

INDEPENDENT PLANNING PANEL
APPOINTED BY THE MINISTER FOR PLANNING
PLANNING PANELS VICTORIA

IN THE MATTER of Amendment C396 to the Melbourne Planning Scheme

BETWEEN:

MELBOURNE CITY COUNCIL

Planning Authority

-and-

VARIOUS SUBMITTERS

AFFECTED LAND: 369 properties and three infrastructure assets in the suburbs of Carlton, Carlton North, East Melbourne, Kensington, Melbourne, North Melbourne, Parkville, South Yarra, and West Melbourne

PART A SUBMISSION OF THE PLANNING AUTHORITY

TABLE OF CONTENTS

I.	OVERVIEW	2
II.	THE NATURE OF THE AMENDMENT	3
III.	BACKGROUND TO AMENDMENT C396.....	9
A.	HISTORY OF HERITAGE GRADINGS IN THE CITY OF MELBOURNE.....	9
IV.	AMENDMENT C258	12
A.	THE C258 CONVERSION METHODOLOGY	13
B.	SUBMISSIONS RECEIVED.....	15
C.	THE PANEL HEARING & REPORT OF THE PANEL	16
D.	APPROVAL OF C258	17
E.	ISSUES RAISED IN RELATION TO PROPERTIES DEFERRED FOR FURTHER ASSESSMENT	18
	Direct Conversion of C Graded Buildings in Heritage Precincts in City North to Significant.....	18
	Direct Conversion of D Graded Buildings in Individual Heritage Overlays across the Municipality to Significant	19
	The Accuracy of the Heritage Places Inventory	21
V.	PROGRESS OF THE AMENDMENT	25
A.	PROCESS ADOPTED BY COUNCIL FOLLOWING C258	26
B.	ADDRESSING DISCREPANCIES	28
C.	THE PROGRAM OF CONVENTIONAL HERITAGE REVIEWS.....	29

D.	CONSULTATION & COMMUNITY ENGAGEMENT PRIOR TO SEEKING AUTHORISATION.....	30
E.	COPY OF AMENDMENT C396 PROVIDED TO THE MINISTER FOR PLANNING PRIOR TO EXHIBITION 34	
F.	EXHIBITION	34
G.	POST-EXHIBITION AND APPOINTMENT OF PANEL.....	36
VI.	STRATEGIC BASIS FOR AMENDMENT C396	36
VII.	ISSUES IDENTIFIED IN SUBMISSIONS	39
VIII.	PROPOSED CHANGES IN RESPONSE TO SUBMISSIONS	40
IX.	CONCLUSION	41
	APPENDIX A: SUMMARY TABLE OF PROPOSED REVISIONS TO AMENDMENT C396	42
	APPENDIX B: SNAPSHOT FROM THE INTERACTIVE MAP	44
	APPENDIX C: HERITAGE STUDIES AND REVIEWS AT THE CITY OF MELBOURNE.....	45
	APPENDIX D: PROPERTIES QUERIED BY THE EAST MELBOURNE HISTORICAL SOCIETY ON 11 MARCH 2021	49
	APPENDIX E: EDITORIAL CHANGES MADE TO AMENDMENT C396 FOLLOWING FUTURE MELBOURNE COMMITTEE MEETING OF 16 MARCH 2021	51
	APPENDIX F: APPROACH FOR DEALING WITH THE ERRORS AND ANOMALIES IDENTIFIED IN SUBMISSIONS 8 AND 17 WHICH ARE OUTSIDE THE SCOPE OF AMENDMENT C396.....	52
	APPENDIX G: IDENTIFICATION OF WHETHER SUBMISSIONS RELATE TO LAND THAT IS PART OF THE AMENDMENT	55

I. OVERVIEW

1. Melbourne City Council (**Council**) is the Planning Authority for Amendment C396 (**Amendment**) to the Melbourne Planning Scheme (**Scheme**). This Part A submission is made in accordance with the Panel's Directions dated 21 October 2021.
2. In addition to this Part A submission and its Part B and C submissions, Council relies upon the evidence of Anita Brady of Anita Brady Heritage.
3. Direction 4 of the Panel requires this Part A submission to include:
 - a) background to the Amendment including its relationship to Amendment C258;
 - b) any other relevant heritage studies that impact land considered in this Amendment;
 - c) a detailed explanation of the heritage conversion methodology;

- d) confirmation of whether submissions received relate to land that is part of the Amendment, or alternatively, confirmation of how issues raised will be addressed for land not part of the Amendment;
 - e) are land *[sic]* strategic context assessment;¹
 - f) issues identified in submissions; and
 - g) any suggested changes to the Amendment in response to submissions, noting the September 2021 resolution supported two changes.
4. The Part A submission responds to these directions as follows:
- (a) the background to the Amendment is set out in Sections II, III and IV;
 - (b) other relevant heritage studies are set out in Appendix C;
 - (c) an explanation of the heritage conversion methodology, including the methodology, steps and timing for the *Methodology Report – Amendment C396 Heritage Category Conversion Review* by Lovell Chen and Anita Brady Heritage (the **Report**)² is found in Sections IV and V.
 - (d) a summary of whether submissions relate to land the subject of the Amendment is found in Section VII and the intention for dealing with issues associated with land outside the Amendment is found in Appendix G;
 - (e) the strategic basis for the Amendment is set out in Section VI;
 - (f) the issues identified in submissions are set out in Section VII; and
 - (g) suggested changes to the Amendment proposed by Council are contained within a table at **Appendix A** to this submission.

II. THE NATURE OF THE AMENDMENT

5. The Amendment is the finalisation of a heritage grading conversion exercise that was undertaken through Amendment C258. As such, it is an important outstanding step

¹ The Panel has confirmed that this direction is a grammatical error and can be disregarded.

² The Report contains a summary of the methodology utilised, a summary and record of the desktop analysis undertaken, and a full heritage review of D graded places.

in Council's overall program to protect heritage in the municipality as set out in the City of Melbourne's *Heritage Strategy 2013*.

6. Amendment C258 was a multi-faceted planning scheme amendment which comprised:
 - (a) conversion of Council's letter grading system to a new category system of Significant, Contributory and Non-Contributory;
 - (b) review and replacement of Council's local heritage policies, including definitions of Significant, Contributory and Non-Contributory places;
 - (c) preparation and incorporation of statements of significance for Melbourne's six largest precincts (Carlton, East Melbourne and Jolimont, Kensington, North and West Melbourne, Parkville, South Yarra); and
 - (d) implementation of the *West Melbourne Heritage Review 2016*.
7. This Amendment ensures the updated local heritage policies introduced through Amendment C258 apply to all heritage places in the municipality.³
8. On 25 February 2020, Council adopted Amendment C258, which was gazetted on 10 July 2020. In doing so, it converted the heritage grading of almost 7,000 heritage buildings to the new category system. In adopting Amendment C258, Council removed 346 properties⁴ and three infrastructure assets⁵ from Amendment C258 and resolved⁶ that the heritage category of these properties would be converted to the new category system through further work implemented via a new amendment to the Scheme.
9. This Amendment is the new amendment which implements Council's resolution: it converts the heritage gradings for the 346 properties and three infrastructure assets that were removed from Amendment C258. There are three types of properties affected:

³³ At present most places are covered by Clause 22.04 Part A and Clause 22.05 Part A, but the remaining places covered by this Amendment are still covered by Clause 22.04 Part B and Clause 22.05 Part B which contain the former policies for heritage places.

⁴ Note that some properties contain multiple heritage buildings.

⁵ A brick substation in the median strip on Powlett Street, East Melbourne; a tram shelter on St Kilda Road, Melbourne that is listed on the Victorian Heritage Register; and a railway bridge on The Avenue, Parkville.

⁶ See the minutes of the Council meeting held on 25 February 2020, <http://www.melbourne.vic.gov.au/about-council/committees-meetings/meeting-archive/pages/council-meeting-25-february-2020.aspx>

- a) C graded buildings in Heritage Overlay precincts in City North (approximately 125 buildings);
 - b) D graded buildings in individual Heritage Overlays (approximately 38 buildings);
 - c) buildings (and three infrastructure assets) which were inadvertently omitted or where there was an error in the listing in the Amendment C258 Heritage Places Inventory (approximately 241 buildings).
10. Council and Heritage consultants Lovell Chen and Anita Brady Heritage undertook the heritage category conversion using the same methodology which was developed and utilised for Amendment C258 (the **C258 methodology**). The C258 methodology is discussed further below. Following Amendment C258, Council identified all errors and omissions within the Inventory that were appropriately addressed via the Amendment. Council then prepared an excel spreadsheet of buildings that were to be the subject of further assessment by Lovell Chen and Anita Brady Heritage by highlighting those buildings in orange within that spreadsheet. For buildings that were to be the subject of direct conversion via the C258 methodology, these conversions were applied by Council.
11. The work undertaken by Lovell Chen and Anita Brady Heritage comprised three distinct forms of assessment:
- a) desktop analysis for errors or omissions in the Inventory (which have been identified by the City of Melbourne) which required Lovell Chen and Anita Brady Heritage input;
 - b) a desktop analysis of buildings previously graded C in City North; and
 - c) a conventional heritage review of buildings previously graded D in individual heritage overlays.
12. The Amendment implements the direct conversion of buildings undertaken by Council and the recommendations of the Report. To give effect to the heritage category conversion, the Amendment amends the Heritage Places Inventory and makes associated changes to planning scheme maps, the Schedule to Clause 43.01 (the

Heritage Overlay), Clauses 22.04 and 22.05 and incorporated documents as described below⁷.

13. The changes also include removal of the Heritage Overlay from buildings which were identified as demolished within the Part B submission of Council to the Amendment C258 Panel.⁸
14. The Amendment also makes changes to the heritage category of three properties in West Melbourne (53 Hawke Street, 55 Hawke Street and 65-67 Peel Street) and introduces a Statement of Significance for 65-67 Peel Street, in response to errors identified in the Amendment C258 Panel hearing by Mr Butler, the author of the *West Melbourne Heritage Review*, 2016.
15. The Amendment makes the following permanent changes to the Scheme:
 - (a) In the Schedule to Clause 72.04 (Documents Incorporated in this Planning Scheme):
 - (i) rename the existing incorporated document titled *Heritage Places Inventory February 2020 Part A (Amended July 2020)* to the *Heritage Places Inventory March 2021*, amend this incorporated document by adding heritage categories for 346 properties and three infrastructure assets as relevant and make changes to the heritage categories for three properties for which a conventional heritage review was undertaken in the *West Melbourne Heritage Review*, 2016;
 - (ii) delete the existing incorporated document titled *Heritage Places Inventory February 2020 Part B* from the Melbourne Planning Scheme;
 - (iii) introduce a new incorporated document, titled *Heritage Category Conversion Statements of Significance March 2021*, for fifteen previously D graded buildings in individual Heritage Overlays and existing Heritage Overlay HO868. HO868 has been expanded to include two additional properties which were previously D graded buildings in individual Heritage Overlays. HO868 has

⁷ Accordingly, it is only errors and omissions that have been identified within the Inventory that are sought to be addressed via the Amendment. Changes to mapping or the Schedule are only made to ensure consistency with corrections made to the Inventory. To the extent further errors may remain within the mapping or the Schedule (but not in the Inventory itself) these changes will be addressed via conventional heritage reviews within the municipality. Council's program of conventional heritage reviews is discussed further below.

⁸ Council's Part B submission may be accessed via this link:

[https://hdp-au-prod-app-com-participate-files.s3.ap-southeast-2.amazonaws.com/5015/3429/2445/C258 - Part B - 14 Aug 2018.pdf](https://hdp-au-prod-app-com-participate-files.s3.ap-southeast-2.amazonaws.com/5015/3429/2445/C258_-_Part_B_-_14_Aug_2018.pdf)

been renamed “HO868 47-55, 59 & 69 Westbourne Road Precinct, Kensington”; and

- (iv) amend the existing incorporated document titled *West Melbourne Heritage Review 2016: Statement of Significance February 2020* by adding a Statement of Significance for *Dean’s House* 65-67 Peel Street, West Melbourne.
- (b) Amend the local heritage policies, Clause 22.04 (Heritage Places in the Capital City Zone) and Clause 22.05 (Heritage Places outside the Capital City Zone), to delete Part B,⁹ to remove references to Part A and to add reference to the Report.
- (c) Amend the Schedule to Clause 72.08 (Background Documents) to introduce the Report as a new background document.
- (d) Amend planning scheme maps 4HO, 5HO, 8HO, 8HO2 and 11HO to:
 - (i) revise the boundaries of existing Heritage Overlays for places affected by the heritage gradings conversion to correct pre-existing mapping errors including where the mapped extents do not include all the properties identified in the heritage place description in Clause 43.01;
 - (ii) revise the boundaries of existing Heritage Overlays HO6 South Yarra Precinct, HO9 Kensington Precinct and HO868 to include previously D graded buildings which were in individual Heritage Overlays and which have now been assessed to be Contributory or Significant within the relevant precinct and delete the relevant individual Heritage Overlays; and
 - (iii) delete individual Heritage Overlays for places which have been demolished, to correct mapping errors or for previously D graded buildings which have been assessed as below the threshold for local heritage significance, and in some cases add the affected properties to existing precinct Heritage Overlays as Non-contributory buildings.
- (e) Amend the Schedule to Clause 43.01 (Heritage Overlay) to:
 - (i) amend addresses in the heritage place description for places affected by the Amendment C396 heritage gradings conversion to make them consistent with the City of Melbourne property database.

