



AMENDMENT C426 TO THE MELBOURNE PLANNING SCHEME

SOUTH YARRA HERITAGE REVIEW

PART A SUBMISSION OF THE PLANNING AUTHORITY

I. OVERVIEW

1. Melbourne City Council (**Council**) is the Planning Authority for Amendment C426 (**Amendment**) to the Melbourne Planning Scheme (**Scheme**).
2. Council has prepared and is the proponent of the Amendment.
3. This Part A submission is made in accordance with Direction 9 of the Panel's Directions dated 3 October 2023 (**Directions**). Consistent with direction 9 of the Directions, this Part A submission will:
 - (a) address the background to the Amendment, including a chronology of key events (see Attachment 1);
 - (b) address the strategic context and assessment;
 - (c) provide a summary of the conditions of authorisation, and how the conditions have been met;
 - (d) include discussion of relevant planning scheme amendments that may impact on the Amendment;
 - (e) confirm the referral of any late submissions to the Panel;
 - (f) identify the issues raised in submissions, including late submissions;
 - (g) provide a set of proposed changes to the Amendment in response to submissions including a table listing proposed changes forming Council's Part A position (see Attachment 2).

4. In addition to this Part A submission, at the hearing listed to start on Wednesday 8 November 2023 Council will:
 - (a) call expert heritage evidence from:
 - (i) Mr Mark Huntersmith, GML Heritage (**Mr Huntersmith**); and
 - (ii) Ms Natica Schmeder, Landmark Heritage Pty Ltd (**Ms Schmeder**).
 - (b) present its Part B submission, in which Council will present its response to submissions, the expert evidence called and present its final position on the Amendment; and
 - (c) present a Part C closing submission prior to the close of the hearing.

II. THE BACKGROUND TO THE AMENDMENT

5. The Amendment is another important step in Council's overall program to protect heritage in the Melbourne municipality and to meet its specific commitments to review heritage in the municipality and to address gaps and inconsistencies in the existing controls.¹
6. Heritage is central to Melbourne's identity and distinctiveness and gives the City a competitive advantage over other capital cities as a place to live, work and visit.²
7. Council has been engaged in extensive and pioneering heritage planning practices since the 1970s. More than 30 studies have been completed to document the municipality's heritage since the first heritage controls were introduced into planning schemes in Victoria.
8. By the mid-1980s, Council had assessed heritage across the residential areas of the municipality. Urban Conservation Studies were prepared and translated into planning controls during that time and continue to be revisited.
9. A large part of South Yarra is currently protected by Schedule 6 to the Heritage Overlay – South Yarra Precinct (**HO6**), an area historically significant for its demonstration of predominantly residential development patterns spanning from the 1840s to the post-war period, as well as nineteenth and early twentieth century commercial and industrial buildings. Council first introduced heritage protection in South Yarra in reliance on the South Yarra Conservation Study in 1985, prepared by Meredith Gould (**South Yarra Study**).

¹ Heritage Strategy 2013, page 16.

² Clause 02.03; Plan Melbourne principle 1 and direction 4.4; Heritage Strategy, page 22.

A. South Yarra Conservation Study, Meredith Gould, 1985 (South Yarra Study)

10. The South Yarra Study comprises the original South Yarra Conservation Study Report 1979 (white pages), and explanatory and update notes (green pages) which includes the following parts:
 - A. Map of Conservation Study Area Boundaries
 - B. Statutory Controls and Permit Requirements
 - C. Map of Urban Conservation Area Boundaries
 - D. Council Adoption of the Study
 - E. Background Information about the Study
 - F. Additional Advice and Information
 - G. Planning Application Procedures
 - H Schedule of Building Gradings and Streetscape Levels (yellow pages).
11. The explanatory notes refer to other documents forming part of the South Yarra Study separately available from Council's offices:
 - (a) Building Identification Forms – complete set of folders containing assessed buildings in the Study Area.
 - (b) A and B Grade Building Citations – published in a second volume to the South Yarra Study.
12. The South Yarra Study was commissioned in 1984 in the context of new planning powers given to councils in 1983 to protect and enhance areas and buildings of heritage significance.³
13. The study area is described as bounded by Commercial Road to the south, Punt Road to the east, St Kilda Road to the west and Domain Road, Anderson Street and Alexandra Avenue to the north.⁴
14. The South Yarra Study recommended four broad methods of control:
 - (a) extension of urban conservation area controls;
 - (b) protection of selected individual buildings;
 - (c) a revised multiple unit (flat code);

³ South Yarra Study, 1.1.

⁴ South Yarra Study, 1.3.

- (d) envelope controls for all buildings within the study area.⁵
- 15. Section 3 of the South Yarra Study explains that it is divided into two volumes comprising:
 - (a) Volume I – General background, planning controls and design guidelines (**Volume I**).
 - (b) Volume II – Individual building identification forms for each building graded A to F (**Volume II**).
- 16. Council has provided an electronic copy of Volume I of the South Yarra Study in the material filed in accordance with direction 8a) of the Directions.
- 17. Council does not have Volume II in a consolidated electronic form. However, Council does have the individual building identification forms which constitute Volume II, and is able to make these available on a site by site basis, if needed.

B. Heritage Strategy 2013

- 18. In 2013, Council released its Heritage Strategy, setting out a plan to protect heritage in the municipality over the following 15 years. The Heritage Strategy articulates Council’s role in understanding the value of heritage, identifying places to be conserved and sustaining heritage through protection.⁶ The Heritage Strategy references Council’s Thematic History – A History of the City of Melbourne’s Urban Environment 2012 and summarises its 15 themes.⁷ Two of the four strands of the Heritage Strategy involve “Knowing the City’s heritage” and “Protecting the City’s heritage”.
- 19. Under the Knowing strand, the Heritage Strategy identifies as an action to “investigate, identify, assess and document gaps in the record of places of cultural heritage significance”.
- 20. Under the Protection strand, the Heritage Strategy includes the following:

Goal

To protect and value all heritage places and put in place policies to support decision making around heritage conservation.

...

Actions

⁵ South Yarra Study, 2.0.

⁶ Heritage Strategy, page 6.

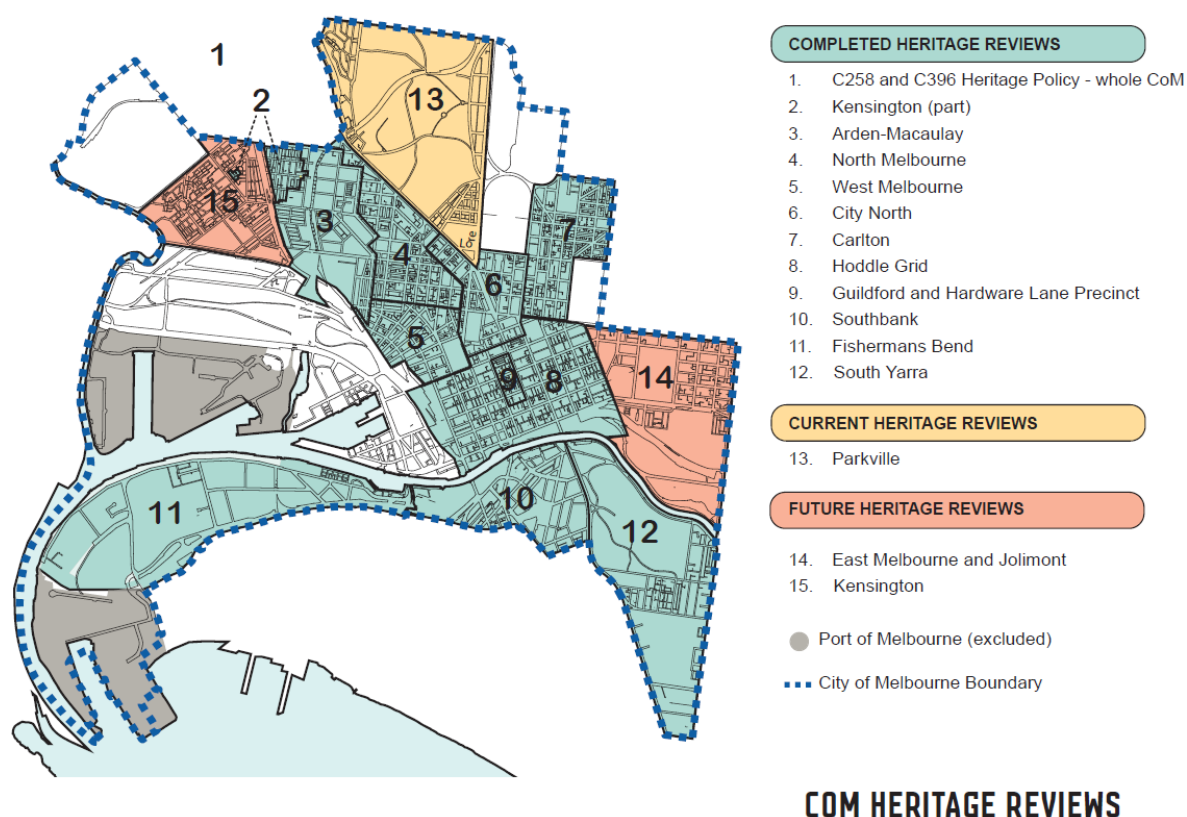
⁷ Ibid, pages 12-13.

