

APPENDIX C - SUMMARY OF AMENDMENT C258

1. At the time the work leading up to Amendment C258 commenced, Council's heritage policies and studies were characterised by:
 - (a) An A-D grading system used in and outside CCZ
 - (b) Definitions of graded buildings in clause 22.05 for heritage places outside the CCZ
 - (c) Outside the CCZ, outstanding buildings were defined as A and B graded buildings and contributory buildings were defined as C graded buildings and D graded buildings in a Level 1 streetscapes
 - (d) A very limited policy framework in clause 22.05 for heritage places inside the CCZ
 - (e) A policy framework in clause 22.05 which provided differentiated management regimes for differently graded buildings.
2. In progressing the work, two methodology reports were prepared by Lovell Chen:
 - (a) City of Melbourne Heritage Review: Local Heritage Policies and Precinct Statements of Significance Methodology Report, September 2015 updated May 2016 (**Heritage Policy Review Methodology Report**)
 - (b) Methodology Report: City of Melbourne Heritage Gradings Review October 2015 (**Gradings Review Methodology Report**)
3. At section 3.7 of the Heritage Policy Review Methodology Report, Lovell Chen recommended new grading definitions, as follows:

A review of other municipal planning schemes in Victoria was undertaken to identify the various definitions used for significant, contributory and non-contributory places. The definitions, as they relate to various municipalities, are included in Appendix D. These were taken from the respective local heritage policies or municipal strategic statements. Appendix D also reproduces the alphabetical gradings of the City of Melbourne, as well as those of Stonnington where this system is still in use.

With reference to this review, and understanding that the definitions should distinguish between significant and contributory heritage places, it was apparent that the definition of significant should use 'higher level' language and descriptors to emphasise the importance of significant places, and conversely the definition of contributory should be more inclusive and wide-ranging and deliberately set below significant.

3.7.1 'Significant' places

A '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.

This definition places emphasis on the individual importance of a significant place. 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 place grading.

3.7.2 'Contributory' places

A 'contributory' heritage place:

A 'contributory' heritage place is important for its contribution to a 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.

This definition places emphasis on a contributory place being part of a larger place or collection of related place types, as typically occurs with a heritage precinct.

3.7.3 'Non-contributory' places

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

Non-contributory heritage places are also defined, as these are included in heritage precincts.

4. The Grading Review Methodology Report restates the definitions and confirms that the definitions have informed the gradings review: section 1.3. Using these definitions, the Grading Review Methodology Report explains that:

2.4.3 Approach to gradings review

The majority of current gradings were attributed during heritage studies undertaken in the 1980s and 1990s. Given the timeframe which has elapsed, it is reasonable to assume that some gradings are out of date. This was also an issue raised during the programme of community and stakeholder consultation and engagement, undertaken as part of the larger Heritage Review study.

Instances where this could occur include where the intactness and appearance of a place or property has changed. It could also occur where the assessment of heritage value warrants reconsideration. For example, heritage places of the interwar and post-war period are now generally more highly valued in heritage terms than they typically were in the 1980s. Early properties, such as those from the 1850s-1870s are also increasingly more highly valued due to recognition of their rarity. Intact terrace rows, even rows of very modest workers cottages, are another heritage place type more highly valued due to maintaining their original external form with little visible change.

Other examples of places deserving of a higher level grading include those with important histories, or places with recognised social values. For example, the work undertaken in preparing the precinct statements of significance, for the larger Heritage Review study, highlighted important historical themes and types of places in precincts, including places important to the community. This was another consideration in reviewing the relative significance of places.

‘Significant’ places

As noted, all A and B grade properties in 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.

C grade properties required review in all precincts except Parkville, although the great majority remained contributory. At the commencement of the study, the C grading was attributed to a comparatively high number of properties from the early period of 1850-75 (in Carlton, some 425 properties); interwar properties generally (161 properties across all precincts); and the very high proportion of C grade properties relative to other gradings in Carlton and North and West Melbourne.

For the D grade properties, the problematic precincts were Kensington and North and West Melbourne (total of 1824 properties). The very high proportion of D grade properties in these precincts was not matched in the other precincts, and indicated some reconsideration of the grading was warranted.

Again, while the majority remained contributory, there were for example highly intact rows or terrace groupings of early dwellings, or intact rows of more distinguished dwellings, which were considered significant as a row or group.

Approximately 660 properties in precincts outside the CCZ, which were previously graded C and D, have been recommended to be categorised as

significant. This was most prevalent in Carlton (329) and North/West Melbourne (213).

In the CCZ, some 77 places in precincts which were previously graded C or D have been recommended to be categorised as significant. These included buildings of early construction dates; intact rows of commercial/retail buildings; historic hotels; and developments from the interwar and post-war period.

It also included buildings which had previously been identified as 'Notable Buildings', and Modernist commercial buildings which are widely recognised for their heritage value.