⁹ Part B of Clauses 22.04 and 22.05 relates to properties which retained an A-D grading following incorporation of Amendment C258 into the Scheme.

- (ii) add reference to the *Heritage Category Conversion Statements of Significance March 2021* for previously D graded buildings in individual Heritage Overlays which have been assessed as Significant and for Heritage Overlay HO868; and
 - (iii) delete the listings for:
 - (1) previously D graded buildings which were in individual Heritage Overlays and which have now been assessed to be Contributory or Significant within the relevant precinct;
 - (2) places which have been demolished; and
 - (3) previously D graded buildings which have been assessed as below the threshold for local significance.
16. The properties affected by Amendment C396 are located across the municipality in the suburbs of Carlton, Carlton North, East Melbourne, Kensington, Melbourne, North Melbourne, Parkville, South Yarra, and West Melbourne. For ease of reference, the City of Melbourne has prepared an [Interactive Map](#) on the Amendment C396 Participate Melbourne website that identifies the properties affected. **Appendix B** contains a static screenshot of the Interactive Map.

III. BACKGROUND TO AMENDMENT C396

A. HISTORY OF HERITAGE GRADINGS IN THE CITY OF MELBOURNE

17. The purpose of the Amendment is to convert the heritage gradings for properties removed from Amendment C258 to accord with Department of Environment, Land, Water and Planning (**Department**) requirements that letter gradings not be utilised for the category of heritage buildings. Accordingly, the Amendment is not a conventional heritage review.
18. Council has been engaged in extensive and pioneering heritage planning practices since the 1970s. More than 30 studies have been undertaken to document the municipality's heritage since the first heritage controls were introduced into planning schemes in Victoria. A list of studies and conventional heritage reviews is included in **Appendix C**.
19. As noted within Council's Part A submission for Amendment C258:
 10. *By the mid-1980s, Council had comprehensively assessed heritage across the residential areas and the Central City. Urban Conservations Studies were prepared and progressively translated into planning controls in the Melbourne Metropolitan Planning Scheme...*
20. The new format planning scheme for Melbourne was introduced in March 1999. Clause 22.05 (Heritage Places outside the Capital City Zone) identified that the grade of every heritage building was identified in the *City of Melbourne Conservation Schedule*. The *City of Melbourne Conservation Schedule* listed heritage buildings and items outside the Capital City Zone using the six category (A to F) system. Buildings were also assigned a streetscape level using a three category (Level 1, Level 2 and Level 3) system. Heritage buildings and items in the Capital City Zone were not included in the *City of Melbourne Conservation Schedule*. Instead, Clause 22.04 (Heritage Places within the Capital City Zone) set out matters to be taken into account when considering applications for buildings, works or demolition to heritage places as identified in the Heritage Overlay including:
 - (a) the recommendations for individual buildings, sites and areas contained in the *Central City Heritage Study Review 1993*; and

- (b) regard to be given to buildings listed A, B, C and D in the individual conservation studies, and their significance as described by their individual Building Identification Sheet.

21. Council's Part A submission for Amendment C258 explained:¹⁰

17. *In 1999, at the time of approval of the new format Scheme, Council identified the need for a review of specific matters relating to the operation of Heritage Overlays within the municipality, including whether a new heritage grading system was needed.*
18. *Allom Lovell & Associates were commissioned by Council to undertake this review and make appropriate grading recommendations, and, following a period of extensive consultation with community groups and Council's Heritage Advisory Committee, issued a Report on the City of Melbourne Planning Scheme Heritage Review in March 2000.*
19. *In 2000, Planning Scheme Amendment C19 was prepared by Council to implement the recommendations of Allom Lovell & Associates' review and change the Scheme to include new provisions relating to heritage issues. One of the key changes to the Scheme included in Amendment C19 was the rationalisation of Council's letter grading system for heritage buildings from six grading categories (A to F) to four grading categories (A to D).*
20. *In May 2001, the Panel report for Amendment C19 was issued and supported adoption of Amendment C19 (subject to modifications) and the revised letter grading system. Amendment C19 was subsequently adopted by Council and approved by the Minister for Planning.*
21. *On 31 December 2001, Amendment C19 was gazetted, establishing the A to D letter grading system for heritage places in the then 'Heritage Places Inventory 2000'. The A to D letter grading system has underpinned all heritage reviews commissioned by Council in the intervening period between the gazettal of Amendment C19, and the preparation of Amendment C258.*
22. *In 2007, the Victorian Government appointed an Advisory Committee to review heritage provisions in planning schemes. Their report, The Way Forward for Heritage noted that current practice had moved away from the letter grading system and that it tended to "result in the "lower" grade places being dismissed as being of marginal significance".*
23. *In 2012, the Victorian Government released the Applying the Heritage Overlay Planning Practice Note (**Planning Practice Note 1 "Applying the Heritage Overlay"**) which states "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." (p.2)*
24. *Following the direction from the Victorian Government, recent Panel reports on heritage amendments have included commentary on the deficiencies of the Council's grading system and heritage policies.*
25. *In July 2012, the Panel report for Amendment C186 (Central City Heritage Review) was issued, and described Council's reliance upon the A-D grading system as being "an out dated*

¹⁰ In relation to paragraph 21 of Council's Part A submission, it is noted the *Heritage Places Inventory 2000* replaced the *City of Melbourne Conservation Schedule*. Although Amendment C19 sought to rationalise the grading system from six categories to four categories, a small number (approximately 8) E and F graded buildings remained in the *Heritage Places Inventory 2000* and in subsequent versions of the *Heritage Places Inventory*.

approach to heritage management”. The Panel in its report recommended a general review of the grading system be undertaken as part of developing a standardised approach to building listings, and identified concerns with multiple gradings for buildings in the City found in multiple documents referenced in Clause 22.04, the retention of which “compounds the grading uncertainties.”

26. *In response to the State government direction regarding heritage controls, and the recommendations made by planning Panels appointed to consider Council’s heritage planning scheme amendments, Council prepared the Heritage Strategy 2013 (**Heritage Strategy**). The Heritage Strategy sets out a 15-year plan to protect the municipality’s heritage buildings, places and objects.*
 27. *The Heritage Strategy identifies the following action related to the heritage grading system:*
 - (a) ...
 - (b) ...
 - (c) *Undertake a review of the Council’s heritage places grading system and update in accordance with Planning Practice Note 1 “Applying the Heritage Overlay”.*
 28. *In January 2014, the Panel report for Amendment C207 (Arden-Macaulay Heritage Review) was issued, and recommended, “that the Council proceed with its review of its heritage gradings system as a priority.”*
 29. *On 1 July 2014, a discussion paper was endorsed by the Future Melbourne Committee and was released for public consultation, entitled Review of the Local Heritage Planning Policies in the Melbourne Planning Scheme (**2014 Discussion Paper**). The 2014 Discussion Paper included the following recommendations:*
 - (a) ...
 - (b) *To phase out the current A to D grading system and adopt a new contributory/ significant grading system.*
 - (c) ...
 30. *In early 2015, Council engaged Lovell Chen to implement the recommendations of the 2014 Discussion Paper, to respond to comments received during consultation on the 2014 Discussion Paper and to undertake further stakeholder consultation.*
 31. *The 2014 Discussion Paper and the background work by Lovell Chen informed the Heritage Policies Review which was being implemented by Amendment C258.*
 32. *By May 2015, the Panel report for Amendment C240 (Bourke Hill) described the A to D grading system as on “its last legs”.*
22. Although Amendment C19 sought to rationalise the grading system from six categories to four categories, a small number of E and F graded buildings – less than ten out of over 5,500 entries – remained within the Heritage Places Inventory introduced through Amendment C19.
23. On 1 July 2008, approximately 31 E graded buildings¹¹ in North Melbourne and Kensington were added to the Heritage Places Inventory through Amendment C134.

¹¹ Thirty-one E graded entries were added to the Heritage Places Inventory through Amendment C134, some of these

Amendment C134 was required because the City of Melbourne's boundary changed at this time to include parts of North Melbourne and Kensington that had previously been located within the City of Moonee Valley since the time of local government area amalgamations in around 1994. This area had originally been part of the City of Melbourne and these 31 buildings had been identified as heritage buildings through the *North and West Melbourne Conservation Study*, 1985 and the *Flemington and Kensington Conservation Study*, 1985. Amendment C134 translated the relevant planning controls for North Melbourne and Kensington from the Moonee Valley Planning Scheme to the Melbourne Planning Scheme.

24. In total, approximately 40 E and F graded entries remained in the Heritage Places Inventory until the gazettal of Amendment C258.¹² Following Amendment C258 only 3 E and F graded entries remain in the Heritage Places Inventory Part B.

IV. AMENDMENT C258

25. Amendment C258 was a major amendment, and an undertaking of significant scale, which modernised and updated heritage practice at the City of Melbourne.
26. Amendment C258:
 - (a) converted the A to D letter gradings¹³ for around 7,000 properties in the Heritage Overlay to the contemporary Significant, Contributory, Non-contributory category system. Three hundred and forty-six (346) properties and three infrastructure assets were removed from Amendment C258 by Council when it adopted Amendment C258. As explained above, these properties are now being converted through this Amendment;
 - (b) introduced updated local heritage policies at Clause 22.04 (Heritage Places in the Capital City Zone) and Clause 22.05 (Heritage Places outside the Capital City Zone);

entries referred to multiple buildings, e.g. there was one entry for 9, 11 and 13 McConnell Street, Kensington.

¹² These E and F graded buildings were converted to the Significant, Contributory, Non-contributory heritage category system through Amendment C258 except for two E graded buildings that were not converted because of addressing anomalies. They are 99 Buncle Street (previously listed under the incorrect address of 103 Buncle Street) and 9A McConnell Street, Kensington (previously listed under 9, 11, 13 McConnell Street) which are both being converted through Amendment C396.

¹³ Although the gradings conversion exercise was commonly referenced as the A to D in the statutory documentation, as identified above, the gradings conversion included conversion of the small number of E and F grade buildings that remained within the Inventory.

- (c) introduced new Statements of Significance for the six existing large heritage precincts outside the Capital City Zone of Carlton, East Melbourne and Jolimont, North Melbourne and West Melbourne, Parkville, South Yarra and Kensington; and
- (d) implemented the recommendations of the *West Melbourne Heritage Review, 2016*.

A. THE C258 CONVERSION METHODOLOGY

- 27. The preparation of Amendment C258 involved Council engaging heritage consultants Lovell Chen to conceive of a gradings conversion methodology, so that properties could be translated to the new category system without the need for a conventional heritage review. With over 7,000 heritage buildings within the municipality, a conventional heritage review of every single building for the purposes of one amendment would have been of a time and financial scale that was prohibitive.

- 28. As noted within the Part B submission of Council for Amendment C258:

136. It [is] essential to recognise at the outset that the gradings conversion is, accordingly, not a heritage review as such. Nor did it involve an assessment of the heritage significance of all properties. The number of identified heritage properties in the City of Melbourne means that a complete heritage review of all properties would be of a scale (and cost and timeframe) that is prohibitive. Accordingly, Council has sought to translate to the new gradings system, and pursue comprehensive heritage reviews on a suburb by suburb basis through an ongoing program established in the Heritage Strategy. The WMHR [West Melbourne Heritage Review] is one such review and forms part of the Amendment. The forthcoming South Carlton and Hoddle Grid reviews are others.

- 29. This program of conventional heritage reviews relied on by Council is discussed further below.
- 30. The methodology devised by Lovell Chen was informed by background research, desktop analysis, field and sampling work to ascertain the most robust method by which to undertake the conversion exercise. Based on this work, Lovell Chen identified whether gradings were to be the subject of direct conversion or whether they warranted further desktop analysis. The conversion approach adopted for different suburbs and for places in the Capital City Zone is set out in Table 1.

Table 1: Conversion approach by area¹⁴

Area	A grade	B grade	C grade	D grade
East Melbourne and Jolimont	Significant	Significant	Review	Contributory
South Yarra	Significant	Significant	Review	Contributory
Parkville	Significant	Significant	Contributory	Contributory
Kensington	N/A	Significant	Review	Review
North and West Melbourne	Significant	Significant	Review	Review
Carlton	Significant	Significant	Review	Review
Capital City Zone	Significant	Significant	Review	Review

31. This conversion exercise excluded properties that had already been assessed under, or converted to, the contemporary category system in (what were then) recent conventional heritage reviews for City North (Amendment C198), Arden Macaulay (Amendment C207), the eastern part of Kensington (Amendment C215), the Central City (Amendment C186) and West Melbourne (Amendment C258). Refer to **Appendix C** for a map showing the areas affected by these conventional heritage reviews.
32. Council applied the methodology devised by Lovell Chen to directly convert buildings:
 - a) previously graded A and B;
 - b) C graded buildings in Parkville; and
 - c) D graded buildings in East Melbourne, South Yarra and Parkville.
33. Lovell Chen undertook desktop analysis of heritage buildings previously graded C or D which were not the subject of direct conversion.
34. The C258 conversion methodology included directly converting streetscape gradings. Buildings were previously assigned a streetscape grading of Level 1, Level 2 or Level 3. Under the C258 conversion's methodology, Level 1 was converted to a streetscape category of Significant while Level 2 and Level 3 were not given a streetscape grading.

