Inventory with their assessed gradings under the contemporary system.*

It became apparent in the drafting process of the C258 Heritage Inventory for exhibition that there were some further discrepancies in the i-heritage data provided to Lovell Chen which had not been previously identified. These further correct gradings were provided to Lovell Chen in March 2017 to perform the gradings conversion. The results of this additional gradings review were incorporated into the C258 Heritage Inventory for exhibition.

The proposed C258 Heritage Inventory was updated to include all of these updated gradings and was then exhibited.

1.4.3 West Melbourne Heritage Review

As part of the preparation for the West Melbourne Structure Plan, it was identified that a heritage review of the area would be required as input to the structure plan. The Council resolved to undertake the West Melbourne Heritage Review to inform an amendment to the Planning Scheme in parallel with the preparation of the West Melbourne Structure Plan.

In 2015, the Council commissioned Graeme Butler and Associates to undertake heritage assessments of existing and potential heritage places that would be included in the West Melbourne Structure Plan. As a result of this assessment, Amendment C272 was prepared in order to afford heritage protection to those properties identified and enact the recommendations of the review (with Amendment C273 to provide interim protection of the properties while Amendment C272 progressed). As this was prior to the introduction of the Significant/Contributory system, Amendment C272 still contained the A to D heritage gradings.

In considering the authorisation of Amendment C258, DELWP advised that it was better to combine Amendment C272 with Amendment C258 in order to bring in the Significant/Contributory system as uniformly as possible.

1.5 Summary of issues raised in submissions

The key issues raised in the submissions to the exhibited Amendment were summarised in the Council's Part A submission to the Panel as follows:

- suggested changes to the local heritage policies at Clause 22.04 and Clause 22.05
- errors and omissions in Heritage Inventory
- arguments about converted gradings and the methodology employed
- site specific objections to places in the West Melbourne Heritage Review
- issues about Statements of Significance
- issues outside the scope of Amendment C258.

1.6 Issues dealt with in this Report

The Panel has considered all written submissions made in response to the exhibition of the Amendment, as informed by inspections where necessary, together with the submissions, evidence and other material presented to it during the Hearing including by the additional submitters in February 2019.

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 refers to the Planning Context for the Amendment in the first chapter and then deals with the issues under the following headings:

- Is the Amendment strategically justified?
- A new classification system for heritage places
- Local planning policies (Clauses 22.04 and 22.05)
- The Heritage Inventory
- Precinct Statements of Significance
- West Melbourne Heritage Review
- Individual properties in West Melbourne
- Individual properties in other parts of the municipality
- Other issues.

The appendices to the Report include a list of all submitters, the persons who appeared at the Panel Hearing, and exhibits from the Hearing. The last Appendix contains the Panel redraft of the exhibited policies at Clauses 22.04 and 22.05.

2 Planning context

The Council provided a response to the Strategic Assessment Guidelines as part of the Explanatory Report and these matters were elaborated in the Council's Part A submission to the Panel.

Since that time, various changes have been made by way of Amendment VC148 to the State Policy section of the Planning Scheme. The updated clause numbers have been used below.

2.1 Policy framework

The following clauses in the Planning Policy Framework (PPF) were said by the Council to be relevant to the proposal:

Clause 15 - Built Environment and Heritage

Provides that planning should protect places and sites with significant heritage value.

Clause 15.01-1S - Urban design

The objective is to create urban environments that are safe, functional and provide good quality environments with a sense of place and cultural identity. Strategies to achieve this include requiring development to respond to its context, ensuring development contributes to community and cultural life by quality living and working environments, and promoting high amenity.

Clause 15.03-1S – Heritage conservation

The objective is to ensure the conservation of places of heritage significance. Strategies include identifying and documenting places of natural and cultural heritage significance to be included in the Planning Scheme and provide for the conservation and enhancement of heritage places and encourage appropriate development that respects heritage values.

Clause 15.03-2S - Aboriginal heritage

The objective is to ensure the protection and conservation of places of Aboriginal cultural heritage significance. Strategies include identifying and document places of Aboriginal cultural heritage and provide for their conservation and protection.

Clause 17.04-1S - Facilitating tourism

The objective is to encourage tourism development to maximise the employment and long-term economic, social and cultural benefits of developing the State as a competitive domestic and international tourist destination. Strategies include development of well-designed sites and tourist facilities and preserving the assets and qualities of activities and attractions.

Clause 17.04-1R - Tourism in Metropolitan Melbourne

The objective is to maintain and develop Metropolitan Melbourne as a desirable tourist destination. Strategies include developing city precincts, supporting artistic and cultural life and improving public facilities and amenities.

2.2 Local Policy

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

Clause 21.06-1 Urban design

The objective is to protect Melbourne's distinctive physical character and in particular, maintain the importance of:

- identified places and precincts of heritage significance
- the World Heritage Listed Royal Exhibition Building and Carlton Gardens
- the Shrine of Remembrance
- the Hoddle Grid
- the Yarra River Corridor, Victoria Harbour and waterways
- the network of parks and gardens
- the Hoddle Grid's retail core
- the network of lanes and arcades
- boulevards
- the sense of place and identity in different areas of Melbourne.

Clause 21.06-2 Heritage

The objective is to conserve and enhance places and precincts of identified cultural heritage significance. Strategies include:

- Conserve, protect and enhance the fabric of identified heritage places and precincts.
- Support the restoration of heritage buildings and places.
- Maintain the visual prominence of heritage buildings and landmarks.
- In heritage precincts, protect heritage buildings, subdivision patterns, boulevards and public open space.
- Protect the significant landscape and cultural heritage features of the City's parks, gardens, waterways and other open spaces.
- Within heritage precincts and from adjoining areas, protect buildings, streetscapes and precincts of cultural heritage significance from the visual intrusion of new built form.
- Protect the scale and visual prominence of important heritage buildings, landmarks and heritage places, including the Shrine of Remembrance, Parliament House and the World Heritage Listed Royal Exhibition Building and Carlton Gardens.
- Maintain cultural heritage character as a key distinctive feature of the City and ensure new development does not damage this character.

A number of submitters referred to other policies of the Planning Scheme which they said needed to be considered by the Panel in determining the appropriateness of the new policies. In particular, reference was made to the policies relating to the role of the central city and support for its development. The evidence given by the planning witnesses for submitters – Messrs Biacsi, Barlow and Negri – also referred to these policies.

They referred to the following:

Clause 21.03 Vision

Clause 21.04 Settlement

Clause 21.06 Built Environment and Heritage

Clause 21.07 Housing

Clause 21.08 Economic Development

Clause 21.11 Local Areas

Clause 21.14 Reference Documents

Two local policies are proposed to be replaced by new policies included in the Amendment:

Clause 22.04 Heritage Places within the Capital City Zone

Clause 22.05 Heritage Places outside the Capital City Zone

2.3 Other non-scheme planning strategies or policies used in formulating the Amendment

A background document to the Amendment is the 2013 City of Melbourne Heritage Strategy. This document expounds the importance of protecting the historical fabric of a rapidly expanding Melbourne and, along with the subsequent 2014 Discussion Paper, lays out an implementation plan for how to achieve this. Important action items include:

- the need for Statements of Significance for heritage precincts, as well as individually significant sites;
- the need for a new grading system for heritage places; and
- the need to review and update the local policies in Clauses 22.04 and 22.05 of the Planning Scheme.

The Council submitted that providing Statements of Significance not only accords with Planning Practice Note 1 *Applying the Heritage Overlay* (PPN01) but it allows decision makers to better understand the heritage context for decisions and which elements of the site are considered significant when they are required to consider permit applications.

The Strategy and Discussion Paper, in line with previous advice from Panels, including the Panel for Amendment C186, and PPN01, advised that the old letter grading system of A to D should no longer be applied to new heritage amendments. The Strategy and Discussion Paper recommended that all sites in a Heritage Overlay should be converted to the preferred 'significant, contributory and non-contributory' method of grading.

The Strategy also made recommendations that those areas of high growth, such as West Melbourne, should be strategically prioritised for heritage review.

2.4 Ministerial Directions and Practice Notes

2.4.1 Ministerial Directions

The Council submitted that:

Amendment C258 complies and is consistent with the requirements of the Ministerial Direction on the Form and Content of Planning Schemes and also with the requirements of Ministerial Direction 11 on the Strategic Assessment of Planning Scheme Amendments.

It further submitted that:

Amendment C258 is also consistent with Ministerial Direction 15 The Planning Scheme Amendment Process and Ministerial Direction 9 Metropolitan Strategy, which requires that the Amendment supports the provisions of Plan Melbourne. The Amendment addresses the following specific directions of Plan Melbourne:

- *Direction 4.2 – Protect Melbourne and its suburbs from inappropriate development: the Amendment will update existing heritage policies and provide more guidance for development proposed in areas affected by Heritage Overlays. The updated policies will increase certainty for the community and assist decision making. The Amendment will also protect newly identified heritage places in West Melbourne and ensure that new development does not compromise the values held by the community for that area.*
- *Direction 4.7 – Respect our heritage as we build for the future: the Amendment will encourage new development to be designed and sited to respect the identified significance of heritage places.*

2.4.2 Planning Practice Notes

The Panel notes that there are two Planning Practice Notes of particular relevance to consideration of this Amendment and the submissions.

The Council submitted the Amendment is consistent with Planning Practice Note 1 Applying the Heritage Overlay, July 2015 (PPN01 (2015)).

PPN01 (2015) states that:

The thresholds to be applied in the assessment of significance shall be ‘State Significance’ and ‘Local Significance’. ‘Local Significance’ includes those places that are important to a particular community or locality. Letter gradings (for example, “A”, “B”, “C”) should not be used.

PPN01 (2015) also contained advice on writing Statements of Significance:

For every heritage place (that is, a precinct or individual place) a statement of significance should be prepared using the three-part format of ‘What is significant?’; ‘How is it significant?’ and ‘Why is it significant?’.

PPN01 (2015) envisaged that all Statements of Significance would be stored in DELWP’s HERMES database. It also envisaged that any Incorporated Plan developed for the place as referenced in Clause 43.01, would be listed in the schedule to that clause.

This Practice Note was amended during the course of the Panel Hearing, in August 2018. While the parts quoted above concerning thresholds did not alter, PPN01 (2018) includes changed provisions dealing with Statements of Significance. PPN01 now provides that the relevant Statement of Significance for a heritage place is to be incorporated in the Planning Scheme:

A statement of significance must be incorporated in the planning scheme for each heritage place included in the schedule to the Heritage Overlay after 31

July 2018. This requirement does not apply to a heritage place included in the schedule by an amendment prepared or authorised by the Minister for Planning under section 8(1)(b) or section 8A(4) of the Planning and Environment Act 1987 before 31 October 2018.

However, a statement of significance may be incorporated for any heritage place included in the schedule before 31 July 2018 or by an amendment that the exemption applies to.

If a statement of significance is incorporated in the planning scheme, the name of the statement must be specified in the schedule to the overlay.

All statements of significance (incorporated or otherwise) should be securely stored in the HERMES heritage database.

Planning Practice Note 8 Writing a Local Planning Policy, June 2015 is also relevant. This Practice Note states that a Local Planning Policy (LPP) is not a control and cannot remove the discretion under the relevant zone, overlay or particular provision. It goes on to say:

However, an LPP gives a planning authority an opportunity to state how discretion should or will be exercised under the planning scheme. It can help applicants and the community understand how a proposal will be considered and what will influence decision-making.

The Practice Note also acknowledges some LLPs may compete and deciding between them is a normal function of the planning system. At the same time, it says repetitive or contradictory LLPs for the same theme or area will confuse and weaken the Planning Authority's intentions.

2.5 Panel comments

The issue of how the proposed Amendment relates to the existing policy context and other provisions of the Planning Scheme was a matter in dispute at the Panel Hearing. In particular, it was argued by submitters that the proposed new policies either failed to adequately recognise the economic role of the central city area and other growth areas of the municipality such as City North and responded inappropriately to the need for redevelopment of city blocks, or were expressed less forcefully than required to protect heritage assets. The relationship of aspects of the Amendment to PPN01 were also discussed at the Hearing. These issues are discussed in subsequent chapters of this Report.

3 Is the Amendment strategically justified?

3.1 Background

There are perhaps four main components to this Amendment:

- The implementation of the West Melbourne Heritage Review
- The revision of the grading approach to cultural heritage significance of places across the municipality
- The drafting of Statements of Significance for six large heritage precincts outside the CCZ
- The revisions to the existing Clause 22.04 and 22.05 policies relating to heritage.

The submissions relating to the West Melbourne Review were largely concerned with the merits of including particular places in the Heritage Overlay and the particular grading ascribed to them. Strategic issues such as the appropriateness of the methodology for the grading system review were raised incidentally to the principal arguments. The West Melbourne submissions are discussed in Chapters 8 and 9 of this Report.

There were a considerable number of submissions directly related to the revised grading approach and its outcomes for properties throughout the municipality. These were principally properties located outside the CCZ. With few exceptions, there was general support for moving away from the letter grading system currently applied to heritage places, although there was criticism of the conversion methodology and outcomes.

The Statements of Significance for the large precincts outside the CCZ drew little comment. However, given the Panel's findings on gradings there will undoubtedly be a need for some modification.

The principal strategic challenges to the Amendment related to the content of new policies as related to the CCZ.

3.2 The issue

Is there evidence and analysis supporting the proposed policy changes for the CCZ?

3.3 Submissions

Counsel for BLC and others joining the Hearing after September 2018, while acknowledging that it was appropriate to review and update policies from time to time, argued that the review upon which the Amendment was founded had not been rigorous or transparent and this flaw in the process undermined the strategic basis for the substance of the proposed changes to policy applying to the CCZ.

In particular, BLC submitted that aspects of the proposed policy, such as the discouragement of much larger buildings overhanging the front parts of heritage places, were merely a 'knee jerk reaction' to a number of examples of developments occurring in the central city which the Council had unsuccessfully opposed on review. It was also submitted that the current heritage policy, as applied to the CCZ, is adequate and appropriately flexible in terms of accommodating new development. It was said that the existing heritage policy at Clause 22.04

was well understood by the Victorian Civil and Administrative Tribunal (VCAT) in dealing with reviews of development applications as was the uniqueness of the CCZ.

It was further suggested by the additional submitters that community consultations conducted as part of the review had been 'one sided' in that those with development interests had not been invited to participate. With only those supporting more stringent heritage policies being consulted, the resultant policies were not appropriately balanced in terms of accommodating development.

In responding to these submissions, the Council submitted that the review and updating of the policies were designed to respond to the following issues:

- a) The guidance provided in the policies is necessarily very general but does not specifically address heritage in the Capital City context.*
- b) Issues with the 'content, useability and operation' of the current heritage policies, which provide guidance in 'exercising discretion' in decision-making for heritage places throughout the municipality.*
- c) Properties adjacent to heritage places purchasing air rights from the heritage property;*
- d) The emerging acceptance of new additions being highly visible and not being recessive to the heritage place and in particular rooftop additions which are dominant and highly visible;*
- e) The increasing approval of "facadism" to heritage places in the Central City.*
- f) The lack of guidance to the preferred outcomes and considerations for minor alterations and additions to a heritage place. Guidance for acceptable alterations to facades (particularly commercial buildings) including new openings, windows, doors and balconies would be useful for buildings within the Capital City Zone.*

The Council submissions indicated a concern that the limited policy context for the CCZ has allowed VCAT to consider development applications without proper guidance as to preferred outcomes. It was acknowledged that not all development outcomes in the central city were inappropriate in heritage terms. It was said that the Council has, however, had to increasingly attend VCAT hearings to oppose new tall buildings occupying airspace above the front portion of heritage buildings, highly visible additions and developments involving facadism without the proper support of explicit policies dealing with these issues.

The Council indicated that it has always been accepted that tall buildings will sit beside and behind heritage places in the central city, but it opposes the subjugation of heritage places to new development consistent with established/accepted heritage practice. The overhang design in particular was said to have a poor outcome in that the heritage building loses prominence in the streetscape and is dominated by the new built form.

In response to the claim that public consultation in the background work to the Amendment had been one-sided the Council said developers had been invited to participate in the consultation process and, in fact, the Property Council had attended consultative meetings.

3.4 Panel discussion and conclusions

In the previous chapter of this Report, the wider strategic policy and statutory context for the Amendment is set out.

It is clear to the Panel that that context gives considerable support to the inclusion of effective local heritage policies to assist in guiding statutory decision making.

The Panel is comfortable that clearer and more expansive heritage policies seeking to achieve good heritage outcomes in the central city have a legitimate role to play in planning processes along with other planning policies. Good heritage outcomes are critical within the central city as well as the surrounding neighbourhoods. The central city is in many respects the showcase for Melbourne and heritage places play a key part in defining its identity - they lend the city its own particular character. Retaining and enhancing the city's identity contributes social and economic benefits.

The Council acknowledged, and the Panel agrees, that having regard to the range of decision guidelines to be applied, a development outcome for a site will not always equate to the best heritage outcome. It nevertheless needs to be clearly stated what heritage outcomes are sought so that they can be weighed together with other considerations.

The Panel considers the general challenges to the need for the Amendment by CCZ interests such as BLC were not made out⁸. Rather the Panel was persuaded by the Council submissions and evidence that the policy upgrades are responding to real development incursions into the heritage values of the city.

The Panel considers that the Council is entitled to pursue particular heritage outcomes for its municipality provided they are not inimical to State policy. The Panel is satisfied that State policy supports heritage conservation.

The Panel considers that there can be no real argument that the current content of Clause 22.04 is severely lacking in terms of providing guidance on acceptable heritage outcomes and requires improvement. Ms Brady's view was that *'the identified shortfalls of Clause 22.04 were particularly problematic'*.⁹

Clause 22.04, as currently written, comprises a policy basis, including four objectives of which at least two are expressed in the most general terms; six policies; 11 Statements of Significance and a list of reference documents. When the latter two components are set aside, the policy content and its background occupy little over a page. Two or three of the policies relate to Statements of Significance and, of the remaining three or four policies, two relate to the provision of material to support applications.

Whether or not the content of the various components of the proposed policies is appropriate, as drafted, is a matter the Panel has considered in reviewing the Amendment and the submissions made to it. This is discussed in Chapter 5.

⁸ See similar challenges for the need for the Dustday in the Panel report on Yarra Planning Scheme Amendment C85.

⁹ Evidence statement July 2018.

4 A new classification system for heritage places

4.1 Background

Currently a hierarchical grading system is applied to heritage places in the municipality. It ranks them from A to D, with A-graded places being of the highest value (of at least State level importance) and D-graded places being merely representative examples of various types of places. The gradings are shown in the existing Heritage Inventory and defined in Clause 22.05.

The current Clause 22.05 management policies also utilise other grading terminology:

‘Contributory building’ means a ‘C’ grade building anywhere in the municipality, or a ‘D’ grade building in a Level 1 or Level 2 streetscape.

‘Outstanding building’ means a grade A or B building anywhere in the municipality.

The graded places currently also have an attached streetscape rating of Levels 1, 2 or 3 in the Heritage Inventory. The present policy at Clause 22.05 includes definitions of the three streetscape levels: essentially Level 1 streetscapes are outstanding, Level 2 are significant, and Level 3 are more diverse. The management policies in that clause utilise the streetscape levels. It refers to ‘streetscapes’ as being ‘complete collections of buildings along a street frontage’.

The Council submissions included that the DELWP and Planning Panel reports had advised against continued use of the A-D letter grading system for heritage places and that DELWP had indicated that no more heritage reviews would be considered for approval which were based on the former grading system.

Essentially it is proposed as part of the Amendment to abandon the former A to D grading of individual heritage places across the entire municipality and substitute a new system which would ascribe to each heritage place, a Significant, Contributory or Non-contributory status.

The ‘Significant’ status for heritage places is proposed to apply to all individual places outside heritage precincts and to selected places of high heritage value in precincts (principally formerly A- and B-graded buildings). Some C-graded buildings in precincts are also proposed for Significant status.

The ‘Contributory’ status is intended to apply only to those places of heritage value in precincts which contribute to the values of the precinct and which were not ascribed Significant status. The grade of ‘Non-contributory’ is to apply to properties of no heritage value which are captured within the bounds of a heritage precinct.

These new classifications are referred to in the exhibited Clause 22.04 and 22.05 policies and management policies for the various classes are applied.

The classes of heritage places are defined in the exhibited Clauses 22.04-17 and 22.05-17 as follows:

‘Significant’ heritage place:

A 'significant' heritage place is individually important at state or local level, and a heritage place in its own right. It is of historic, aesthetic, scientific, social or spiritual significance to the municipality. A 'significant' heritage place may be highly valued by the community; is typically externally intact; and/or has notable features associated with the place type, use, period, method of construction, siting or setting. When located in a heritage precinct a 'significant' heritage place can make an important contribution to the precinct.

'Contributory' heritage place:

A 'contributory' heritage place is important for its contribution to a heritage precinct. It is of historic, aesthetic, scientific, social or spiritual significance to the precinct. A 'contributory' heritage place may be valued by the community; a representative example of a place type, period or style; and/or combines with other visually or stylistically related places to demonstrate the historic development of a precinct. 'Contributory' places are typically externally intact, but may have visible changes which do not detract from the contribution to the precinct.

'Non-contributory' heritage place:

A 'non-contributory' heritage place does not make a contribution to the heritage significance or historic character of the heritage precinct.

The exhibited Clauses 22.04-18 and 22.05-18 also contain other defined terms relevant to interpreting the above definitions:

Heritage place:

A heritage place has identified heritage value and can include a site, area or space, building or other works, structure, group of buildings, precinct, archaeological site, landscape, garden or tree.

Heritage precinct (as referred to in this policy):

A heritage precinct is an area which has been identified as having heritage significance. It is identified as such in the Schedule to the Heritage Overlay, and mapped in the Planning Scheme Heritage Overlay Maps.

Individual heritage place (as referred to in this policy):

An individual heritage place is equivalent to a significant heritage place. It may be graded significant within a heritage precinct. It may also have an individual Heritage Overlay control, and be located within or outside a heritage precinct.

Streetscape gradings are proposed to be changed to 'significant' and 'other'. 'Significant streetscape' is to be a defined term in both policies, though the Panel notes that 'significant streetscape' is not referred to at all in the exhibited management policies of Clause 22.04.

The conversion methodology used to change the old A to D grading system to the new system was described in Ms Brady's evidence and in broad terms in the Council's Part B submissions. The Council submission included that the focus of the Lovell Chen work had been on graded

properties in precincts and groups of properties sharing the same Heritage Overlay number. It included¹⁰:

No review was undertaken of individual properties with an individual Heritage Overlay number, on the basis that such properties are properly regarded as individually significant, having warranted a Heritage Overlay of their own and thereby demonstrating that a threshold of Local significance was achieved for the property in its own right. These properties were directly converted to a grading of Significant.

Similarly, all A and B properties were directly transferred to Significant in recognition of the higher threshold of significance that these grades indicate.

On the basis of sampling exercises, desktop work and field work undertaken by Lovell Chen, all C grade properties (with the exception of Parkville) were determined to require review. In Parkville, all¹¹ C grade properties were directly converted to Contributory. D grade properties were directly converted to Contributory in all precincts, with the exception of Kensington, North and West Melbourne and Carlton. Ungraded properties were not the subject of review, and were directly converted to grading of Non-Contributory.

It was noted, however, that in the West Melbourne Heritage Review, both letter gradings and the new classification system were used. The Council advised that Ms Brady, therefore, did not undertake the conversions to the new system for this area, nor did she undertake the conversion for the Arden Macaulay, Kensington and City North precincts.

The assessment gradings applied by Mr Butler in the West Melbourne Heritage Review and the relationships between the letter and non-letter gradings are described in Chapters 8 and 9.

Also, towards the conclusion of the Panel Hearing, in response to representations made by the Melbourne Business School, the Council advised that it proposed to review all formerly C-graded buildings inside precincts in the City North area (that is in Schedule 5 to the Capital City Zone (CCZ5)). The Council also proposed transitional Planning Scheme provisions which would see those C-graded buildings retain this letter grading until such a review was completed and subsequent change to the new classification system was implemented through a separate Planning Scheme amendment process.

The Council stressed that the current conversion process was not a review exercise involving comprehensive (merits) re-assessment of the heritage value of all properties in the municipality.¹² It was said that this was too extensive a task and would have taken too long. It was submitted that the Panel should therefore not attempt to assess the heritage merits of particular properties as urged by some submitters (except for the newly graded and revised places in the West Melbourne study area), but rather examine whether or not the conversion methodology had been sufficiently robust.

¹⁰ At paragraphs 142-44.

¹¹ Corrected orally to add 'except a few'.

¹² See for example paragraph 136 of the Council's Part B submission.

4.2 The issues

The inter-related issues here are:

- whether or not the new grading system is one which is hierarchical in nature;
- whether the transitional methodology applied is soundly based and results in generally acceptable outcomes in terms of the allocation of places into the new categories; and
- whether the new classification system is one which would meet its purported intents to assist in the better management of heritage places.

These matters are jointly addressed below.

4.3 Submissions and evidence

In response to exhibition of the Amendment, there were a considerable number of objections relating to the conversion of formerly D-graded buildings outside precincts to their new classification status as Significant.¹³ There was also a more limited number of submissions concerning the re-grading to Significant of other properties including those graded C. The underlying assumption by the submitters, especially those whose properties were formerly D-grade, was that the new system was a hierarchical one and these properties were being proposed to be given a much higher grading than they had been ascribed formerly. Examples of objections to the upgrading of properties from C and D gradings to Significant included 21 University of Melbourne properties, some components of The Walk Arcade, 437 – 441 Spencer Street, 4-6 Princess Street, North Melbourne, 172-184 Roden Street, West Melbourne and 62 Walsh Street West Melbourne and 322 Walsh Street, South Yarra.

The submitters' views, that the re-grading of D-graded places to Significant amounted to the application of a higher level grading, appeared to derive from:

- The common use of the term 'significant' in other studies and in other municipalities as identifying places of higher heritage value when compared with 'contributory' places in precincts. Normally, 'significant' places are identified to be of heritage value, importance or significance in their own right, rather than as having a value based upon making a contribution to a precinct.¹⁴

The more stringent policy objectives and intents in the Amendment in relation to Significant places when compared with Contributory places.

An example is the difference in the policies of the Amendment relating to permissible visibility of additions to the two types of place in non-significant streetscapes. In the case of buildings afforded a Significant status, the policy is that additions should be concealed. In the case of a Contributory place, the policy is that the additions should be partly concealed. Other more stringent policies for Significant buildings, when compared to Contributory places, apply in the case of demolition, alterations and restoration and reconstruction.

¹³ While the Council described the submissions objecting to the Lovell Chen conversions from C or D to significant as comprising 'only a handful', when combined with the West Melbourne group, they represented a substantial group.

¹⁴ As in this Amendment, 'significant' places, where they are located in a precinct, may also contribute to the significance or value of the precinct.

Most submitters and witnesses did not oppose the introduction of what they believed was a new hierarchical grading system, but rather opposed the conversion methodology employed or at least the resultant assessed grading for particular properties, especially those formerly graded D being re-graded as Significant.

One submitter, however, found the revised system to be confused and unacceptable in so far as the definitions of places appeared to be not hierarchical but the presentation of the Council's and Mr Butler's understanding of it appeared to involve holding on to a hierarchy. Submissions in this respect were made by Mr Tweedie, counsel for Oliver Hume Property Fund (172 – 184 Roden Street, West Melbourne). It was suggested that it seemed that the Council was effectively trying to '*shoe-horn*' the old system into a new hierarchical one. It was said a system without grading avoided the problem of being locked-into a grading in a changing environment – one where streetscapes and people's values concerning heritage change. It was suggested that the Statement of Significance for a precinct might identify the 'gold star' buildings. It was suggested that the system of classifications proposed was an uncomfortable amalgam of hierarchy and non-hierarchical elements.

Submissions by Mr Connor, counsel for the University of Melbourne,¹⁵ also addressed this issue. It was recognised that the new system may well have not been intended to be hierarchical and was to be a fundamental departure from the old approach of grading. It was recognised that under the new system, a Significant stand-alone building could well be of a low level of heritage value, and a Contributory building in a precinct might have a very high level of value. It was pointed out, however, that the proposed management policies addressing demolition, additions, concealment of additions, restoration and the like, are fundamentally inconsistent with the new system. It was said that the policies clearly assume or infer that Significant buildings will always have a greater level of significance than Contributory buildings, warranting a stricter approach to their preservation and protection. The more stringent demolition policies applying to stand alone Significant buildings was contrasted with the more lenient policies for Contributory places. The University's submission was that the policies were therefore insufficiently nuanced.

The Council's Part B submission, in addressing the conversion methodology, affirmed the Council view that it was appropriate to convert all properties within an individual Heritage Overlay under the pre-Amendment classification to the new grade of Significant. It was accepted that not all such places would be of equal heritage value, but it was said that all would meet the threshold of individual significance. It was acknowledged and accepted that Ms Brady had identified the need to further review C- and D-graded properties in individual Heritage Overlays, but the submission was that, in the interim, a classification of Significant is the appropriate default position for these properties¹⁶. It was further said that this Panel is not the appropriate forum to adjudicate on whether a place should be removed from the Heritage Overlay 'which would be the only available course if the property were judged not to be Significant'.¹⁷

¹⁵ Document 124a.

¹⁶ Paragraph 154 and following.

¹⁷ Paragraph 159.

So far as the conversion of C- and D-graded buildings in precincts to the new classification system is concerned, as part of her evidence, Ms Brady expressed disagreement with the approach to reclassification initially recommended in the 2014 Discussion Paper. She said that by requiring that A, B, C and some D buildings all to be re-graded as Significant, a disproportionately high number of properties would be converted to Significant when compared with Contributory. The final Lovell Chen re-grading approach as set out in her evidence to the Panel and which involved reassessments of many C- and D-graded properties in precincts departed from the Discussion Paper methodology. Relevantly, she claimed that Lovell Chen converted most C- and D-graded properties to Contributory with relatively few re-graded as Significant.

The evidence given by Ms Brady highlighted the fact that the relative proportions of properties in each of the old letter grades varied significantly between parts of the municipality – which was believed to be at least in part due to the background studies having been conducted by different consultants and in different periods with changed definitions attaching to the gradings.¹⁸

The Council also included a response in its Part C submission to the alleged mismatch of classification and management policies. The Council responded that the tri-partite system proposed was not hierarchical as the submitters had assumed. It was said that the more stringent requirements in the proposed policy for significant places simply reflected that these would be places more often seen in the round. It was suggested also that the demolition of a building standing alone would have a greater impact than the demolition of one heritage place within a precinct.¹⁹ The Council also submitted that it was not appropriate to adjust the overall methodological approach based on the submissions from a handful of owners of individual places.

The Council submitted that the approach taken was an appropriate response to the comments by Planning Panels such as that for Amendment C196 about moving away from the letter gradings, and that the approach was consistent with PPN01.²⁰

The Carlton Residents Association (CRA) had other criticisms of the Council approach to reclassification of places and the suggestion for transitional provisions²¹. The Association was concerned that there had been a differential approach to treatment of C-graded buildings in West Melbourne when compared to other areas such as Parkville. It was noted that there appeared to have been confusion around the designation contributory under the current Clause 22.05 which applies to all C- and D1- and D2-graded buildings (in a Level 1 or 2 streetscape) whether inside or outside a precinct, and the new use of Contributory as applying only to (some) places within precincts. The submission noted:

In South Parkville, not one “C” Graded Heritage Place within the HO4 Precinct translated to the new Significant Grade, whereas, in the West Melbourne HO3 Precinct, almost ALL the “C” Graded Heritage Places translated to the new Significant Grade. In the South Parkville Precinct these “C” Graded Heritage

¹⁸ Pages 27-28 Evidence Statement July 2018.

¹⁹ See paragraph 50.

²⁰ As noted in Section 2.4.2, the current version of PPN01 dates from August 2018.

²¹ Emails of 17 and 22 February 2019.

Places translated to Lovell Chen’s default grading of Contributory without exception. Given that South Parkville has been recognised as one of the most significant and intact Heritage Precincts in Melbourne, this is NOT a credible outcome.

The CRA notes that the West Melbourne Grading translation approach [described above] was also adopted in both the Arden Macaulay and Kensington Heritage Reviews, and that RBA Architects articulated similar translation principles in their Statement of Evidence tendered during the City North Heritage Review, Panel Hearing No 2, 30 October 2014... In our opinion, the proposal to have a further evaluation of ALL those “C” graded properties within precinct overlays within the City North area cannot be justified. If the approach taken in the City North Heritage Review falls short of current Council expectations, this must call into question the efficacy of other recently completed heritage reviews. In the Association’s opinion, it is the translation approach adopted in the city wide Heritage Review that must be questioned.

The CRA suggested that a broader review of the grading of places (C- and D-graded) would seem to be required. They also suggested that, rather than applying transitional provisions, as proposed by the Council (for City North C-graded buildings only), the gradings of properties subject to further review might be notated as ‘interim’ in the Inventory.

4.4 Panel discussion

The Panel agrees with the submissions for the Oliver Hume Property Fund and the University of Melbourne that there is an underlying confusion in the description of the proposed classification system as it would be introduced by the Amendment. There is an essential uncertainty as to whether it is simply applying typological descriptors to heritage places – as either being individual places important in their own right as against places having value as part of a precinct (or both) – or whether it is applying a grading system.

Illustrating the confusion are the following paragraphs from the Council’s Part B submission. The first suggests that the system is conceived of as not being hierarchical:

*The use of Significant and Contributory in the gradings review seeks to enhance the designation of ‘Local Significance’ as that term is used in the Practice Note by recognising that local significance can cover a wide variety of places with a correspondingly wide spectrum of heritage values, both in terms of what kind of significance they have (individual or contributory) and what level of significance they have (conveyed traditionally by a hierarchical letter grading system). **Part of the rationale for departing from the letter grading system is to shift away from a hierarchy of importance towards an appreciation of what, how and why a place is significant as conveyed by a statement of significance.**²²*

This is immediately followed by:

²² Part B submission paragraph 139.

*Council acknowledges that the terminology used in designating or describing heritage places can create confusion and this confusion is reflected in the submissions received. For example, Submission 17 argued that properties should be graded according to either State significance or Local significance and ‘avoid altogether the problematic “Contributory” category’, without an apparent appreciation that all properties the subject of the gradings review are either individually places of Local Significance or parts of precincts which are of Local Significance and that **the categories Significant and Contributory have been used to further describe heritage values within the designation “Local Significance”**.²³ (Panel emphases)*

The Part B submission also included²⁴:

Part of the rationale for departing from the letter grading system is to shift away from a hierarchy of importance towards an appreciation of what, how, and why a place is significant as conveyed by a statement of significance.

That the new system retained a hierarchical flavour is, however, reflected by the further following extracts²⁵ from the Council submissions:

As a reflection of their existing highly graded status, all existing A and B graded properties were recommended for direct conversion to Significant.

The Methodology Report – City of Melbourne Heritage Gradings Review provides on page 6:

*As noted, all A and B graded properties in all precincts in and outside the CCZ were recommended for a direct transfer to the new significant grading. This reflects **their existing highly graded status. The recommended new definition for significant places uses ‘higher level’ language and descriptors to emphasise the importance of these places**, while conversely the definition of contributory is more inclusive and wide-ranging and **deliberately set below significant**.*

*The definition for significant also places emphasis on the individual importance of a heritage place or property. It provides for a range of place types to be considered significant, and allows for a range of attributes to be taken into consideration when assessing **this higher level heritage grading**.*
(Panel emphasis)

The Explanatory Report for the Amendment also refers to the introduction of a new system **grading** all heritage places within a Heritage Overlay using the Significant/Contributory/Non-Contributory system.

It states that it:

- *Replaces an existing incorporated document: ‘Heritage Places Inventory June 2016’ which grades heritage places using the A to D heritage grading system*

²³ Part B submission paragraph 140.

²⁴ Paragraph 139.

²⁵ Part B submissions paragraphs 146 -47

*with a new incorporated document 'Melbourne Planning Scheme, Heritage Places Inventory 2017' which **grades** all heritage places within a Heritage Overlay using the Significant/Contributory/Non-Contributory **grading system**.*
[Panel emphasis]

Ms Brady's evidence in particular suggested that she viewed the new system as hierarchical:

- Her concern that there would be too many Significant places relative to the number of Contributory places as referred to above²⁶.
- Her concerns about diluting the value of Significant as against Contributory places²⁷.
- Her view that:

*The important distinction between significant and contributory places is also reflected in the new definitions of significant, contributory and non-contributory included in the revised local heritage policies ... The new definitions emphasise the **singular and individual importance** of significant places, as opposed to the **broader and more commonplace category** of contributory places.²⁸ (Panel emphasis)*

The Panel was not persuaded by the closing submissions for the Council that the more stringent policy requirements as relate to Significant places when compared to Contributory places, responds to the former being more often seen in the round than contributory places. There was simply no analysis of places which supported this contention.

The Panel also considers that the application of the qualifying streetscape grading is something of a 'hang-over' associated with letter gradings and adds to the hierarchical nature of the proposed system. Ms Brady acknowledged this in her evidence²⁹ though considered the fewer levels in the streetscape gradings was a satisfactory component of the new system. The Panel notes that despite being defined in the exhibited Clause 22.04, 'significant streetscape' is not used at all in the management policies of that clause and it is used only sparingly in the management policies of Clause 22.05.

The Panel considers that the documentation, submissions and evidence for the Council (as well as submitters) reflect an underlying or residual retention of the notion of a hierarchy of local significance.

This is not entirely surprising as the terms significant and contributory have long been used within the professions dealing with heritage conservation to denote higher and lesser levels of heritage value. The designation of a differential value reflected in those terms has therefore made its way into planning schemes.

Clause 22.03-5 of the Boroondara Planning Scheme, for example, includes the following grading definitions which clearly ascribe greater value to significant places:

'Significant' heritage places are places of State, municipal or local cultural heritage significance that are individually important in their own right. When in a precinct, they may also contribute to the cultural heritage significance of

²⁶ Page 26 of Evidence Statement July 2018.

²⁷ As above.

²⁸ As above.

²⁹ Brady evidence statement paragraph 5.2.3.

the precinct. 'Significant' graded places within a precinct are of the same cultural heritage value as places listed individually in the Schedule to the Heritage Overlay.

'Contributory' heritage places are places that contribute to the cultural heritage significance of a precinct. They are not considered to be individually important places of State, municipal or local cultural heritage significance, however when combined with other 'significant' and/or 'contributory' heritage places, they play an integral role in demonstrating the cultural heritage significance of a precinct.

Further confusion is added to this typological versus hierarchical classification issue by the multiple usage of the term 'significance' in the Amendment documentation. As acknowledged in the Council's Part B submission³⁰, 'significance' is used to mean both cultural heritage significance or heritage value, as well as the grading applied to particular places – their being of 'significance' or 'Significant' as distinct from 'Contributory' in status. It is also used in a general sense to mean important or weighty.

Exhibited Clause 22.05-1, for example, refers to heritage places being *variously of heritage value for their historic, aesthetic, social, spiritual and scientific **significance***. It also refers to places outside the CCZ including *some of metropolitan Melbourne's **most significant** urban developments*. Clause 22.05-2 refers to *the assessed **significance** of places*.

Clause 22.05-3 and following, use significance largely in the grading or classification sense. Clause 22.05-3, for example, refers to *major or consequential development ... proposed to **significant** heritage places ...*

There is some overlap and uncertainty, however, in Clause 22.05-6 where it refers to *external fabric which contributes to the **significance** of the heritage place* Clause 22.05-8 also refers to retaining ... ***significant** roof form*. [Panel emphasis throughout]

This multi-usage of significance/significant is common in heritage policies in planning schemes. Clause 22.01-2 of the Glen Eira Planning Scheme, for example, includes:

*To protect places identified as having architectural, cultural or historic **significance** and which demonstrate the various eras of Glen Eira's development.*

*To encourage retention, preservation and restoration of all of [sic] **significant** and contributory heritage places within Glen Eira.* [Panel emphasis]

The Panel also notes the misuse of the term 'significance' – meaning cultural heritage significance - in the Council's Part C submission. The submission seeks to justify the translation of all existing individual heritage places in the Scheme to the new Significant category on the basis that they have passed the (cultural heritage) significance threshold³¹.

Various changed approaches were suggested by or on behalf of submitters which might allow a 'lesser' grading than Significant to apply to formerly D-graded buildings. Some suggested

³⁰ Paragraphs 138 – 139 and 140.

³¹ See the discussion at paragraphs 16-21.

that formerly D-graded buildings should not be given any new heritage grading under the revised system and be removed from the Heritage Overlay. Mr Raworth who gave evidence for ten separate submitters variously suggested that buildings of lesser heritage value (formerly D-graded) outside precincts might be graded as Contributory to the municipality as a whole as distinct from being Contributory to any particular precinct. He also suggested the possibility of a group or serial listings such as for all lowly-graded West Melbourne cottages outside precincts.

Even Mr Butler, who gave evidence for the Council, adopted unusual approaches to allow lesser gradings to be applied to some properties outside precincts by artificially creating 'precincts' to which the places might be seen as Contributory, such as one precinct comprising two attached dwellings in Roden Street, West Melbourne (formerly graded D), where the (only) two dwellings were described as Contributory to the precinct. Another example was the Lost Dogs' Home in North Melbourne, where this single property was proposed to be included as a precinct and for which one building would be identified as being Contributory.

The Panel considers that the retention of any notion of a hierarchy in the classification of heritage places is problematic and supports the move away from this as reflected in earlier Panel reports.

In its 2012 report in relation to Amendment C186 to the Planning Scheme, which proposed the addition of 99 new individual place Heritage Overlays in the central city area, the Panel included a discussion and recommendations on: *Problems with the use of the A, B, C and D grading approach*.

The Panel noted that that amendment, in implementing a 2011 Heritage Review, proposed to grade buildings from A to D (or earlier to E). It was also noted that the Planning Scheme would contain Heritage Overlays which derived from a number of different grading systems.

That Panel recommended the abandonment of a hierarchical grading system. It noted and supported an approach to classification of heritage places in the central city which had been adopted by an earlier review committee in the Central City Heritage Study Review 1993. The C186 Panel went on to say:

The Panel does not believe that the grading system used in the 2011 Review and imposed by the City is at all useful in 2012. It appears to the Panel that continuing an A - E grading system similar to that adopted in the 1980s does not reflect the current approach to heritage conservation in Australia. Since 1998, Australia has utilised an approach which provides statutory protection at world, national, state and local levels. Most commonly buildings are identified as of significance in contemporary conservation studies are simply said to be of local significance or State significance (or other higher grades).

The Panel concurs with the observations made about the consequences of using an A-E grading system at page 12 of the 1993 Review on this matter:

After extensive discussion with representatives of the MCC and with the review's Steering Committee the study team was asked to consider the possibility of changing to an A, B, C structure to reduce the pejorative associations often implied by gradings D and E and to simplify the list overall.

MCC planning staff had cited consistent problems with the old system in that owners and developers generally assumed that D and E graded buildings were clear candidates for demolition, regardless of other issues such as streetscape and visual, cultural and historic relationship with associated notable or historic buildings.

The 1993 Review then went on to adopt a three level grading for the buildings assessed as of significance: A-graded buildings were said to be of State or national importance and to be recommended for inclusion on State and national lists (as well as the then 'notable buildings' list in the Planning Scheme); B-graded buildings were said to be 'important milestones in the cultural development of the city and ... seen to be of metropolitan significance'; C-graded buildings were said to be 'of cultural significance for their representation of different phases of development in the central city' and 'make a contribution to the cultural value of the streetscape or precinct within which they are located'.

This 1993 grading approach therefore can be seen to ascribe State (or national) significance; local (or metropolitan) significance; and contributory significance in a precinct context. This is consistent with contemporary heritage studies. So far as local significance of places is concerned (as is the principal subject of this Amendment), in the 1993 Review places are either identified as significant in their own right or as making a contribution to a precinct.

The Panel for Amendment C186 found itself, for various reasons, having to adopt an A to D grading system for the purposes of its report but nevertheless commented that:

In summary, local protection is what is proposed in this Amendment. The Panel does not believe that applying B or C gradings to places included in the overlay assists in future management decisions about those places. After all, the proposal is that they are of local importance and aside from that, management decisions should be made on the basis of their statements of significance, not some relative value within the overlay.

The C186 Panel recommended that:

The Planning Authority undertake a general review of the grading system as part of developing a standardised approach to building listings in the central city area.

The Panel which reported in early 2014 on Amendment C207 relating to heritage controls in the Arden-Macaulay area also supported a move away from the grading system and noted the further complication added to it by streetscape gradings.

The Panel reporting later in 2014 on a further heritage amendment (Amendment C198) recommended:

As with numerous Panels before it, this Panel strongly encourages Council to move toward the "individual significance"/ "contributory to the precinct" model consistent with PPN1.

The present Panel also supports a revised approach to the classification of heritage places. Its recommendation is a variation on some of the earlier recommended changes and a variant on the exhibited classification.

The Panel considers it is simply unnecessary to allocate local heritage places to a grading as Significant or Contributory as proposed.

So far as classifications of the status of places is concerned, the current Practice Note provides:

The thresholds to be applied in the assessment of significance shall be 'State Significance' and 'Local Significance'. 'Local Significance' includes those places that are important to a particular community or locality. Letter gradings (for example, "A", "B", "C") should not be used ...

There is no reference to the identification of any other classification system for local heritage places except that it requires that places are to be identified as lying within or outside precincts or areas³². In this respect the Practice Note provides:

The explanatory report for an amendment that includes a place in the Heritage Overlay (or other supporting documentation accompanying a planning scheme amendment) should:

- *state whether the place is a precinct or an individual place ...*

Precincts and other areas are to be identified as a single place in the schedule and on the maps:

How are heritage precincts and areas treated?

Significant³³ precincts and areas should be identified in the schedule and be mapped.

The Practice Note also advises on the treatment of individual places within precincts:

How are individual buildings, trees or properties of significance located within significant areas treated?

The provisions applying to individual buildings and structures are the same as the provisions applying to areas, so there is no need to separately schedule and map a significant building, feature or property located within a significant area.

The only instance where an individual property within a significant area should be scheduled and mapped is where it is proposed that a different requirement should apply. For example, external painting controls may be justified for an individual building of significance but not over the heritage precinct surrounding the building.

³² The Practice Note also provides that in addition to individual places or those included in a precinct, other types of groupings may be used: Group, thematic and serial listings:

Places that share a common history and/or significance, but which do not adjoin each other or form a geographical grouping may be considered for treatment as a single heritage place. Each place that forms part of the group might share a common statement of significance; a single entry in the Heritage Overlay Schedule and a single Heritage Overlay number.

³³ An unfortunate and ambiguous use of 'significant'.

Alternatively, tree controls may be justified for a specific tree or property within a significant precinct but not over the whole precinct. In such situations the individual property or tree should be both scheduled and mapped.

Significant buildings or structures within a significant precinct can be identified through a local planning policy ...

How can the confusion arising from the new classification system be overcome and a system introduced which is consistent with the PPN01 (2018)?

The Panel considers that to avoid confusion around the term cultural heritage 'significance' and 'grading significance', and the connotations of a hierarchy associated with the proposed terms, the recognition in the classification system of Significant places should be abandoned.

Instead typological definitions should be introduced that recognise that there are places inside and outside heritage precincts which are of heritage value, and they don't necessarily have lesser value in the latter case. That is to say, a classification system should be introduced which relates to the type of place not its grading.

In the Glen Eira Planning Scheme the definition of terms at Clause 22.01-4, while continuing to refer to levels of significance or grading, goes some way towards this:

*Every building of **cultural heritage significance** has been assessed and graded according to its heritage contribution. The levels of significance were revised for heritage precincts in 2017. The levels of significance are as follows:*

- **Individually significant:** *The place is a heritage place in its own right. All individually listed properties in the Heritage Overlay are individually significant. Where such properties are also located within a larger heritage Precinct, the individually significant property is considered to be a contributory place within the Heritage Precinct and the Statements of Significance for both the individual place and the precinct should be taken into account.*
- **Contributory:** *The place is a contributory element within a larger heritage precinct. A contributory element could include a building, or building parts such as rooflines, chimneys, verandahs or other structures or works such as landscaping, front fences or paving.*
- **Non Contributory:** *The place is not individually significant and does not contribute to the Heritage Precinct. [Panel emphasis]*

The Panel recommends that all places currently defined as Significant in the Heritage Inventory should be rebadged as either:

- 'Individual Heritage Place - where the property is located outside a precinct or where it is a place of heritage value situated amongst precinct properties, but it does not share the values of the precinct; or
- Contributory place where the property contributes to the values of a precinct. The property then effectively becomes a valuable element of the wider precinct – the latter being the significant heritage place – in much the same way as identified features of significance on an individual building are identified as contributing to the overall significance of the building.

The Panel notes that if group or serial listings were to be used, the places in the group could be listed as a Contributory place in the same way as for precincts. However, the Panel agrees with the Council's Part B submissions³⁴ that the buildings in the serial listing groups suggested by Mr Raworth for various of his ten clients, were insufficiently linked in terms of history, or particular or distinctive aesthetic characteristics to warrant being grouped in this way. The use of serial listing as recommended by Mr Raworth was very much as a fall-back or third rate grading. This approach was rejected in the Panel report for Moreland Planning Scheme Amendment C149 of May 2014³⁵, as noted by the Council. The present Panel agrees.

The Panel considers that the use of a neutral term such as 'Individual Heritage Place' does not carry with it the connotation of superiority as is commonly associated with the term 'Significant'.

The Panel considers that this should defuse the concern about D-graded properties (and some C-graded properties) being 'uplifted' to a Significant grading. Mr Scally, who appeared for a number of clients, was specifically asked whether he would find such a change of terminology acceptable and less troubling in terms of his clients' concerns, and he agreed.