2.2 **progressively undertake a review of heritage** in the high growth and urban renewal areas and **in the mixed use areas of the city**.⁸

2.3 Review the heritage controls in the residential zones of the city, **targeting resolution of gaps and inconsistencies in the existing controls**.

[emphasis added]

21. Appendix 1 – *Implementation Plan* to the Strategy lists Actions 2.2 and 2.3, as stated above, consecutively as the first and second of the First Priority Actions.⁹ The Second Priority Actions identified in Appendix 1 include to “develop statements of significance drawing from themes identified in the Thematic History – A History of the City of Melbourne’s Urban Environment 2012 for all heritage precincts, individually significant buildings and places across the municipality”.¹⁰
22. The Heritage Strategy has resulted in a program of progressive heritage reviews being systematically undertaken by Council.
23. The map in Figure 1 (immediately below this paragraph) illustrates where heritage reviews have been previously undertaken and areas in which recent and upcoming heritage reviews are progressing.



⁸ Ibid, page 18.

⁹ Ibid, page 28.

¹⁰ Ibid, page 29.

Figure 1: Status of planned heritage reviews since 2012

24. Council has circulated a copy of the Heritage Strategy in accordance with direction 8b).

C. South Yarra Heritage Review, August 2022 (SYHR)

25. The SYHR is the first comprehensive review of the heritage places of South Yarra since 1985.¹¹ It was prepared by GML Heritage.

26. Its executive summary explains its key objectives, in summary, to:¹²

Undertake a comprehensive review of heritage places and precincts in the Review area, including Aboriginal and shared values.

Prepare a thematic environmental history that explains how the Review area has developed and how the historical themes of the area have shaped the development of buildings, structures, gardens and open space.

Work with the City of Melbourne to engage with Traditional Custodian organisations, local history groups, and others, as required, to discover and document the diverse history of the Review area, and understand particular associations with places in the Review area. Incorporate this information into individual citations and Statements of Significance as appropriate.

Create a comprehensive set of citations and spatial data that will inform future Planning Scheme Amendments and strategic work undertaken by the City of Melbourne.

27. The SYHR area includes the suburb of South Yarra to the western side of Punt Road (located within the City of Melbourne), noting the area to the east of Punt Road forms part of the City of Stonnington (and is not the subject of the SYHR). The SYHR area is bounded by Boathouse Drive/Alexandra Avenue to the north (including the south bank of the Yarra River), Punt Road to the east, High Street to the south, and St Kilda Road to the west.
28. The SYHR excludes places which are already included in the Victorian Heritage Register under the Heritage Act 2017.
29. The findings of the SYHR are presented in four volumes as follows:
- (a) Volume 1 – Methodology report (**Methodology Report**);
 - (b) Volume 2 – Aboriginal Cultural values;

¹¹ Being the South Yarra Conservation Study.

¹² SYHR, p.iii

- (c) Volume 3 – South Yarra Thematic Environmental History (**TEH**);
 - (d) Volume 4 – Citations.
30. Volume 1 of the SYHR explains the extensive methodology utilised in preparing the review. Section 3 of the Methodology Report¹³ steps through the key findings and recommendations grouped by:
- (a) individual and serial listing Heritage Overlays;
 - (b) precincts;
 - (c) changes to heritage controls and streetscape categories; and
 - (d) other recommendations.
31. In summary, the methodology comprised:
- (a) Desktop review of previous heritage studies, thematic/typological studies and other key strategic documents to identify places and precincts of potential significance.
 - (b) Fieldwork and inspection for each site.
 - (c) Research using primary and secondary sources.
 - (d) Consultation with Traditional Custodians.
 - (e) Participation in community engagement with the local residents’ group and with the wider community through the City of Melbourne’s ‘Participate Melbourne’ website and online/in-person information session.
 - (f) Preparation of a Thematic Environmental History that examines the history and development of the South Yarra Review area, including its Aboriginal and non-Aboriginal history.
 - (g) Documentation of the significance of key places, buildings, trees, objects, precincts and landscapes and recommendations of how significant places should be protected.
32. The primary objective of the desktop review of existing heritage controls was to identify:¹⁴
- (a) whether any existing controls required review to ensure their relevancy and that appropriate heritage protection was provided; and

¹³ Ibid, p. 18.

¹⁴ Ibid. p. 11.

- (b) whether there were new places or precincts of potential significance that warranted detailed assessment.
33. Places considered for assessment as an individual heritage place had to meet one or more of the following criteria:¹⁵
- (a) The place was unlikely to be covered by a precinct;
 - (b) The identified significance of the place could not be adequately addressed through the statement of significance of a precinct (i.e., due to a unique typology or development pattern).
34. Key considerations for the justification of changes to HO6 recommended in the SYHR were as follows:¹⁶
- (a) The geographic distribution of the important elements within the precinct, including buildings and works, vegetation, open space and the broader landscape setting.
 - (b) Whether the precinct has either heterogeneous or homogeneous characteristics.
 - (c) Whether the place illustrates a particular historical theme or themes or a periods or types of development.
 - (d) Whether the place is a defined part of the municipality that is recognised by the community.
 - (e) Whether associated non-built elements, such as the subdivision pattern, contribute to its significance.
35. The SYHR takes a shared values approach to heritage places in considering both Aboriginal and non-Aboriginal heritage values.¹⁷
36. Community engagement was conducted at initial stages of the SYHR and included a range of activities to identify areas of cultural and historical significance for diverse groups of people connected with the area. There were multiple forms of engagement undertaken by Council officers and/or the authors of the SYHR and included in-person consultation as well as the City of Melbourne's online portal, Participate Melbourne.
37. Consultation was undertaken with the three Traditional Custodian organisations recognised by Council at the time of engagement:¹⁸
- (a) Boonwurrung Land and Sea Council,

¹⁵ Ibid. p. 12.

¹⁶ Ibid.

¹⁷ Ibid, p.iii.

¹⁸ Ibid.

- (b) Bunurong Land Council Aboriginal Corporation; and
 - (c) Wurundjeri Woi Wurrung Cultural Heritage Aboriginal Corporation.
38. Consultation involved an online inception meeting with each of the three Traditional Custodian organisations and a site visit of the SYHR area with the objective of the consultation to understand and identify tangible and intangible Aboriginal cultural values associated with the SYHR area and to incorporate these into the citations and thematic environmental history.
39. The TEH prepared to support the SYHR addresses South Yarra within Council's jurisdiction. Incorporating both Aboriginal and non-Aboriginal histories, the TEH traces the social, cultural, and physical development of the SYHR area. The history considers the development of the area from the pre-settlement period to the early twenty-first century. New information uncovered during research, and through consultation with Traditional Custodians and local community members, assisted with the identification of new places and precincts of potential significance.¹⁹
40. Volume 4 of the SYHR comprises the Citations which contain heritage assessments and recommendations for individual places and precincts.
41. In summary, the SYHR recommends:²⁰
- (a) 17 new individual and serial listing places are recommended for inclusion in the Schedule to the Heritage Overlay to the Scheme as new individual or serial listing Heritage Overlays. These include two places (South Yarra Primary School and the former Fawkner Club Hotel) identified as having Aboriginal associations.
 - (b) One existing individual Heritage Overlay (HO421 Hoddle Bridge) is recommended to update place documentation and the statement of significance. This Review recommends that the mapping extent of HO421 extends to sufficiently cover the overall fabric of the Hoddle Bridge.
 - (c) Two new precincts are recommended for inclusion in the Schedule to the Heritage Overlay to the Melbourne Planning Scheme as precincts.
 - (d) The existing documentation and statement of significance for the HO6 South Yarra Precinct is updated. This Review recommends that the mapping extent of HO6 extends to cover the general area bound by St Kilda Road, Punt Road, Alexandra Avenue and Toorak Road.

¹⁹ Ibid, p. 10.

²⁰ Ibid, p. iii.

- (e) Four places and one street were identified as having potential State significance and are recommended for assessment under the Heritage Act 2017:

- Domain Park, 191–201 Domain Road, South Yarra
- Clerehan House, 90–96 Walsh Street, South Yarra
- Melbourne Hebrew Congregation, 2W–8W Toorak Road, South Yarra
- Goodrest (Simonds Hall), 120W–126W Toorak Road, South Yarra
- Marne Street (Area 3 in HO6 South Yarra Precinct), South Yarra.

D. Other documents

42. In accordance with direction #8 of the Directions, Council has circulated the following additional documents:

- (a) *City of Melbourne Heritage Review: Local Heritage Policies and Precinct Statement of Significance*, Lovell Chen, 2015;
- (b) the Victorian Civil and Administrative Tribunal (VCAT) decisions in the Gunn case (referred to in submission #26) being:
 - (i) Graeme Gunn Architects v Melbourne CC [2006] VCAT 348;
 - (ii) Graeme Gunn Architects v Melbourne CC [2006] VCAT 1669;
- (c) *City of Melbourne Heritage Design Guide 2020*;
- (d) *Thematic History – A History of the City of Melbourne’s Urban Environment*, Context 2012;
- (e) Any other background or panel reports relied on by Council.