¹⁴ The proposed review task referenced in Table 1 was a further desktop analysis rather than a conventional heritage review.

35. Lovell Chen did not undertake either a conventional heritage review or a desktop analysis of properties with an individual Heritage Overlay number on the basis that such properties had already been properly regarded as individually Significant and accordingly a direction conversion to Significant on that basis was warranted. This determination was considered appropriate, on the basis that these properties had been included within a Heritage Overlay of their own and that inclusion demonstrated a threshold of Local significance had been achieved for the heritage place in its own right.

B. SUBMISSIONS RECEIVED

36. The initial exhibition period for Amendment C258 was between 30 March 2017 and 12 May 2017. The proposed *Heritage Inventory 2016* was part of the exhibited Amendment and contained the proposed heritage categories for properties in the Heritage Overlay. It included properties converted by Lovell Chen and properties in City North (Amendment C198), Arden Macaulay (Amendment C207), the eastern part of Kensington (Amendment C215), the Central City (Amendment C186) and West Melbourne (Amendment C258). In response to the initial exhibition period of Amendment C258, Council received 85 submissions. Of the 85 submissions received, 29 submissions raised potential omissions and anomalies in the exhibited *Heritage Inventory 2016*.
37. Following exhibition and receipt of submissions, a Heritage Gradings Data Audit was undertaken to identify and correct errors in the exhibited *Heritage Inventory 2016* so that a corrected version of the C258 Heritage Inventory could be re-exhibited. This corrected version was renamed the *Heritage Places Inventory 2017* and was exhibited between 7 December 2017 and 29 January 2018. In response to exhibition, Council received a further 13 submissions.
38. On 20 February 2018, the Future Melbourne Committee considered the submissions to Amendment C258 and resolved to request that the Minister for Planning appoint an Independent Panel to hear submissions and consider Amendment C258.
39. Five late submissions were received following the conclusion of the second round of exhibition. In total, 103 submissions were received for Amendment C258.

C. THE PANEL HEARING & REPORT OF THE PANEL

40. The Amendment C258 Panel hearing was held over 20 days between 6 August 2018 and 19 February 2019. The timeframe enabled Council, while not statutorily obliged to do so, to afford any property owners affected by the introduction of interim heritage overlay controls¹⁵ the same opportunity to participate in the Panel that had been afforded to original submitters whose properties were within a Heritage Overlay at the time the required statutory notice of Amendment C258 was provided. Six additional submissions were referred to the Panel during the course of the hearing.
41. The Amendment C258 Panel issued its report on 21 May 2019. The report identified the following issues raised in submissions and during the Amendment C258 hearing:¹⁶
- *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.”*
42. The Amendment C258 Panel recommended adoption of Amendment C258 with what are reasonably described as fundamental changes.
43. Accordingly, some key Panel recommendations were not supported by Council when it adopted Amendment C258. These recommendations included:
- (a) Deletion of the Significant category from the heritage policies, which would have removed the policy requirements that afford a greater level of protection to Significant buildings as opposed to Contributory buildings.
 - (b) Reviewing the categories of all Significant places within the municipality and classifying them as either an ‘Individual Heritage Place’ (if located outside a precinct), or a ‘Contributory Heritage Place’ (if located within a precinct). This

¹⁵ The interim controls were for properties the subject of conventional heritage review in the *Hoddle Grid Heritage Review 2018* (Amendment C327), the *Guildford and Hardware Laneways Heritage Study 2017* (Amendment C301) and the *Southbank & Fishermans Bend Heritage Review 2017* (Amendment C304 and C276).

¹⁶ Melbourne C258 (PSA) [2019] PPV 29 (21 May 2019), Explanatory Report, pdf page 9.

new approach, which was not raised with submitters during the hearing and was not the subject of submissions or evidence, would have transformed the original Amendment C258 and resulted in effectively downgrading all Significant properties in heritage precincts to Contributory status, thereby reducing their level of heritage protection under the heritage policy. As this new categories system was raised for the first time within the Panel's report, it was not the subject of detailed research and consultation and, as noted, was not the subject of debate during the Panel hearing. Further, implications for consistency with heritage categorisation in other municipalities were not the subject of analysis and accordingly it could not be described as well explored or understood.

- (c) Abandoning the categorisation of some streetscapes as Significant, which had the effect of removing policy recognition for these streetscapes and reducing the heritage protection afforded by this classification.

- 44. Council removed 346 properties¹⁷ and three infrastructure assets from Amendment C258 when it adopted Amendment C258. The reasons why these properties were removed are discussed further below.

D. APPROVAL OF C258

- 45. On 14 June 2020, the Minister for Planning advised Council that he had resolved to approve Amendment C258 with changes to the version submitted for approval by Council. These changes were minor formatting and technical alterations to Clause 22.04, Clause 22.05 and incorporated documents.

- 46. The approval letter stipulated that:

"...council must prioritise the further work required to convert these properties to the new grading system. It is expected that the council will seek authorisation to prepare an amendment to implement the new grading system for these sites within six months of the date of this letter."

- 47. Council wrote to the Minister for Planning on 13 November 2020 advising that work was underway but had been impacted by COVID-19 restrictions that had been in place since 2 August 2020. The letter advised that Council appreciated the work required is appropriately a high priority project but that it would not be possible to seek authorisation by 14 December 2020.

¹⁷ Note that some properties contain multiple heritage buildings.

48. Amendment C258 was gazetted on 10 July 2020.
- E. ISSUES RAISED IN RELATION TO PROPERTIES DEFERRED FOR FURTHER ASSESSMENT
49. The primary matters raised within Amendment C258 of most relevance to this Amendment are:
- (a) the direct conversion of C graded buildings in Heritage Overlay precincts in City North to Significant;
 - (b) the direct conversion of D graded buildings in individual Heritage Overlays across the municipality to Significant; and
 - (c) the accuracy of the Heritage Places Inventory.

Direct Conversion of C Graded Buildings in Heritage Precincts in City North to Significant

50. The City North Heritage Review was undertaken by RBA Architects in 2013. Refer to **Appendix C** for a map showing the relevant study area of this conventional heritage review. The City North Heritage Review was implemented by Amendment C198 which was gazetted on 15 October 2015.
51. The City North Heritage Review assessed buildings using the then existing A to D heritage building grading system and the then existing Level 1, Level 2 and Level 3 streetscape grading system.
52. The Amendment C198 Panel report noted that during the Panel hearing for Amendment C198, RBA Architects advised that:

The Council's experts advised that their instructions were to use the grading system as it stands; however they noted that a 'conversion system' to accommodate the need to adopt to the standard grading system (included in PN01) "should be kept in mind". In essence this equated:

- A, B, or C with 'significant'
- D with 'contributory'
- Ungraded with 'non-contributory'.¹⁸

¹⁸ Melbourne C198 (PSA) [2014] PPV 95 (11 July 2014), page 24.

53. The *Heritage Places Inventory 2017* exhibited as part of Amendment C258 contained buildings in City North. These buildings had been converted to the Significant, Contributory, Non-contributory category system based on the approach identified in the Amendment C198 Panel hearing and accordingly were not the subject of conversion via the C258 conversion methodology.
54. Council's Part C submission to the Amendment C258 Panel noted the following in relation to C graded buildings in City North:

28 *The University of Melbourne and the Melbourne Business School have challenged the treatment of C graded buildings. In response, Council proposes that C grade buildings in precincts be treated in the same way as the Lovell Chen conversion methodology throughout other suburbs, and accordingly should be the subject of further assessment prior to being classified. C grade buildings in individual Heritage Overlays in City North will be dealt with in the same way as all buildings in individual Heritage Overlays; that is, converted to Significant, reflecting that the threshold for individual significance must have been met to warrant their recent inclusion in an individual Heritage Overlay.*

55. The Amendment C258 Panel recommended that the submissions relating to C graded buildings in City North precincts be dealt with by their recommendation that all heritage buildings within precincts be categorised as Contributory. As noted above, this new approach proposed by the Panel was not supported by Council as it was not the subject of detailed research and consultation, was not raised within the Panel hearing such that submitters and experts were afforded the opportunity to consider and comment on its appropriateness, and had the effect of downgrading the significance of Significant heritage buildings within precincts.
56. In adopting Amendment C258, Council removed the C graded buildings in City North precincts so that they could be the subject of desktop analysis using the C258 conversion methodology, as foreshadowed to the C258 panel.

Direct Conversion of D Graded Buildings in Individual Heritage Overlays across the Municipality to Significant

57. As mentioned above, individual properties with individual Heritage Overlays were not the subject of either conventional heritage review or desktop analysis and were directly converted to Significant. This was because it was considered that because these properties had previously been assessed as warranting an individual Heritage Overlay,

it had already been demonstrated that a threshold of local Significance was achieved for the property in its own right.

58. Some submitters to Amendment C258 challenged the direct conversion of C and D graded buildings in individual Heritage Overlays to Significant. They argued that such buildings could be of a low heritage value and that it would be inappropriate to apply the stricter management requirements in heritage policy associated with a Significant category.¹⁹
59. In its submissions to the Amendment C258 Panel, Council maintained that the conversion of all properties with an individual Heritage Overlay to Significant was appropriate. Council noted that the Scheme identifies individual properties in individual Heritage Overlays as Significant because they are listed in the Schedule to Clause 43.01 (Heritage Overlay). Council further noted that further analysis in the form of either a conventional heritage review or desktop analysis was not within the scope of the Amendment C258 gradings conversion.²⁰
60. Council went on to note that Ms Brady had identified during the hearing the need for further analysis of the C and D graded properties in individual Heritage Overlays. Council accepted that a future review of the heritage categories for these properties was appropriate but that in the interim, a categorisation of Significant was appropriate.²¹
61. Council's Part C submission for Amendment C258 provides:

33. *Even if the Panel is sympathetic to the need for priority review of C and D graded buildings in individual Heritage Overlays, of the three potential recommendations available to the Panel, Council submits only one is appropriate in the circumstances:*

- (a) *the Panel should not recommend that the Amendment be delayed until such reviews are undertaken. The reviews require the new classification system and associated definitions to be approved before reviews can be progressed in reliance on such a system. Although Council is committed to undertaking reviews across all of its suburbs as specified in Actions 2.1, 2.2 and 2.3 of the Heritage Strategy, (see City of Melbourne Program of Heritage Area Reviews) there is no current programme or budget for a comprehensive review of all C and D graded buildings in individual heritage overlays, within the immediate term. The number of individual heritage overlays affected has been identified as approximately*

¹⁹ Amendment C258 Panel report, page 28.

²⁰ Part B submission pages 37-38.

²¹ Part B submission, [157].

267¹, representing 226 heritage places with a building grading 'C' in an individual Heritage Overlay that have been converted to 'Significant', and 41 heritage places with a building grading 'D' in an individual Heritage Overlay that has been converted to 'Significant'. To delay approval of the Amendment pending this exercise, would bring heritage protection in the municipality to a stand still.

- (b) *the Panel should not recommend that C and D graded buildings in an individual Heritage Overlay be classified as Contributory on an interim basis. This approach is fundamentally incompatible with the concepts of heritage significance embodied in the Amendment. Outside a precinct, there is nothing for a "contributory" building to contribute to.*
- (c) *the Panel should not recommend the creation of a new category of heritage significance for lowly graded or lesser significant buildings in individual Heritage Overlays. No such category has been conceptually defined, and no management regime for such a category proposed. Such an approach is also not anticipated by the guidance provided in Planning Practice Note 1: Applying the Heritage Overlay.*
- (d) *the Panel should recommend that C and D graded buildings in an individual Heritage Overlay are classified as Significant on the basis that this classification will provide the most appropriate level of heritage protection until a future review determines otherwise. The opportunity to provide further information about significance included in the draft policy ensures that landowners seeking approval for works to a Significant heritage place will be able to provide a more fulsome account of significance and a more thorough analysis of how any works will affect that significance.*

62. As noted, the Panel's response to Council's submissions involved the introduction of a new classification system, which was considered inappropriate by Council for the reasons identified.

