

**Planning Scheme Amendment C258 to the
Melbourne Planning Scheme**

Submissions to the Planning Panel on behalf of

Dustday Investments Pty Ltd

and

Botex Pty Ltd

85 - 89 Sutton Street, North Melbourne

and

90 - 104 Berkeley Street, Carlton

4 September 2018

Ref DV-KM:646942
Doc ID 581036773/V1

1. Introduction

- 1.1 These submissions are made on behalf of Dustday Investments Pty Ltd (**Dustday**) and Botex Pty Ltd (**Botex**), the owners of land at 85 - 89 Sutton Street, North Melbourne (**Sutton Street Property**) and 90 - 104 Berkeley Street, Carlton (**Berkeley Street Property**) respectively in relation to proposed Planning Scheme Amendment C258 (**Amendment**) to the Melbourne Planning Scheme (**Scheme**).
- 1.2 The Amendment, as it relates to the Sutton Street and Berkeley Street Properties seeks to:
- (a) revise the content of clause 22.05: Heritage Places outside of the Capital City Zone (**Clause 22.05**) in particular in relation to demolition and concealment of additions;
 - (b) revise the content of clause 22.04: Heritage Places within the Capital City Zone (**Clause 22.04**);
 - (c) apply the concealment and façade height and setbacks to land within schedule 5 to the Capital City Zone (**CCZ5**);
 - (d) replace the existing A to D grading systems with a significant, contributory and non contributory grading system to align with Planning Practice Note 1: Applying the Heritage Overlay (**PN1**); and
 - (e) regrade the Properties which results in the Properties being identified as 'significant' heritage places.
- 1.3 Our Clients' submit that the proposed Amendment:
- (a) results in the artificial and unsubstantiated uplift of the heritage status of the Properties as a result of the conversion methodology applied;
 - (b) includes little to no strategic justification to support the conversion methodology employed and resultant conversion; and
 - (c) results in significant conflicts in land use policy that cannot be addressed through the implementation of integrated decision making principles, hinder the successful implementation of the Arden Macaulay and City North Structure Plans and unnecessary stifle the future development of the Properties.
- 1.4 These concerns were outlined in our Clients' submissions to the exhibition of the Amendment.
- 1.5 Our Clients' respectfully request that the Planning Panel recommend that:
- (a) the 'automatic' conversion of 'C' and 'D' graded buildings with individual heritage overlays be disregarded;
 - (b) Council immediately undertake a review of all 'C' and 'D' graded properties that are affected by an individual heritage overlay in order to establish the appropriate gradings of these individual properties;

- (c) until such time as the 'C' and 'D' grading of the Berkeley and Sutton Street Properties is reviewed, the Properties be graded 'contributory' places consistent with their grading under the previous heritage studies and the definition of 'contributory' place in the proposed Clause 22.05 be amended to indicate that some 'contributory' places are subject to specific heritage overlay controls or in the alternative, a precinct overlay or a serial listing be applied to the Properties and their surrounds; and
- (d) the proposed Clause 22.05 be amended to:
 - (i) require the consideration of whether demolition or removal of the building is justified for a development of the land or an alteration or addition to a building; and
 - (ii) include policy distinctions for the Arden Macaulay and City North areas similar to those introduced by Amendment C198 to the Scheme which exempt the City North area from the existing clause 22.04 and the concealment requirements in the existing clause 22.05.

2. The Subject Sites

85 - 89 Sutton Street, North Melbourne

- 2.1 The Sutton Street Property is located at 85 - 89 Sutton Street, North Melbourne. It is located to the south of Sutton Street, between Boundary Road and the Upfield Rail Line and can be seen from the elevated section of the City Link Freeway.
- 2.2 The site is currently occupied by a six storey industrial warehouse with a south facing sawtooth roof. The warehouse was formerly known as the No.5 Wool Store of the Victorian Producers Co-Operative (VPC). The Sutton Street Property is located opposite and in close proximity to a number of other former warehouse buildings which were previously used as wool stores.
- 2.3 Mr Bryce Raworth describes the warehouse as having,

'...a steel frame encased in concrete and expressed externally as a grid with non-structural red-brick infill. The north and west elevations have bands of metal framed windows with brick spandrel panels. The windows have multiple panes interspersed with glass louvres at regular intervals. Stairwells on the north elevation and south elevation are delineated by a vertical strip of glazing to the full height of the building. The steel-framed sawtooth roof has corrugated asbestos cement sheet cladding and south facing lights. There are a series of loading bays on the ground floor of the west elevation with sliding metal sheathed doors.

The building appears to remain largely intact externally. The lower levels of the west elevation are heavily defaced by graffiti and windows in this area have broken or missing glazing and some have been boarded over. The concrete

encasing the building's structural frame is spalling in many locations, exposing corroded steel, a form of deterioration generally known as 'concrete cancer'.¹

- 2.4 The Statement of Significance identifies the modernist design character, vast floor space and saw tooth roof as a number of elements that are significant.²
- 2.5 **Map one** illustrates the boundaries of the Sutton Street Property, **map two** illustrates an aerial image and **images one to six** illustrate the property.
- 2.6 The Sutton Street Property is located in a Mixed Use Zone (**MUZ**) and is affected by the following overlays pursuant to the Scheme:
- (a) City Link Project Overlay (**CLPO**);
 - (b) Schedule 26 to the Design and Development Overlay: North Melbourne, West Melbourne and Arden Macaulay Noise Attenuation Area (**DDO26**);
 - (c) Schedule 63 to the Design and Development Overlay: Macaulay Urban Renewal Area, Kensington and North Melbourne (**DDO63**) of which this Property is located in area 7;
 - (d) Schedule 66 to the Design and Development Overlay: Hospital Emergency Medical Services Helicopter Flight Path Protection (Outer Area) (**DDO66**);
 - (e) Schedule 2 to the Development Contributions Plan Overlay (**DCPO2**);
 - (f) Environmental Audit Overlay (**EAO**); and
 - (g) Schedule 1118 to the Heritage Overlay (**HO1118**).
- 2.7 **Maps three and four** illustrate the zone and HO1118 that apply to the Sutton Street Property.
- 2.8 The Sutton Street Property is currently identified as a C grade building in a level 2 streetscape and is also subject to the strategic framework established by the Arden Macaulay Structure Plan 2012, which has the ultimate aim of achieving urban renewal on the Sutton Street Property and its surrounds.