It also helps overcome the mild uncertainty around the recognition of all heritage places as being of cultural heritage significance versus some of them being Significant rather than Contributory. In this respect, the Panel considers that the justification of the default conversion of individual C- and D-graded buildings to Significant reflects a confusion between places being of cultural heritage significance and being Significant (as against Contributory).³⁶

If there is a desire to continue to identify those places, whether individual places or heritage places in precincts, which are of the highest heritage value (such as former A- and B-graded buildings), this can be done by identifying them as of high value in the relevant Statement of Significance. A list of the buildings making the most valuable contribution to the relevant precinct could be included in the precinct Statement. The Statement of Significance for an individual heritage place could, where relevant, refer to its having been assessed as of high value in the background review.

The term 'Non-contributory' should be retained to apply to properties contained within the boundary of a precinct but which do not contribute to the heritage values of the precinct. The Panel considers that the term could be changed to 'Non-contributory property' rather than 'Non-contributory place'. 'Place' is generally used in heritage parlance to refer to a property which has heritage value – a place which is Non-contributory is something of a contradiction in terms.

The Panel does not consider that these changes to the Amendment should be regarded as transformative. In particular, the definition of Individual Heritage Place can remain essentially the same as that exhibited for Significant place³⁷. As stated, if the Council considers it important that the degree of significance of a place should appear in Planning Scheme documentation, this can be done by reflecting it in the Statement of Significance.

³⁴ Paragraph 172.

³⁵ Page 38.

³⁶ See paragraph 154 and following of Council Part B submission.

³⁷ For other reasons the Panel recommends that this definition be reduced somewhat. This is discussed in Chapter 5.

The Panel has noted that some of the management policies at Clauses 22.04 and 22.05 distinguish between Significant and Contributory buildings. Also, as earlier commented the distinctions contribute to identifying Significant buildings as being more valuable and warranting stricter management policies. The management policies that differentiate between Significant and Contributory buildings, however, are few in number (approximately five) and the Panel considers that they can be reworded into a single management statement.

The Panel records that it considers that the re-grading methodology that was adopted by the Council and Ms Brady was also troubling in so far as it did undertake a measure of merits review of heritage values. While the Council submitted that the heritage value of all places had not been assessed, it is clear from Ms Brady's evidence that the initial 'automatic' re-gradings led to outcomes that were troubling in terms of assessed value and a large number of re-assessments were undertaken. A considerable number of places were effectively upgraded or downgraded by Ms Brady in terms of relative heritage value from the status ascribed to them under previous studies.

The Panel feels uncomfortable with this partial merits assessment of places in areas beyond the West Melbourne Review area. The Panel considers that this is another important reason not to support the new classification system included in the Amendment.

The Panel also recommends that the designation of places as to whether they are associated with 'significant streetscapes' should be abandoned.

In the Panel's view, the concept of significant streetscapes is a residual element of the old letter grading system or at least an adjunct to it and has been overtaken by the concept of heritage precincts. It was somewhat concerning that a streetscape was created out of a single building in West Melbourne and other unusual practices were adopted in an effort to shoehorn places into this element of the old system. As earlier noted, significant streetscapes are not used or little used in Clauses 22.04 and 22.05 respectively.

To the extent that the Council would wish to designate 'significant streetscapes' for continuing special treatment, they could be referred to in the Statements of Significance as being important contributors to a defined precinct or indeed could be defined as their own precinct.

The Panel also considers that the C-grade transitional arrangements as proposed by the Council at the end of the Hearing should be abandoned. The Panel considers that if the typological grading of Individual Heritage Place and Contributory Heritage Place is ascribed to all places essentially on a geographical basis, there can be little objection to places outside a precinct already included in a Heritage Overlay (such as the C-graded places in City North) continuing to be covered by an individual Heritage Overlay with no grading of significance attached.

Finally, the Panel advises that it agrees with the Council submissions that, apart from properties in the West Melbourne Review area, it is not appropriate for the Panel to undertake its own classification exercise relating to those additional properties not now in Heritage Overlays which some submitters recommend for heritage protection. The necessary suburb-wide comparative material is not available to the Panel and issues of further notice, if not transformation, of the Amendment, arise.

4.5 Conclusions

The Panel considers that there are inherent problems with the methodological approach taken to gradings conversions by the Council and its outcomes. It is considered that a typological classification system, simply identifying places as either Individual Heritage Place or Contributory to a precinct, better meets the modern approach of performance-based assessment of planning matters on their merits. It does not ascribe a fixed value to the place, which may be difficult to reconcile with other information coming forward at a later date and allows the significance of places to be better understood in the context of the broader Statement of Significance. It also assists in avoiding the assumption that Contributory places are of lesser value and therefore more acceptable for demolition. It allows Statements of Significance to assume their appropriate role in identifying places and elements of value and the basis for their significance.

The Panel also considers that streetscape significance gradings should be abandoned.

The Panel considers this approach is consistent with the current PPN01.

The Panel believes that the approach to classifying local heritage places should be adopted permanently by the Council and widely used, not just for places under this Amendment but in future heritage reviews.

In the event the Council was to prefer to retain the 'Significant' grading, the Panel considers this should not be done for this Amendment until all the required reviews of formerly C- and D-graded places have been completed. This is because, as evident at the Panel Hearing, the heritage value of individual places varies considerably.

4.6 Recommendations

The Panel recommends:

That the classification of all Significant places both outside and within precincts be reviewed and the places allocated to either an Individual Heritage Place or Contributory Heritage Place category.

That the definitions for these categories (Individual Heritage Place and Contributory Heritage Place) and of Non-contributory properties (in a precinct) be revised generally as shown in Appendix D.

That the grading of 'Significant' be deleted from the Heritage Inventory.

That the two-level grading of streetscapes be abandoned; and, if there is a desire to continue to recognise valuable streetscapes, consider adding valuable streetscapes as important elements in the Statements of Significance for precincts or by affording them their own precinct status.

That the Statements of Significance be reviewed to ensure that they adequately reflect the level of importance of the place and of its elements as required.

5 Local planning policies (Clauses 22.04 and 22.05)

5.1 Background

A key action of the 2013 Heritage Strategy was to review and update the existing heritage policies at Clauses 22.04 and 22.05 of the Planning Scheme. Lovell Chen was appointed to undertake this review which included community workshops and targeted stakeholder consultation. Following community engagement on the draft policies and new Statements of Significance, they were revised prior to exhibition as part of the Amendment.

At the Panel Hearing, the Council made submissions supporting change to the policies noting that they are 20 years old and that Clause 22.04 is particularly 'thin on guidance' for permit decisions in relation to CCZ heritage places.

Submissions about the Amendment included a number concerning the content of the new policies. Matters arising from submissions and evidence included whether the largely identical content in the Clause 22.04 and 22.05 policies supported having a single policy; repetition of provisions elsewhere in the Scheme; the relationship of the policies to other overlay controls in the Scheme; and the content of the policies. This section of the Report deals with these matters.

At the conclusion of the Panel Hearing, in lieu of conducting a drafting workshop in relation to the new policies, which had been mooted earlier in the process, the Panel invited written submissions concerning policy drafting. The Panel gave directions that submitters could provide it with:

A further written response to the clause 22 heritage policies by submitting tracked changed versions, with comments, on either:

- the combined clause 22.05 heritage policy dated 3 October 2018 (attached), which incorporates changes recommended by Council's expert witnesses, Ms Brady and Ms Jordan, and changes in response to written submissions; or*
- the exhibited clauses 22.04 and 22.05 (available on line).*

It went on to say:

Those parties who prefer to notate the separate policies rather than the combined policy, should nevertheless take into account the substance of those changes that Council has made in the 3 October 2018 combined version.

A total of seven submitters responded to this direction, either commenting on the combined version of the policies or the track-changed version provided by BLC as part of its presentation to the Panel.

The Council provided the Panel with a summary of its responses to the submitters' drafting efforts and commentary on 12 March 2019.

In providing its response in this chapter to submissions and post-Hearing comments, the Panel has used a similar format to that adopted by the Council.

The Panel's redraft of the policies is included as Appendix D to this Report.

5.2 Should there be one or two policies?

5.2.1 The issue

The exhibited Amendment proposed two heritage policies; one for places within the CCZ (except City North – CCZ5) and one for places outside the CCZ (including City North). The issue arising from Council evidence related to whether, given their largely identical content, they should be consolidated into one policy.

While one policy would avoid repetition, the question then raised was whether it would fail to acknowledge the different characteristics and greater intensity of development on land in the CCZ compared to that in other areas of the municipality.

Whether land in CCZ5 should be included under Clause 22.04 was a related issue.

5.2.2 Submissions and evidence

It was Ms Jordan's evidence that, given the largely identical content of the two exhibited local policies, they could be consolidated into a single policy. She said the key difference relating to the degree of visibility of new built form within and outside the CCZ would be dealt with by including specific clauses in the policy. The Council adopted Ms Jordan's evidence, but the closing submission for the Council, stated: *'it is inconsequential whether the policies remain as two or are condensed into one, rather it is the appropriateness of the content which is the essential question'*. It was the Council position that it would accept the recommendation of the Panel in this matter as to whether there should be one or two policies.

In its letter authorising the exhibition of the Amendment, DELWP also commented on the duplication of material in the policies. It went on to say that it understood that the Council wanted to retain the two policies to ensure the proposed changes were clear. It however encouraged the Council to consider combining the two policies, if or when it was adopted.

The submissions of residents and resident groups generally related to the content of Clause 22.05, particularly its effect on residential land outside the central business area. Some submitters supported the adoption of one policy while others made no comment on this matter. In supporting a single policy, the National Trust believed it required further refinement, particularly in relation to the policy basis and objectives.

Other submitters, including those with interests in land in the CCZ, supported the retention of two policies. Counsel for BLC submitted that the adoption of a single policy would 'dumb down' the importance of the CCZ and the more intensive form of development that would inevitably occur in the central city. BLC also submitted that combining the policies was Ms Jordan's recommendation, and while the Council had adopted her evidence at the Hearing, it was later acknowledged that it was not 'wedded' to that approach.

Mr Negri's evidence for BLC was also that retaining two policies was necessary in acknowledging the strategic differences between land in the CCZ and areas outside the CCZ; a distinction acknowledged in the different urban design policies adopted for different parts of this zone.

The submission for Sydney Road Holdings also referred to different heritage outcomes in the CCZ and therefore the need to retain two policies. This submission went on to say that Clause

22.04 *'should include a clear policy objective that recognises the unique strategic and built form context of the Capital City Zone'*.

Submissions opposing a single consolidated policy were also made by RMPH Holdings, Henvik and Oliver Hume Property Funds.

The CRA believed that Clause 22.05 should apply to land in CCZ5, or at least in relation to the concealment of additions and new buildings, based on mid-rise preferred building heights in this part of the zone rather than high rise building heights as in the central city area³⁸.

The University did not specifically comment on whether there should be one or two policies. It believed, however, that its campus should be treated the same as land in CCZ5, in relation to the additions and new buildings. Its track-change version of Clause 22.05 reflected this position.

5.2.3 Panel discussion and conclusions

One could say that the almost identical content of the two local policies supports Ms Jordan's approach of merging them into a single policy. The need for two policies was certainly considered to be unnecessary by some submitters, because of their near identical content and the fact that other municipalities have adopted a single policy. Also, DELWP indicated that they might be combined following adoption of the Amendment.

The central city area of Melbourne is however unique in terms of the greater Melbourne metropolitan area, as well as being the cultural, economic and administrative centre for the State. This and its importance both nationally and internationally will continue to influence how the extended central business area will redevelop.

Based on this importance, the Panel believes separate heritage policies should be retained, with one for land in the CCZ and one for land outside the CCZ. Even though the content of the policies will, in many instances, be the same, the purpose of these areas and the intensity and types of development will continue to be very different.

The Panel notes the Council's acknowledgement that the concealment provisions relating to additions to heritage places in Clause 22.05 as exhibited, should have exempted CCZ5, as is the case with the policies currently in place and had been supported by the Amendment C196 and C198 Panels. The Panel notes also that the Council was keen to ensure that CCZ5 was not exempt, however, from the façade height and setback provisions of that clause, as had been suggested by the previous Panels and as is included in the current Clause 22.05 policy. This was on the basis that DDO61 now applying in the City North area was already consistent with the proposed heritage policy in this respect.

The Panel acknowledges the CRA submissions about the only mid-rise character of the City North area referred to as a key design objective of DDO61 and their argument that this suggests that concealment provisions should apply to additions and higher rear parts. However, it is considered that even in the circumstances of a preferred height of 6-15 storeys, an exemption from the concealment provisions applying outside the central city is appropriate here.

³⁸ Letter dated 17 February 2019.

The Panel considers that the exemption for City North from the concealment provisions applying outside the central city might be effected by either including CCZ5 in Clause 22.04 or by retaining it in Clause 22.05 and applying the exemption. The first option is available because the controls are otherwise very similar in both clauses.

On balance, the Panel considers that Clause 22.04 should now apply to CCZ5 (City North), given the major renewal occurring in this area driven by education, research and health care developments. The area represents a significant economic adjunct to the central city. While there are other such adjuncts including the West Melbourne Structure Plan area and Southbank, they don't share the same zoning.

The Panel believes the retention of two policies and their revised content addresses the University's concerns in relation to concealment provisions for its campus.

In recommending the retention of separate policies, the Panel has reviewed their content. This is discussed in Section 5.5 below and the amended versions are included in Appendix D of this Report.

5.3 Relationship of the Heritage Overlay to other parts of the Planning Scheme

5.3.1 The issue

The issue is whether the provisions of the heritage policies should better reflect and complement other policies and controls in the Planning Scheme.

5.3.2 Submissions and evidence

It was the BLC submission that policy must be written in a manner that is considerate of other policies, codes and guidelines, as required by the provisions of ss 12(1)(b) and 12(2)(AB) of the *Planning and Environment Act 1987* (Act) and the Planning Scheme (Clauses 01 and 71.02).

In his evidence for BLC, Mr Negri referred to the need to integrate various planning policies and to balance conflicting objectives in accordance with the guidance provided by Clause 71.02-3 of the Scheme. It provides that:

Planning Authorities and Responsible Authorities should endeavour to integrate the range of planning policies relevant to the issues to be determined and balance conflicting objectives in favour of net community benefit and sustainable development for the benefit of present and future generations.

The BLC submission and evidence referred to the tension between the proposed Clause 22.04 and the provisions of Schedule 10 to the Design and Development Overlay (DDO10) which applies across much of the central business area including the Bennett's Lane area of the CCZ. Reference was also made to a possible forthcoming review of DDO10 and an interview conducted with the Minister for Planning on that matter.

In evidence for the Melbourne Business School, as an owner of land located in City North, Mr Biacsi referred to the identification in the Panel reports for Amendments C196 and C198 of the tensions between the objectives and controls of the Heritage Overlay and Schedule 61 to the Design and Development Overlay (DDO61).

He stated these Panels had acknowledged and addressed these tensions by exempting properties in the Heritage Overlay in City North from the provisions in Clause 22.05 that relate to the concealment of additions and higher parts of new buildings. In considering this matter, the C198 Panel agreed with expert evidence that Clause 22.04 could be applied to City North.

The tension identified by these Panels re-emerged in the exhibited Amendment in its applying Clause 22.05 to CCZ5 without exempting development from the concealment provisions.

In his evidence for the University of Melbourne, Mr Barlow also referred to the policy tension between Clause 22.05 (applying to CCZ5 as exhibited) and other provisions relating to expected redevelopment in City North, as part of the NEIC.

Some resident submitters believed that heritage should take precedence over other policies in considering applications affected by the Heritage Overlay.

In response to submissions, it was the Council position that the purpose of the heritage policy is to better assist in guiding the exercise of discretion under the Heritage Overlay and other controls of the Planning Scheme. It was acknowledged, however, that heritage considerations will have to be balanced against other competing provisions of the Planning Scheme, especially given that other permit triggers will almost always apply.

5.3.3 Panel discussion

The heritage policies of the Planning Scheme are intended to provide guidance in protecting and managing heritage assets identified in the Heritage Overlay. It was accepted by the Council, and the Panel agrees, that they cannot be considered in isolation from other overlay controls and planning provisions that may apply to the land.

This is made clear in the decision in *Boroondara City Council v 1045 Burke Road Pty Ltd & Ors* [2015] VSCA 27 (10 March 2015) as recently refined in *Icon Co (Jessamine Avenue) Land Pty Ltd v Stonnington CC (Red Dot)* [2018] VCAT 1134 (30 July 2018).

It is simply not unusual under any planning scheme for multiple overlays and policies to apply over an individual property and any tensions that arise to be dealt with when development applications are considered. This is already the case in the City of Melbourne in relation to its existing heritage policies. The Panel nevertheless agrees with the Council and the submitters who argued that the intents and expression of the policies guiding discretion under the Heritage Overlay in the municipality, and especially in the CCZ, require updating as well as a clearer expression of expected heritage outcomes.

The Panel notes that, in any case, the objectives of a number of DDO schedules which affect land in the Heritage Overlay and which would be subject to the new policy content, already identify heritage as a matter to be considered when assessing development applications. For example, an objective of DDO61, applying to land in City North (CCZ5) is *to ensure that new buildings respect the rich heritage fabric of the area and new buildings that adjoin heritage buildings respect their height, scale, character and proportions*. The proposed heritage policies would not sit uncomfortably with that objective of the DDO³⁹.

³⁹ It may be in fact that the new policies would be more rather than less liberal than the DDO controls with respect to scale and concealment.

Also, it was noted at the Hearing that DDO10, which applies across much of the CCZ, already imposes considerable restriction on built form outcomes. The alleged tension between the heritage policies and other Planning Scheme controls was therefore somewhat less in this case. The arguments presented by CCZ interests that the setbacks recommended by the CCZ heritage policy would stifle or in some cases preclude development were therefore judged by the Panel to be inappropriate in this context.

Counsel for BLC then invited the Panel to set aside any consideration of DDO10, on the basis that there was a government review of that control underway. The Panel does not believe it appropriate, however, to discount the operation of DDO10. We must take the Planning Scheme as we find it. Even if it were appropriate to take a seriously-entertained Scheme change into account, the review in question is embryonic at best, it is not public, and its outcomes are less than certain.

Irrespective of this issue, the Panel considers that the adoption of new heritage policies will not change the fact that they will have to be considered together with other overlays and planning controls that may apply to the land.

The Panel must acknowledge that the Amendment C198 Panel, in considering the application of heritage controls in the City North area, identified the competing heritage and development intents for that area. It was also of the view that it was not good planning practice to propose changes that would perpetuate policy conflicts or tensions. The Panel notes and agrees with the Council comment that these concerns were expressed in the context of some decision-making uncertainty with respect to such conflicts, which has since been resolved by the 1045 Burke Road decision.

The Panel considers that the inclusion of the City North area (CCZ5) under the more liberal 'concealment' regime applying to other parts of the CCZ, is a modest but adequate response to this concern. The Panel finds it acceptable that some adjustment is made to controls in this additional part of the CCZ which includes the NEIC as well as valuable heritage assets. The Panel would, however, not support the Council embarking on an extensive exercise of attempting to draft special heritage policies for all of the diverse development areas throughout the municipality as might be seen as a corollary of accepting that the City North changes were appropriate. The Panel considers that usual process of determining permit applications involving consideration of net community benefit generally offers an adequate statutory mechanism to weigh different planning intents and objectives.

The Panel also agrees with the Council's Part B submissions⁴⁰ that it is not necessary or appropriate for the heritage policies to specifically state that a decision-maker must consider whether demolition or other works to heritage places are in the public interest or justified to allow the development proposed. These considerations are already relevant by virtue of the provisions of the Act, the Planning Scheme and case law.

The Panel further agrees with the Council submission that countervailing factors to heritage which might justify approval of demolition or other works contrary to heritage intents, should not be included in the heritage policies. This is for the reason that they might be interpreted

⁴⁰ At paragraph 228.

and applied to allow greater licence in relation to those works than would otherwise be the case.

5.4 Repetition of other policy statements of the Planning Scheme

5.4.1 The issue

The issue is whether the heritage policies should replicate provisions already in the Planning Scheme or be included elsewhere in the Amendment.

5.4.2 Submissions

It was the BLC submission that it was not necessary to include provisions in the policies that are already contained in the Planning Scheme or in other parts of the Amendment. For example, it was said that the definitions for 'Grading of heritage places' should be removed from the policies as they were in the Inventory, which is to be an incorporated document. Also, it was considered other existing provisions elsewhere in the Scheme, including as relate to 'subdivision' and 'vehicle accommodation and access', were adequate to deal with any proposal affected by the Heritage Overlay. Furthermore, it was put to the Panel that some policy provisions such as those relating to vehicle accommodation and fencing were not relevant to land in the CCZ and therefore could be deleted from any new Clause 22.04.

The Council, on the other hand, believed it was appropriate to include these provisions in both policies, if only to reinforce those appearing elsewhere in the Scheme. In the case of 'subdivision' and 'vehicle accommodation and access' the Council said they are potentially relevant to smaller scale or residential properties in the CCZ, outside the central business area.

5.4.3 Panel discussion

The Panel agrees that where possible, policies should avoid duplicating provisions already in the Planning Scheme. It however accepts that to give clear indication of the Council's intentions, to protect its heritage assets, some repetition may be unavoidable.

In Chapter 4 of this Report, the Panel deals with the issue of the appropriate classification of local level heritage places and supports a revised classification of places which recognises individual places and places which make a precinct contribution, rather than a grading system based on heritage value. The proposed definitions of places under the exhibited grading system require revision. The Panel considers it appropriate that the revised definitions appear both in the policies and in the Heritage Inventory to assist in overcoming any tendency to ascribe unintended meanings to the terms.

In the case of inclusion of provisions for 'subdivision', 'vehicle accommodation and access' and 'fences and gates' in the CCZ policy, the Panel agrees they will have some utility though they are likely be irrelevant to many types of development and areas of the CCZ. It will also be the case that some provisions in the policy for land outside the CCZ will not be relevant for certain types of development and land uses in that area.

Because these Policies relate to different zones and development types the Panel believes that as proposed the provisions need to be retained to cover all situations.

5.5 Structure and wording of the policies

5.5.1 The issue

The issue is whether the policies, as drafted, strike an appropriate balance of allowing for development while conserving heritage places.

5.5.2 Submissions and evidence

Some residents and community groups believed the policies should be more prescriptive in terms of conserving heritage places, with greater use of the word 'must'. Some also suggested that the policies should provide that heritage considerations take priority over other planning matters when permit decisions are being made.

Other submitters, principally those associated with land in the CCZ, considered there was insufficient flexibility in the policies to facilitate development, and enable and encourage innovative and 'artful' design solutions.

Some of these submitters suggested that the existing policy at Clause 22.04 was working well, although it was conceded that it is appropriate to review and update policy from time to time.

The Panel changes to the policies, as referred to as part of its considerations below, are contained in its version of the policies at Appendix D of this Report.

(i) Structure and format

Resident groups and submitters requested more prescriptive provisions in the policies while those for land in the CCZ supported more flexible provisions. The CCZ submitters also believed the policies should contain performance measures and, where these were not met, decision guidelines would apply requiring the applicant to explain how the proposal met the Policy Objectives.

The National Trust requested the inclusion of new clauses for 'adaptive use', 'relocation', 'laneways', 'archaeological sites' and 'Aboriginal cultural heritage'.

Panel comment

The Panel observes that the submissions made to it about the level of prescription of the content of the Clause 22 policies quite often assumed the character of an argument about Planning Scheme requirements rather than policy. The policies will of course always remain as guidelines. If clearly written and strategically sound they are influential guidelines which should be followed unless there is good reason to depart from them. A debate about whether there is good reason to depart from policy is, however, always possible and they must be considered in the context of the total policy framework of the Planning Scheme.

As policies cannot be prescriptive documents imposing mandatory requirements, the Panel is not able to support the submissions supporting greater prescription. The Panel has adopted Ms Jordan's suggestion that each section commence with the words 'it is policy that', eliminating the use of the terms 'should' and 'must'. The Panel also supports the retention of two policies as discussed in Section 5.2 above.

In relation to the National Trust submission to include further provisions, the Panel believes the 'Relocation' provision could be reinstated. So far as the other matters raised by the National Trust are concerned, the Panel agrees with the Council responses that adaptive use is a well-understood concept. The Panel has included reference to lanes under 'Street fabric and infrastructure'. Archaeological sites and Aboriginal cultural heritage are principally dealt with by other legislation⁴¹ and therefore the Panel does not believe additional provisions need to be included in these policies.

(ii) Policy basis

In its submission, the National Trust argued that the 'Policy basis' section did not adequately describe the complexity of the City of Melbourne's tangible and intangible heritage, including Aboriginal cultural heritage.

Submitters for land in the CCZ considered the 'Policy basis' of Clause 22.04 needed to be strengthened to better recognise the different intensity of development in this zone and this would result in different built form and heritage outcomes.

One submitter believed the reference to the policies being read in conjunction with the Statements of Significance should be removed.

The Council agreed there would continue to be more intense development in the CCZ and this may result in a different built form. It did not however accept that this should allow development that erodes the value of any heritage place or be disrespectful *of the significance, character and appearance of heritage places*.

The Council did not support the deletion of reference to the Statements of Significance in the Policy basis.

Panel comment

In recommending the retention of two policies, the Panel has amended the 'Policy basis' of each to better reflect the areas to which they apply.

In the case of land in the CCZ, the Panel agrees with the Council that just because development will be at a greater intensity, it should not be permitted to compromise the heritage values attributed to a place.

The Panel supports the reference to the Statements of Significance in the Policy basis in acknowledging they will be considered when an application for a permit is lodged in relation to a heritage place.

(iii) Definitions

There were submissions concerning the wording of definitions which are common to both policies.

Assessed significance

Assessed significance is a new term proposed to be introduced by the new policies. It is defined in the exhibited material as being identified in the relevant Statement of Significance.

⁴¹ The *Heritage Act 2017* and the *Aboriginal Heritage Act 2018*.

It is said in one policy objective to be the basis for consideration of development and works. It is included as the initial decision guideline applying to both demolition and alterations applications. It has its own policy statement in relation to new buildings but is not mentioned at all in relation to additions or any subsequent component of the policy.

Some submitters sought to expand the definition to allow information, other than that contained in the Statement of Significance and citation, to be used in assessing the significance of a place. One submitter listed matters that could be relied on.

The Council stated that the Statement of Significance and citation will play a primary role in assessing a proposal and, where they are comprehensive, other information should not be needed. This is recognised in the policy objective.

Panel comment

The Panel agrees with the Council that where there is a comprehensive Statement of Significance for an individual heritage place or for a precinct, this should play a key role in decision making and additional heritage information may not be needed or forthcoming. The availability of a comprehensive Statement of Significance, however, cannot prevent an applicant from providing further information it believes is relevant to the consideration of a proposal, nor indeed other third parties involved in an application also providing such information. In this respect, the Panel notes that while the decision guidelines of Clause 43.01 specify consideration of any relevant Statement of Significance, they also include as a further consideration *'The significance of the heritage place and whether the proposal will adversely affect the natural or cultural significance of the place'*. This more general decision guideline provides the opportunity for further information to be supplied and debated.

Concealed/partly concealed

Clarification was sought by some submitters as to how the extent of additions 'to be concealed' should be expressed. One submitter believed the word 'some' should be replaced by 'a limited amount', as initially proposed. This submitter also requested the addition of the words 'direct or oblique' in relation to the viewing of an addition.

Panel comment

This is something of a semantic issue which will make little difference to outcomes in practice. Whether the policy relating to concealment refers to the parts visible from the street as 'some' or 'a limited amount', the actual amount of the new works that will be permitted to be seen, will depend on individual characteristics of the building and its context. Other policies may also be influential in the outcome in terms of the extent of visibility of the addition. Ultimately it will require the exercise of discretion by the responsible authority.

The Panel supports the retention of the word 'some' as currently proposed in referring to the extent of additions that may be visible. It has amended the definition, however, so that the addition or higher rear part does not dominate or reduce the prominence of the façade *'in the street'*.

The Panel believes the existing wording of this definition would cover both direct and oblique views from the street.

Contextual design

It was submitted that the words 'and the surrounding area' should be added in determining the design approach for additions and new buildings.

Panel comment

The Panel does not believe the suggested addition is required based on its amended definition:

A contextual design for new buildings and additions to existing buildings is one which requires new development to comfortably and harmoniously integrate with the site and the street character.

Facadism

There was general support by residents and community groups, including the National Trust, for the policies relating to the discouragement of facadism. On the other hand, the policies and the use of the term were not supported by submitters with land in the central business area of Melbourne who submitted that the three-dimensional form of the retained front parts of heritage buildings may not be discernible from the street, and the term itself was pejorative.

The BLC (version 1) of Clause 22.04 replaced the objective '*to encourage retention of the three-dimensional fabric and form of a building and to discourage facadism*' with '*to encourage outcomes where the heritage buildings can be understood in three dimensions and to avoid outcomes where only a two dimensional form is retained*'. This wording was supported by other submitters for land in the CCZ.

The BLC (version 3) of Clause 22.04 which deleted this definition, was also supported by other submitters with land interests in the CCZ. The RMPH Holdings version deleted that part of the definition that referred to the retention of an understanding of the three-dimensional form.

One submitter believed facadism affected the value attributed to the heritage building, in its entirety.

The Council opposed any change to the definition, as proposed.

Panel comment

The Panel accepts that, albeit there is a legitimate conservation objective to retain an understanding of the three-dimensional form of a heritage building when it is being demolished in part and redeveloped for modern-day occupation, often compromises must be made, resulting in 'facadism'.

Two notable examples provided to the Panel of what could be considered 'facadism' were the T&G Building and the Lonsdale Street Myer store in the central city. In both cases, their heritage listed facades were retained, while their (non-listed) interiors were totally gutted and then rebuilt to better suit their modern-day use as offices and a department store respectively. The Panel believes that although the three-dimensional form of these buildings was totally removed and rebuilt, the heritage significance and understanding of their function has been conserved.

The Panel also accepts that in the central city there may be little point to retaining the three-dimensional form of a place as it may not be readily appreciated from the public realm where it is abutted by other buildings built to the same building line from the street.

Nevertheless, the Panel is supportive of retaining the term, despite its pejorative flavour, and policy as proposed. It is a policy that seeks to implement a sound conservation principle. At the time of a permit application, a departure from the policy can be argued having regard to the circumstances of the site and its context.

Front or principal part of a building

It was submitted that defining the front or principal part of a non-residential building as one structural bay or defining the front part of a building by a specified measurement may be problematic, particularly for very large buildings. It was suggested that, in the case of an office building, there may not be a clear structural bay or roof form. Some submitters also opposed the need to retain the roof over the front part of the building if it was not visible from the street.

The BLC submissions also counselled against defining areas to be retained too liberally on the basis that if a design solution meeting a stringent setback policy could not be found, the likely outcome would be that an application to demolish the entire building would be lodged.

The Council argued that the use of metrics is useful as a starting point and said that if a bay was less than the suggested measurement, then the lesser definition of the front part would be adopted. The Council did not support modifying the definition to exclude consideration of the roof structure if it cannot be seen from the public realm.

Panel comment

The Panel understands it is common for councils to include measurements in describing the depth of the front or principal part of a building. It is considered, however, that while the suggested measurement may be helpful in the case of a dwelling, this may not be the case when dealing with what is the front or principal part of a commercial or industrial building.

The Panel therefore supports the removal of measurements in the case of non-residential buildings. It has added the word '*residential*' to the paragraph dealing with those buildings and the words '*or principal*' to read '*the front or principal part*' for non-residential buildings, as suggested by a submitter.

In relation to corner sites and sites with two street frontages, the Panel believes clarification is required as to what part of the building is its 'front or principal part'. Minor amendments have been made to clarify these aspects of the definition.

The Panel does not agree with submissions that roofs should only be considered part of the front or principal part of a heritage place when visible from the public realm.

The Panel does not agree with the BLC argument that demolition of the entirety of buildings would be an outcome encouraged by setting too stringent requirements in relation to the retention of the front or principal part of the building in the policies. The Panel considers that the preferred frontage area to be retained must be selected having regard to what is generally suitable for the types of heritage buildings in the area. There will always be some properties that are small in area or dimensions for which development options will be substantially

constrained. It will be the constraints imposed by overlays and zones which will be more influential in development outcomes in any case.

Gradings

The National Trust supported retaining the words '*a significant heritage place may be highly valued by the community*' as part of the definition of Significant heritage place. It was submitted that this would allow the social significance of a place to be properly considered.

The Council acknowledged that reference to the 'Grading of Heritage Places' suggested a hierarchy and suggested using the alternate words, 'Classification of Heritage Places'.

Panel comment

The Panel believes that altering the heading in the policies to 'Classification of Heritage Places' does not change the fact that the defined concepts of Significant, Contributory and Non-contributory represent a hierarchical system.

For the reasons given in Chapter 4 of this Report, the Panel has deleted the grade 'Significant' and inserted the term 'Individual Heritage Place'. It has also replaced the term 'Non-contributory Place' with the term 'Non-contributory Property' as this better denotes a property with no heritage value.

The Panel considers that the social significance of a place is something that can be readily included in the Statement of Significance for the individual place. It therefore does not need to be specifically referred to in a definition.

Heritage Place

Melbourne Heritage Action requested the definition '*Heritage Place*' be expanded to include, for example, interiors, public art, view lines and a range of infrastructure items, such as monuments, drinking fountains, footpaths and service covers.

Panel comment

The Panel believes that the items requested for addition by the submitter are covered by the words already proposed to be included in the definition by the Amendment, notably 'area or space', 'other works' and 'structure'. The protection of views and vistas is included as an objective of the policies. The Panel does not believe this definition needs to be amended.

Lane

The Panel believes what is currently proposed is not a definition.

The provisions for 'Additions', 'New Buildings' and 'Vehicle Accommodation and Access' all refer to lanes. Although the Panel believes it would generally be understood what a lane is, if there is to be a definition it needs to say what it is. It is not acceptable to simply say it may be in public or private ownership.

The following definition has been included in the Panel's version of the policies:

A lane is a narrow road or right of way (ROW) generally abutting the rear or a side boundary of a property. It may either be paved or unpaved and in private or public ownership and will typically provide vehicle access to adjoining properties.

Respectful and interpretive

BLC and Sydney Road Holdings suggested changes to this definition. Version 3 of the BLC draft of the policy, as supported by Sydney Road Holdings, proposed the deletion of the second sentence which expands on what 'respectful' means.

The Council did not support this proposal.

One submitter believed the word 'referenced' was problematic and needed clarification.

Panel comment

The Panel believes the proposed definition is clumsy and repetitive. It would be improved by deleting the first sentence thereby clearly setting out what is 'respectful' and what is 'interpretive'. In relation to the word 'referenced' the Panel believes the meaning of this term is clear in the context of carrying out any building work.

Streetscape and Significant Streetscape

There were submitters who asserted that a 'streetscape' is not limited to buildings and the definition should be amended to reflect this.

Other submitters wanted the existing three streetscapes gradings retained, to protect buildings that have an individual lower grading. It was submitted that without a streetscape grading there was less evidence provided of the importance of a group of buildings.

Melbourne University was concerned that the concealment provisions would apply to those buildings on its campus which were identified as a 'significant streetscape'.

In response, the Council stated that, for the purpose of the policies, the definition intentionally relates to the built form and heritage fabric of places. It was acknowledged, however, that a Statement of Significance for an individual building or precinct may refer to other elements. To clarify what is intended, the Council provided the following amended definition for 'Heritage Precinct':

A heritage precinct is an area containing more than one property which has been identified as having heritage significance. It is identified as such in the Schedule to the Heritage Overlay and mapped in the Planning Scheme Heritage Overlay Maps.

Panel comment

The Panel considers that a 'streetscape' is what is viewed along a street, and this will include more than the buildings that front it. The Council has attempted to clarify what it means by amending the definition of Heritage Precinct. The Panel does not believe this change clarifies the Council's intention that it is only to apply to buildings in a precinct.

As referred to in Section 4.4 of this Report, the Panel considers that the 'significant streetscape' qualifier, now proposed to be listed in the Heritage Inventory against each place entry, is a residual part of the notion of a hierarchical grading of heritage places. The Panel considers that the proposed classification system remains inappropriately hierarchical and does not support it. It considers that streetscape gradings should be abandoned.

The main reason for defining 'streetscape' and 'significant streetscape' appears to be in controlling the concealment of additions and higher parts of new buildings. The Panel believes the Statements of Significance will define the key attributes of a place in determining the appropriate level of concealment of higher parts of an addition or new building.

These definitions have been deleted in the Panel version of the policies and, where necessary 'street' instead of 'streetscape' is referred to.

The Panel believes the deletion of the streetscape provisions from the policies will address the concerns raised by the University of Melbourne in relation to individual heritage places on its campus.

Visibility

The MBS requested this definition be amended to remove reference to what can be seen from a public park.

The Council opposed this change. It argued that oblique vantage points from a park or side street were important when assessing additions to existing buildings or new buildings.

Panel comment

The Panel believes there may be instances where views of a heritage place, in addition to the view available directly from the street in front, may be important. It could be expected that where this is especially important, it will be covered in the Statement of Significance. The Panel does not support this change to the definition requested by the submitter.

(iv) Policy objectives

Innovation, design excellence and creativity

The BLC version of Clause 22.04 proposed a new objective; *'to encourage innovation, excellence, and the creative and adaptive reuse of heritage buildings'*. This was supported by other submitters in the CCZ.

The Council responded that the addition of these words would unacceptably elevate those concepts to a role of primacy in the objective and in the application of the policies. It therefore did not support the inclusion of the new objective.

Panel comment

The Panel believes that innovation and creativity are central to the design process for additions to heritage places and new buildings, both in precincts and on or adjoining individual heritage places. This approach is also pertinent both within and outside the CCZ.

The Panel believes the existing objectives, including the revised definition of contextual design, are sufficient however, to encourage innovative design. The term 'adaptive' design has, however, been modified to 'creative adaptive design'.

Further information

A proposed policy objective is:

To recognise and conserve the assessed significance of heritage places and streetscapes, as referenced in this policy or incorporated into this planning

scheme as the basis for consideration of development and works. Further information may be considered including in relation to streetscapes, where there is limited information in the existing citation or Council documentation.

Some submitters suggested a new policy objective to encourage applicants to provide further information about the significance of a place, where available. One submitter suggested the listing of the material the Council could refer to in considering an application.

In opposing the submission, the Council stated further information should generally be limited to those instances where a Statement of Significance either does not exist or contains limited information for a Place.

Panel comment

Statements of Significance are now required for every individual heritage place and precinct. The introduction of the defined concept 'assessed significance' in the policies, as discussed earlier, appears to be an endeavour to elevate the role of Statements of Significance (and possibly the gradings proposed to be included in the Inventory) in decision making. The objective properly recognises that additional information may be considered in relation to an application but limits it to circumstances where citation information or Council documentation are 'limited'.

As discussed earlier in relation to assessed significance, the Panel agrees that there is a key role to be played by Statements of Significance, however, the Panel does not consider that the provision of further heritage information can be precluded even if the Council considers the citation and other Council documentation is adequate.

The Panel believes the second part of the objective relating to the provision of additional information should be removed from the objective and has deleted this in its version of the policies in Appendix D.

Adaptive re-use

The objective is *'to encourage the adaptive re-use of heritage places'*.

Submitters requested an expanded definition or examples of what may be adaptive re-uses.

The written submission for Metro Pol stated that there should be an acknowledgement in the policy that, where a building is being altered, adapted or re-used, there will be greater flexibility to permit outcomes that depart from what would otherwise apply.

The Council believes the meaning of adaptive re-use is understood and therefore there is no need to include a definition or guidelines.

Panel comment

The Panel agrees that a definition and separate provision for adaptive re-use of heritage places are not required.

In relation to Metro Pol's submission, a policy has the flexibility to allow alternative design solutions, which may include those for the adaptive re-use of a heritage place. The subject policies have been revised to better reflect their flexibility and the Panel does not believe further explanation on this matter is required.

Aboriginal cultural heritage

One policy objective is *'to promote the protection of Aboriginal cultural heritage'*.

The National Trust considered the policy should be expanded to specifically refer to sites of Aboriginal heritage significance and ecological cultural heritage.

In her evidence Ms Jordan recommended adding a provision to the clause 'New buildings' to read:

- *Do not impact adversely on the Aboriginal cultural values, as indicated in an archaeologist's report, for any site known to contain Aboriginal archaeological relics.*

The Council supported the inclusion of this clause in the provisions for new buildings in both policies.

Panel comment

As referred to in Section 5.5.2(i), Aboriginal cultural heritage is principally dealt with by other legislation⁴². The Panel therefore believes the inclusion of this provision in this policy is unnecessary. It has been deleted from the 'New buildings' provision.

(v) Permit application requirements

There were submitters who requested the removal of words 'or consequential' in relation to the need to prepare a Conservation Management Plan (CMP).

The Council opposed this suggestion, believing it is clear what is meant by this term.

Panel comment

The adjective 'consequential' is defined either as *'following as a result of'* or *'important/significant'*. The inclusion of this word suggests to the Panel that a CMP could be requested for any work proposed to a heritage place. If this is the intention it should be clearly stated.

The Panel believes it is likely that only major work will require the preparation of a CMP and therefore the word 'consequential' should be removed.

The Panel has provided alternative wording of this provision in its version of the policies.

The Panel has made other minor changes to the matters set out in the 'permit application requirements' including when further information may be required.

(vi) Assessment of planning applications

Submitters for land in the CCZ sought to modify the clause 'Performance Standards for assessing Planning Applications', by deleting the words 'for assessing planning applications' and adding a preface to the clause preamble to allow performance standards to be varied if the policy objectives are met.

⁴² The *Heritage Act 2017* and the *Aboriginal Heritage Act 2018*

The Council considers it is important that the policy clearly identifies that the performance standards are not something an applicant can 'opt out of'. It also believes this change would require significant modification to the structure of the policies.

The Council did, however, support the MBS proposed changing of the heading to '*Assessment of Planning Applications*' with a corresponding change to the preamble to read '*Planning applications are to be assessed against the Policy Objectives at Clause 22.04-4/Clause 22.05-4 and the policies set out below.*'

Panel comment

The Panel supports the changes suggested by the MBS and supported by the Council. It also supports the inclusion of the phrase 'it is policy that' at the beginning of each clause, as suggested by Ms Jordan, because they are non-prescriptive policies. This change has been made in the Panel version of the policies.

(vii) Demolition

The National Trust and Melbourne Heritage Action considered the provisions for demolition were vague and should be either redrafted or deleted. They believed further work was required to ensure the heritage values of non-residential buildings were not lost.

They also supported creative reuse and stimulated economic growth through heritage conservation as an alternative to demolition. Reference was made to the Banyule Council's Cultural Heritage Local Planning Policy at Clause 21.03, which is *to support the sustainable use and improved environmental performance of heritage places and precincts.*

The Hotham History Project Inc believed there should be greater control over demolition with it 'rarely' being permitted in the case of significant or contributory buildings.

Other submitters believed that the poor condition of a building, specifically poor structural condition, may be a valid reason for allowing demolition.

The University of Melbourne submitted that '*net community benefit, having regard to the significance of the building and heritage place*' was relevant in considering whether approval should be granted to demolish or remove a building. In his evidence, Mr Barlow referred the Panel to the VCAT decision concerning the demolition of Ampol House, a 'C' graded heritage place under the Scheme, to allow construction of the purpose-built Peter Doherty Institute⁴³ as illustrating this point.

Two submitters requested the addition of a provision stating that the demolition of non-contributory elements of a place would generally be allowed. The Council believes this provision is unnecessary because the extent of demolition will be guided by what is in the Statement of Significance.

In similar vein, the Panel also noted the resolution of the Council of 20 February 2018 to amend the changed demolition provisions, recommended in response to submissions:

... the sentence "The demolition of a non-contributory place will generally be permitted" be deleted.

⁴³ *The University of Melbourne v Minister for Planning (includes Summary) (Red Dot) [2011] VCAT 469 (22 March 2011).*

The Council resolution recorded that this was on the basis that the suggested addition of this text post-exhibition was believed to be not strictly necessary, and that, when assessing an application under the Heritage Overlay, the responsible authority may be required to consider that a heritage place is 'contributory' or 'significant' despite there being no record in the Heritage Inventory for whatever reason. It was considered that the new policy should not unduly limit such discretion.

One submitter believed that the demolition of one building in a row of buildings could have a detrimental impact on the row as an entity and on the streetscape.

Panel comment

The Panel agrees with submitters that this clause would benefit from some fine tuning.

The Panel is concerned that allowing building condition a role in deciding whether demolition should be permitted, runs the risk of encouraging some owners to allow their building to fall into disrepair. However, where evidence is provided that a building is structurally unsound or otherwise has major faults, this should normally be a matter considered to support a demolition application. This is to be contrasted with lesser problems of condition which might be more readily dealt with and which might be discounted. The Panel believes minor redrafting of this provision would provide greater clarity on this matter.

In relation to including a part of the policy that relates to Non-contributory places and providing that they will normally be permitted to be demolished, the Panel notes the Council concern that some of these may be places that may have been overlooked as Contributory to precincts.

The Panel considers that there would be transparency benefits to inclusion of such a policy, especially for the property owners, but accepts that while there is ongoing heritage review work across parts of the municipality, it may be appropriate that the policy is silent on this matter.

The Panel agrees with the Council that it is unnecessary to include a policy that the demolition of Non-contributory elements of a place would generally be allowed. Statements of significance should clarify key elements of significance and non-contributory parts.

In relation to 'net community benefit', as referred to in submissions and evidence, the Panel accepts that this is the essential matter to be determined in cases where there are competing intents and consequences. It is also accepted that economic arguments both for and against building retention/demolition may need to be considered in determining an application to demolish a heritage place. These are considerations already adequately dealt with in the Planning Scheme requirements.

(viii) Alterations

Under this clause it is policy that any part of a Significant building, and any visible part of a Contributory building, be preserved. The University of Melbourne requested that this provision be modified to only relate to visible parts of both Significant and Contributory buildings. The Council did not support this change.

Panel comment

The Panel's re-classification of heritage places means that the Statement of Significance will be relied on to identify what is of value about a place and what elements should be protected. This would apply to both Individual Heritage Places as well as Contributory Places in a precinct. Elements of significance may not be visible from the public realm. The Panel does not accept the submission that only visible parts of a heritage place should be considered in conserving a heritage place.

(ix) Additions and new buildings

Some submitters argued that the concealment of additions to individual heritage places and the rear higher parts of new buildings on sites outside the CCZ should be mandatory. Others, particularly those with land interests in the CCZ, believed there should be greater flexibility able to be exercised in the siting and form of additions, in response to design excellence.

One submitter referred to the need for additions to Non-contributory places in a precinct to be in keeping with heritage values of the precinct. This submitter also believed there should be a definition for 'façade', which would exclude a parapet / pediment.

Clarification was sought as to what would be the vantage points in viewing any higher rear parts of buildings, as applying to land outside the CCZ.

Panel comment

The issue of concealment is about avoiding adverse effects upon the cultural heritage value of an Individual Heritage Place by an overly prominent tall or wide addition to that place; or avoiding adverse heritage impacts by a new large-scale building in a precinct.

The Panel supports the intents of the policy but believes the wording is clumsy. The following replacements for the Clause 22.05 (Places outside the CCZ) policy are suggested:

Additions

It is policy that:

(Additions) are concealed to the extent necessary to avoid dominating or reducing the prominence of the façade(s) of a Heritage Place.

New Buildings

Set back higher rear part(s) of new buildings so as not to dominate or reduce the prominence of an adjoining Heritage Place.

The Panel has noted that the 'Alterations' clause requires that alterations to a Non-contributory property do not detract from the assessed significance of a heritage precinct. For consistency Non-contributory properties should also be referred to in the 'Additions' provisions for a precinct. This change is made in the Panel version of the policies.

In relation to the façade height of new buildings, the Panel believes the policies deal with this issue by requiring higher elements to be set back from the frontage.

(x) Subdivision

There was support for strengthening the subdivision provisions to protect gardens and trees.

Other submitters argued the subdivision provisions were not required for the CCZ on the basis that this is adequately covered by Clause 43.01.

Panel comment

The Panel does not agree with the submissions that the subdivision provisions are not relevant to land in the central city area of the CCZ. They will not be relevant to all places but, being policy, can be set aside where this is the case. The considerations may in any case be relevant to non-central parts of the CCZ.

The Panel considers that the provisions further refine rather than duplicate the general decision guidelines applying to subdivision applications in Clause 43.01.

The Panel believes that the provision discouraging subdivision of airspace over heritage places or adjoining heritage places should not be applied in the CCZ. Subdivision of airspace may be a tool which assists in building retention, though the Panel considers it must be carefully applied.

The Panel considers that the subdivision provisions seeking to retain the setting of a heritage place, which may include gardens, are adequate to address the protection of those gardens and trees which may be elements of significance.

(xi) Vehicle accommodation and access

In support of including vehicle access and accommodation provisions, one submitter referred to an example of an approval to provide basement parking and access that would have a negative impact on views of the heritage building on the land from the street. It was considered that the policy needed to prevent this from occurring in the future.

One submitter proposed changes to this clause including nominating a setback to car parking associated with a heritage place, reference to and a maximum width of a crossover, and prohibition of parking on a crossover.

Other submitters did not believe these provisions were relevant to land in the CCZ.

Panel comment

The Panel acknowledges that the access and parking policies may not be particularly relevant to the central business area of the CCZ. The Panel agrees with the Council response, however, that the policies may be relevant to places in other areas of the CCZ and therefore should be retained in the policy.

The Panel believes the potential effects that access and parking may have on a heritage place are appropriately addressed by the policies. In relation to construction of new crossings, heritage may influence the decision as to whether a permit should be granted by the Council. The issue of parking a vehicle on a crossover is not a matter for this Panel.