The Accuracy of the Heritage Places Inventory

63. A number of submissions to Amendment C258 identified what were referred to as 'errors' within the Heritage Places Inventory.
64. Council's Part C submission responded to these submissions as follows:

34. *A number of submitters have identified alleged errors or inconsistencies within the Inventory.*

35. *In its submission, the University of Melbourne asserted:*

- (a) *Mr Raworth's assessment of the appropriateness of the proposed gradings for the University's heritage assets remains uncontradicted and unchallenged. In her oral evidence in chief, Ms Brady explained that (save for 11 Palmerston*

Place) she did not dispute, and could not respond to, Mr Raworth's assessment because she had not assessed the properties herself. Mr Raworth's assessment seemed to Ms Brady to be "sound". In fact, Ms Brady's evidence was that the properties assessed by Mr Raworth should be reviewed as a "priority" by the Council. Ms Brady's concession in this respect is supported by Mr Helms' evidence, in which he states, of the methodological approach that has been employed:

...these preliminary assessments are only suitable as an interim measure and should be confirmed following a detailed assessment undertaken either on a precinct-wide or a thematic/typological basis.

(b) There has been no attempt by the Council to disprove or to challenge Mr Raworth's evidence that the arbitrary and rigid methodological approach has resulted in error.

36. *Melbourne University is not the only submitter who has attempted to characterise the gradings system as resulting in 'error'.*
 37. *Council has been abundantly clear that the purpose of the Amendment is not to undertake a full-scale heritage review of the entire municipality. The only properties that were the subject of complete heritage review are those in West Melbourne.*
 38. *What have been identified as 'errors' by submitters, are in fact buildings that have been correctly translated by the conversion methodology employed by Lovell Chen, but, when the subject of complete heritage review, may warrant a different grading. This is not an error in the conversion methodology. It is entirely consistent with the methodology employed.*
 39. *Council has also been clear that it may be the case that some heritage buildings may be been 'upgraded' or 'downgraded' and must be the subject of complete heritage review in the future. Council has demonstrated its commitment to a program of ongoing heritage reviews such that the Panel should have confidence each building within the municipality will be the subject of such review in due course.*
 40. *There are a small number of genuine errors that have been revealed throughout the Panel process. Where an authentic error has been identified and verified, Council has recommended corrections to the Inventory.*
65. The Panel made the following recommendation in relation to the accuracy of the Heritage Places Inventory (recommendation 7):
- That the Inventory be further reviewed before adoption in consultation with residents' groups and other relevant submitters for accuracy of place entry.*
66. The Amendment C258 Panel further recommended that the Heritage Inventory be amended to remove buildings that are not covered by the Heritage Overlay.
67. In response to the Panel recommendation and before Amendment C258 was considered for adoption, Council undertook an additional check of the Heritage Places

Inventory. The check was conducted by a dedicated team who worked full time from September 2019 to January 2020.

68. Through these investigations, Council identified a further small number – approximately 3 per cent²² – of buildings that had been omitted or incorrectly converted.
69. For suburbs other than Melbourne, this involved manually checking each entry in the Heritage Places Inventory that was in the Scheme prior to Amendment C258 against the Heritage Places Inventory that had been exhibited through Amendment C258. The purpose of the check was to make sure no entries had been accidentally omitted and that the conversion methodology had been carried out correctly.
70. For the suburb of Melbourne, a different approach was required. This was because most heritage buildings in the suburb of Melbourne were not listed in the Heritage Places Inventory that was in the Scheme prior to Amendment C258.²³ Instead, the heritage gradings were listed in heritage studies and reviews as well as the few buildings listed in the Heritage Places Inventory that was in the Scheme prior to Amendment C258. Also, buildings reviewed in the *Guilford and Hardware Laneways Study*, 2017 were listed in a separate *Guilford and Hardware Laneways Heritage Study 2017: Heritage Inventory* because that project was finalised after the preparation of Amendment C258.
71. To undertake the check for the suburb of Melbourne, properties in the Heritage Overlay were identified using GIS. The gradings for these properties were then identified from heritage studies and reviews. These gradings were checked against the exhibited Amendment C258 Heritage Places Inventory to make sure no listings had been accidentally omitted and that the conversion methodology had been carried out correctly.

²² There were approximately 7,225 entries in the exhibited Amendment C258 Heritage Places Inventory. Amendment C396 includes approximately 241 buildings (or 3.3 per cent) that were omitted or incorrectly converted in the exhibited Amendment C258 Heritage Places Inventory.

²³ The Heritage Places Inventory that was in the Scheme prior to Amendment C258 included 81 entries in the suburb of Melbourne. This represented a very small fraction of the heritage buildings in the suburb of Melbourne. Buildings in the suburb of Melbourne were not generally listed in the Heritage Places Inventory because it was originally based on the *City of Melbourne Conservation Schedule* which only included buildings in the conservation study areas of Carlton, East Melbourne and Jolimont, Kensington and Flemington, North and West Melbourne and South Yarra. At the time of Amendment C19, the Heritage Places Inventory included only a part of the suburb of Melbourne that was not in the Capital City Zone, an area bounded by Victoria Street, Swanston Street and La Trobe Street which represented 33 entries in the Inventory. A further 48 entries were in the Heritage Places Inventory by the time of Amendment C258; these buildings had previously been in Carlton but are now part of Melbourne due to suburb boundary realignments.

72. The check of the Heritage Places Inventory looked for and investigated anomalies including the following:
- (a) Entries in the Heritage Places Inventory prior to Amendment C258, or graded buildings in the suburb of Melbourne in the Heritage Overlay, that were not in the exhibited Amendment C258 Heritage Places Inventory.
 - (b) A or B graded buildings that had not been converted to Significant.
 - (c) Level 1 streetscapes that had not been converted to Significant.
73. Steps to investigate omitted entries included as necessary:²⁴
- (a) Locating the building in Council's CoMPASS mapping system to determine whether it is within a corner property or a property with multiple street frontages and whether it might be listed under an alternative address.
 - (b) Retrieving Building Identification Forms from the 1985 conservation studies. These contain photos and were used to confirm if buildings had been demolished or whether the correct address had been used in the conservation studies which was the basis for the listing in the Heritage Places Inventory prior to Amendment C258.
 - (c) Using maps from the 1985 conservation studies and Google Street View photos to locate buildings with ambiguous or potentially incorrect street addresses.
 - (d) Using aerial photos available in CoMPASS captured between 1994 and the present day to confirm if buildings had been demolished.
 - (e) Checking panel reports and Council meeting papers to determine whether building gradings had been revised after the completion of heritage reviews.

²⁴ The following example is provided to demonstrate how the check was undertaken. 16 Barkly Street, Carlton was identified as an anomaly that required investigation because it was listed in the Heritage Places Inventory prior to Amendment C258 as a C graded building in a Level 3 streetscape but was not included in the exhibited Amendment C258 Heritage Places Inventory. 16 Barkly Street, Carlton was identified using Council's mapping system CoMPASS as being part of a triangle shaped property with street frontages to Barkly Street and Elgin Street which has the address in Council's property database of 1-13 Elgin Street. The heritage study that had resulted in the listing in the Heritage Places Inventory prior to Amendment C258 was identified as the *Carlton, North Carlton and Princes Hill Conservation Study*, 1985. The corresponding Building Identification Form from the 1985 study for 16 Barkly Street was retrieved to confirm the building has not been demolished and to confirm that an addressing error had not occurred in the 1985 study and the building was located within 1-13 Elgin Street. Following this check, 16 Barkly Street was identified as an omitted listing in the exhibited Amendment C258 Heritage Places Inventory. It was subsequently included in Amendment C396 and assessed by Lovell Chen and Anita Brady Heritage as Contributory.

- (f) Checking the extent of registration and the Statement of Significance for Victorian Heritage Register (VHR) listed places to determine whether previous listings were included as part of VHR listed places.
74. As well as checking each entry in the Heritage Places Inventory prior to Amendment C258 and each graded building in the suburb of Melbourne in the Heritage Overlay, all submissions and expert evidence for Amendment C258 were also reviewed. This ensured that all comments in relation to buildings which were omitted from or incorrectly graded in the Inventory had been dealt with.
75. Errors and anomalies identified by submitters were carefully investigated and fixed, noting that some of these submissions were prepared by active resident associations with extensive local knowledge and were accompanied by detailed lists of buildings which appeared to have been inadvertently omitted or incorrectly converted.
76. A number of the anomalies identified by submitters were not errors but related to addressing changes because of the digitisation of the Council's property data. There were also pre-existing errors and properties that had been demolished.
77. In summary, the types of omitted or incorrectly converted buildings include:
- (a) Properties that contain multiple buildings that were previously listed as separate entries but were listed as one entry in the exhibited Amendment C258 Heritage Places Inventory.
 - (b) Properties that have multiple street frontages (such as a corner sites) where buildings were previously listed under a street name that is not used in the current property address.
 - (c) Pre-existing errors where buildings had been identified in conservation studies by the incorrect address.
 - (d) Buildings that have been subdivided into multiple properties since conservation studies were undertaken.
 - (e) Buildings that were included in the description of heritage places in the Heritage Overlay schedule but were not included in their mapped extent due to mapping errors.

V. PROGRESS OF THE AMENDMENT

A. PROCESS ADOPTED BY COUNCIL FOLLOWING C258

78. Council undertook the investigation of errors and omissions of entries in the Inventory as identified through the Amendment C258 process. Using the C258 conversion methodology in Table 1, Council applied the direct conversions identified in Table 1 to the buildings that did not require desktop or conventional heritage review²⁵ and recorded these in the Excel spreadsheet.
79. Council highlighted the buildings that required desktop or conventional heritage review based on the C258 conversion methodology in Table 1 by marking these properties in the Excel spreadsheet orange.
80. In August 2020, Council engaged both Lovell Chen and Anita Brady Heritage to undertake the heritage grading conversion for properties removed from Amendment C258. Ms Brady worked at Lovell Chen from 2001 to 2017 and was the project lead for Lovell Chen's work on Amendment C258. She also gave expert evidence at the Amendment C258 Panel hearing. As Ms Brady had established her own practice subsequent to completing her work on Amendment C258, Council sought to include her project team as consultants for the Amendment, which was facilitated by Lovell Chen. Lovell Chen and Anita Brady Heritage undertook the heritage grading conversion using the C258 methodology, with the exception being that D graded buildings in individual Heritage Overlays were the subject of a conventional heritage review.
81. The buildings referred by Council to Lovell Chen and Anita Brady Heritage (highlighted in the spreadsheet in orange) were: the desktop analysis of buildings identified within Council's errors and omissions investigation; the desktop analysis of C graded buildings in City North precincts; and the conventional heritage review of D graded places in individual Heritage Overlays (subsequently highlighted in green in the spreadsheet by Lovell Chen and Anita Brady Heritage). The spreadsheet contained approximately 400 buildings within approximately 350 properties and three infrastructure assets.²⁶

²⁵ A and B graded buildings; C graded buildings in Parkville; and D graded buildings in East Melbourne, South Yarra and Parkville.

²⁶ The three infrastructure assets are a brick substation in the median strip on Powlett Street, East Melbourne; a VHR listed tram shelter on St Kilda Road, Melbourne and a railway bridge on The Avenue, Parkville

82. The following examples demonstrate this approach:

- a) **Building that was directly converted (omitted or incorrectly converted in the exhibited Amendment C258 Heritage Places Inventory):** 331-335 Lygon Street, Carlton was previously listed in the Heritage Places Inventory as a B graded building in a Level 2 streetscape. It was omitted in error from the exhibited Amendment C258 Heritage Places Inventory. In preparing the Excel spreadsheet, Council identified it should be directly converted to Significant because it is a B graded building in Carlton and did not mark this row orange. Council entered the Building Category of Significant and did not apply a streetscape category in columns five and six based on the C258 conversion methodology before the Excel spreadsheet was issued to Lovell Chen.
- b) **Building requiring desktop review (omitted or incorrectly converted in the exhibited Amendment C258 Heritage Places Inventory):** 25 Victoria Place, Carlton was previously listed in the Heritage Places Inventory under the address *Victorian Art Statue Store, Victoria Place* as a D grade building in a Level 3 streetscape. It was omitted in error from the exhibited Amendment C258 Heritage Places Inventory. In preparing the Excel spreadsheet, Council identified that it required desktop review by Lovell Chen based on the C258 conversion methodology because it is a D graded building in Carlton in a precinct Heritage Overlay and marked this row orange. Council identified in column five that the Building Category was to be determined. Council did not apply a streetscape category in column six. Lovell Chen undertook a desktop review and completed the “LC Check”, “LC Recommendation” and “LC Comment” columns in the spreadsheet.
- c) **C graded building in Heritage Overlay precinct in City North:** 141 Barry Street, Carlton was previously listed in the Heritage Places Inventory as a C grade building in a Level 2 streetscape. It was removed from Amendment C258 because it is a C graded building in a City North precinct. In preparing the Excel spreadsheet, Council identified that it required desktop review by Lovell Chen based on the C258 conversion

methodology because it is a C graded building in Carlton and marked this row orange. Council identified in column five that the Building Category was to be determined. Council did not apply a streetscape category in column six. Lovell Chen undertook a desktop review and completed the “LC Check”, “LC Recommendation” and “LC Comment” columns in the spreadsheet.