'Contributory' places

This definition places emphasis on a contributory place being part of a larger place or collection of related place types, as typically occurs with a heritage precinct. As noted, the great majority of existing C and D grade properties remained in this category. This reflects their contributory heritage value to the relevant precinct; their being a representative example of a place type, period or style; and their visual or stylistic connection to, or relationship with, similar or like places in the precinct. Contributory places combine to demonstrate the historic development of a precinct.

5. At the Panel hearing for Amendment C258, Ms Brady of Lovell Chen gave evidence to the panel, including in relation to the definitions. At page 21 of her evidence, she explained,

As outlined in the Heritage Review Methodology Report, at Section 3.7, the new definitions were arrived at following a review of the various definitions used for significant, contributory and non-contributory places in other planning schemes (a summary of other definitions was included in Appendix D of the Heritage Review Methodology Report, at Attachment 1). **The new definitions also clearly distinguished between significant and contributory heritage places, with the definition of significant using 'higher level' language and descriptors to emphasise the importance of the significant places, and conversely the definition of contributory being more inclusive and wide-ranging and deliberately set below significant.** (emphasis added)

6. At page 26, Ms Brady expanded

The important distinctions between significant and contributory places are also reflected in the new definitions of significant, contributory and non-contributory included in the revised local heritage policies (reproduced at Section 4.3). The new definitions **emphasise the singular and individual importance of significant places, as opposed to the broader and more commonplace category of contributory places.** (emphasis added)

The gradings definitions in the current Clause 22.05, for 'A', 'B', 'C' and 'D' properties, also generally make this distinction through emphasising the high

level of significance or importance of ‘A’ and ‘B’ buildings, and the lower or lesser significance of ‘C’ and ‘D’ buildings.

Current Clause 22.05 notes:

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

And:

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

The latter implies that a ‘D’ grade building in a Level 3 streetscape is not contributory.

However, it is also recognised that Clause 22.05, somewhat contradictorily, notes: All graded buildings are significant.

7. In section 2.3.3 of her evidence in dealing with places of historical or social significance, Ms Brady’s evidence noted:

The new ‘Definitions’ for significant and contributory heritage places recognise historical, social and spiritual values; they also recognise importance to the community.

8. As Council explained to the C258 Panel, the conversion methodology classified all buildings in an individual Heritage Overlay irrespective of grading as Significant; it classified all A and B grade buildings in a precinct to Significant, by virtue of the definitions of those gradings; it reviewed all C and D grade buildings in a precinct to determine whether Significant or Contributory grading was appropriate, and provided a written rationale for the conversion of any C and D graded buildings to Significant. This exercise was done by reference to the concepts of ‘individual importance’ and ‘a heritage place in its own right’ rather than by testing the place against the component parts of the definition of Significant heritage place.

9. In its Part C submission to the C258 Panel, Council submitted at [20] as follows:

It is important to restate that all Significant buildings do not need to be of the same level of significance; some may be more “important” buildings than others but this does not mean that a less important building does not fall within the definition for a Significant building. The Statement of Significance associated with a heritage place has an important role in guiding decision-makers about the nature, level and fabric of significance for any given place.

10. At [21] Council continued,

Significance is a threshold question, and for all properties that pass the threshold, there will be a variety of significance levels within that category. It isn’t a letter grading that demonstrates where a heritage place will fall within the Significant category, but rather the associated Statement of Significance,

which will inform the exercise of discretion with regard to any potential demolition or development of a heritage place.

11. Following a lengthy and contested hearing, the C258 Panel reported and made a number of findings, including that
 - (a) It did not support the grading conversion: see chapter 4
 - (b) It did not support the use of a hierarchical distinction between significant and contributory in policy: see chapter 4 and appendix D
 - (c) It did not support the detailed definition of significant heritage building: see chapter 4 and appendix D
 - (d) It supported retention of a place in an individual Heritage Overlay whatever the grading.
12. The C258 Panel made 13 general recommendations, with an explanation of some in the executive summary,

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 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.

13. In February 2020, Council adopted Amendment C258 with changes from the exhibited version but did not accept all of the C258 Panel's recommendations. In particular, it rejected the Panel's alternative classification system which eliminated significant heritage buildings and removed the definition of significant heritage building.
14. In response to the C258 Panel's recommendation to remove the policy differentiation between significant and contributory buildings, Council rejected this advice on the following basis:

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. visible within the precinct)

15. In response to the C258 Panel's recommendation to delete the definition of significant heritage place and replace it with a revised definition of individual heritage place, Council rejected this advice on the following basis:

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).

16. In response to the C258 Panel's recommendation to replace the definitions, Council responded:

Disagree with the Panel's replacement definitions given that they are based on a classification system that is at odds with Council's heritage protection regime.

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.