

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

IN THE MATTER of Amendment C405 to the Melbourne Planning Scheme

BETWEEN:

MELBOURNE CITY COUNCIL

Planning Authority

-and-

VARIOUS SUBMITTERS

AFFECTED LAND: Properties within Carlton, the Punt Road Oval and a small section of Yarra Park to the southeast of the Punt Road Oval in East Melbourne.

PART B SUBMISSIONS OF THE PLANNING AUTHORITY

I. INTRODUCTION

1. Melbourne City Council (**Council**) is the Planning Authority for Amendment C405 (the **Amendment**) to the Melbourne Planning Scheme (**Scheme**). This Part B submission is made in accordance with the Panel's Directions dated 12 September 2022 and is to be read in conjunction with the Part A submission circulated on 26 September 2022 and the expert evidence called from Ms Gray and Ms Dyson.
2. Direction 12 of the Panel requires this Part B submission to address:
 - a) the rationale for removing the Carlton Precinct Statement of Significance from the *Heritage Overlay Precincts Statements of Significance February 2020*;
 - b) an explanation of the proposed boundary of HO1400 (Punt Road Oval) in relation to the existing HO2 boundary in the same area;
 - c) the status of Heritage Victoria's consideration of the Curtin Hotel;
 - d) an assessment of the proposed Amendment against Planning Practice Note 1 – Applying the Heritage Overlay;
 - e) Council's response to the issues raised in submissions;

- f) Council’s response to the expert evidence;
 - g) Council’s final position on the Amendment.
3. Further, Council notes the Panel’s oral request at the Directions Hearing that Council provide a list of all permits related to properties the subject of submissions. A list of these permits is provided at **Appendix A**.
 4. This Part B submission will address key aspects of the Amendment, respond to issues arising from the various submissions made in response to exhibition and the evidence tabled in the hearing and sets out Council’s final position on the Amendment.
 5. As noted in Council’s Part A submission, the Amendment implements the findings of the *Carlton Heritage Review* and the *Punt Road Oval (Richmond Cricket Ground) Heritage Review* (the **Punt Road Oval Heritage Review**).

II. THE AMENDMENT

6. As detailed within the Part A submission the Amendment is an important step in Council’s overall program to protect heritage in the municipality.
7. The *Thematic Environment History* prepared as part of the Carlton Heritage Review notes:

The suburb and individual places within it have been subject to much historical research, including both published histories and heritage reports. These have been drawn on to delve deeper than the known and established themes, to shed more detailed light on the Carlton specific themes, and its diverse range of land uses and built form. The themes include the pre-contact environment; peopling Carlton; the suburb’s nineteenth century subdivision; Carlton’s historical working-class identity; the history of immigrants, students, academics and artists remaking the suburb’s character; and the varied built form which distinguished the nineteenth and twentieth century demographics and communities of the suburb.

This history draws on the themes set out in Victoria’s Framework of Historical Themes, produced by the Heritage Council of Victoria, which provides the overarching guide¹.
8. The *Thematic Environmental History* explores the history of Carlton by reference to the following themes: pre-contact environment, building Carlton, peopling Carlton, building Carlton’s industries and workforce, governing Carlton and shaping Carlton’s cultural and creative life.
9. The *Thematic Environmental History* concludes:

¹ Thematic Environmental History, Lovell Chen (July 2019), page 1.

This Thematic Environmental History of Carlton shows that the presence of the study area's Traditional Owners has made a strong, positive and identifiable impact on the local area. This presence precedes the founding of Melbourne and continues into a significant contemporary narrative of resilience and contribution to the Carlton community across the many facets for which it has become renowned.

The urban fabric of Carlton was well established by the late nineteenth century, after the subdivision and sale of land in the 1850s and 1860s. The grand terrace rows in the south contrasted with the smaller workers' cottages at its north, and remain demonstrative of the suburb's diverse residential population. This diversity remains an important part of Carlton's character.

Carlton is a suburb that has been at the forefront of social change and cultural movements. It has been shaped by nineteenth century planning and built form, twentieth century European migration, 'slum' clearance, labour politics, students and academics, 'trendies', and a vibrant arts and restaurant scene. It was also an early Melbourne suburb to be gentrified, and a focus of the nascent heritage movement.

Carlton has long been valued both by its community, and more broadly by Melburnians living outside the suburb. Much of what drew people to the suburb in previous decades continues to be appreciated by residents and visitors alike today. People value its parks and gardens, the suburb's Italian and migrant heritage, the diverse offerings on Lygon Street and its intact heritage streetscapes. And in keeping with its history, the character of Carlton continues to evolve within the nineteenth century suburb².

10. The Carlton Heritage Review involved a review of all places in the study area, with and without existing Heritage Overlay controls, including Aboriginal heritage and places of shared values; private and public housing; public buildings and infrastructure; commercial, manufacturing, ecclesiastical, educational, artistic, cultural and recreational places; and landscapes including public squares. The study did not review places which are included in the Victorian Heritage Register or the Victorian Aboriginal Heritage Register³.
11. The Carlton Heritage Review specifically considered the following issues:
 - *Are the current heritage controls comprehensive and reflective of contemporary heritage assessments and values?*
 - *Are there additional/new individual Heritage Overlays?*
 - *Are there additional/new heritage precincts?*
 - *Is the boundary and extent of the large Carlton Precinct HO1 still appropriate; could it be reduced or expanded; or could the precinct be broken up into smaller precincts or sub-precincts?*

² Thematic Environmental History, Lovell Chen (July 2019), page 68.

³ Carlton Heritage Review, page 6.

- *Are there places with Aboriginal values and associations?*⁴
12. The Punt Road Oval Heritage Review comprised a full heritage review of the Punt Road Oval in the context of the existing Heritage Overlay HO2, including detailed historical research of the place, site inspections, consideration of appropriate mapping and curtilage and comparative analysis. The review concluded the places is of local historical, representative, aesthetic, social and associative significance.