- d) **D graded building in individual Heritage Overlay:** 29-31 Rathdowne Street, Carlton was previously listed in the Heritage Places Inventory as a D grade building in a Level 3 streetscape. It was removed from Amendment C258 because it is a D graded building in an individual Heritage Overlay. In preparing the Excel spreadsheet, Council identified that it required a conventional heritage review by Lovell Chen and marked this row orange. Council identified in column five that the Building Category was to be determined. Council did not apply a streetscape category in column six. Lovell Chen undertook a conventional heritage review and completed the “LC Check”, “LC Recommendation” and “LC Comment” columns in the spreadsheet.

B. ADDRESSING DISCREPANCIES

83. The Amendment C258 Panel made two other recommendations in relation to inconsistencies between the addresses used in the Heritage Places Inventory and the Heritage Overlay schedule and Heritage Overlay mapping that are useful to note:

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.*

...

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.*

84. The Amendment uses a standardised addressing system using Council’s property database for listings in the Heritage Places Inventory and the Heritage Overlay schedule. This removes any inconsistency between addresses used in the Heritage Places Inventory and the Heritage Overlay schedule for the properties that are affected

by the grading conversion in the Amendment. The Amendment also corrects pre-existing Heritage Overlay mapping errors for the properties that are affected by the grading conversion in the Amendment.

85. The Amendment C258 Panel supported the use of the standardised addressing system in the Heritage Places Inventory. However, it noted that in some cases the address used in Council's property database – which is the basis of the standardised addressing system – is not the street address in everyday use.
86. Council 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 conventional heritage reviews are undertaken. 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. Council will consider the appropriateness of adding street addresses and second addresses for corner properties as 'also known as' addresses as part of the Heritage Data Project.

C. THE PROGRAM OF CONVENTIONAL HERITAGE REVIEWS

87. Conservation studies were first undertaken in the 1980s across the whole City of Melbourne²⁷ that resulted in heritage controls across the municipality. Council currently has a comprehensive and ongoing program of heritage reviews that will ensure all places within the municipality will be the subject of a conventional heritage review. **Appendix C** provides detail regarding conventional heritage reviews that have been completed, those that are currently in progress and forthcoming reviews.
88. This program of heritage reviews is identified in the Heritage Strategy, adopted by Council in 2013. The following actions are identified in the Heritage Strategy:
 - a) progressively undertake a review of heritage in the high-growth, urban renewal and mixed-use areas in the City;

²⁷ Refer to the map provided within Appendix C. The 1980s conservation studies did not include industrial areas in Port Melbourne, industrial areas in part of West Melbourne, and parts of Flemington Racecourse and Melbourne Showgrounds. Buildings in Southbank were identified in the South Melbourne Conservation Study in 1985 which was commissioned by the then City of South Melbourne.

- b) review the heritage controls in the residential zones of the City, targeting resolution of gaps and inconsistencies in the existing controls; and
 - c) review the scope of heritage place studies and reviews in the municipality to ensure that all relevant places are included and protected.
89. As noted, Amendment C258 and now this Amendment are not in the nature of a conventional heritage review,²⁸ but rather is a heritage category conversion exercise. It is acknowledged there are a number of errors within the Inventory that have been carried over from Amendment C258 that have not yet been dealt with through this Amendment. Any remaining errors and omissions in relation to the Heritage Overlay mapping, the Heritage Overlay schedule or the Statements of Significance will be dealt with within these conventional heritage reviews.
- D. CONSULTATION & COMMUNITY ENGAGEMENT PRIOR TO SEEKING AUTHORISATION
90. Approximately 36 properties that are part of the Amendment are listed on the Victorian Heritage Register (**VHR**). VHR listed places are included in the Heritage Places Inventory incorporated document because it includes all properties in the Heritage Overlay. Development applications for VHR places are assessed by Heritage Victoria which may take into account the local heritage policies at Clause 22.04 and Clause 22.05 or the building and streetscape categories in the Heritage Places Inventory.
91. The VHR listed places in the Amendment were directly converted based on the C258 conversion methodology and included in the spreadsheet provided to Lovell Chen.
92. Council liaised with Heritage Victoria in January and February 2021 to seek its feedback on proposed changes to the addresses used in the Schedule to Clause 43.01 (Heritage Overlay) for some VHR places affected by the Amendment. As explained above, these changes are proposed to make addresses in the entries in the Heritage Places Inventory consistent with the City of Melbourne property database.
93. Proactive community engagement was undertaken in the lead up to presentation of the Amendment to the Future Melbourne Committee meeting on 16 March 2021.

²⁸ Other than the West Melbourne Heritage Review 2016 and the review of D graded places in individual Heritage Overlays in the Amendment.

94. On 2 March 2021, Council wrote to the Traditional Custodian groups the Wurundjeri Woi Wurrung Cultural Heritage Aboriginal Corporation, the Bunurong Land Council Aboriginal Corporation and the Boon Wurrung Foundation to advise them that the Amendment would be presented to the Future Melbourne Committee on 16 March 2021.
95. Between 2 and 9 March 2021, Council wrote to residents' groups, local history groups, the National Trust of Australia (Victoria) and Melbourne Heritage Action to advise them that the Amendment would be presented to Future Melbourne Committee on 16 March 2021. On 11 March 2021, Council held an information session on the Amendment for these groups. This proactive engagement was undertaken because of the likely interest from these groups in the Amendment. A number had made submissions to Amendment C258, participated in the Amendment C258 Panel and have a detailed knowledge of the heritage controls in their local area.
96. On 11 March 2021, the agenda and papers for the Future Melbourne Committee meeting on 16 March 2021 were published, including the draft Amendment documentation.
97. On 11 March 2021, in response to the proactive engagement, Council received correspondence from the East Melbourne Historical Society that sought clarification in relation to eight potential listings. The eight potential listings are identified in **Appendix D**.
98. One of the potential listings is of particular note. The East Melbourne Historical Society brought to Council's attention what was found to be an addressing error. The pair of houses at 40 and 42 George Street was identified in the *City of Melbourne Planning Scheme Heritage Review 2000* as D graded. However, only 42 was listed in the Heritage Places Inventory when the *City of Melbourne Planning Scheme Heritage Review 2000* was implemented through Amendment C19. This historical addressing error pre-existed Amendment C258 and had been in the Scheme since the 1980s. Council identified that 40 George Street should be included in the Amendment since it includes correcting pre-existing addressing errors where they have been identified.
99. On 11 March 2021, in response to the proactive engagement, Council also received correspondence from a community member associated with the West Melbourne

Residents' Association who had been a party to the Amendment C258 Panel hearing. The correspondence was in relation to 65-67 Peel Street, West Melbourne.

100. The community member noted that Mr Butler, the heritage expert engaged by Council to undertake the *West Melbourne Heritage Review, 2016* had identified that an error had been made with the result that 65-67 Peel Street, West Melbourne should be categorised Significant rather than Contributory.²⁹ The Amendment C258 Panel did not comment on the heritage significance of 65-67 Peel Street, but rather recommended that because 65-67 Peel Street is located in a precinct Heritage Overlay (HO3 North & West Melbourne Precinct), it should be categorised Contributory. As noted above, the recommendation to categorise all heritage buildings in precincts as Contributory was not supported by Council.
101. Council identified that 65-67 Peel Street should be included in the Amendment to correct this error.
102. In checking the error in relation to 65-67 Peel Street, Council reviewed Mr Butler's evidence to the Amendment C258 Panel hearing and identified that he had also given evidence that 53 and 55 Hawke Street, West Melbourne should also have a streetscape category of Significant (as well as building gradings of Contributory).³⁰ Council identified that this should also be included in the Amendment.
103. On 16 March 2021, the Future Melbourne Committee resolved that it:

1.1 Notes that following the public release of the Future Melbourne Committee papers on Thursday 11 March 2021, management has proactively engaged with key submitters to the Planning Panel process, and in line with feedback, proposes to update the amendment documents as follows:

1.1.1 40 George Street, East Melbourne as having building category "Contributory" and streetscape category "-" (no category), to correct a historic addressing error which pre-dated Amendment C258.

1.1.2 65-67 Peel Street, West Melbourne as having building category "Significant" and streetscape category "-" (no category), to correct a building category error which was identified at the Amendment C258 Panel hearing by the heritage expert who authored the West Melbourne Heritage Review, 2016.

²⁹ https://hdp-au-prod-app-com-participate-files.s3.ap-southeast-2.amazonaws.com/3215/3301/2732/Council_Evidence_Graeme_Butler.PDF page 133.

³⁰ https://hdp-au-prod-app-com-participate-files.s3.ap-southeast-2.amazonaws.com/3215/3301/2732/Council_Evidence_Graeme_Butler.PDF page 95.

1.1.3 53 Hawke Street, West Melbourne, and 55 Hawke Street, West Melbourne, as both having building category "Contributory" and streetscape category "Significant", to correct a streetscape category error which was identified at the Amendment C258 Panel hearing by the heritage expert who authored the West Melbourne Heritage Review, 2016.

1.2 Applies to the Minister for Planning for authorisation to prepare and exhibit Planning Scheme Amendment C396 Finalisation of the Heritage Places Inventory per Attachment 2 of the report from management and inclusive of the updates proposed in previous paragraphs.

1.3 Authorises the General Manager Strategy, Planning and Climate Change to make any required editorial and referencing changes to the amendment documents prior to submitting them to the Minister for Planning for authorisation.

104. The following changes were made to the proposed Amendment following the Future Melbourne Committee meeting on 16 March 2021:

(a) 157-165 City Road, Southbank was removed from the Amendment. This was a D graded building in an individual Heritage Overlay that had been demolished. The version of the Amendment presented to the Future Melbourne Committee on 16 March 2021 had proposed to remove HO367 157-165 City Road, South Melbourne from the Scheme. This was no longer necessary because HO367 was removed on 23 April 2021 when Amendment C305 (Southbank Heritage Review) was gazetted.

(b) Editorial changes to clarify property addresses as listed in **Appendix E**.

105. On 19 March 2021, Council submitted the Future Melbourne Committee's request for authorisation via the Amendment Tracking System.

106. On 7 April 2021, the Department under delegation from the Minister for Planning, granted authorisation to Council to prepare the Amendment, subject to the following conditions:

- *"As the amendment affects land which is identified as Crown Land, notice must be given to First Nations Legal Research and Services, in respect of those particular properties.*
- *As the amendment affects land on the Victorian Heritage Register, notice must be given to Heritage Victoria, in respect of those particular properties."*

E. COPY OF AMENDMENT C396 PROVIDED TO THE MINISTER FOR PLANNING PRIOR TO EXHIBITION

107. On 26 April 2021, a copy of the Amendment including the amendment documentation and explanatory report was provided to the Minister for Planning in accordance with Section 17 of the *Planning and Environment Act 1987* (**Act**) by uploading it to the Amendment Tracking System.

F. EXHIBITION

108. The Amendment was exhibited from 20 May to 25 June 2021 as follows:

- (a) Notice of preparation
- (b) Explanatory report
- (c) Instruction sheet
- (d) Clause 22.04 (Heritage Places in the Capital City Zone)
- (e) Clause 22.05 (Heritage Places outside the Capital City Zone))
- (f) Schedule to Clause 43.01 (Heritage Overlay)
- (g) Clause 72.04 (Documents Incorporated in this Planning Scheme)
- (h) Clause 72.08 (Background Documents)
- (i) Planning Scheme Amendment Maps
- (j) Incorporated Document: Heritage Places Inventory March 2021
- (k) Incorporated Document: Heritage Category Conversion Statements of Significance March 2021
- (l) Incorporated Document: West Melbourne Heritage Review 2016: Statement of Significance February 2020, updated March 2021
- (m) Reference Document: Amendment C396 Heritage Category Conversion Review, Lovell Chen and Anita Brady Heritage, March 2021

109. Public notification of the Amendment included:

- (a) Mailing the statutory notice and a letter with information about the Amendment and the amendment process on 17 and 18 May 2021 (around 5,300 letters) to:
 - (i) Owners and occupiers of land affected by the Amendment.
 - (ii) First Nations Legal Research and Services.
 - (iii) Heritage Victoria.
 - (iv) Prescribed Ministers under section 19(1)(c) of the *Act*.
 - (b) Publishing a public notice in *The Age* on 4 November 2020 and *Government Gazette* on 20 May 2021.
 - (c) Making an electronic copy of the Amendment and supporting information available for public viewing from 18 May 2021 online on the Participate Melbourne website and from 20 May 2021 on the Department's Planning Documents on Exhibition website.
110. Outside of the statutory process, stakeholders were also informed about the Amendment in the following ways:
- (a) On 19 May 2021, Council met with the Wurundjeri Woi Wurrung Cultural Heritage Aboriginal Corporation to brief them on the Amendment. The invitation to meet with Council had been made to the Wurundjeri Woi Wurrung Cultural Heritage Aboriginal Corporation, the Bunurong Land Council Aboriginal Corporation and the Boon Wurrung Foundation in the correspondence of 2 March 2021.
 - (b) On 20 May 2021, management wrote to the Wurundjeri Woi Wurrung Cultural Heritage Aboriginal Corporation, the Bunurong Land Council Aboriginal Corporation and the Boon Wurrung Foundation to advise that the Amendment would be placed on exhibition from 20 May to 25 June 2021.
 - (c) On 20 May 2021, Council wrote to residents' groups, local history groups, the National Trust of Australia (Victoria) and Melbourne Heritage Action to advise that the Amendment would be placed on exhibition from 20 May to 25 June 2021.
 - (d) Public information sessions were held virtually via Zoom on 27 May 2021 (in the evening) and 1 May 2021 (in the daytime).