43. Council has uploaded copies of all of the above material, including the more recent *City of Melbourne Heritage Design Guide, April 2023*, which differs to the earlier version by referring to the updated planning policy framework in the Scheme.

44. Council has also uploaded the following background material and Panel Reports it seeks to rely on:

- (a) Three maps filed on 13 October in accordance with Direction 7 of the Directions: *Amendment C426: South Yarra Heritage Proposed Changes to the Heritage*

Overlay; Amendment C426: South Yarra Heritage – Proposed Significant Streetscape Changes; and Submitters to Amendment C426: South Yarra Heritage.

- (b) Clauses 02.03 *Strategic Directions* and 15.03 *Heritage* of the Scheme.
- (c) The existing Heritage Overlay Maps.
- (d) The *Burra Charter: The Australia ICOMOS Charter for Places of Cultural Significance*, 2013 (the **Burra Charter**).
- (e) *Planning Practice Note 1: Applying the Heritage Overlay (PPN1)*.
- (f) The *Victorian Heritage Register Criteria and Threshold Guidelines* (4 April 2019) (the **VHR Guidelines**).
- (g) The following Panel Reports:
 - (i) Melbourne C258 (PSA) [2019] PPV 29 (21 May 2019) – *Heritage Policies Review*;
 - (ii) Melbourne C387 (PSA) [2021] PPV 89 (10 November 2021) – *Hoddle Grid Heritage Review*;
 - (iii) Melbourne C396 (PSA) [2021] PPV 106 (21 December 2021) – *Heritage Grading Conversion Project – Stage 2*;
 - (iv) Melbourne C405 (PSA) [2022] PPV 78 (29 November 2022) – *Carlton Heritage Review & Punt Road Oval Heritage Review*; and
 - (v) Melbourne C403 (PSA) [2023] PPV 30 (26 May 2023) – *North & West Melbourne Heritage Review*.
- (h) The management response to the C258 Panel’s recommendations, the officer reports recommending adoption of Amendment C258 and associated Council minutes.
- (i) The Explanatory Report for Amendment C376melb.
- (j) The permits, plans and associated decisions of the Victorian Civil and Administrative Tribunal for:
 - (i) 10-16 Mona Place, South Yarra;
 - (ii) 172-178 Walsh Street, South Yarra;
 - (iii) 15-17 Pasley Street, South Yarra;

- (iv) 221-223 Domain Road, South Yarra;
 - (v) 93-103 Park Street, South Yarra;
 - (vi) 55,57-59 Marne Street, South Yarra; and
 - (vii) 6, 8-10 Marne Street, South Yarra.
- (k) *South Yarra Heritage Review Proposed Heritage Overlay Precincts and Statements of Significance prepared for the Melbourne South Yarra Residents' Group*, Nigel Lewis Architect Pty Ltd, 11 December 2020.

III. THE AMENDMENT

45. The Amendment seeks to implement the recommendations of the SYHR.
46. The nature and type of the proposed changes sought by the Amendment are illustrated on Figure 2 (over the page). Figure 2 also shows the geographic area of South Yarra to which the Amendment applies and shows existing HO6. The Amendment's proposed changes comprise:
- (a) an extension to HO6;
 - (b) removal of heritage properties from within HO6;
 - (c) revisions to existing individual Heritage Overlays;
 - (d) the introduction of new individual Heritage Overlays;
 - (e) the introduction of a new serial Heritage Overlay; and
 - (f) the introduction of two new heritage precincts:
 - (i) the Yarra Boathouses Precinct'; and
 - (ii) the Pasley Street and Park Place Precinct.

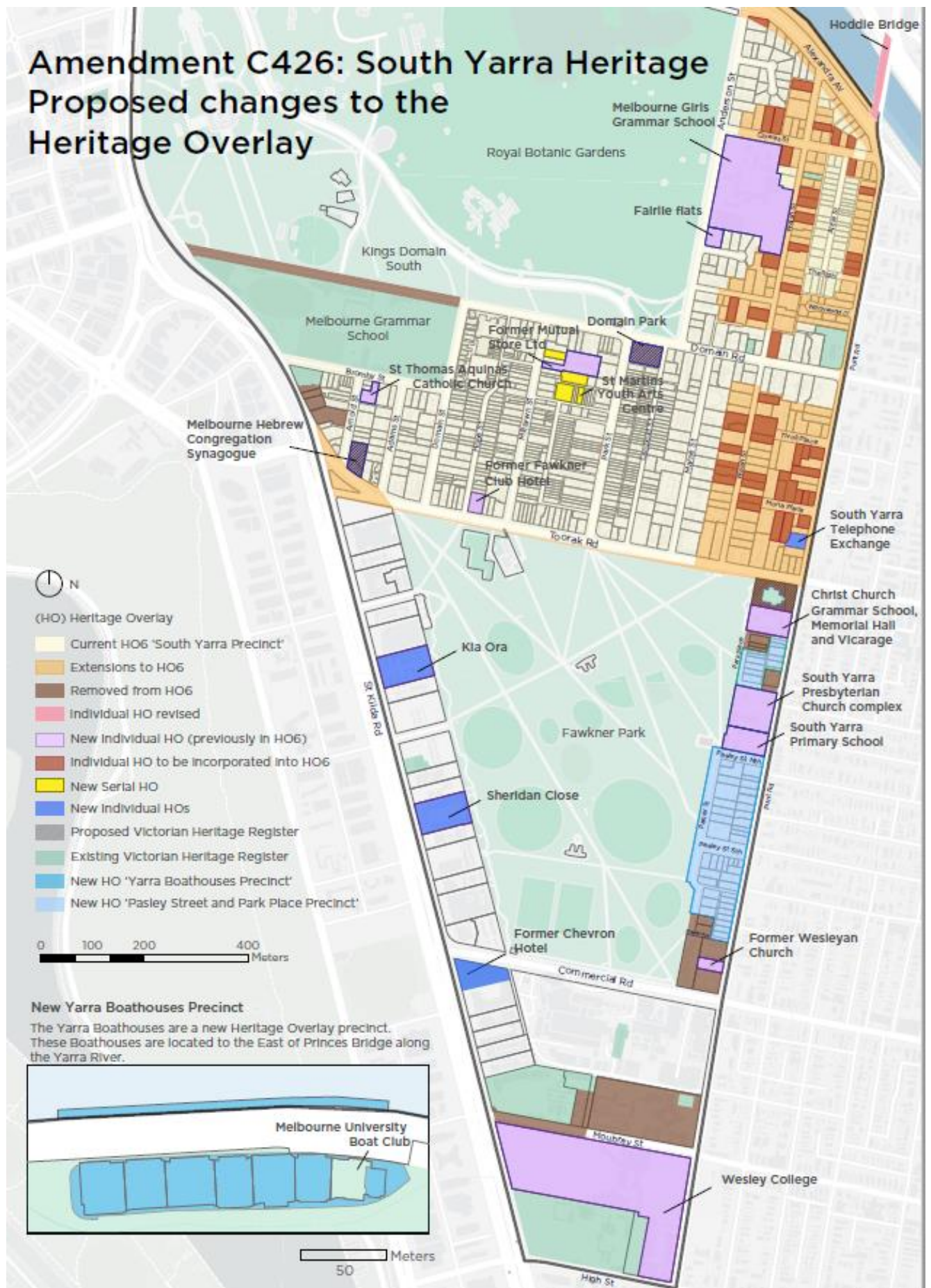


Figure 2: The SYHR Study Area and proposed changes to the Heritage Overlays

47. At an ordinance level, the Amendment proposes the following changes on a permanent basis:
- (a) Amend Clause 15.03-1L-02 to the Melbourne Planning Scheme to add the SYHR as a background document.
 - (b) Amend the Schedule to Clause 43.01 (Heritage Overlay) to:
 - (i) Include sixteen (16) new individual Heritage Overlays and a Statement of Significance for each place:
 - HO1401 (Melbourne Girls Grammar School, part 62-108 Anderson Street)
 - HO1402 (Fairlie Flats, 54-60 Anderson Street)
 - HO1403 (St Thomas Aquinas Catholic Church (chapel of ease), 39-45 Bromby Street)
 - HO1404 (Domain Park, 191-201 Domain Road)
 - HO1405 (Former Fawkner Club Hotel, 2-14 Hope Street)
 - HO1406 (Former Mutual Store Ltd (later Maples Pty Ltd) complex, part 112-118 Millswyn Street)
 - HO1407 (Former Wesleyan Church, 431-439 Punt Road)
 - HO1408 (South Yarra Primary School, 585-601 Punt Road)
 - HO1409 (South Yarra Presbyterian Church, 603-627 Punt Road)
 - HO1410 (Christ Church vicarage, and Memorial Hall and school building, 663-681 Punt Road)
 - HO1411 (South Yarra Telephone Exchange, 737-743 Punt Road)
 - HO1412 (Kia Ora, 447-453 St Kilda Road)
 - HO1413 (Sheridan Close, 485-491 St Kilda Road)
 - HO1414 (Former Chevron Hotel, part 519-539 St Kilda Road)
 - HO1415 (Wesley College, part 567-581 St Kilda Road)
 - HO1416 (Melbourne Hebrew Congregation Synagogue, 2W – 8W Toorak Road.)
 - (c) Include one (1) new serial listing Heritage Overlay and a Statement of Significance for:
 - HO1417 St Martins Youth Arts Centre, 24-32 St Martins Lane, 40-46 St Martins Lane, 20-36 St Martins Place, 120 Millswyn Street.
 - (d) Include two (2) new heritage precincts and a Statement of Significance for each precinct:

- HO1418 Yarra Boathouses Precinct.
- HO1419 Pasley Street and Park Place Precinct.