(xii) Fences and gates

Community groups provided general support for the revised provision that fence styles are to be consistent with the architectural period of a dwelling or features in a street. One submitter was concerned that the policy may prevent him replacing an existing higher fence that provides privacy to his private open space.

It was again suggested that this provision was not relevant to heritage places in the CCZ. There was also a request to delete reference to the permitted 'maximum' heights.

The Council advised that although this provision would probably not apply to many commercial sites, it may be relevant to non-commercial properties in the CCZ. It therefore believed it should be retained in the CCZ policy.

Panel comment

The Panel supports retaining this provision for the CCZ even though it may only be relevant on rare occasions.

In relation to the submission concerning the protection of privacy by allowing a higher fence, there is the flexibility to vary the provisions as they are not mandatory.

(xiii) Trees

Some submitters believed that policy to protect trees should extend to the conservation and restoration of built elements and plantings, to be guided by a CMP or Heritage Impact Statement (HIS) where relevant.

The National Trust suggested an alternate heading 'Significant Trees and Garden Layouts/Plantings' and the addition of provisions where trees may have to be removed, based on the 'Development Guidelines for Sites in the Heritage Overlay' under the Yarra Planning Scheme. The Trust also suggested the policies could refer to the Council's Exceptional Tree Register and the Australian Standard for 'Pruning of Amenity Trees' (AS4373-2007).

Panel comment

If gardens and other built elements contribute to the significance of a place it could be expected they will be referred to in the Statement of Significance and therefore would be considered in assessing any application for a heritage place.

It needs to be remembered also that gardening is an activity exempt from Planning Scheme control (see Clause 62.02-1) and it would require changes to other provisions of the Scheme if it was seen to be desirable to control it⁴⁴.

Tree controls will apply to sites where triggered by the Schedule to Clause 43.01 or, in the case of those on the Council's 'Exceptional Tree Register', by Schedule 2 of the Environmental Significance Overlay. The Panel does not believe this schedule needs to be referred to in these policies.

(xiv) Services and ancillaries

The Melbourne Business School believed the term 'ancillary fixtures' was better understood than 'ancillaries.' The Council supported this change.

Panel comment

The Panel also supports the submitter's view. The relevant changes have been made to the policies in Appendix D.

⁴⁴ See also the discussion of this issue in *Heritage Provisions Review Final Report (AC) [2007] PPV 65* (16 August 2007).

(xv) Street fabric and infrastructure

The protection of historic street infrastructure and plantings when designing and siting street furniture was raised by a submitter.

Some submitters were concerned that historic laneways were not referred to as part of the street fabric.

Panel comment

The Panel believes it is appropriate that the design and siting of street furniture take account of 'historic' features, which may not necessarily be listed as heritage places.

Historic lanes are part of the street fabric of the municipality and this should be reflected in the policies. The Panel versions have been amended to reflect this.

(xvi) Signage

Melbourne Heritage Action questioned why historic painted signs had been singled out for mention in referring to the retention of existing signage of heritage value.

Panel comment

The Panel agrees with the submitter and believes the words 'including historic painted signage' should be deleted. Removal of these words would, by implication, support the retention of all existing signage of heritage value.

(xvii) Paint Colours

A request was made to require that 'colour' be a consideration when dealing with new buildings and additions to buildings in a heritage precinct.

The information to be submitted as part of any application under the Heritage Overlay is normally required to include a schedule of proposed colours and materials. This enables consideration of:

- *Whether the location, bulk, form or **appearance** of the proposed building will adversely affect the significance of the heritage place.*
- *Whether the location, bulk, form and **appearance** of the proposed building is in keeping with the character and appearance of adjacent buildings and the heritage place (Clause 43.01-8) (Panel emphasis)*

The Schedule to the Heritage Overlay also enables application of direct control over exterior painting, though it is recommended in PPN01 as a control to be sparingly applied.

(xviii) Relocation

The National Trust supported retention of this clause relating to the re-siting of heritage buildings despite relocation being a rare occurrence.

The Panel believes it could remain in the policies and suggests the following wording.

It is policy that:

A building be retained in-situ unless it can be shown that the place has a history of relocation and / or is designed for relocation.

An application to relocate a building include recording its location on the site prior to relocation and supervision of its relocation by an appropriately qualified person.

(xix) Archaeological sites

Some submitters believed there should be specific guidelines for archaeological sites.

Panel comment

This matter is controlled under the *Heritage Act 2017* and the *Aboriginal Heritage Act 2006*. The Panel does not believe guidelines need to be included in these policies.

5.5.3 Other policy matters

(i) Prescription v performance standards

There were submitters who either requested the reintroduction of the words 'must' or 'should' in the policies.

These words were replaced by Ms Jordan in her combined version of the policies with the words '*it is policy that*'.

Panel comments

Local Policies cannot include mandatory provisions and the Panel supports the removal of the words 'must' and 'should' and their replacement by the words '*It is policy that*'.

(ii) The words 'In keeping with'

BLC and Sydney Road Holdings submitted the words 'in keeping with' should be deleted from the policy for additions and new buildings. The Council opposed this change referring to the use of these words in the design guidelines of Clause 43.01 and the existing heritage policy at Clause 22.05.

Panel comment

Given the inclusion of these words in the Heritage Overlay head clause, the Panel considers that it is appropriate that there be a direct relationship with that wording.

(iii) Terminology

Prominent and dominant

In the clause 'Additions to heritage places', the policy includes that additions do not dominate the heritage place, so that its 'prominence' is maintained. The guidelines set out how this is to be achieved.

Panel comment

The Panel believes it is important that the significance of a heritage place is not diminished by an addition to an individual heritage place or by new building in a precinct. While the Panel was provided with examples of sympathetic additions to heritages places, both in the CCZ and in other zones, it believes there were other cases where the additions overwhelmed the heritage place, to the extent that the significance of the place was severely compromised. The Panel noted that the successful examples tended to be ones where the new building form

complemented that of the heritage building and/or was of a more modest scale. Less successful examples were ones where the new development dwarfed the heritage building and had little separation from it.

The Panel supports the retention of this terminology in seeking to ensure that additions do not dominate to the point that they compromise the significance of a heritage place.

Unduly detract from

Version 2 of the BLC draft of Clause 22.04, as supported by Sydney Road Holdings, proposed that additions '*should not **unduly detract from the appreciation of or the visual prominence of the heritage building***' (Panel emphasis)

Panel comment

The inclusion of words '*unduly detract from*' suggests to the Panel that some adverse effect on a place may be acceptable. It does not support this proposition.

Not build or cantilever over a heritage place

The Council submitted that the approach of cantilevering new building form over a heritage place is a relatively recent but increasingly common approach to redevelopment of heritage sites.⁴⁵ The Council supplied information about cantilevering or building into air space which it regarded as suboptimal or creating unacceptable heritage outcomes.

One written submission argued that the proposed policies designed to prevent additions and upper levels from being built over the front parts of existing buildings were too stringent.

BLC proposed changes, supported by Sydney Road Holdings, would allow additions to be built over a heritage place if they did not detract from the identified significance of the place or its appreciation from the street.

The Council does not support those changes that could allow additions to be built directly above or cantilever over heritage places.

Panel comment

The Panel supports the provisions as proposed in the policies. Some examples provided to the Panel of structures built or proposed to be built directly over a heritage place so overwhelmed and dominated the heritage place that its value was compromised.

The Panel agrees with the Council that it is good heritage practice that one should be able to distinguish a heritage place from any addition to it and that the heritage building should retain its prominence. This will generally be achieved by setting the new work back from the original façade. The depth of the setback will depend on a number of factors, including the design and height of the addition compared to that of the heritage place. What was evident to the Panel, from the examples provided to it, was that taller buildings may need to be set back further than those of lesser height, to retain the prominence of the heritage place.

⁴⁵ Part B submission, paragraph 242.

Because they are not mandatory provisions of the Planning Scheme, variations from the policy preferred outcomes may be possible where it can be demonstrated the design meets the policy objectives, which are to protect the prominence of the heritage place.

Concealment

The University of Melbourne requested the exclusion of its campus south of Tin Alley from the concealment provisions applying in Clause 22.05. The Council did not agree with this submission and said that the appropriate way forward for the University would be for it to conduct a review of its Parkville campus. This would allow for a re-evaluation of the existing policy, as it applies to that campus.

Panel comment

The Panel understands from the University's submission that this concern was based on the fact that some of its buildings were affected by the 'significant streetscape' provision of Clause 22.05. Based on the Panel's recommendation to delete this provision, it believes that this concern has been addressed. The University's submission is dealt with in Chapter 10 of this Report.

5.5.4 Panel conclusions

The Panel has considered all the submissions in relation to the policies and believes, as amended, they will provide the required guidance in dealing with applications for properties affected by the Heritage Overlay.

The Panel's preference is to retain separate heritage policies for areas inside and outside the CCZ. Although their content is largely identical, the preamble acknowledges the economic importance of the central city and that that development in the CCZ will continue to be much more intensive than that in other areas.

Retaining separate policies also means that exemptions do not have to be included to deal with different development outcomes outside the CCZ.

In relation to their drafting of the policies, the Panel felt it necessary to undertake some further amendments not discussed above, largely of a consequential nature. They also include recommendations made by Ms Jordan and suggestions of submitters.

5.6 Panel recommendation

The Panel recommends:

That the local policies be adopted, based on the Panel versions at Appendix D.

6 The Heritage Inventory

6.1 Background

The Planning Scheme currently incorporates a *'Heritage Places Inventory June 2016'*⁴⁶. This lists heritage places by street address and grades heritage places using the A to D heritage grading system and according to three levels of streetscape value. The Amendment would replace this with a new incorporated document *'Melbourne Planning Scheme, Heritage Places Inventory 2017'* which grades all heritage places within a Heritage Overlay using the Significant/Contributory/Non-Contributory system and would retain a dual level streetscape grading. The new and modified West Melbourne heritage places would be included in this Inventory.

In preparing an updated Inventory for inclusion in the Amendment, Lovell Chen, as consultants to the Council, were provided in June 2015 with spreadsheet information containing property addresses and gradings (matched with the Council's i-heritage database) and relevant Heritage Overlay numbers. This excluded properties already assessed under or converted to the proposed new grading system under recent reviews. The latter included City North (Amendment C198), Arden Macaulay (C207), the eastern part of Kensington (C215) and the CBD (C186).

Subsequent errors in the i-heritage database were discovered including inconsistencies between the gradings listed in the Inventory then incorporated in the Planning Scheme and the i-heritage database; and inconsistencies between the gradings in the i-heritage database and the source heritage studies for Southbank and the Hoddle Grid.

The Council considered that for areas outside the Hoddle Grid and Southbank, the data already incorporated in the Planning Scheme was correct. For Southbank and the Hoddle Grid, the correct grading was identified as being the most recent grading of those afforded under the various reviews and amendments.

Approximately 70 properties were identified as requiring a further grading review.

Later, following discussions with DELWP, the gradings under the proposed system for the previously excluded areas were added to the Inventory for exhibition together with the proposed gradings for the new and revised Heritage Overlays in West Melbourne.

Still further discrepancies in the i-heritage database became apparent during the drafting of the Amendment itself. These were reviewed and added to the Inventory for exhibition.

Following exhibition, of the first 85 submissions received, 29 raised issues of potential omissions and anomalies in the exhibited Inventory. A number of these submissions were from resident associations and were accompanied by detailed lists of buildings which appeared to have been inadvertently excluded or misgraded.

The Heritage Gradings Data Audit was then undertaken to identify errors and identify affected properties for re-exhibition. A geo-coded comparison was made of the properties in the exhibited Amendment, those in the existing Inventory and the properties in the spread sheet

⁴⁶ See footnote 1 of this Report.

of information provided to Lovell Chen. Some 555 omissions were found in the exhibited Inventory compared to the old incorporated Inventory. Some of these were due to the old Inventory including Non-contributory places in precincts (which the new Inventory does not) and the old Inventory had included some places not covered by a Heritage Overlay.

Lovell Chen then undertook a review of 69 properties. This identified a 2 per cent omission of properties in the new compared to the old Inventory and an approximately 1 per cent error. The errors were identified as arising from changes to property addresses, subdivision, title consolidation and human error in data entry. These errors and omissions were corrected.

The revised Inventory was then authorised by the Future Melbourne Committee on 21 November 2017 to be re-exhibited.

Public notification of the revised Inventory included a letter explaining the reason for re-notification. This was sent to owners affected by changes made to the Inventory since the first exhibition and all earlier submitters. Hard and electronic copies of the Amendment were made available. The usual public notices were also lodged.

The Council received a further 12 submissions in response to the additional notice given from 7 December 2017 to 29 January 2018⁴⁷.

Across both exhibitions, perhaps around one third of submissions received about the Amendment therefore related to the inaccuracy of the data in the Inventory proposed to be incorporated in the Planning Scheme. The submissions by area-based residents' groups and individual members of those groups were the principal source of these criticisms.

The Council as part of its submissions at the Hearing acknowledged that the reliability of the new *Melbourne Planning Scheme, Heritage Places Inventory 2017* was a matter requiring consideration by the Panel.

6.2 The issues

The issue is whether the Inventory is now sufficiently robust in terms of providing:

- accurate identification of all places in Heritage Overlays
- the accurate classification of the places.

6.3 Submissions and evidence

The irregularities in the Inventory were again addressed at the Panel Hearing principally by area-based residents' groups or members of those groups.

The East Melbourne Historical Society and the East Melbourne Group⁴⁸ had initially included around 100 corrections allegedly required to the revised Heritage Inventory helpfully arranged by street name and later identified more than 60 irregularities. Many of the mistakes in the second version of the Inventory were identified as street numbering problems; a second group of problems were where places in the first Inventory had been omitted from the second version. At the Hearing, Ms Fenwick for the Society expressed its ongoing concern that the

⁴⁷Five late submissions were also received after the second round of public notice prior to the commencement of the Panel Hearing.

⁴⁸ Document 17

current Inventory that is being translated is not a complete and accurate record of heritage places in East Melbourne and a thorough review of the Inventory is required. Both groups expressed a willingness to work with the Council to correct the Inventory for its area.

The written submission by Melbourne South Yarra Residents Group Incorporated listed in Annexure A some of the problems it had identified in relation to the Inventory, including that the property numbering was confusing and inconsistent, properties had been omitted, some properties appeared to have been upgraded in an arbitrary fashion. At the Panel Hearing, Mr Butcher submitted for the Group⁴⁹ that the Inventory in its present form is still full of errors. It was suggested it should be subject to a peer review before being incorporated into the Planning Scheme.

The submission at the Panel Hearing by Mr Ogilvy for the CRA⁵⁰ addressed amongst other matters remaining problems with the Inventory. The CRA noted that places had been removed from the Inventory in Carlton apparently based on changes to integrity and it was said that there were examples of places where buildings had been demolished remaining in the list. CRA submitted that places on the Victorian Heritage Register had not been addressed in a consistent manner, and there were inconsistencies between the numbering of places in the schedule to Clause 43.01 and the Inventory. Detailed examples of these listing problems were provided. Another written submission by Mr Ogilvy for the group⁵¹ related to a case study of the University of Melbourne area again pointing out anomalies in the first Inventory.

The Hotham History Project Inc⁵² submitted that there were still errors in the revised re-exhibited Inventory despite many that had been pointed out following the first round of advertising had been corrected. It noted three properties still in the Inventory that had been demolished and provided an in-depth study of the gradings afforded to the Benevolent Asylum Estate which straddles the boundary between North and West Melbourne. At the Hearing, Ms Kehoe for the group again identified omissions and places introduced in the revised Inventory.

The Parkville Association also addressed the Inventory in a written submission⁵³. It noted the downgrading of some A graded properties and the addition of new properties in the revised Inventory.

The National Trust submission to the Panel also included a small list of places apparently omitted from the Inventory for the South Yarra area⁵⁴.

At the Hearing, Ms Oddie⁵⁵ also made reference to problems with the Inventory, including apparent omissions relating to buildings and other structures associated with Royal Park as well as places in Parkville and Flemington.

Written submission 78 also made specific reference to perceived errors in the Heritage Places Inventory as it relates to Flemington and Kensington. Submitter 64 included a list of 35

⁴⁹ Documents 19 and 32.

⁵⁰ Document 20.

⁵¹ Submission 93.

⁵² Document 29.

⁵³ Submission 96.

⁵⁴ Document 23.

⁵⁵ Document 64 and email 18 April 2019.

anomalies relating to only a small number of streets in West Melbourne. Submitter 73 provided comments on the original Inventory listing 18 places that appeared anomalous.

The University of Melbourne also addressed Inventory problems relating to their properties⁵⁶.

Submitter 33 also identified anomalies in the first exhibited Inventory principally as it related to North Melbourne but also Carlton and West Melbourne.

A number of individual submissions questioned the method by which larger sites which contain a number of buildings of varying heritage gradings are listed in the Inventory. An example of this was the submission concerning The Walk Arcade at 309-325 Bourke Street⁵⁷ which has multiple buildings on a single cadastral block.

In response to these submissions about the Inventory by the residents' groups, the Council provided a number of documents which reviewed the alleged remaining inaccuracies in the revised Inventory. Document 54, for example, reviewed those in East Melbourne. It concluded that many of the identified errors were not errors but did acknowledge around 10 properties where corrections were required. Document 67 addressed the submissions by the CRA in relation to the Inventory. While no errors were found in 53 per cent of cases, other administrative and omission errors were acknowledged for the remaining properties. Document 85 provides the Council response to Ms Oddie's submissions on the Inventory in which it was noted that two of the four places she had referred to required change. A response to the University of Melbourne submissions on gradings and listings for its properties was provided as Document 150. The review identified that some demolished buildings needed to be removed and other multiple address issues had arisen. The Council acknowledged that some changes were required.

The Council also called Mr Scott Hartley of Rivor Pty Ltd to give evidence concerning his audit of the revised Heritage Inventory.

Mr Hartley had been asked to audit the Inventory and supporting data to confirm:

- 1. All properties within a heritage overlay in the City of Melbourne have been subject to reclassification where applicable.*
- 2. The relevant reclassification methodology has been accurately applied to all properties within a Heritage Overlay in the City of Melbourne (noting that different reclassification methodologies applied in the areas of the recent Arden Macaulay, City North, Kensington and West Melbourne Heritage Reviews).*
- 3. The "Corrected C258 Inventory" list is an accurate and complete record of properties reclassified as Significant, Contributory or Non-Contributory within a "Significant" Streetscape (represented by a "-")*

Mr Hartley undertook a random sample of all the heritage places for listing in the Inventory and the sample included properties from all large precincts. The Panel was advised:

⁵⁶ Document 124.

⁵⁷ Document 30 – submission by Bardsville Pty Ltd.

Mr Hartley sampled 369 properties out of a total of 9,318 properties included in the Inventory.

Mr Hartley concluded that no anomalies were identified in the sample data tested and, with a confidence level of 95%, the Inventory is an accurate and complete record of properties that have undergone gradings conversion, and that the conversion methodology has been applied consistently.

It was noted in the Council submission that the Council subsequently brought to Mr Hartley's attention a potential discrepancy concerning 13 properties in Kensington that had been incorrectly recorded in the Inventory. The Council advised that he undertook a further analysis and confirmed that apart from the identified anomaly, the Inventory was accurate and complete.

Mr Helms gave evidence about his review of the gradings methodology and the Inventory. He identified a number of other Inventory address and omission issues which he had investigated. He also made recommendations in relation to adding the names of places such as blocks of flats to assist with property identification and giving double addresses for places on corner sites. He identified currently ungraded places which might be included in Heritage Overlays.

The Council supplied a detailed response to Mr Helms' evidence concerning the inaccuracies set out in Table 2.1 of his evidence as Document 34.8. That Council document acknowledges that a number of places had inadvertently been removed from the Inventory due to address changes. They included 2 and 1-3 Youngs Lane, North Melbourne. These three houses were C graded in the *Heritage Places Inventory June 2016* but did not appear in the proposed Inventory. The Council advised that these sites are now known as 26 Youngs Lane and 40A and 40B Molesworth Street. It was submitted they should be added to the Inventory and, consistent with the grading conversion in Amendment C198, should be graded Significant.

The Council response document also lists other places where errors had occurred, including clerical errors in the pre-existing inventories. There were some 14 listed errors, some involving multiple places. Affected places were in East Melbourne, South Yarra, North Melbourne and Kensington.

The Council Part B submission⁵⁸ responded generally to the issues about Inventory accuracy. It included that the Panel can have confidence that the conversion methodology had ensured that the Inventory is now robust and reliable.

The Council's Part C submission⁵⁹ included that there were a small number of genuine errors that were revealed through the Panel process and where identified and verified, the Council had recommended corrections to the Inventory.

The Council submissions acknowledged that eight properties that had been exhibited in the Inventory had been demolished and should be removed⁶⁰:

(a) 106 Jolimont Road, East Melbourne, HO2, graded Contributory.

(b) 2 Hawke Street, West Melbourne, HO3, graded Significant.

⁵⁸ Paragraph 192 and following.

⁵⁹ Paragraph 40.

⁶⁰ See also the comment at footnote 1 about the need to remove 35 Eastwood Street, Kensington from the Inventory.

- (c) *Squash Courts, Trinity College, Royal Parade, Parkville, HO354, graded Significant.*
- (d) *104 Hawke Street, West Melbourne, HO3, graded Contributory.*
- (e) *187 Stanley Street, West Melbourne, HO3, graded Significant.*
- (f) *16, 18 & 20-22 Orr Street, Carlton, HO70, graded Significant.*
- (g) *109-133 Rosslyn Street, West Melbourne, graded Significant.*
- (h) *488-494 La Trobe Street, West Melbourne, graded Significant.*

6.4 Panel discussion and conclusions

6.4.1 Need for further review of accuracy of Inventory entries

The Council presentation to the Panel advised that the exhibited Inventory had been substantially revised for the second exhibition in response to the first round of submissions. As noted above, after the second exhibition, a further 12 submissions were received about the inaccuracy of the revised Inventory and some of the submitters presented to the Panel in relation to their concerns in this regard.

The Council effectively acknowledged at the Hearing that not all errors identified by the submitters in the revised Inventory were only apparent errors due to address changes and that there were genuine errors which had been revealed which would be corrected before adoption. In light of this, the Panel is concerned that even more rigorous scrutiny would likely identify additional errors in other parts of the Inventory. The Panel also notes that some submissions on this issue were not addressed by the Council.

The Panel considers that the Inventory is not ready for adoption without further checking even if the changes proposed in the Council's Hearing documents responding to some of the submitters on this issue were made (Documents 54, 67, 85, 148 and 150).

So far as Mr Hartley's evidence is concerned, albeit he said that his sampling exercise gave a 95 per cent level of confidence about the accuracy of the transfer of all places into the Inventory, his work cannot be expected to account for mistakes in the existing Inventory, addresses recorded inaccurately in the first instance and places he had not been advised had been demolished. The Panel would comment also that perhaps the sampling exercise undertaken by Mr Hartley was perhaps too limited. The Panel considers that a stratified sample might have been undertaken so as to create a statistically reliable result for each area subject to heritage reviews.⁶¹ Albeit this would have required a larger sample overall, it would have engendered a greater measure of confidence about the accuracy of the translation work conducted for each of the sub-groups of the re-graded places. The Panel considers this would have been valuable given the background studies giving rise to the places listed in the Heritage Overlays involved different consultants and different grading systems.

⁶¹ Document 34.20 sets out the properties in the sample but does not give a total population or a sample size for each of the relevant review areas/suburbs.

The Panel would further comment that in any case a statistical analysis is not sufficient when the future management of individual properties is concerned. It is important that the Council ensures that the Inventory is as accurate as possible.

The Panel does not consider it is possible for it to check and respond in detail to the submissions about individual places in the Inventory but is persuaded that there is further work to be done.

The Panel acknowledges the interest and detailed work undertaken by the submitters and the residents' groups in particular, who also made substantial submissions concerning the policies. It believes that the Council should make every effort to address their concerns and that the work undertaken by the submitters should be used to ensure that the documentation prepared for approval is as accurate as possible.

The Panel considers that the most practical way to review the Inventory again would be to do so in consultation with the residents' groups who made submissions on this matter.

The Panel also believes that in undertaking future heritage reviews the Council should engage with the relevant residents' group for the area. They have quite specific and detailed knowledge of their particular area and this knowledge will be useful in ensuring that future reviews are sound and provide for good heritage conservation into the future.

6.4.2 Address accessibility

The Panel acknowledges and supports the Council endeavour to identify the places in the Inventory by their address using a standardised addressing system.

As was evident from the submissions, addresses utilising the Council GIS identity system unfortunately are less well known to many than conventional or traditional street addresses in everyday use.

The disparity between the way places are listed in the schedule to Clause 43.01 and the Inventory was also referred to in submission by the CRA.

The Panel suggests that the Council should consider whether in the Inventory or the schedule to Clause 43.01 any disparity might be overcome by notating the place as 'also known as...'.

The Panel also suggests that, irrespective of such disparity, it might be beneficial in terms of accessibility to information to add the more usual or alternative address of a property after the principal GIS address as 'also known as...'. The Panel also supports Mr Helms' suggestion of giving double addresses for corner properties as 'AKA' and adding the names of blocks of flats where relevant.

6.4.3 New typological classification of places required

As discussed in Chapter 4, the Panel does not support the proposed grading of heritage places as exhibited. The Council intended that this grading of places - as Significant or Contributory - would be stated for each place in the Inventory. The Panel recommends this grading system should be replaced by a typological classification which simply indicates whether the place is Contributory to a precinct or is an Individual Heritage Place. As also noted in Chapter 4, any 'grading' of significance should be done via the Statement of Significance for the place.

All of the gradings in the inventories or at least those currently graded Significant require revision to accord with that recommended revised classification system.

It will probably be necessary to add an additional category for places included on the Victorian Heritage Register.

6.4.4 Non-contributory properties in the Inventory

One matter of concern to the Panel is that despite the Clause 22 policies providing that the grading (Significant, Contributory and Non-contributory) of properties within and outside the Capital City Zone is identified in the new incorporated Inventory, this is not in fact the case. It was resolved before exhibition to exclude Non-contributory places in precincts from the Inventory. The result is that, despite being subject to a Heritage Overlay, these properties are not listed by address in the same way as other properties affected by the overlay.

As a consequence, the only way to ascertain whether or not a property is included in a precinct overlay as a Non-contributory property, is by scrutinising the Planning Scheme maps or obtaining a Planning Certificate. It is necessary to establish whether they are in the precinct as planning approval will be required for buildings and works under the overlay. Scrutiny of the maps potentially can lead to errors of interpretation and especially where the property lies close to the boundary of the precinct. It is generally problematic in the central city area where there are two sets of Heritage Overlay maps – one for precincts and one for individual places. The other option of obtaining a Planning Certificate involves a financial outlay and the Panel considers that as a matter of practice it should only be required in unusual circumstances.

The Panel considers that all places in a precinct should be listed in the Heritage Inventory.

6.4.5 Significant streetscapes

The Inventory is proposed to also include for each listed property, information as to whether it is included in a significant streetscape.

As discussed in Chapters 4 and 5, the Panel does not support the retention of the streetscape grading and considers that it should be deleted from the Inventory.

6.5 Panel recommendation

The Panel recommends:

That the Inventory be further reviewed before adoption in consultation with residents' groups and other relevant submitters for accuracy of place entry.

That, before adoption, following an appropriate review, the gradings of the places designated 'Significant' be changed to Individual Heritage Place or Contributory in the Inventory.

That streetscape gradings be deleted from the Inventory.

That the Council consider adding Non-contributory properties in precincts to the Inventory.

That the Council consider how best to resolve any discrepancy in the way places are identified in the Inventory and the schedule to Clause 43.01, and consider adding more usual street addresses and second addresses for corner properties as 'also known as' addresses to some properties in the Inventory.

7 Precinct Statements of Significance

7.1 Background

Clause 43.01-5 of the Planning Scheme provides in relation to the schedule to Clause 43.01:

Statements of significance:

The schedule to this overlay must specify a statement of significance for each heritage place included in the schedule after the commencement of Amendment VC148.

This does not apply to a heritage place included in the schedule to this overlay by an amendment prepared or authorised by the Minister under section 8(1)(b) or section 8A(4) of the Act before or within three months after the commencement of Amendment VC148.

Clause 43.01-8 provides that Statements of Significance are to be considered when deciding on applications for permits under the Heritage Overlay.

PPN01 (2018) requires that all places added to the Heritage Overlay are to have a Statement of Significance. It provides:

If a statement of significance is incorporated in the planning scheme, the name of the statement must be specified in the schedule to the overlay.

The drafting of Statements of Significance for individual places in West Melbourne is dealt with in Chapter 8. This chapter deals only with the precinct Statements of Significance.

The Panel was advised that the existing Planning Scheme includes Statements of Significance for 11 central city heritage precincts in Clause 22.04⁶².

The Council's Part B submission, however, pointed to a number of decisions by the Victorian Civil and Administrative Tribunal (VCAT) in which comment had been made that the absence of Statements of Significance for other heritage precincts outside the central city had made difficult the assessment of the significance of a place subject to a permit application. These included the South Yarra and Carlton precincts.⁶³

The Amendment proposes the addition of two new incorporated documents in the schedule to Clause 72.04 (formerly Clause 81.01) – both relating to Statements of Significance:

- 'Melbourne Planning Scheme Amendment C258: Heritage Precinct Statements of Significance 2017' which comprises the 11 Statements of Significance currently included within Clause 22.04 (Heritage Places Within the Capital City Zone) and additional Statements of Significance for the six largest existing heritage precincts

⁶² The Panel also notes that since 31 January 2019 (Amendment C348) this clause also refers to other incorporated documents containing Statements of Significance: Central City (Hoddle Grid) Heritage Review: Statements of Significance June 2013; the Guildford and Hardware Laneways Heritage Study 2017: Statements of Significance; and Hoddle Grid Heritage Review: Statements of Significance, September 2018. We do not consider that anything turns on the addition of these new documents so far as the Amendment is concerned.

⁶³ *Lakobend Pty Ltd v Melbourne CC and Ors* [2012] VCAT 1226, *Christie v Melbourne CC and Ors* [2013] VCAT 1025 and *Triarico v Melbourne CC* [2013] VCAT 2078.

outside the Capital City Zone - Carlton, East Melbourne and Jolimont, North Melbourne and West Melbourne, Parkville, South Yarra, and Kensington.

- 'West Melbourne Heritage Review 2016: Statements of Significance'. These are for the individual places assessed under the 'West Melbourne Heritage Review 2016'. The gradings of those places are included in the proposed 'Melbourne Planning Scheme, Heritage Places Inventory 2017'.

The new Statements of Significance for the existing precincts were drafted by Ms Brady including the precinct Statement of Significance for North and West Melbourne⁶⁴. Mr Butler was responsible for drafting the West Melbourne Statements of Significance for individual properties.

The six precincts for which new Statements were prepared are variously assessed as of local or State importance on the basis of their historical, architectural or social significance: the Carlton, North and West Melbourne, and Kensington precincts were identified as of local significance and the East Melbourne and Jolimont, Parkville and South Yarra precincts were assessed as of State significance.

The issues raised in the 15 submissions received in response to exhibition directly addressing the Statements of Significance were set out in the Council's Part A submission to the Panel as follows:

- (a) The accuracy of the information included in the Statements of Significance (e.g. the dates of buildings and events).*
- (b) Whether the Statements of Significance should include details about indigenous occupation in the pre-contact period or the social history of areas (e.g. whether diversity of cultures and ethnicity should be recognised).*
- (c) Whether sub-areas within precincts should be separate, so that they have their own Statement of Significance.*
- (d) Protection of significant views and vistas by adding these to the key attributes in the Statements of Significance.*

The Council at its Future Melbourne Planning Committee meeting of 20 February 2018 adopted a revised version of the precinct Statements of Significance for presentation to the Panel which incorporated changes recommended by Ms Brady in response to the submissions.

The Council submission to the Panel included that:

Changes have been made to the large precinct Statements of Significance in accordance with the recommendations of Council's expert heritage consultant, Lovell Chen, to improve the accuracy of information regarding the dates of buildings and events, and details of important individuals (amongst other matters). The large precinct Statements of Significance have also been amended to include details of the presence of pre-European indigenous Australian settlements.

⁶⁴ There was also some input by Mr Butler.

7.2 The issue

The drafting and content of the precinct Statements of Significance was perhaps the least contentious part of the Amendment. They were informed by additional research; in the case of West Melbourne, a thematic study; and field work and community input.

Nevertheless, the Panel has considered the submissions made with respect to the precinct Statements and whether they provide a useful tool for use in determining applications for permits and meet the Practice Note requirements.

7.3 Submissions and evidence

At the Panel Hearing, a number of submitters addressed requested changes to the precinct Statements of Significance. This was nevertheless in the context of general support for the development of the new Statements.

The East Melbourne Historical Society, for example, requested that the Statement make mention of the presence of Aboriginal peoples in the area before white settlement, and the existence of the Mounted Police Depot as well as making a number of other lesser corrections.

The Parkville Association written submission included a marked-up copy of the Statement for that area. The requested changes included the use of Royal Park by the Acclimatisation Society from 1861 and the establishment of the Melbourne Zoo; and a revised statement about the social significance of the precinct.

Ms Brady's evidence to the Panel set out the methodology for initial preparation of the new precinct statements. It included that the Statements are set out in the what, how and why a place is significant format recommended by PPN01. The Statements are contained within more detailed citations which also include histories and descriptions of the precincts. She said that the Statements drew on 2004 project work on Statements of Significance and this had been supplemented by additional historical research, collation of information and field work, together with local community input. She advised that the Statements were informed by the thematic history of the municipality prepared by Context in 2012.

The Council's response to the issues raised was set out in its Part A submission to the Panel as follows:

- (a) *Lovell Chen reviewed the information in submissions that challenged their assessment of the large precinct Statements of Significance, and recommended changes where deemed appropriate. The recommended changes have been made in the Amendment C258 documentation. For example, the changes include recognition of the pre-European utilisation of the parklands on the north side of the Yarra River by indigenous Australians in the East Melbourne and Jolimont Precinct Statement of Significance. It was not deemed appropriate to incorporate details regarding the social history of areas into the Statements of Significance, noting that these statements are about the precinct as a physical place and are guided by the requirements of Heritage Victoria.*
- (b) *The identification and creation of new heritage precincts is outside the scope of Amendment C258 but is being considered under current planning*

scheme amendments (e.g. Amendment C271: Guildford and Hardware Laneways Heritage) and future heritage reviews (e.g. Hoddle Grid Heritage Review).

- (c) *The spatial identification or elevation of specific views and vistas is outside the scope of Amendment C258, although it is noted that the precinct Statements of Significance refer to landmarks and the visibility of prominent towers (e.g. North Melbourne Town Hall and church buildings and spires).*

The Council's Part B submission also noted that no Statement of Significance had been prepared for the South Melbourne Precinct (HO5) as it was a remnant of a much larger precinct and now predominantly comprises roads and places that are not of heritage value.

Ms Brady's evidence included that while the Future Melbourne Planning Committee, at its meeting on 20 February 2018, had incorporated most of her recommended changes in the revised versions of the Statements adopted for presentation to the Panel, some matters had been overlooked or omitted.

She said that in the 'what is significant' section of the Statements, references to parks, squares, street trees, plantings and medians had been removed. This does not appear to be a response to any explicit directive. She requested that the removed sentences be reinstated as follows:

Carlton Precinct (HO1):

The various parks, gardens and squares, and mature street plantings and rows are also components of the significant development of the precinct.

East Melbourne and Jolimont Precinct (HO2):

The small squares, and mature street plantings and rows, are also part of the significant development of the precinct.

North and West Melbourne Precinct (HO3):

Mature street plantings and rows are also part of the significant development of the precinct.

Parkville Precinct (HO4):

Landscaped medians and reserves, and mature street plantings and rows, are also part of the significant development of the precinct.

South Yarra Precinct (HO6):

Mature street plantings and rows are also part of the significant development of the precinct.

Kensington Precinct (HO9):

Mature street plantings and rows are also part of the significant development of the precinct.

Ms Brady also requested:

- the reinstatement of:
 - references in the Statements for the Carlton and North and West Melbourne Precincts to public baths and pools in the history section as had been shown in the July 2017 version of the Statements. She said that these were early twentieth century examples of recreational facilities which were particularly important in North Melbourne.
 - an omitted key attribute of the North and West Melbourne Precinct-

Building forms with elevated entrances, and building rows which step up or down, following the topography and grade of streetscapes.

- the deletion of the duplicated paragraph in the description section of the East Melbourne and Jolimont Precinct. The paragraph begins '*Commercial, manufacturing and industrial development ...*'

At the Panel Hearing, the Council agreed that the omitted text should be reinstated and duplication removed. It also agreed that Mr Butler's addition to the North and West Melbourne precinct Statement of Significance concerning the Flagstaff Gardens as a viewing point should be made.

Submitters were generally supportive of the proposed precinct-wide Statements of Significance, subject to the inclusion of the additional information put forward by Ms Brady and agreed to by the Council. There was concern however about the lack of site-specific Statements for properties within a precinct, particularly now the 'assessed significance' of a place will be a key consideration in dealing with applications for demolition, alterations and new buildings. It was considered the lack of information as to what, how and why a place is significant will make them particularly vulnerable to demolition or unsympathetic alterations / additions.

There was also concern that that part of the 'Benevolent Asylum Estate' located in North Melbourne is not heritage protected.

7.4 Panel discussion

The Panel has reviewed the submissions, Ms Brady's comments and proposed changes, and the Council's general response to the precinct Statements of Significance.

The Panel generally agrees with the changes and responses provided by the Council. The Panel particularly supports:

- the addition of information relating to Aboriginal heritage values where they are known, as has been done
- the need to segment the large diverse precincts of Carlton and South Yarra in future work so as to better define the values of the areas in separate Statements of Significance
- the exclusion of social values from the precinct Statements unless they are reflected in the physical fabric
- the inclusion of reference to urban squares in the Carlton Statement and that for East Melbourne
- the enhanced acknowledgement of the contribution made by laneways to the heritage values of the Parkville area

- the inclusion of Flagstaff Gardens and the view from the Flagstaff Hill as elements of cultural significance in the West Melbourne Statement of Significance
- the inclusion of the additional items referred to by Ms Brady in her evidence, especially reference to public baths in North Melbourne and Carlton and building forms affected by topography in parts of North and West Melbourne.

In response to concerns of submitters that the Statements of Significance for precincts do not contain adequate detail to protect their heritage assets, the Panel notes that each Statement does list the particular 'attributes' which contribute to the significance of a Precinct.

The Panel believes it is unavoidable that the information included in Statements of Significance for larger precincts will have to be more general. It however believes the suggestion that larger precincts should be divided into smaller sub-precincts has merit. This would enable 'finer-grained' descriptions of the heritage character of these smaller areas to be identified in determining 'what is significant' about them.

Assuming the Panel's recommendations concerning the removal of a 'Significant' grading of individual properties both inside and outside precincts is adopted by Council, this may have implications for the precinct Statements of Significance. It may be that the Council would wish to identify those individual places or streetscapes which made the most important contribution to the values of the precinct.

Turning to the part of the 'Benevolent Asylum Estate' located in North Melbourne, which is presently not in the Heritage Overlay, as this does not form part of the Amendment it cannot be considered by the Panel. The Panel however notes Mr Butler's recommendation that the Council consider applying the Heritage Overlay over the land, with a Statement of Significance and management guidelines, as part of any future North Melbourne heritage review. The Panel supports this approach.

7.5 Panel recommendation

The Panel recommends:

That the Statements of Significance for the six large heritage precincts, as revised by the Council at its meeting on 20 February 2018, with the additions recommended by Ms Brady in her evidence to the Panel, be adopted.

That the Council consider undertaking future work to divide larger precincts into smaller sub-precincts to better identify the particular character of those areas.

That the part of the Benevolent Asylum Estate at 552 – 568 Victoria Street, North Melbourne be included in any future review of the North Melbourne Heritage Precinct (HO3).

8 West Melbourne Heritage Review

8.1 Background

The 2013 Heritage Strategy adopted by the Council called for the review of earlier heritage studies throughout the municipality with priority to be given to areas subject to development pressures.

The West Melbourne Heritage Review (WMHR) was undertaken to assess the heritage significance of properties in the West Melbourne Structure Plan area. The WMHR included reviewing existing heritage places and identification of additional places needing heritage protection.

The review was completed by Graeme Butler and Associates in 2016. The review identified 20 new heritage places and proposed to revise the descriptions of five existing heritage places.

The DELWP Amendment C258 authorisation letter of 21 December 2016 required all of the heritage places in the WMHR to be included in the C258 Heritage Inventory with their assessed gradings under the revised system.

While the WMHR had used both the old and the new grading systems, the significant/contributory gradings as applied to particular properties in the review area were exhibited as part of the Amendment.

The Council submissions noted that in conducting the review and applying the A to D grading system and the Significant, Contributory and Non-contributory system, Mr Butler had made his assessment using the definitions of levels of significance in the Yarra Planning Scheme. It was explained that Mr Butler had undertaken a heritage review for the Yarra Planning Scheme in 2007.

The classification system used by Mr Butler in assessing places allowed for places to be Individually Significant, Significant to a precinct, both Individually Significant and Significant to a precinct, as well as Contributory to a precinct, or Non-Contributory. The Panel was advised that all Significant places within a precinct were given a letter grading of A, B or C. Contributory buildings within a precinct were graded D and Non-Contributory buildings were either ungraded or given a D grading. For places outside precincts, all places assessed as warranting an Individually Significant grading were variously graded A to D. However, there were D-graded buildings outside precincts that were assessed not to be Significant and therefore not recommended for inclusion in a Heritage Overlay.

It is recorded here that, at the Hearing, the Panel was advised by the Council that there had been an error in the exhibition of the proposed incorporated document 'West Melbourne Statements of Significance 2016'. The Council advised that throughout the initial exhibition period, the DELWP website had incorrectly included a version containing letter gradings in the Statements. This was despite the Council having brought the error to the attention of DELWP on 5 April 2017 – only a week after exhibition commenced. The Council re-discovered the error on 14 August 2018 when preparing for the Panel Hearing.

It was nevertheless said that, throughout the exhibition period, the correct document was available on the Melbourne City Council website.

It is difficult for the Panel to judge how this may have affected proper notice to affected persons, most notably the property owners of heritage places.

Nevertheless, it is clear that many submitters had viewed the correct documents and presented to the Panel about their dissatisfaction with the new gradings.

8.2 Submissions concerning the individual properties

A significant number of submissions were received with respect to the recommendations of the West Melbourne Review and the application of the new grading system to individual places under the proposed Amendment.

The submissions concerning individual properties are dealt with in the following chapter.

8.3 Panel discussion of general submissions

There was very little in the way of commentary on the conduct of the WMHR and it was clear to the Panel that the consultant had undertaken a great deal of research to complete the review, and, in general terms, the identification of places warranting the application of a Heritage Overlay was completed with an appropriate level of rigour.

Mr Butler's somewhat Delphic grading system was the subject of some submissions and also of some concern to the Panel, especially his adopting different definitions for the significance categories drawn from an earlier City of Yarra review he had undertaken. As described in Chapter 4 of this Report, Mr Butler also endeavoured to 'shoehorn' properties into what he clearly saw as a new hierarchical system of grading.

As also described in Chapter 4, the Panel recommends that a different approach to the classification of places should occur, which obviates concerns about the grading methodology in West Melbourne as elsewhere.

There was some discussion during the Hearing (particularly in relation to Festival Hall) that it should be possible to describe places as of importance to a particular neighbourhood (in this case, West Melbourne) rather than to the City of Melbourne as a whole.

The Panel accepts that places tend to be of heritage importance to their neighbourhood, rather than some larger administrative region. However, the Victorian planning system is structured around municipalities being planning authorities and places being identified as significant to the municipality. Nevertheless, the locality or neighbourhood is part of the municipality and there is no reason why a place that is of heritage value to West Melbourne is not, as a consequence, of heritage value to Melbourne City.

The Panel does not agree with the proposition of defining a level of value solely related to a neighbourhood or locality.

Another area of concern to the Panel was the drafting of some of the Statements of Significance for places proposed for inclusion in the Heritage Overlay. This aspect of the review has taken on greater importance with the introduction of Amendment VC148 to the Victorian Planning Provisions. As a consequence of that amendment, all places to be covered by the Heritage Overlay in this Amendment are now required to have Statements of Significance included in an Incorporated Document of the Planning Scheme. These

Statements of Significance must also be drafted in a form consistent with the Planning Practice Note (PPN01) (2018).

PPN01 states:

For every heritage place (that is, a precinct or individual place) a statement of significance must be prepared using the format of: ‘What is significant?’; ‘How is it significant?’; and ‘Why is it significant?’.

What is significant? – *This section should be brief, usually no more than one paragraph or a series of dot points. There should be no doubt about the elements of the place that are under discussion. The paragraph should identify features or elements that are significant about the place, for example, house, outbuildings, garden, plantings, ruins, archaeological sites, interiors as a guide to future decision makers. Clarification could also be made of elements that are not significant. This may guide or provide the basis for an incorporated plan which identifies works that may be exempt from the need for a planning permit.*

How is it significant? – *Using the heritage criteria above, a sentence should be included to the effect that the place is important. This could be because of its historical significance, its rarity, its research potential, its representativeness, its aesthetic significance, its technical significance and/or its associative significance. The sentence should indicate the threshold for which the place is considered important.*

Why is it significant? – *The importance of the place needs to be justified against the heritage criteria listed above. A separate point or paragraph should be used for each criterion satisfied. The relevant criterion reference should be inserted in brackets after each point or paragraph, for example “(Criterion G)”*

The criteria referred to in the above practice directive are:

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 understanding 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).

It is the view of the Panel that a number of the Statements of Significance, prepared as part of the WMHR, do not comply with the guidance in PPN01 and, in their current form, are not appropriate for inclusion in the relevant incorporated document.

The principal problem is that some are lengthy pieces with extensive extracts from the history and description of the place included in the *What is Significant* section. The Panel believes that the current form of such statements will be less than useful to the responsible authority when it is analysing proposals for change to these properties and also to owners of places who are attempting to understand what is important about their property. Greater emphasis is required to be placed upon the physical elements and characteristics of the place that contribute to its value and which warrant protection.

A case in point was the Statement of Significance prepared for Festival Hall. The recommendation for the application of the Heritage Overlay over this property was the subject of a submission by the owner (this submission is discussed in Section 9.2). This submission included an alternative Statement of Significance. The Panel found this, much more succinct alternative Statement, regardless of its views on significance, to be potentially far more useful as a guide to manage any changes at the place and appropriate for inclusion in the proposed Inventory of Statements of Significance.

As indicated above, the methodology of the review seems to be generally appropriate and ultimately the review report will become a useful Reference Document to the Melbourne Planning Scheme. The more extensive information included in the broader citations outlining history and descriptions will be accessible there.

The Panel considers that before this Amendment is approved, the Statements of Significance prepared as part of the West Melbourne Heritage Review should be further reviewed and where necessary re-drafted in a form that is more compatible with the advice provided in PPN01.

8.4 Panel recommendation

The Panel recommends:

That Statements of Significance for the places identified in the West Melbourne Heritage Review be reviewed and re-drafted as necessary to comply with the format recommended in PPN01.

9 Individual properties in West Melbourne

9.1 Department of Justice and Regulation (Submission No 58)

9.1.1 The Place (HO1195)

Melbourne Classification Prison, 317 Spencer Street, West Melbourne.



Current Grading

Building Grading: - not known

Streetscape: - NA

Proposed Grading

Building Grading: Significant

Streetscape: NA

9.1.2 Significance

Key aspects of the Statement of Significance exhibited for this place included:

What is significant?

The building, opened in 1989, is an example of Post-Modern design by architects Godfrey Spowers and Darryl Jackson. Contributory elements of the building are:

- *pressed red brick parapeted form loosely inspired by Italian Renaissance palazzo forms*
- *four levels with two attic storeys above, set in deeply recessed bayed elevations with giant-order piers*
- *loggia at ground level and splayed corner*
- *banding and diaper patterns applied in cream brick to façade*
- *punched openings in façade as slits or squares in attic levels*
- *fenestration wall to north side rear with tympanum motif*
- *red and cream brick pierced and panelled yard wall at rear.*

How is it significant?

The remand centre has both historic and aesthetic significance to West Melbourne and the City of Melbourne.

Why is it significant?

It is the only example of a modern prison complex within the City of Melbourne. The building has housed notorious prisoners.

Aesthetically, the building provides the largest and most articulate Post-Modern design in the City of Melbourne. It is a strong example of an era where design context was considered as important as the design itself, with the Prison referencing the nearby Sands and McDougall buildings.

It contributes to the industrial character of West Melbourne and provides an example of Darryl Jackson's design work during a period in which he received several architectural awards.

9.1.3 Submissions and evidence

The Department of Justice and Regulation submitted that the application of a Heritage Overlay to the prison:

- Would impose an unnecessary burden on the ability of the prison to address its statutory functions and complete essential capital works.
- Would add additional unnecessary controls to the existing DDO33 that applies to the site.

It also submitted that the Statement of Significance, as exhibited, was inappropriate in as much as it mentioned the names of former prisoners and incorrectly defined the place as having a role in policing in the city.

The submitter was represented at the Hearing and Mr John Glossop of Glossop Town Planning and Mr Jim Gard'ner of GJM Heritage provided expert evidence.

Mr Glossop referred to a document that he had prepared for incorporation in the Scheme, providing for permit exemptions. He advised that this had been agreed to by the Council. He added that it would relieve the Department of an unreasonable burden in obtaining permits for largely internal changes at the prison.