G. POST-EXHIBITION AND APPOINTMENT OF PANEL

111. On 7 September 2021, the submissions to the Amendment were presented to Future Melbourne Committee together with a summary of submissions and a response to submissions (**Council Response**). The Future Melbourne Committee resolved to:

- 1.1 *Note all submissions to Amendment C396.*
- 1.2 *Refer all submissions to Amendment C396 to an independent Panel appointed by the Minister for Planning for consideration by the Panel.*
- 1.3 *Note that the form of Amendment C396 to be presented to the Planning Panel is as exhibited with the addition of the comparative analysis done by Lovell Chen and Anita Brady Heritage added to the Amendment C396 Heritage Category Conversion Review, March 2021 background document and the removal of part of HO6 South Yarra Precinct so it is not introduced to 52-54 Clowes Street and 313-315 Walsh Street, South Yarra on Planning Scheme Amendment Map 012*
- 1.4 *Authorises the General Manager Strategy, Planning and Climate Change to make any further minor or necessary changes to Amendment C396.*

112. On 10 September 2021, Council formally requested that a Panel be appointed to consider the submissions received in response to the Amendment. All submissions were referred to the Panel.

VI. STRATEGIC BASIS FOR AMENDMENT C396

113. The Amendment is consistent with State Planning Policy Framework Objective 15 (Built Environment and Heritage):

- 15.03-1S (Heritage conservation) – to ensure the conservation of places of heritage significance.

114. The Amendment is also consistent with local policy provisions of the Scheme.

115. In describing the municipal profile, Clause 21.02-1 of the MSS states:

One of the great Victorian-era cities in the world, the City contains many precincts, intact streetscapes and buildings recognised for their cultural heritage significance. While mostly known for its Victorian and Edwardian streetscapes, there are many examples of outstanding interwar, post war and contemporary architecture in the municipality.

116. The vision for Melbourne in Clause 21.03 includes the following in relation to Built Environment and Heritage:

Protecting existing built form character and heritage, in addition to providing an attractive and liveable built environment in parts of the City where development will intensify is essential.

117. Clause 21.06 (Built Form and Heritage) acknowledges the importance of heritage and includes comprehensive strategies for the protection and enhancement of heritage in Melbourne, as follows:

Melbourne's character is defined by its distinctive urban structure, historic street pattern, boulevards and parks, heritage precincts, and individually significant heritage buildings. Heritage buildings, precincts and streetscapes are a large part of Melbourne's attraction and the conservation of identified heritage places from the impact of development is crucial.

118. Strategy 1.1 of Clause 21.06-1 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*

119. The Objective and Strategies of Clause 21.06-2 are to:

Conserve and enhance places and precincts of identified cultural heritage significance.

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 both.

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.

120. Clause 22.04 (Heritage Places within the Capital City Zone) applies to all places within the Heritage Overlay within the Capital City Zone and Clause 22.05 (Heritage Places outside the Capital City Zone) of the LPPF applies to all places within the Heritage Overlay outside the Capital City Zone and the Docklands Zone.
121. The policy objectives for Clause 22.04 and 22.05 are the same and include objectives seeking:

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.

122. Clauses 22.04 and 22.05 and the Heritage Places Inventory February 2020 Part A define key terms 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 Significant heritage place 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

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

Heritage precinct

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

Individual heritage place

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

123. By accurately identifying places within the Inventory, the Amendment will ensure that the significance of these heritage places is protected, conserved and enhanced.
124. By providing a categorisation of Significant or Contributory for each heritage place, the Amendment will ensure a clear management framework is in place for each place under Clause 22.04 and 22.05.

VII. ISSUES IDENTIFIED IN SUBMISSIONS

125. In response to the exhibition of the Amendment, Council received 18 submissions from 17 parties. On 15 October 2021, the University of Melbourne advised that they wished to withdraw their submissions (12 and 18). There are 16 submissions remaining (two were supportive and 14 either opposed aspects of the Amendment or suggested changes to it).
126. Matters raised included:
 - a) support for heritage protection in the municipality;
 - b) concern about the proposed heritage category for specific properties and the impacts of the proposed controls on live planning permits and future development potential; and

- c) identification of possible errors in the Heritage Places Inventory, in the listing of the Heritage Overlays in the Planning Scheme and in Heritage Overlay maps.
127. Four submissions relate to land that is not part of the Amendment (submissions 2, 8, 16 and 17). Two of these submissions (8 and 17) refer to alleged errors and anomalies in the Heritage Places Inventory³¹ and the Heritage Overlay schedule and mapping that are outside the scope of the Amendment. **Appendix F** identifies how the issues identified will be dealt with.
128. Two the submissions (2 and 16) relate to heritage protection for properties that were the subject of recent heritage reviews. The heritage controls that apply or are proposed were implemented through recent planning scheme amendments or are being pursued by current planning scheme amendments. These amendments have been the subject of public exhibition and Panel hearings which have considered the appropriateness of the proposed heritage controls.
129. Refer to the table at **Appendix G** which lists all submissions, identifies whether they relate to land that is part of the Amendment and confirms how issues raised will be dealt with for land not part of the Amendment.
130. Council's response to remaining submissions will be dealt with in Council's Part B submission in accordance with Direction 12 of the Panel.

VIII. PROPOSED CHANGES IN RESPONSE TO SUBMISSIONS

131. Council does not recommend changes to the Amendment in response to the submissions as they did not identify errors with regard to the application of the conversion methodology or raise additional matters that warrant change.
132. As foreshadowed in its resolution of 7 September 2021, Council does recommend the following changes be made to the Amendment:
- (a) Update the *Amendment C396 Heritage Category Conversion Review*, March 2021 background document to include the comparative analysis undertaken by Lovell

³¹ It is Council's assessment that the submissions do not identify any errors in the Heritage Places Inventory. Both submissions identify a perceived error in the Heritage Places Inventory in relation to three buildings in HO81 5-21 Pelham St, Carlton. Council notes that it was not appropriate to include these buildings in the Amendment C396 Heritage Places Inventory given they were not included in the Heritage Places Inventory that was in the Scheme prior to Amendment C258.

Chen and Anita Brady Heritage. Part of their assessment included a conventional heritage review of previously D graded buildings which were in individual Heritage Overlays. Between May and July 2021, they documented a comparative analysis of the buildings which they had assessed as Significant to further substantiate their significance. The background document should now be updated to include this information.

- (b) Update Planning Scheme Amendment Map 012 to exclude application of HO6 South Yarra Precinct from 52-54 Clowes Street and 313-315 Walsh Street, South Yarra, to correct a drafting error.

IX. CONCLUSION

- 133. In accordance with the Direction 12 of the Panel dated 21 October 2021, the Part B submission will deal with Council's response to submissions and evidence and its final position on the Amendment, including any further changes.

Susan Brennan

Carly Robertson

Counsel for the Planning Authority

5 November 2021

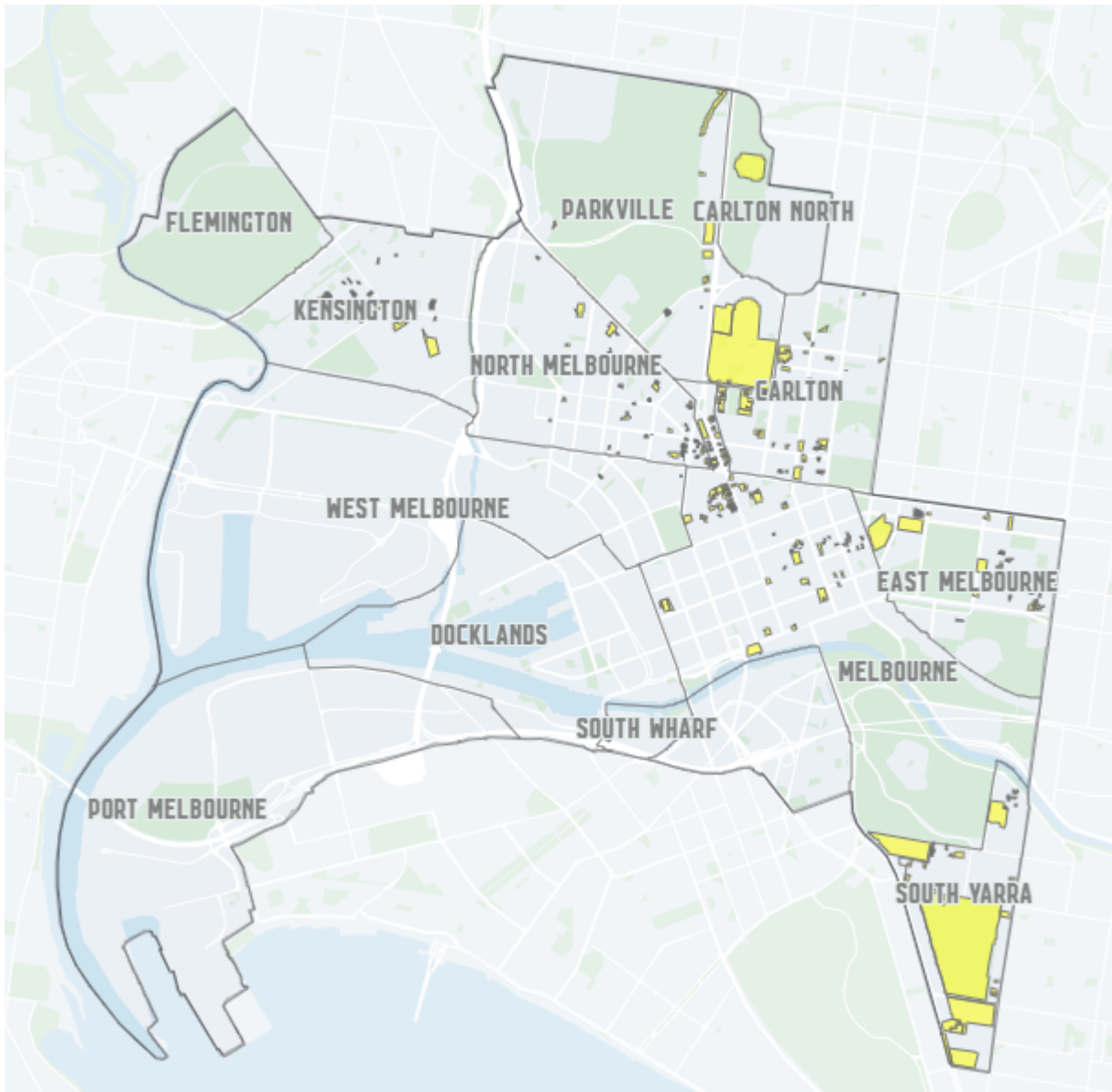
APPENDIX A: SUMMARY TABLE OF PROPOSED REVISIONS TO AMENDMENT C396

Exhibited Amendment Document	Proposed changes following exhibition as presented to the Future Melbourne Committee on 7 September 2021	Further proposed changes
Instruction sheet		
Explanatory report		
Clause 22.04 (Heritage Places in the Capital City Zone)		
Clause 22.05 (Heritage Places outside the Capital City Zone)		
Schedule to Clause 43.01 (Heritage Overlay)		
Schedule to Clause 72.04 (Documents Incorporated in this Planning Scheme)		
Schedule to Clause 72.08 (Background Documents)		
Planning Scheme Amendment Maps	Update Planning Scheme Amendment Map 012 to not show HO6 South Yarra Precinct being applied to 52-54 Clowes Street and 313-315 Walsh Street, South Yarra, to correct a drafting error.	
Incorporated Document: Heritage Places Inventory March 2021		Retain all text on page 4 (the definitions section) on the updated advice of the Department's Smart Planning team.
Incorporated Document: <i>Heritage Category Conversion Statements of Significance March 2021</i>		
Incorporated Document: West Melbourne Heritage Review 2016: Statement of Significance February 2020, updated March 2021		
Reference Document: Amendment C396 Heritage Category Conversion Review, Lovell Chen and Anita Brady Heritage,	Update the Amendment C396 Heritage Category Conversion Review, March 2021 background document to include comparative	

Exhibited Amendment Document	Proposed changes following exhibition as presented to the Future Melbourne Committee on 7 September 2021	Further proposed changes
March 2021	analysis undertaken by Lovell Chen and Anita Brady Heritage.	

APPENDIX B: SNAPSHOT FROM THE INTERACTIVE MAP

The following map shows the properties affect by Amendment C396 in yellow. This is a screenshot of the [Interactive Map](#) available on Participate Melbourne.