90 - 104 Berkeley Street, Carlton

- 2.9 The Berkeley Street Property is located at 90 - 104 Berkeley Street, Carlton. It is located on the eastern side of Berkeley Street between Pelham and Queensbury Streets. A narrow paved laneway is located along the eastern and southern boundaries of the Property.
- 2.10 A four storey industrial warehouse is currently situated on the Berkeley Street Property. This warehouse was originally constructed for Repco, an automotive parts retailer and was designed by the same architect as the adjoining property to its immediate south. Mr Bryce Raworth describes this building as:

¹ Bryce Raworth, 85 - 89 Sutton Street, North Melbourne and 90 - 104 Berkeley Street, Carlton: Expert Witness Statement to Panel - Amendment C258 to the Melbourne Planning Scheme, July 2018, paragraphs 10 to 11

² City of Melbourne, *Arden Macaulay Heritage Review 2012 Statements of Significance*, June 2016, page 88

'Modern style' building with asymmetrical composition; the cream brick tower at the north end of the building contrasts with the remainder of the brown brick facade which features cream brick banding and concrete parapet and window canopies. Windows are steel framed, though the tower originally featured glass bricks.

The building is largely intact externally though 'Repco' signage to the tower is no longer fully extant, and as noted above, the glass bricks have been replaced with steel framed windows.³

- 2.11 The Statement of Significance identifies that the façade, steel frame windows and the painted signage as significant heritage elements of this building.⁴
- 2.12 **Map five** illustrates the boundaries of the Berkeley Street, **map six** illustrates an aerial image of the Property and **images seven to eleven** illustrate the building situated on the Property.
- 2.13 The Berkeley Street Property is located in the CCZ5 and is affected by the following overlays under the Scheme:
- (a) Schedule 61 to the Design and Development Overlay: City North (**DDO61**), of which this property is in area 4.2;
 - (b) Schedule 1 to the Parking Overlay (**PO1**); and
 - (c) Schedule 1126 to the Heritage Overlay (**HO1126**).
- 2.14 **Maps seven and eight** illustrate the zone and heritage overlay controls that apply to this Property and the immediate surrounding area.
- 2.15 The Berkeley Street Property is currently identified as a C grade building in a level 2 streetscape and is subject to the strategic framework established by the City North Structure Plan 2012, which sets out various aspirations for the Berkeley Property including achieving successful urban renewal outcomes.

3. Planning Scheme Amendment C258 to the Melbourne Planning Scheme

- 3.1 Of relevance to these submissions are the following aspects of the Amendment:
- (a) the content of the proposed Clause 22.05 in particular in relation to demolition, and concealment;
 - (b) the content of the proposed clause 22.04;
 - (c) application of the concealment provisions to land within the CCZ5 and therefore, the Berkeley Street Property;

³ Bryce Raworth, 85 - 89 Sutton Street, North Melbourne and 90 - 104 Berkeley Street, Carlton: Expert Witness Statement to Panel - Amendment C258 to the Melbourne Planning Scheme, July 2018, paragraphs 13 to 14

⁴ Melbourne City Council, *City North Heritage Review 2013 Statements of Significance*, Revised June 2015, page 9

- (d) method of translating the existing A to D grading systems to the proposed significant, contributory and non contributory grading system; and
- (e) identification of the Properties as 'significant' places pursuant to the definition noted in the proposed Clause 22.05 and Clause 22.04.

4. Overview of Submissions

4.1 Our Clients' concerns can be summarised as the following:

- (a) the Amendment, by virtue of its conversion methodology results in an uplift of the heritage status of the Properties based on the fact that the Properties are affected by individual site specific heritage overlays;
- (b) there is no sound strategic justification to support the conversion proposed by Council; and
- (c) the proposed demolition and concealment provisions are inappropriate and their introduction into the Scheme creates significant policy conflicts with the established strategic visions as identified in the Arden Macaulay and City North Structure Plans. Consequently, changes are required to the Amendment to recognise the strategic importance of the Properties within the context of the Arden Macaulay and City North Structure Plans.

4.2 The remainder of this submission will focus on these matters.

5. The Conversion Methodology and the Lack of Strategic Justification

5.1 The Lovell Chen *City of Melbourne Heritage Review: Local Heritage Policies and Precinct Statements of Significance: Methodology Report* dated September 2015 and updated May 2016 (**Methodology Report**) details that Lovell Chen did not review places affected by individual heritage overlay controls such as the Properties as part of the current Amendment. Rather, Lovell Chen identified these properties as 'significant' places on a 'default basis'.⁵ Ms Anita Brady's evidence and Council's Part A and Part B submissions have reiterated that this has been the approach taken as part of this Amendment and that further investigation will be required to establish the gradings of 'C' and 'D' graded buildings with individual heritage overlays.

5.2 Consequently, as part of the current Amendment, the Sutton Street and Berkeley Street Properties were not assessed to determine if they meet the definition of 'significant' as set out in the proposed Clause 22.05. Rather the designation of these buildings as C2 graded buildings that are affected by an individual heritage overlay was determined to be sufficient justification for Council to consider the Properties as 'significant' heritage places within the definition proposed by Clause 22.05 at this time which is:

⁵ Lovell Chen, *City of Melbourne Heritage Review: Local Heritage Policy and Precinct Statements of Significance: Methodology Report*, September 2015 (updated May 2016). Page 11.

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

- 5.3 It is our view that the process of regrading our Client's properties without a proper and considered review is flawed.
- 5.4 The Planning Panel which considered Amendment C198 noted that the Berkeley Street Property is of historical significant and aesthetic importance and warranted heritage controls.⁶
- 5.5 Similarly, the Planning Panel for C207 considered the Sutton Street Property and noted that:

*'The Panel's view is that the building is of local heritage significance and properly graded C. We also agree with Mr Raworth, that it is not a highly significant building, however, even in the local context. We think that notwithstanding the building was surrounded by other warehouse buildings in 1983 when Mr Butler earlier surveyed the area, its not being identified as of significance at that time points to its relatively low significance status. It was similarly not identified in other later studies except for the current Review. In our view, this utilitarian building of brick and concrete is certainly not an example of wool stores created during the period when the wool export industry was at its peak.'*⁷

- 5.6 In both instances, the Planning Panels that considered the Properties were of the view that both properties should be affected by heritage overlays and each warranted a C2 grading which identified both properties as 'contributory' places pursuant to the existing Clause 22.05 of the Scheme.
- 5.7 Council has indicated that previous heritage work, especially in relation to Amendment C207 has not only identified the A to D grading of the Properties but also their significant/ contributory/ non contributory grading. It is our view that this statement is misleading as neither of these amendments provided the strategic justification to identify these properties as 'significant' within the definition of the proposed Clause 22.05 and the use of such gradings did not form part of the earlier heritage amendments.
- 5.8 The Arden Macaulay Heritage Review prepared by Graeme Butler and Associates identifies contributory and non contributory places and provides detailed assessments of individually significant places. However, the latter assessment gives properties an A to D grading with an associated streetscape level grading. It is this latter assessment that formed the basis of the C207 Panel's consideration of the heritage controls for this area. No consideration or assessment was made of the so called three tier grading system as part of the Panel's deliberations.