Mr Gard'ner discussed the Statement of Significance for the place as prepared by Mr Butler, and, whilst accepting that it was generally satisfactory for identifying the heritage significance of the place, said that there were aspects of it that warranted change:

- The name of the place should be corrected
- The grading should be changed to 'significant' and no streetscape level applied
- The names of 'notorious' prisoners should be deleted.

He provided an amended version of the Statement of Significance as part of his evidence.

He also agreed that the proposed incorporated plan and the application of its proposed permit exemptions would not detrimentally impact on the significance of the place.

The Council responded to the submission at the Hearing. It agreed to including the proposed incorporated document into the Planning Scheme and to adjusting the Statement of Significance in accordance with Mr Gard'ner's suggestions.

9.1.4 Panel discussion and conclusion

The Panel agrees that the use of an incorporated document with permit exemptions is an appropriate way to facilitate the operational requirements of the prison while protecting key elements of significance. The Panel accepts that the content of that document is appropriate.

It also agrees with the proposed changes to the Statement of Significance concerning the deletion of the names of notorious prisoners, correcting the name of the place and not ascribing a streetscape grading.

The Panel does not support the listing of the place as ‘Significant’ in the Inventory, however, as it considers the appropriate classification would be as an ‘Individual Heritage Place’ (see discussion in Chapter 4). Nevertheless, there is no doubt that this is a place of considerable architectural and historic significance to the city which should be clear from the Statement of Significance.

The Panel also believes that the Statement of Significance for this place needs reviewing as part of the overall review of the Statements for West Melbourne places (see Panel recommendation at Section 8.4).

9.1.5 Panel recommendation

The Panel recommends:

That the agreed incorporated plan for the Melbourne Assessment Prison at 317 Spencer Street, West Melbourne, be included in the Planning Scheme via this Amendment.

That the Statement of Significance for the Melbourne Assessment Prison at 317 Spencer Street, West Melbourne, be amended generally in accordance with Mr Gard’ner’s evidence at the Panel Hearing.

That the Melbourne Assessment Prison at 317 Spencer Street, West Melbourne be included in the Heritage Places Inventory as an Individual Heritage Place.

9.2 Stadiums Pty Ltd (Submission No 75)

9.2.1 The Place

Festival Hall, 300 Dudley Street, West Melbourne (HO1183).



Current Grading	Proposed Grading
Building Grading: C	Building Grading: Significant
Streetscape: 3	Streetscape:

Mr Butler had prepared a Statement of Significance for the place ascribing it historical and social significance.

The following paragraphs summarise Mr Butler’s Statement.

What is significant

Constructed in 1955, Festival Hall (also known as West Melbourne Stadium) was a premier boxing and wrestling venue until the late 1970s and musical performance venue through to the 1980s. It hosted many nationally and internationally renowned acts of that era.

Contributory elements of the building include:

- *The volume of the internal space*
- *The central timber floor*
- *The tiered seating to the west and east, including the early rows of steelframed timber bleachers to the east and west and rows of theatre-like balcony seating to the south*
- *The location of the northern stage*
- *The balcony to the south*
- *Highly intact original amenity areas.*

How is it significant?

Festival Hall is of historical and social significance to the City of Melbourne and Victoria.

Why is it significant?

The site has historical significance due to its use for boxing and wrestling, where it was considered the home of these sports throughout Victoria. It was used during the 1956 Olympic games and hosted renowned national and international boxers. Further, its historical

use as a venue for national and international music acts makes it an important part of Melbourne and Victoria's social history.

9.2.2 Submissions and evidence

Stadiums Pty Ltd (Stadiums), the site owner, did not oppose the application of a Heritage Overlay to Festival Hall but disputed the content of the Statement of Significance including the bases of significance and the elements of the place that are considered significant.

Mr Pitt QC, who appeared for Stadiums, tabled an expert witness statement from Peter Lovell of Lovell Chen, Architects and Heritage Consultants, in which he proposed an alternative Statement of Significance:

What is significant?

Festival Hall at 272-306 Dudley Street, West Melbourne, including the external form and fabric.

Contributory elements include:

- *large Dutch-hipped roof steel-framed stadium in a simple Modernistic style;*
- *external parapeted brick and rendered walls, with piers and face brick base;*
- *16' x 2' x 2.5" thick waterproof prestressed concrete wall panels with tongued and grooved edges on brick base;*
- *cemented Dudley Street façade with stepped parapet;*
- *metal sheet clad rounded cantilever canopy;*
- *window groups in strips and slots.*

Why is it significant?

West Melbourne Stadium, later Festival Hall is significant at a local level for the following reasons:

- *Festival Hall is historically significant, at a local (and state) level, as Victoria's principal purpose-built boxing and wrestling venue. Since the late nineteenth century, boxing has been a highly popular spectator sport in Australia attracting crowds in the thousands with many more watching televised matches since the 1960s. Festival Hall – and the 1913 West Melbourne Stadium that it replaced – was the home of Victorian boxing throughout much of the twentieth century, earning it the name "The House of Stoush". Festival Hall hosted the boxing and gymnastics for the 1956 Olympic Games and was the venue for bouts of key national and international athletes including Lionel Rose, Johnny Famechon, Anthony Mundine, Lester Ellis and Barry Michaels. Festival Hall was the venue for the televised 'TV Ringside' (1966-75) and 'World Championship Wrestling' (1964-78) and hosted Lionel Rose's State Funeral in 2011. Festival Hall remains as the only purpose-built boxing and wrestling venue in Victoria. [Criterion A]*
- *Festival Hall is historically significant, at a local (and state) level, as one of Victoria's primary live music venues since its opening in 1955 and as the*

principal venue in Victoria for large-scale live music performances from the late 1950s until the 1980s. Festival Hall played a key role in the social evolution of Victorian society in the post-war period by exposing thousands of patrons to the “new wave” of big production live music. Festival Hall hosted some of the biggest national and international acts of the day including the Beatles, Buddy Holly, Neil Young, The Kinks and Frank Sinatra. [Criterion A]

- *Festival Hall is of significance at a local level as a representative example of a low-cost popular entertainment venue. The design of Festival Hall employs many of the features common to this type of venue including stage, raked seating and backstage area however in a utilitarian and relatively simple manner. Festival Hall is an example of a large venue in the City of Melbourne which demonstrates the popularity of live sporting and musical entertainment. [Criterion D]*

In essence, the submitter argued that the building is of historic and representative architectural significance alone.

9.2.3 Panel discussion

At the time of considering the submissions by Stadiums, it was known that Festival Hall was also being considered for inclusion on the Victorian Heritage Register (VHR).

Since then, the place has been included on the VHR with the following Statement of Significance:

WHAT IS SIGNIFICANT?

The cultural heritage significance of Festival Hall at 202-306 Dudley Street, West Melbourne, lies in its historical and social significance as Victoria's principal boxing, wrestling and live music venue in the second half of the twentieth century. The significance of the place is embodied in the external and internal form and fabric of the place. Festival Hall is notably and historically a highly flexible space, allowing it to service a number of dynamic communities and usages.

DESCRIPTION SUMMARY

Festival Hall is a large, unadorned, rectangular indoor sporting and entertainment stadium in West Melbourne. The building is constructed of a steel frame infilled with brick and precast concrete panels. Internally, the stadium comprises a central timber floor with a simple stage to the north, tiers of seating to the west and east, and a balcony to the south. A vast stadium space dominates the interior of the building. This space has historically been reconfigured to accommodate different uses.

HISTORY SUMMARY

Festival Hall, also known as West Melbourne Stadium, was constructed in 1955, replacing the 1913 West Melbourne Stadium. Festival Hall and its predecessor were the principal boxing and wrestling venues in Victoria from 1913 until at

least the late 1970s. Festival Hall was a principal live music venue in Victoria from the 1950s until the 1980s and hosted some of the most important national and international musicians of that era.

HOW IS IT SIGNIFICANT?

Festival Hall is of historical and social significance to the State of Victoria. It satisfies the following criteria for inclusion in the Victorian Heritage Register:

Criterion A

Importance to the course, or pattern, of Victoria's cultural history.

Criterion G

Strong or special association with a particular community or cultural group for social, cultural or spiritual reasons.

WHY IS IT SIGNIFICANT?

Festival Hall is significant at the State level for the following reasons:

Festival Hall is historically significant as Victoria's principal purpose-built boxing and wrestling venue. Since the late nineteenth century, boxing has been a highly popular spectator sport in Australia attracting crowds in the thousands with many more watching televised matches since the 1960s. Festival Hall - and the 1913 West Melbourne Stadium that it replaced - was the home of Victorian boxing throughout much of the twentieth century, earning it the name "The House of Stoush". Festival Hall hosted the boxing and gymnastics for the 1956 Olympic Games and was the venue for bouts of key national and international athletes including Lionel Rose, Johnny Famechon, Anthony Mundine, Lester Ellis and Barry Michaels. Festival Hall was the venue for the televised 'TV Ringside' (1966-75) and 'World Championship Wrestling' (1964-78) and hosted Lionel Rose's State Funeral in 2011. Festival Hall remains as the only purpose-built boxing and wrestling venue in Victoria. [Criterion A]

Festival Hall is historically significant as one of Victoria's primary live music venues since its opening in 1955 and as the principal venue in Victoria for large-scale live music performances from the late 1950s until the 1980s. Festival Hall played a key role in the social evolution of Victorian society in the post-war period by exposing thousands of patrons to the "new wave" of big production live music. Festival Hall hosted some of the biggest national and international acts of the day including the Beatles, Buddy Holly, Neil Young, The Kinks and Frank Sinatra. [Criterion A]

Festival Hall is socially significant for its association with the live music industry in Victoria. The association between Festival Hall and the Victorian live music community is particularly strong due to the length of the association and the close relationship between the place, the live music community and the establishment and growth of the live music industry in the State. [Criterion G]

Festival Hall is socially significant for its association with the boxing and wrestling community in Victoria. As the site of Victoria's principal boxing and wrestling venue since 1913, the association between Festival Hall and the boxing and wrestling communities in Victoria is particularly strong. While the use of the place for boxing and wrestling has declined since the late 1970s, it remains affectionately known as "The House of Stoush" and continues to be used by the wrestling community for events. The association between the place and the boxing community has more recently been celebrated with Festival Hall being the venue for champion boxer Lionel Rose's State Funeral (in 2011). [Criterion G]

9.2.4 Panel conclusion

For the purposes of this Panel's consideration, the debate over significance has been overtaken by the Victorian Heritage Council's inclusion of Festival Hall on the VHR. It will be included in a Heritage Overlay in recognition of this registration and listed in the Heritage Inventory and schedule to Clause 43.01.

PPN01 (2018) advises with respect to places included on the State Heritage Register:

Section 56 of the Heritage Act 2017 (Heritage Act) requires that the Minister for Planning must 'prepare and approve an amendment to any planning scheme applying to a place which is included or amended in the Heritage Register to identify the inclusion or amendment of that place in the Heritage Register'. This is intended as an alert to planning scheme users of restrictions that might apply to land under the Heritage Act.

Planning authorities should not amend the schedule or maps as they relate to places in the Victorian Heritage Register and certainly not without the prior approval of Heritage Victoria. This is to ensure that planning schemes accurately reflect the Heritage Register as required by the Heritage Act.

It would appear that the Heritage Overlay proposed as part of Amendment C258 may not need to advance any further. Due to registration on the VHR, the place will be provided with an individual Heritage Overlay and the Statement of Significance adopted by the Heritage Council will apply to the place.

9.2.5 Panel recommendation

The Panel recommends:

That Amendment C258 delete reference to Festival Hall, unless it is accepted that the Amendment can be used to give effect to its inclusion in a Heritage Overlay under section 56 of the *Heritage Act 2017*.

9.3 Shaun Driscoll and Margaret Bradshaw (Submission No 43)

9.3.1 The Place

159-161 Roden Street, West Melbourne. This is one of two adjoining places which are proposed to comprise their own heritage precinct (HO843).

**Current Grading**

Building Grading: D
Streetscape: 3

Proposed Grading

Building Grading: Significant
Streetscape:

Summarised components of the Statement of Significance are:

What is Significant?

The building is a four-room stone house, built for prominent railway engineer Thomas Hulse in 1864-5.

Contributory elements of the building include:

- *double fronted early Victorian-era house*
- *symmetrical simple façade*
- *high hipped roof typically clad with shingles, now clad with corrugated iron or similar*
- *stone (?) chimney with distinctively early slim cornice detailing*
- *double-hung sash windows*
- *central doorway and toplight*
- *relationship with the adjoining early house, 159 Roden Street and contribution to early Victorian-era streetscape with 171-177 Roden Street.*

How is it significant?

The house is significant historically to West Melbourne.

Why is it significant?

The historical significance of the place relates to its occupation as a house by Thomas Hulse and later Robert Haddon, both railway employees. They represented the influx of population to Melbourne at the time, with Haddon as a mining investor and Hulse receiving publicity for his role with Victorian Railways.

9.3.2 Submission

The initial submission expressed concern about the application of the Heritage Overlay after the property had been purchased, hence thwarting plans for demolition and redevelopment.

The submitter was represented at the Hearing by Mr Scally of Best Hooper who requested that 159-163 Roden Street should be ungraded and removed from the Amendment.

9.3.3 Panel discussion

The Panel cannot address the issues surrounding pre-purchase advice provided to the current owners of the property.

The Panel considers that establishing a precinct of only two properties is an unusual approach to heritage listing. It appears that the initial proposal was that the two properties be included in either one or two individual Heritage Overlays. The Panel considers that this is the more appropriate approach. As indicated in Chapter 4, the properties should be identified as one or two 'Individual Heritage Places' with the Statement of Significance referencing what is important about the properties. The future management of the places should be directed by that Statement.

As to what is of value, Mr Butler placed considerable importance on the occupancy of these places by two train drivers, Hulse and Haddon, even though their occupancy was relatively brief. The Panel agrees with the submitters that this is hardly a basis for the application of the Heritage Overlay. It would appear, however, that there is some value in the physical form of these cottages and the Statement of Significance should be revised to focus on this.

9.3.4 Panel conclusion

The proposal to include these two properties as a precinct is not supported by the Panel. The appropriate course would be either to identify the pair as one 'Individual Heritage Place' or as two 'Individual Heritage Places' and provide a Statement of Significance that reflects the identifiable importance of the places.

9.3.5 Panel recommendation

The Panel recommends:

That the proposed designation of the two properties at 159-163 Roden Street, West Melbourne as a heritage precinct not proceed.

That the two properties at 159-163 Roden Street, West Melbourne be designated as an Individual Heritage Place in the Heritage Inventory.

The Statement/s of Significance for the properties at 159-163 Roden Street, West Melbourne be revised to appropriately recognise the physical characteristics that are of importance to the place.

9.4 Oliver Hume Property Funds (Submission No 38)

9.4.1 The Place

164-184 Roden Street, West Melbourne. It is part of the North and West Melbourne Precinct (HO3).

This property is included as three distinct entries in the Heritage Inventory:

1. Part 164 – 170 Roden Street (Roden Street wing)
2. Part 164 – 170 Roden Street (Hawke Street wing)
3. 164 – 184 Roden Street (Briscoe and Co ironmongers warehouse complex).



Current Grading

Building Grading: C

Streetscape: 3

Proposed Grading

Building Grading: Significant

Streetscape:

Summarised components of the Statement of Significance are:

What is significant?

The building was used by Briscoe and Co ironmongers as its iron yard and warehouse from 1889 to the 1970s.

Contributory elements of the building include:

- *Victorian-era brick base with basalt footings and punched segmentally arched fenestration with voussoirs with 1930s modifications*
- *Moderne style, two brick Interwar upper levels with parapeted roofline, stepped at one end*
- *Dutch hipped roofs behind the parapet*
- *fenestration set in Modernistic horizontal streamlining strips, delineated by projecting head and sill moulds, grooved and rounded at each end*

- *multi-pane glazing in steel frames as typical on both sections, with hopper sashes*
- *vertical facade elements terminating elevations, with vertical brick panels and ribbing*
- *contribution to a major industrial complex, that extends over the 19th and 20th centuries.*

How is it significant?

The building is historically and aesthetically significant to West Melbourne.

Why is it significant?

Historically, it formed part of a wider industrial complex developed over the 19th and 20th century. This is representative of the development of West Melbourne as an industrial area as industries moved from the central city. Briscoe and Co are also one of Australia's largest Victorian-era hardware firms.

Aesthetically, the building provides expression of the two eras which correspond to its expansion. The building is also of a major Moderne design which is also represented in the nearby significant Symington Interwar complex.

9.4.2 Submissions and evidence

The submitter was represented at the Hearing by Mr Tweedie SC and relied on expert evidence provided by Mr Bryce Raworth.

The submission, presented by Counsel at the Hearing, can be summarised as:

- The proposed combined heritage policy not be adopted; or (alternatively)
- The combined policy be adopted subject to changes proposed by the submitter.
- The West Melbourne Heritage Review inappropriately regraded the property and the buildings should be classified as Contributory to the North and West Melbourne Heritage Precinct (HO3).

Mr Raworth concluded that the subject buildings are of modest architectural interest and he supported the submission that they be classified as Contributory rather than Significant.

The Council submitted that, in line with Mr Butler's evidence, 164-170 Roden Street be identified as Contributory and 172-184 Roden Street be identified as Significant and that the current three Statements of Significance be combined into one Statement.

Mr Butler also stated the abutting streetscape was significant, supporting the classification of the entire building as Significant.

9.4.3 Panel discussion

The Panel believes that the approach taken by the Council does not assist anyone in understanding the heritage importance of this complex. This is especially so given that the whole complex was the subject of a planning permit application for redevelopment (which was resolved before the conclusion of this Panel's considerations).

The Panel believes that the right approach in this case is for the whole complex to be identified as Contributory to the North and West Melbourne Precinct (HO3). The notion of having a

combined Statement of Significance seems logical but this should be cross-referenced to the Statement of Significance for the Precinct.

The policy matters subject to submission are dealt with in Chapter 5 of this Report and the grading matters raised orally by counsel for Oliver Hume are discussed in Chapter 4.

9.4.4 Panel conclusion

This is a complex that makes an architectural contribution to the North and West Melbourne Heritage Precinct (HO3) and its significance should relate to that contribution.

9.4.5 Panel recommendation

The Panel recommends:

That the Heritage Inventory be amended to identify 164 – 184 Roden Street (Briscoe and Co ironmongers warehouse complex) as Contributory to the North and West Melbourne Heritage Precinct.

9.5 Bill Cook (Submission No 61)

9.5.1 The Place

43 Hawke Street, West Melbourne, being part of the North and West Melbourne Heritage Precinct (HO3).



Current Grading	Proposed Grading
Building Grading: D	Building Grading: Contributory
Streetscape: 2	Streetscape: 2

Summarised components of the Statement of Significance are:

What is significant?

Contributory elements of the building include:

- Distinctive parapet detailing

How is it significant?

Historically and aesthetically significant to West Melbourne

Why is it significant?

Historically represents a major growth period in West Melbourne.

Aesthetically, design presented the skill and subtle variations on what is a common design theme in West Melbourne.

9.5.2 Submission

This submission was made by the owner of the property, who took issue with the proposal to grade his property Contributory when adjoining near-identical (albeit altered) terrace houses were graded Significant.

Mr Butler's justification for recommending a lower grading for this property was that it had been restored in a conjectural manner.

9.5.3 Panel discussion

It was clear to the Panel that the owner had gone to considerable lengths to complete an accurate reconstruction of his terrace house. While the accuracy of the cast iron balustrading pattern may be debatable, the dwelling now makes a solid contribution to the streetscape and this part of the North and West Melbourne Heritage Precinct. It is the central dwelling in a striking row of terrace houses. The lesser grading of this dwelling is at best curious given the higher grading afforded to the other properties in this row which retain older renovations, and from which original features have been removed.

It is the Panel's opinion (as discussed in Chapter 4) that there is no need for the Significant grading to be applied in precincts. Rather, all places should be considered Contributory to the particular precincts they are in, with the significance of particular places referred to in their Statement of Significance.

9.5.4 Panel conclusion

The Panel believes there was no reason to single out the subject property as being less important to the precinct than its neighbouring terraces. It therefore believes all properties in this terrace row should be designated as Contributory to the precinct.

9.5.5 Panel recommendation

The Panel recommends:

That the Significant gradings attached to buildings in the terrace row at 37 – 49 Hawke Street, West Melbourne be deleted.

That the Heritage Inventory be amended to identify the terrace row 37 – 49 Hawke Street as Contributory to the Precinct.

9.6 Association of Professional Engineers (Submission No 85)

9.6.1 The Place

152-160 Miller Street, West Melbourne (HO1119).

Current Grading	Proposed Grading
Building Grading: - C	Building Grading: Significant
Streetscape: - 3	Streetscape: NA

9.6.2 Submission

The submission was made initially on behalf of the Construction, Forestry, Mining and Energy Union (CFMEU) and then for the current owner. Mr Frank Perry appeared at the Hearing to represent the submitter.

The submitter argued that there was no justification provided for upgrading the property from C to Significant, as proposed by the Amendment.

In summary, the submitter believed the value of the building's past occupancy has been overstated and it has been so altered over the past fifty years that the architect's original design has been substantially changed. Regardless, the building is not considered to be of a style for which the architect was well known.

The Council responded that the re-grading was based on the adopted conversion methodology.

9.6.3 Panel discussion and conclusion

The significance of this place was reviewed by the Amendment C207 Panel in 2014. That Panel recommended that:

- The place be included in the Scheme as HO1119.
- The Statement of Significance be adjusted to emphasise aesthetic importance rather than historic or associational values.

The current submission is focussed on its re-grading from C to Significant. The issue of grading of individually important places is dealt with in Chapter 4 of this Report. In accordance with those findings, there is no reason to attach a grading to this place. It is correctly included in the Scheme as an Individual Heritage Place (HO1119) and that is sufficient. It should be recorded in the Inventory as such.

The importance of the building needs to be appropriately addressed in the Statement of Significance. It is important that it appropriately reflects the assessed significance. On that matter this Panel accepts the recommendation provided by the Amendment C207 Panel.

9.6.4 Panel recommendation

The Panel recommends:

That the property at 152 – 160 Miller Street, West Melbourne be included in the Heritage Inventory as an Individual Heritage Place and the designation as Significant be removed.

That the Statement of Significance for 152-160 Miller Street, West Melbourne be reviewed to ensure that it reflects the conclusions and recommendations of the Amendment C207 Panel.

9.7 Stanley Street Holdings Pty Ltd (Submission No 99)

9.7.1 The Place

210 Stanley Street, West Melbourne, being part of the North and West Melbourne Heritage Precinct (HO3).



Current Grading	Proposed Grading
Building Grading: -D	Building Grading: Contributory
Streetscape: - 3	Streetscape: NA

Summarised components of the Statement of Significance are:

What is significant?

Contributory elements of the building include:

- Simple, Moderne design
- Well preserved.

How is it significant?

The building is aesthetically significant.

Why is it significant?

Representative of the development of a manufacturing industry.

9.7.2 Submission

The submitter was represented at the Hearing by Mr Scally of Best Hooper and Mr Bryce Raworth provided expert evidence.

This place was graded D in a Level 3 Streetscape within the North and West Melbourne Heritage Precinct (HO3). The submission challenged the grading of Contributory as listed in the review and argued that the building has limited architectural and historical interest. It was said to be a simple and unremarkable factory building and that the association with the architect, George Teague, does not elevate its significance.

The submission also requested that the Panel recommend reconsideration of the boundaries of HO3, as this site, and those around it, were in a '*degraded condition*'.

Mr Raworth brought the Panel's attention to the mistake that had been made in the mapping of this property. He believed that HO471, which currently applies to 210 Stanley Street, was meant to apply to 138-140 Stanley Street which is outside HO3 and is separately listed in the Heritage Inventory and graded as Significant.

The Council agreed with Mr Raworth that the mapping of the properties was incorrect, although it submitted the Contributory designation should remain in place for 210 Stanley Street. This position was supported by Mr Butler in his evidence for the Council.

9.7.3 Panel discussion

Clearly the mapping mistake concerning this property must be corrected by removing the individual Heritage Overlay. The property should, however, remain within the boundaries of HO3. The Panel notes that the inconsistency between the Inventory listing and mapping for 138-140 Stanley Street did not attract any submission by the owner of that property and the Panel does not make any findings about that place.

The submitter's recommendation that the Panel should review the boundaries of HO3 is not within its terms of reference and is not commented on. The matter for the Panel to determine is whether the proposed Contributory designation is appropriate for this property.

The Panel notes that the Statement of Significance for the precinct acknowledges the mixed uses of the precinct, including residential, commercial and industrial buildings. On that basis it is considered that the Contributory designation for this building is appropriate.

Both Mr Raworth and the Council made reference to the VCAT decision *Stanley Street Holdings Pty. Ltd. v Melbourne CC [2018]*, VCAT 30, and the Panel has also noted the comments of the Tribunal in relation to the importance of the building.

9.7.4 Panel conclusion

The confusion about the mapping and listing of this building must be corrected, preferably as part of this Amendment.

The Panel concludes that there is sufficient evidence to support the Contributory designation proposed for this property as part of the North and West Melbourne Heritage Precinct (HO3).

9.7.5 Panel recommendation

The Panel recommends:

That the Council correct the mapping and Inventory listings for the properties at 210 and 138-140 Stanley Street, West Melbourne, before the Amendment is adopted by the Council.

9.8 Goldsmith Lawyers (Submission No 21)

9.8.1 The Place

613 King Street, West Melbourne, being part of the North and West Melbourne Heritage Precinct (HO3).



Current Grading	Proposed Grading
Building Grading: - D	Building Grading: Contributory
Streetscape: - 2	Streetscape: NA

Summarised components of the Statement of Significance are:

What is significant?

Contributory elements of the building include:

- Corner site to Hawke Street adding prominence
- Distinctive interwar parapet form
- Chimney in side wall.

How is it significant?

The building is historically significant.

Why is it significant?

Historically significant as an early manufacturing business in the area.

9.8.2 Submission

This submission was made by the owners of the property. They were not represented at the Hearing.

The submission was:

- The building is significantly different from the original form of the building.
- The site is currently ungraded.

The submission included an expert report by Mr Jim Gard'ner who did not appear to give evidence. His report did, however, acknowledge that interwar manufacturing buildings, such as this example, have inevitably undergone change.

The Council relied on evidence from Mr Butler that indicated the building had historical value given its role as a manufacturing establishment and that this original use remained apparent in its physical form (albeit altered).

9.8.3 Panel discussion

The Panel agrees with the submissions of the Council and the evidence of Mr Butler in this instance and believes that the industrial origins of the building remain apparent.

9.8.4 Panel conclusion

Given the importance of the industrial role of the precinct, this place should be acknowledged as a Contributory element to the precinct.

9.9 Pro Urban Advisory Planning Management for owner (Submission No 99)

9.9.1 The Place

101 – 107 Rosslyn Street, West Melbourne (HO1192).



Current Grading

Proposed Grading

Building Grading: -

Building Grading: Significant

Streetscape: -

Streetscape: -

Summarised components of the Statement of Significance are:

What is significant?

Contributory elements of the building include:

- two storey face red brick parapeted factory, with matching but higher skillion additions built on an existing wing at the rear
- pitched roofs behind parapet
- three-bay symmetrical façade with raised central bay providing for a stepped parapet
- soldier coursing above openings and across side bays as structural ornament
- rainwater heads and downpipes arranged symmetrically as part of the façade multi-pane glazing in steel framing.

How is it significant?

It is historically and aesthetically significant to West Melbourne.

Why is it significant?

Historically significant due to the association with the company Felton Grimwade and Duerdins Pty Ltd, as well as being a well-preserved Interwar building.

Aesthetically significant as an example of Moderne style design, corresponding with a nearby Peck design to the west at 109-133 Rosslyn Street.

9.9.2 Submission

The place is proposed to be included in its own Heritage Overlay and designated as Significant.

The submission was made in writing by a consultant for the property owner (no name was supplied), with no representation at the Hearing. In summary it indicated that:

- The demolition of the adjoining buildings at 109-133 Rosslyn Street diminished the importance of this property
- The building no longer has any external expression of its association with Felton Grimwade and Duerdin
- The building is not well preserved because of alterations to the façade
- It is one of many interwar industrial buildings in West Melbourne.

As a consequence, the proposed Significant designation was said to be not warranted.

The Council's response relied on evidence from Mr Butler who indicated:

- The demolition of 109-133 Rosslyn Street had elevated the importance of this building as a surviving element of the industrial complex in Rosslyn Street
- The historical association with Felton Grimwade and Duerdin remains
- Its strong 'moderne' design elevates its importance.

9.9.3 Panel discussion

The proposal to designate this building as Significant in the Inventory should not proceed given the Panel's recommendations about gradings in Chapter 4. The Panel agrees with the Council, however, that this is a building that warrants an Individual Heritage Place designation and overlay.

Given the demolition of 109-133 Rosslyn Street the Statement of Significance needs to be adjusted to remove reference to that property.

9.9.4 Panel conclusion

The individual Heritage Overlay HO1192 as proposed for 101-107 Rosslyn Street should proceed, but with a revised Statement of Significance. The property should be designated as an Individual Heritage Place in the Inventory.

9.9.5 Panel recommendation

The Panel recommends:

That the Heritage Inventory be amended to replace the Significant designation of 101 – 107 Rosslyn Street, West Melbourne with Individual Heritage Place.

That the Statement of Significance for 101 – 107 Rosslyn Street, West Melbourne be amended to appropriately reflect what is of value about the place.

9.10 John Pantorno (Submission No 7)

9.10.1 The Place

62 Walsh Street, West Melbourne, being part of the North and West Melbourne Heritage Precinct (HO3).



Current Grading	Proposed Grading
Building Grading: C Streetscape: 3	Building Grading: Significant Streetscape: -

Summarised components of the Statement of Significance are:

What is significant?

This is a two-storey stuccoed brick and parapeted row house.

Contributory elements of the building include:

- cemented ornament, including a gabled entablature, with scrolls, a cornice mould and former cornice, now the string-mould, of the first single storey stage of building
- notable cast-iron balustrading to bracketed balconettes on the upper openings
- double-hung sash windows
- one level timber, corrugated iron clad verandah
- contribution as one of a varied group of Victorian-era houses in Walsh Street, intermixed with new development (62, 46-8, 42 Walsh Street).

How is it significant?

The building is historically and aesthetically significant to West Melbourne.

Why is it significant?

Aesthetically, the building is generally original to 1888 and contains rare details such as iron railings.

Historically, it has links with typical occupations associated with West Melbourne, as well as an association with Wilmot Oakey, a prominent local person in the area.

9.10.2 Submission

The submission was made in writing and there was no attendance at the Hearing. In summary the submission indicated that the property's presentation to the street is compromised and the designation should be less than Significant.

The Council relied on the evidence of Mr Butler and submitted that no change be made to the Amendment with respect to this property.

9.10.3 Panel discussion and conclusion

As recommended in Chapter 4, a building should not be designated in the Inventory as Significant when located in a heritage precinct but rather as Contributory.

This place is located within the North and West Melbourne Heritage Precinct (HO3) and is contributory to that precinct. The place should be identified as Contributory in the Inventory.

9.10.4 Panel recommendation

The Panel recommends:

That the Heritage Inventory be amended to designate 62 Walsh Street, West Melbourne as Contributory.

9.11 Middlefield Group (Submission No 88)

9.11.1 The Place

437 - 441 Spencer Street, West Melbourne (HO780).



Current Grading	Proposed Grading
Building Grading: varies Streetscape: 2	Building Grading: Significant (441) Contributory (437) Streetscape: -

Summarised components of the Statement of Significance are:

What is significant?

Contributory elements of the streetscape include:

- double storey rendered Victorian-era shops and residences, set on bluestone footings
- cemented parapeted façade on No 437 with moulded architraves, cornice and blocks on brackets
- Italian Renaissance Revival styling on No 437
- traditional splayed corner entry for No 441
- double-hung sash windows on No 437
- shopfront on the narrow Spencer Street façade of No 441, now altered
- corrugated galvanised steel simply hipped roofs.

How is it significant?

The streetscape is historically significant to West Melbourne.

Why is it significant?

Historically, it demonstrates an early and later Victorian-era phase of commercial development in West Melbourne.

9.11.2 Submission

The submission was made in writing and there was no representation at the Hearing. In summary, the submission advised that:

- The owner has a valid permit which allows demolition of the buildings at 437-441 Spencer Street.
- The significance of the buildings does not warrant the proposed designations in the Heritage Places Inventory.

The Council submitted that despite the extant permit, the proposed designations of Contributory for 437 Spencer Street and Significant for the pair (437-441) should stand.

9.11.3 Panel discussion and conclusion

These two buildings share one Heritage Overlay (HO780) and therefore should share one Statement of Significance.

There is no need to designate either or both of them as Contributory or Significant. For the reasons discussed in Chapter 4, the grading of these places should be revised so that they are designated as an Individual Heritage Place and their importance should be described in the Statement of Significance.

9.11.4 Panel recommendation

The Panel recommends:

That the designations of Contributory and Significant be deleted from the Heritage Places Inventory for the properties at 437 and 441 Spencer Street, West Melbourne and be replaced with the designation Individual Heritage Place for the pair.

9.12 Spacious Property Development Group (Submission No 51); Simon Mitchell-Wong (Submission No 19); Jason & Sharon Viadusic (Submission No 84)

9.12.1 The Place

488 - 494 La Trobe Street, West Melbourne.



Current Grading

Building Grading: C
Streetscape: 3

Proposed Grading

Building Grading: Significant
Streetscape: -

Summarised components of the Statement of Significance are:

What is significant?

Contributory elements of the building include:

- 2 storey cemented parapeted Italian Renaissance Revival style façade
- simple cornice and entablature
- double-hung sash windows to upper level with cemented architraves
- double-hung sash windows to east side wall
- red brick saw-tooth rear wings potential early 20th century visible on west
- original side wall, fenestration and roofline on east side (loading doors changed)
- ground level segmentally arched openings, with identified significant window joinery and openings extended to near ground level since 1985

How is it significant

Historically and aesthetically significant to West Melbourne.

Why is it significant?

Historically, the building is an early and relatively well-preserved industrial building linked with jam making, fruit preserving and the Spink brothers.

Aesthetically, it is a workshop that was designed by renowned architect Thomas Watts in the prevailing commercial style of the period.

9.12.2 Submissions

The Council informed the Panel that, following the exhibition of the Amendment, this property was demolished (with relevant approvals). As a consequence, the Amendment should be amended to reflect the fact that the building no longer exists.

9.12.3 Panel discussion and conclusion

The Panel agrees with the Council that the property should be removed from the Amendment.

9.12.4 Panel recommendation

The Panel recommends

That the Heritage Inventory, Heritage Overlay map and the Schedule to Clause 43.01 be amended to delete reference to 488 - 494 La Trobe Street, West Melbourne and proposed HO1190.

9.13 PDG Corporation (Submission No 39)

9.13.1 The Place

17 - 37 Abbotsford Street, West Melbourne (HO1178).



Current Grading

Building Grading:

Streetscape:

Proposed Grading

Building Grading: Significant

Streetscape: -

Summarised components of the Statement of Significance are:

What is significant?

Contributory elements of the building include:

- one and two storey brick main factory wing
- pitched main roof on trusses clad with corrugated iron, Dutch-hipped over main corner bay

- stepped parapet and trabeated form
- brick pilasters rising to dog-toothed cornices with corbelled string moulds either side of main façade elements
- steel-framed windows, with multi-pane glazing
- concrete lintels over openings
- two-storey main corner wing at Abbotsford and Ireland Streets, with raised entablature over three and two bayed main façade elements
- entry to offices in Abbotsford Street, designed as an arched entry, now with cantilever hood
- firm name J. Gadsden Pty. Ltd. in cemented bas-relief on the entablature panel.

How is it significant?

The building is historically and aesthetically significant to West Melbourne.

Why is it significant?

Historically, it is one of the oldest custom designed factories for the Gadsden company in West Melbourne, while also expressing the special role West Melbourne played in accommodating heavy transport-reliant industry.

Aesthetically, it is a well-preserved example of an architect-designed factory in a modern classical style.

9.13.2 Submission

The submission was made in writing and there was no appearance at the Hearing. In summary the submission indicated that the building lacks sufficient architectural and historical significance to warrant the application of the Heritage Overlay (HO1178).

The Council reiterated the findings of the West Melbourne Heritage Review that the building is a substantial interwar factory of aesthetic and historical significance.

9.13.3 Panel discussion and conclusion

The Panel agrees with the submissions of the Council and believes that the place is a distinctive building constructed for an important West Melbourne manufacturing business (J Gadsden Pty Ltd).

Consistent with the Panel recommendations in Chapter 4 of this Report, the place should be designated as an Individual Heritage Place rather than Significant in the Heritage Inventory and its historical and aesthetic importance should be clearly described in the Statement of Significance.

9.13.4 Panel recommendation

The Panel recommends:

That the property at 17-37 Abbotsford Street, West Melbourne, be designated as an Individual Heritage Place in the Heritage Inventory.

9.14 Renato Ravenna (Submission No 54)

9.14.1 The Place

456 and 452 LaTrobe Street, West Melbourne.

9.14.2 Submission

The submitter requested that 456 and 452 LaTrobe Street be included in the Heritage Overlay.

9.14.3 Panel discussion and conclusion

The properties the submitter has requested be included in the Heritage Overlay are not part of the Amendment. The West Melbourne Heritage Review was a comprehensive review which did not identify them for inclusion in the Heritage Overlay.

This proposal is outside the range of matters which the Panel can address.

9.15 Miami Hotel Melbourne (Submission No 20)

9.15.1 The Place

This submission referred to land at:

- 13 - 25 Hawke Street, West Melbourne
- 27 Hawke Street, West Melbourne
- 599 - 601 King Street, West Melbourne
- 605 - 609 King Street, West Melbourne.

being part of the North and West Melbourne Heritage Precinct (HO3).

Proposed grading: Contributory - 609 King Street.

9.15.2 Submission

The submission was made in writing and there was no appearance at the Hearing. It made the following points:

- 609 King Street should not be graded Contributory in the North and West Melbourne Heritage Precinct (HO3)
- It is a much-altered commercial building and there is limited evidence of its origins when viewed from King Street.

The Council did not agree with the submission and argued that despite the alterations, the building retains recognisable building fabric from the Victorian era.

The submitter also made comments about the proposed Clause 22.05 which have been considered in Chapter 5 of this Report.

9.15.3 Panel discussion and conclusion

The Panel agrees with the Council concerning the importance of the place and supports the inclusion of 609 King Street as Contributory in the Heritage Inventory.

9.16 Bernard Baudoin (Submission No 103)

9.16.1 The Place

341 - 353 Dryburgh Street, North Melbourne, being part of the North and West Melbourne Heritage Precinct (HO3).

9.16.2 Submission

A written submission was made by Mr Baudoin who was not present or represented at the Hearing.

It was, argued that the building should not be upgraded from Non-contributory to Contributory as the building does not match the other houses in the area and is in poor condition.

The Panel was made aware that a permit to demolish the existing building and construction of a new dwelling had been granted by VCAT (*Bernard Baudoin v Melbourne CC [2018] VCAT 448*).

9.16.3 Panel discussion and conclusion

The Panel inspected the site. It considers that while the building is not a nineteenth century structure like many of those surrounding it, nonetheless it makes an appropriate contribution to the precinct. The Panel considers that the proposed designation as a Contributory building to the precinct should stand. The submitter may or may not take up the right to demolish and rebuild as allowed under the permit.

9.17 Anglican Diocese of Melbourne (Submission No 103A)

9.17.1 The Place

28 Batman Street, West Melbourne. This site is proximate to St James Old Cathedral which is included on the VHR and is in HO478.

9.17.2 Submission

This submission was made by the Anglican Diocese, which was represented at the Hearing by Mr Peter O'Leary, planning consultant. The substance of the submission was:

We object to Amendment C258, being the proposed regrading of the buildings and inclusion of the land at 28 Batman Street in any future Heritage Overlay on the following grounds:

28 Batman Street is not proposed for inclusion in the heritage overlay as part of Amendment C258;

28 Batman Street is not included in the interim heritage overlay in West Melbourne (Amendment C273);

The City of Melbourne has not made a request to Heritage Victoria to consider the inclusion of 28 Batman Street in the VHR.

There appears to be an error in the Heritage Inventory, as the Heritage Inventory should only include properties that are included in the Heritage Overlay and 28 Batman Street is not included in the Heritage Overlay.

The buildings on 28 Batman Street are relatively generic and are of plain character. The principal south elevation include pairs of double hung sash windows, a modern flat roof entry porch and dentilated string course line.

The buildings on 28 Batman Street have a visual separation from the Old St James Church;

The buildings on 28 Batman Street are isolated at the very rear of the Site.

The buildings on 28 Batman Street are not currently graded in the City of Melbourne's Heritage Places Inventory (May 2016) and do have an entry in the Council's Heritage Database.

28 Batman Street is located a short distance from the St James Old Cathedral Site at 419-437 King Street and 2-24 Batman Street, which is a registered site (H0011). The extent of the registration does not include or abut the site on which the subject building is located. 26 Batman Street contains a contemporary multi-storey office building, which visually isolates the subject site from the church.

The Council in its Part B submission agreed with this submission and stated:

The current identification as Contributory in the Inventory is not appropriate given the site is not within a Heritage Overlay nor is proposed to be.

9.17.3 Panel discussion and conclusion

The Panel accepts that an error has occurred. It concludes that this property should be removed from the Heritage Inventory.

9.17.4 Panel recommendation

The Panel recommends:

That 28 Batman Street, West Melbourne be deleted from the Heritage Inventory.

9.18 St James Old Cathedral Bellingers (Submission No 102)

9.18.1 The Place

St James Old Cathedral, 2 - 24 Batman Street, West Melbourne.

9.18.2 Submission

Dr Laura Goodin submitted on behalf of the St James Bellingers that the Statement of Significance for the church should acknowledge the significance of the bells.

She appeared at the Hearing and spoke to her written submission.

The Council submitted that the place is included in the Schedule to the Heritage Overlay as a consequence of its inclusion on the Victorian Heritage Register (H0011). It is therefore the

Statement of Significance adopted by the Heritage Council that should be amended. Mr Butler supported this approach and recommended that other matters in the VHR Statement of Significance could be addressed at the same time.

9.18.3 Panel discussion and conclusion

The Panel supports the approach recommended by the Council.

9.18.4 Panel recommendation

The Panel recommends:

That the Council seek a review of the Statement of Significance adopted by Heritage Victoria and the Heritage Council for the St James Old Cathedral at 2 - 24 Batman Street, West Melbourne to recognise the cathedral bells as items of significance.

9.19 Ray Cowling (Submission No 90)

9.19.1 The Place

65-67 Peel Street, West Melbourne, being part of the North and West Melbourne Heritage Precinct (HO3).

9.19.2 Submission

The submission requested the grading of this place be elevated from Contributory to Significant.

The Council responded that, in line with Mr Butler's evidence, this submission should be agreed to and the place should be graded Significant.

9.19.3 Panel discussion and conclusion

Consistent with the Panel's general findings on gradings, there is no need for this 'upgrade' given its location in a precinct. The Panel believes it should remain Contributory to the precinct with any special features identified in the Statement of Significance for the precinct.

9.20 Brunswick Group Pty Ltd (Submission No 86)

9.20.1 The Place

2 Hawke Street, West Melbourne (West Melbourne Baptist Church Manse).

9.20.2 Submission

The submission advised that the building has been demolished and therefore should not be included in the Inventory.

The Council agreed this was the case and proposed amending the Inventory accordingly.

9.20.3 Panel discussion and conclusion

The Panel notes the submission and the Council's response.

9.20.4 Panel recommendation

The Panel recommends:

That the property at 2 Hawke Street, West Melbourne should be removed from the Heritage Places Inventory.

10 Other Individual properties

10.1 Troon Asset Management Group (Submission No 94)

10.1.1 The Place

655 & 661 – 667 Bourke Street, Melbourne.

The place is part of the Bourke Street West Heritage Precinct (HO501).



Current Grading

Building Grading: B

Streetscape:

Proposed Grading

Building Grading: Significant

Streetscape: -

10.1.2 Submission

The written submission pointed out that the Heritage Inventory currently describes both the original Hudson’s Store and the 1980s office building as Significant. It does not oppose the designation for the older building but seeks to have the modern structure deleted from that designation. The submitter did not appear at the Hearing.

The Council responded by saying that under its GIS system the property is listed as 661 Bourke Street and is treated in the Inventory as one entry. The Council also said the Hoddle Grid Heritage Review was currently being completed and the significance of the site should be further assessed as part of that review.

During the Hearing, the Panel was advised by letter that the owner and Council had reached an agreement whereby only the former Hudson's store at 655 Bourke Street would be listed as significant in the Heritage Places Register. On this basis the owner advised it did not object to the Amendment, as affecting its land.

10.1.3 Panel discussion and conclusion

The Panel accepts that an agreement has been now reached between this submitter in the Council in this matter. In relation to the proposed listing the Panel believes the former Hudson's Store should be listed in the Inventory as an Individual Heritage Place.

10.1.4 Panel recommendation

The Panel recommends:

That the listing of 655 & 661–667 Bourke Street, Melbourne (former Hudson's Store) be deleted from the Heritage Inventory and 655 Bourke Street, Melbourne, be listed as an Individual Heritage Place in the Heritage Inventory.

10.2 Maria George Building Pty Ltd (Submission No 45)

10.2.1 The Place

181 Flinders Lane, Melbourne (HO506).

10.2.2 Submission

The submission stated the owners are in the process of seeking a planning permit for the development of the site and are concerned that the proposed changes to the planning policies will have a negative impact on their proposals.

The Council responded by stating that planning permit discussions are independent of the Amendment process and that the policy issues will be dealt with as part of the Hearing process.

10.2.3 Panel discussion and conclusion

The Panel has dealt with the policy issues in Chapter 5 of this Report.

10.3 Andrew Normand (Submission No 57)

10.3.1 The Place

650 Elizabeth Street, Melbourne, being part of Elizabeth Street North (Boulevard) Precinct (HO1124).

10.3.2 Submission

The submitter referred to the history of the area north of Elizabeth Street and to the changes that have taken place in that area, including those to 650 Elizabeth Street. It was considered it did not warrant re-grading from 'C' to Significant.

The Council stated the existing building was protected under HO1121 (sic) under Amendment C198 (City North). The building has now been regraded from 'C' to 'Significant' based on the adopted conversion methodology.

10.3.3 Panel discussion and conclusion

The Panel has checked the location of this property and believes it is in Precinct HO1124, not HO1121, as referred to by the Council. As the property is in a precinct it should be recorded as Contributory in the Inventory.

10.3.4 Panel recommendation

The Panel recommends:

That the Heritage Places Inventory be amended to record 650 Elizabeth Street, Melbourne as Contributory.

10.4 Owner of 543-547 Elizabeth Street, Melbourne (Submission No 87)

10.4.1 The Place

543 - 547 Elizabeth Street, Melbourne, being part of Elizabeth Street North (Boulevard) Precinct (HO1124).

10.4.2 Submission

The submission made by the consultant for the unnamed owner was that 543 - 547 Elizabeth Street does not warrant re-grading from C to Significant.

The Council stated this property was included in the 'Elizabeth Street North Boulevard Precinct', as part of the City North C198 Amendment. The conversion from C grade to Significant was based on the conversion methodology adopted for this area.

10.4.3 Panel discussion and conclusion

The subject property is located in a Precinct and therefore under the Panel's recommended classification, this property should be included in the Inventory as a Contributory Place in the Precinct.

10.4.4 Panel recommendation

That 543-547 Elizabeth Street, Melbourne, be recorded as Contributory in the Heritage Places Inventory.

10.5 Bardville Pty Ltd (Submission No 77)

10.5.1 The Place

The Walk Arcade, Bourke Street, Melbourne.

This property incorporates:

- 309-311 Bourke Street (former Edments Store)
- 313-317 Bourke Street (former Diamond House)

- 319-321 Bourke Street
- Coles Place building (Arco House)
- 323-325 Bourke Street (former Public Benefit Bootery)
- 288-290 Little Collins Street (The Book Building)
- 292-296 Little Collins Street (former York House)
- 300-302 Little Collins Street (former Allan's Building, also known as Sonora House).

10.5.2 Submission

The submitter objected to the Significant designation being applied to this large site which, as indicated above, is made up of a number of individual buildings in the block between Bourke Street and Little Collins Street.

The submitter was represented at the Hearing and an evidence statement prepared by Mr Gard'ner was provided to the Panel although he was not called to give evidence.

The Panel was advised that discussions between Bardsville and the Council had resolved the grading issues and Bardsville had agreed to an incorporated plan for the site which dealt with the heritage significance of each of the buildings on the site.

The Council supported the adoption of this incorporated plan.

10.5.3 Panel discussion and conclusion

The Panel acknowledges agreement has been reached between Bardsville and the Council and concludes that the proposed incorporated plan should be adopted. Having regard to the Panel's recommendations however, it believes those buildings identified as Significant should now be referred to as Individual Heritage Places.

10.5.4 Panel recommendation

The Panel recommends:

That the Council adopt the Incorporated Plan for The Walk Arcade, Bourke Street, Melbourne agreed with the submitter and amend the Planning Scheme accordingly.

That 313-317 and 323-325 Bourke Street, Melbourne, be identified as Individual Heritage Places in the Incorporated Plan and Heritage Places Inventory.

10.6 Nitzal Investment Trust (Submission No 91)

10.6.1 The Place

15-17 Lincoln Square South, Carlton

19-21 Lincoln Square South, Carlton

The properties form part of the Lincoln Square South Heritage Precinct (HO1122).

Under the previous grading regime 15-17 was graded C and 19-21 was graded D.

Current Grading	Proposed Grading
Building Grading: C and D	Building Grading: Significant
Streetscape: ?	Streetscape: -

10.6.2 Submission

The submission by Nitzal Investment Trust addressed two issues:

- The upgrading of No 15-17 from 'C' to 'Significant'.
- The proposed changes to the policies set out in Clause 22.05 – Heritage Places outside the Capital City Zone.