III. ASSESSMENT OF THE AMENDMENT AGAINST PPN1

13. The Panel's Directions requested that within this Part B submission Council provide an assessment of the Amendment against *Planning Practice Note 1 – Applying the Heritage Overlay (PPN1)*.
14. Planning Practice Notes are published by the Department of Environment, Land, Water and Planning (the **DELWP**) and provide advice about the operation of planning schemes and planning processes. PPN1 is intended as a guideline to assist in the interpretation of heritage policy within planning schemes.
15. PPN1 notes that places identified in a local heritage study should be included in the Heritage Overlay, provided the significance of the place can be shown to justify the application of the overlay. PPN1 provides:

What are recognised heritage criteria?

The following recognised heritage criteria shall be used for the assessment of the heritage value of the heritage place. These model criteria have been broadly adopted by heritage jurisdictions across Australia and should be used for all new heritage assessment work.

Criterion A: Importance *to the course or pattern of our cultural or natural history (historical significance).*

Criterion B: *Possession of uncommon, rare or endangered aspects of our cultural or natural history (rarity).*

Criterion C: *Potential to yield information that will contribute to understanding our cultural or natural history (research potential).*

Criterion D: Importance *in demonstrating the principal characteristics of a class of cultural or natural places or environments (representativeness).*

Criterion E: Importance *in exhibiting particular aesthetic characteristics (aesthetic significance).*

Criterion F: *Importance in demonstrating a high degree of creative or technical achievement at a particular period (technical significance).*

⁴ Carlton Heritage Review, page 6.

Criterion G: Strong or special *association with a particular community or cultural group for social, cultural or spiritual reasons. This includes the significance of a place to Indigenous peoples as part of their continuing and developing cultural traditions (social significance).*

Criterion H: Special *association with the life or works of a person, or group of persons, of importance in our history (associative significance).*

The adoption of the above criteria does not diminish heritage assessment work undertaken before 2012 using older versions of criteria.

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

To apply a threshold, some comparative analysis will be required to substantiate the significance of each place. The comparative analysis should draw on other similar places within the study area, including those previously included in a heritage register or overlay. Places identified to be of potential state significance should undergo analysis on a broader (statewide) comparative basis.

16. The following points may be made about the PPN1 discussion of recognised heritage criteria:
 - a) The A-H criteria shall be used for the assessment of the heritage value of the heritage place.
 - b) PPN1 distinguishes between the criteria and thresholds of local significance. Criteria incorporate themes of, for example, importance or a strong or special association. The thresholds for local significance include places that are of importance to a particular community or locality.
 - c) PPN1 notes letter gradings should not be used for the categorisation of heritage places.
 - d) Some comparative analysis is required to substantiate the significance of each place, which should draw on similar places within the study, including those previously included in a heritage register or overlay.
17. The Carlton Heritage Review notes the assessment of heritage controls in the study area, including the potential for new places to be included within the HO was informed

by PPN1, including reference to the HERCON criteria⁵. Further, the Carlton Heritage Review provides:

Relevant considerations, which specifically informed the assessment against criteria, included:

- *understanding the history of the place, and its associations;*
- *understanding the social significance or values of the place, and its importance to a community; and*
- *reviewing the physical qualities of the place including the intactness, integrity, architectural or aesthetic merit, and/or other built form qualities or distinctive attributes.*

For a place to be assessed as significant, it only needs to meet one of the above criteria, although many places met more than one.

Comparative analysis and ‘thresholding’ places

Comparative analysis was a key part of the assessment methodology. It assisted in identifying whether a place met the threshold for an individual Heritage Overlay control, or a group of places met the threshold for a precinct or serial listing. As per the VPP Practice Note:

To apply a threshold, some comparative analysis will be required to substantiate the significance of each place. The comparative analysis should draw on other similar places within the study area, including those previously included in a heritage register or overlay. Places identified to be of potential state significance should undergo analysis on a broader (statewide) comparative basis.

In undertaking the comparative analysis for this study, similar places were referred to in order to better understand how the place under review compared. Questions asked when comparing similar places included:

- *Does the subject place have a more significant history or historical associations?*
- *Is the subject place more highly valued and regarded by a community?*
- *Is the subject place more intact?*
- *Is the subject place more architecturally or aesthetically distinguished?*
- *Is the subject place typical or does it stand out within the comparative group?*

For example, if the place under review is an interwar manufacturing building which is being assessed for an individual HO control, then the analysis examined other generally comparable interwar manufacturing buildings, including those which already have an individual control or are identified as significant. This typically included buildings in the study area, or municipality, but may go beyond these geographical confines if the analysis assisted with understanding the relative significance or importance of the place...

Comparative analysis also assisted in identifying places of lesser significance or heritage value, which are not recommended for a heritage control...

The comparative analysis also assisted in the assessment of later twentieth century places and developments (from the 1960s through to the 1990s) of potential heritage value in the study area.

⁵ Carlton Heritage Review, page 13.

These places generally did not have comparable places with existing heritage controls in the study area, largely due to their later dates of construction and the focus of previous heritage studies, including of Carlton, on the Victorian through to the interwar periods. However, in this case, the comparative analysis examined a broader range of similar places, from mostly outside the study area. It also identified the architectural influences and precedents for some of these places, many of which derived from international examples.

It is also noted that places from the later twentieth century are increasingly being identified for heritage controls, through other studies, including places located elsewhere in the City of Melbourne⁶.

18. The Punt Road Oval Heritage Review notes:

The Review has been undertaken in accordance with The Burra Charter: The Australia ICOMOS Charter for Places of Cultural Significance, 2013 (the Burra Charter) and Planning Practice Note 1 'Applying the Heritage Overlay' (DELWP, August 2018) (PPN01)⁷.

19. The Punt Road Oval Heritage Review further notes the assessment of the heritage value of the place was undertaken using the recognised heritage criteria in PPNP1, and the citation and the Statement of Significance was prepared in accordance with PPN01⁸. In relation to curtilage:

Applying the Heritage Overlay polygon to the Punt Road Oval property boundary is consistent with the general direction in PPN01 for curtilages and Heritage Overlay polygons. Extending the curtilage to include the additional area of parkland in the south east corner is important for ensuring an appropriate setting for the place is retained and for ensuring its significant landmark qualities are retained and protected⁹.