APPENDIX C: HERITAGE STUDIES AND REVIEWS AT THE CITY OF MELBOURNE

The following table identifies the heritage studies and reviews that are listed in Clause 22.04 (Heritage Places in the Capital City Zone) and Clause 22.05 (Heritage Places outside the Capital City Zone) as well as the *Report on the City of Melbourne Planning Scheme Heritage Review*, 2000 and heritage reviews that have been recently completed, are underway or are planned.

The study areas for the 1985 conservation studies and the heritage reviews that have been undertaken since 2012 are shown on the maps below.

Heritage Study / Review	Amendment	Gazettal date
<i>Parkville Conservation Study</i> , 1985 ³²	<i>Pre-new format planning scheme</i>	<i>Pre-new format planning scheme</i>
<i>East Melbourne and Jolimont Conservation Study</i> , 1985 ³³	<i>Pre-new format planning scheme</i>	<i>Pre-new format planning scheme</i>
<i>North and West Melbourne Conservation Study</i> , 1985 ³⁴ & 1994	<i>Pre-new format planning scheme</i>	<i>Pre-new format planning scheme</i>
<i>Carlton, North Carlton and Princes Hill Conservation Study</i> , 1985 ³⁵ & 1994	<i>Pre-new format planning scheme</i>	<i>Pre-new format planning scheme</i>
<i>Flemington and Kensington Conservation Study</i> , 1985	<i>Pre-new format planning scheme</i>	<i>Pre-new format planning scheme</i>
<i>South Yarra Conservation Study</i> , 1985	<i>Pre-new format planning scheme</i>	<i>Pre-new format planning scheme</i>
<i>Harbour Railways, Industrial Conservation Study</i> , 1985	<i>Pre-new format planning scheme</i>	<i>Pre-new format planning scheme</i>
<i>Central Activities District Conservation Study</i> , 1985	<i>Pre-new format planning scheme</i>	<i>Pre-new format planning scheme</i>
<i>South Melbourne Conservation Study</i> , 1985 & 1998	<i>Pre-new format planning scheme</i>	<i>Pre-new format planning scheme</i>
<i>Central City Heritage Study Review</i> , 1993	<i>Pre-new format planning scheme</i>	<i>Pre-new format planning scheme</i>
<i>Report on the City of Melbourne Planning Scheme Heritage Review</i> , 2000	C19	31 December 2001 (part 1) 4 July 2002 (part 2)
<i>Central City (Hoddle Grid) Heritage Review</i> , 2011	C186	25 July 2013 (part 1)
<i>Kensington Heritage Review</i> , 2013	C215	30 July 2015
<i>Review Buildings in Kensington: Percy Street Area</i> , 2013	C215	30 July 2015
<i>Bourke Hill Precinct Heritage Review</i>	C240	30 July 2015

³² Sometimes referred to as the *Parkville Conservation Study*, 1979 which is the date on the cover of the study. The study was updated and reissued in 1985 as part of a suite of conservation studies that covered the whole municipality.

³³ Sometimes referred to as the *East Melbourne and Jolimont Conservation Study*, 1983 which is the date on the cover of the study. The study was updated and reissued in 1985 as part of a suite of conservation studies that covered the whole municipality.

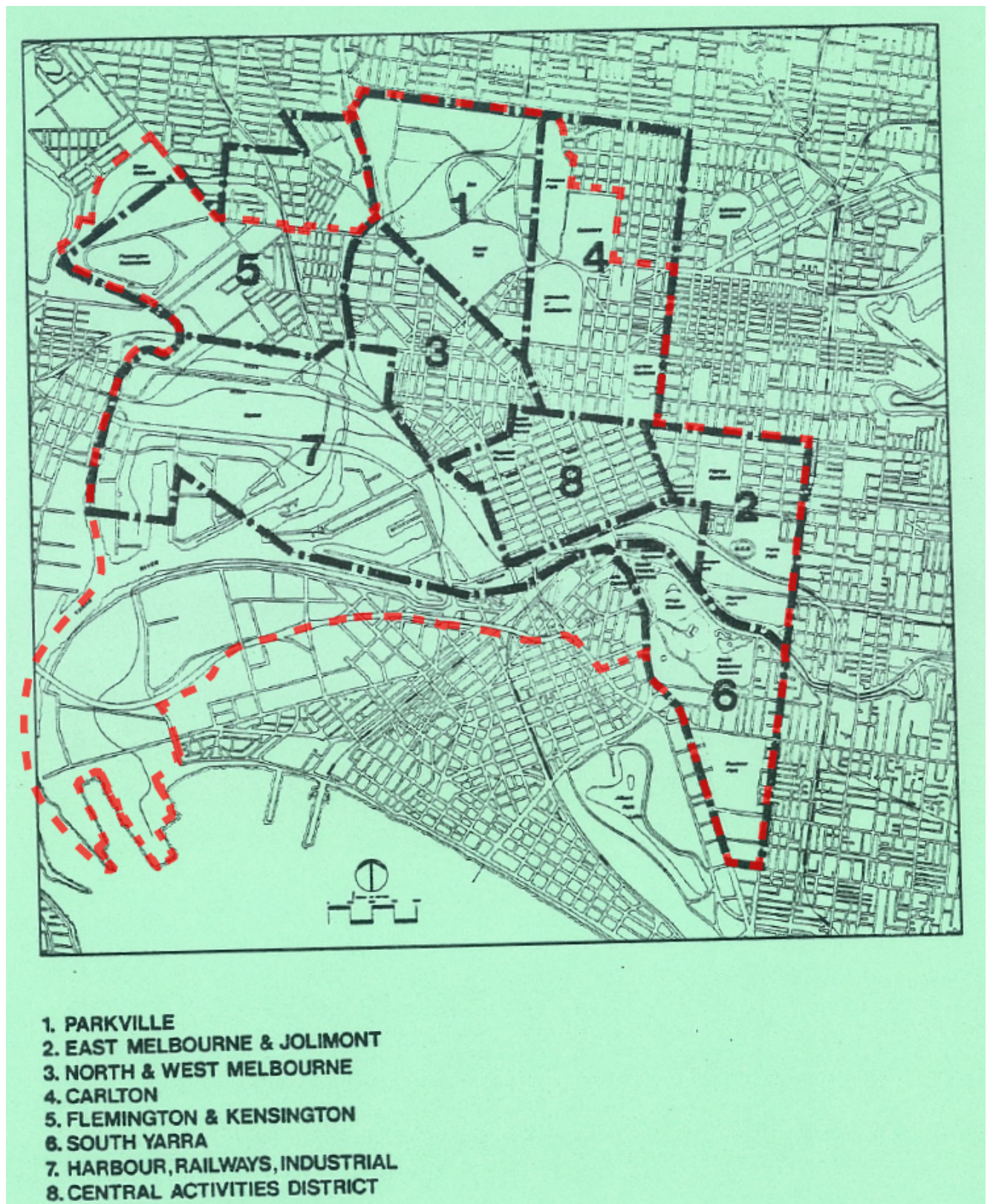
³⁴ Sometimes referred to as the *North and West Melbourne Conservation Study*, 1983 which is the date on the cover of the study. The study was updated and reissued in 1985 as part of a suite of conservation studies that covered the whole municipality.

³⁵ Sometimes referred to as the *Carlton, North Carlton and Princes Hill Conservation Study*, 1984 which is the date on the cover of the study. The study was updated and reissued in 1985 as part of a suite of conservation studies that covered the whole municipality.

Heritage Study / Review	Amendment	Gazettal date
<i>Amendment C240, 2015</i>		
<i>City North Heritage Review, 2013</i>	C198	15 October 2015
<i>Arden-Macaulay Heritage Review, 2012</i>	C207	14 July 2016
<i>Guilford and Hardware Laneways Study, 2017, updated October 2018</i>	C271	12 August 2019
<i>West Melbourne Heritage Review, 2016</i>	C258	10 July 2020
<i>Southbank Heritage Review, 2017, updated November 2020</i>	C305	23 April 2021
<i>Hoddle Grid Heritage Review, July 2020</i>	Amendment C387 underway	NA
<i>Fishermans Bend In-Depth Heritage Review 2021</i>	Amendment C394 underway	NA
<i>Carlton Heritage Review November 2021</i>	Amendment C405 to be presented to an upcoming Future Melbourne Committee meeting	NA
<i>North Melbourne Heritage Review, underway</i>	Review underway	NA
<i>South Yarra Heritage Review, underway</i>	Review underway	NA
<i>Parkville Heritage Review (in the process of being commissioned)</i>	Review being commissioned	NA
<i>East Melbourne Heritage Review (planned subject to budget)</i>	Review planned	NA

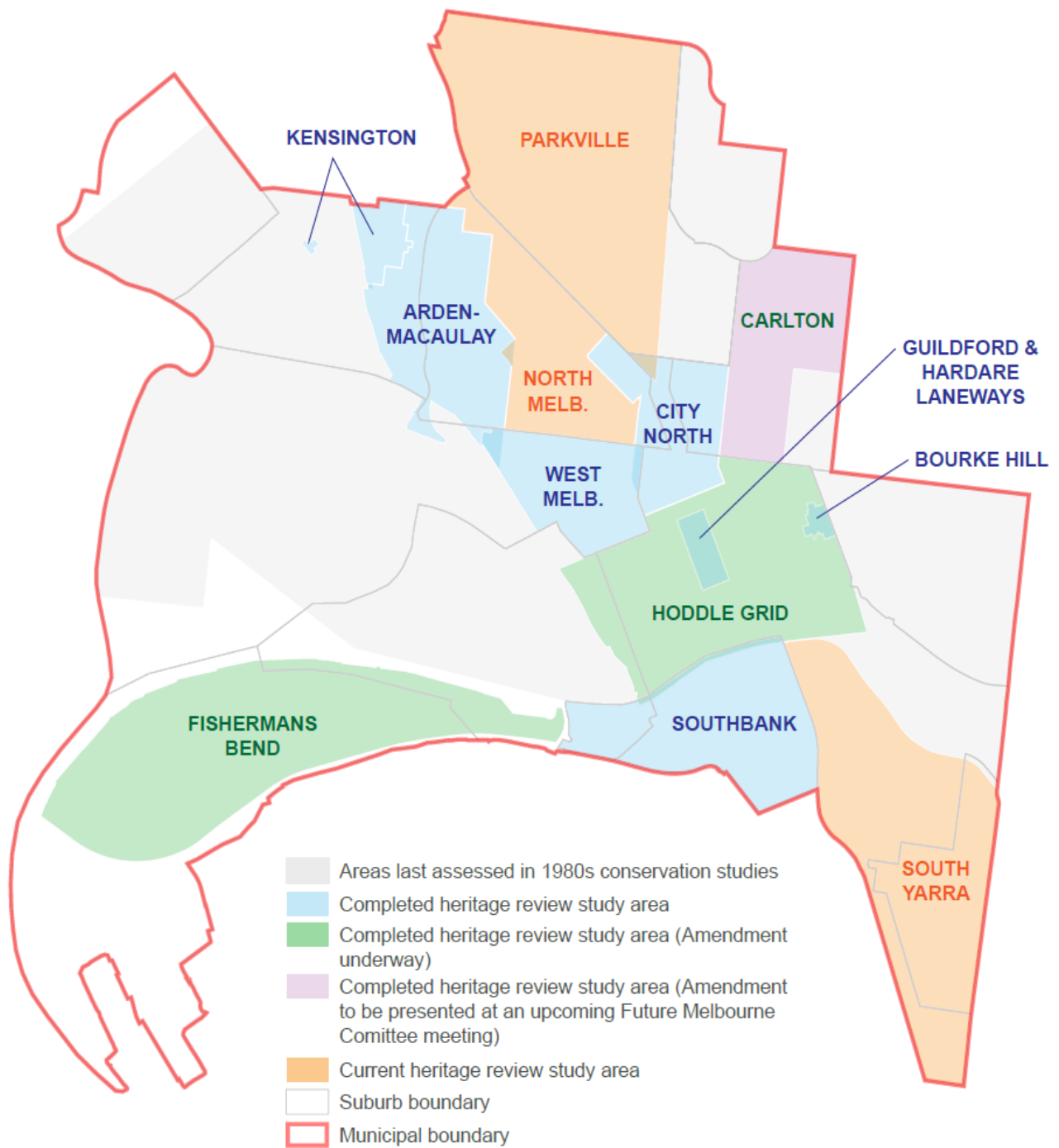
Map of Conservation Study Areas

This map is included in front section of the 1985 conservation studies. The current City of Melbourne boundary has been overlaid on the map as a dashed red line.



Note heritage buildings in Southbank were identified originally in the *South Melbourne Conservation Study*, 1985. This is not shown on the above map because it was part of the City of South Melbourne at this time.