(e) Delete thirty-four (34) existing individual Heritage Overlays and include within HO6:

- HO832 (23-25 Acland Street)
- HO833 (1 Alexandra Avenue)
- HO405 (17 Clowes Street)
- HO407 (63 Clowes Street) and the associated reference to the Melbourne Girls Grammar – Merton Hall Campus Master Plan, June 2002
- HO408 (4 Clowes Street)
- HO834 (8 Clowes Street)
- HO410 (72 Clowes Street)
- HO411 (80 Clowes Street)
- HO446 (160 Walsh Street)
- HO423 (1 Mona Place)
- HO424 (11 Mona Place)
- HO425 (15 Mona Place)
- HO426 (2-8 Mona Place)
- HO427 (16-20 Mona Place)
- HO412 (773-783 Punt Road)
- HO415 (919, 923 & 927 Punt Road)
- HO420 (955 Punt Road)
- HO413 (789 Punt Rd/1-7 Tivoli Place)
- HO835 (11-13 Tivoli Place)
- HO428 (63-67 Walsh Street)
- HO429 (83 Walsh Street)
- HO430 (111-117 Walsh Street)
- HO836 (185 Walsh Street)
- HO433 (225 Walsh Street)
- HO439 (327 Walsh Street)
- HO440 (42-48 Walsh Street)

- HO442 (56-66 Walsh Street)
- HO443 (90-100 Walsh Street)
- HO445 (126 Walsh Street)
- HO447 (210 Walsh Street)
- HO448 (240 Walsh Street)
- HO837 (270 Walsh Street)
- HO451 (276-280 Walsh Street)
- HO454 (310-316 Walsh Street).

(f) For HO6 South Yarra Precinct, under the heading, Statement of Significance:

- replace reference to the incorporated document Heritage Precincts Statement of Significance 2020 with HO6 South Yarra Precinct Statement of Significance, February 2023; and
- delete the Statement of Significance for 285 Walsh Street.

(g) For HO421 Hoddle Bridge add reference to the Hoddle Bridge Statement of Significance (Sth Yarra), February 2023.

(h) Amend the Schedule to Clause 72.04 (Incorporated Documents) to include twenty-one (21) Statements of Significance for the following places:

- HO6 (South Yarra Precinct)
- HO1418 (Yarra Boathouses Precinct)
- HO1419 (Pasley Street and Park Place Precinct)
- HO1401 (Melbourne Girls Grammar School, part 62-108 Anderson Street)
- HO1402 (Fairlie Flats, 54-60 Anderson Street)
- HO1403 (St Thomas Aquinas Catholic Church (Chapel of Ease), 39-45 Bromby Street)
- HO1404 (Domain Park, 191-201 Domain Road)
- HO1405 (Former Fawkner Club Hotel, 2-14 Hope Street)
- HO1406 (Former Mutual Store Ltd (later Maples Pty Ltd) complex, 112-118 Millswyn Street)
- HO1407 (Former Wesleyan Church, 431-439 Punt Road)
- HO1408 (South Yarra Primary School, 585-601 Punt Road)

- HO1409 (South Yarra Presbyterian Church, 603-627 Punt Road)
 - HO1410 (Christ Church vicarage, and Memorial Hall and school building, 663-681 Punt Road)
 - HO1411 (South Yarra Telephone Exchange, 737-743 Punt Road)
 - HO1412 (Kia Ora, 447-453 St Kilda Road)
 - HO1413 (Sheridan Close, 485-491 St Kilda Road)
 - HO1414 (Former Chevron Hotel, 519-539 St Kilda Road)
 - HO1415 (Wesley College, part 567-581 St Kilda Road)
 - HO1416 (Melbourne Hebrew Congregation Synagogue, 2W – 8W Toorak Road)
 - HO1417 (St Martins Youth Arts Centre complex, 24-32 and 40-46 St Martins Lane, 20-36 St Martins Place, 120 Millswyn Street)
 - HO421 Hoddle Bridge
- (i) Amend the incorporated document Heritage Precincts Statements of Significance February 2020 by removing the Statement of Significance for HO6 South Yarra Precinct and changing the date to February 2023.
- (j) Amend the incorporated document Heritage Places Inventory March 2022 (Amended January 2023) by changing the heritage category and/or address of 351 places.
- (k) Amend the Schedule to Clause 72.08 (Background Documents) by adding the SYHR.
- (l) Amends Planning Scheme Maps 8HO, 9HO, 11HO to reflect the changes described above.
48. A statement of strategic assessment of the Amendment is set out in the Explanatory Report, which identifies how the Amendment has addressed environmental, social and economic effects, and documents why the Amendment is required. It states:²¹

... The introduction of heritage controls will ensure that the impact of new development on the heritage value of these places is assessed as part of development applications, and achieve the best planning outcomes for Melbourne City Council. The amendment is required to update heritage building categories within South Yarra, including recognising the contribution of interwar and postwar buildings to its heritage significance. Additionally, by incorporating statements of significance into the planning scheme, the amendment ensures planning permit decisions are based on an understanding of the heritage significance of the place.

²¹ Amendment C426melb, *Explanatory Report*, at page 5.

IV. RELEVANT AMENDMENTS

A. Amendment C258 – City of Melbourne Heritage Policies Review and Heritage Gradings Conversion

49. On 10 July 2020, Amendment C258 was gazetted.
50. Amendment C258, inter alia, converted the previous A-D letter grading system to a significant/contributory/non-contributory category system and revised the previous heritage policies in Clauses 22.04 and 22.05. Amendment C258 converted the gradings of approximately 7,000 heritage buildings.
51. As a result of commitments made by Council to the Amendment C258 Panel to address methodological issues with some places, there were approximately 400 buildings which were excluded from Amendment C258. In approving Amendment C258, the Minister advised Council to request authorisation to prepare a further amendment to finalise the conversion process. This was later progressed through Amendment C396 (see below).
52. Amendment C258 introduced:
- (a) the *Heritage Places Inventory February 2020 Part A* which listed the majority of heritage buildings in the municipality and their corresponding heritage categories;
 - (b) the *Heritage Places Inventory February 2020 Part B (Part B Inventory)* which retained the listings for buildings that had not yet been converted to the new heritage category system;²²
 - (c) a new *Heritage Precinct Statements of Significance* incorporated document which comprised the statements of significance included within clause 22.04 (Heritage Places within the Capital City Zone) and also 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;
 - (d) updated heritage policies at Clauses 22.04 (Heritage Places in the Capital City Zone) and 22.05 (Heritage Places Outside the Capital City Zone) while retaining the previous heritage policies at Part B of these clauses to apply to buildings graded under the old classification system; and
 - (e) applied the Heritage Overlay and incorporated statements of significance to new places in West Melbourne assessed to be of heritage significance in the West Melbourne Heritage Review 2016.

²² Punt Road Oval is the only place left in the Part B Inventory, which will be deleted on the gazettal of Amendment C405melb.

B. Amendment C396 – Heritage Grading Corrections

53. On 7 July 2022, Amendment C396 was gazetted.
54. Amendment C396 finalised the conversion of the outstanding places from Amendment C258 that required further review or were incorrectly converted, including C-graded buildings in precincts in City North, D-graded places in individual Heritage Overlays and buildings that were not identified or were listed incorrectly in the Amendment C258 Heritage Places Inventory.
55. It included the following properties which are included in this Amendment.
- (a) 31-33 Alexandra Avenue, South Yarra;
 - (b) Part 62-108 Anderson Street, South Yarra (Melbourne Girls Grammar School);
 - (c) 39-45 Bromby Street, South Yarra (St Thomas Aquinas Church (Chapel of ease));
 - (d) 52-54 Clowes Street, South Yarra;
 - (e) 37-41 Arnold Street, South Yarra (Melbourne Grammar School Art & Craft Centre) (captured as C396 included entirety of Melbourne Grammar School, 101-117 Domain Road, South Yarra);
 - (f) 2-14 Hope Street, South Yarra (Former Fawkner Club Hotel);
 - (g) 112-118 Millswyn Street, South Yarra (Former Mutual Store Ltd (later Maples Pty Ltd) complex);
 - (h) 1-19 Park Lane, South Yarra;
 - (i) 431-439 Punt Road, South Yarra (former Wesleyan Church);
 - (j) 485-489 Punt Road, South Yarra;
 - (k) 663-681 Punt Road, South Yarra (Christ Church vicarage, and memorial Hall and school building);
 - (l) 773-783 Punt Road, South Yarra (Balmoral);
 - (m) 2W-8W Toorak Road, South Yarra (Melbourne Hebrew Congregation Synagogue);
 - (n) 310-316 Walsh Street, South Yarra (Clovelly Flats);
 - (o) 322 Walsh Street, South Yarra;

(p) 313-315 Walsh Street, South Yarra.