20. All citations and Statements of Significance have been prepared in accordance with the guidance provided in PPN1 regarding writing a statement of significance.
21. The Statements of Significance and the Heritage Places Inventory are both proposed to be incorporated documents noting PPN01 requires Statements of Significance be incorporated into the planning scheme for all places included in the HO Schedule after 31 July 2018. It is noted that Statements of Significance were prepared for a small number of places within HO1 – the Carlton squares, the Clyde Hotel, 64-68 Drummond Street and the San Marco Social Club as part of this Amendment and that those Statements of Significance are not proposed to be incorporated documents within the Scheme. With the exception of the Carlton Squares, these places were

⁶ Carlton Heritage Review, pages 13-14.

⁷ Punt Road Oval Heritage Review, page 4 and 7.

⁸ Punt Road Oval Heritage Review, page 5.

⁹ Punt Road Oval Heritage Review, page iii.

included within the Heritage Overlay prior to 31 July 2018. Lincoln Square is being included within the Heritage Overlay as part of this Amendment.

22. DELWP has advised Council that Statements of Significance cannot be incorporated for Significant places within precincts unless a statement is provided for every Significant place. As HO1 comprises approximately 580 places it was not within the resources available for the Carlton Heritage Review to undertake this task. These Statements of Significance are intended to provide additional information to the Statement of Significance for HO1, which is an Incorporated Document.

IV. AMENDMENT C409 - PPF TRANSLATION

23. As noted within Council's Part A submission, the Minister for Planning approved Amendment C409 relating to the Planning Policy Framework (**PPF**) Translation under Section 20(4) of the *Planning and Environment Act 1987*. The PPF translation involves translating the LPPF content in planning schemes into the new integrated PPF and Municipal Planning Strategy (**MPS**), consistent with the structure introduced by Amendment VC148 in July 2018. Amendment C409 is required to implement the PPF translation and was gazetted on 21 September 2022.
24. Council has undertaken a detailed review of Clause 22.05 of the Scheme immediately prior to the gazettal of Amendment C409, alongside the new policy at Clause 15.03-1L-02 *Heritage* of the Scheme. Council has further reviewed the former Clause 21.06-2 *Heritage* with Clause 02.02-4 *Built environment and heritage*, the former Clause 21.16-3 *Carlton* with Clause 11.03-6L-02 *Carlton (Built environment and heritage strategies only)*, and the application requirements of Clause 22.05 with the new application requirements listed in the Schedule to Clause 43.01.
25. The totality of review is contained within **Appendix B** to this Part B submission.
26. Council notes the new Clause 15.03-1L-03 *Heritage – Old categorisation system* is proposed to apply to all places within a Heritage Overlay and graded A to D within the *Heritage Places Inventory 2020 Part B*. This policy is the translated version of Part B of what was Clause 22.05 of the Scheme. As part of Amendment C396, this Part B part of Clause 22.05 was proposed to be removed on the basis that all places within the municipality would have been properly converted to the new categorisation system. This did not occur, as the Punt Road Oval was not included within Amendment C396 in error.

27. Accordingly, the Part B policy was retained following approval of Amendment C396 for one heritage place, with every other heritage place in the municipality subject to the Part A policy within Clause 22.05.
28. As noted, this Part B policy within the previous Clause 22.05, has now been translated into a new Clause 15.03-1L-03 *Heritage – Old categorisation system*. As the Punt Road Oval will be recategorised to the new heritage classification system as part of this Amendment, this will leave the new Clause 15.03-1L-03 with no work to do. It will not apply to any heritage places in the municipality as, following the approval of the Amendment, all places will have been correctly converted to the new category system.
29. On this basis, Clause 15.03-1L-03 ought properly be removed from the Scheme.

V. SOCIAL AND ECONOMIC IMPACTS

30. In its Part B submission to Amendment C387, Council provided an extensive discussion of the proper approach to considering social and economic impacts. The substantive content of that submission is reproduced below.
31. Section 12(2)(e) of the *Planning and Environment Act 1987* requires that a planning authority, in preparing a planning scheme amendment must take into account its social effects and economic effects. Accordingly, while submitters to the Panel have not raised social or economic impact in either their submissions or evidence, it is an important consideration for Council in preparing the Amendment.
32. The manner in which social and economic effects are properly considered in the context of heritage protection has been addressed by the Supreme Court and reports of Planning Panels Victoria.
33. In *Dustday Investments Pty Ltd v Minister for Planning* [2015] VSC 101, the Supreme Court considered the obligation to consider social and economic impacts in the context of a planning scheme amendment to include a site in the Arden Macaulay urban renewal area within a Heritage Overlay.
34. Garde J found:

[99] *Dustday's ground alleged the panel failed to lawfully consider social and economic effects, because it failed to consider a key matter (the condition of the building and likelihood that the building would or could be adapted for reuse if it were included in the HO) arising from the subject matter and thereby acted unreasonably.*

[100] *Senior Counsel for the council highlighted the key findings of the panel where it had regard to the condition of the building. The panel was not persuaded that the nature*

of the decision- making framework, including the limitations applying to decisions on permits was such that condition should normally be taken into account at the listing stage. This was a response by the panel to the argument by Dustday that if the appeal by Boroondara City Council to the Supreme Court concerning the proposed demolition of the heritage building at 1045 Burke Road, Camberwell were successful, there would be no opportunity for integrated decision- making at the permit stage which balances all relevant planning considerations, and therefore the balancing process must be done at the amendment stage. In the event, the appeal failed, and the Court of Appeal confirmed that integrated decision making and the balancing of considerations were to be applied at the permit stage.