⁶ Planning Panels Victoria, Planning Panel Report: C198, page 97.

⁷ Planning Panels Victoria, Planning Panel Report: C207, page 55.

- 5.9 The Sutton Street Property is identified as having a C2 grading. This assessment did not conclude that the Property is significant as defined in the current Clause 22.05 before this Planning Panel.
- 5.10 Similarly, the City North Heritage Review Overview and Recommendations Report prepared by RBA Architects and Conservation Consultants identifies the background work that informed this amendment and did not identify the Property as significant within the definition of the proposed Clause 22.05; rather, it identified the Berkeley Street Property as having a C2 grading and recommended inclusion in a heritage overlay.⁸
- 5.11 The general public including our Clients were not given an opportunity to comment on the perceived 'significant status' for the purpose of Amendment C258 (current amendment) attributed to their properties but rather commented on the application of the heritage overlay and grading proposed by Amendments C207 and C198.
- 5.12 Consequently, it is not fair or reasonable for Council to put to this Planning Panel that Amendments C207 and C198 identified the proposed grading of the Properties as this is not the case. Both amendments identified that a heritage overlay may apply to these properties but did not provide the strategic justification to identify these properties as 'significant' properties as defined in the proposed Clause 22.05. Such an outcome was beyond the scope envisaged by Amendments C207 and C198 as approved and incorporated into the Scheme.
- 5.13 No new information has been provided by Council to support this proposed conversion aside from internal officer notes which outline how certain properties may be regraded in accordance with PN1. As discussed above, the methodology utilised by Council explicitly notes that review was not undertaken of these sites and that reliance is placed on the work carried out as part of amendments C207 and C198.
- 5.14 However, the outcome sought by Council effectively allows the Properties to be treated as A or B graded buildings under the existing grading system. Lovell Chen's own methodology report indicates that A and B grade properties and some C graded properties, in the six heritage precincts, are potentially suitable for regrading as 'significant' places.
- 5.15 Ms Brady's evidence and Council's submissions have, on numerous occasions, indicated that the size and scale of the task of assessing the conversions of 'C' and 'D' graded buildings with individual heritage overlays is not feasible as part of this Amendment.
- 5.16 However, Ms Brady has already conceded that a review of 'C' and 'D' graded properties affected by individual heritage overlays is necessary and that a number of the 'C' and 'D' graded buildings may not be 'significant' for the purposes of clause 22.05. A program of future reviews is warranted in Ms Brady's opinion. However, Ms Brady cannot, rightly so, give an indication of the timelines associated with such a program. Council has indicated that the next reviews to take place will be the North Melbourne and Carlton reviews in 2018 to 2019. Council has provided no indication of when it will review the Arden Macaulay and City North areas. However, given the extent of planning portfolio administered by Council, it is anticipated that a review of these areas will not take place in the immediate future.

⁸ RBA Architects and Conservation Consultants, *City North Heritage Review Overview and Recommendations Reports Volumes 1; Volume 2*, page 3

- 5.17 In his evidence, Mr David Helms has indicated that there are some 280 'C' and 'D' graded properties identified by individual heritage overlay controls. Council has now provided further details which indicate that there are at least 33 properties that require review (noting that Council has not provided details for the Arden Macaulay area) and are affected by this issue. This is in the context of some 9,318 properties reviewed as part of this Amendment.
- 5.18 Further, we note that Mr Helms indicated that he was instructed that the Department of Environment, Land, Water and Planning (**DELWP**) would not support any further reviews until the existing A to D grading were converted. It later emerged as part of this Planning Panel Hearing however that this conclusion was unfounded. Irrespective of this, such a direction does not provide Council with the strategic justification to automatically translate the Properties to 'significant' places for the purposes of the proposed Clause 22.05.
- 5.19 It is submitted that given the implications and effect of the 'significant' designation that it would have been prudent for Council to have assessed the heritage significance of the Properties against the definitions proposed by Clause 22.05 at the outset of the current Amendment process rather than attempt to justify a methodology that is flawed.
- 5.20 Further it is not consistent with the principles of fair or orderly planning to allow or advocate for the imposition of a 'holding pattern' in the manner sought (i.e. artificially elevating the significance of the Properties), even on an interim basis, as such an outcome, especially without some form of justification, severely and significantly stifles and neutrs Properties for an indefinite period of time.
- 5.21 Consequently, we respectfully request that this Planning Panel recommends that Council immediately undertake a review of the individually listed 'C' and 'D' graded heritage properties to ensure that these properties are appropriately graded pursuant to PN1 and such gradings be re-exhibited prior to the adoption of the Amendment.

6. The Implications of the Amendment

- 6.1 Currently, Clause 22.04 does not apply to land within the CCZ5 and by extension, the Berkeley Street Property. Clause 22.05 applies to all places within a heritage overlay excluding schedules 1 to 4 of the Capital City Zone and the Docklands Zone.
- 6.2 The proposed Clause 22.05 includes a range of provisions that address matters such as demolition, facadism, alternations and concealment of future built form. These proposed changes have significant implications for how development applications are assessed especially given the 'significant' grading being afforded to the Properties by Council as part of this Amendment. As noted by Mr Raworth, a 'significant' designation does not just identify the heritage significance of a building; it also fundamentally alters how a building may be treated and the extent of change that might be permitted to a building. Consequently, this will affect the implementation of the Arden Macaulay and City North Structure Plans.
- 6.3 In the case of the Sutton Street Property, the outcomes envisaged by DDO63 and the Arden Macaulay Structure Plan identify a preferred maximum building height of 28 metres, an absolute maximum of 36.4 metres and street wall heights of 6 storeys with built form outcomes that encourage a scale of development that provides street definition and provides for limited opportunities for taller buildings that deliver significant public realm outcomes.

6.4 DDO61 requires that new buildings respect the heritage fabric of the area and adjoining heritage buildings, identifies a building height of 32 metres with a 24 metre street edge height (setback six metres from the street) and seeks a built form outcome that respects the scale of existing heritage buildings. In the case of the Berkeley Street Property, provisions in relation to concealment of higher rear parts (including additions) do not currently apply pursuant to the existing Clause 22.05.