C. Amendment C409 – Planning Policy Framework (PPF) Translation

- 56. Amendment C409 was gazetted on 21 September 2022.
- 57. The Minister for Planning approved Amendment C409 under 20(4) of the *Planning and Environment Act 1987 (P&E Act)*. Amendment C409 translated the Local Planning Policy Framework content in the Scheme into the new integrated PPF and Municipal Planning Strategy (**MPS**), consistent with the structure introduced by Amendment VC148 in July 2018.
- 58. The Amendment was exhibited in accordance with the policy framework introduced by Amendment C409.

V. REQUEST FOR INTERIM CONTROLS AND AUTHORISATION TO PREPARE AND EXHIBIT THE AMENDMENT

- 59. At its meeting on 8 November 2022, the Future Melbourne Committee (**FMC**) resolved as follows:
 - 1.1. Endorse the South Yarra Heritage Review August 2022 (Attachment 2 of the report from management).
 - 1.2. Authorise management to progress actions to implement the findings of the South Yarra Heritage Review Volume 2: Aboriginal Cultural Values Assessment August 2022 (Attachment 2 of the report from management) including the following:
 - 1.2.1. continue to consult with Traditional Owners about interpretation of the places identified in the review, including via the Aboriginal Melbourne Interactive Map;
 - 1.2.2. consult with First Peoples - State Relations about nominating places to the Victorian Aboriginal Heritage Register and amending an existing place on the register; and
 - 1.2.3. consult with Heritage Victoria about recognition of the Aboriginal values of places on the Victorian Heritage Register.
 - 1.3 Request that the Minister for Planning prepare and approve South Yarra Heritage Review Interim Controls Planning Scheme Amendment C425

(Attachment 3 of the report from management) pursuant to Section 20(4) of the Planning and Environment Act 1987 (Act).

1.4. Seek authorisation from the Minister for Planning to prepare and exhibit South Yarra Heritage Review Planning Scheme Amendment C426 (Attachment 3 of the report from management) in accordance with the Act.

1.5. Apply to Heritage Victoria to:

1.5.1 revise the extent of registration for Christ Church South Yarra at 683-701 Punt Road, South Yarra to include the land around the existing church to the title boundaries; and

1.5.2. nominate Domain Park Apartments at 191-201 Domain Road, South Yarra and Melbourne Hebrew Congregation Synagogue at 2W-8W Toorak Road, South Yarra to the Victorian Heritage Register.

1.6 Authorise the General Manager Strategy, Planning and Climate Change to make any required policy neutral changes to the amendment documentation prior to exhibition, should other amendments that affect the same provisions in the Melbourne Planning Scheme be gazetted prior to the public exhibition of these amendments.

1.7. Authorise the General Manager, Strategy, Planning and Climate Change to make any further minor editorial and referencing changes to Planning Scheme Amendments C425 and C426 as required.

60. On 17 November 2022, Council submitted both Amendment C425 and Amendment C426 to the Minister for Planning for approval and authorisation to prepare and exhibit, respectively.

61. Amendment C425 was gazetted on 6 June 2023. It was approved with a sunset clause of 13 September 2024. Amendment C425 provides interim Heritage Overlays for 340 individual properties while permanent controls are progressed through the Amendment.

D. LETTER OF AUTHORISATION AND CONDITIONS

62. On 22 February 2023, the Minister for Planning granted authorisation for Amendment C426 under delegation subject to the following conditions:

1. Unless otherwise agreed in writing with Department of Transport and Planning officers:

- (a) Prior to exhibition, the council must obtain consent from the Wurundjeri Woi-wurrung Cultural Heritage Aboriginal Corporation to include information about Aboriginal cultural heritage in the South Yarra Heritage Review August 2022;
 - (b) Prior to exhibition the council must revise the amendment documentation (including the maps) to ensure that the documentation is consistent (for example the maps reflect the proposed changes to the ordinance); and
 - (c) Prior to exhibition the council must revise the Explanatory Report to address the comments made in the Explanatory Report – DTP comments version provided to the council on 22 February 2023.
- 63. On 23 May 2023, Council received consent from the Wurundjeri Woi-wurrung Cultural Heritage Aboriginal Corporation to advance the SYHR through the Amendment.
- 64. Council officers responded to the remaining conditions of Authorisation by:
 - (a) clarifying there were no mapping issues, but issues with the Explanatory Report which were subsequently corrected; and
 - (b) reviewing and providing a final version of the Explanatory Report sent to the Department of Transport and Planning on 8 March 2023.

VI. EXHIBITION OF THE AMENDMENT

- 65. The Amendment was exhibited between 15 March 2023 – 24 April 2023.
- 66. The following documents formed part of the exhibited Amendment:
 - (a) Notice of Preparation;
 - (b) Explanatory Report;
 - (c) Instruction sheet;
 - (d) the Schedule to Heritage Overlay (Clause 43.01s);
 - (e) the Schedule to Incorporated Documents (Clause 72.04s);
 - (f) the Schedule to Background documents (Clause 72.08s);
 - (g) Amended Heritage Overlay Maps;
 - (h) Amended Heritage Places Inventory March 2022 (Amended February 2023);

- (i) 22 Statements of Significance, including an amended *Heritage Precincts Statements of Significance*, February 2020 (Amended February 2023) and *Statement of Significance: South Yarra Precinct, February 2023*; and
- (j) SYHR.

67. Public notification of the Amendment included:

- (a) mailing out the statutory notice and a covering letter with information about the Amendment on 9 March 2023 to:
 - (i) owners and occupiers of land affected by the Amendment;
 - (ii) targeted stakeholders, including:
 - Melbourne Heritage Action;
 - Department of Transport and Planning;
 - Melbourne South Yarra Residents Association;
 - National Trust;
 - HV; and
 - Royal Historical Society of Victoria;
 - (iii) prescribed Ministers under s 19(1)(c) of the P&E Act.
- (b) publishing public notices in:
 - (i) The Age on 15 March 2023; and
 - (ii) Government Gazette on 16 March 2023;
- (c) making an electronic copy of the Amendment and supporting information available for public viewing online on the Participate Melbourne website and on the Department of Transport and Planning's Documents on Exhibition webpage.

68. Public information sessions were held in person at the South Yarra Senior Citizens Centre on 4 April 2023 and virtually via Zoom on 30 March 2023. A South Yarra heritage walking tour was held on 5 April 2023.

VII. SUBMISSIONS

69. Exhibition attracted 41 submissions.

VIII. INFORMAL NOTIFICATION

70. All 41 submissions were considered by Council officers and all submissions seeking changes to the Amendment were considered by GML Heritage. GML Heritage recommended a number of changes including to:
- (a) re-categorise 10-16 Mona Place from Contributory in HO427 to Non-contributory in HO6;
 - (b) reinstate 39 & 41 Millswyn Street as Non-contributory;
 - (c) reinstate 15-17 Pasley Street as Non-contributory;
 - (d) re-categorise 248-250 Domain Road from Contributory to Significant within a significant streetscape;
 - (e) re-categorise 72-76 Domain Street from Contributory to Significant;
 - (f) re-categorise 113 & 115 Millswyn Street from Contributory to Significant;
 - (g) re-categorise 23 & 25 The Righi from Contributory to Significant;
 - (h) re-categorise numbers 80-110 Leopold Street (14 properties) and 81-129 Leopold Street (21 properties) from no significant streetscape to Significant Streetscape.
71. On 20 July 2023, owners and occupiers of the 248-250 Domain Road, 72-76 Domain Street, 113 & 115 Millswyn Street and 23 & 25 The Righi (proposed to be upgraded to Significant), and 35 properties in Leopold Street (proposed to have a Significant Streetscape category applied) were informally notified of this proposed change to the Amendment and provided with an additional opportunity to make a submission.
72. No submissions were received in response to the informal notification.

IX. LATE SUBMISSIONS

73. Late submissions received, either shortly before or after the FMC's consideration of submissions, are:
- (a) submission #42 relating to 55 and 57-59 Marne Street, South Yarra;
 - (b) submission #43 relating to 6 and 8-10 Marne Street, South Yarra;
 - (c) submission #44 relating to 31-37 Millswyn Street, South Yarra; and
 - (d) submission #45 relating to 233-235 Domain Road, South Yarra.

74. A combined total of 45 submissions received in relation to the Amendment have been referred to the Panel for consideration.

X. REQUEST FOR PANEL APPOINTMENT

75. On 19 September 2023, the FMC considered a report on submissions received in relation to the Amendment and resolved:

That the Future Melbourne Committee:

Considers the submissions received following the exhibition of Amendment C426 - South Yarra Heritage Review (the Amendment).

Notes management's responses to all submissions and supports the recommended changes to the Amendment to be presented to the Independent Panel generally in accordance with Attachment 2 of the report from management.