- [101] *Where planning authorities are directed to consider conservation or heritage matters, or social and economic effects, consideration must inevitably be given as to the stage in the planning process that has been reached, and the nature of the consideration that is to be given to these matters or effects at that stage. The nature and level of information available at the rezoning or amendment stage will often be significantly less than that available at the permit stage. ...*
- [102] *Given the stages in the planning process, consideration will often need to be given by panels as to the strategic nature of the assessment to be undertaken at the amendment stage as against the more detailed evaluation undertaken at the permit application stage. Where, as here, no use or development plans are available at the amendment stage, the consideration of conservation and heritage matters by a panel is inevitably more circumscribed than that which is possible at the later stage. Assessment of costs associated with restoration and adaptive reuse of a heritage building in poor condition is crucially informed by an understanding of the overall scheme of development, including the nature of the proposed use, and the likely costs and returns. The economics underlying restoration and redevelopment will often be a pivotal component of decision-making concerning buildings with heritage significance.*
- [104] *When a panel considers that the information before it is inadequate, insufficient, or incomplete as to a subject matter, and that the same subject matter is better or more comprehensively or more fairly addressed at the later permit application stage of the planning process, this does not mean that the panel is failing to take the subject matter into account at all. The reverse is the case namely that the subject matter is being taken into account, and that as a result of being taken into account, it (sic) considered to be better or more comprehensively or more fairly addressed and decided at the later stage.*
- [105] *Far from failing to consider the condition and conversion of the building, the panel gave comprehensive consideration to these matters. ... the position of the panel that there should be serious justification and persuasive evidence before a building with heritage significance is permitted to be demolished at the amendment stage is an opinion that is entirely open to the panel to adopt, as was its recommendation to the planning authority and the Minister.*
- [106] *When the panel in its report enquired whether the social and economic effects advanced by Dustday were ‘relevant’ to the panel did not mean that social and economic effects were not being considered at all, or had no place in its deliberations, because it is apparent from the panel’s reasons as a whole that they were addressed at length. Rather it meant that in its opinion the social and economic effects*

contended for by Dustday were not entitled to any or any significant weight, or were greatly outweighed by the consideration of heritage... Far from failing to take into account social and economic effects, here the evaluation and discussion of social and economic effects by the panel is extensive.

35. The principles from this decision have since been applied in a number of panel reports.
36. In Moonee Valley C200moon (PSA)[2021] PPV 7 (16 February 2021), the amendment sought to apply the Heritage Overlay to 60 individual heritage places, nine extended heritage precincts, 18 new heritage precincts and one serial listing. A number of submitters sought to raise building condition and economic impact as a relevant consideration in assessing heritage significance.
37. The C200moon panel report records:

Council submitted that costs incurred by individuals as a result of the Heritage Overlay of a personal nature are not relevant at the planning scheme amendment stage. The only relevant consideration is the heritage significance of a heritage place in accordance with the heritage criteria set out in PPN01.

Council cited the decision of the Victorian Supreme Court in Dustday Investments Pty Ltd v Minister for Planning. It referred to subsequent panel reports that have agreed the amendment stage is to objectively identify heritage places; the planning permit stage considers the economics of retaining and repairing a building.

Council submitted that financial impacts may be considered if they translate into public social and economic effects of a planning scheme amendment, as required by the Act. But it said the social and economic issues raised by submitters are not community wide social or economic impacts.

At the Panel's request Council outlined previous panel decisions that considered whether a heritage amendment would have broader economic and social effects. In summary the panels ruled:

- *there was no evidence that the Heritage Overlay would have demographic impacts such as forcing families to leave the area or wholesale (sic) property devaluation*
- *property value is made up of complicated and interrelated factors*
- *social and economic impacts are difficult to quantify and often intangible without analysis and evidence.*

Council submitted there was no evidence to support the claim that a Heritage Overlay would have a detrimental impact on property values.

Council submitted that landowner requests for changes to land tax valuation, compensation and an exemption from permit application fees are not relevant considerations for the Panel.

Council said it does not have any grants or funding programs for owners of heritage properties and none are planned. The statutory planning department offers advice to owners of land subject to the Heritage Overlay.

(iii) Discussion

The Panel acknowledges submitters' concerns about private financial impacts of the Heritage Overlay and that those concerns have caused them distress. But Planning Practice Note 1 and judicial authority cited by Council make it clear that the key issue for the Panel is the heritage significance of the properties. Private financial issues of a personal or property specific nature are not relevant at the planning amendment stage.

The requirement under the Act for planning authorities to consider social and economic impacts of planning scheme amendments is limited to community wide impacts. No submitter provided information about wider social or economic impacts of the Heritage Overlay even though it applies to a wide area, as shown by the Municipal Heritage Overlay map. The Panel therefore has no basis to assess those impacts¹⁰.

38. In Boroondara C308boro (PSA) [2020] PPV 83 (18 November 2020) the panel found:

The Panel was not presented with any evidence which demonstrated an individual or community economic effect of the application of the Heritage Overlay. Most of the submissions that raised economic effects had based the conclusion that any restriction on a property would devalue it. These impacts were not quantified or tested and consequently the Panel is unable to form a view as to whether there is an effect, or the severity of that effect.

In addition, the Panel agrees with the view expressed by other panels that, with respect to section 12(2)(c) of the Act, the economic effects considered as part of an Amendment should be of a broader or community nature and not individual circumstances. The Panel acknowledges that the Amendment should deal with the significance of the place or precinct and whether it is suitable for inclusion in the Heritage Overlay. A permit application is the appropriate stage for the consideration of individual issues concerning the conservation, alteration, adaption or demolition of the place, including the economic implications for the individual concerned.

The Panel notes that the Explanatory Report for the Amendment states that Council has considered economic effects and concluded that the "Amendment is not expected to have any adverse environmental or economic effects".

Conclusion(iv)

The Panel concludes that the property value and financial implications are not relevant when assessing heritage significance or when deciding whether to apply a Heritage Overlay¹¹.

39. In Melbourne C305 (PSA) [2020] PPV 68 (4 September 2020), the panel considered the introduction of the Heritage Overlay to 20 individual places, one precinct and two thematic groups in Southbank within the Capital City zone. In response to evidence that the Heritage Overlay would potentially undermine legitimate development opportunities in a major and well-established urban renewal precinct and a submission that the amendment might prejudice the strategic redevelopment of a site inconsistent with the overarching vision for part of Southbank, the panel said:

¹⁰ Moonee Valley C200moon (PSA)[2021] PPV 7 (16 February 2021), 16-18

¹¹ Boroondara C308boro (PSA) [2020] PPV 83 (18 November 2020), 9-10.