6.5 Unlike amendments C198 and C207, this Amendment aims to further protect and preserve heritage buildings and alters how the Properties may be treated in areas identified for significant urban renewal.

6.6 As noted by Mr Bryce Raworth,

'the purpose of the Heritage Overlay is not only to conserve and enhance heritage places, but also to facilitate appropriate adaptation and reuse of heritage building.'

6.7 While it may be said that integrated decision making principles will guide these decisions, given the extent of changes proposed to Clause 22.05, this is not an instance where the planning permit process may address such conflicts in policy. As noted by the Planning Panel in C198,

'It is not good practice to propose changes to a planning scheme which perpetuate policy conflicts or tensions...

Whilst the Panel acknowledges that Planning Schemes are subject to change, it is also cognisant of the need to ensure a consistency between various provisions. The level of consistency ought to be tested at the Planning Scheme Amendment stage, and ideally Council should have considered its heritage policy and the strategic aims of City North's renewal together...

The Panel questions the point of having provisions in a policy if they are simply to be ignored because they do not fit the site context. Although this might be a practical approach at the permit stage, it is not good practice when implementing new strategic directions.⁹

6.8 We respectfully submit that the same approach should be adopted with regard to Arden Macaulay.

6.9 On this basis, we are of the view that there are a number of crucial changes that must be made to the proposed policy to ensure that these policy tensions can be successfully addressed.

6.10 It is noted that we are not submitting that the heritage values associated with the Properties should be disregarded. Rather, it is our view that the proposed Amendment requires changes to ensure that it achieves the appropriate balance between heritage and urban renewal outcomes in much the same way as has been acknowledged in Clause 22.04.

6.11 We understand that Council is open to the recommendation that a single policy or similar should address heritage within the municipality and that the CCZ5 should be treated in the same manner as the other CCZs in the Scheme. The changes discussed

⁹ C198 Panel Report, Page 40

below are relevant irrespective of whether or not a single policy addressing heritage outcomes (as suggested by Ms Jordan) is recommended by the Planning Panel. Further, we are of the view that the Arden Macaulay Structure Plan area should also be treated in a similar manner to the CCZ5.

Changes to the proposed definition of contributory

- 6.12 As noted by Mr Raworth in his evidence, the level of protection afforded to the Properties does not reflect their heritage significance. The outcome of this Amendment results in 'C' and 'D' graded buildings affected by individual heritage overlay potentially having the same level of significance as an A and B and some C graded buildings in a heritage precinct.
- 6.13 Consequently, it is our submission that in order to address this issue one possible solution may be to amend the definition of 'contributory' building to capture individual buildings affected by heritage overlays. This will provide Council the flexibility to appropriately regrade the Properties and whilst ensuring that the proposed planning policy deals with such properties in an appropriate manner.

Further consideration of a serial listing or precinct approach

- 6.14 The explanatory memorandum to the Amendment states that the Amendment ensures that the Scheme complies with PN1. Unfortunately, PN1 does not provide guidance in relation to translating the A to D grading system to the significant, contributory, non-contributory grading system in circumstances where a property is affected by an individual heritage overlay. Rather, PN1 provides guidance in relation to a serial or precinct approach noting that places that share a common history or significance but do not adjoin each other or form a geographical grouping may be treated as a single heritage place.
- 6.15 As suggested by Mr Raworth, we invite the Planning Panel to consider whether it is appropriate to consider a serial listing or precinct approach in which,
- (a) the wool warehouses of North Melbourne including the Sutton Street Property are identified as contributory places; and
 - (b) the industrial warehouses in Carlton including the Berkeley Street Property are identified and are grouped and/ or listed together in a serial listing or as part of a precinct.

In both instances, there are common themes regarding use and built form to enable the further exploration of this approach without the need of artificially elevating or inflating the significance of any individual property.

Demolition

- 6.16 The existing Clause 22.05 generally allows the demolition of the rear parts of these buildings and includes a provision that requires the consideration of whether removal of a building is justified for the development of land or alteration of or addition to, a building. Whereas the proposed policy states that partial demolition will generally not be permitted in the case of significant buildings.
- 6.17 Given the broader strategic framework established for the Properties, it is our view that this is an inappropriate outcome which leads to significant policy tensions as it significantly hinders the redevelopment outcomes of the Properties. A ban on the

demolition of part of a significant building stifles urban renewal and would result in many buildings remaining undeveloped and underutilised. We observe that Council is proposing to artificially stifle development in both urban renewal areas. Council cannot expect to achieve its vision for the Arden Macaulay and City North areas if it does not permit reuse and/ redevelopment (as appropriate) of the Properties in these areas. Further, Council cannot reasonably hold the view that the planning permit process will address this conflict as it is, in our view, too significant. On this basis, it is submitted that the requirement to consider whether demolition is justified should be reintroduced into the proposed policy.

6.18 Consequently, the decision guidelines in the proposed Clause 22.05 should include,

'whether the demolition or removal is justified for the development of land or the alteration or, or addition to, a building.'

Concealment including of additions

6.19 The proposed policy specifies that additions to a significant or contributory building must be:

- (a) concealed if the contributory building is in significant streetscapes; and
- (b) additions to a significant building must be concealed.

The existing policy considers the degree of streetscape significance which informs the degree of concealment for upper levels and provides an exemption for land in the CCZ5, therefore not applying to the Berkeley Street Property.

6.20 We understand that Council concedes that the land located in the CCZ5 should be treated the same as the other CCZs with regard to the proposed concealment policy. We endorse this view and reiterate that it does not go far enough as we are of the view that such an approach should also apply to the Arden Macaulay area and the Sutton Street Property.¹⁰

6.21 If this is not the case, we are of the view that given the stated policy direction for City North and Arden Macaulay, the requirement to conceal additions made to the Properties would significantly hinder the successful implementation of both Structure Plans and result in an inappropriate outcome for the Properties. As noted by Mr Raworth, in the case of industrial buildings, their three dimensional built form that covers most of the building envelope will result in a significant hindrance to redevelopment of the sites and the successful implementation of both Structure Plans.

6.22 Council cannot advocate for a vision that includes heights of up to 36.4 metres for the Properties on the one hand and require concealment of all additions on the other. In our view, integrated decision making will not and cannot resolve this conflict in policy. It is our submission that this conflict in policy needs to be resolved as part of this Amendment.