Acknowledges receipt of the late submission regarding 55 and 57-59 Marne Street, South Yarra which has not been considered by Council's heritage expert or management within the report, and refers it with the other submissions to an independent planning panel.

Requests the Minister for Planning appoint an independent planning panel to consider all submissions referred to it in relation to the Amendment in accordance with section 23 of the Planning and Environment Act 1987.

76. On 20 September 2023, Council formally requested that a Panel be appointed to consider the submissions received in response to the Amendment.
77. On 21 September 2023, Council received advice from Planning Panels Victoria that the Minister for Planning had appointed a two person Panel to hear and consider submissions in respect of the Amendment on the following dates:

Directions Hearing: 2 October 2023

Panel Hearing: Commencing on 8 November 2023

78. On 18 October 2023, Council received a request from submitter #11 to withdraw their submission regarding 27-31 Leopold Street, South Yarra.

XI. CHRONOLOGY OF EVENTS

79. A chronology of events is set out at Attachment 1.

XII. STRATEGIC CONTEXT AND ASSESSMENT

80. A strategic assessment of the Amendment is summarised in the Explanatory Report exhibited with the Amendment.
81. This section sets out the response of the Amendment to the relevant Ministerial directions, State and local policies, expressed through the MPS and PPF and other relevant provisions of the Scheme.

1. Ministerial Directions

82. Council submits that the Amendment is consistent with the Ministerial Direction on the Form and Content of Planning Schemes under section 7(5) of the P&E Act.
83. The proposed ordinance and map changes have been prepared in accordance with the relevant requirements of Ministerial Direction of 9 April 2017. The statements of significance are proposed as an incorporated document consistent with PPN01.
84. The Amendment is consistent with Ministerial Direction 9 – Metropolitan Planning Strategy under Section 12(2) of the P&E Act, by implementing the relevant aspects of Plan Melbourne 2017- 2050 objectives and outcomes at the municipal level. The Amendment is consistent with the key principles and the accompanying directions and policies as set out below.
85. Ministerial Direction 11 seeks to ensure a comprehensive strategic evaluation of a planning scheme amendment and the outcomes it produces. Compliance with Ministerial Direction 11 forms part of the Explanatory Report that was prepared for the Amendment. This assessment is adopted for the purpose of Council’s submissions. Council submits that the Amendment is consistent with Ministerial Direction 11 – Strategic Assessment of Amendments.

2. Plan Melbourne 2017-2050

86. The Amendment is supported by the principles and outcomes of *Plan Melbourne 2017-2050: Metropolitan Planning Strategy* (**Plan Melbourne**).
87. Plan Melbourne outlines principles that underpin a long-term vision for Melbourne; outcomes to drive Melbourne as a competitive, liveable and sustainable city; directions which set out how these outcomes can be achieved; and policies which outline how each outcome will be approached, delivered and achieved.
88. Plan Melbourne comprises nine principles, seven outcomes, 32 directions and 90 policies to deliver on the vision for Melbourne as ‘*a global city of opportunity and choice*’. The Amendment is supported by the following relevant principles and outcomes:

89. Principle 1, 'A distinctive Melbourne', notes:

Melbourne has an enviable natural environment, important Aboriginal cultural heritage values, a rich inheritance of open space, and landmark buildings and streets created during the population booms of the Gold Rush and post-War period. **To ensure Melbourne remains distinctive, its strengths will be protected and heritage preserved while the next generation of growth is planning to complement existing communities and create attractive new neighbourhoods.**

[Emphasis added]

90. Outcome 4, 'Melbourne is a distinctive and liveable city with quality design and amenity', provides:

Melbourne has always been a place defined and designed by its people.

The challenge ahead of this generation is to design a version of the city and state that, while protecting the best aspects of the natural and built environment, supports social and cultural diversity and economic activity and creates a sense of place.

An identifiable sense of place emerges from a unique set of characteristics and quality – visual, cultural, environmental and social. Communities with a high level of attachment to their cities also tend to have a high rate of Gross Domestic Product growth.

91. This outcome is translated through to Direction 4.4, 'Respect Melbourne's heritage as we build for the future', which notes that:

Heritage will continue to be one of Melbourne's competitive strengths, contributing to its distinctiveness and liveability and attracting visitors, new residents and investors. Heritage is an important component of Victoria's tourism industry and benefits the economy.

In time, new development will add to Melbourne's rich legacy of heritage places. The process of building a new legacy is important, **just as it is vital that current assets are protected.**

Innovative approaches to the creative re-use of heritage places need to be adopted, ensuring good urban design both preserves and renews historic buildings and places.

[Emphasis added]

92. Policies relating to Direction 4.4 relevant to this amendment are as follows:

4.4.1 Recognise the value of heritage when managing growth and change

4.4.2 Respect and protect Melbourne's Aboriginal cultural heritage

4.4.3 Stimulate economic growth through heritage conservation

4.4.4 Protect Melbourne's heritage through telling its stories.

93. The Amendment seeks to advance the outcome, direction and policies as set out at Outcome 4 as it aims to apply heritage protection to unprotected, culturally significant assets for the benefit of current and future generations and to refine the nature and extent of existing heritage protection that applies in South Yarra.

3. Municipal Planning Strategy (MPS)

94. The Amendment is consistent with the strategic directions of the Scheme. In describing the municipality's heritage profile, Clause 02.03-4 of the Strategic Directions 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.**

[Emphasis added]

95. Clause 02.03-4 (Built Environment 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.

96. In managing the built environment, Clause 02.03-4 requires Council to:

Protect and enhance the City's distinctive physical character and heritage, 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.

97. In protecting heritage values, Clause 02.03-4 requires Council to:

Conserve and enhance places and precincts of identified cultural heritage significance, including views to heritage places.

98. Advancing and refining heritage protection as is sought by the Amendment is entirely consistent with the MPS.

4. Planning Policy Framework (PPF)

99. Council submits that the Amendment is also consistent with the PPF including Clause 15 (Built Environment and Heritage) which provides that:

Planning should protect places and sites with significant heritage, architectural, aesthetic, scientific and cultural value.

100. Clause 15.03-1S (Heritage conservation) seeks:

To ensure the conservation of places of heritage significance.

101. Relevant strategies include:

- Identify, assess and document places of natural and cultural heritage significance as a basis for their inclusion in the planning scheme.
- Provide for the conservation and enhancement of those places that are of aesthetic, archaeological, architectural, cultural, scientific or social significance.
- Retain those elements that contribute to the importance of the heritage place.
- Encourage the conservation and restoration of contributory elements of heritage place.
- Ensure an appropriate setting and context for heritage places is maintained or enhanced.
- Support adaptive reuse of heritage buildings where their use has become redundant.
- Consider whether it is appropriate to require the restoration or reconstruction of a heritage building in a Heritage Overlay that has been unlawfully or unintentionally demolished in order to retain or interpret the cultural heritage significance of the building, streetscape or area.

102. In terms of policy application, Clause 15.03-1L-02 (Heritage) provides that:

This policy applies to places within a Heritage Overlay and for properties categorised 'significant', 'contributory' or 'non-contributory' in an incorporated document to this scheme. Definitions are located in the Heritage Places Inventory March 2022 incorporated into this Scheme (**Heritage Places Inventory**). This policy should be applied in conjunction with Statements of Significance as incorporated into this scheme.

103. Definitions of key terms are located in the Heritage Places Inventory 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

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.

104. By including the identified places within the Heritage Overlay, the Amendment will ensure that the significance of these heritage places is protected, conserved and enhanced. The Heritage Overlay will require consideration to be given to the significance of the identified heritage place as part of a planning permit application.
105. By providing a category of Significant, Contributory or Non-contributory for each building within a Heritage Overlay, the Amendment ensures that a clear management framework exists for each place under Clause 15.03-1L-02.
106. Clause 11.03-6L-14 St Kilda Road and South Yarra contains the following relevant policies to:

- Ensure development in South Yarra that:
 - Maintains the low scale nature of heritage streetscapes and buildings.
 - Complements the architecture and character of the residential areas.
- Ensure development in St Kilda Road respects its landscaped boulevard character which includes generous landscaped front setbacks, the appearance of “buildings in grounds” and established street trees.
- Ensure development along St Kilda Road maintains views to the Arts Centre Spire and Shrine of Remembrance.
- Encourage high rise residential and office developments along St Kilda Road.
- Ensure development, including infill redevelopment and extensions are designed to maintain and complement the architecture, scale and character of the residential areas in South Yarra.
- Limit development height around the Royal Botanic Gardens.
- Ensure development around Fawkner Park protects the visual amenity of the park and avoids overshadowing.

107. The Amendment is consistent with and seeks to implement the PPF.

5. Clause 43.01 – Heritage Overlay

108. The purposes of the Heritage Overlay are:

- To implement the Municipal Planning Strategy and Planning Policy Framework.
- To conserve and enhance heritage places of natural or cultural significance.
- To conserve and enhance those elements which contribute to the significance of heritage places.
- To ensure that development does not adversely affect the significance of heritage places.
- To conserve specifically identified heritage places by allowing a use that would otherwise be prohibited if this will demonstrably assist with the conservation of the significance of the heritage place.