At first glance, there appears to be a tension between planning policies seeking urban renewal and growth in Southbank and those seeking to protect heritage of local significance for present and future generations.

...

Urban renewal policies for Southbank seek to achieve outcomes at a locality scale. Such policies should therefore be considered at that scale. It would be inappropriate to measure the success of these policies on an individual property basis. Not every property is equal, and the extent of additional development depends on many factors including planning policy, other planning provisions including overlays, airspace regulations, and each property's context.

The Amendment seeks to apply the Heritage Overlay to properties with identified heritage significance. Planning Practice Note 1 provides commonly accepted guidance on how to identify such properties as candidates for the Heritage Overlay. The Practice Note's guiding methodology does not refer to disregarding properties with identified heritage significance in an area with policies seeking growth. If that was true, there would be no Heritage Overlay in Melbourne's central city area.

Not applying the Heritage Overlay in favour of urban growth would contradict relevant objectives of the Act and planning policies. The Heritage Overlay should be applied to justified properties so that Council can assess whether the scale and nature of future development will negatively impact the existing heritage fabric. This conversation is relevant during the planning permit application when proposal details are known.

The Panel disagrees with submissions that applying the Heritage Overlay would restrict the ability to achieve policies seeking growth in Southbank. It may affect some individual property owners who may otherwise have had additional yield without the Heritage Overlay. However, the net community benefit of achieving heritage related objectives in the Act and policies in the Planning Scheme (by protecting Southbank properties with local heritage significance for present and future generations) outweighs any private economic disbenefit to some individual property owners¹².

40. It was Council's submission in Amendment C387 that previous panel reports are consistent in their view that when considering economic impact, the relevant consideration is impact of a broad community nature. Further, consideration of this impact does not mean the Heritage Overlay ought not be applied in areas where growth and urban consolidation is sought. Rather, the benefit to the community in protecting heritage assets for present and future generations outweighs private economic impacts that may be experienced by an individual property owners.
41. The Panel for C387 made the following conclusions in relation to social and economic impacts:

In considering whether the Amendment is strategically justified, the Panel observes that there is potentially a tension between the application of heritage polices and those seeking economic

¹² Pages 21-22.

activity and development. This is particularly the case for the central city which plays a significant role in Melbourne and Victoria's economy.

Accordingly, this requires the Panel to consider the objectives of the PE Act including the social and economic impacts of the Amendment and balance the various policy considerations in favour of net community benefit and sustainable development for the benefit of present and future generations.

The Panel observes that many of the policies supporting the development and growth of the central city also recognise the role played in shaping its character and appeal by its heritage places, buildings and streetscapes and responding appropriately to it. Clause 21.06 acknowledges this where growth is facilitated while limiting change or scale in some locations to preserve valued characteristics, while Clause 22.04 acknowledges the greater intensity of development will occur in the CCZ relative to other parts of the city. These policies in the Panel's view, acknowledge that heritage outcomes are important in the central city and play an important role in defining its identity and are not a constraint to its growth and development.

Council's mapping of existing Heritage Overlays and those proposed by this Amendment provided at the Hearing does not dramatically increase the proportion of the Hoddle Grid subject to heritage controls. Importantly the application of the Heritage Overlay does not prohibit demolition, alterations or redevelopment, but instead introduces a control to assist in managing heritage places. Indeed, there are many examples where heritage buildings have been refurbished or significantly altered to achieve positive built form and development outcomes.

The Panel observes that while Council's information relating to the proportionality of land within the Heritage Overlay is useful in one sense in terms of understanding the balancing between existing policy objectives places, the attribution of heritage significance should not be a numeric exercise.

The planning permit process under the Heritage Overlay appropriately provides the opportunity for a range of economic, social and other policy considerations to be weighed up alongside heritage considerations.

The Panel considers that the Amendment will achieve an appropriate balance between protecting places of local heritage significance for future generations and ensuring that the strategic role of the central city can be achieved and enhanced¹³.

42. Council considers the Amendment has had proper regard to social and economic impacts, and the Amendment will not result in unreasonable or inappropriate social or economic impacts to the Carlton area or broader municipality.

VI. THE CARLTON PRECINCT STATEMENT OF SIGNIFICANCE

43. The Panel's Directions of 12 September 2022 include that Council provide the Panel with the rationale for removing the Carlton Precinct Statement of Significance from the *Heritage Overlay Precincts Statements of Significance February 2020*.

¹³ Melbourne C387 (PSA) [2021] PPV 89 (10 November 2021), page 40.

44. On 15 September 2021, Council received email correspondence from DELWP providing comment on the draft Carlton Heritage Review Amendment documentation. This email correspondence included:

Grouped precinct statements of significance

In the HO schedule, the statement of significance for HO1 refers to being within an incorporated document titled 'Heritage Precincts Statements of Significance' which was introduced as part of Amendment C258melb.

Statements should be listed individually/separately rather than being bundled or grouped. This is because the requirement in the schedule to 43.01 is 'a statement of significance for each heritage place'. PPN1 provides some further guidance to this effect. Whether or not statements could be grouped was a common question when the VC148 changes were first introduced. It is likely that Amendment C258melb was caught within the transition.

45. In accordance with this guidance, Council has removed the Carlton Precinct Statement of Significance from the bundled *Heritage Overlay Precincts Statements of Significance February 2020*.

VII. ASSESSMENT OF INDIVIDUAL PROPERTIES

46. The methodology, approach and timing of the Carlton Heritage Review and the Punt Road Oval Heritage Review are extensively detailed within Council's Part A submission, including the extent of the study area, the process by which places for assessment were derived and the totality of the work underpinning the recommendations contained within each heritage review.
47. Accordingly, this Part B submission does not seek to address those matters further, but rather identifies and addresses each of the sites for which submissions were received in the context of:
- a) the findings of the Carlton Heritage Review and the Punt Road Oval Heritage Review;
 - b) the management response of Council as contained within Attachment 2 – *Summary of Submissions and Management Responses* to the Report to the Future Melbourne Committee of 16 August 2022 (the **Management Response**);
 - c) the evidence filed on behalf of Council and submitters; and
 - d) Council's final position in relation to the inclusion of the property within the heritage overlay.