Exemption from the proposed concealment provisions

6.23 Given the above and as highlighted by Mr Raworth in his expert evidence, the strategic direction set by the City North and Arden Macaulay Structure Plans warrants exempting

¹⁰ Melbourne City Council, Part B Submission, paragraph 239

these areas from the concealment provisions set out in the proposed policy. This will ensure that integrated decision making can be achieved and that there is an appropriate balance between the objectives of urban renewal and heritage including the protection of significant and valued heritage assets.

7. Conclusion

- 7.1 Having regard to the matters set out in the above and the evidence of Mr Raworth, it is respectfully submitted that the Panel ought to recommend that:
- (a) the 'automatic' conversion of 'C' and 'D' graded buildings with individual heritage overlays be disregarded;
 - (b) Council immediately undertake a review of all 'C' and 'D' graded properties that are affected by an individual heritage overlay in order to establish the appropriate gradings of these individual properties;
 - (c) until such time as the 'C' and 'D' grading of the Berkeley and Sutton Street Properties is reviewed, the Properties be graded 'contributory' places consistent with their grading under the previous heritage studies and the definition of 'contributory' place in the proposed Clause 22.05 be amended to indicate that some 'contributory' places are subject to specific heritage overlay controls or in the alternative, a precinct overlay or a serial listing be applied to the Properties and their surrounds; and
 - (d) the proposed Clause 22.05 be amended to:
 - (i) require the consideration of whether demolition or removal of the building is justified for a development of the land or an alteration or addition to a building; and
 - (ii) include policy distinctions for the Arden Macaulay and City North areas similar to those introduced by Amendment C198 to the Scheme which exempt the City North area from the existing clause 22.04 and the concealment requirements in the existing clause 22.05.



David Vorchheimer

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On behalf of Dustday Investments Pty Ltd and Botex Pty Ltd

4 September 2018

Planning Scheme Amendment C258 to the Melbourne Planning Scheme

Dustday Investments Pty Ltd and

Botex Pty Ltd

85 - 95 Sutton Street, North Melbourne

And

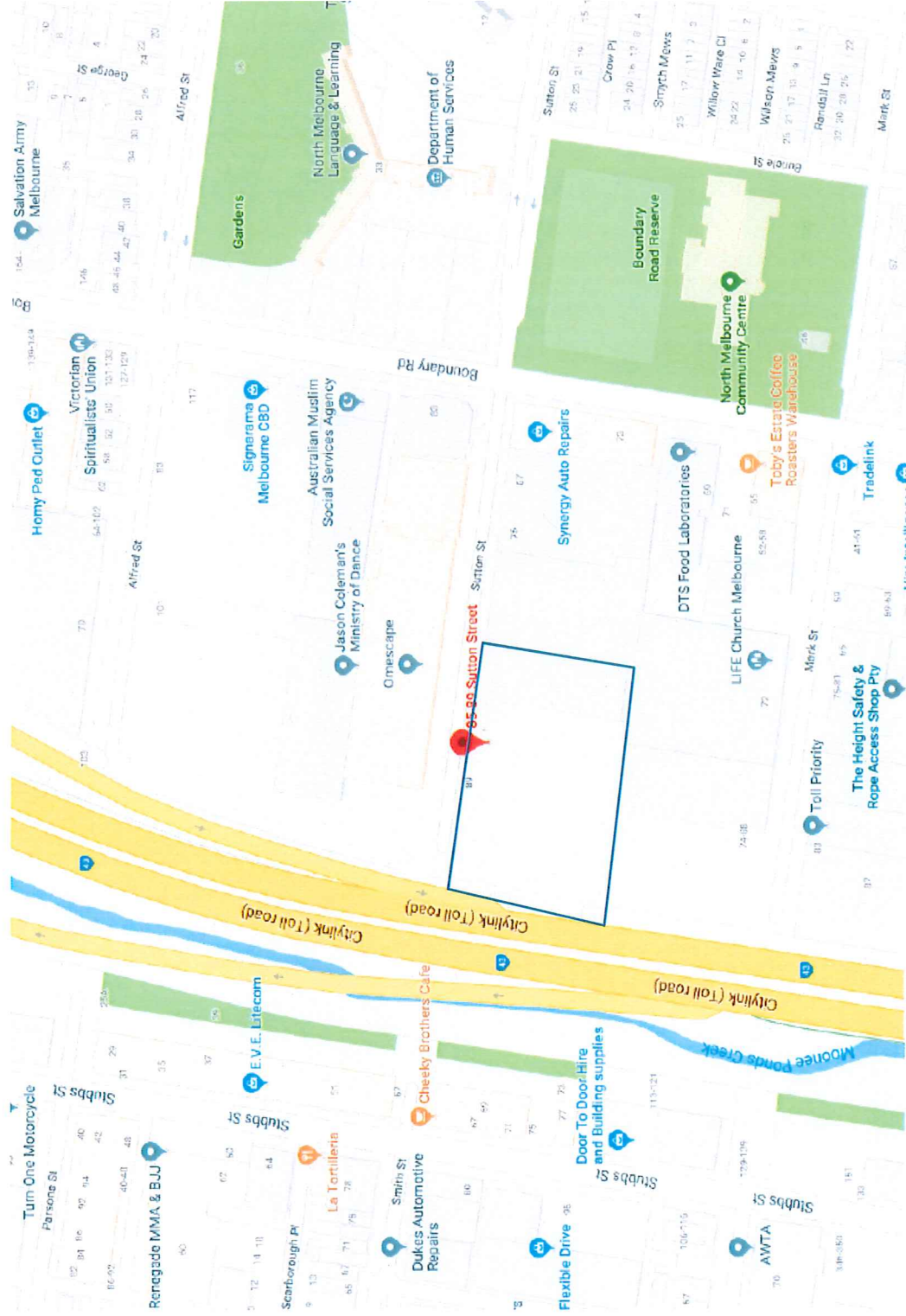
90 to 104 Berkeley Street, Carlton

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PO Box 3, Collins Street West VIC 8007 Australia
DX 564 Melbourne