Mr Liam Riordan of Tract Consultants represented the submitter at the Hearing and relied on a Memorandum of Advice provided by Jim Gard'ner of GJM Heritage. Mr Gard'ner was not called as an expert witness and therefore was not available for cross examination.

Mr Riordan's written and verbal submissions, however, adopted the position put by Mr Gard'ner.

Mr Riordan argued there was no justification for the translation of 15-17 Lincoln Square South from C to Significant but did not oppose a translation to Contributory. It was submitted that both 15-17 and 19-21 met the definition of Contributory under the Amendment.

The submitter referred to the exhibited Clause 22.05 which removed the concealment and height provisions currently in this policy for City North.

10.6.3 Panel discussion

The Panel has dealt with a number of submissions opposed to the 'upgrading' of places to Significant using the conversion method adopted by the Council. The Panel has provided commentary on the methodology and translation outcomes in Chapter 4.

As discussed in Chapter 4, there is no need for a building to be graded as Significant when in a heritage precinct. It should be designated as Contributory, with any particular attributes recorded in the Statement of Significance.

The policy changes are discussed in Chapter 5.

10.6.4 Panel conclusion

The Panel has concluded that in this case both 15-17 and 19-21 are Contributory buildings to the Lincoln Square South Heritage Precinct (HO1122).

10.6.5 Panel recommendation

The Panel recommends:

That the Heritage Places Inventory be amended to include the building at 15-17 Lincoln Square South as 'Contributory' to the Lincoln Square South Heritage Precinct (HO1122).

10.7 Botex Pty Ltd (Submission No 31)

10.7.1 The Place

90-104 Berkeley Street Carlton which has an individual Heritage Overlay (HO1126).

10.7.2 Submission

Mr Vorchheimer of HWL Ebsworth represented Botex Pty Ltd at the Hearing and called Bryce Raworth to give expert evidence.

The submission and evidence opposed the translation of this place to Significant under the new grading system and the impact of the new policy on the property. Under Amendment C198 the building was graded C and the submitter believed that the new policies applying to Significant places will have a greater constraining impact on the property's development potential.

It was Mr Raworth's evidence that a serial listing could be adopted for this and other nearby places in individual Heritage Overlays that were previously occupied by industries.

The Council submitted that the grading of this property had been determined by the conversion methodology and that the 'Significant' grading should stand.

10.7.3 Panel discussion and conclusion

This submission is one of a number opposed to the grading conversion methodology.

The Panel has dealt with this in Chapter 4 and has been indicated there is no reason for a place in an Individual Heritage Overlay to be given a 'grading'. The Statement of Significance for the place, which will become part of an incorporated document should define what needs to be conserved (in line with the adopted policy).

10.7.4 Panel recommendation

The Panel recommends:

That the Heritage Places Inventory be amended to include 90-104 Berkeley Street Carlton, as an Individual Heritage Place.

10.8 John Elie Sader (Submission No 4)

10.8.1 The Place

195-197 Palmerston Street, Carlton being part of the Carlton Heritage Precinct (HO1).

10.8.2 Submission

The written submission noted that the property at 195-197 Palmerston Street had been deleted from the Heritage Inventory and therefore there was no objection to the Amendment as exhibited.

The Council advised the Panel that these properties are in the Carlton Precinct (HO1) but are presently ungraded. Under the conversion methodology the property will be Non-contributory and therefore it has not been included in the Inventory.

10.8.3 Panel discussion and conclusion

The Panel noted the advice that this property is Non-contributory to the precinct and therefore has not been included in the Inventory.

See also the Panel general discussion of Non-contributory properties in precincts in Section 6.4.4 of this Report.

10.9 Fleur Rubens (Submission No 13)

10.9.1 The Place

53-57 Little Palmerston, Carlton being part of the Carlton Heritage Precinct (HO1).

10.9.2 Submission

The submitter did not participate in the Hearing.

The written submission accepted that the original building on this consolidated site is appropriately designated as Contributory in the Amendment, however it was submitted that although its 1980's extension was built in a 'period style', it does not contribute to the heritage value of the place or the precinct.

The submitter expressed a particular concern about the effect the heritage policies would have on her plans to affix solar panels to the roof of the addition.

The Council submitted that the re-grading resulted from the conversion methodology adopted for the purposes of the Amendment and the Contributory designation should stand.

It also referred to the provisions of the policy, in relation to the fitting of solar panels on roofs of buildings.

10.9.3 Panel discussion and conclusion

Although the addition to the residence on this site would be non-contributory, if it is part of a single title the whole site will have to be listed as Contributory to the precinct. The Panel therefore believes that the Contributory designation for this place is appropriate.

10.10 Farida Fleming (Submission No 49)

10.10.1 The Place

150 Drummond Street, Carlton.

10.10.2 Submission

The submitter opposed what she considered as the 'down-grading' of properties in Carlton under the Amendment. The submitter also believed buildings on the former Children's Hospital site, of which her property is part, should form a separate Heritage Overlay with a new Statement of Significance. The submitter does not support the use of the term Contributory, believing places should either be simply graded as either of State or local significance.

The Council does not propose making any changes to the Amendment in relation to this land.

10.10.3 Panel discussion and conclusion

The Panel notes the submission and refers to its discussion on gradings and policies at Chapters 4 and 5.

10.11 Mervyn Fennell (Submission No 80)

10.11.1 The Place

28-34 Canning Street, Carlton, being part of the Carlton Heritage Precinct (HO1).

10.11.2 Submission

The submission questions whether the property should have a higher designation than Contributory.

The Council responded by stating that the property had been graded in accordance with the conversion methodology.

10.11.3 Panel discussion and conclusion

The Panel, having considered the submissions, considers that the Contributory designation for this property should stand. This property is in the Carlton (HO1) precinct and should be retained as Contributory in line with the recommendations at Chapter 4.

10.12 University of Melbourne (Submission No 65)

10.12.1 The Place

- Individual places on the University Parkville campus
- Places within the Carlton (HO1) and Parkville (HO4) precincts
- 245 and 247-249 Cardigan Street, Carlton (HO34 - a small precinct)
- Individual places:
 - 158 Bouverie Street, Carlton (HO1128)
 - 233 Bouverie Street, Carlton (HO1130)
 - 213-221 Berkeley Street, Carlton (HO1149).

10.12.2 Submissions and evidence

Mr Connor QC for the University of Melbourne (the University) relied on the expert heritage evidence of Mr Bryce Raworth in disputing the gradings given to various buildings owned or leased by the University, both on and off the original Parkville campus.

In the case of its properties located in CCZ5, the University's addendum to its submission referred to the Council proposal to introduce transitional provisions to preserve the status quo for C-graded buildings within City North. It stated that the University 'cautiously' welcomed this approach but considered it should also apply to buildings on its Parkville campus (in a Public Use Zone), south of Tin Alley, and that this should be done prior to adoption of the Amendment.

Mr Raworth's evidence related to various individual places both on the University's Parkville campus and off-campus and also to its buildings in precincts in Parkville and Carlton.

While Mr Raworth supported the general intent of the Amendment in replacing the present alphabetical gradings system, he said that he believed it resulted in a re-grading of some buildings that suggested their significance was greater than could be justified.

Mr Raworth criticised what he saw as an 'upgrading' to Significant of buildings that under the existing system would be considered Contributory. He referred to examples in his evidence where buildings had been substantially altered or added to, to the point that their integrity had been severely diminished, and, he said, they should be removed or listed as Contributory in the relevant Heritage Overlay.

Furthermore, it was Mr Raworth's evidence that places on the University campus might be given a serial listing. He referred to Scotch College, Hawthorn, as an example of where this approach had been taken. In that case, the same Heritage Overlay number was applied to each heritage place on the land and the places were listed in Clause 43.01 schedule as either being significant or contributory places.

Mr Raworth also questioned why a 'Significant streetscape' grading had been applied to heritage buildings on the University campus when they were generally located in a mixed built form setting, and in close proximity to large Non-contributory buildings.

In the case of individual C-graded places and some C- and D-graded places in precincts, Mr Raworth disputed the Council proposal to convert them to Significant under the new grading system.

In response to submissions and evidence, the Council maintained that it was proper and appropriate that all individual C-graded buildings be translated to Significant. It however agreed with the evidence of Ms Brady about the need to review all C- and D-graded properties located in precincts which had been converted to Significant. The classification of Significant was considered the appropriate 'default' interim position.

In the case of buildings on the University campus, the University did not oppose the preparation of a heritage study that would review the significance of its assets. It believed the outcome of this exercise could either see the campus included as a precinct-wide Heritage Overlay or the serial listing of its heritage assets. The Council, however, did not see this work as an immediate priority given the need to undertake other reviews. The University was nevertheless encouraged to undertake this work.

10.12.3 Panel discussion and conclusion

The Panel believes the issues raised by the University will largely be resolved by its recommendation to classify a place either as an Individual Heritage Place or a Contributory heritage place in a precinct. This will particularly be the case for individual places both on and off the University campus. In adopting this classification, the heritage value of a place will be contained in its Statement of Significance.

As part of this Amendment, the Panel considers for the reasons set out in Chapter 4, that the University properties within precincts should be graded Contributory and those in individual Heritage Overlays, graded as Individual Heritage Places. Associated references to streetscapes which are proposed for the Inventory should be deleted for the reasons also set out in Chapter 4. The Panel believes that the streetscape criteria certainly makes no sense in the context of

the Parkville campus. Also, its removal will address the concern raised in relation to concealment of additions and higher parts of new buildings on the University campus. Where possible, current errors and anomalies identified by Mr Raworth should be corrected before the Amendment progresses further.

Buildings outside the original Parkville campus have different histories and physical forms to those on the campus and should be treated in a similar manner to the buildings around them that establish their historic context.

In the longer term, the Panel considers that a precinct Heritage Overlay, with an associated Statement of Significance, might be applied to the Parkville campus (with separate inset Heritage Overlays for VHR places). The application of an incorporated plan to the campus could also assist in managing the University's assets and allow for the fast-tracking of proposals.

The Panel also believes Mr Raworth's suggestion of a serial listing, as is the case for Scotch College under the Boroondara Planning Scheme, has some merit, as it might also extend to University properties off campus. It notes the Council has also accepted this as a possible way forward for the University.

10.12.4 Panel recommendation

The Panel recommends:

That, as part of this Amendment, the University of Melbourne properties in precincts be re-graded in the Inventory as Contributory and those outside precincts as Individual Heritage Place.

That reference in the Inventory to streetscape gradings associated with the University of Melbourne properties should be deleted as for all other places.

That, where possible, current errors and anomalies identified by Mr Raworth in his evidence for the University of Melbourne at the Panel Hearing should be corrected before the Amendment progresses further.

That, following this Amendment and a comprehensive review of the heritage values of the campus buildings, including the preparation of an integrated Statement of Significance, the Council consider the application a precinct Heritage Overlay for the University of Melbourne Parkville campus, or a serial listing for campus buildings which might also extend to properties off campus.

That, following the further review work, the Council also consider the application of an Incorporated Plan to guide future conservation and development on the University of Melbourne Parkville campus and provide permit exemptions.

10.13 Melbourne Business School (Submission No 22)

10.13.1 The Place

Little Pelham Street Precinct (HO1121) comprises:

- 183-189 Bouverie Street (C & D Grades, Level 2 Streetscape)

- 193-195 Bouverie Street (C Grade, Level 2 Streetscape)
- 168 Leicester Street (D Grade, Level 2 Streetscape)
- 174-180 Leicester Street (C Grade, Level 2 Streetscape; excluding rear)
- 160-170 Pelham Street (D Grade, Level 2 Streetscape)
- 150-154 Pelham Street (vacant land).

10.13.2 Submissions and evidence

The MBS made a written submission and was represented at the Panel Hearing by Mr Chris Wren QC. He called Mr Bryce Raworth to give expert heritage evidence. MBS opposed the re-grading of 183-189 and 193-195 Bouverie Street to Contributory and Significant respectively.

Although Mr Raworth was supportive of the general thrust of the re-grading system, he identified issues in relation to 183-193 Bouverie Street which had been given a C grading, and was now graded Contributory even though the Amendment C198 Panel had recommended it be ungraded. It was also Mr Raworth's evidence that the elevation of 193-195 Bouverie Street to Significant was not supported by documentation in the Amendment. It was his view that while this building contributed to the precinct, it did not meet the criteria to qualify it as a Significant place.

In response to the MBS challenge of the treatment of current C-graded buildings in the Little Pelham Street Precinct in City North, in its concluding submission, the Council stated these would be the subject of further assessment prior to their conversion to the new classification. Accordingly, the Council proposed interim transitional arrangements for C-graded places in City North precincts whereby the existing heritage policy in the Scheme would apply to these precincts.

Thus, the existing Clause 22.05 (with its exemptions) would continue to apply until such time as the places would be individually assessed and converted to new gradings via a separate amendment.

This approach appeared to be acceptable to the MBS, which chose not to recall Mr Raworth to give further evidence concerning the re-gradings of its properties.

10.13.3 Panel discussion and conclusion

Based on its recommendation that all heritage places either be identified as an Individual Heritage Place or as Contributory to a Precinct, the Panel does not believe the transitional requirements proposed by the Council are necessary. In any event it does not support this arrangement which would see two systems operating in City North: the new Clause 22.04 Policy applying to Individual Heritage Places and the current Clause 22.05 (with exemptions) for some places in precincts.

The Panel has recommended that the proposed Clause 22.04 should apply to both Individual Heritage Places and places in precincts. In the case of precincts, the contribution any place makes will be identified in the Statement of Significance.

10.13.4 Panel recommendation

That, with the exception of the vacant land at 150-154 Pelham Street, the MBS properties in the Little Pelham Street Precinct (HO1121) be identified as Contributory in the Heritage Inventory.

10.14 Jonathan Allen on behalf of the owners of the place (Submission No 56)

10.14.1 The Place

206 Albert Street, East Melbourne being part of the East Melbourne and Jolimont Heritage Precinct (HO2).

10.14.2 Submission

This written submission on behalf of the eight owners of the property objected to its re-grading from D in a Level 2 Streetscape to a Contributory building in the precinct. The submission opposed the proposed changes for the following reasons:

- The architecture of value is limited to the front façade.
- The change to Contributory status for the building would not result in improving the interests of Victorians.
- The building has been significantly altered.
- The older section of the building is obscured from the western side.
- The streetscape has undergone alteration and addition.
- Any increased heritage requirements would have a detrimental economic impact on the property.

The submitter did not participate in the Hearing.

The Council submitted that the re-grading of this property had followed the conversion methodology (D-graded buildings in the precinct becoming Contributory) and the proposed designation should stand.

10.14.3 Panel discussion and conclusion

This property was identified as having heritage significance as part of the East Melbourne and Jolimont Precinct (HO2). Nothing in the submission has convinced the Panel that circumstances have changed to support the removal of the Contributory classification.

The Panel therefore supports the retention of the Contributory designation of this place in the Heritage Inventory.

10.15 Anita Simon (Submission No 55)

10.15.1 The Place

Valetta House, 202-206 Clarendon Street is situated within the East Melbourne and Jolimont Heritage Precinct (HO2). The place is also included on the Victorian Heritage Register (VHR H0028) and as a consequence is included in an individual Heritage Overlay (HO132).

10.15.2 Submission

The submission was not from the owner, but an interested neighbour, who expressed concern about the state of the dwelling known as Valetta and the need to apply greater penalties for failure to care for such places.

The submitter supports the re-grading system.

The Council submitted that the neglect or care of a place is beyond the scope of the Amendment.

10.15.3 Panel discussion and conclusion

The Panel acknowledges the submission and agrees with the Council that the neglect or care of places is beyond the scope of the Amendment. The Panel understands that enforcement in relation to neglect of places on the VHR is available under the *Heritage Act 2017*.

10.16 St Peter's Church, Eastern Hill (Submission No 18)

10.16.1 The Place

St Peter's Church, Eastern Hill, 453-479 Albert Street and 13-19 Gisborne Street, East Melbourne.

10.16.2 Submission

The submitter pointed out that the Heritage Overlay for St Peter's Church should be consistent with its designation in the VHR. The submission suggested that the VHR listing of 'St Peter's Eastern Hill Precinct 453-479 Albert Street and 13-19 Gisborne Street, East Melbourne' should be reflected in the schedule to the Heritage Overlay.

The Council submitted that these properties have an A grading and have been converted to Significant in the Inventory.

10.16.3 Panel discussion and conclusion

The Panel remains unclear as to what the issue was in this case as HO142 appears in the Schedule to the Heritage Overlay as 'St Peter's Eastern Hill Precinct 453-479 Albert Street and 13-19 Gisborne Street, East Melbourne' and the schedule appropriately acknowledges that the place is included on the VHR.

10.16.4 Panel recommendation:

That 'St Peter's Eastern Hill at 453-479 and 13-19 Gisborne Street, East Melbourne, be recorded as an Individual Heritage Place (or given a VHR designation if used) in the Heritage Inventory.

10.17 Allied Pinnacle (Submission No 40)

10.17.1 The Place

52-112 Elizabeth Street, Kensington

10.17.2 Submission

The submission notes that the place is included in the proposed Heritage Inventory as a Significant building in a Significant streetscape. The submission argues that as there is no Heritage Overlay applying to the property it should not be listed in the Inventory.

The Council agreed with this submission and stated that the property should be removed from the Inventory.

10.17.3 Panel discussion and conclusion

The Panel agrees that this property should not be included in the Inventory.

10.17.4 Panel recommendation

That 52-112 Elizabeth Street, Kensington be removed from the Heritage Inventory.

10.18 Lisa Ingram (Submission No 2)

10.18.1 The Place

5 Bruce Street, Kensington and General Submission

10.18.2 Submission

The submission made a number of specific and general points:

- Considered that a number of places had been left out of the Heritage Inventory.
- Recommended the creation of a Mill heritage precinct along with the identification in the Inventory of a number of places as Contributory to that precinct.
- Recommended adding a 'Z' grading to integrate the local and State systems.
- Sought some re-wording of policy provisions.
- Supported the grading of her property (5 Bruce Street) as Significant.

The Council submitted that the Heritage Overlay does not apply to 28-32 Bruce Street and therefore it should not be included in the Heritage Inventory; 6 and 8 Bruce Street, 31 Elizabeth Street and 33-35 Elizabeth Street were included in the Inventory by mistake and should be removed.

It also submitted that whilst some adjustments had been made to the Statement of Significance for the Kensington Precinct it was not appropriate to mention the Mill area as this did not form part of that Precinct.

It also pointed out that the processes for identifying Victorian Heritage Registered places in the Schedule to the Heritage Overlay were governed by State legislation and therefore was not a matter for this Amendment.

10.18.3 Panel discussion and conclusion

As with other places in precincts, the Panel is of the view that 5 Bruce Street should not be designated as Significant, but instead, could be identified in the Statement of Significance as a Contributory element in the precinct.

The Panel also agrees with the Council's responses regarding the inclusion of additional places in the Heritage Inventory and agrees that when places are not covered by the Heritage Overlay (properties associated with the Mills area) they should not appear in the Heritage Inventory.

It also agrees that there is no provision in the context of this Amendment to adjust the system of identification of VHR places in the Schedule to the Heritage Overlay.

10.18.4 Panel recommendation

The Panel recommends:

That the Heritage Inventory be amended to remove places that are not covered by the Heritage Overlay.

That 5 Bruce Street, Kensington, be recorded as Contributory in the Heritage Inventory.

10.19 Department of Health and Human Services (Submission No 23)

10.19.1 The Place

- 19 Barnett Street, Kensington
- 91 Barnett Street, Kensington
- 45 Pitt Street, Carlton, being part of the Carlton Heritage Precinct (HO1)
- 9-17 Brougham Street, North Melbourne, being part of the North and West Melbourne Heritage Precinct (HO3).

10.19.2 Submission

The submission was directed to what was seen to be inappropriate gradings of various properties. It was submitted:

- 19 Barnett Street should be ungraded as it is occupied by a block of 1970's flats.
- 91 Barnett Street and 45 Pitt Street should be designated Contributory rather than Significant.
- The Uniting Church at 9-17 Brougham Street should be Significant rather than Non-contributory.

The Council submitted that a review is required of C-graded properties in Kensington. It went on to say:

- By applying the conversion methodology and reviewing properties in Kensington, 19 Barnett Street was determined to be Contributory, while 91 Barnett Street was designated Significant.
- Applying the conversion methodology to 45 Pitt Street has resulted in it being designated as Significant in the Carlton heritage precinct.

The Council provided no response in relation to 9 – 17 Brougham Street, North Melbourne which is located in the Carlton Heritage Precinct but is ungraded.

10.19.3 Panel discussion and conclusion

The Panel understands that 19 and 91 Barnett Street are both located in precincts. Based on the submission that 19 Barnett Street is occupied by a block of 1970's flats, as confirmed by

submitter 78, it should be recorded as a Non-contributory property in the precinct and 91 Barnett Street should be listed as Contributory in the Heritage Inventory.

The Panel also believes 45 Pitt Street should be included in the Inventory as Contributory as it too is in a precinct.

In the absence of any material in relation to 9 – 17 Brougham Street, the Panel makes no recommendation.

10.19.4 Panel recommendation

The Panel recommends:

That 19 Barnett Street, Kensington be removed from the Heritage Inventory.

That the Heritage Inventory record 91 Barnett Street, Kensington as Contributory.

That the Heritage Inventory record 45 Pitt Street, Carlton as Contributory.

10.20 Vu Nguyen (Submission No 32)

10.20.1 The Place

139-149 Flemington Road, North Melbourne, being part of the North and West Melbourne Precinct (HO3).

10.20.2 Submission

The submission made on behalf of the property owner challenged the translation of the property from a D grading to Significant in the North and West Melbourne Heritage Precinct.

The submitter was not present at the Hearing.

The Council submitted that the re-grading of this property followed the conversion methodology and the review of this property resulted in its Significant designation.

10.20.3 Panel discussion and conclusion

As with other places located in a precinct, the Panel believes this place should have Contributory status, with any important features reflected in the Statement of Significance.

10.20.4 Panel recommendation

The Panel recommends:

That 139-149 Flemington Road, North Melbourne, be recorded as Contributory in the Heritage Inventory.

10.21 Lost Dog's Home (Submission No 76)

10.21.1 The Place

Lost Dog's Home, 2 Gracie Street, North Melbourne, in Heritage Overlay HO869.

10.21.2 Submission

Glossop Town Planning made a written submission on behalf of the Lost Dog's Home referring to the current D grading of the property, based on the findings of the Amendment C207 Panel. It was considered this the new Significant grading to the administrative building was an unreasonable attempt to further elevate the significance of the whole site and consequently to apply more stringent development controls to it.

The submitter was represented at the Panel Hearing by Mr Vorchheimer of HWL Ebsworth with expert evidence called from Mr Raworth. Mr Raworth was of the view (a view also expressed at the Amendment C207 hearing) that the Lost Dog's Home was not a particularly important place.

in response to a question from the Panel, the submitter agreed that this site was probably a good candidate for an incorporated plan to help manage any future development.

The Council submitted that as this place was in an individual Heritage Overlay, it was re-graded to Significant in line with the conversion methodology.

10.21.3 Panel discussion

The Panel undertook a drive-by inspection of the site which confirmed the evidence that the Administration Building is the most prominent and significant structure on the site.

As discussed in Chapter 4, and as has been said in relation to other individual Heritage Overlays, the Panel sees no reason as to why this place needs to be designated as Significant. The Statement of Significance for the site should adequately deal with its significance and ensure that important elements are identified for potential conservation.

The Panel is also of the view that the preparation and adoption of an incorporated plan for this site would alleviate some of the concerns being raised by the owner and ensure it and the Council can move forward in any future development with certainty.

10.21.4 Panel conclusion

The proposed individual Heritage Overlay should be retained and the site should be designated an Individual Heritage Place in the Heritage Inventory. The Statement of Significance may need to be reviewed to identify what is of value about the site and identify contributory elements.

10.21.5 Panel recommendation

The Panel recommends:

That the Lost Dog's Home, 2 Gracie Street, North Melbourne be included as an Individual Heritage Place in the Heritage Inventory.

That the Statement of Significance be reviewed to ensure that it adequately reflects the elements of significance on the site.

That the Lost Dog's Home and the Council prepare an incorporated plan to establish the development potential along with conservation options for the site.

10.22 Christine Meidanas, Mary and Natalie Bruckard (Submission Nos 35 & 36)

10.22.1 The Place

179 and 181 Abbotsford Street, North Melbourne, being part of the North and West Melbourne Heritage Precinct (HO3).

10.22.2 Submissions

These submissions disputed the Contributory designation applied to this property and referred the Panel to a 2015 VCAT decision which set aside the Responsible Authority's decision to refuse a permit to demolish.

The Council indicated that no change should be made to the re-grading of this place.

10.22.3 Panel discussion and conclusion

The Panel agrees that the designation of Contributory to this property in the North and West Melbourne Heritage Precinct (HO3) should stand.

The decision by VCAT is a separate matter and whether the applicants utilise this permit is their decision. If the redevelopment proceeds it may be necessary for the Council to review the designation of the place.

10.23 Peter and Durelle Hargreaves (Submission No 5)

10.23.1 The Place

Number 2 (sometimes known as 26) and 1-3 Youngs Lane, North Melbourne, being part of the North and West Melbourne Heritage Precinct (HO3).

10.23.2 Submission

This submission pointed out the failure of the Amendment to appropriately identify these properties in the Heritage Inventory.

The Council responded by admitting that although these properties appear in the 2016 version of the Inventory, they do not appear in the Council's GIS system. It suggested its consultants should undertake a desktop review in accordance with the gradings conversion methodology.

The Council later submitted with respect to these places that these sites are now known as 26 Youngs Lane and 40A and 40B Molesworth Street.

10.23.3 Panel discussion and conclusion

It appears that there has been an error in the conversion process and the Panel agrees with the Council's suggestion that a further desktop review be undertaken of these properties. See also the discussion in Chapter 6.

10.23.4 Panel recommendation

The Panel recommends:

That the Council complete a review of the heritage status of 2 (also known as 26) and 1-3 Youngs Lane (also known as 40A and 40B Molesworth Street), North Melbourne for inclusion in the Heritage Inventory.

10.24 Allan and To Hoan Truong (Submission No 100)

10.24.1 The Place

4-6 Princess Street, North Melbourne, being part of the North and West Melbourne Heritage Precinct (HO3).

10.24.2 Submission

The submitters did not appear nor were they be represented at the Hearing.

The written submission was supported by a report from Bryce Raworth which put the view that at best these properties should be designated as Contributory to the precinct, rather than the Significant designation provided in the Heritage Inventory.

The Council responded by pointing out that the grading for 4-6 Princess Street was determined by the conversion methodology established as part of the City North Heritage Review, whereby A, B and C graded places were converted to Significant and D graded places were converted to Contributory. It did not support any change to this approach.

10.24.3 Panel discussion and conclusion

As indicated in Chapter 4 and in response to similar submissions, the Panel does not support buildings being identified as Significant within heritage precincts. Rather, places should be identified as Contributory with the Statement of Significance identifying any significant attributes.

10.24.4 Panel recommendation

The Panel recommends:

That the Heritage Inventory be amended to include 4-6 Princess Street, North Melbourne, as Contributory.

10.25 Lort Smith Animal Hospital (Submission No 47)

10.25.1 The Place

Lort Smith Animal Hospital, 24 and 38 Villiers Street, North Melbourne, being part of the North and West Melbourne Heritage Precinct (HO3).

10.25.2 Submission

This submission was made by the Chief Executive Officer on behalf of the Animal Hospital. The submitter did not appear nor was it represented at the Hearing.

The submission argues against the application of a Significant designation to this place, suggesting that it would inhibit development options. It argues that a more appropriate designation would be Contributory.

The Council responded by pointing out that the grading for the Lort Smith Animal Hospital was determined by the conversion methodology established as part of the City North Heritage Review, whereby A, B and C graded places were converted to Significant and D graded places were converted to Contributory. It did not support any change to this position.

10.25.3 Panel discussion and conclusion

As indicated elsewhere and in response to similar submissions, the Panel does not believe that there is any need to identify buildings as Significant where they are within heritage precincts. Rather, the Statement of Significance should identify attributes of significance with all places be identified as Contributory.

10.25.4 Panel recommendation

The Panel recommends:

That the Heritage Inventory be amended to include the Lort Smith Animal Hospital, 24 and 38 Villiers Street, North Melbourne as Contributory.

10.26 Dustday Investments Pty Ltd (Submission No 30)

10.26.1 The Place

85-89 Sutton Street, North Melbourne, in Individual Heritage Overlay (HO1118)

10.26.2 Submission

This submission objected to the re-grading of the site to Significant from the C grading currently applying to the property. The submission made the point that this would result in more stringent controls applying to the site.

Mr Vorchheimer of HWL Ebsworth represented the owner and called Mr Bryce Raworth to give evidence. As in the case of the Botex site, Mr Raworth believed a serial listing could be adopted for this and like industrial properties in the area. Mr Vorchheimer submitted that the conversion methodology lacked strategic justification and sought a review of all the individually C- and D-graded properties to ensure that they are properly graded pursuant to PPN01.

The Council submitted that this place was re-graded in accordance with the conversion methodology and that the Significant designation should stand.

10.26.3 Panel discussion and conclusion

This place was the subject of extensive consideration as part of Amendment C207 with that Panel recommending the Heritage Overlay be applied to the site. The Council subsequently applied a C grading to the site.

The Panel considers that the designation should be an Individual Heritage Place with no grading applied and any significant attributes identified in the Statement of Significance.

The Panel does not believe that the serial listing approach suggested by Mr Raworth is appropriate as it is not in line with PPN01.

10.26.4 Panel recommendation

The Panel recommends:

That the Heritage Inventory be amended to include 85-89 Sutton Street, North Melbourne as an Individual Heritage Place.

10.27 Tony and Angelika Dimitriadis (Submission No 50)

10.27.1 The Place

29 Stawell Street, North Melbourne, being in the North and West Melbourne Heritage Area (HO3).

10.27.2 Submission

The submission objects to the up-grading of their property from C to Significant and the consequential impact it will have on their capacity to redevelop the site.

The Council responded by referring to the adopted conversion methodology in undertaking the re-grading.

10.27.3 Panel discussion and conclusion

The Panel noted the submission and refers to its discussion on gradings, specifically that all places in a precinct should be identified as Contributory to the precinct.

10.27.4 Panel recommendation

The Panel recommends:

That the Heritage Places Inventory be amended to include 29 Stawell Street, North Melbourne as Contributory.

10.28 Melbourne Grammar School (Submission No 15)

10.28.1 The Place

Various properties associated with Melbourne Grammar School, but specifically:

- 92 Domain Street, South Yarra
- 100 Domain Street, South Yarra
- 129 Hope Street, South Yarra.

10.28.2 Submission

The written submission argued that most of the proposed gradings for the school properties seemed to be reasonable, except for the above properties which do not appear in the 2016 Heritage Inventory and do not warrant their current Contributory designation.

The Council responded by pointing out the inclusion of the above properties was an error and the proposed Heritage Places Inventory has now been corrected and the above properties removed.

10.28.3 Panel discussion and conclusion

The Panel notes the solution provided by the Council.

10.28.4 Panel recommendation

The Panel recommends:

That 92 and 100 Domain Street, South Yarra and 129 Hope Street, South Yarra, be deleted from the Heritage Inventory.

10.29 Dominic Patti (Submission No 46)

10.29.1 The Place

322 Walsh Street, South Yarra.

10.29.2 Submission

The submitter was represented at the hearing by Mr Scally of Best Hooper with expert heritage evidence called from Mr Bryce Raworth.

The submission contended that while this place had an individual Heritage Overlay (HO457) it does not warrant a Significant designation, with all of the associated policy constraints imposed by the proposed Local Planning Policy. Mr Scally argued that the building is a low-graded (currently D3) structure.

Mr Raworth suggested that there is some tradition that lowly-graded buildings such as this *'are not of sufficient significance to warrant contributory status because their setting is of low interest'*. He suggested that the conversion methodology failed this place by not acknowledging its low significance.

He favoured the view that this place should not be graded at all. Alternatively, it could either be seen as Contributory, if the definition of that designation was amended, and included as part of a serial or group listing of similar apartment buildings.

The Council did not propose any changes as a consequence of this submission.

It argued that the conversion to Significant was in accordance with the conversion methodology and should stand.

10.29.3 Panel discussion and conclusion

The Panel refers to its recommendations concerning a revised classification system for heritage places in Chapter 5. It is of the view that places in Individual Heritage Overlays should not be designated Significant. Their Statements of Significance should adequately describe what is significant about the place.

There was some discussion during this part of the Hearing about the appropriateness of the Heritage Overlays in South Yarra and the need for their review. This has been foreshadowed

by the Council and the submitter needs to be satisfied that not only will this progress, but that he will subsequently have a further opportunity to argue his case.

The Panel does not believe that the group or serial listing suggested by Mr Raworth is appropriate.

10.29.4 Panel recommendation

The Panel recommends:

That the Heritage Inventory be amended to include 322 Walsh Street, South Yarra as an Individual Heritage Place.

10.30 Charles and Jennifer Shaw (Submission No 62)

10.30.1 The Place

28 Marne Street, South Yarra, being part of the South Yarra Heritage Precinct (HO6).

10.30.2 Submission

The submitters did not appear nor were they represented at the Hearing.

The submission argued that a Contributory designation would be more appropriate than the proposed Significant grading.

The Council submitted that the Significant designation was determined by applying the conversion methodology and that this should stand.

10.30.3 Panel discussion and conclusion

As indicated elsewhere the Panel is of the view that buildings within precincts should be noted as Contributory to the precinct.

10.30.4 Panel recommendation

The Panel recommends:

That the Heritage Inventory be amended to include 28 Marne Street, South Yarra as Contributory.

10.31 Jan Armstrong-Conn (Submission No 48)

10.31.1 The Place

Pasley Street, South Yarra.

10.31.2 Submission

This submitter supported the submission made by the South Yarra Residents Group and wanted Pasley Street designated a heritage sub-precinct of South Yarra.

The Council responded by saying that adding properties to the Heritage Overlay was outside the scope of the Amendment, that 40-42 Pasley Street is un-graded in the South Yarra Heritage Precinct (HO6) and 40-50 Pasley Street is within HO6.

10.31.3 Panel discussion and conclusion

The Panel notes the submission. The discussion in Chapter 5 is relevant to this submission.

11 Other issues

The Council's Part A submission identified and provided a response to other general issues raised in submissions following the first and second rounds of public notice of the Amendment. This was partly based on the officer response to submissions placed before the 20 February 2018 Council Committee meeting.

The Panel agrees with the Council's responses subject to the comments below.

11.1 Prevention of deterioration and neglect

Submissions included concerns about the deterioration and neglect of heritage places and the need for owners to be required to maintain/restore the places.

The Council responded that this matter was outside the scope of the Amendment. It was noted that the Council can only apply the Planning Scheme provisions, including policies, when there is a permit application for development affected by the Heritage Overlay. The Council submission nevertheless noted the policy statements encourage restoration and reconstruction.

The Panel concurs with the Council response.

The issue raised is colloquially known as 'demolition by neglect'. It is an issue which has vexed local level heritage managers for many years. Under State heritage legislation there is the ability to serve repair orders and 'show cause' notices⁶⁵ on the owner of a property included on the VHR where the property is falling into disrepair. The planning legislation does not offer a similar option.

The Panel understands that there have been various conferences and discussions around this issue in recent times which continue to search for an acceptable mechanism to deal with the problem.

11.2 Impact of large basements on adjoining heritage places and local ecology

The Council responded that this is a matter dealt with under the *Building Act 1993* and is outside the scope of the Amendment.

The Panel agrees with the Council response.

11.3 The role of precedent

The East Melbourne Historical Society sought to have the use of the precedent argument in development applications explicitly set aside by the policies. The concern clearly was about poor precedents.

⁶⁵ See section 152 and following *Heritage Act 2017*.

This is not something that can be dealt with by the policy framework. The Panel would also comment that every development site is different so there can be no complete precedent for any development proposal and there also may be good development precedents.

11.4 Wind effects

The East Melbourne Historical Society made a submission concerning the role of wind energy and wind effects in the urban area.

This is a matter which sits outside the realm of Heritage Policy and is better dealt with in an urban design context such as reform of DDOs.

11.5 Enforcement and compliance improvements

It was submitted that there was considerable room for improvements in the area of enforcement of permit compliance. Various examples of problems were cited by the East Melbourne Historical Society.

The Panel considers that this is not just a matter relevant to heritage and should be more generally addressed by the Council if required.

11.6 Need to do more heritage studies

The issue raised in some submissions was that heritage studies are required for other areas of the municipality or for the entire municipality.

The Council response was:

Amendment C258 does not represent the last heritage focussed planning scheme amendment to be undertaken by Council. Council will continue to progress reviews and assessments of other areas within the municipality as part of its heritage program; Amendment C271 (Guildford and Hardware Laneways Heritage) and Amendment C305 (Southbank Heritage) are two such examples.

The Panel notes this response.

11.7 Requests to add new heritage places

A number of submissions requested the addition of new Heritage Overlays applying to places that appeared to be of value or overlooked in previous studies.

Submitter 2, for example, recommended that there should be an industrial mill precinct created in Kensington. Submitter 52 was concerned that the Meat Market in North Melbourne had been omitted and two early Victorian row houses.

Mr Helms evidence also identified such places.

The Panel considers that requests to add additional places to the overlay lie outside its consideration of the Amendment.

11.8 Notice and third party exemptions

The CRA⁶⁶ commented on the recent introduction of Amendment VC148 and its implications for the proposed policies:

The Association also notes other provisions of the new 43.01 Clause that will come as a complete shock to community groups in particular. Cl 43.01-4 specifies several classes of development which are exempt from the notice, decision and review provisions of the Planning and Environment Act. These classes of development include:

- *External alteration of a building*
- *External painting*
- *Construction of a fence*
- *Internally alter a building, and*
- *Construction of a vehicle crossover.*

One interpretation of this Clause suggests that third parties to any Review will be excluded from commenting on many key provisions of the proposed Heritage Policy, including the important Cl 22.05-8 concerning Alterations and other Clauses which address contentious matters including Vehicle Accommodation and Access and Fences and Gates.

While it may be regarded as unnecessary to repeat these Cl 43.01-4 Exemption Provisions under the relevant Heritage Policy Headings, since these Provisions are a very new initiative, their repetition would certainly highlight those matters where third party commentary will be restricted.

The Panel agrees that these may include reasonably major works, associated with external and internal alterations to a building, which potentially could have adverse effects for cultural heritage significance. This is, however, a matter outside the ambit of the Amendment.

11.9 Heritage Overlay maps

The CRA raised the matter of the inconsistency between the listing of places in the revised Inventory and the places shown on the Heritage Overlay maps of the Planning Scheme. There is potential also for an inconsistency between corrected addresses in the Inventory and those in the schedule to Clause 43.01. This may not be an issue for places in precincts, as whole precincts are depicted on the maps and listed in the schedule to Clause 43.01, but for individual place overlays there is potential for inconsistencies arising from corrections in the Inventory of omissions, misplacement of overlays and incorrect inclusions.

The Panel understands that the current case law is that the maps prevail over the ordinance where there is an inconsistency. The Panel is unaware of what the case law says about any factual inconsistency between a schedule to a clause and an incorporated document.

The Council responded that no maps other than for West Melbourne were exhibited because it was not intended that those maps be changed.

⁶⁶ As part of a written supplementary submission dated 22 February 2019.

The Panel considers that the corrections to the addresses in the Inventory need to be matched by mapping corrections and if necessary changed addresses in the schedule to Clause 43.01.

The full extent of this problem is not clear to the Panel. While the Council responded to many of the anomalies raised by the residents' groups at the Hearing, asserting that many were simply a result of the form of address employed, it was clear that there were places omitted and other wrongly included. The Panel has also indicated that it is not persuaded that still further anomalies do not exist in the Inventory.

This is a serious matter warranting attention before the Amendment is further progressed.

The Panel considers that while the present Amendment may be able to proceed, it may need to be accompanied by another Amendment (possibly processed under section 20(2) or (4) of the Act) to ensure consistency between the Planning Scheme maps and the two lists of addresses - one appearing in the ordinance and the other being the incorporated Inventory. Some additional notations against addresses in the Inventory, as discussed in Section 6.4.2 of this Report, may be a part solution to this problem.

11.9.1 Panel recommendation

The Panel recommends:

That, before progressing the Amendment further, the Council reviews the extent of inconsistency between heritage places as depicted on the Planning Scheme maps, the addresses in the schedule to Clause 43.01 and the proposed Heritage Inventory, and determines the availability of an appropriate statutory path to overcome the inconsistencies.

Appendix A Submitters to the Amendment

No	Submitter
1	Matt Connell
2	Lisa Ingram
3	Nicole Elischer
4	John Sader
5	Peter and Durelle Hargreaves
6	Design Inc
7	John Pantorno
8	Montebello Family Trust
9	East Melbourne Historical Society
10	Jill Fenwick
11	Ian & Greta Bird
12	William Brazenor
13	Fleur Rubens
14	Jennifer McDonald
15	Melbourne Grammar School
16	East Melbourne Historical Society
17	Carlton Residents Association Inc
18	St Peter's Anglican Church Eastern Hill
19	Simon Mitchell-Wong
20	Miami Hotel Melbourne
21	King Street Pty Ltd and Trevor Nominees Pty Ltd
22	Melbourne Business School
23	Department of Health and Human Services
24	East Melbourne Historical Society
25	East Melbourne Historical Society
26	East Melbourne Historical Society
27	Valerie Thomas
28	Cheryl & Clive Miller
29	Ewan Ogilvy
30	Dustday Investments Pty Ltd

No	Submitter
31	Botex Pty Ltd
32	Vu Nguyen
33	Andrew R Neale
34	Marlise Brenner and Stephen Nice
35	Mary Bruckard and Natalie Bruckard
36	Christine Meidanas
37	Warren Green
38	Oliver Hume Property Funds
39	PDG Corporation
40	Allied Pinnacle
41	D. Glenn Sedgwick
42	Lucas Paterno
43	Shaun Driscoll and Margaret Bradshaw
44	Malcolm Foo
45	Maria George Building Pty Ltd
46	Dom Patti
47	Lort Smith Animal Hospital
48	The Pasley Streets Precinct Group
49	Farida Fleming
50	Tony and Angelika Dimitriadis
51	Spacious Property Development Group
52	Mark Duckworth
53	Marg Jungwirth
54	Renato Ravenna
55	Anita Simon
56	Jonathan Allen
57	Andrew Normand
58	Department of Justice and Regulation
59	Patricia Ng (Withdrawn)
60	Melbourne Heritage Action
61	Bill Cook
62	Jennifer Shaw

No	Submitter
63	East Melbourne Group
64	Lorraine Siska
65	University of Melbourne
66	102 Jeffcott Street Pty Ltd (Withdrawn)
67	Kaye Oddie
68	National Trust of Australia (Victoria)
69	Far East Organization
70	Samuel Lim
71	Matt Chamberlain
72	Hotham History Project Inc
73	Angela Williams
74	Melbourne South Yarra Residents' Group Inc.
75	Stadiums Pty Ltd
76	Lost Dogs' Home
77	Bardsville Pty Ltd
78	Enid Hookey
79	Heather R. Mathew
80	Mervyn Fennell
81	Lucille Voullaire
82	Parkville Association Inc
83	Ray Cowling
84	Sharon Vladusic
85	CFMEU
86	Brunswick Group
87	SJB Planners for owner
88	Middlefield Group
89	Carlton Residents Association Inc
90	Ray Cowling
91	Alan Kras
92	Ewan Ogilvy
93	East Melbourne Historical Society
94	Real I S Australia

No	Submitter
95	University of Melbourne
96	Parkville Association
97	Hotham History Project Inc
98	Melbourne Heritage Action
99	Pro Urban Advisory Planning Management for owners
100	Allan & To Hoan Truong
101	Tom Flood (Withdrawn)
102	Laura Goodin
103	Bernard Baudoin
103A	Anglican Diocese of Melbourne
Additional Submitters	
104	Metro Pol Pty Ltd
105	RMPH Holdings Pty Ltd
106	Henvik Investments Pty Ltd
107	Notron Nominees Pty Ltd
108	Formax Superannuation Pty Ltd
109	Choi Wing On & Co (Ryder Commercial) (Withdrawn)
110	Sydney Road Holdings Pty Ltd
111	Bennett's Lane Custodian Pty Ltd and associated companies
112	John Briggs (late material received by Panel – received as information only)

Appendix B Participants in the Panel Hearing

Submitter	Represented by
Melbourne City Council	Ms Brennan SC and Ms Robertson, barristers, on direct instruction, who called the following expert witnesses: <ul style="list-style-type: none"> - Anita Brady, Lovell Chen Pty Ltd, on heritage gradings - Graeme Butler, Graeme Butler and Associates, on the West Melbourne Heritage Review - David Helms, David Helms Heritage Planning, on gradings conversion - Scott Hartley, Rivor Pty Ltd, on the Heritage Inventory - Sophie Jordan, Sophie Jordan Consulting Pty Ltd, on policy drafting
Stadiums Pty Ltd	Mr Pitt QC of Best Hooper lawyers, who called the following expert witness: <ul style="list-style-type: none"> - Peter Lovell, Lovell Chen Pty Ltd, on heritage
East Melbourne Historical Society and East Melbourne Group	Ms Fenwick
Melbourne South Yarra Residents' Group Inc.	Mr Butcher
Carlton Residents Association Inc.	Mr Ogilvy
Melbourne Heritage Action	Mr Davies (Rohan Storey not called – written report supplied)
National Trust of Australia (Victoria)	Ms Mitropoulos
Nitzal Investment Trust	Mr Riordan of Tract Consultants
Association of Professional Engineers	Mr Perry of Perry Town Planning
Anglican Diocese of Melbourne	Mr O'Leary of Polplan Pty Ltd
Ms Jennifer McDonald	
St James Old Cathedral Bellringers	Dr Goodin
Mr Bill Cook	
Hotham History Project Inc	Ms Kehoe
Department of Justice and Regulation	Ms Drury, Environment and Planning Adviser, who called the following expert witnesses: <ul style="list-style-type: none"> - Jim Gardner, GJM Heritage, on heritage - John Glossop, Glossop Town Planning, on statutory planning
Bardsville Pty Ltd*	Ms Cincotta of Best Hooper

Submitter	Represented by
Melbourne Business School	Mr Wren QC, instructed by King Wood Mallesons, who called the following expert witnesses: <ul style="list-style-type: none"> - Bryce Raworth, Bryce Raworth Pty Ltd, on heritage - Andrew Biacsi, Contour Consultants Australia Pty Ltd, on planning - Professor Paul Dainty, Deputy Dean, on University administration
Stanley Street Holdings Pty Ltd, Shaun Driscoll and Margaret Bradshaw, and Domenico and Maria Patti	Mr Scally of Best Hooper, who called the following expert witness: <ul style="list-style-type: none"> - Bryce Raworth, Bryce Raworth Pty Ltd, on heritage
University of Melbourne	Mr Connor QC and Mr Chaile, barristers, instructed by Norton Rose Fulbright, who called the following expert witnesses: <ul style="list-style-type: none"> - Bryce Raworth, Bryce Raworth Pty Ltd, on heritage - Michael Barlow, Urbis Pty Ltd, on planning - Professor Glyn Davis AC, (then) Vice Chancellor, on University operations
Oliver Hume Property Funds	Mr Tweedie SC, barrister, instructed by Norton Rose Fulbright, who called the following expert witness: <ul style="list-style-type: none"> - Bryce Raworth, Bryce Raworth Pty Ltd, on heritage
Ms Kaye Oddie	
Dustday Investments Pty Ltd and Botex Pty Ltd	Mr Vorchheimer, of HWL Ebsworth, who called the following expert evidence: <ul style="list-style-type: none"> - Bryce Raworth, Bryce Raworth Pty Ltd, on heritage
The Lost Dogs' Home	Mr Vorchheimer, of HWL Ebsworth, who called the following expert evidence: <ul style="list-style-type: none"> - Bryce Raworth, Bryce Raworth Pty Ltd, on heritage
Metro Pol Investment Pty Ltd**	Mr O'Farrell, barrister, instructed by Best Hooper
Bennett's Lane Custodian Pty Ltd and associated companies	Mr Townshend QC, instructed by Rigby Cooke, who called the following expert witnesses: <ul style="list-style-type: none"> - Bryce Raworth, Bryce Raworth Pty Ltd, on heritage - Marco Negri, Contour Pty Ltd, on planning
Sydney Road Holdings Pty Ltd	Mr Cicero, Best Hooper, who called the following witness: <ul style="list-style-type: none"> - Bryce Raworth, Bryce Raworth Pty Ltd, on heritage
RMPH Holdings Pty Ltd**, Henvik Investments Pty Ltd**, Notron Nominees Pty Ltd* and Formax Superannuation Pty Ltd*	Mr Naughton and Mr Rath of Planning and Property Partners

Submitter	Represented by
Persons requesting to be heard and later withdrawing (some after participating in procedural matters)	
Ms Patricia Ng	
Choi Wing On & Co Pty Ltd*	Mr Beazley and Mr Ryder of Russell Kennedy
Ms Reiter and Messrs Hanney and Prewett*	Ms Reiter
Real IS Australia Pty Ltd (665-667 Bourke Street, Melbourne)	David Passarella, Mills Oakley
Mr Tom Flood	
Notron Nominees Pty Ltd	
* Procedural matter appearance only	
** Procedural matter appearance and written submission	