VIII. COUNCIL'S REPOSENSE TO SUBMISSIONS

48. As noted within Council's Part A submission, Council received a total of 8 submissions in response to the exhibition of the Amendment. A further four late submissions were received following exhibition. Council has referred all submissions to the Panel for consideration.
49. This Part B submission response to submissions which either oppose aspects of the Amendment or seek changes to it.
 - A. 253-283 ELGIN STREET
50. 253-283 Elgin Street, known as the *'Earth Sciences Building'* is identified as Significant within the Carlton Heritage Review and recommended for a Heritage Overlay on the basis of its aesthetic (Criterion E) significance.
51. The individual place citation for the site is located within the Carlton Heritage Review at PDF pages 553-571.

Figure 1: Earth Sciences Building¹⁴



Submission 1 and 1a

52. Submission 1 notes concerns with the following two aspects of the Amendment:

¹⁴ Carlton Heritage Review, page 553.

- a) the proposed inclusion of the Earth Sciences Building within an individual Heritage Overlay; and
 - b) the content within the proposed Statement of Significance for the Earth Sciences Building.
53. The submission notes a heritage expert had been engaged on behalf of the submitter to further review the Amendment and that once that review process was complete a further submission would be made. Submission 1a is the further submission referenced within Submission 1. Submission 1a notes that following further review: the submitter does not oppose the inclusion of the Earth Sciences Building within the Heritage Overlay; considers the heritage citation is a generally clear, robust and well-researched document, though a number of changes should be made; an Incorporated Plan should be implemented into the Scheme as part of the Amendment to assist with the ongoing management of the building; and the submitter does not oppose changes to the *HO1 Carlton Precinct Statement of Significance November 2021*.
54. The submission further noted that changes to the heritage citation and Statement of Significance would be provided to Council for consideration, along with a draft Incorporated Plan.

Management Response

55. The Management Response at page 2 notes the submission. No further response is provided due to the lack of specificity provided regarding both proposed changes to the citation and Statement of Significance, and the proposed Incorporated Document.

Peer Review of Built Heritage

56. Mr Reeves of Built Heritage suggested the following changes be made to the citation and Statement of Significance for the Earth Sciences Building:
- a) update the date cited to 1973-77 rather than 1975-77 to recognise that the design was resolved in 1973 and that works had commenced on site by November 1973;
 - b) reference a relief sculpture by the Czech-born sculptor George Friml in the citation and Statement of Significance as a significant element; and

- c) recognise the places as being of historical (Criterion A) significance, for its association with the planned post-war expansion of the university beyond its campus and its association with the 1970 masterplan

Evidence of Ms Gray

57. The evidence of Ms Gray notes she has not sighted Submitter 1's proposed amendments to the Statement of Significance for the Earth Sciences Building. In relation to the proposed use of an Incorporated Document, Ms Gray notes¹⁵:

In principle, I support the use of an incorporated document for large or complex HO places where such a plan can assist in the management of the place by allowing works to be undertaken without a permit where those works would not have an adverse impact on heritage values. An incorporated document may be an appropriate tool for this heritage place.

58. In relation to the recommendations of Built Heritage, Ms Gray agrees the construction date of 1973-1977 ought be included within the citation and Statement of Significance, and the builder ought be identified. Reference to the sculpture and geological installation should be included in the Site Description in the citation. Ms Gray does not agree that the place meets the threshold of local historical significance.

The proposed Incorporated Document

59. As noted by both Council and the Submitter 1 at the Directions Hearing for the Amendment, the parties have been in correspondence over a number of weeks regarding the appropriate content for the Incorporated Document.
60. On 28 September 2022, Submitter 1 forwarded Council a version of the Incorporated Document, considering Council's latest comments. Council is generally supportive of this version of the document however, in consultation with Ms Gray, requires a number of further additions prior to considering the document appropriate.
61. These amendments relate to:
- a) the proposed permit exemption for signage;
 - b) the proposed exemptions relating to roof top solar energy facility and rainwater tank visibility locations;

¹⁵ Gray, page 41.

- c) the inclusion of the text ‘*services normal to the building*’ which ought properly include some limitations in terms of the visibility of chimneys/flues, and which may be best addressed by the identification of an appropriate rooftop location; and
 - d) paving works, which ought properly exclude the original exposed aggregate concrete paving.
62. In relation to signage, Council submits the permit exemption as drafted is inappropriate as: the erection of signage can result in damage to heritage fabric, and on that basis ought properly be the basis of assessment undertaken during a permit application; signage can obscure heritage features; and clutter of signage can detract from the heritage significance of the place.
63. Further, the Earth Sciences Building is located in the Public Use Zone 2 which is located in Category 4 – *Sensitive areas* pursuant to Clause 52.05-14 of the Scheme. The purposes of clause 52.05-14 is *To provide for unobtrusive signs in areas requiring strong amenity control*. In addition to the considerations of the heritage significance of the place, a blanket permit exemption for signage would be incompatible with the current land use zoning of the site.
64. In relation to the other proposed permit exemptions for which Council requires amendment Council submits the following changes would be appropriate;
- a) Erect a roof top solar energy facility that is not visible from Elgin Street, including the intersection of Swanston Street and Elgin Street.
 - b) Construct a rainwater tank with a capacity not exceeding 10,000 litres, that is not visible from Swanston Street or Elgin Street.
 - c) Install services normal to the building including chimneys, fume cupboard extracts, flues and mechanical (heating, cooling and ventilation) systems.

This permit exemption would only be appropriate where part of a rooftop area could be nominated, to provide certainty that services wouldn’t create unreasonable visibility concerns.
 - d) Carry out soft landscaping and paving works (excluding the removal of the original exposed aggregate concrete paving adjacent to the Earth Sciences Building).

65. Council's preferred version of the Incorporated Document is included within this Part B submission as **Appendix C**.