109. Clause 43.01-2 sets out the requirements where a heritage place is included in the Victorian Heritage Register stating this is subject to the requirements of the *Heritage Act 2017*.

110. Clause 43.01-5 (Statements of significance) notes the schedule to the Heritage Overlay must specify a statement of significance for each heritage place included in the schedule after the commencement of Amendment VC148.

111. Clause 43.01-8 sets out the decision guidelines relevant to a responsible authority's consideration of an application, including any applicable statement of significance.
112. Council submits the Amendment as proposed is consistent with the operation of clause 43.01.

6. Clause 71.02 Operation of the Planning Policy Framework

113. Clause 71.02-1 sets out the purpose of the PPF as follows:

The Planning Policy Framework provides a context for spatial planning and decision making by planning and responsible authorities. The Planning Policy Framework is dynamic and will be built upon as planning policy is developed and refined, and changed as the needs of the community change. The Planning Policy Framework seeks to ensure that the objectives of planning in Victoria (as set out in section 4 of the P&E Act) are fostered through appropriate land use and development planning policies and practices that integrate relevant environmental, social and economic factors in the interests of net community benefit and sustainable development.

114. The operation of the Planning Policy Framework is outlined at clause 71.02-2.
115. Clause 71.02-3 requires Council as the planning authority to take into account the PPF when it prepares an amendment to the Scheme. Council has considered the PPF in the preparation of the Amendment and submits the Amendment appropriately responds to planning policy, as detailed within this Part A submission.

XIII. OVERVIEW OF ISSUES IDENTIFIED IN SUBMISSIONS

116. Broadly, the issues from the 45 submissions can be summarised as follows:

- (a) 8 submissions support the Amendment including:
- i. 1 submission (#7) supporting the Amendment generally with no changes;
 - ii. 4 submissions (#26, #32, #38 and #39) supporting the Amendment and requesting changes including increased streetscape protection, protection of gardens and increased building protection, and providing additional information to the SYHR;
 - iii. 1 submission from Melbourne South Yarra Residents Group (#25) supporting the Amendment and suggesting increased protections for over 100 places and streetscapes, and also providing additional information to the SYHR;
 - iv. 1 submission (#31) supporting the Amendment but commenting that housing diversity should be considered; and
 - v. 1 submission (#34) supporting the proposed categorisation of 172-182 Walsh Street, South Yarra (Motstone).

- (b) 4 submissions objecting to the Amendment and requesting corrections to the SYHR for specific places including:
 - vi. 1 submission (#1) asserting an address error and requesting a re-assessment of 10-16 Mona Place, South Yarra;
 - vii. 2 submissions (#6 and #10) asserting a curtilage error for 519-139 St Kilda Road, Melbourne; and
 - viii. 1 submission (#36) asserting that damage to the Sunday School by fire at 603-627 Punt Road, South Yarra (South Yarra Presbyterian Church complex) should be recorded in the Statement of Significance, and that buildings on the site should be individually assessed for significance, particularly the Caretakers cottage.
- (c) 1 submission opposing the Amendment in its entirety (#33);
- (d) 2 submissions (#16 and #24) objecting to the proposed application of the Heritage Overlay and elements of the Statement of Significance for 485-489 St Kilda Road, Melbourne (Sheridan Close).
- (e) 30 submissions objecting to the proposed heritage building category change for 25 properties including:
 - i. 6 submissions (#4, #19, #20, #21, #22 and #23) objecting to the proposed category change from outside the Heritage Overlay to Significant in HO6 for 172-182 Walsh Street, South Yarra (Motstone).
 - ii. 2 submissions (#2 and #9) objecting to the proposed category change from ungraded to Contributory in HO6 for 39 and 41 Millswyn Street, South Yarra;
 - iii. 1 submission (#37) objecting to the proposed category change for 41 Millswyn Street, South Yarra.
 - iv. 2 submissions (#17 and #18) objecting to the proposed category change from ungraded in HO6 to Contributory in HO6 with 'significant streetscape' applied.
 - v. Individual submissions objecting to the proposed category change for one of the following properties:
 - 1. St Martins Youth Arts Centre complex (#3) from Contributory in HO6 to serial listing HO1417.
 - 2. 158W-166W Toorak Road, South Yarra (St Ives) (#5) from outside the HO to Contributory in HO6.
 - 3. 52-54 and 56 Pasley Street (from ungraded in HO6 to Non-contributory in HO1419) and 543-547 Punt Road, South Yarra (#8)(from Contributory in HO6 to Contributory in HO1419)
 - 4. 27-31 Leopold Street, South Yarra (#11) from ungraded in HO6 to Contributory in HO6.

5. 15-17 Pasley Street, South Yarra (#12) from ungraded in HO6 to Contributory in HO1419.
6. 92-96 Millswyn Street, South Yarra (#13) from ungraded in HO6 to Contributory in HO6.
7. 79 Hope Street, South Yarra (#14) to remain Contributory in HO6 with Significant Streetscape applied.
8. 8-22 Clowes Street, South Yarra (#15) from individually Significant in HO834 to Significant in HO6.
9. 20-22 Fairlie Court, South Yarra (#27) from Contributory in HO6 to Significant in HO6.
10. 23-25 St Leonards Court, South Yarra (St Leonard)(#28) from Contributory in HO6 to Significant in HO6 with Significant Streetscape applied.
11. 221-223 Domain Road, South Yarra (#29) from Contributory in HO6 to Significant in HO6.
12. 435 Punt Road, South Yarra (former Wesleyan Church)(#30) from Significant in HO6 to individually Significant HO1415.
13. 641-645 Punt Road (Astor) (#35) from ungraded in HO6 to Significant in HO6.
14. 93-103 Park Street, South Yarra (St Arnaud) (#40) from Contributory in HO6 to Significant in HO6 with Significant Streetscape applied.
15. 105-107 Park Street, South Yarra (Kilmeny) (#41) from ungraded in HO6 to Significant in HO6 with Significant Streetscape.
16. 55 and 57-59 Marne Street, South Yarra (#42) to a Significant grading in HO6 (noting the Amendment proposes Contributory gradings for both 55 and 57-59 Marne Street).
17. 6 and 8-10 Marne Street, South Yarra (#43) to a Significant grading (from Contributory - 6 Marne, and 'ungraded' - 8-10 Marne) in HO6.
18. 31-37 Millswyn Street, South Yarra (#44) from ungraded in HO6 to Significant in HO6.
19. 233-235 Domain Road, South Yarra (#45) from Contributory in HO6 to Significant in HO6.

117. A detailed officer response to Submissions 1-41 was provided in Attachment 2 to the FMC report dated 19 September 2023. Council's response will be expanded upon in the expert evidence of Mr Huntersmith and Ms Schmeder, and in Council's Part B submission.

XIV. PROPOSED CHANGES IN RESPONSE TO SUBMISSIONS

118. In response to submissions, Attachment 2 outlines Council's Part A position in respect to proposed changes to the Amendment, including the consequential proposed changes to the Amendment documentation (e.g. Heritage Places Inventory).

119. Further refinement to Council’s position on the Amendment will be provided following the filing and serving of the evidence of Mr Huntersmith and Ms Schmeder.

XV. CONCLUSION

120. The Amendment is underpinned by clear strategic support for heritage protection in the Scheme and by a body of detailed and rigorous work. The work contains a proper foundation for the changes proposed by the Amendment. The statutory processes for exhibition as well as receipt and consideration of submissions have been properly observed.
121. In accordance with the directions of the Panel, the Part B submission will address Council’s response to issues in submissions, expand on specific matters raised by the Panel, provide a response to evidence and provide Council’s final position on the Amendment.

Susan Brennan

Carly Robertson

Counsel for the Planning Authority

Instructed by Melbourne City Council




25 October 2023



ATTACHMENT 1 - Chronology of Events


Date	Event
1985	<i>South Yarra Conservation Study</i> , Meredith Gould 1985 is completed.
2012	<i>Thematic History – A history of the City of Melbourne’s Urban Environment</i> , Context 2012 is completed.
2013	<i>City of Melbourne Heritage Strategy 2013</i> is completed.
2015	<i>City of Melbourne Heritage Review Local Heritage Policies and Precincts Statements of Significance</i> , Lovell Chen 2015 is completed.
July 2020	GML Heritage (formerly Context) commences the SYHR on behalf of Council.
10 July 2020	Amendment C258 is gazetted in the Scheme.
August 2020	<i>Heritage Design Guide</i> , City of Melbourne is completed.
10 Aug to 21 Sept 2020	Members of the public are invited to provide local knowledge to help inform the early research stage of the SYHR. Council received 62 contributions in response to the consultation.
2 Sept 2020	Council hosted an online community information session.
11 Dec 2020	Council is provided with the <i>South Yarra Heritage Review Proposed Heritage Overlay Precincts and Statements of Significance, Prepared for the Melbourne South Yarra Residents’ Group</i> , Nigel Lewis Pty Ltd.
7 July 2022	Amendment C396 was gazetted in the Scheme.
August 2022	The SYHR is finalised.
21 Sept 2022	Amendment C409 is gazetted in the Scheme.
8 Nov 2022	FMC resolves to request the Minister prepare and approve interim heritage controls through Amendment C425, and to prepare and exhibit the Amendment.
17 Nov 2022	Council writes to the Minister seeking authorisation to prepare and exhibit the Amendment, and writes to the Minister requesting approval of Amendment C425.
16 Dec 2022	Two nominations are submitted to Heritage Victoria to include the Melbourne Hebrew Congregation Synagogue at 2W-8W Toorak Road, South Yarra and Domain Park at 191-201 Domain Road, South Yarra to the VHR. An amendment is submitted to Heritage Victoria to extend the land extent of Christ Church at 683-701 Punt Road, South Yarra of the existing VHR listing.
22 Feb 2023	Council is granted conditional Ministerial authorisation to prepare and exhibit the Amendment.
15 March to 24 April 2023	The Amendment is formally exhibited.
April 2023	Heritage Design Guide, City of Melbourne is re-issued to reflect the updated PPF.
1 May 2023	GML Heritage is provided with the 41 submissions received to the Amendment.