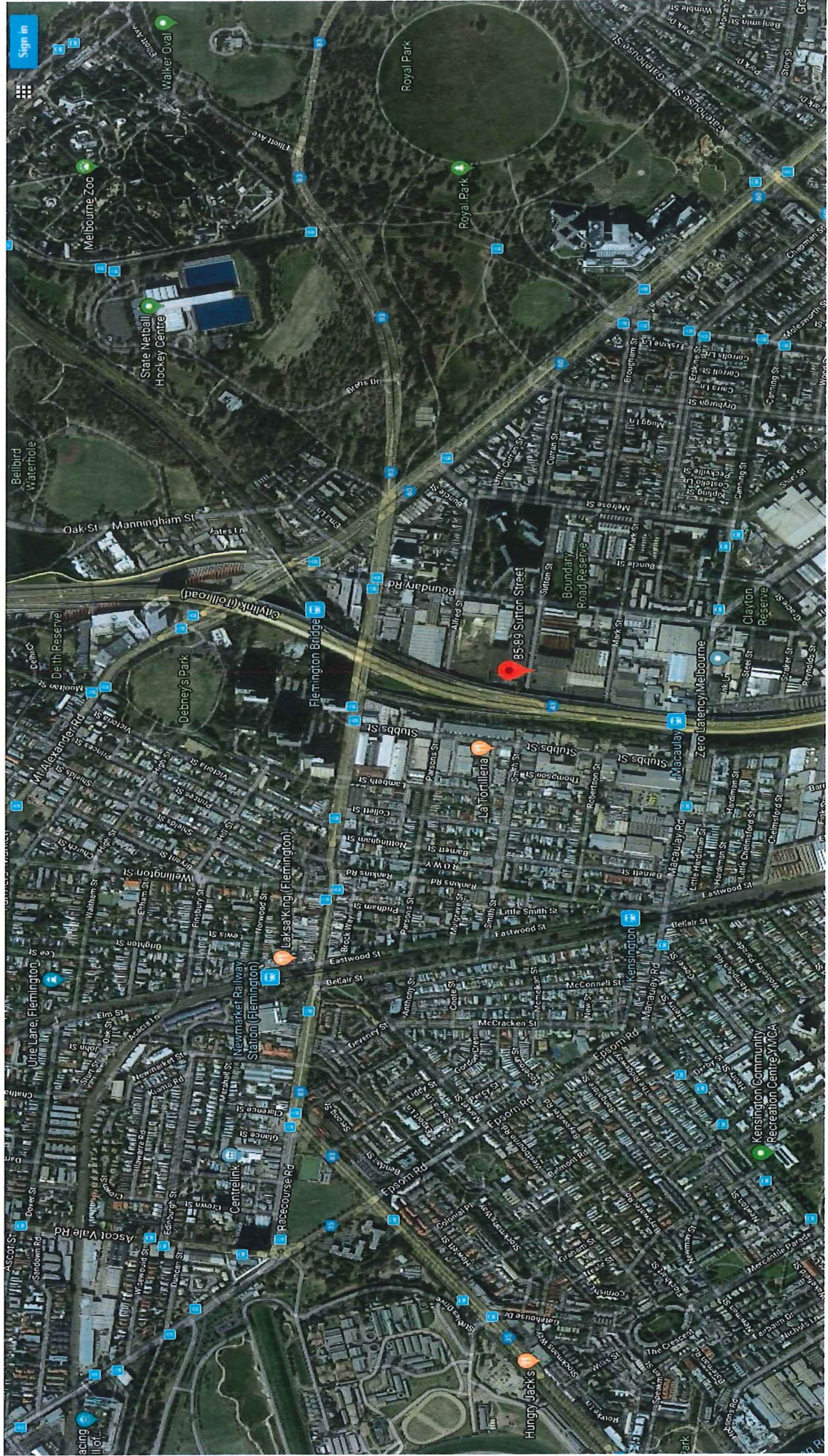
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Map 1: Cadastral of the Sutton Street Property