Position of Council

66. Council submits the identification of the place as Significant in the Amendment is appropriate. No changes are recommended to Clause 43.01 in response to the submissions currently received. Council submits it is appropriate to alter the citation and Statement of Significance to reflect construction dates of 1973-1977, to reference the building, and the sculpture and geological installation within the Site Description in the citation.
67. Council submits the version of the Incorporated Document contained in Appendix C is appropriate.
68. Council will provide a response to the submitter's proposed changes to the citation and Statement of Significance in its Part C submission, once the detail of those changes has been provided in submissions to the Panel.
- B. 80-92 VICTORIA STREET, 33-89 LYGON STREET, 33-89 LYGON STREET, 33-69 LYGON STREET, 23-37 CARDIGAN STREET, 22 CARDIGAN STREET
69. 80-92 Victoria Street (known as *Building 51*), 33-89 Lygon Street (*Building 56* only) and 33-89 Lygon Street (*Building 57* only) are identified as Significant in the Carlton Heritage Review and are proposed for serial listing within the Heritage Overlay on the basis of their historical (Criterion A), representative and aesthetic (Criterion E) significance. The serial place citation for the site is located within the Carlton Heritage Review at PDF page 662-682.
70. 33-69 Lygon Street (*Building 71* only) is identified as Significant in the Carlton Heritage Review and is recommended for inclusion within the Heritage Overlay on the basis of its historical (Criterion A) and aesthetic (Criterion E) significance. The citation for this serial listing is located within the Carlton Heritage Review at PDF pages 572-585.
71. 23-37 Cardigan Street (*Building 94*) is identified as Significant in the Carlton Heritage Review and is recommended for inclusion within the Heritage Overlay on the basis of its aesthetic (Criterion E) significance. The individual place citation for the site is located within the Carlton Heritage Review at PDF pages 517-534.

72. 22 Cardigan Street (*Building 93*) is identified as Contributory within the Carlton Heritage Overlay as part of a residential terrace row, within HO35 on the basis of its historical (Criterion A) and representative (Criterion D) significance. HO35 is an existing Heritage Overlay that was extended to include 22 Cardigan Street through Amendment C396. The individual place citation for the site is located within the Carlton Heritage Review at PDF pages 145-156.

Figure 2: Buildings addressed in submission¹⁶



Building 94 (23-37 Cardigan Street, Carlton)



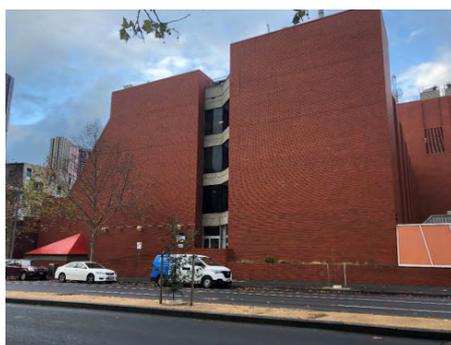
Building 71 (33-69 Lygon Street, Carlton)



Building 51 (80-92 Victoria Street, Carlton)



Building 56 (33-89 Lygon Street, Carlton)



Building 57 (33-89 Lygon Street, Carlton)



Building 93 (22 Cardigan Street, Carlton)(building on left) Image source: Google StreetView July 2019

Submission 2

73. While Submission 2 provides some detail regarding the current use of the buildings referenced, and other buildings not affected by the Amendment, in terms of a response

¹⁶ Attachment 2 – *Summary of Submissions and Management Responses* to the Report to the Future Melbourne Committee of 16 August 2022, page 3.

to the Amendment itself the submission notes Submitter 2 is still reviewing the proposed Statements of Significance and reserves their right to make more detailed submissions in relation to their accuracy following further work.

74. No further submission was received by Council on behalf of Submitter 2.

Management Response

75. The Management Response at page 4 provides that Council agrees with the assessment of Lovell Chen that no further analysis can be made of the submission as the submitter noted they are still reviewing the material and has not provided any substantive response to the assessment of heritage significance.

Peer Review of Built Heritage

76. In relation to Buildings 51, 56 and 57, Mr Reeves agrees the buildings meet the threshold of local significance and makes the following recommendations:

- a) correct the construction dates which vary slightly from those in the citation, Building 51 (1971-72), Building 56 (1973-74) and Building 57 (1980-82);
- b) he queries the reference on the first page of the citation to Dominic Kelly and Lloyd Orton rather than to the practice R S Demaine, Russell, Trundle Armstrong & Orton;
- c) he suggests the inclusion of additional detail in the Comparative Analysis and the Statement of Significance regarding the influence of the British architect James Stirling on Melbourne architects in the 1960s and 1970s;
- d) he suggests the inclusion of additional assessment within the comparative analysis regarding RS Demaine, Russell, Trundle, Armstrong & Orton works of the late 1960s and early 1970s;
- e) suggests the discussion against Criterion E (aesthetic) should specifically describe buildings as a sub-type of Brutalism associated with the work of James Stirling;
- f) notes the last paragraph of the statement of significance *‘seems to make an extremely generic observation, which does not really bolster the argument for significance at the local level’.*

77. In relation to Building 94, Mr Reeves has suggested: reference should be made to the builder; additional detail in relation to scholarly attention could be added; further information regarding RMIT's building program could be flagged as potential for future heritage significance; additional comparisons from University of Melbourne and Allan Powell's broader oeuvre could be referenced; the response to Criterion E should reference the architect's theoretical position; Criterion F should be invoked on the basis of aware recognition and reference in a range of publications; and Criterion H should be invoked as a 'breakthrough project' for Allan Powell.
78. 22 Cardigan Street was not the subject of the Built Heritage peer review.

Evidence of Ms Riddett

79. The Council submits the Panel should not accept the conclusions of Ms Riddett because:
- a) she has given insufficient weight to the historical, aesthetic and representative significance of the heritage places, as relevant;
 - b) her analysis sets the threshold for local significance inappropriately high;
 - c) she has concluded the receipt of awards is not a proper basis for heritage significance without proper recognition of the fact that the Carlton Heritage Review does not make that claim;
 - d) her comments in relation to architectural competitions do not relate to awards in which Building 94 was considered; and
 - e) her conclusions that the masterplan was abandoned because it 'was not a good one' do not comprise a proper heritage assessment of the place.