Map of Heritage Review Study Areas undertaken since 2012



APPENDIX D: PROPERTIES QUERIED BY THE EAST MELBOURNE HISTORICAL SOCIETY ON 11 MARCH 2021

Address	Comment by East Melbourne Historical Society	Council response
18 Berry Street	Matches 14 and 16 in a terrace of three	<p>18 Berry Street is a Non-contributory building in HO2 East Melbourne & Jolimont Precinct.</p> <p>18 Berry Street was reviewed as part of the <i>City of Melbourne Planning Scheme Heritage Review 2000</i> which recommended it not be graded. The <i>City of Melbourne Planning Scheme Heritage Review 2000</i> was implemented through Amendment C19.</p>
40 George Street	Matching pair to 42	<p>This is a pre-existing addressing error. 40 George Street was not listed in the Heritage Places Inventory that was in the Scheme prior to Amendment C258. However, the pair of houses at 40-42 George Street was reviewed as part of the <i>City of Melbourne Planning Scheme Heritage Review 2000</i> which recommended it be graded D.</p> <p>Council identified that 40 George Street be included in Amendment C396 since it includes correcting pre-existing addressing errors where they have been identified.</p> <p>The Amendment C396 documents were updated to include 40 George Street in line with the Future Melbourne Committee resolution of 16 March 2021.</p>
61 George Street	C graded house missing	<p>59-61 George Street is a Non-contributory building in HO2 East Melbourne & Jolimont Precinct.</p> <p>61 George Street was not identified in the <i>East Melbourne and Jolimont Conservation Study</i> 1985 and was not listed in the Heritage Places Inventory that was in the Scheme prior to Amendment C258.</p> <p>The East Melbourne Historical Society later clarified that there was no issue with this property.</p>
190A George Street	Modern house, listed between 199 and 201 George Street	<p>190A George Street is a Non-contributory building in a Significant streetscape in HO2 East Melbourne & Jolimont Precinct.</p> <p>The listing for 190A George Street was moved from the odd to the even listings for George Street in the Amendment C396 Heritage Places Inventory as an administrative change following the Future Melbourne Committee Meeting on 16 March 2021.</p>

Address	Comment by East Melbourne Historical Society	Council response
84 Grey Street	Interwar flats, a pair to 147-163 Powlett Street but numbered separately	The listing for 147-163 Powlett Street was changed to 147-163 Powlett Street (also known as 84 Grey Street and 155 Powlett Street) in the Amendment C396 Heritage Places Inventory as an administrative change following the Future Melbourne Committee Meeting on 16 March 2021.
Palmer Street	Brick wall surrounding Jolimont Square	The brick wall is within the extent of registration of the Victorian Heritage Register listed Jolimont Square (H2009). Jolimont Square is listed correctly in the Heritage Places Inventory.
8 and 10 Vale Street South	Two C graded houses missing	8 and 10 Vale Street South are not in the Heritage Overlay and therefore it is correct that they are not listed in the Heritage Places Inventory.

**APPENDIX E: EDITORIAL CHANGES MADE TO AMENDMENT C396
FOLLOWING FUTURE MELBOURNE COMMITTEE MEETING OF 16
MARCH 2021**

Previous listing in the Heritage Places Inventory	Updated listing in the Heritage Places Inventory now proposed through Amendment C396	Comment
147-163 Powlett Street [East Melbourne]	147-163 Powlett Street (also known as 84 Grey Street and 155 Powlett Street)	Brought to Council's attention by the East Melbourne Historical Society on 11 March 2021
190A George Street listed in odd addresses grouping [East Melbourne]	190A George Street listed in even addresses grouping	Brought to Council's attention by the East Melbourne Historical Society on 11 March 2021
Park Keeper's Lodge, The Avenue [Parkville]	369 The Avenue (Park Keeper's Lodge)	Identified by officers

Previous listing in the Schedule to Clause 43.01 (Heritage Overlay)	Updated listing in the Schedule to Clause 43.01 (Heritage Overlay) now proposed through Amendment C396	Comment
HO1081 309-325 Swanston Street [Melbourne]	HO1081 309-323 Swanston Street, Melbourne	Identified by officers

Previous listing in Attachment 1 to the Amendment C396 Explanatory Report	Updated listing in Attachment 1 to the Amendment C396 Explanatory Report	Comment
"Powlett Street between Albert Street and Victoria Parade" [in relation to the Brick substation, East Melbourne]	"Powlett Street between Albert Street and Victoria Parade, East Melbourne"	Identified by officers
"St Kilda Road between Moubray Street and High Street" [in relation to the Tram Shelter, Melbourne]	"St Kilda Road between Moubray Street and High Street, Melbourne"	Identified by officers
"The Avenue between Ievers Street and Park Street" [in relation to the Railway Bridge, Parkville]	"The Avenue between Ievers Street and Park Street, Parkville"	Identified by officers
"54 Clowes Street demolished which has been demolished" [South Yarra]	"54 Clowes Street which has been demolished"	Identified by officers

APPENDIX F: APPROACH FOR DEALING WITH THE ERRORS AND ANOMALIES IDENTIFIED IN SUBMISSIONS 8 AND 17 WHICH ARE OUTSIDE THE SCOPE OF AMENDMENT C396

This table identifies how the errors and anomalies identified in submissions 8 and 17 will be dealt with. This information was included in report on submissions to Amendment C396 that was presented to the Future Melbourne Committee on 7 September 2021.

Error or anomaly	Sub #	Council comment	Proposed approach
HO34 245-257 Cardigan St, Carlton: Heritage Overlay mapped extent does not exactly match the address used in the schedule	8	Council notes that mapping corrections are only included in Amendment C396 for Heritage Overlays which include properties affected by the grading conversion in Amendment C396	To be dealt with through the forthcoming Amendment C405 (Carlton Heritage Review)
Chinese Mission Church, 148-150 Queensberry Street: not covered by a Heritage Overlay or included in the Heritage Places Inventory even though it was listed in the Heritage Places Inventory that was in the Scheme prior to Amendment C258	8	Council notes that it was not appropriate to include this property in the Amendment C396 Heritage Places Inventory because it is not currently in the Heritage Overlay	To be dealt with through the forthcoming Amendment C405 (Carlton Heritage Review)
HO28 71 Cardigan St, Carlton: Heritage Overlay mapping error	8		To be dealt with through the forthcoming Amendment C405 (Carlton Heritage Review)
HO82 96 Pelham St, Carlton: Heritage Overlay mapped extent applies to part of the building only	8		To be dealt with through the forthcoming Amendment C405 (Carlton Heritage Review)
HO811 630 Swanston St, Carlton: demolished building, Heritage Overlay is listed in the schedule, mapped and listed in the Heritage Places Inventory	8		To be dealt with through the forthcoming Amendment C405 (Carlton Heritage Review)
HO81 5-21 Pelham St, Carlton: contains three previously A graded buildings that are not listed in the Heritage Places Inventory even though they were included in the first exhibited Amendment C258	8, 17	Council notes that it was not appropriate to include these buildings in the Amendment C396 Heritage Places Inventory given they were not included in the Heritage Places Inventory that was in the Scheme prior to	To be dealt with through the forthcoming Amendment C405 (Carlton Heritage Review)

Error or anomaly	Sub #	Council comment	Proposed approach
inventory (exhibited in April and May 2017)		Amendment C258	
16-20 Drummond Place, Carlton (within HO1 Carlton Precinct): not a heritage building but is listed as Contributory in the Heritage Places Inventory.	8		To be dealt with through the forthcoming Amendment C405 (Carlton Heritage Review)
17-21 Argyle Place South, Carlton (within HO1 Carlton Precinct): the submission asserts that the building category of Contributory in the Heritage Places Inventory should apply to 17 Argyle Place South only.	8		To be dealt with through the forthcoming Amendment C405 (Carlton Heritage Review)
HO1133 Former E P Printing & Publishing Co. Building 205- 223 Pelham Street, Carlton: omitted from Heritage Overlay schedule.	8		To be dealt with through a future correction amendment (not within the study area of the Carlton Heritage Review)
HO804 Former Ingram Bros Warehouse 145-147 Bouverie Street, Carlton: Heritage Overlay mapping error.	8		To be dealt with through a future correction amendment (not within the study area of the Carlton Heritage Review)
HO63 Former Factory & Residence 119-125 Leicester St, Carlton: Heritage Overlay mapping error.	8		To be dealt with through a future correction amendment (not within the study area of the Carlton Heritage Review)
HO110 625-629 Swanston St, Carlton: was removed from the Heritage Overlay through Amendment C198 but is listed in the Heritage Overlay schedule.	8		To be dealt with through a future correction amendment (not within the study area of the Carlton Heritage Review)
HO1122 Lincoln Square South Precinct 11-31 Lincoln Square South & 631-645 Swanston Street, Carlton: the submission asserts that the Heritage Overlay mapping should be updated given that a building within the precinct has been	8	Council has identified that there is no error as the replacement building is included in this precinct as a Non-contributory building.	NA

Error or anomaly	Sub #	Council comment	Proposed approach
demolished.			
HO107 Sacred Heart Catholic Church, 169-199 Rathdowne Street, 2-40 Pelham Street & 154-184 Drummond Street, Carlton: the submission asserts that HO107 should be characterised as a precinct Heritage Overlay and that 169-199 Rathdowne Street, which is the primary address used in the schedule, should be included in the Heritage Places Inventory. The submission also notes that this is a VHR place and that the inclusion of heritage categories in the Heritage Places Inventory for just some VHR places is misleading.	8	<p>Council notes that 169-199 Rathdowne Street is listed in the Heritage Places Inventory, but it is in the incorrect order. This should be dealt with through a future correction amendment.</p> <p>Council notes that the manner in which VHR places are listed and mapped in the Heritage Overlay is determined by Heritage Victoria.</p>	To be partly dealt with through a future correction amendment

APPENDIX G: IDENTIFICATION OF WHETHER SUBMISSIONS RELATE TO LAND THAT IS PART OF THE AMENDMENT

Sub #	Address	Does submission relate to land that is part of the Amendment?	How will issues raised be addressed for land not part of the Amendment?
1.	General submission	Submission does not relate to specific addresses	
2.	337-347 Elizabeth Street, Melbourne	No	The submission is supportive of heritage protection for 337-347 Elizabeth Street. The heritage controls that apply to 337-347 Elizabeth Street were recently reviewed as part of the <i>Guildford and Hardware Laneways Study</i> , 2017 (implemented through Amendment C271) and the <i>Hoddle Grid Heritage Review</i> , 2020 (being pursued through Amendment C387).
3.	General submission in relation to East Melbourne	Submission does not relate to specific addresses	The submission asserts that the Heritage Places Inventory is out of date and contains inconsistencies, omissions and misleading addresses. A heritage review for East Melbourne is planned, subject to budget. This will identify additional heritage buildings as appropriate and review the Heritage Places Inventory and the Heritage Overlay schedule and mapping for East Melbourne.
4.	112-114 Millswyn Street, South Yarra	Yes	
5.	99 Buncle Street, North Melbourne	Yes	
6.	15 Bendigo Street, part of 110-114 Errol Street, 56 Chapman Street, part of 163-177 Flemington Road and 502-506 Victoria Street, North Melbourne, also known as 2-6 Errol Street	Yes	
7.	384-388, 394, 396, 398, 400, 402, 404, 406 and 408 Albert Street, East Melbourne	Yes, except 404 and 408 Albert Street	404 and 408 Albert Street are not affected by Amendment C396 because their heritage gradings were converted through Amendment C258.
8.	17-21 Argyle Place South, 81-87 Barry Street, 145-147 Bouverie Street, 183-195	No, only 183-195 Bouverie Street, Carlton is part of	Refer to Appendix E. Errors and anomalies identified in this submission will be dealt with

Sub #	Address	Does submission relate to land that is part of the Amendment?	How will issues raised be addressed for land not part of the Amendment?
	Bouverie Street, 71 Cardigan Street, 251-257 Cardigan Street, 16-20 Drummond Place, 142-150 Drummond Street, 119-125 Leicester Street, 625-629 Swanston Street, , 15-31 Pelham Street, 96-106 Pelham Street, 148-150 Queensberry Street, 125-139 Rathdowne Street, 169-199 Rathdowne Street and 604-640 Swanston Street, Carlton	Amendment	through the forthcoming Amendment C405 (Carlton Heritage Review) and a future correction amendment.
9.	24-34 Villiers Street and 36-38 Villiers Street, North Melbourne	Yes	
10.	431-439 Punt Road, South Yarra	Yes	
11.	243 Peel Street, North Melbourne	Yes	
12.	<i>Submission withdrawn</i>		
13.	12 Lansdowne Street, East Melbourne	Yes	
14.	1-7 and 9-11 Epsom Road, Kensington	Yes, except 9-11 Epsom Road	9-11 Epsom Road has not previously been identified as heritage building and is not in the Heritage Overlay or proposed to be added to the Heritage Overlay.
15.	1 Bendigo Street, North Melbourne	Yes	
16.	515-523 Spencer Street, West Melbourne	No	The submission does not support the heritage control that applies to 515-523 Spencer Street, West Melbourne. The heritage control was recently reviewed as part of the <i>West Melbourne Heritage Review</i> , 2016 (implemented through Amendment C258).
17.	142-150 Drummond Street, 15-31 Pelham Street and 125-139 Rathdowne Street, Carlton	No	Refer to Appendix E. The anomaly identified in this submission will be dealt with through the forthcoming Amendment C405 (Carlton Heritage Review).
18.	<i>Submission withdrawn</i>		