Appendix C Document list

DOCUMENTS LODGED PRE-HEARING

Description	Presented by
Planning Authority Part A submission	S Brennan SC

EXPERT EVIDENCE STATEMENTS

Description	Presented by
City of Melbourne	A Brady, Heritage G Butler, Heritage - West Melbourne only D Helms, Gradings conversions S Hartley, Inventory S Jordan, Planning Policy
Stadiums Pty Ltd	P Lovell, Heritage
Dept of Justice & Regulation	Jim Gard'ner, Heritage John Glossop, Planning N Selinsky *
Bardsville Pty Ltd	Jim Gard'ner, Heritage
Melbourne Business School	B Raworth, Heritage A Biacsi, Planning Prof P Dainty, University requirements
Stanley Street Holdings Pty Ltd	B Raworth, Heritage
Shaun Driscoll & Margaret Bradshaw	B Raworth, Heritage
D & M Patti	B Raworth, Heritage
Dustday Investments Pty Ltd & Botex Pty Ltd	B Raworth, Heritage
University of Melbourne	B Raworth, Heritage M Barlow, Planning Prof G Davis AC, University administration
Oliver Hume Property Funds	B Raworth, Heritage
The Lost Dogs' Home	B Raworth, Heritage
City of Melbourne supplementary evidence statements	A Brady, Heritage S Jordan, Planning Policy
Sydney Road Holdings Pty Ltd, 577-583 Little Collins Street	B Raworth, Heritage

Bennett's Lane Custodian Pty Ltd 17-23 Bennett's Lane & 134-148 Little Lonsdale Street

B Raworth, Heritage
M Negri, Planning

*** Written material/evidence only**

No	Date	Description	Presented by
1	6/8/2018	Pages 5 & 6 of City North Heritage Review (Vol 1)	C Wren QC
2	6/8/2018	Summary of Property gradings in North & West Melbourne	S Brennan SC
3	7/8/2018	Applying the HO Practice Note (PPN01 - Jan 2018)	N Tweedie SC
4	7/8/2018	VCAT decision - 145-149 Flinders Lane (FJM Property P/L)	N Tweedie SC
5	7/8/2018	Clause 43.01 (VC148)	P Connor QC
6	7/8/2018	Parkville Conservation Study Explanatory Notes	E Ogilvy
7	8/8/2018	A Review of Local Heritage Planning Policies in the Melbourne Planning Scheme July 2014	S Brennan SC
8a	8/8/2018	Arden Macaulay Heritage Review 2012 (G Butler & Assoc)	S Brennan SC
8b	8/8/2018	Kensington Heritage Review 2013 (G Butler & Assoc)	S Brennan SC
8c	8/8/2018	City North Heritage Review (RBA Architects)	S Brennan SC
8d	8/8/2018	City North Heritage Review - RBA Evidence Statement to C198 Panel	S Brennan SC
8e	8/8/2018	Part of Panel Report C198 11 July 2014	S Brennan SC
8f	8/8/2018	Panel Report C19 (Part 1) May 2001	S Brennan SC
8g	8/8/2018	Panel Report C19 (Part 2) Dec 2001	S Brennan SC
9a	8/8/2018	C258 West Melbourne Heritage Review Map	S Brennan SC
9b	8/8/2018	VCAT decision - Oliver Hume Property Funds - 164 – 184 Roden Street, West Melbourne	S Brennan SC
9c	8/8/2018	VCAT decision - Stanley Street Holdings - 210-228 Stanley Street & 205-211 Roden Street	S Brennan SC

No	Date	Description	Presented by
9d	8/8/2018	Planning Permit & related information for 138 – 140 Stanley Street	S Brennan SC
9e	8/8/2018	West Melbourne Structure Plan 2018	S Brennan SC
10	8/8/2018	North & West Melbourne Conservation Study 1983 (pages 29 & 45)	S Brennan SC
11	8/8/2018	Copy of G Butler PowerPoint presentation	S Brennan SC
12	10/8/2018	A3 set of HO Maps for City of Melbourne	S Brennan SC
13a	10/8/2018	Festival Hall PowerPoint photos	P Lovell
13b	10/8/2018	Melbourne Planning Scheme: Incorporated Document for Southbank (C305) 2 Oct 2017	P Lovell
13c	10/8/2018	Melbourne Planning Scheme Incorporated Document: City North Heritage Review 2013 - Statements of Significance – Revised June 2015	P Lovell
13d	10/8/2018	Statement of Significance for Festival Hall (Lovell)	P Lovell
14	10/8/2018	Email from G Butler to R Helman at Council re Stadiums site	S Brennan SC
15	10/8/2018	Submission for Stadiums P/L (Festival Hall)	I Pitt QC, Best Hooper
16	10/8/2018	Streetscape gradings in Carlton	S Brennan SC
17	10/8/2018	Submission - East Melbourne Group and East Melbourne Historical Society	J Fenwick
18	10/8/2018	Panel Hearing Notes – Melbourne Heritage Group July 2018	Melbourne Heritage Group
19	10/8/2018	South Yarra Resident Group Inc - Panel submission	M Butcher
20	10/8/2018	Carlton Residents' Association Inc - Panel submission	E Ogilvy
21	10/8/2018	Emails between Council and G Butler regarding 164-184 Roden Street: Statement of Significance	S Brennan SC
22	10/8/2018	Email from Best Hooper to Council re Instructions to Council from DELWP (as referred to by D Helms)	Best Hooper
23	13/8/2018	National Trust Panel submission	F Watson

No	Date	Description	Presented by
24a	13/8/2018	Association of Professional Engineers Panel submission	F Perry
24b	13/8/2018	Extract from Amendment C207 to the Melbourne Planning Scheme – 152-160 Miller Street	F Perry
25a	13/8/2018	Panel Submission for Nitzal Investment Trust (15-21 Lincoln Square Carlton)	L Riordon
25b	13/8/2018	Attachment to submission for Nitzal Trust	L Riordon
25c	13/8/2018	VCAT Decision MCC v B Baudoin 341- 353 Dryburgh Street, North Melbourne	L Riordon
26	13/8/2018	Panel Submission (South Yarra Area)	J McDonald
27	13/8/2018	Statement of Significance - 322 Walsh Street, South Yarra (1999)	S Brennan SC
28	14/8/2018	Panel Submission - Hawke Street, West Melbourne	Mr Cook
29	14/8/2018	Hotham History Project Panel submission	Ms Kehoe
30	14/8/2018	Panel Submission for Bardsville P/L - The Walk, Melbourne	T Cincotta, Best Hooper
31	14/8/2018	Heritage Impact Statement for The Walk, Bourke Street	T Cincotta, Best Hooper
32	14/8/2018	Melbourne-South Yarra Residents Group Panel submission	M Butcher
33	14/8/2018	Council Part B submission	S Brennan SC
34	14/8/2018	Attachment to Council Part B submission	S Brennan SC
35	15/8/2018	St James Old Cathedral Bell Ringers Panel submission	Dr L Goodin
36	15/8/2018	Heritage Strategy 2013 – City of Melbourne	S Brennan SC
37	15/8/2018	Panel Report Amendment C198 Melbourne Planning Scheme July 2014	S Brennan SC
38	15/8/2018	Plan Melbourne (Direction 1.1) relating to Melbourne University	P O'Connor QC
39	15/8/2018	City North Structure Plan 2012	P O'Connor QC
40	15/8/2018	Submission for Melbourne Business School	C Wren QC

No	Date	Description	Presented by
41	15/8/2018	Emails between DELWP and City of Melbourne re errors in docs provided originally to DELWP	S Brennan SC
42	27/8/2018	Submission for Stanley Street Holdings (Stanley Street, West Melbourne); Driscoll & Bradshaw (Roden Street, West Melbourne); and 322 Walsh Street, South Yarra	D Scally, Best Hooper
43	27/8/2018	Report on City of Melbourne Heritage Review March 2000 - Allom Lovell	S Brennan SC
44	27/8/2018	Extracts from West Melbourne Heritage Strategy	S Brennan SC
45	27/9/2018	VCAT Evidence by B Raworth re 210-212 & 218-228 Stanley Street & 205-211 Roden Street	S Brennan SC
46	28/8/2018	Statement of Significance for 152-160 Miller Street, West Melbourne	S Brennan SC
47	28/8/2018	Letter of 27/08/18 from Best Hooper Solicitors to Council re 263 William Street	S Brennan SC
48a	28/8/2018	Amendment C326 (Metropolitan Hotel) HO applied on interim basis	S Brennan SC
48b	28/8/2018	Melbourne Planning Scheme Incorporated Doc: Statement of Significance for Metropolitan Hotel	S Brennan SC
48c	28/8/2018	Amendment C328 for Hoddle Grid HO	S Brennan SC
49	28/8/2018	Email between Council and RBA re gradings for 7 properties in South Carlton	S Brennan SC
50	28/8/2018	City North Heritage Review package for Melbourne Business School sites	S Brennan SC
51	31/8/2018	Letter to Panel from Mills Oakley re 655-667 Bourke Street, Melbourne	S Brennan SC
52	31/8/2018	King and Wood Mallesons letter by email to Panel re MBS submission	Panel
53	31/8/2018	Submission for Metro Pol Investments P/L (Procedural matter)	P O'Farrell
54	31/8/2018	Memo 31/08/18 – response to errors/anomalies in inventory raised by submitters	S Brennan SC

No	Date	Description	Presented by
55	31/8/2018	Table of 'C' graded places in individual HOs in C258	S Brennan SC
56	31/8/2018	PowerPoint presentation for Melbourne University	P Connor QC for Prof Davis
57	3/9/2018	Panel letter on procedural rulings	Panel
58	3/9/2018	Best Hooper letter to Panel re Metro Pol Investments P/L	Best Hooper
59	3/9/2018	AFR newspaper cutting referring to finances - Melbourne University	P Connor QC
60	3/9/2018	Bryce Raworth evidence to Stonnington C132 -March 2017	S Brennan SC
61	3/9/2018	Stonnington Heritage Policy Clause 22.04	S Brennan SC
62	3/9/2018	Citations – HO places in Carlton Conservation Study	S Brennan SC
63	3/9/2018	Bryce Raworth Statement of Evidence to VCAT (May 17) 172-184 Roden Street, West Melbourne	S Brennan SC
64	3/9/2018	Panel Submission -Heritage Policies review - outside the CBD	K Oddie
65	3/9/2018	Panel Submission - Oliver Hume Property Funds 172 – 184 Roden Street, West Melbourne	N Tweedie SC
66	3/9/2018	Report to Future Melbourne Committee - 164 – 184 Roden Street, West Melbourne	N Tweedie SC
67	4/9/2018	Response to Carlton Residents' Assoc. submission – of properties referred to	S Brennan SC
68	4/9/2018	Panel Submission for Dustday Inv P/L and Botex P/L 85-89 Sutton Street, North Melbourne & 90-104 Berkeley Street, Carlton	D Vorchheimer, HWL Ebsworth
69	4/9/2018	Statement of Significance for 85-105 Sutton Street	C Robertson
70	4/9/2018	Heritage Policy (Jordan Sept revised version)	C Robertson
71	4/9/2018	Statement of Significance 90-104 Berkeley Street	C Robertson

No	Date	Description	Presented by
72	4/9/2018	Panel Submission for Lost Dogs Home	D Vorchheimer, HWL Ebsworth
73	4/9/2018	Statement of Significance for 2 Gracie Street, North Melbourne	C Robertson
74	5/9/2018	Summaries of various Panel reports on Heritage issues	D Scally, Best Hooper
75	5/9/2018	C37 & C38 Bayside PS Panel reports	D Scally, Best Hooper
76	5/9/2018	Planning property report - 278 Queensberry Street	S Brennan SC
77	5/9/2018	Planning property report - 618-630 Elizabeth Street	S Brennan SC
78	5/9/2018	Stonnington Heritage Design Guidelines (July 17)	S Brennan SC
79	5/9/2018	VCAT decision - 696-708 Elizabeth Street	S Brennan SC
80	5/9/2018	PPN01 Applying the Heritage Overlay	S Brennan SC
81	5/9/2018	Stonnington Heritage Policy	S Brennan SC
82	5/9/2018	Review of HO listings in CBD (Raworth)	S Brennan SC
83	5/9/2018	Letter from City of Melbourne to Panel re Metro Pol Investment P/L (263-267 William Street)	S Brennan SC
84	5/9/2018	Urban Conservation in the City of Melbourne	S Brennan SC
85	5/9/2018	Council response to K Oddie's submission	S Brennan SC
86	5/9/2018	Statement of Significance 278 Queensberry Street (HO100)	S Brennan SC
87	5/9/2018	Statement of Significance - 618-630 Elizabeth Street (HO1124)	S Brennan SC
88	19/9/2018	Council submission (Directions Hearing)	S Brennan SC
89	19/9/2018	List of relevant Heritage Amendments for Melbourne	S Brennan SC
90	19/9/2018	Letter from Best Hooper to Council re Metro Pol	P O'Farrell
91	7/11/2018	Council submission to Directions Hearing	S Brennan SC
92	7/11/2018	Council letter (with attachments) sent to additional properties potentially affected by C258	S Brennan SC

No	Date	Description	Presented by
93	7/11/2018	Chart of attendees at Directions Hearing on 19/9/2018 and respondents to Council submission at Directions Hearing on 7/11/2018	S Brennan SC
94	7/11/2018	Submission for Metro Pol Investments P/L – Directions Hearing	P O'Farrell
95	7/11/2018	VCAT decision P2165/2007 Winky Pop P/L & Or Aust P/L v Hobsons Bay	P O'Farrell
96	7/11/2018	VCAT decision P160/2003 Craig Thomson v Stonnington Council, Min for Planning, Daniel Leslie Minogue & Others, JT Snipe Inv P/L, Westley P/L	P O'Farrell
97	7/11/2018	Submission on behalf of Bennett's Lane Custodians P/L (BLC)	C Townshend SC
98	7/11/2018	Council letter of 9/8/2018 to Foxglove Nominees P/L re Hoddle Grid Heritage Review	C Townshend SC
99	12/11/2018	Submission for Metro Pol re recusal of Panel	P O'Farrell
100	12/11/2018	Council submission in response to recusal application	C Robertson
101	12/11/2018	High Court decision HCA 48 (1/12/2010) - Michael Wilson & Partners Ltd v Nicholls	C Robertson
102	12/11/2018	High Court decision - Minister for Immigration v Jia Legeng (29/3/2001)	C Robertson
103	12/11/2018	VCAT decision - Little Projects P/L v City of Stonnington (VCAT 698)	C Robertson
104	21/09/2018	Panel letter of further advice and directions	Panel
105	26/10/2018	Letter from Bennett's Lane Custodians P/L	R Anderson, Rigby Cooke
106	12/11/2018	Submission by Sydney Road Holdings regarding recusal application	J Cicero, Best Hooper
107	12/11/2018	Submission regarding recusal application – Bennett's Lane Custodian P/L	R Anderson, Rigby Cooke
108	14/11/2018	Panel Directions regarding procedural hearing	Panel

No	Date	Description	Presented by
109	20/11/2018	List of additional submissions to C258 accepted by Council	M Fewster, Melbourne City Council
110	26/11/2018	Letter on behalf of Choi Won On & Co P/L – in response to Panel Directions	M Beazley, Russell Kennedy
111	26/11/2018	Letter on behalf of Melbourne City Council – in response to Panel Directions	B Ryan, Melbourne City Council
112	26/11/2018	Letter on behalf of Bennett's Lane Custodian P/L – in response to Panel Directions	R Anderson, Rigby Cooke
113	26/11/2018	Letter on behalf of Metro Pol Investment P/L and Sydney Road Holdings P/L – in response to Panel Directions	J Cicero, Best Hooper
114	26/11/2018	Letter on behalf of RMPH Holdings P/L and Henvik Investments P/L – in response to Panel Directions	M Naughton, Planning and Property Partners
115	11/2/2019	Best Hooper letter to Panel on behalf of Metro Pol	J Cicero, Best Hooper
116	11/2/2019	Council map locating additional submitters	S Brennan SC
117(A)	11/2/2019	Clause 22.05-with added clause 20 - transitional provisions for 'C' Graded buildings in City North	S Brennan SC
117(B)	11/2/2019	C258 Incorporated Document – Panel Transitional revision Feb 2019 Policies	S Brennan SC
117(C)	11/2/2019	C258 Incorporated Document - Transitional Heritage Policies Feb 2019	S Brennan SC
118	11/2/2019	VCAT decision - Metropolitan Hotel, 263 William Street	S Brennan SC
119	11/2/2019	Modelling/testing of DDO10 constraints for additional submitters' sites	S Brennan SC
120	11/2/2019	Melbourne Planning Scheme Incorporated documents for C301, C304 & C327	S Brennan SC
121	12/2/2019	Heritage Policies - Clauses 22.04 & 22.05 of August 2015 prepared by Lovell Chen	S Brennan SC
122	13/2/2019	Council response to additional submissions	S Brennan SC

No	Date	Description	Presented by
123	13/2/2019	DELWP letter authorising exhibition of C258	S Brennan SC
124(A)	13/2/2019	Panel Submission - University of Melbourne	P Connor QC
124(B)	13/2/2019	Addendum to submission for Melbourne University	P Connor QC
125	13/2/2019	Letter of 18/12/2009 from Council to A. Salmon of DELWP re application for Nauru House development	S Brennan SC
126	15/2/2019	Submission for Bennett's Lane Custodian P/L	C Townshend SC
127	15/2/2019	Tracked change version of Bennett's Lane Custodian's version of Clause 22.04	C Townshend SC
128	15/2/2019	Article from 'The Age' newspaper – interview of Planning Minister referring to review of planning controls in CBD	C Townshend SC
129	15/2/2019	VCAT decision - Equity Chambers, 472-478 Bourke Street	C Townshend SC
130(A)	15/2/2019	VCAT 2015 decision - Jobs Aust P/L, 696-708 Elizabeth Street	C Townshend SC
130(B)	15/2/2019	VCAT 2016 decision - Jobs Aust P/L ,696-708 Elizabeth Street	C Townshend SC
131	15/2/2019	VCAT decision - 1-5 Queen Street (Fletcher Jones site)	C Townshend SC
132	15/2/2019	Clause 21.03 Melbourne Planning Scheme 'Vision'	C Townshend SC
133	15/2/2019	Folio of photographs with proposed / approved additions above heritage buildings	C Townshend SC
134	15/2/2019	Burra Charter 2013	S Brennan SC
135	15/2/2019	HO Guideline 3 – Demolition: prepared by Heritage Victoria	S Brennan SC
136	18/2/2019	Comments of Carlton Residents' Association re the 'Custodians' tracked changes version of Clause 22.04	E Ogilvy
137	18/2/2019	URBIS report 'Unlocking Melbourne's CBD' for Property Council	C Townshend SC
138(A)	18/2/2019	Further revised (Version 2) 'Custodian's' tracked changes version of Clause 22.04	C Townshend SC

No	Date	Description	Presented by
138(B)	18/2/2019	'Clean' copy of Custodian revised Local Policy Clause 22.04	C Townshend SC
139	18/2/2019	URBIS Economic Statement (appended to Bennett's Lane submission)	C Townshend SC
140	18/2/2019	Roger Poole's architectural Statement (appended to Bennett's Lane submission)	C Townshend SC
141	18/2/2019	Closing comments for Bennett's Lane	C Townshend SC
142(A)	18/2/2019	Submission for Sydney Road Holdings P/L - 577 Little Collins Street	J Cicero, Best Hooper
142(B)	18/2/2019	Cicero version of Clause 22.04 based on 'Custodians' version	J Cicero, Best Hooper
142(C)	18/2/2019	Peddle Thorpe plans for 577 Little Collins Street redevelopment	J Cicero, Best Hooper
143	18/2/2019	VCAT decision - 78-80 & 84 Collins Street (Nauru House)	S Brennan SC
144	19/2/2019	Response to tracked changes 'Custodians' version of Clause 22.04	K Oddie
145	19/2/2019	*Metro Pol submission - February version	J Cicero, Best Hooper
146	19/2/2019	*RMPH Holdings & Henvik Investments written submission	Planning Property Partners
147	19/2/2019	HO Guideline 6 – External Alteration and Additions to contributory elements – prepared by Heritage Victoria	S Brennan SC
148	19/2/2019	Part C (reply) submission for Council	S Brennan SC
149	19/2/2019	List of Heritage Area Reviews for Council – map/schedule	S Brennan SC
150	19/2/2019	Responses to issues raised by University of Melbourne	S Brennan SC
151	19/2/2019	Submitters to the Amendment whose properties are affected by transitional provisions for 'C' graded places in precincts in City North	S Brennan SC

Appendix D Panel preferred version of Clauses 22.04 and 22.05

22.04 HERITAGE PLACES IN THE CAPITAL CITY ZONE

This policy applies to all places within the Heritage Overlay ~~Area~~ within the Capital City Zone (CCZ) ~~excluding land within Schedule 5 to the Capital City Zone (City North).~~

22.04-1 Policy Basis

~~—/—/201-~~
Proposed
C258

Melbourne’s Municipal Strategic Statement identifies heritage as a defining characteristic of the municipality, ~~and a major part of Melbourne’s attraction. Heritage places enhance the city’s appeal as a place in which to live, work, invest and visit.~~

~~Heritage places across the municipality, both within and outside the Capital City Zone (CCZ), encompass individual heritage places and heritage precincts. These places are variously of heritage value for their historic, aesthetic, social, spiritual and scientific significance. They include residential and non-residential places, public parks and gardens, trees and items of infrastructure.~~

~~The places include some of metropolitan Melbourne’s most significant urban developments. They incorporate dwellings, institutions, industrial, manufacturing and commercial places, road and rail infrastructure, parks, gardens and places of recreation.~~

~~Within the CCZ, heritage places reflect the significance of the cultural, administrative and economic centre of the State. The places are fundamental to the depth of historic character of the CCZ as it developed on, and extended from the Hoddle Grid. Development within the CCZ has, and will continue to be, of a different intensity and result in varied built form outcomes compared for areas outside of the CCZ.~~

Heritage places encompass individual heritage places and heritage precincts.

Within the CCZ heritage places contribute to the significance of Melbourne as the cultural, administrative, educational and economic centre of the State and its importance both nationally and internationally. These places are fundamental to understanding the depth of its historic character as it developed on and extended from the Hoddle Grid. Their conservation enhances the appeal of the CCZ as a place to live, work, invest and visit.

The management of heritage places in the CCZ faces the challenge of the greater intensity of development in the CCZ relative to other parts of the city and the different built form outcomes which result from this.

This policy ~~provides guidance on conserving and enhancing heritage places and~~ is informed by the conservation principles, processes and practices of the Australia ICOMOS Burra Charter. The Burra Charter encourages the conservation, preservation and restoration of heritage places, and facilitates development which enhances the heritage place and is compatible and in keeping with its cultural heritage values. ~~The policy recognises that heritage places are living and working places; and that development should be considered in the context of the heritage policy objectives.~~

This policy should be ~~read~~ applied in conjunction with Statements of Significance as incorporated into this Scheme.

22.04-2 Definitions

~~—/—/201-~~
Proposed
C258

Term	Definition
Alteration	An alteration is to modify the fabric of a heritage place, without undertaking building works such as an addition.
Assessed significance	The assessed significance of an individual heritage place or heritage precinct is identified in the relevant <u>Statement of Significance</u> , as contained in the place citation. This normally identifies what is significant, how it is significant, and why it is significant.
Concealed/partly concealed	Concealed means cannot be seen from a street (other than a lane, unless the lane <u>has heritage value classified as significant</u>) or public park. Partly concealed means that some of the addition or

Term	Definition
	higher rear part may be visible provided it does not visually dominate or reduce the prominence of the existing building's façade(s) and in the streetscape.
Conservation	Conservation means all the processes of looking after a place to retain its heritage significance. It may include one or more of maintenance, preservation, restoration, reconstruction, adaptation and interpretation.
Context	The context of a heritage place can include; its setting (as defined under 'setting'), the immediate landholding, adjoining significant or contributory places, and the surrounding area.
Contextual design	A contextual design for new buildings and additions to existing buildings is one which adopts a design approach, derived through analysis of the subject property and its heritage context. Such an approach results from an understanding of the visual context of the place so that the new development integrates requires new development to comfortably and harmoniously integrate with the site and its streetscape the street character.
Contributory heritage place	A contributory heritage place is one that has been identified as having values that contribute to a heritage precinct
Cultural significance	Cultural significance means aesthetic, historic, scientific, social or spiritual value for past, present or future generations.
Enhance	Enhance means to improve the presentation and appearance of a heritage place through restoration, reconstruction or removal of unsympathetic or intrusive elements; and through appropriate development.
Fabric	Fabric means all the physical material of the heritage place.
Facadism	The retention of the exterior face/faces of a building without the three-dimensional built form providing for its/their structural support and understanding of its function., and, without retention of an understanding of the function of the three dimensional building form.
Front or principal part of a building	<p>The front or principal part of a residential building is generally considered to be the front two rooms in depth, complete with the structure and cladding to the roof; or that part of the building associated with the primary roof form, whichever is the greater. For residential buildings this is generally 8 – 10 metres in depth.</p> <p>For most non-residential buildings, the front or principal part is generally considered to be one full structural bay in depth complete with the structure and cladding to the roof. This is generally 8 – 10 metres in depth.</p> <p>For corner sites, the front or principal part of a building includes the side street and rear elevations.</p> <p>For sites with more than one street frontage, the front or principal part of a building may relate to each street frontage.</p>

Term	Definition
<u>Heritage Place</u>	<u>A heritage place has been assessed to have natural or cultural heritage value and can include a site, area or space, building or other works, structure, group of buildings, precinct, archaeological site, landscape, garden or tree.</u>
Heritage precinct	A heritage precinct is an area which has been identified as having heritage <u>value significance</u> . It is identified as such in the Schedule to the Heritage Overlay, and mapped in the Planning Scheme Heritage Overlay Maps.
Individual heritage place	An individual heritage place is <u>one which has value in its own right. It may be in or surrounded by a precinct and may contribute to the value of the precinct.</u> equivalent to a significant heritage place. It may be graded significant within a heritage precinct. It may also have an individual Heritage Overlay control, and be located within or outside a heritage precinct.
Key attributes	The key attributes or important characteristics of a heritage precinct, are as identified in the precinct statement of significance, <u>include building height, massing and form, style and architectural expression, detailing, materials, front and side setbacks and orientation.</u>
Lane	<u>A lane is a narrow road or right of way (ROW) generally abutting the rear or side boundary of a property. It may be paved or unpaved and in public or private ownership and will typically provide vehicle access to adjoining properties.</u> Includes reference to public or private lanes, and ROWs.
Maintenance	Maintenance means the continuous protective care of a place, and its setting, and is distinguished from repair which involves restoration or reconstruction.
<u>Non-contributory property</u>	<u>A non-contributory property is one that does not make a contribution to the cultural significance or historic character of the precinct it is in on the planning scheme map.</u>
Massing	Massing means the arrangement of a building's bulk and its articulation into parts.
Preservation	Preservation is maintaining the fabric of a place in its existing state and retarding deterioration.
Reconstruction	Reconstruction means returning a place to a known earlier state and is distinguished from restoration by the introduction of new material.
Respectful and interpretive	When used in relation to design, respectful and interpretive refers to design that honestly admits its modernity while relating to the historic or architecturally significant character of its context. Respectful means a modern design approach to new buildings, additions and alterations to buildings, in which historic building size and form are adopted; and, proportions and details are referenced but not directly copied, and sympathetic colours and materials are used. Interpretive means a looser and simplified

Term	Definition
	modern interpretation of historic building form, details and materials.
Restoration	Restoration means returning a place to a known earlier state by removing accretions or later additions, or by reassembling existing elements. It is distinguished from reconstruction through not introducing new material.
Services and ancillary ies <u>facilities</u>	Services and <u>ancillary facilities</u> include, but are not limited to, satellite dishes, shade canopies and sails, solar panels, water storage tanks, disabled access ramps and handrails, air conditioners, cooling or heating systems and hot water services.
Setting	Setting means the immediate and extended environment of a heritage place that is part of or contributes to its significance.
Streetscape	A streetscape is a collection of buildings along a street frontage. When referred to in relation to a precinct, a streetscape typically contains a majority of buildings which are graded significant or contributory.
Significant streetscape (as referred to in this policy)	Significant streetscapes are collections of buildings outstanding either because they are a particularly well preserved group from a similar period or style, or because they are a collection of buildings significant in their own right.
<u>Use</u>	<u>Use means the functions of a place, including the activities and traditional and customary practices which may occur at the place or are dependent on the place.</u>
Visible	Visible means anything that can be seen from a street (other than a lane, unless the lane is <u>identified as having heritage value</u> classified as significant) or public park.

22.04-3 ~~Grading of heritage places~~

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Proposed
C258

~~The grading (significant, contributory or non-contributory) of properties identified in the incorporated document Heritage Places Inventory 2017. Significant Streetscapes are also identified in this incorporated document.~~

~~‘Significant’ heritage place:~~

~~A ‘significant’ heritage place is individually important at state or local level, and a heritage place in its own right. It is of historic, aesthetic, scientific, social or spiritual significance to the municipality. A ‘significant’ heritage place may be highly valued by the community; is typically externally intact; and/or has notable features associated with the place type, use, period, method of construction, siting or setting. When located in a heritage precinct a ‘significant’ heritage place can make an important contribution to the precinct.~~

~~‘Contributory’ heritage place:~~

~~A ‘contributory’ heritage place is important for its contribution to a heritage precinct. It is of historic, aesthetic, scientific, social or spiritual significance to the heritage precinct. A ‘contributory’ heritage place may be valued by the community; a representative example of a place type, period or style; and/or combines with other visually or stylistically related places to demonstrate the historic development of a heritage precinct. ‘Contributory’ places are typically externally intact, but may have visible changes which do not detract from the contribution to the heritage precinct.~~

~~‘Non-contributory’ place:~~

~~A 'non-contributory' place does not make a contribution to the cultural significance or historic character of the heritage precinct.~~

22.04-3 Policy Objectives

~~-/201-~~

Proposed
C258

- To conserve and enhance Melbourne's heritage places.
- To retain fabric, which contributes to the significance, character or appearance of heritage places and precincts.
- ~~To recognise and conserve the assessed significance of heritage places and streetscapes. , as referenced in this policy or incorporated into this planning scheme as the basis for consideration of development and works. Further information may be considered, including in relation to streetscapes, where there is limited information in the existing citation or Council documentation.~~
- To ensure new development is respectful of the assessed significance of heritage places.
- To ensure new development is respectful of the character and appearance of heritage places.
- To encourage high quality contextual design for new development, which avoids replication of historic forms and details.
- [To encourage innovation and design excellence](#)
- To encourage retention of the three-dimensional fabric and form of a building. ~~and to discourage facadism.~~
- [To discourage facadism.](#)
- To encourage the [creative](#) adaptive reuse of heritage places.
- To ensure new development is consistent with the conservation principles, processes and practices of the Australia ICOMOS Burra Charter.
- To enhance the presentation and appearance of heritage places through restoration and, where evidence exists, reconstruction of original or contributory fabric.
- To protect significant views and vistas to heritage places.
- To promote the protection of Aboriginal cultural heritage.

22.04-4 Permit Application Requirements

~~-/201-~~

Proposed
C258

The following, where relevant, may be required to be lodged with a permit application.

- Where major ~~or consequential~~ development is proposed to ~~significant~~ heritage places, the ~~responsible authority may require~~ preparation of a Conservation Management Plan (CMP), which is accordance with the Heritage Council of Victoria's 'Conservation Management Plans: Managing Heritage Places A Guide 2010'.
- The ~~responsible authority may require~~ preparation of a Heritage Impact Statement (HIS) which is in accordance with Heritage Victoria's 'Guidelines for preparing Heritage Impact Statements'. In a heritage precinct, the HIS should address impacts on adjoining ~~heritage places significant or contributory buildings~~ and the immediate heritage context, in addition to impacts on the subject place.
- [Further information where there is limited information in an existing citation or Council documentation.](#)
- [An arboricultural report where](#) ~~Where~~ works ~~are associated with~~ [will or may affect](#) significant vegetation (as listed in the Schedule to the Heritage Overlay or vegetation of assessed significance), ~~an arboricultural report should be prepared.~~ The report should, where relevant, address landscape significance, arboricultural condition, impacts on the vegetation and impacts on the assessed significance of the heritage precinct.
- For development in heritage precincts, ~~the responsible authority may require~~ sight lines, and heights of existing and adjoining buildings, streetscape elevations, photos and 3D model, as necessary to determine the impact of the proposed [development.](#) ~~works.~~
- A comprehensive explanation as to how the proposed development achieves the policy objectives.

22.04-5 Performance Standards for Assessing Assessment of Planning Applications

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Proposed
C258

~~It is policy to assess of planning applications against the objectives and performance standards set out below.~~ Planning applications are to be assessed against the Objectives at Clause 22.04-3 and the policies set out below.

22.04-6 Demolition

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Proposed
C258

It is policy that:

- The demolition of a building on a non-contributory property~~place~~ will generally be permitted.
- Full demolition of ~~significant or contributory buildings~~ a heritage place will not generally be permitted.
- ~~Partial demolition~~ Demolition in the case of significant buildings, and of significant elements or the front or principal part of ~~contributory buildings~~ heritage places will not generally be permitted.
- Retention of the three dimensional form is encouraged; facadism is discouraged.
- The creative adaptive reuse of a heritage place is considered as an alternative to demolition.
- Unless structurally unsound, the~~The poor structural or aesthetic~~ condition of a ~~significant or contributory building~~ heritage place will not be ~~considered~~ justification for permitting demolition.
- A demolition permit ~~should~~ not be granted until the proposed replacement building or works have been approved.
- ~~The demolition of fences~~ Fences and outbuildings which contribute to the cultural significance of the heritage place are not demolished ~~is discouraged~~.

Before deciding on an application for full or partial demolition, the responsible authority will consider, as appropriate:

- The assessed significance of the heritage place ~~or building~~.
- The character and appearance of the proposed buildings or works and their effect upon its ~~contribution to~~ the historic, social and architectural values, ~~character and appearance~~ of the heritage place, and the street ~~streetscape~~.
- The significance of the fabric or part of the ~~building~~ heritage place, and the degree to which it contributes to ~~the its~~ three-dimensional form ~~of the building, regardless of whether it is visible~~.
- Whether the demolition or removal of any part of the building heritage place contributes to the long-term conservation of the significant fabric of the building heritage place.
- Whether the demolition ~~is detrimental to~~ will adversely affect the conservation of the heritage place.
- ~~Whether there are any exceptional circumstances~~ The structural integrity of the heritage place.

Where approval is granted for full demolition of a ~~significant building~~ heritage place, a recording program including, but not limited to, archival photographic recording and/or measured drawings may be required prior to demolition, to the satisfaction of the Responsible Authority.

22.04-7 Alterations

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Proposed
C258

It is policy that:

External fabric which contributes to the cultural significance of the heritage place, ~~on any part of a significant building, and on any visible part of a contributory building, should be preserved~~ conserved.

Alterations to a non-contributory buildings and fabric property are respectful of, and do not detract from the assessed ~~cultural~~ significance of the heritage precinct.

Sandblasting of render, masonry or timber surfaces and painting of previously unpainted surfaces will not generally be permitted.

Removal of paint from original unpainted masonry or other surfaces be encouraged provided it can be undertaken without damage to the heritage place.

Reconstruction of an original awning or verandah is based on evidence of the original form, detailing and materials.

Any new awning or verandah is an appropriate contextual design response compatible to the location on the heritage place and one that can be removed without loss of fabric that contributes to the cultural value of the heritage place.

Before deciding on an application to alter the fabric of a ~~significant or contributory building~~ heritage place, the responsible authority will consider, as appropriate:

- The assessed cultural significance of the ~~building and~~ heritage place.
- The degree to which the ~~alterations~~ works would detract from the significance, character and appearance of the ~~building and~~ heritage place.
- Its structural condition.
- The character and appearance of the proposed replacement materials.
- Whether the ~~works~~ alterations can be reversed without loss of fabric which contributes to the significance of the heritage place.

~~Removal of paint from originally unpainted masonry or other surfaces is encouraged providing this can be undertaken without damage to the heritage fabric.~~

~~The introduction of awnings and verandahs to ground floor façades and shopfronts may be permitted where:~~

- ~~The works reconstruct an original awning or verandah, based on evidence of the original form, detailing and materials; or~~
- ~~The awning is an appropriate contextual design response, compatibly placed in relation to the building, and can be removed without loss of fabric which contributes to cultural significance.~~

22.04-8

Additions

It is policy that:

Additions to heritage places, buildings or non-contributory places in a heritage precinct ~~:-are respectful of and in keeping with:~~

- Are respectful of and in keeping with the ~~identified~~ ‘key attributes’ of the heritage precinct, as identified in the precinct Statement of Significance.
- Where abutting a lane, additions are ~~to be~~ respectful of the scale and form of heritage fabric as it presents to the lane.

It is policy that:

Additions to ~~significant or contributory building individual~~ individual heritage places:

- are respectful of the ~~building’s~~ character and appearance, scale, materials, style and architectural expression of the heritage place.
- do not visually dominate or visually disrupt the appreciation of the ~~building~~ heritage place as it presents to the ~~street~~ streetscape(s).
- maintain the prominence of the heritage place by setting back the addition behind the front or principal part of the ~~building~~ heritage place.
- are concealed to the extent necessary to avoid dominating or reducing the prominence of the important elements of the heritage place.
- do not build over or extend into the air space directly above the front or principal part of the ~~significant or contributory building~~ heritage place.
- retain significant roof form within the setback from the ~~building~~ front façade together with ~~any chimneys or similar~~ roof elements of original fabric.

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Proposed
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- ~~Not do not~~ obscure views of façades or elevations associated with the front or principal part of the ~~building-heritage place~~.
- ~~Be-are~~ distinguishable from the original fabric of the ~~building-heritage place~~.

The design of additions is to:

- Adopt high quality and respectful contextual design.
- Avoid direct reproduction of the form of historic fabric.
- Adopt an interpretive design approach to other details such as verandahs, fences, and shopfronts.

22.04-9

New Buildings

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Proposed
C258

It is policy that: ~~new buildings are respectful of and do not detract from the assessed cultural significance of the heritage place.~~

New buildings are in keeping with 'key attributes' of the heritage precinct as identified in the precinct Statement of Significance and:

~~*—Are to be in keeping with:~~

- ~~'Key attributes' of the heritage precinct such as:~~
 - ~~Building height, massing and form; style and architectural expression; details; materials; front and side setbacks; and orientation and fencing-~~
 - ~~Prevailing streetscape height and scale-~~
- Do not obscure views from the street(s) and public parks of the front or principal part of adjoining heritage places significant or contributory places or buildings.
- Do not visually dominate or visually disrupt the appreciation of the heritage place ~~by:~~
- ~~Maintaining~~ a façade height which is consistent with that of adjoining ~~significant or contributory buildings-heritage places~~, whichever is the lesser, ~~and~~
- Set ~~ting~~ back higher ~~rear~~ building components so as not to dominate or reduce the prominence of an adjoining heritage place.
- Do not adopt a façade height which is significantly lower than prevailing heights in the ~~streetscape-street~~.
- Are neither positioned forward of the façade of adjoining ~~significant or contributory~~ heritage places ~~or buildings-~~ or set back significantly behind the prevailing building line in the streetscape.
- Do not build over or extend into the air space directly above the front or principal part of an adjoining ~~significant or contributory building or heritage~~ place.
- Where abutting a lane, are respectful of the scale and form of historic fabric of heritage places abutting the lane.
- ~~Do not impact adversely on the aboriginal cultural heritage values, as indicated in an archaeologist's report, for any site known to contain aboriginal archaeological relics~~

The design of new buildings ~~are~~ is to:

- Adopt high quality and respectful contextual design.
- Adopt an interpretive design approach to other details such as verandahs, fences and shopfronts.

22.04-10

Restoration and Reconstruction

--/201-
Proposed
C258

It is policy to encourage the restoration and / or reconstruction of a heritage place.

~~Any reconstructive or restoration buildings and/or works to any part of a significant building, or any visible part of a contributory building should form part of an authentic restoration or reconstruction process, or should not preclude such a process at a future date.~~

Restoration or reconstruction of a building and works is to be based on evidence of what a building originally looked like. It may be assisted by reference to elements of nearby identical buildings, early photographs and plans.

22.04-11 Subdivision

--/201-

Proposed
C258

It is policy that:

Subdivision of a heritage place:

- Reflect the pattern of development in the streetscape or precinct, whichever is most relevant to the place.
- ~~Ensure that~~ Maintain appropriate settings and contexts for ~~significant and contributory~~ heritage buildings and places ~~are maintained~~ including the retention ~~or of~~ any original garden areas, large trees and other features which contribute to the significance of the heritage place.
- Not provide for future development which will visually disrupt the setting and impact on the presentation of the ~~significant or contributory building~~ heritage place.
- Provide for three-dimensional building envelopes for future built form to each new lot ~~proposed~~. ~~Subdivision of airspace above heritage buildings, to provide for future development, is discouraged.~~

22.04-12 RelocationIt is policy that:

- A building be retained in-situ unless it can be shown that the place has a history of relocation and / or is designed for relocation.
- An application to relocate a building include recording its location on the site prior to relocation and supervision of its relocation by an appropriately qualified person.

22.04-13 Vehicle Accommodation and Access

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Proposed
C258It is policy that:

~~The introduction of on-site car parking, garages and carports, and vehicle crossovers is discouraged and should only be permitted where the following performance standards can be met:~~

- ~~The~~ Car parking is located to the rear of the property, ~~and where~~ this is an established ~~streetscape~~ characteristic.
- ~~For a significant or contributory building, the~~ Any new garage or carport is placed behind the principal or front part of the building heritage place (~~excluding including~~ verandahs, porches, bay windows or similar projecting features), and it:
 - will be visually recessive;
 - will not conceal an original contributory element of the building heritage place (other than a plain side wall); and
 - ~~the form, details and materials are~~ will be respectful of ~~the building~~, but ~~do~~ not replicate details of the building heritage place.
- Where ~~this is~~ an established characteristic of the streetscape or precinct, ramps to basement or sub-basement car parking are located to the rear of the property, or to a side street or side lane boundary, where they would not visually disrupt the setting of the heritage place. ~~significant or contributory building, or impact on the streetscape character.~~

22.04-14 Fences and Gates

--/201-

Proposed
C258

It is policy that:

~~new or replacement fences or gates to the front or principal part of a significant or contributory building may be permitted where:~~

- ~~the works where~~ replacement fences or gates to the front or principal part of a heritage place reconstruct an original fence or gate, this is based on evidence of the original form, detailing and materials; or

- ~~the any~~ new fence ~~or gate~~ is an appropriate contextual design response, ~~where and~~ the style, details and materials are interpretive and consistent with the architectural period of the heritage place and established streetscape characteristics ~~and~~:

~~New fences and gates should also:~~

- ~~it does~~ not conceal views of the ~~building heritage place~~; and
- ~~be is~~ a maximum height of ~~1.2 to~~ 1.5 metres; and
- ~~be is~~ more than 50% transparent.

22.04-15 Trees

It is policy that:

Trees with assessed cultural significance (as noted in the schedule to the Heritage Overlay) be retained wherever possible.

Buildings and works respect trees with assessed cultural significance (as noted in the schedule to the Heritage Overlay) by siting proposed new development at a distance that ensures the ongoing health of the tree.

New buildings and works ~~should also~~ comply with the Australian Standard AD 4970-2009 - Protection of trees on development sites for vegetation of assessed significance.

22.04-16 Services and ~~Ancillaries~~ Ancillary fixtures

It is policy that:

- The installation of services and ~~ancillaries~~ ancillary fixtures, in particular those that will reduce greenhouse gas emissions or water consumption such as solar panels, solar hot water services or water storage tanks, may be permitted on any visible part of ~~significant or contributory buildings~~ a heritage place where it can be demonstrated ~~there is no feasible alternative and~~ the services and ~~ancillaries~~ ancillary fixtures will not detract from the character and appearance of the ~~building~~ or heritage place.
- Items affixed to roofs, such as solar panels, ~~should~~ align with the profile of the roof.
- Services and ~~ancillaries should~~ ancillary fixtures ~~be are~~ installed in a manner whereby they can be removed without damaging significant fabric.
- For new buildings, services and ~~ancillaries~~ ancillary fixtures ~~should be are~~ concealed, integrated or incorporated into the design of the building.

22.04-17 Street Fabric and Infrastructure

It is policy that:

Street furniture, including shelters, seats, rubbish bins, bicycle racks, drinking fountains and the like, is designed and sited to avoid:

- impacts on views to ~~significant or contributory places and contributory elements~~ heritage places; and
- physical impacts on bluestone kerbs, channels and gutters, other historic street infrastructure, lanes and ~~historic~~ street tree plantings.
- For existing ~~significant and contributory~~ historic street / lane fabric and infrastructure, ~~it is policy that~~ restoration, reconstruction and maintenance ~~should~~ be carried out in a way that retains the original fabric, form and appearance.

22.04-18 Signage

It is policy that: ~~new signage associated with heritage places meet the following standards:~~

- ~~Minimise visual clutter.~~
- ~~Not conceal architectural features or details which contribute to the significance of the heritage place.~~
- ~~Not damage the fabric of the heritage place.~~

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- ~~▪ Be in keeping with historical signage in terms of size and proportion in relation to the heritage place.~~
- ~~▪ Be readily removable.~~
- ~~▪ Address all relevant performance standards of Clause 22.07 – Advertising Signage~~
~~Advertising signs may be placed in locations where they were traditionally placed.~~
~~The historical use of signage may be justification for new or replacement signage.~~
- Existing signage that is deemed to have heritage value ~~should~~ be retained, and not altered or obscured; ~~including historic painted signage.~~
- New signage associated with heritage places:
 - Minimise visual clutter
 - Not conceal architectural features or details which contribute to the significance of the heritage place.
 - Not damage the fabric of the heritage place.
 - Be in keeping with historical signage in terms of size and proportion in relation to the heritage place.
 - Be placed in locations where they were traditionally placed.
 - Be readily removable.
 - Address all relevant performance standards of Clause 22.07 – Advertising Signage

22.04-19 Reference Documents

Central Activities District Conservation Study 1985

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~~South Melbourne Conservation Study 1985~~

Proposed
C258

Central City (Hoddle Grid) Heritage Review 2011

Bourke Hill Precinct Heritage Review Amendment C240 2015

City North Heritage Review, RBA Architects 2013

~~East Melbourne & Jolimont Conservation Study 1985~~

~~Parkville Conservation Study 1985~~

~~North & West Melbourne Conservation Study 1985, & 1994~~

~~Flemington & Kensington Conservation Study 1985~~

Carlton, North Carlton and Princes Hill Conservation Study 1994 & 1985

~~South Yarra Conservation Study 1985~~

~~South Melbourne Conservation Study 1985 & 1998~~

Harbour, Railway, Industrial Conservation Study 1985

~~Kensington Heritage Review, Graeme Butler 2013~~

~~Review of Heritage Buildings in Kensington: Percy Street Area, Graeme Butler 2013~~

~~Arden Macaulay Heritage Review, Graeme Butler 2012~~

~~West Melbourne Heritage Review 2016~~

22.05 HERITAGE PLACES OUTSIDE THE CAPITAL CITY ZONE

This policy applies to all places within the Heritage Overlay Area ~~excluding the Capital City Zone Schedules 1, 2, 3 and 4 and the Docklands Zone~~ outside the Capital City Zone (CCZ) and the Docklands Zone.

22.05-1 Policy Basis

~~—/—/201-~~
Proposed
C258

Melbourne’s Municipal Strategic Statement identifies heritage as a defining characteristic of the municipality, ~~and a major part of Melbourne’s attraction. Heritage places enhance the city’s appeal as a place in which to live, work, invest and visit.~~

Heritage places across the municipality, ~~both within and outside the Capital City Zone CCZ,~~ encompass individual heritage places and heritage precincts. These places are variously of heritage value for their historic, aesthetic, social, spiritual and scientific significance. They include residential and non-residential places, public parks and gardens, trees and infrastructure.

~~The places include some of metropolitan Melbourne’s most significant urban developments. They incorporate dwellings, institutions, industrial, manufacturing and commercial places, road and rail infrastructure, parks, gardens and places of recreation.~~

~~Within the CCZ, heritage places reflect the significance of the cultural, administrative and economic centre of the State. The places are fundamental to the depth of historic character of the CCZ as it developed on, and extended from the Hoddle Grid. Development within the CCZ has, and will continue to be, of a different intensity and result in varied built form outcomes compared for areas outside of the CCZ.~~

This policy provides guidance on conserving and enhancing heritage places and is informed by the conservation principles, processes and practices of the Australia ICOMOS Burra Charter. ~~#~~ The Burra Charter encourages the conservation, preservation and restoration of heritage places, and development which enhances the heritage place and is compatible and in keeping with its cultural heritage values. ~~The policy recognises that heritage places are living and working places; and that development should be considered in the context of the heritage policy objectives.~~

This policy should be ~~read~~ applied in conjunction with Statements of Significance as incorporated into this Scheme.

22.05-2 Definitions

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Term	Definition
Alteration	An alteration is to modify the fabric of a heritage place, without undertaking building works such as an addition.
Assessed significance	The assessed significance of an individual heritage place or heritage precinct is identified in the relevant <u>Statement of Significance</u> , as contained in the place citation. This normally identifies what is significant, how it is significant, and why it is significant.
Concealed/partly concealed	Concealed means cannot be seen from a street (other than a lane, unless the lane <u>has heritage value classified as significant</u>) or public park. Partly concealed means that some of the addition or higher rear part may be visible provided it does not visually dominate or reduce the prominence of the existing building's façade(s) and in <u>the streetscape.</u>
Conservation	Conservation means all the processes of looking after a place to retain its heritage significance. It may include one or more of maintenance, preservation, restoration, reconstruction, adaptation and interpretation.