8 June 2023	Amendment C425 is gazetted to implement the recommendations of the SYHR on an interim basis until 24 September 2024.
20 July 2023	Informal notification is undertaken to specified property owners and occupiers.
7 Aug 2023	Heritage Council determination is received that Christ Church be amended in the VHR. (Boundary is amended as recommended in the SYHR).
19 Sept 2023	Council resolves to refer submissions 1-42 to an independent planning panel.
20 Sept 2023	Council formally requests an independent planning panel be appointed.
21 Sept 2023	Planning Panels Victoria appoints an independent planning panel.
22 Sept 2023	Council accepts submissions 43 and 44 and refers them to the Panel.
27 Sept 2023	Council accepts and refers submission 45 bringing the total number of submissions referred to the Panel to 45.
2 Oct 2023	Directions Hearing is held.
3 Oct 2023	The Panel's Directions are issued.
18 Oct 2023	Submission #11 is withdrawn and Panels is advised accordingly.
8 Nov 2023	Panel hearing scheduled to commence.


ATTACHMENT 2 - Table of Proposed Changes to Amendment C426 in response to submissions – Part A version

Submitter	Address	Exhibited position	Proposed post-exhibition category change	Proposed post-exhibition change to background document	Proposed post-exhibition change to Heritage Places Inventory	Proposed post-exhibition changes to Statement of Significance
1	10-16 Mona Place, South Yarra 	Proposed category change from “contributory” in HO427 16-20 Mona Place South Yarra to “contributory” in HO6 South Yarra Precinct (HO6).	Re-categorise 10-16 Mona Place from “contributory” in HO427 to “non-contributory” in HO6.	Correct addressing error in the Citation for HO6 where 18 Mona Place is referred to as 10-16 Mona Place at page 675. Change to correctly read “18 Mona Place”. Update category schedule in Citation for HO6 to list building as “non-contributory”.	Update Heritage Places Inventory to list this building as “non-contributory”.	Update mapping in HO6 Statement of Significance to identify this building as “non-contributory”.
2, 9 and 37	39 & 41 Millswyn Street, South Yarra  	Proposed category change from “ungraded” in HO6 to “contributory” in HO6.	Reinstate 39 & 41 Millswyn Street as “non-contributory” in HO6.	Update category schedule in Citation for HO6 to list buildings as “non-contributory”. Update the precinct map in the HO6 Statement of Significance within the South Yarra Heritage Review to identify this building as “non-contributory”.	Update Heritage Places Inventory to list these buildings as “non-contributory”.	Update the precinct map in HO6 Statement of Significance to identify these buildings as “non-contributory”.

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5	158W-166W Toorak Road, South Yarra (St. Ives) 	Proposed category change from “ungraded” in HO6 to “contributory” in HO6.	N/A	Update the citation to include the buildings architect, Mordechai Benshemesh and the 1966 construction date in the paragraph for this building in the Citation for HO6.	N/A	N/A
12	15-17 Pasley Street, South Yarra 	Proposed category change from “ungraded” in HO6 to “contributory” in HO1419 Pasley Street and Park Place Precinct.	Reinstate 15-17 Pasley Street to “non-contributory” in HO1419.	Update category schedule in Citation for HO1419 to list this building as “non-contributory”. Update the precinct map in the HO1419 Statement of Significance within the South Yarra Heritage Review to identify this building as “non-contributory”.	Update Heritage Places Inventory to list this building as “non-contributory”.	Update the precinct map in HO1419 Statement of Significance to identify this building as “non-contributory”.
25	General Submission	Proposed category change of 248-250 Domain Road from “ungraded” in HO6 to “contributory” in HO6. Retain 72-76 Domain Street as “contributory” in HO6. Proposed to retain	Re-categorise 248-250 Domain Road, South Yarra from “contributory” in HO6 to “significant” in HO6. Re-categorise 72-76 Domain Street, South Yarra from “contributory” in HO6 to “significant” in HO6. Re-categorise 113 & 115	Update category schedule in Citation for HO6 to list these properties as “significant”. Update category schedule in Citation for HO6 to list properties at 80-110 and 81-129 Leopold Street as having a “significant streetscape”. Update the HO6 Statement	Update Heritage Places Inventory to list the following properties as “significant”: <ul style="list-style-type: none"> • 248-250 Domain Road • 72-76 Domain Street • 113 & 115 Millswyn Street • 23 & 25 The Righi 	Update the precinct map in the HO6 Statement of Significance to identify these buildings as “significant”. Update the HO6 Statement of Significance for HO6 to include discussion

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		113 & 115 Millswyn Street as “contributory” in HO6. Proposed to retain 23 & 25 The Righi as “contributory” in HO6. Proposed to retain streetscape category of “-“ for 80-110 and 81-129 Leopold Street.	Millswyn Street, South Yarra from “contributory” in HO6 to “significant” in HO6. Re-categorise 23 & 25 The Righi, South Yarra from “contributory” in HO6 to “significant” in HO6. Apply a “significant streetscape” category to 35 properties at 80-110 and 81-129 Leopold Street, South Yarra.	of Significance within the South Yarra Heritage Review to identify these buildings as “significant” on the precinct map, and include discussion of commercial activities and theatrical life in Area 2.	Update Heritage Places Inventory to list properties at 80-110 and 81-129 Leopold Street as having a “significant streetscape”.	of commercial activities and theatrical life in Area 2.
26	Leopold Street	Proposed to retain streetscape category of “-“ for 80-110 and 81-129 Leopold Street.	Apply a “significant streetscape” category to 35 properties at 80-110 and 81-129 Leopold Street, South Yarra.	Update category schedule in Citation for HO6 to list properties at 80-110 and 81-129 Leopold Street as having a “significant streetscape”.	Update Heritage Places Inventory to list properties at 80-110 and 81-129 Leopold Street as having a “significant streetscape”.	N/A
29	221-223 Domain Road, South Yarra 	Proposed category change from “contributory” to “significant” in HO6.	N/A	Update the HO6 Area 3 description in the Citation to note the contribution of alterations by R B Hamilton to property in 1935.	N/A	N/A
32	11-21 Marne Street (Castle Towers)	Proposed to remain “significant” in HO6 South Yarra Precinct with “significant streetscape”.	N/A	Update the Thematic Environmental History (Volume 3 of the Review) and the Citation for HO6 to reflect some minor corrections identified, in	N/A	N/A

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				<p>relation to:</p> <ul style="list-style-type: none"> • The historical background of the development of the Melbourne Observatory • Clarification of the events held at the Melbourne Observatory. • The rooftop at Castle Towers to be referred to as a singular rooftop garden 		
35	<p>641 Punt Road (Astor)</p> 	Proposed category change from “ungraded” in HO6 to “significant” in HO1419 Pasley Street and Park Place Precinct.	N/A	<p>Update the citation for HO1419 to reflect that Astor represents the conversion in the late 1920s to 1930s (as it occurred in 1929) not “1920’s” as currently stated.</p> <p>Add the words “or early” to the reference in the “What is “significant”?” section of the HO1419 Statement of Significance within the South Yarra Heritage Review as follows: <i>“significant” buildings’ high level of integrity to their original <u>or early</u> design”</i></p>	N/A	<p>Update the Statement of Significance for HO1419 to reflect that Astor represents the conversion in the late 1920s to 1930s (as it occurred in 1929) not “1920’s” as currently stated.</p> <p>Add the words “or early” to the reference in the “What is “significant”?” section as follows: <i>“significant” buildings’ high level of integrity to their original <u>or early</u> design”</i></p>

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36	603-627 Punt Road, South Yarra (South Yarra Presbyterian Church complex) 	Proposed category change from “significant” in HO6 South Yarra Precinct to individually “significant” in HO1409 South Yarra Presbyterian Church complex.	N/A	Amend the HO1409 South Yarra Presbyterian Church complex Citation to reflect recent fire damage to the Sunday school.	N/A	Amend the HO1409 South Yarra Presbyterian Church complex Statement of Significance to reflect recent fire damage to the Sunday school.