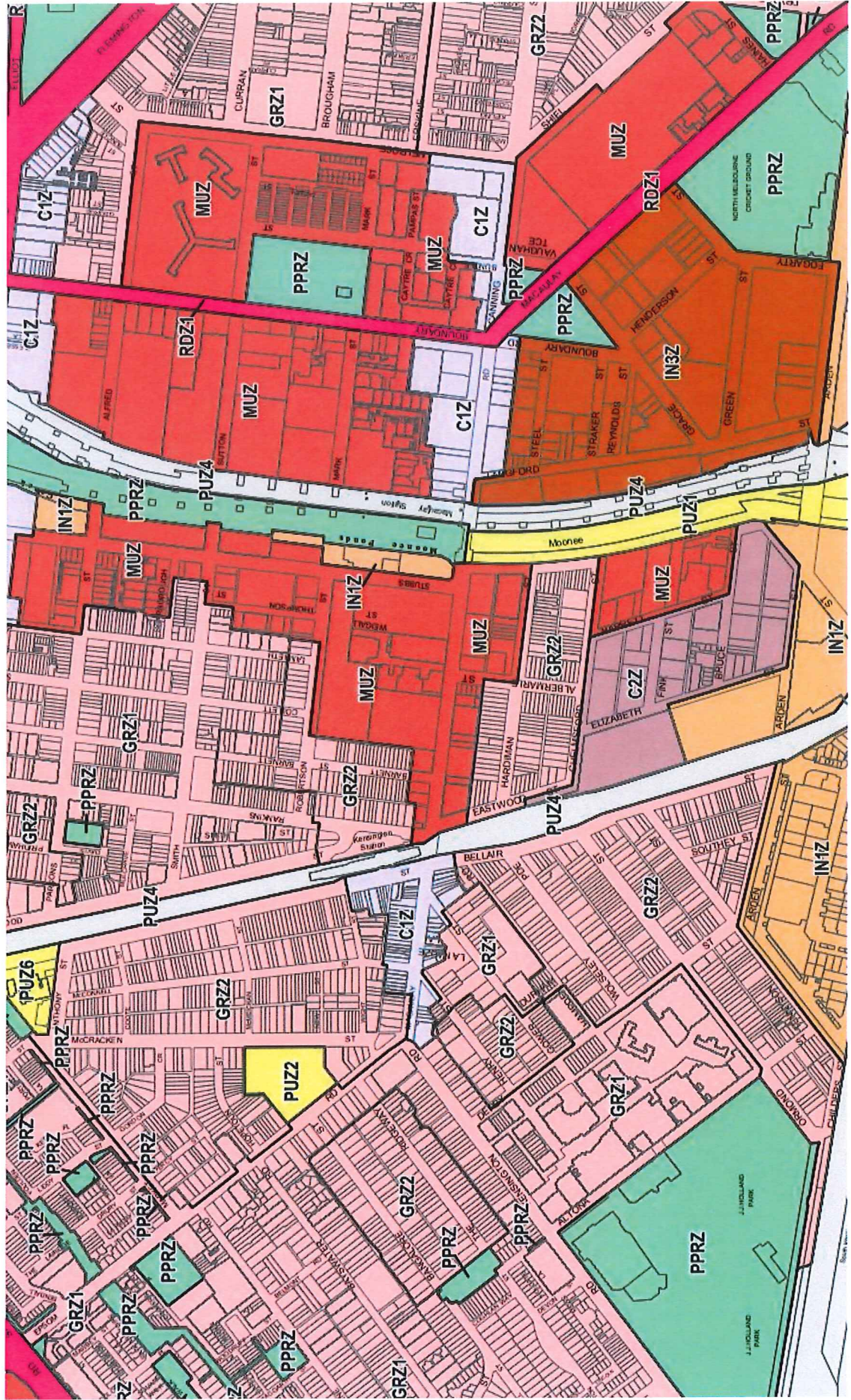


Note: Boundaries are approximate

Map 2: Aerial of the Sutton Street Property



Map 3: Zone controls affecting the Sutton Street Property



Map 4: Heritage controls affecting the Sutton Street Property

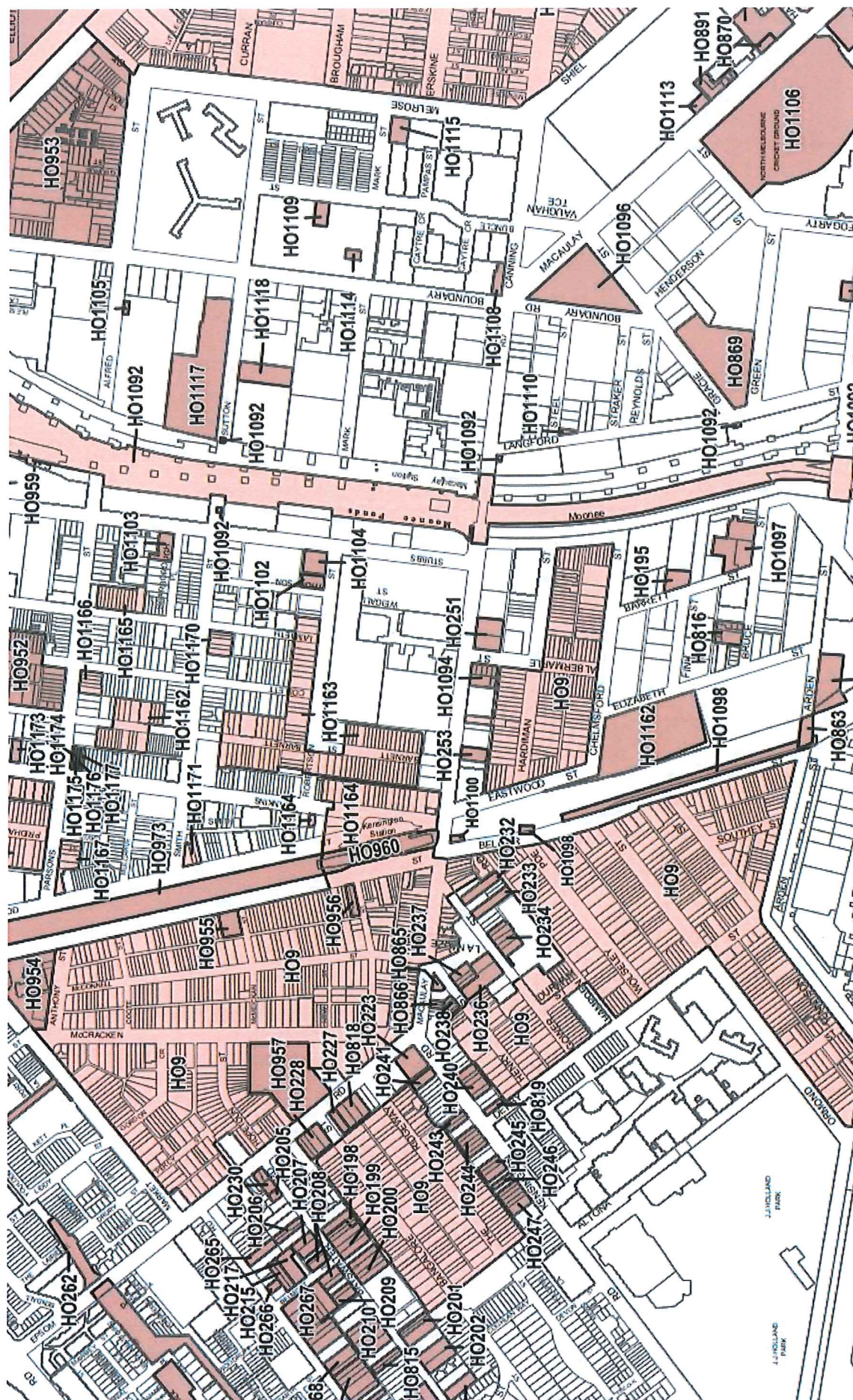


Image One



Image Two



Image Three



Image Five



Image Six

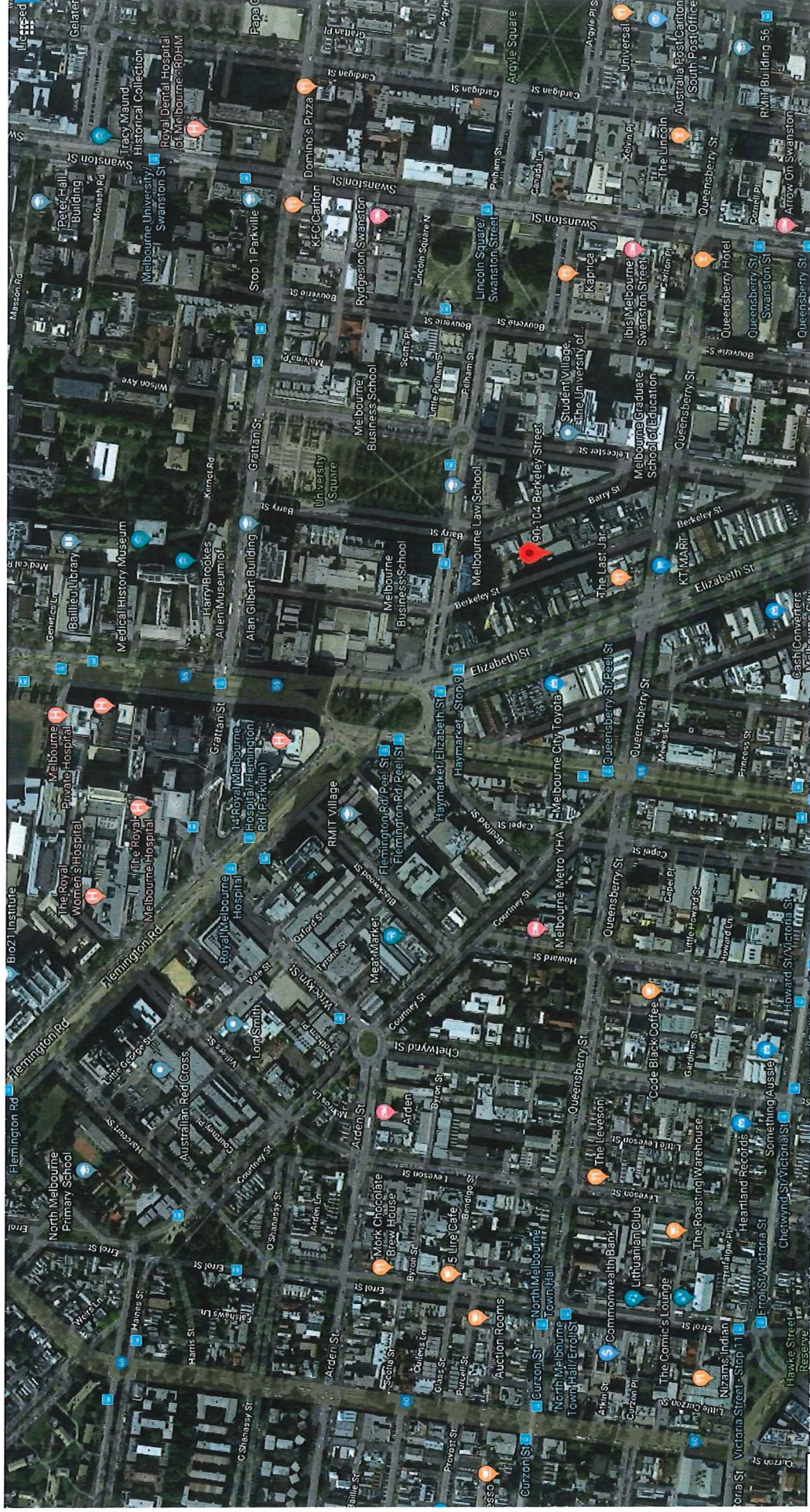


Map 5: Cadastral of the Berkeley Street Property

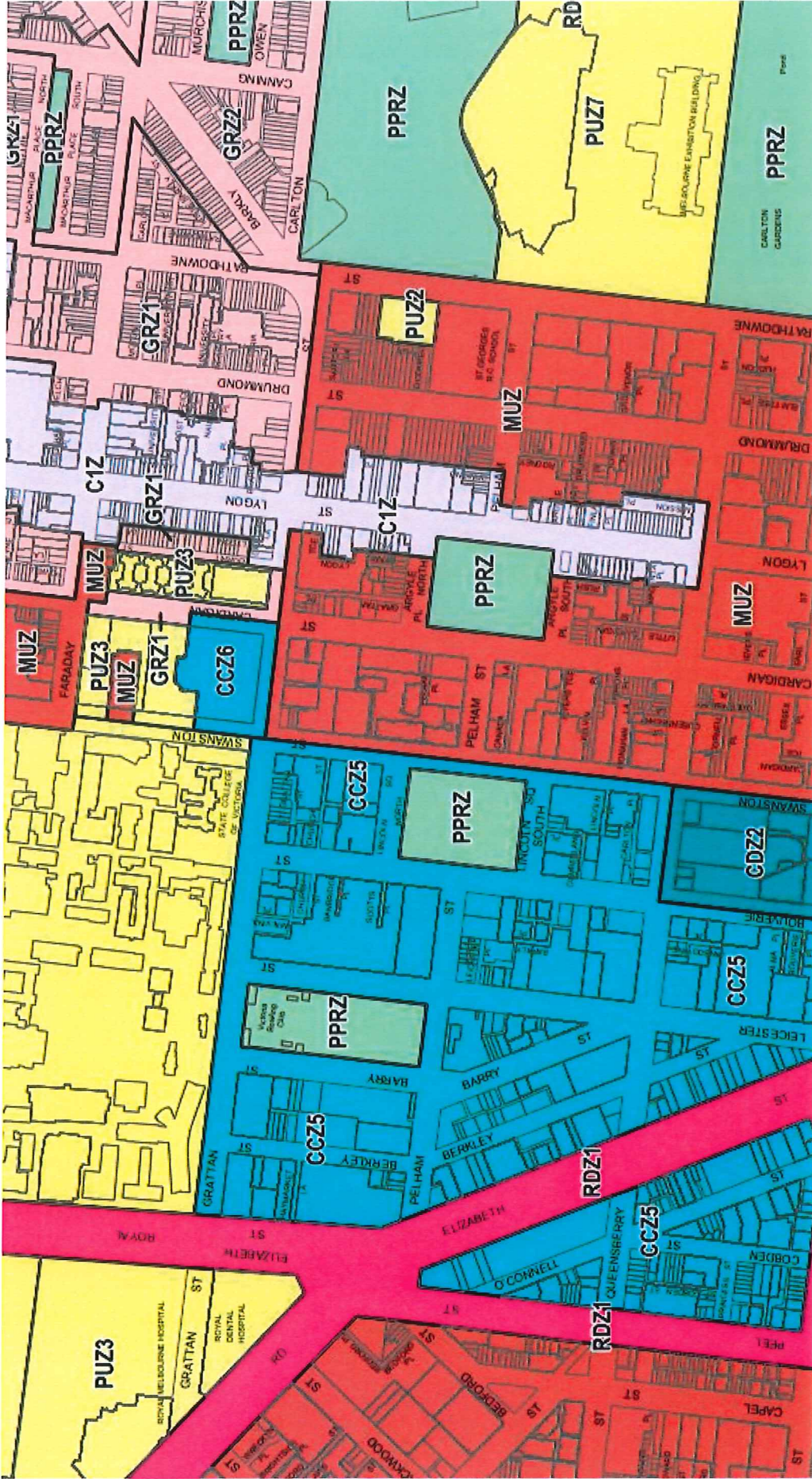


Note: Boundaries are approximate

Map 6: Aerial of the Berkeley Street Property



Map 7: Zone controls affecting the Berkeley Street Property



This is a detailed street map of the central business district of Melbourne, Australia. The map shows a grid of streets and numerous buildings. Key streets include Elizabeth St, Grattan St, and various streets in the Carlton and Melbourne Exhibition Building areas. Numerous buildings are labeled with names like 'HO1', 'HO2', 'HO3', etc., and 'HO992'. The map also shows the Melbourne Exhibition Building and the Carlton Gardens.

Image Seven



Image Eight



Image Nine



Image Ten



Image Eleven