Term	Definition
Context	The context of a heritage place can include; its setting (as defined under ‘setting’), the immediate landholding, adjoining significant or contributory places, and the surrounding area.
Contextual design	A contextual design for new buildings and additions to existing buildings is one which adopts a design approach, derived through analysis of the subject property and its heritage context. Such an approach results in an <u>understanding of the visual context of the place so that the</u> requires new development to <u>integrates</u> comfortably and harmoniously integrate with the site and its streetscape character <u>the street character</u> .
Contributory heritage place	A contributory heritage place is one that has been identified as having values that contribute to a heritage precinct
Cultural significance	Cultural significance means aesthetic, historic, scientific, social or spiritual value for past, present or future generations.
Enhance	Enhance means to improve the presentation and appearance of a heritage place through restoration, reconstruction or removal of unsympathetic or intrusive elements; and through appropriate development.
Fabric	Fabric means all the physical material of the heritage place.
Facadism	The retention of the exterior face/faces of a building without the three-dimensional built form providing for its/their structural support <u>and understanding of its function.</u> ., and, without retention of an understanding of the function of the three dimensional building form.
Front or principal part of a building	<p>The front or principal part of a <u>residential</u> building is generally considered to be the front two rooms in depth, complete with the structure and cladding to the roof; or that part of the building associated with the primary roof form, whichever is the greater. For residential buildings this is generally 8 – 10 metres in depth.</p> <p>For most non-residential buildings, the front <u>or principal</u> part is generally considered to be one full structural bay in depth complete with the structure and cladding to the roof. This is generally 8—10 metres in depth.</p> <p>For corner sites, the front or principal part of a building includes <u>the side street and rear</u> elevations.</p> <p>For sites with more than one <u>street</u> frontage, the front or principal part of a building <u>may</u> relate to each <u>street</u> frontage.</p>
<u>Heritage place</u>	<u>A heritage place has been assessed to have natural or cultural heritage value and can include a site, area or space, building or other works, structure, group of buildings, precinct, archaeological site, landscape, garden or tree.</u>
Heritage precinct	A heritage precinct is an area which has been identified as having heritage <u>value significance</u> . It is identified as such in the Schedule to the Heritage Overlay, and mapped in the Planning Scheme Heritage Overlay Maps.

Term	Definition
Individual heritage place	An individual heritage place is <u>one which has value in its own right. It may be in or surrounded by a precinct and may contribute to the value of the precinct.</u> equivalent to a significant heritage place. It may be graded significant within a heritage precinct. It may also have an individual Heritage Overlay control, and be located within or outside a heritage precinct.
Key attributes	The key attributes or important characteristics of a heritage precinct, are <u>as identified in the precinct statement of significance, include building height, massing and form, style and architectural expression, detailing, materials, front and side setbacks and orientation.</u>
Lane	<u>A lane is a narrow road or right of way (ROW) generally abutting the rear or side boundary of a property. It may be paved or unpaved and in public or private ownership and will typically provide vehicle access to adjoining properties.</u> Includes reference to public or private lanes, and ROWs.
Maintenance	Maintenance means the continuous protective care of a place, and its setting, and is distinguished from repair which involves restoration or reconstruction.
<u>Non-contributory property</u>	<u>A non-contributory property is one that does not make a contribution to the cultural significance or historic character of the precinct it is in on the planning scheme map.</u>
Massing	Massing means the arrangement of a building's bulk and its articulation into parts.
Preservation	Preservation is maintaining the fabric of a place in its existing state and retarding deterioration.
Reconstruction	Reconstruction means returning a place to a known earlier state, and is distinguished from restoration by the introduction of new material.
Respectful and interpretive	When used in relation to design, respectful and interpretive refers to design that honestly admits its modernity while relating to the historic or architecturally significant character of its context. Respectful means a modern design approach to new buildings, additions and alterations to buildings, in which historic building size and form are adopted; and, proportions and details are referenced but not directly copied, and sympathetic colours and materials are used. Interpretive means a looser and simplified modern interpretation of historic building form, details and materials.
Restoration	Restoration means returning a place to a known earlier state by removing accretions or later additions, or by reassembling existing elements. It is distinguished from reconstruction through not introducing new material.

Term	Definition
Services and ancillary ies <u>facilities</u>	Services and <u>ancillary facilities</u> include, but are not limited to, satellite dishes, shade canopies and sails, solar panels, water storage tanks, disabled access ramps and handrails, air conditioners, cooling or heating systems and hot water services.
Setting	Setting means the immediate and extended environment of a heritage place that is part of or contributes to its significance.
Streetscape	A streetscape is a collection of buildings along a street frontage. When referred to in relation to a precinct, a streetscape typically contains a majority of buildings which are graded significant or contributory.
Significant streetscape (as referred to in this policy)	Significant streetscapes are collections of buildings outstanding either because they are a particularly well preserved group from a similar period or style, or because they are a collection of buildings significant in their own right.
<u>Use</u>	<u>Use means the functions of a place, including the activities and traditional and customary practices which may occur at the place or are dependent on the place.</u>
Visible	Visible means anything that can be seen from a street (other than a lane, unless the lane is <u>identified as having heritage value</u> classified as significant) or public park.

22.05-3 Grading of heritage places

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~~The grading (significant, contributory or non contributory) of properties identified in the incorporated document Heritage Places Inventory 2017. Significant Streetscapes are also identified in this incorporated document.~~

~~‘Significant’ heritage place:~~

~~A ‘significant’ heritage place is individually important at state or local level, and a heritage place in its own right. It is of historic, aesthetic, scientific, social or spiritual significance to the municipality. A ‘significant’ heritage place may be highly valued by the community; is typically externally intact; and/or has notable features associated with the place type, use, period, method of construction, siting or setting. When located in a heritage precinct a ‘significant’ heritage place can make an important contribution to the precinct.~~

~~‘Contributory’ heritage place:~~

~~A ‘contributory’ heritage place is important for its contribution to a heritage precinct. It is of historic, aesthetic, scientific, social or spiritual significance to the heritage precinct. A ‘contributory’ heritage place may be valued by the community; a representative example of a place type, period or style; and/or combines with other visually or stylistically related places to demonstrate the historic development of a heritage precinct. ‘Contributory’ places are typically externally intact, but may have visible changes which do not detract from the contribution to the heritage precinct.~~

~~‘Non contributory’ place:~~

~~A ‘non contributory’ place does not make a contribution to the cultural significance or historic character of the heritage precinct.~~

22.05-3 Policy Objectives

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- To conserve and enhance Melbourne’s heritage places.
- To retain fabric, which contributes to the significance, character or appearance of heritage places and precincts.

- To recognise and conserve the assessed significance of heritage places ~~and streetscapes. , as referenced in this policy or incorporated into this planning scheme as the basis for consideration of development and works. Further information may be considered, including in relation to streetscapes, where there is limited information in the existing citation or Council documentation.~~
- To ensure new development is respectful of the assessed significance of heritage places.
- To ensure new development is respectful of the character and appearance of heritage places.
- To encourage high quality contextual design for new development, which avoids replication of historic forms and details.
- [To encourage design excellence](#)
- To encourage retention of the three-dimensional fabric and form of a building. ~~and to discourage facadism.~~
- [To discourage facadism.](#)
- To encourage the [creative](#) adaptive reuse of heritage places.
- To ensure new development is consistent with the conservation principles, processes and practices of the Australia ICOMOS Burra Charter.
- To enhance the presentation and appearance of heritage places through restoration and, where evidence exists, reconstruction of original or contributory fabric.
- To protect significant views and vistas to heritage places.
- To promote the protection of Aboriginal cultural heritage.

22.05-4 **Permit Application Requirements**

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The following, where relevant, may be required to be lodged with a permit application.

- Where major ~~or consequential~~ development is proposed to ~~significant~~ heritage places, the ~~responsible authority may require~~ preparation of a Conservation Management Plan (CMP), which is in accordance with the Heritage Council of Victoria's 'Conservation Management Plans: Managing Heritage Places A Guide 2010'.
- The ~~responsible authority may require~~ preparation of a Heritage Impact Statement (HIS) which is in accordance with Heritage Victoria's 'Guidelines for preparing Heritage Impact Statements'. In a heritage precinct, the HIS should address impacts on adjoining [heritage places](#) ~~significant or contributory buildings~~ and the immediate heritage context, in addition to impacts on the subject place.
- [Further information where there is limited information in an existing citation or Council documentation.](#)
- [An arboricultural report where](#) ~~Where~~ works are associated with significant vegetation (as listed in the Schedule to the Heritage Overlay or vegetation of assessed significance), ~~an arboricultural report should be prepared.~~ The report should, where relevant, address landscape significance, arboricultural condition, impacts on the vegetation and impacts on the assessed significance of the heritage precinct.
- For development in heritage precincts, ~~the responsible authority may require~~ sight lines, and heights of existing and adjoining buildings, streetscape elevations, photos and 3D model, as necessary to determine the impact of the proposed [development.](#) ~~works.~~
- A comprehensive explanation as to how the proposed development achieves the policy objectives.

22.05-5 **~~Performance Standards for Assessing~~ [Assessment of Planning Applications](#)**

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~~It is policy to assess of planning applications against the objectives and performance standards set out below.~~ [Planning applications are to be assessed against the Objectives at Clause 22.05-3 and the policies set out below.](#)

22.05-6 Demolition

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Proposed
C258

It is policy that:

- The demolition of a building on a non-contributory property place will generally be permitted.
- Full demolition of ~~significant or contributory buildings~~ a heritage place will not generally be permitted.
- ~~Partial demolition~~ Demolition in the case of significant buildings, and of significant elements or the front or principal part of heritage places~~contributory buildings~~ will not generally be permitted.
- Retention of the three dimensional form is encouraged; facadism is discouraged.
- The creative adaptive reuse of a heritage place is considered as an alternative to demolition.
- ~~Unless structurally unsound, the~~The poor structural or aesthetic condition of a ~~significant or contributory building~~ heritage place will not be ~~considered~~ justification for permitting demolition.
- A demolition permit ~~should~~ not be granted until the proposed replacement building or works have been approved.
- ~~The demolition of fences~~ Fences and outbuildings which contribute to the cultural significance of the heritage place ~~are not demolished~~ is discouraged.

Before deciding on an application for full or partial demolition, the responsible authority will consider, as appropriate:

- The assessed significance of the heritage place ~~or building~~.
- The character and appearance of the ~~building or works~~ heritage place and its contribution to the historic, social and architectural values,~~character and appearance~~ of the heritage place, and the street streetscape.
- The significance of the fabric or part of the ~~building~~ heritage place, and the degree to which it contributes to ~~the its~~ three-dimensional form ~~of the building, regardless of whether it is visible~~.
- Whether the demolition or removal of any part of the building heritage place contributes to the long-term conservation of the significant fabric of the building heritage place.
- Whether the demolition ~~is detrimental to~~ will adversely affect the conservation of the heritage place
- ~~Whether there are any exceptional circumstances~~The structural integrity of the heritage place.

Where approval is granted for full demolition of a ~~significant building~~ heritage place, a recording program including, but not limited to, archival photographic recording and/or measured drawings may be required prior to demolition, to the satisfaction of the Responsible Authority.

22.05-7 Alterations

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Proposed
C258

It is policy that:

External fabric which contributes to the cultural significance of the heritage place, ~~on any part of a significant building, and on any visible part of a contributory building, should be preserved~~ conserved.

Alterations to a non-contributory buildings and fabric ~~property~~ are respectful of, and do not detract from the assessed cultural significance of the heritage precinct.

Sandblasting of render, masonry or timber surfaces and painting of previously unpainted surfaces will not generally be permitted.

Removal of paint from original unpainted masonry or other surfaces be encouraged provided it can be undertaken without damage to the heritage place.

Reconstruction of an original awning or verandah is based on evidence of the original form, detailing and materials.

Any new awning or verandah is an appropriate contextual design response compatible to the location on the heritage place and one that can be removed without loss of fabric that contributes to the cultural value of the heritage place.

Before deciding on an application to alter the fabric of a ~~significant or contributory building~~ heritage place, the responsible authority will consider, as appropriate:

- The assessed cultural significance of the ~~building and~~ heritage place.
- The degree to which the alterations ~~works~~ would detract from the significance, character and appearance of the ~~building and~~ heritage place.
- Its structural condition.
- The character and appearance of the proposed replacement materials.
- Whether the ~~works alterations~~ can be reversed without loss of fabric which contributes to the significance of the heritage place.

~~Removal of paint from originally unpainted masonry or other surfaces is encouraged providing this can be undertaken without damage to the heritage fabric.~~

~~The introduction of awnings and verandahs to ground floor façades and shopfronts may be permitted where:~~

- ~~The works reconstruct an original awning or verandah, based on evidence of the original form, detailing and materials; or~~
- ~~The awning is an appropriate contextual design response, compatibly placed in relation to the building, and can be removed without loss of fabric which contributes to cultural significance.~~

22.05-8

Additions

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Proposed
C258

It is policy that:

Additions to heritage places or non-contributory properties ~~buildings~~ in a heritage precinct: ~~are respectful of and in keeping with:~~

- Are respectful of and in keeping with the identified 'key attributes' of the heritage precinct as identified in the precinct Statement of Significance.
- Are concealed to the extent that they do not dominate or reduce the prominence of the important elements of a heritage place.
- Where abutting a lane, ~~additions~~ are ~~to be~~ respectful of the scale and form of heritage fabric as it presents to the lane.

It is policy that:

Additions to ~~significant or contributory building~~ individual heritage places:

- are respectful of the ~~building's~~ character and appearance, scale, materials, style and architectural expression of the heritage place.
- do not visually dominate or visually disrupt the appreciation of the building heritage place as it presents to the street streetscape(s).
- maintain the prominence of the heritage place by setting back the addition behind the front or principal part of the building heritage place;
- are concealed to the extent necessary to avoid dominating or reducing the prominence of the important elements of a heritage place.
- do not build over or extend into the air space directly above the front or principal part of the ~~significant or contributory building~~ heritage place.
- retain significant roof form within the setback from the building-front façade together with ~~any chimneys or similar~~ roof elements of original fabric.
- ~~Not do not~~ obscure views of façades or elevations associated with the front or principal part of the building heritage place.
- ~~Be~~ are distinguishable from the original fabric of the building heritage place.

The design of additions is to:

- Adopt high quality and respectful contextual design.
- Avoid direct reproduction of the form of historic fabric.
- Adopt an interpretive design approach to other details such as verandahs, fences, and shopfronts.

22.05-9 New Buildings

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It is policy that: ~~new buildings are respectful of and do not detract from the assessed cultural significance of the heritage place.~~

New buildings are in keeping with 'key attributes' of the heritage precinct as identified in the precinct Statement of Significance and:

- ~~Are to be in keeping with:~~
 - ~~'Key attributes' of the heritage precinct such as:~~
 - ~~Building height, massing and form; style and architectural expression; details; materials; front and side setbacks; and orientation and fencing.~~
 - ~~Prevailing streetscape height and scale.~~
- Do not obscure views from the street(s) and public parks of the front or principal part of adjoining heritage places ~~significant or contributory places or buildings.~~
- Do not visually dominate or visually disrupt the appreciation of the heritage place ~~by:~~
- Maintain ing a façade height which is consistent with that of adjoining heritage places, whichever is the lesser, ~~and~~
- Set ing back higher ~~rear~~ building components so as not to dominate or reduce the prominence of an adjoining heritage place.
- Do not adopt a façade height which is significantly lower than prevailing heights in the streetscape.
- Are neither positioned forward of the façade of adjoining heritage places ~~or buildings~~, or set back significantly behind the prevailing building line in the streetscape.
- Do not build over or extend into the air space directly above the front or principal part of an adjoining heritage place.
- Where abutting a lane, are respectful of the scale and form of historic fabric of heritage places abutting the lane.
- ~~Do not impact adversely on the aboriginal cultural heritage values, as indicated in an archaeologist's report, for any site known to contain aboriginal archaeological relics.~~

The design of new buildings are is to:

- Adopt high quality and respectful contextual design.
- Adopt an interpretive design approach to other details such as verandahs, fences and shopfronts.

22.05-10 Restoration and Reconstruction

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C258

It is policy to encourage the restoration and / or reconstruction of a heritage place.

~~Any reconstructive or restoration buildings and/or works to any part of a significant building, or any visible part of a contributory building should form part of an authentic restoration or reconstruction process, or should not preclude such a process at a future date.~~

Restoration or reconstruction of a building and works is to be based on evidence of what a building originally looked like. It may be assisted by reference to elements of nearby identical buildings, early photographs and plans.

22.05-11 Subdivision

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Proposed
C258

It is policy that:

Subdivision of a heritage place:

- Reflect the pattern of development in the streetscape or precinct, whichever is most relevant to the place.
- ~~Ensure that~~ Maintain appropriate settings and contexts for ~~significant and contributory~~ heritage buildings and places ~~are maintained~~ including the retention ~~or of~~ any original garden areas, large trees and other features which contribute to the significance of the heritage place.
- Not provide for future development which will visually disrupt the setting and impact on the presentation of the ~~significant or contributory building~~ heritage place.
- Provide for three-dimensional building envelopes for future built form to each new lot ~~proposed~~. ~~Subdivision of airspace above heritage buildings, to provide for future development, is discouraged.~~

22.05-12 Relocation

It is policy that:

- A building be retained in-situ unless it can be shown that the place has a history of relocation and / or is designed for relocation.
- An application to relocate a building should include recording its location on the site prior to relocation and supervision of its relocation by an appropriately qualified person.

22.05-13 Vehicle Accommodation and Access

It is policy that:

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~~The introduction of on-site car parking, garages and carports, and vehicle crossovers is discouraged and should only be permitted where the following performance standards can be met:~~

- ~~The~~ Car parking is located to the rear of the property, ~~and where~~ this is an established ~~streetscape~~ characteristic.
- ~~For a significant or contributory building, the~~ Any new garage or carport is placed behind the principal of front part of the building heritage place (~~excluding including~~ verandahs, porches, bay windows or similar projecting features), and it:
 - will be visually recessive;
 - will not conceal an original contributory element of the building heritage place (other than a plain side wall); and
 - ~~the form, details and materials are~~ will be respectful of ~~the building~~, but ~~do~~ not replicate details of the building heritage place.
- Where ~~this is~~ an established characteristic of the streetscape or precinct, ramps to basement or sub-basement car parking are located to the rear of the property, or to a side street or side lane boundary, where they would not visually disrupt the setting of the heritage place. ~~significant or contributory building, or impact on the streetscape character.~~

22.05-14 Fences and Gates

It is policy that:

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~~new or replacement fences or gates to the front or principal part of a significant or contributory building may be permitted where:~~

- ~~the works~~ where replacement fences or gates to the front or principal part of a heritage place reconstruct an original fence or gate, this is based on evidence of the original form, detailing and materials; or
- ~~the~~ any new fence or gate is an appropriate contextual design response, ~~where and~~ the style, details and materials are interpretive and consistent with the architectural period of the heritage place and established streetscape characteristics and:

~~New fences and gates should also:~~

- it does not conceal views of the building heritage place; and
- ~~be is~~ a maximum height of ~~1.2 to~~ 1.5 metres; and

- ~~be is~~ more than 50% transparent.

22.05-15 Trees

It is policy that:

- Trees with assessed cultural significance (as noted in the schedule to the Heritage Overlay) be retained wherever possible.
- Buildings and works respect trees with assessed cultural significance (as noted in the schedule to the Heritage Overlay) by siting proposed new development at a distance that ensures the ongoing health of the tree.
- New buildings and works ~~should also~~ comply with the Australian Standard AD 4970-2009 Protection of trees on development sites for vegetation of assessed significance.

22.05-16 Services and ~~Ancillaries~~ Ancillary fixtures

~~201-~~

Proposed
C258

It is policy that:

- The installation of services and ~~ancillaries~~ ancillary fixtures, in particular those that will reduce greenhouse gas emissions or water consumption such as solar panels, solar hot water services or water storage tanks, may be permitted on any visible part of ~~significant or contributory buildings~~ a heritage place where it can be demonstrated ~~there is no feasible alternative and~~ the services and ~~ancillaries~~ ancillary fixtures will not detract from the character and appearance of the ~~building~~ or heritage place.
- Items affixed to roofs, such as solar panels, ~~should~~ align with the profile of the roof.
- Services and ~~ancillaries should~~ ancillary fixtures be are installed in a manner whereby they can be removed without damaging significant fabric.
- For new buildings, services and ~~ancillaries~~ ancillary fixtures ~~should be~~ are concealed, integrated or incorporated into the design of the building.

22.05-17 Street Fabric and Infrastructure

~~201-~~

Proposed
C258

It is policy that:

Street furniture, including shelters, seats, rubbish bins, bicycle racks, drinking fountains and the like, is designed and sited to avoid:

- impacts on views ~~to significant or contributory places and contributory elements to heritage places;~~ and
- physical impacts on bluestone kerbs, channels and gutters, other historic street infrastructure, lanes and ~~historic~~ street tree plantings.
- ~~for existing significant and contributory historic~~ street / lane fabric and infrastructure, ~~it is policy that~~ restoration, reconstruction and maintenance ~~should~~ be carried out in a way that retains the original fabric, form and appearance.

22.05-18 Signage

~~201-~~

Proposed
C258

It is policy that: ~~new signage associated with heritage places meet the following standards:~~

- ~~Minimise visual clutter.~~
- ~~Not conceal architectural features or details which contribute to the significance of the heritage place.~~
- ~~Not damage the fabric of the heritage place.~~
- ~~Be in keeping with historical signage in terms of size and proportion in relation to the heritage place.~~
- ~~Be readily removable.~~
- ~~Address all relevant performance standards of Clause 22.07 Advertising Signage~~

~~Advertising signs may be placed in locations where they were traditionally placed.~~

~~The historical use of signage may be justification for new or replacement signage.~~

- Existing signage that is deemed to have heritage value ~~should~~ be retained, and not altered or obscured, ~~including historic painted signage.~~
- New signage associated with heritage places:
 - Minimise visual clutter.
 - Not conceal architectural features or details which contribute to the significance of the heritage place.
 - Not damage the fabric of the heritage place.
 - Be in keeping with historical signage in terms of size and proportion in relation to the heritage place.
 - Be placed in locations where they were traditionally placed.
 - Be readily removable.
 - Address all relevant performance standards of Clause 22.07 – Advertising Signage

22.05-19 Reference Documents

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~~Central Activities District Conservation Study 1985~~

South Melbourne Conservation Study 1985

~~Central City (Hoddle Grid) Heritage Review 2011~~

~~Bourke Hill Precinct Heritage Review Amendment C240 2015~~

~~City North Heritage Review, RBA Architects 2013~~

East Melbourne & Jolimont Conservation Study 1985

Parkville Conservation Study 1985

North & West Melbourne Conservation Study 1985, & 1994

Flemington & Kensington Conservation Study 1985

Carlton, North Carlton and Princes Hill Conservation Study 1994 & 1985

South Yarra Conservation Study 1985

South Melbourne Conservation Study 1985 & 1998

Harbour, Railway, Industrial Conservation Study 1985

Kensington Heritage Review, Graeme Butler 2013

Review of Heritage Buildings in Kensington: Percy Street Area, Graeme Butler 2013

Arden Macaulay Heritage Review, Graeme Butler 2012

West Melbourne Heritage Review 2016

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1. General recommendations

Panel Recommendation	Panel Report Reference	Summary	Accept / Reject	Management Response and Rationale
1. That the local policies be adopted, based on the Panel versions at Appendix D.	Section 5, page 41	Panel recommends that the local heritage policies are adopted, based on the Panel versions.	Accept in part	<ul style="list-style-type: none"> - Panel’s recommendations for changes to the local heritage policies (Clauses 22.04 and 22.05) are included as an Attachment 5 with changes tracked and comments indicating where management agrees and disagrees with the Panel’s proposed versions. - It should be noted that the Panel version at Appendix D of the Panel Report is not an accurate description of its response to the 3 October Policy (this was the final policy tabled by the City of Melbourne at the Panel hearing). In numerous instances the Panel has deleted or added text without showing it as tracked changes as would normally be the case. It is not clear whether the Panel intended these changes or they are errors as they are not comprehensively discussed in the Panel report. - Where the Panel has not shown changes as track changes this text is highlighted in grey in Attachment 5. - Management’s recommended changes to the exhibited version of the policies are shown at Attachment 4. <p>The following change should be made to Amendment C258:</p> <ul style="list-style-type: none"> - Replace Clause 22.04 and 22.05 with the policies at Attachment 6.
	Section 5, page 42	Panel recommends that Clause 22.04 and 22.05 remain separate to acknowledge the difference of purpose and intensity of the Capital City Zone (CCZ).	Accept	<ul style="list-style-type: none"> - Agree with this recommendation. Although the outcome of having two separate policies is that there is much repetition of the same provisions, it is easier to follow one policy that applies to the Capital City Zone (CCZ) and another for outside the CCZ. Amendment C258 was originally exhibited with 2 separate heritage policies. There are very few differences between the two policies, the main differences being that concealment of

Panel Recommendation	Panel Report Reference	Summary	Accept / Reject	Management Response and Rationale
				additions and higher rear parts of new buildings are required outside the CCZ but not inside the CCZ. At the panel hearing, because of the similarities between the two policies, the City of Melbourne’s planning expert recommended that the two policies be combined into one. As this had no effect on the actual provisions in the policies the City of Melbourne advised that it supported the approach of one policy. At the panel hearing there were arguments both for and against one combined policy.
	Section 5, page43	Panel recommends that Clause 22.04 applies to Capital City Zone 5 (CCZ5) City North given the urban renewal occurring and planned for this area.	Accept	– Agree with this recommendation on the basis that Capital City Zone 5 (CCZ5) City North is a key urban renewal area that is already exempt from the concealment, and façade height and setback requirements of Clause 22.05.
	Section 4, page 39	Panel recommends removal of policy requirements that differentiate between significant and contributory buildings.	Reject	– The distinction between significant and contributory buildings in policy has underpinned all strategic heritage work at the City of Melbourne. For over 30 years it has been policy that some buildings need more protection than others. No one at the hearing argued that all buildings should be treated the same. The panel has not provided evidence to justify a change to this position. – Disagree with this recommendation given the need to retain more rigorous policy requirements for significant buildings as being significant in their own right rather than being dependent on a mutually reinforcing context. This means that the impact of demolition, alterations and additions on a significant building is generally greater and they therefore require a stronger management regime. The value of a contributory building is limited to the extent to which it contributes to a precinct (ie.

Panel Recommendation	Panel Report Reference	Summary	Accept / Reject	Management Response and Rationale
				<p>visible within the precinct).</p> <ul style="list-style-type: none"> - Compliance with this recommendation would result in the loss of policy differentiation between significant and contributory buildings in terms of: <ul style="list-style-type: none"> - Conservation Management Plans - Demolition - Recording program - Alterations - Additions outside the CCZ - Restoration/reconstruction. - Of specific concern is that compliance with this recommendation would not protect the parts of significant buildings or significant elements not visible from the public realm if these elements are not identified in a statement of significance (statements of significance do not currently exist for the vast majority of significant buildings in the City of Melbourne). - Also of concern is that compliance with this recommendation would lead to the loss of full concealment provisions for additions to significant buildings outside of the Capital City Zone (CCZ) in Clause 22.05. - Panel's version of Clause 22.05 weakens the clearly expressed full concealment requirement with a provision based on a subjective judgement as to whether additions dominate or reduce prominence. - These changes to the policy are a significant dilution of the intent for significant buildings and were not raised by the Panel during the hearing. Therefore, submitters, including Council, were not provided with an opportunity to respond to these substantial changes.
		Panel's policy	Panel recommends the	Reject
				- Disagree with this replacement wording. One of the reasons

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	versions, Appendix D	deletion of 'significant and contributory buildings' or 'buildings' and replacement with 'heritage place' throughout the policy.		<p>being that the term heritage place has a specific meaning in Clause 43.01. In most instances where the policy refers to 'significant and contributory buildings', it is referring to buildings and not places as contemplated in Clause 43.01.</p> <ul style="list-style-type: none"> - Additionally, as 'heritage place' may refer to a whole precinct, or an individual building some of the provisions would not make sense. For example, the assessment of a works permit for a contributory building, would, in the panel version of the policies, be based on the impact of the works on the precinct as a whole.
	Panel's policy versions, Appendix D	Panel recommends the replacement of 'streetscape' with 'street' throughout the policies	Accept in part	<ul style="list-style-type: none"> - Agree with this replacement wording except where the reference is to a significant streetscape as specific policy requirements apply.
	Section 4, pages 37-40	Panel recommends the deletion of the definition of 'significant heritage place' and its replacement with a revised definition of 'individual heritage place'.	Reject	<ul style="list-style-type: none"> - The panel is unclear about what an 'individual heritage place' is. It refers to the recommended change as rebadging Significant buildings as 'contributory' if within a precinct and 'Individual Heritage Place - where the property is located outside a precinct or where it is a place of heritage value situated amongst precinct properties, but it does not share the values of the precinct...' However the definition of 'individual heritage place' is 'An individual heritage place is one which has value in its own right. It may be in or surrounded by a precinct and may contribute to the value of the precinct.' - This change was not discussed at the Panel and submitters, including Council, have not had the opportunity to be heard in relation to the proposal. - The term 'individual heritage place' is not explicitly contemplated in Planning Practice Note (PPN01-Applying the Heritage Overlay).
	Panel's policy	Panel recommends the	Accept	<ul style="list-style-type: none"> - Disagree with the Panel's replacement definitions given that

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	versions, Appendix D	replacement of the definitions for individual heritage place, contributory heritage place and non-contributory place and relocation of the definitions to the definitions table.	in part	<p>they are based on a classification system that is at odds with Council’s heritage protection regime.</p> <ul style="list-style-type: none"> - While the Panel is dissatisfied with the Amendment C258 grading system as hierarchical, it is nevertheless content to contemplate a similar system, if the Significant buildings are identified in the Statements of Significance and not in the Inventory. - Council’s recent heritage reviews were based on the proposed definitions in Amendment C258 and Amendment C271 Guildford and Hardware Lanes Heritage, was approved on this basis. - Agree that the definitions should be relocated to the definitions table.
	Section 5, page 39	Panel recommends that if a building is structurally unsound this should be a consideration to support an application for demolition.	Reject	<ul style="list-style-type: none"> - Disagree with this recommendation as a wide range of faults could render a building structurally unsound. - Additionally, including building condition as a reason to permit demolition may encourage owners to allow their buildings to fall into disrepair.
2. That the classification of all Significant places both outside and within precincts be reviewed and the places allocated to either an Individual Heritage Place or Contributory Heritage Place category.			Reject	<ul style="list-style-type: none"> - This recommendation reflects the Panel’s concern about retaining a “hierarchical” classification system with different management regimes for significant and contributory places. However, the panel is prepared to keep a hierarchical system if the significant buildings are noted as such in a Statement of Significance and not in the Inventory. - The Panel did not consider this recommendation to be a transformative change to the Amendment. They noted that the change would remove the ability to signify the relative value of heritage places within a precinct but argued that this can be addressed through the relevant statement of significance.

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				<ul style="list-style-type: none"> - This was not raised during the Panel process and submitters did not have the opportunity to discuss or respond to this proposal and it is therefore not considered appropriate to make such a change. - This recommendation is considered to be transformative because: <ul style="list-style-type: none"> o the heritage policies proposed through this amendment have different management regimes for significant and contributory places (see response to Recommendation 1); and o a heritage inventory with buildings graded Significant or Contributory was exhibited as part of this amendment. The community has not had the opportunity to consider or comment on a proposal for all buildings in precincts in the City of Melbourne being contributory. . - It is of note that there is widespread use of the significant, contributory, non-contributory classification system proposed through Amendment C258 in other planning schemes and throughout the heritage sector. - The classification system proposed through Amendment C258 was in direct response to the Panel’s recommendations for Amendment C207 Arden Macaulay Heritage Review. It was further supported through the panel for Amendment C271 Guildford and Hardware Laneways, and the Minister for Planning when the Amendment was gazetted in August 2019. Amendments C305 Southbank Heritage and C328 Hoddle Grid Heritage both adopt the C258 classification system - If it ever became the Minister’s intention for heritage planning practice State wide to transition to different system, then the City

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				<p>of Melbourne would investigate transitioning to the preferred system.</p> <ul style="list-style-type: none"> - Given that this would affect all planning schemes in Victoria and the heritage sector more broadly, this would be more appropriately carried out as part of a general review of heritage planning practice by DELWP, engagement with the heritage sector and local councils, and a review of the PPN01. - Such a transition would need to be undertaken over a period of time as part of the City of Melbourne’s ongoing heritage program because of the considerable time and significant cost that this would require preparing individual Statements of Significance for significant places in precincts.
<p>3. That the Council consider adding Non-contributory properties in precincts to the Inventory.</p>	<p>Section 6.4.4, page 74.</p>	<p>The Panel Report raises concern that the inventory does not include non-contributory properties because it is difficult to identify non-contributory properties within precincts if they are not included in the inventory.</p> <p>The Panel also notes that the proposed local heritage policies state that “the grading (significant, contributory or non-contributory) of properties identified in the incorporated document <i>Heritage Places Inventory</i></p>	<p>Accept in part</p>	<ul style="list-style-type: none"> - As noted in the Panel Report, non-contributory properties were removed from the inventory following a resolution of the Future Melbourne Committee (FMC) at its meeting on 5 July 2016. - In relation to the Panel’s concern that the heritage policies state that non-contributory places can be identified in the inventory, management notes that the inventory includes the explanation that “non-contributory either do not appear in this Inventory or are represented with a ‘-’. Management considers that this provides clarity to users of the inventory about the heritage category that applies to a site. - The City of Melbourne is undertaking a Heritage Data Project which will include transitioning the inventory to a map-based system, where heritage precincts will be mapped to clearly indicate significant, contributory and non-contributory properties. This map-based system will help address the panel’s comment that currently it can be difficult to ascertain whether or not a property is included in a precinct as a non-contributory property. Other improvements that could be made to the inventory to

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		2017' but this is not the case because it does not include non-contributory places.		assist in determining whether or not a property is non-contributory within a precinct will also be considered as part of that project.
4. That the grading of 'significant' be deleted from the Heritage Inventory.			Reject	Refer to response to Recommendations 1 and 2
5. That the two-level grading of streetscapes be abandoned; streetscape gradings be deleted from the Inventory; and, if there is a desire to continue to recognise valuable streetscapes, consider adding valuable streetscapes as important elements in the statements of significance for precincts or by affording them their own precinct status.	Section 5, page 39-40 and 74	<ul style="list-style-type: none"> - Panel recommends the abandonment of significant streetscapes as they are a residual or adjunct element of the old letter grading system now overtaken by heritage precincts. Further, they noted that significant streetscapes are not or little used in Clauses 22.04 and 22.05. - Panel suggests that if Council wishes to designate significant streetscapes for continued special treatment they could be referred to the precinct statement of 	Reject	<ul style="list-style-type: none"> - Significant streetscapes (formerly Level 1 streetscapes) are currently subject to full concealment provisions under existing Clause 22.05. In places like Parkville and East Melbourne this has resulted in streetscapes retaining high levels of integrity. These provisions are retained in the proposed Clause 22.05. Significant streetscapes should be retained to ensure the on-going protection of these streetscapes. - It would not be possible to protect these buildings to the same extent and for example, to apply full concealment provisions by referencing significant streetscapes in statements of significance. - Further, such a change would involve substantial change to precinct statements of significance and the creation of new statements.

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significances.				
6. That, in light of Recommendations 2 and 4, all Statements of Significance be reviewed to ensure that they adequately reflect the level of importance of the place and of its elements.	Section 4, page 38	Panel recommends that high value individual places or heritage places in precincts can be identified in the relevant statement of significance as an alternative to classifying places as 'significant'.	Reject	<ul style="list-style-type: none"> - Refer response to recommendations 2 and 4. - The proposal recommended by the panel is an alternative way of recognising significant properties. The Amendment C258 proposal whereby significant properties are recognised in the Inventory is preferred as it is more transparent and easier to navigate. - A large number of heritage places in the City of Melbourne do not have a statement of significance and existing statements would require substantial review to identify significant places and elements. Provision of adequate statements of significance for every precinct and significant heritage place would be prohibitively expensive in terms of cost, time and resources. Additionally, any new or revised Statements of Significance should be formally exhibited given they are incorporated documents to the Planning Scheme. Whilst statements of significance will be prepared as part of the long term area heritage reviews this is beyond the scope of this Amendment. - In making this recommendation the panel has not considered the significant cost and time this would take both for the City of Melbourne but also for every other Council in Victoria.
7. That the Inventory be further reviewed before adoption in consultation with residents' groups and other relevant submitters for accuracy of place entry.	Section 6, page 67	<p>The Panel considers that the inventory is not ready for adoption without further checking.</p> <p>The Panel considers that the most practical way to review the inventory again would be to do so in</p>	Accept in part	<ul style="list-style-type: none"> - Considerable work has been undertaken to test and confirm the level of accuracy of the inventory. - The Inventory has been the subject of two rounds of exhibition, where discrepancies raised in submissions have been carefully investigated and responded to. Management would like to acknowledge the submissions from residents' groups and other parties which have identified errors and made recommendations to improve the inventory. A number of the discrepancies related to address changes because of the digitisation of the Council's

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		<p>consultation with residents' groups who made submissions on the matter.</p>		<p>property data. There were also pre-existing errors and properties that had been demolished. Management also notes that the inventory contains over 7,000 lines and discrepancies identified have represented a very small percentage of the Inventory.</p> <ul style="list-style-type: none"> - Following the release of the Panel Report, a further comprehensive review of the Inventory was undertaken in response to the concerns raised by the Panel, in submissions and to remove places identified as demolished in the City of Melbourne's Part B submission to the Panel. This has involved manually checking each line in the pre-C258 inventory against the exhibited C258 inventory. - This has taken many months and has identified a further small percentage of places which were omitted from, or incorrectly graded in the exhibited Amendment C258 inventory. - All submissions and expert evidence have also been reviewed to ensure that all comments in relation to places which were omitted from or incorrectly graded in the inventory have been addressed. - It is recommended that the further small percentage of places (as discussed above) which were omitted from or incorrectly graded in the exhibited C258 inventory retain their current A-D grading. They should then be reviewed by the heritage adviser who undertook the Amendment C258 grading conversion, and be the subject of a new amendment (with full exhibition) to convert the gradings from A-D to Significant / Contributory. In order for this to be able to work, it will be necessary to retain the (current) heritage policies which deal with the A-D grading system. These policies will be required in addition to the proposed Amendment C258 policies, until a review has been

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				<p>undertaken and the new Significant/Contributory/Non-Contributory category system has been applied to these properties.</p> <p>The following changes should be made to Amendment C258:</p> <ul style="list-style-type: none"> - Remove the properties referred to above from the exhibited C258 Heritage Inventory and retain their grading in the existing Heritage Places Inventory (renamed Heritage Places Inventory 2020 Part B). - Retain the existing Clauses 22.04 and 22.05 in the Planning Scheme. <p>The following changes should be considered within a future amendment:</p> <ul style="list-style-type: none"> - Update the Schedule to Clause 43.01 and the maps to remove properties identified as demolished in the City of Melbourne’s Part B submission to the Panel. - Review properties with the retained A-D gradings in the Heritage Places Inventory 2020 Part B, introduce ‘Significant/Contributory/Non-contributory’ categories for these properties and remove the retained existing policies (Part B)
8. That the Council consider how best to resolve any discrepancy in the way places are identified in the Inventory and the schedule to Clause 43.01, and consider adding more usual street addresses and	Section 6.4.2, page 73	The Panel supports the use of a standardised addressing system in the inventory. However, it notes that in some cases the address used in the City of Melbourne property database –	Accept in part.	<ul style="list-style-type: none"> - Upon investigation before the Panel hearing it was found that many of the “errors” in the Inventory were due to the known address of a property and the address in Council’s GIS database being different. - The City of Melbourne is undertaking a Heritage Data Project to enhance the way heritage data is managed and to ensure it can be effectively maintained as sites are subdivided and consolidated and updated as heritage reviews are undertaken.

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<p>second addresses for corner properties as 'also known as' addresses to some properties in the Inventory.</p>		<p>which is the basis of the standardised addressing system – is not the street address in everyday use. It notes that there were a number of submissions in relation to this issue. The Panel also notes that the Carlton Residents Association submitted that there were inconsistencies in the way places are numbered in the schedule to Clause 43.01 and in the inventory.</p>		<p>This is a comprehensive project which includes spatialising the inventory to allow it to be mapped and to allow it to be cross-referenced to the Heritage Overlay and the Victorian Heritage Register.</p> <ul style="list-style-type: none"> - The City of Melbourne will resolve discrepancies in the way places are identified in the Inventory and the schedule to Clause 43.01 as part of the Heritage Data Project. - The City of Melbourne will review adding more usual street addresses and second addresses for corner properties as 'also known as' addresses as part of the Heritage Data Project.
<p>9. That the definitions for the categories of Individual Heritage Place, Contributory Heritage Place and Non-contributory property be revised generally as shown in Appendix D.</p>			<p>Reject</p>	<p>Refer to response to recommendation 1</p>
<p>10. That the Statements of Significance for the six large heritage precincts, as revised by the Council at its meeting on 20 February 2018, with the additions</p>	<p>Section 7, page 76</p>	<p>The Panel noted the general support for the proposed precinct-wide Statements of Significance.</p>	<p>Accept</p>	<p>The following changes should be made to Amendment C258:</p> <ul style="list-style-type: none"> - Revise the Statements of Significance for the six large heritage precincts, as revised by Council at its meeting on 20 February 2018, with the additions recommended by Ms Brady in her evidence to the Panel. See tracked changes version at Attachment 4.

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recommended by Ms Brady in her evidence to the Panel, be adopted.				
11. That the Statements of Significance for the places identified in the West Melbourne Heritage Review be reviewed and re-drafted as necessary to comply with the format recommended in PPN01.	Section 8 Page 86	The Panel stated that a number of Statements of Significance do not comply with the guidance in PPN01, with the main problem being the extensive extracts from the history and description of the place being included in the “What is Significant” section which will not be useful when analysing proposals for changes to these properties	Accept	<p>The following changes should be made to Amendment C258:</p> <ul style="list-style-type: none"> - Update the West Melbourne Statements of Significance in line with the Panel recommendation. See tracked changes version at Attachment 4. - Update the title of the West Melbourne Statements of Significance to West Melbourne Heritage Review 2016: Statements of Significance 2019 to reflect that they have been updated. See tracked changes version at Attachment 4. - Remove from the West Melbourne Heritage Review 2016: Statements of Significance 2019 five places which have since been demolished namely: <ul style="list-style-type: none"> o 2 Hawke Street, West Melbourne o 511 King Street, West Melbourne o 488-494 La Trobe Street, West Melbourne o 109-133 Rosslyn Street, West Melbourne o 187 Stanley Street, West Melbourne
12. That the Heritage Inventory be amended to remove places that are not covered by the Heritage Overlay.	Section 10.18, page 132	The Panel noted that the method for preparing the updated inventory for Amendment C258 included removing properties which are not in the heritage inventory. Panel supported this, but noted that some submissions had	Accept	<p>Properties that are not within the heritage overlay do not have protection and therefore the following change should be made to Amendment C258:</p> <ul style="list-style-type: none"> - Update the inventory to remove properties which are not in a Heritage Overlay.

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		identified properties which were not in the heritage overlay but had inadvertently been included in the inventory.		
13. That, before progressing the Amendment further, the Council reviews the extent of inconsistency between heritage places as depicted on the Planning Scheme maps, the addresses in the schedule to Clause 43.01 and the proposed Heritage Inventory, and determines the availability of an appropriate statutory path to overcome the inconsistencies.	Section 11.9, page 145	The Panel noted that there is also potential for inconsistencies between corrected addresses in the revised inventory and the addresses used in the schedule to Clause 43.01.	Accept in part	<ul style="list-style-type: none"> - Management notes that there are some inconsistencies between the listing of places in the revised inventory and the places shown on the Heritage Overlay maps of the Planning Scheme. These are generally pre-existing mapping errors which were not within the scope of Amendment C258 but will be addressed when heritage reviews or the Heritage Data Project are undertaken. - For example, inconsistencies of this nature as identified by the Carlton Residents Association are being addressed through the Carlton Heritage Review which is currently underway. The Carlton Heritage Review will be implemented through a Planning Scheme Amendment which will be undertaken after gazettal of Amendment C258. - The City of Melbourne will address inconsistencies between the listing of places in the revised inventory, addresses in the schedule to Clause 43.01 and the places shown on the Heritage Overlay maps through the Heritage Data Project or as part of current or forthcoming heritage reviews.

2. Individual place recommendations – West Melbourne

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<p>14. That the agreed incorporated plan for the Melbourne Assessment Prison at 317 Spencer Street, West Melbourne, be included in the Planning Scheme via this Amendment.</p>	<p>Section 9 Page 89</p>	<p>The City of Melbourne responded to the Melbourne Assessment Prison submission at the Hearing. It agreed to including the proposed incorporated document into the Planning Scheme.</p> <p>This will provide permit exemptions and relieve the Department of Justice the burden of obtaining permits for largely internal changes at the prison, without having a detrimental impact on the significance of the place.</p> <p>The Panel agreed that the use of an incorporated document with permit exemptions is an appropriate way to facilitate the operational requirements of the prison while protecting key elements of significance.</p>	<p>Accept</p>	<p>Agree with the introduction of the incorporated plan as provided with the evidence for the Melbourne Assessment Prison.</p> <p>The following changes should be made to Amendment C258:</p> <ul style="list-style-type: none"> - Update schedule to 72.04 to introduce the Melbourne Assessment Prison incorporated plan. - Update the Schedule to clause 43.01 Heritage Overlay to identify that HO1195 has an incorporated plan.

Recommendation	Panel Report Reference	Summary	Accept / Reject	Management Response and Rationale
15. That the Statement of Significance for the Melbourne Assessment Prison at 317 Spencer Street, West Melbourne, be amended generally in accordance with Mr Gard'ner's evidence at the Panel Hearing.	Section 9 Page 89	At the Hearing the City of Melbourne agreed to adjusting the Statement of Significance for the Melbourne Assessment Prison in accordance with Mr Gard'ner's suggestions: to delete the names of notorious prisoners, correct the name of the place and not ascribe a streetscape grading.	Accept	Management agrees that the Statement of Significance for 317-353 Spencer Street, West Melbourne be amended generally in accordance with Mr Gard'ner's evidence at the Panel Hearing. The following changes should be made to Amendment C258: <ul style="list-style-type: none"> - Update the Statement of Significance for 317 Spencer Street, West Melbourne in the Incorporated Document, West Melbourne Heritage Review: Statements of Significance Document 2016 in accordance with Mr Gard'ner's evidence at the Panel Hearing.
16. That the Melbourne Assessment Prison at 317 Spencer Street, West Melbourne be included in the Heritage Places Inventory as an Individual Heritage Place.	Section 9 Page 89	The Panel does not support the listing of the place as 'Significant' in the Inventory, however, as it considers the appropriate classification would be as an 'Individual Heritage Place'	Reject	No changes should be made in relation to the Panel's recommendation to classify this place as an Individual Heritage Place in the Inventory. See response to Panel Recommendation No. 2.
17. That Amendment C258 delete reference to Festival Hall, unless it is accepted that the Amendment can be used to give effect to its inclusion in a Heritage	Section 9 Page 91	Festival Hall (272-306 Dudley Street, West Melbourne) was assessed as part of the West Melbourne Heritage Review, however it has	Accept	Under section 56 of the Heritage Act 2017, Amendment C298 updated the Schedule to 43.01 Heritage Overlay to identify that this place is on the VHR. The following changes should be made to

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<p>Overlay under section 56 of the Heritage Act 2017.</p>		<p>since been added to the Victorian Heritage Register (VHR) as a State significant place. The Statement of Significance adopted by the Heritage Council has superseded the Statement of Significance prepared for the West Melbourne Heritage Review.</p>		<p>Amendment C258:</p> <ul style="list-style-type: none"> - Replace the Statement of Significance for Festival Hall in the Incorporated Document West Melbourne Heritage Review – Statements of Significance 2016, with a reference to the VHR Statement. - Update the Amendment maps to no longer show this property as an addition through C258.
<p>18. That the proposed designation of the two properties at 159-163 Roden Street, West Melbourne as a heritage precinct not proceed.</p>	<p>Section 9 Page 93</p>	<p>Recommendations 18-20 relate to 159-163 Roden Street, West Melbourne.</p> <p>The proposal to include these two properties as a precinct is not supported by the Panel. The appropriate course would be either to identify the pair as one 'Individual Heritage Place' or as two 'Individual Heritage Places' and provide a Statement of Significance that reflects the identifiable importance of the places.</p>	<p>Accept</p>	<p>Management agrees that HO843, which applies to two properties at 159-161 Roden Street and 163-165 Roden Street, should be considered as an individual heritage place with two buildings as opposed to a precinct.</p> <p>The following changes should be made to Amendment C258:</p> <ul style="list-style-type: none"> - Update the Incorporated Document, West Melbourne Heritage Review 2016: Statements of Significance to combine the statements of significance for 159-161 Roden Street and 163-165 Roden Street into a single Statement of Significance.

Recommendation	Panel Report Reference	Summary	Accept / Reject	Management Response and Rationale
19. That the two properties at 159-163 Roden Street, West Melbourne be designated as an Individual Heritage Place in the Heritage Inventory.	Section 9 Page 93	As indicated in Chapter 4 of the Panel Report, the properties should be identified as one or two 'Individual Heritage Places' with the Statement of Significance referencing what is important about the properties.	Reject	Management supports the recognition of HO843 as an individually significant heritage place, with two contributory buildings and relies on the evidence of Graeme Butler. Built around 1867, it is amongst the oldest 10% of surviving house rows in West Melbourne. The evidence of Mr Bryce Raworth, acting for the submitter, indicates the house at 163 Roden Street is earlier than previously understood, increasing the significance of the two houses, which present as a row despite having been constructed individually. The following change should be made to Amendment C258: <ul style="list-style-type: none"> - Update the Inventory to show the Contributory category for each property.
20. The Statement/s of Significance for the properties at 159-163 Roden Street, West Melbourne be revised to appropriately recognise the physical characteristics that are of importance to the place.	Section 9 Page 97	The Panel highlighted that, in the citation for these properties, Mr Butler placed considerable importance on the occupancy of these places by two train drivers, Hulse and Haddon, even though their occupancy was relatively brief. The Panel concluded that this is not a basis for the application of the Heritage Overlay but	Accept	Management agree with this recommendation. The content of this Statement should be revised to focus on the physical characteristics that are of importance to the place. Information deleted from the Statement of Significance will remain in the West Melbourne Heritage Review by Graeme Butler which is a Reference Document in the Scheme. The following changes should be made to Amendment C258: <ul style="list-style-type: none"> - Update the West Melbourne Heritage Review 2016: Statements of Significance

Recommendation	Panel Report Reference	Summary	Accept / Reject	Management Response and Rationale
		that there is value in the physical form of these cottages and the Statement of Significance should be revised to focus on this.		Incorporated Document to remove the extent of background information and focus on the physical characteristics that are of importance to the place.
21. That the Heritage Inventory be amended to identify 164-184 Roden Street (Briscoe and Co ironmongers warehouse complex) as Contributory to the North and West Melbourne Heritage Precinct.	Section 9 Page 99	At the Panel, Council submitted that, in line with Mr Butler’s evidence, 164-170 Roden Street should be identified as Contributory and 172-184 Roden Street be identified as Significant and that the current three Statements of Significance be combined into one Statement.	Accept in part	<p>Management agrees that 164-170 Roden Street and 172-184 Roden Street should be considered as two heritage buildings in the inventory, as opposed to a precinct, with each address listing also having the name of the complex included, “Briscoe and Co Ironmongers warehouse”.</p> <p>The inventory is based on City of Melbourne’s property database and includes a line for each property in the Heritage Overlay, rather than a line for each heritage place.</p> <p>The following changes should be made to Amendment C258:</p> <ul style="list-style-type: none"> - In the Heritage Places Inventory, the listing for 164-184 Roden Street, should be listed as two separate entries with 164-170 Roden Street as Contributory and 172-184 Roden Street as Significant, and the name of the complex included, “Briscoe and Co Ironmongers warehouse”. - in the Incorporated Document West Melbourne Heritage Review – Statements of Significance

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				<p>2016, the statements of significance for these places should be combined into one Statement</p> <p>No changes have been made in relation to the Panel's recommendation to classify both places as Contributory, which relates to Panel Recommendation No. 2. Please see the response to that recommendation for further detail.</p>
<p>22. That the Significant gradings attached to buildings in the terrace row at 37 – 49 Hawke Street, West Melbourne be deleted.</p>	<p>Section 9 Page 101</p>	<p>A submission was made by the owner of 43 Hawke Street, who took issue with the proposal to grade his property Contributory when adjoining near-identical (albeit altered) terrace houses were graded Significant.</p> <p>Mr Butler's justification for recommending a lower grading for this property was that it had been restored in a conjectural manner.</p> <p>The Panel believes there was no reason to single out the subject property as being less important to the precinct than its</p>	<p>Reject</p>	<p>No change. Because of the degree of restoration work that has been undertaken to 43 Hawke Street since the West Melbourne Heritage Review 2016 was prepared, Council's expert advises that the building has been altered to such an extent that classification as a Significant building is not considered appropriate.</p> <p>Given 43 Hawke Street is not part of a twin or house row of the same construction, it is considered Contributory to the HO3 precinct</p>
<p>23. That the Heritage Inventory be amended to identify the terrace row 37 – 49 Hawke Street as Contributory to the Precinct.</p>	<p>Section 9 Page 101</p>	<p>The Panel believes there was no reason to single out the subject property as being less important to the precinct than its</p>	<p>Reject</p>	<p>No change. In relation to the Panel's recommendation on the grading system in Heritage Precincts, see response to Panel Recommendation No. 2.</p>

Recommendation	Panel Report Reference	Summary	Accept / Reject	Management Response and Rationale
		<p>neighbouring terraces.</p> <p>It is the Panel's opinion that there is no need for the Significant grading to be applied in precincts. Rather, all places should be considered Contributory to the particular precincts they are in, with the significance of particular places referred to in their statement of significance</p>		
<p>24. That the property at 152 – 160 Miller Street, West Melbourne be included in the Heritage Inventory as an Individual Heritage Place and the designation as Significant be removed.</p>	<p>Section 9 Page 103</p>	<p>The submitter argued that there was no justification provided for upgrading the property from C to Significant.</p> <p>The Council responded that the re-grading was based on the adopted conversion methodology.</p> <p>The Panel's recommendation in relation to this property was based on Panel Recommendation No. 2 that all places in an Individual Heritage</p>	<p>Reject</p>	<p>No change. In relation to the Panel's recommendation on the grading system for individual Heritage Overlays, see response to Panel Recommendation No. 2.</p>

Recommendation	Panel Report Reference	Summary	Accept / Reject	Management Response and Rationale
		Overlays should be listed in the inventory as an Individual Heritage Place rather than as Significant		
25. That the Statement of Significance for 152-160 Miller Street, West Melbourne be reviewed to ensure that it reflects the conclusions and recommendations of the Amendment C207 Panel.	Section 9 Page 103	The Panel concluded that the importance of the building needed to be appropriately addressed in the Statement of Significance for this place and on this matter the Panel accepted the recommendation provided by the Amendment C207 Panel which was that, "The Statement of Significance be adjusted to emphasise aesthetic importance rather than historic or associational values".	Accept	As the Statement of Significance referred to was not part of Amendment C258, Management recommends that the Statement of Significance for this place be updated as part of a future amendment.
26. That the Council correct the mapping and Inventory listings for the properties at 210 and 138-140 Stanley Street, West Melbourne, before the Amendment is adopted by the Council.	Section 9 Page 104	The submission for 210 Stanley Street challenged the grading of Contributory as listed in the review and argued that the building has limited architectural and historical interest The Panel concluded that there is sufficient evidence	Accept	210 Stanley Street is mapped as being subject to HO471, but this is an error that pre-existed Amendment C258 as HO471 should apply to 138-140 Stanley Street which is as it is listed in the existing Schedule to the Heritage Overlay. The following changes should be made to Amendment C258: - For 210 Stanley Street, on the Planning Scheme Map remove HO471 and replace

Recommendation	Panel Report Reference	Summary	Accept / Reject	Management Response and Rationale
		<p>to support the Contributory designation proposed for this property as part of the North and West Melbourne Heritage Precinct (HO3).</p> <p>The Council agreed with the submitter in relation to the incorrect mapping of the place although submitted that the Contributory designation should remain.</p>		<p>with HO3.</p> <ul style="list-style-type: none"> - For 138-140 Stanley Street on the Planning Scheme Map add HO471.
<p>27. That the Heritage Inventory be amended to replace the Significant designation of 101–107 Rosslyn Street, West Melbourne with Individual Heritage Place.</p>	<p>Section 9 Page 107</p>	<p>The Panel's recommendation in relation to this property was based on Panel Recommendation No. 2 that all places in an Individual Heritage Overlay should be listed in the inventory as an Individual Heritage Place rather than as Significant</p>	<p>Reject</p>	<p>No change. In relation to the Panel's recommendation on the classification of places in an individual Heritage Overlay, see response to Panel Recommendation No. 2.</p>
<p>28. That the Statement of Significance for 101 – 107 Rosslyn Street, West Melbourne be amended to appropriately reflect what is</p>		<p>The submission in relation to this property indicated that the demolition of adjoining factories had diminished the significance</p>	<p>Accept</p>	<p>The City of Melbourne supported Mr Butler's recommendation made at Panel that the Statement of Significance be revised to reflect the demolition of the neighbouring building at 109-133 Rosslyn Street.</p>

Recommendation	Panel Report Reference	Summary	Accept / Reject	Management Response and Rationale
of value about the place.		of this place. The Panel agreed with Council that the place still warranted an individual heritage overlay but that given the demolition of 109-133 Rosslyn Street the Statement of Significance needs to be adjusted to remove reference to that property.		<p>The following changes should be made to Amendment C258:</p> <ul style="list-style-type: none"> - In the Incorporated Document West Melbourne Heritage Review – Statements of Significance 2016, the Statement of Significance for 109-133 Rosslyn Street should be deleted - In the Incorporated Document West Melbourne Heritage Review – Statements of Significance 2016, the Statement of Significance for 101-107 Rosslyn Street be amended to remove reference to 101-107 Rosslyn Street. - Update the Schedule to Clause 43.01 to no longer show 109-133 Rosslyn Street as a new entry. - Update the Amendment maps to no longer show 109-133 Rosslyn Street as an addition.
29. That the Heritage Inventory be amended to designate 62 Walsh Street, West Melbourne as Contributory.	Section 9 Page 107	It was submitted to the Panel that 62 Walsh Street, West Melbourne should be designated Contributory rather than Significant. The Panel recommends 62 Walsh Street be included in the Inventory as Contributory,	Reject	No change. In relation to the Panel’s recommendation on the grading system in Heritage Precincts, see response to Panel Recommendation No. 2

Recommendation	Panel Report Reference	Summary	Accept / Reject	Management Response and Rationale
		giving as explanation that the property is in a precinct, which reiterates Panel Recommendation No. 2.		
30. That the designations of Contributory and Significant be deleted from the Heritage Places Inventory for the properties at 437 and 441 Spencer Street, West Melbourne and be replaced with the designation Individual Heritage Place for the pair.	Section 9 Page 107	<p>The submission advised that:</p> <ul style="list-style-type: none"> • The owner has a valid permit which allows demolition of the buildings at 437-441 Spencer Street. • The significance of the buildings does not warrant the proposed designations in the Heritage Places Inventory. <p>The City of Melbourne submitted that despite the extant permit, the proposed designations of Contributory for 437 Spencer Street, Significant for 441 Spencer Street and Significant for the pair (437-441) should stand.</p>	Accept in part	<p>In relation to the Panel’s recommendation on the classification of places in an individual Heritage Overlay, see response to Panel Recommendation No. 2.</p> <p>Management agrees that the Statements of Significance for the properties at 437 and 441 Spencer Street, West Melbourne should be combined into one statement.</p> <p>The following change should be made to Amendment C258:</p> <ul style="list-style-type: none"> - In the Incorporated Document West Melbourne Heritage Review – Statements of Significance 2016, the statements of significance for 437 and 441 Spencer Street, West Melbourne be combined into one Statement.
31. That the Heritage Inventory, Heritage Overlay map and	Section 9 Page 113	The Council informed the Panel that, following the	Accept	Management agrees with removing this property from the Heritage Overlay.

Recommendation	Panel Report Reference	Summary	Accept / Reject	Management Response and Rationale
<p>the Schedule to Clause 43.01 be amended to delete reference to 488-494 La Trobe Street, West Melbourne and proposed HO1190.</p>		<p>exhibition of the Amendment, this property was demolished (with relevant approvals). As a consequence, the Amendment should be amended to reflect the fact that the building no longer exists</p>		<p>The following changes should be made to Amendment C258:</p> <ul style="list-style-type: none"> - Schedule 43.01, Map 8HO, and the West Melbourne Heritage Review 2016: Statements of Significance and the Heritage Places Inventory Incorporated documents should be amended to remove reference to 488-494 La Trobe Street.
<p>32. That the property at 17-37 Abbotsford Street, West Melbourne, be designated as an Individual Heritage Place in the Heritage Inventory.</p>	<p>Section 9 Page 113</p>	<p>The submission stated that the building lacks sufficient architectural and historical significance to warrant the application of the Heritage Overlay (HO1178).</p> <p>The City Of Melbourne reiterated the findings of the West Melbourne Heritage Review that the building is a substantial interwar factory of aesthetic and historical significance.</p> <p>The Panel agrees with the submissions of the Council and believes that the place is a distinctive building constructed for an</p>	<p>Reject</p>	<p>No change. In relation to the Panel's recommendation on the classification of places in an individual Heritage Overlay, see response to Panel Recommendation No. 2.</p>

Recommendation	Panel Report Reference	Summary	Accept / Reject	Management Response and Rationale
		<p>important West Melbourne manufacturing business (J Gadsden Pty Ltd).</p> <p>Consistent with the Panel recommendations in Chapter 4 of this Report, the place should be designated as an Individual Heritage Place rather than Significant in the Heritage Inventory and its historical and aesthetic importance should be clearly described in the Statement of Significance.</p>		
<p>33. That 28 Batman Street, West Melbourne be deleted from the Heritage Inventory.</p>	<p>Section 9 Page 118</p>	<p>The property owners submitted that the 28 Batman Street should not be included in Amendment C258 as it is not included in a Heritage Overlay.</p>	<p>Accept</p>	<p>The inventory is intended to record the heritage classification of places in a Heritage Overlay. As 28 Batman Street is not included in a Heritage Overlay, the City of Melbourne agreed with this submission at the Panel Hearing and Management recommend the place be removed from the inventory.</p> <p>The following changes should be made to Amendment C258:</p> <ul style="list-style-type: none"> - Update the Heritage Places Inventory Incorporated document to remove reference to 28 Batman Street, West Melbourne.
<p>34. That the property at 2 Hawke Street, West</p>	<p>Section 9 Page 120</p>	<p>The submission advised that the building has been</p>	<p>Accept</p>	<p>Management agree with removing this property from the Heritage Overlay.</p>

Recommendation	Panel Report Reference	Summary	Accept / Reject	Management Response and Rationale
Melbourne should be removed from the Heritage Places Inventory.		demolished and therefore should not be included in the Inventory.		The following changes should be made to Amendment C258: <ul style="list-style-type: none"> - Update the West Melbourne Heritage Review 2016: Statements of Significance and the Heritage Places Inventory Incorporated documents to remove reference to 2 Hawke Street, West Melbourne.

3. Individual place recommendations – Central City

Recommendation	Panel Report Reference	Summary	Accept / Reject	Management Response and Rationale
<p>35. That the listing of 655 & 661–667 Bourke Street, Melbourne (former Hudson’s Store) be deleted from the Heritage Inventory and 655 Bourke Street, Melbourne, be listed as an Individual Heritage Place in the Heritage Inventory.</p>	<p>Section 10.1, page 119-120</p>	<p>The submitter requested that the significant grading be applied to 655 Bourke Street only, noting that the property in question, 655-677 Bourke Street, contains the former Hudson’s Store at 655 Bourke Street and a modern office building at 661 Bourke Street. The Panel notes that it was advised by letter that the owner and the City of Melbourne had reached agreement that only the former Hudson’s store at 655 Bourke Street would be listed as significant in the inventory.</p>	<p>Accept in part</p>	<p>Reject the panel recommendation to record this property as an Individual Heritage Place, see response to recommendation number 2.</p> <p>We note that the listing in the exhibited C258 Heritage Places Inventory refers to 661 -667 Bourke Street rather than 655 & 661-667 Bourke Street.</p> <p>The following change should be made to Amendment C258:</p> <ul style="list-style-type: none"> - Update the Heritage Places Inventory to reflect that the heritage place – the former Hudson’s store – is located at 655 Bourke Street.
<p>36. That the Heritage Places Inventory be amended to record 650 Elizabeth Street, Melbourne as Contributory.</p>	<p>Section 10.3, page 120-121</p>	<p>This recommendation relates to submission 57. The submitter argued that 650 Elizabeth Street does not warrant a significant grading. The Panel did not comment on the level of heritage significance of this place but recommended that it be classified as contributory because it is located in a heritage precinct.</p>	<p>Reject</p>	<ul style="list-style-type: none"> - At the hearing the conversion methodology of the consultants who had undertaken the City North Heritage Review with regard to the conversion of ‘C’ grade properties in precincts to Significant, was questioned as it was not included in the Review itself but in the panel evidence prepared by the consultants for the Review. In response, and as set out in the City of Melbourne’s Part C submission, it is proposed that C grade buildings in precincts in City North be treated in the same way as the Lovell Chen conversion methodology that was used throughout other suburbs, and accordingly be the subject of further assessment. For these properties, the listing in the existing Inventory will continue to apply until the

Recommendation	Panel Report Reference	Summary	Accept / Reject	Management Response and Rationale
				<p>further work has been undertaken.</p> <p>The following changes should be made to Amendment C258:</p> <ul style="list-style-type: none"> - Remove 650 Elizabeth Street from Amendment C258. - Retain the grading of C graded properties in City North precincts and of D graded individual heritage places by removing them from the exhibited Heritage Inventory. - Retain the existing heritage policies at Clauses 22.04 and 22.05 in the Melbourne Planning Scheme. <p>The following change should be considered through a future amendment:</p> <ul style="list-style-type: none"> - Review properties with the retained A-D gradings in the Heritage Places Inventory 2020 Part B, introduce ‘Significant/Contributory/Non-contributory’ categories for these properties and remove the retained existing policies (Part B)
37. That 543-547 Elizabeth Street, Melbourne, be recorded as Contributory in the Heritage Places Inventory.	Section 10.4, page 121	<p>This recommendation relates to submission 87. The submitter argued that 543-547 Elizabeth Street does not warrant a significant grading.</p> <p>The Panel did not comment on the level of heritage significance of this place but recommended that it be classified as contributory because it is located in a heritage precinct.</p>	Reject	<ul style="list-style-type: none"> - As set out in the City of Melbourne’s Part C submission, it is proposed that C grade buildings in precincts in City North be treated in the same way as the Lovell Chen conversion methodology throughout other suburbs, and accordingly be the subject of further assessment . For these properties, the listing in the existing Inventory will continue to apply until the further work has been undertaken. <p>The following changes should be made to Amendment C258:</p> <ul style="list-style-type: none"> - Remove 543-545 and 547-549 Elizabeth Street from Amendment C258. - Retain the grading of C graded heritage places in City

Recommendation	Panel Report Reference	Summary	Accept / Reject	Management Response and Rationale
				<p>North precincts and of D graded individual heritage places by removing them from the exhibited Heritage Inventory.</p> <ul style="list-style-type: none"> - Retain the existing heritage policies at Clauses 22.04 and 22.05 in the Melbourne Planning Scheme. <p>The following change should be considered through a future amendment:</p> <ul style="list-style-type: none"> - Review properties with the retained A-D gradings in the Heritage Places Inventory 2020 Part B, introduce ‘Significant/Contributory/Non-contributory’ categories for these properties and remove the retained existing policies (Part B)
<p>38. That the Council adopt the Incorporated Plan for The Walk Arcade, Bourke Street, Melbourne agreed with the submitter and amend the Planning Scheme accordingly.</p>	<p>Recommendations 38 and 39 relate to section 10.5, pages 121-122</p>	<p>These recommendations relate to submission 77 on behalf of Bardsville, the proprietor of The Walk Arcade. The submitter argued that it was not appropriate for the significant heritage grading to apply to the whole of the Walk Arcade site. The submitter also argued that it was not appropriate for the gradings to be reviewed as part of the Hoddle Grid Heritage Review.</p>	<p>Accept in part</p>	<ul style="list-style-type: none"> - This approach of applying separate gradings to each of the buildings that comprise the Walk Arcade was supported in submissions on behalf of Bardsville and by the City of Melbourne during the panel hearing. - Management rejects the panel recommendation to record two buildings within this property as individual heritage places; see response to recommendation number 2. <p>The following change should be made to Amendment C258:</p> <ul style="list-style-type: none"> - Update the Heritage Inventory in accordance with the image below.
<p>39. That 313-317 and 323-325 Bourke Street, Melbourne, be identified as Individual Heritage</p>		<p>The Panel noted that discussions between the submitter and Council had resolved the grading issues.</p>	<p>Reject</p>	

Recommendation	Panel Report Reference	Summary	Accept / Reject	Management Response and Rationale
Places in the Incorporated Plan and Heritage Places Inventory.				
Bourke Street		<p>The Walk' complex, 309-325, includes:</p> <ul style="list-style-type: none"> ▪ 313-317 (former Diamond House) ▪ 323-325 (former Public Bootery) ▪ 288-290 Little Collins Street (former Book Buildings) ▪ 292-296 Little Collins Street (former York House) ▪ 300-302 Little Collins Street (Allan's Building, also Sonara House) 	<p>Significant</p> <p>Significant</p> <p>Contributory</p> <p>Contributory</p> <p>Contributory</p>	<p>-</p> <p>-</p> <p>-</p> <p>-</p> <p>-</p>

4. Individual place recommendations – Carlton

Recommendation	Panel Report Reference	Summary	Accept / Reject	Management Response and Rationale
40. That the Heritage Places Inventory be amended to include the building at 15-17 Lincoln Square South, Carlton as 'Contributory' to the Lincoln Square South Heritage Precinct (HO1122).	Section 10 Page 125	Mr Riordan argued there was no justification for the translation of 15-17 Lincoln Square South from C to Significant but did not oppose a translation to Contributory. The Panel discussion in the report touched on this opposition to an 'upgrading' but refers its decision back to its comments on methodology and translation as a solution.	Reject	<p>As set out in the City of Melbourne's Part C submission, it is proposed that C grade buildings in precincts in City North be treated in the same way as the Lovell Chen conversion methodology for other suburbs, and accordingly be the subject of further assessment. For these properties, the existing grading should continue to apply until a review of C graded buildings in City North and all D graded individual heritage places is undertaken.</p> <p>The following changes should be made to Amendment C258:</p> <ul style="list-style-type: none"> - Remove 15-17 Lincoln Square South from Amendment C258. - Retain the grading of C graded heritage places in City North precincts and of D graded individual heritage places by removing them from the exhibited Heritage Inventory. - Retain the existing heritage policies at Clauses 22.04 and 22.05 in the Melbourne Planning Scheme. <p>The following change should be considered through a future amendment:</p> <ul style="list-style-type: none"> - Review properties with the retained A-D gradings in the Heritage Places Inventory 2020 Part B, introduce



Recommendation	Panel Report Reference	Summary	Accept / Reject	Management Response and Rationale
				‘Significant/Contributory/Non-contributory’ categories for these properties and remove the retained existing policies (Part B)
41. That the Heritage Places Inventory be amended to include 90-104 Berkeley Street Carlton, as an Individual Heritage Place.	Section 10 Page 127	The submission and evidence opposed the translation of this place from C to Significant under the new grading system and the impact of the new policy on the property. The Panel discussion in the report touched on this opposition to an ‘upgrading’ but refers its decision back to its comments on methodology and translation as a solution.	Reject	Management does not recommend making changes to this place in response to the Panel report. In relation to the Panel’s recommendation on the classification of places in an individual Heritage Overlay, see response to Panel Recommendation No. 2.
42. That the University of Melbourne properties in precincts be re-graded in the Inventory as Contributory and those outside precincts as Individual Heritage Places, and, where possible, current errors and anomalies identified by Mr Raworth in his evidence for the University of Melbourne at the Panel Hearing should		The Panel recommends that across the entire municipality all properties within precincts be re-graded to contributory and those outside precincts as individual heritage place. This recommendation is restated for Melbourne University properties to address concerns raised by this submitter at the	Accept in part	Management rejects the proposal to re-grade all properties within precincts to contributory and those outside precincts as individual heritage places for the reasons outlined under Recommendation 2. Some of the anomalies identified by Mr Raworth in this evidence will be corrected as part of this Amendment. Others will be corrected as part of a future amendment. With regard to the Richard Berry Building and the Agriculture and Forestry building, these will be



Recommendation	Panel Report Reference	Summary	Accept / Reject	Management Response and Rationale
be corrected.		Panel. Melbourne University were specifically concerned that some of their C and D graded buildings had been identified as significant and that the new heritage policies were more restrictive for significant buildings than for C and D graded places under the existing Clause 22.05.		<p>subject to a review, together with all D graded individual heritage places.</p> <p>The following changes should be made to Amendment C258:</p> <ul style="list-style-type: none"> - Amend the Inventory to delete 784-786 Swanston Street, Carlton as this building has been demolished. - Amend the Inventory to delete 623-629 Swanston Street as it is not included within the heritage overlay. - Amend the Inventory to delete 631-645 Swanston Street as it has been demolished (not specifically requested in expert evidence). - Amend the Inventory to list 213 and 215 Grattan Street separately, and identify 213 Grattan Street as contributory (previously graded D), and retain the C grading of 215 Grattan Street by removing it from the exhibited Inventory. - Amend the Inventory to list 21-23, 25 and 27 Royal Parade separately and show 21-23 Royal Parade as significant (previously graded A) and 25 and 27 Royal Parade as contributory (previously graded C). - Amend the Inventory to delete the Squash

Recommendation	Panel Report Reference	Summary	Accept / Reject	Management Response and Rationale
				<p>Courts, Trinity College, as they have been demolished.</p> <ul style="list-style-type: none"> - Retain the D grading of the Richard Berry Building and the Agriculture and Forestry building by removing them from the exhibited Heritage Inventory. - Retain the existing heritage policies at Clauses 22.04 and 22.05 in the Melbourne Planning Scheme. <p>The following changes to address errors and anomalies which pre-existed Amendment C258 should be considered within a future amendment:</p> <ul style="list-style-type: none"> - Delete HO117 (784-786 Swanston Street, Carlton) from the Schedule to the Heritage Overlay and maps as this building has been demolished. - Delete HO354 (Trinity College Squash Courts) from the Schedule to the Heritage Overlay and maps as this building has been demolished. - Correct the mapping for HO316 'Former Police State Complex' (155 Royal Parade, Parkville) to remove that part of this overlay erroneously applying to part of a building on the University's Parkville Campus. - Correct the Schedule to the Heritage

Recommendation	Panel Report Reference	Summary	Accept / Reject	Management Response and Rationale
				<p>Overlay, mapping and Inventory for HO333 'Cricket Pavilion and Scoreboard' (University of Melbourne).</p> <ul style="list-style-type: none"> - Include the Leeper and Bishops Buildings (both previously graded A) and Dining Hall on the Trinity College site within a heritage overlay. <p>The following change should be considered through a future amendment:</p> <ul style="list-style-type: none"> - Review properties with the retained A-D gradings in the Heritage Inventory Part B, introduce 'Significant/Contributory/Non-contributory' categories for these properties and remove the retained existing policies (Part B).
<p>43. That reference in the Inventory to streetscape gradings associated with the University of Melbourne properties should be deleted as for all other places.</p>		<p>The Panel recommends that streetscape gradings are abandoned across the entire municipality. This recommendation is restated for Melbourne University properties to address concerns raised by this submitter at the Panel. Melbourne University submitted that streetscape gradings were inappropriate given the</p>	<p>Accept in part</p>	<p>Management disagrees with the deletion of streetscape gradings across the City for the reasons outlined under Recommendation 5. However, removal of streetscape gradings for buildings that do not face a public street on the University of Melbourne's Parkville Campus is appropriate.</p> <p>Several buildings on the University of Melbourne Parkville campus with a significant streetscape grading are not visible from a public street. Management recommends that the streetscape gradings for these buildings are deleted given that additions or new buildings constructed within the</p>



Recommendation	Panel Report Reference	Summary	Accept / Reject	Management Response and Rationale
		mixed built form setting of their campus.		<p>campus will not impact a public street.</p> <p>The following changes should be made to Amendment C258:</p> <ul style="list-style-type: none"> - Removal of significant streetscape gradings for the following places: <ul style="list-style-type: none"> o Part of the Former Melbourne Teachers College (Frank Tate) (HO988) o Beaurepaire Centre (HO326) o Colonial Bank Door (HO342) o Underground Car Park (HO342) o Wilson Hall (HO361) o Old Physics Conference Room & Gallery (HO342) o Botany Building (HO329) o Old Arts Building (HO342) o Law School Building and Old Quadrangle (HO342) o Natural Philosophy Building (HO341) o Systems Garden and Tower (HO355) o Cricket Pavilion and Scoreboard

Recommendation	Panel Report Reference	Summary	Accept / Reject	Management Response and Rationale
(HO333)				
<p>44. That, with the exception of the vacant land at 150-154 Pelham Street, the Melbourne Business School (MBS) properties in the Little Pelham Street Precinct (HO1121), Carlton be identified as Contributory in the Heritage Inventory.</p>	<p>Section 10.13 page 128</p>	<p>The Panel recommends that all places within precincts are identified as contributory across the entire municipality. This recommendation is restated for the Little Pelham Street Precinct.</p> <p>The Melbourne Business School (MBS) challenged the treatment of C graded buildings in City North and submitted that 193-195 Bouverie Street should be categorised contributory rather than significant. They also submitted that 183-189 Bouverie Street should be categorised non-contributory rather than contributory.</p> <p>MBS's submission also recommended that Clause 22.04 (Heritage Places inside the Capital City Zone) apply to City North.</p>	<p>Reject</p>	<p>Management disagrees with downgrading all significant places within precincts to contributory for the reasons outlined under Recommendation 2.</p> <p>In response to MBS's submission on C graded buildings in City North, the City of Melbourne proposed in its Part C submission that C graded places in City North precincts could be the subject of further assessment prior to being categorised. This affects two properties in the Little Pelham Street Precinct: 174-180 Leicester Street and 193-195 Bouverie Street. During the C258 Panel hearing it was found that 174-180 Leicester Street should have been exhibited as significant given it was graded C in the City North Heritage Review.</p> <p>Management supports MBS's submission that 183-189 Bouverie Street should be categorised non-contributory. This building was determined to be non-contributory when Council adopted Amendment C198 which implemented the City North Heritage Review.</p> <p>Management notes that the vacant land at 150-154 Pelham Street is not included in the inventory.</p> <p>Management supports MBS's submission regarding the application of Clause 22.04 to City North at the Panel. Refer to Recommendation 1.</p>



Recommendation	Panel Report Reference	Summary	Accept / Reject	Management Response and Rationale
				<p>The following changes should be made to Amendment C258:</p> <ul style="list-style-type: none"> - Amend the Inventory to delete 183-189 Bouverie Street from the Inventory as it is a non-contributory place. - Remove 174-180 Leicester Street and 193-195 Bouverie Street from Amendment C258 and retain their existing C gradings. - Retain the existing heritage policies at Clauses 22.04 and 22.05 in the Melbourne Planning Scheme. <p>The following change should be considered through a future amendment:</p> <ul style="list-style-type: none"> - Review properties with the retained A-D gradings in the Heritage Inventory Part B, introduce 'Significant/Contributory/Non-contributory' categories for these properties and remove the retained existing policies (Part B).
<p>45. That the Heritage Inventory record 45 Pitt Street, Carlton as Contributory.</p>		<p>It was submitted to the Panel that 45 Pitt Street should be designated Contributory rather than Significant. The Panel believes 45 Pitt Street should be included in the Inventory as Contributory,</p>	<p>Reject</p>	<p>No change. In relation to the Panel's recommendation on the grading system in Heritage Precincts, see response to Panel Recommendation No. 2.</p>

Recommendation	Panel Report Reference	Summary	Accept / Reject	Management Response and Rationale
		giving only as explanation that the property is in a precinct, which reiterates Panel Recommendation No. 5.		

5. Individual place recommendations – East Melbourne

Recommendation	Panel Report Reference	Summary	Accept / Reject	Management Response and Rationale
46. That 'St Peter's Eastern Hill at 453-479 [Albert Street] and 13-19 Gisborne Street, East Melbourne be recorded as an Individual Heritage Place (or given a VHR designation if used) in the Heritage Inventory.	Section 10, page 131	This recommendation relates to submission number 18 which supported the Amendment with the qualification that the heritage listing for St Peter's Eastern Hill in the Melbourne Planning Scheme be consistent with its listing in the Victorian Heritage Register.	Reject	Reject the panel recommendation to record this property as an Individual Heritage Place, see response to recommendation number 2. As noted in the panel report, the proposed listing in the C258 inventory is consistent with its listing in the Victorian Heritage Register (VHR).

6. Individual place recommendations – Kensington

Recommendation	Panel Report Reference	Summary	Accept / Reject	Management Response and Rationale
47. That 52-112 Elizabeth Street, Kensington be removed from the Heritage Inventory	Section 10 Page 134	The submission argues that as there is no Heritage Overlay applying to the property it should not be listed in the Inventory.	Accept	<p>The inventory is intended to record the heritage classification of places in a Heritage Overlay. As 52-112 Elizabeth Street, Kensington is not included in a Heritage Overlay, the City of Melbourne agreed with this submission at the Panel Hearing and management recommends that the place be removed from the inventory.</p> <p>The following change should be made to Amendment C258:</p> <ul style="list-style-type: none"> - Update the Amendment C258 <i>Heritage Places Inventory</i> Incorporated document to remove 52-112 Elizabeth Street, Kensington.
48. That 5 Bruce Street, Kensington be recorded as Contributory in the Heritage Inventory.	Section 10 Page 134	<p>The submitter to this property supported the Significant grading.</p> <p>The Panel recommendation to record this place as Contributory relates to its location in a precinct and as with other places in precincts, the Panel is of the view that it should not be designated as Significant, but instead,</p>	Reject	<p>No change.</p> <p>In relation to the Panel's recommendation on the grading system in Heritage Precincts, see response to Panel Recommendation No. 2</p>

Recommendation	Panel Report Reference	Summary	Accept / Reject	Management Response and Rationale
		could be identified in the Statement of Significance as a Contributory element in the precinct.		
49. That 19 Barnett Street, Kensington be removed from the Heritage Inventory	Section 10 Page 136	It was submitted to the Panel that 19 Barnett Street should be ungraded as it is occupied by a block of 1970's flats. The Panel agreed. The City of Melbourne submitted at the Panel that the Kensington Heritage Review 2013, listed the property as '17-21 Barnett Street', and identified that this property was 'Non-Contributory' to the heritage precinct.	Accept	It is recommended that the entry for '17-21 Barnett Street' be deleted from the Heritage Places Inventory. The following change should be made to Amendment C258: - Update the <i>Heritage Places Inventory</i> Incorporated document to remove 17-21 Barnett Street, Kensington.
50. That the Heritage Inventory record 91 Barnett Street, Kensington as Contributory.	Section 10 Page 136	It was submitted to the Panel that 91 Barnett Street should be designated Contributory rather than Significant. The City of Melbourne submitted that 75-97 Barnett Street (odds only) were erroneously listed	Accept	As a result of a clerical error, 91 Barnett Street, Kensington was listed in the Inventory under Amendment C258 with a building grading, 'Significant'. It is recommended that 91 Barnett Street, Kensington be listed in the Heritage Places Inventory proposed under Amendment C258, as Contributory. The following changes should be made to

Recommendation	Panel Report Reference	Summary	Accept / Reject	Management Response and Rationale
		<p>with a Building Grading, 'Significant', in the C258 Heritage Places inventory. The Kensington Heritage Review 2013 lists the above properties as 'Contributory' to the heritage precinct.</p> <p>The Panel believes 91 Barnett Street should be included in the Inventory as Contributory, giving only as explanation that it is in a precinct, which relates to recommendation no. 2.</p>		<p>Amendment C258:</p> <ul style="list-style-type: none"> - List 91 Barnett Street, Kensington as Contributory in the Heritage Places Inventory. - Remove the remaining places between 75-97 Barnett Street (odds only) from the exhibited C258 Heritage Inventory and retain them in the existing Heritage Places Inventory (renamed Heritage Places Inventory 2020 Part B).

7. Individual place recommendations – North Melbourne

Recommendation	Panel Report Reference	Summary	Accept / Reject	Management Response and Rationale
51. That 139-149 Flemington Road, North Melbourne, be recorded as Contributory in the Heritage Inventory.	Section 10 Page 137	<p>The submission made on behalf of the property owner challenged the translation of the property from a D grading to Significant in the North and West Melbourne Heritage Precinct.</p> <p>The Council submitted that the re-grading of this property followed the conversion methodology and the review of this property resulted in its Significant designation.</p> <p>The Panel discussion and conclusion was that, “as with other places located in a precinct, the Panel believes this place should have Contributory status, with any important features reflected in the Statement of Significance”.</p>	Reject	<p>No change.</p> <p>In relation to the Panel’s recommendation on the grading system in Heritage Precincts, see response to Panel Recommendation No. 2.</p>
52. That Lost Dog’s Home, 2 Gracie Street, North	Section 10 Page 138	The submission made on behalf of the property	Reject	This site was initially considered under Amendment C207 Arden Macaulay Heritage. In its report for

Recommendation	Panel Report Reference	Summary	Accept / Reject	Management Response and Rationale
<p>Melbourne be included as an Individual Heritage Place in the Heritage Inventory.</p>		<p>owner challenged the translation of the property from a D grading to Significant.</p> <p>The Panel report states, “as has been said in relation to other individual Heritage Overlays, the Panel sees no reason as to why this place needs to be designated as Significant. The Statement of Significance for the site should adequately deal with its significance and ensure that important elements are identified for potential conservation”.</p>		<p>Amendment C207 dated 21 January 2014, the Panel stated that ‘The Panel agrees with all parties that the Lost Dogs’ Home site clearly has historic and social significance.’ The panel then went on further to state that the site’s grading should remain ‘D’.</p> <p>As this site has been the subject of a recent Panel hearing it is recommended that the site remain as an individual Heritage Overlay but that the contributory elements be classified as Contributory.</p> <p>The following change should be made to Amendment C258:</p> <ul style="list-style-type: none"> - Update the Inventory to show the Contributory category for this property.
<p>53. That the Statement of Significance for the Lost Dogs Home, 2 Gracie Street, North Melbourne, be reviewed to ensure that it adequately reflects the elements of significance on the site.</p>	<p>Section 10 Page 138</p>	<p>The Panel undertook a drive-by inspection of the site which confirmed the evidence that the Administration Building is the most prominent and significant structure on the site.</p> <p>The Statement of Significance may need to be reviewed to identify what is of value about the</p>	<p>Accept</p>	<p>The Statement of Significance for this place was not part of this Amendment.</p> <p>The following change should be made through a separate Amendment:</p> <ul style="list-style-type: none"> - Revise the Statement of Significance for this place in accordance with that shown at the end of this document (Appendix A).

Recommendation	Panel Report Reference	Summary	Accept / Reject	Management Response and Rationale
<p>54. That the Council complete a review of the heritage status of 2 (also known as 26) and 1-3 Youngs Lane (also known as 40A and 40B Molesworth Street), North Melbourne for inclusion in the Heritage Inventory</p>	<p>Section 10 Page</p>	<p>site and identify contributory elements.</p> <p>This submission relates to a misalignment between the known addresses of these properties and the digitised addresses. Because of this, there has been an error in the conversion process and the Panel agrees with the Council's suggestion that a further review be undertaken of these properties.</p> <p>The City of Melbourne submitted with respect to these places that these sites are now known as 26 Youngs Lane and 40A and 40B Molesworth Street.</p>	<p>Accept</p>	<p>Management agrees that 26 Youngs Lane (previously 2 Youngs Lane) and 40A and 40B Molesworth Street (previously listed as 1-3 Youngs Lane) require a review in accordance with the conversion methodology.</p> <p>The following future action should be taken:</p> <ul style="list-style-type: none"> - Review 26 Youngs Lane and 40A and 40B Molesworth Street.
<p>55. That the Heritage Inventory be amended to include 4-6 Princess Street, North Melbourne, as Contributory.</p>	<p>Section 10 Page 141</p>	<p>The submission made on behalf of the property owner challenged the translation of the property from a C grading to Significant in the North and West Melbourne Heritage Precinct. The City Of Melbourne responded by</p>	<p>Reject</p>	<p>As 4-6 Princess Street are C graded places in a heritage precinct in the City North Heritage Review area, they should be the subject of a further review by Council's heritage consultant.</p> <p>The following changes should be made to Amendment C258:</p> <ul style="list-style-type: none"> - Retain the grading of 4 and 6 Princess Street and other C graded properties in City

Recommendation	Panel Report Reference	Summary	Accept / Reject	Management Response and Rationale
		<p>pointing out that the grading for 4-6 Princess Street was determined by the conversion methodology established as part of the City North Heritage Review, whereby A, B and C graded places were converted to Significant and D graded places were converted to Contributory.</p> <p>The Panel believes the place should be included in the Inventory as Contributory, giving only as explanation, that it is in a precinct, which relates to recommendation no. 2</p>		<p>North precincts by removing them from the exhibited Heritage Inventory.</p> <ul style="list-style-type: none"> - Retain the existing heritage policies at Clauses 22.04 and 22.05 in the Melbourne Planning Scheme. <p>The following change should be considered through a future amendment:</p> <ul style="list-style-type: none"> - Review properties with the retained A-D gradings in the Heritage Inventory Part B, introduce ‘Significant/Contributory/Non-Contributory’ categories for these properties and remove the retained existing policies (Part B). <p>For further information see response to Panel recommendation No. 36.</p>
<p>56. That the Heritage Inventory be amended to include the Lort Smith Animal Hospital, 24 and 38 Villiers Street, North Melbourne as Contributory.</p>	<p>Section 10 Page 141</p>	<p>The submission argues against the application of a Significant designation to this place, suggesting that it would inhibit development options. As indicated elsewhere and in response to similar submissions, the Panel did not believe that there is any need to identify</p>	<p>Reject</p>	<p>As 24 and 38 Villiers Street are C graded places in a heritage precinct in the City North Heritage Review area, they should be the subject of a further review by Council’s heritage consultant.</p> <p>The following changes should be made to Amendment C258:</p> <ul style="list-style-type: none"> - Remove 24 and 38 Villiers Street, from the Heritage Places Inventory. <p>For further information see response to Panel</p>

Recommendation	Panel Report Reference	Summary	Accept / Reject	Management Response and Rationale
		buildings as Significant where they are within heritage precincts. Rather, the Statement of Significance should identify attributes of significance with all places be identified as Contributory.		recommendation No. 36.
57. That the Heritage Inventory be amended to include 85-89 Sutton Street, North Melbourne as an Individual Heritage Place.	Section 10 Page 142	This submission objected to the re-grading of the site to Significant from the C grading currently applying to the property. The Council submitted that this place was re-graded in accordance with the conversion methodology and that the Significant designation should stand. The Panel considers that the designation should be an Individual Heritage Place with no grading applied and any significant attributes identified in the Statement of Significance.	Reject	No change. In the Arden Macaulay Heritage Review which is the background report for Amendment C207 this property was graded C and Significant. In relation to the Panel's recommendation on the classification of places in an individual Heritage Overlay, see response to Panel Recommendation No. 2.
58. That the Heritage Places Inventory be amended to include 29 Stawell Street,	Section 10 Page 143	This submission objected to converting their property from C to Significant and	Reject	No change. In relation to the Panel's recommendation on the classification of places in an individual Heritage Overlay, see response to Panel

Recommendation	Panel Report Reference	Summary	Accept / Reject	Management Response and Rationale
North Melbourne as Contributory.		<p>the consequential impact it will have on their capacity to redevelop the site.</p> <p>The City of Melbourne responded by referring to the conversion methodology in undertaking the re-grading.</p> <p>The Panel noted the submission and refers to its discussion on gradings, specifically that all places in a precinct should be identified as Contributory to the precinct.</p>		Recommendation No. 2.

8. Individual place recommendations – South Yarra

Recommendation	Panel Report Reference	Summary	Accept / Reject	Management Response and Rationale
59. That 92 and 100 Domain Street, South Yarra and 129 Hope Street, South Yarra be deleted from the Heritage Inventory.	Section 10, page 139-140	The Panel noted that Council had responded to this submission by advising that the inclusion of the above buildings in the Heritage Inventory was an error. These buildings were removed from the Heritage Places Inventory version corrected for re-exhibition, November 2017.	Accept	These buildings were removed from the Heritage Places Inventory, version corrected for re-exhibition, November 2017.
60. That the Heritage Inventory be amended to include 322 Walsh Street, South Yarra as an Individual Heritage Place.	Section 10, page 140-1	The building is currently within an individual Heritage Overlay (HO457) and D graded. The submitter objects to regrading the building as significant and submits that it should be 'non-contributory'. The Panel accepted Council's evidence on the significance of the building, which noted that a Statement of Significance was prepared in 1999 and no major changes are	Reject	As this building is currently within an individual Heritage Overlay (HO457) and D graded it should be the subject of a further review by Council's heritage consultant. The following changes should be made to Amendment C258: <ul style="list-style-type: none"> - Retain the grading of 322 Walsh Street, South Yarra and other D graded individual heritage by removing them from the exhibited Heritage Inventory. - Retain the existing heritage policies at Clauses 22.04 and 22.05 in the Melbourne Planning Scheme. The following change should be considered through

Recommendation	Panel Report Reference	Summary	Accept / Reject	Management Response and Rationale
		evident to the building since that time. .		a future amendment: <ul style="list-style-type: none"> - Review properties with the retained A-D gradings in the Heritage Inventory Part B, introduce 'Significant/Contributory/Non-contributory' categories for these properties and remove the retained existing policies (Part B). For further information see response to Panel recommendation No. 36.
61. That the Heritage Inventory be amended to include 28 Marne Street, South Yarra as Contributory.	Section 10, page 141	The building is currently within the South Yarra Heritage Precinct (HO6) and listed as a B graded building within a significant streetscape. Under the proposed grading system and conversion methodology this property is significant. The submitter contends that a contributory listing would be more appropriate.	Reject	No change. The Panel finding relates to recommendation number 2, that the classification of all Significant places both outside and within precincts be allocated to either an Individual Heritage Place or Contributory Heritage Place category.

9. Further recommendations

Recommendation	Panel Report Reference	Management Response and Rationale
62. That the Council consider undertaking future work to divide larger precincts such as Carlton and South Yarra into smaller sub-precincts to better identify the particular character of those areas.	Section 7 Page 80 - 81	This is being considered as part of the ongoing heritage program.
63. That the part of the Benevolent Asylum Estate at 552–568 Victoria Street, North Melbourne be included in any future review of the North Melbourne Heritage Precinct (HO3).	Section 7 Page 81	This place will be reviewed as part of the North Melbourne Heritage Review.
64. That the Council seek a review of the Statement of Significance adopted by Heritage Victoria and HCV for the St James Old Cathedral at 2-24 Batman Street, West Melbourne to recognise the cathedral bells as items of significance.	Section 9 Page 119	<p>At Panel, the Council submitted that the place is included in the Schedule to the Heritage Overlay as a consequence of its inclusion on the Victorian Heritage Register (H0011). It is therefore the Statement of Significance adopted by the Heritage Council that should be amended.</p> <p>Recommendation: That the City Of Melbourne write to Heritage Victoria to provide the information regarding the cathedral bells and the panel recommendation.</p>
65. That following this Amendment and a comprehensive review of the heritage values of the University of Melbourne campus buildings, including the preparation of an integrated statement of significance, the Council consider the application a precinct Heritage Overlay for the University of Melbourne Parkville campus, or a serial listing for campus buildings which might also extend to properties off campus.	Section 10 Page 128	A heritage review of University of Melbourne could be undertaken in the future.
66. That, following the further review work in Recommendation 65, the Council also consider the application of an Incorporated Plan to guide future conservation and development on the	Section 10 Page 128	A heritage review of University of Melbourne could include the preparation of an incorporated plan to provide for appropriate permit exemptions.

Recommendation	Panel Report Reference	Management Response and Rationale
University of Melbourne, Parkville campus and provide permit exemptions.		
67. That the Lost Dog's Home and the Council prepare an incorporated plan to establish the development potential along with conservation options for the site.	Section 10 Page 138	An incorporated document could be prepared for this place as part of a future planning scheme amendment. This would depend on the Lost Dogs Home and other Council priorities.

C258 HERITAGE POLICIES REVIEW AND WEST MELBOURNE HERITAGE REVIEW

Appendix A: Revised Statement of Significance (refer Recommendation 53)

**Home for Lost and Starving Dogs, (later Lost Dogs Home & Animal Hospital) [Precinct](#)
2 -52 Gracie Street, North Melbourne (HO869)**



Heritage overlay with contributory wall element shown as red line.

Statement of Significance

1.1.1.1.1 What is significant?

[The Home for Lost and Starving Dogs \(later Lost Dogs Home & Animal hospital\) Precinct contains the following Contributory Elements:](#)

[This near-symmetrical administration building and residence of 1934-5 \(Classification Contributory\) includes:](#)

- two storey scale,
- stuccoed walls,
- a gabled and tiled roof with longitudinal ridge,
- a clinker brick clad ground level with loggias or verandahs (part filled in),
- tall cemented chimney,
- regularly spaced double-hung sash windows.
- Marseilles profile Roof tiles, blended pattern.

- a ground level originally with a board room, offices, examination and waiting rooms, and amenities; and
- an upper level residence originally with bedrooms, kitchen, dining and living rooms plus amenities.

Early Wall (Classification Contributory)

- Perimeter red brick wall approximately 35 course high, with cement capped piers and bullnose capping course along Green Street to the extent as shown being of east of the Green Street entry and returning north along the east boundary to the extent of two wall panels. The enclosure of the loggia is not contributory.

1.1.1.1.2 How is it significant?

The Lost Dogs Home & Animal Hospital Precinct is significant historically and socially ~~and aesthetically~~ to North Melbourne and the City.

1.1.1.1.3 Why is it significant?

The Lost Dogs Home & Animal Hospital Precinct is significant:

Historically and socially, for its long association with animal welfare in the State and some of its most active promoters while claimed as the first formal public animal veterinary service in Victoria and Australia; also as the focus of many public fund raising events and celebrity activity in the name of animal health (Criteria A, G)

~~and~~

~~Aesthetically as a well-preserved and successful design by the noted architects Peck & Komter while also being the first of its kind (public veterinary hospital) in the State (Criterion E).
Contributory elements~~

~~The contributory elements within this property include, but are not restricted to, external fabric from the creation or major development date(s), (1934-5), and any new material added in sympathy to the original fabric it replaced. This place and the identification of contributory elements have been assessed typically from the public domain.~~