Evidence of Ms Gray

80. Ms Gray's evidence notes Lovell Chen has not provided a response to Submission 2 as it expresses only generalised concerns.
81. Ms Gray further notes¹⁷:

In the case of the issue of Building 33 [sic] at 22 Cardigan Street, the proposed change to extend the mapped extent of HO35 was to correct an error in the mapping as compared with

¹⁷ Gray, page 44.

the HO Schedule entry (only two of a row of three Victorian terraces at 18-22 Cardigan Street were mapped). This mapping error was corrected as part of Amendment C396.

82. In relation to the Built Heritage Peer Review, Ms Gray notes the following changes should appropriately be made regarding Buildings 51, 56 and 57:
- a) update the construction dates of the buildings as suggested; and
 - b) attribution to R S Demaine, Russell, Trundle Armstrong & Orton included on the first page of the citation.
83. In relation to Building 94, Ms Gray considers a reference to the builder should be added as an additional detail. She doesn't consider any further changes ought properly be made to the citation or Statement of Significance in light of the Built Heritage Peer Review.

Position of Council

84. Council submits the identification of the places as proposed by the Amendment, subject to the alterations suggested by Ms Gray above, is appropriate.

C. CARLTON

Submission 3

85. Submission 3 is a relatively lengthy submission that raises a number of matters related to heritage. A useful summary of Submission 3 is provided in the Management Response at pages 5-6.
86. The submission raises matters including; the status of background documents versus incorporated documents; the accessibility of documents; matters related to Amendment C258; queries whether aesthetic values alone was considered in the Carlton Heritage Review; expresses concern that no Statements of Significance were provided for places on the Victorian Heritage Register, World Heritage Environs Area or Contributory places or Significant places within HO1; asserts there is insufficient information on the John Curtin Hotel within the HO64 citation; expresses concern that 62% of places within HO1 are Contributory which affords 'less heritage protection'; expresses concern that Statements of Significance for new Significant heritage places within HO1 are not incorporated documents; questions why HO1 was not segmented so as to better define the areas consistent with Amendment C258; asserts Carlton historic squares should be been individual Heritage Overlays; and

expresses concern the Carlton Heritage Review will result in a reduction in heritage protection.

87. The submission also contained a number of case studies.

Management Response

88. The Management Response at pages 6-11 provides a comprehensive response to all issues raised by Submission 3.

89. Where matters are raised by the submitter in relation to the conversion exercise undertaken through Amendment C258, Management considers these matters to be clearly beyond the scope of this Amendment. In relation to the fieldwork undertaken through the Amendment, the Management Response notes:

For the Carlton Heritage Review, Management agrees with Lovell Chen that fieldwork was confined to the public realm and was undertaken in blocks, with all streets, little streets and public lanes viewed. During the fieldwork consideration was given to the Amendment C258 gradings (significant/ contributory/ non-contributory) within the Carlton Heritage Review study area. Where the grading ascribed as part of C258 appeared on prima facie basis to be correct/ appropriate during fieldwork surveys, these were accepted. However, as part of this process, some building gradings/categories were identified as requiring review. The process did not include an assessment against criteria for existing graded buildings. Some of these recommended changes to gradings/ heritage categories as part of the Carlton Heritage Review are documented in citations prepared for existing and recommended new places, and the Statements of Significance. Further changes are detailed in the memorandum at Attachment F to the Review. All changes to the Heritage Places Inventory are documented in the Amendment documentation.

90. In relation to Statements of Significance not being prepared for Victorian Heritage Register or World Heritage Environs Area places, these places are subject to controls under the *Heritage Act 2017* and the *Environment Protection and Biodiversity Conservation Act 1999*.
91. With regard to concern that Statements of Significance for new Significant heritage places within HO1 are not incorporated documents, the DELWP have advised that Statements of Significance cannot be incorporated for Significant places within precincts unless a statement is provided for every Significant place. As HO1 comprises approximately 580 places it was not within the resources available for the Carlton Heritage Review to undertake this task. Statements of Significance were prepared for a small number of places within HO1 – the Carlton squares, the Clyde Hotel, 64-68 Drummond Street and the San Marco Social Club. These Statements of Significance

are intended to provide additional information to the Statement of Significance for HO1, which is an Incorporated Document. Clause 43.01-8 includes a requirement for the responsible authority to consider, inter alia, ‘*Any applicable Statement of Significance (whether or not specified in the schedule to this overlay), heritage study and any applicable conservation policy*’.

92. On the question of whether HO1 ought properly be segmented, Management agrees with Lovell Chen that the large Carlton precinct is best understood as a single heritage place. Management does not consider there will be any reduction in heritage protection in the study area as a result of the Carlton Heritage Review.
93. In response to the case studies undertaken by Submitter 3, Management identified the following recommended changes:
 - a) 153 Drummond Street should be upgraded from Non-contributory to Contributory;
 - b) 38 Dorrit Street should be upgraded from Non-contributory to Contributory due to reversal of unsympathetic heritage additions to the heritage fabric;
 - c) 27-31 Lygon Street should be recognised pursuant to Criterion G for the John Curtin Hotel; and
 - d) buildings within 81-109 Grattan Street and 374-386 Cardigan Street, Carlton should be re-categorised to identify the Significant and Contributory buildings.

Evidence of Ms Gray

94. Ms Gray provides a comprehensive response to the matters raised by Submitter 3 at pages 54-69 of her evidence. It is not proposed to repeat that detailed response here.
95. Ms Gray concludes at [182] that based on her review of the submission a number of changes have been made and are reflected in Council’s preferred version of the Heritage Places Inventory:
 - a) 153 Drummond Street has been identified as Contributory;
 - b) 28 Dorrit Street has been identified as Contributory;
 - c) Significant buildings at 81-109 Grattan Street have been clearly identified; and
 - d) Contributory buildings at 374-386 Cardigan Street have been clearly identified.

96. Ms Gray does not consider any further changes are required in response to Submission 3.

Position of Council

97. Council submits the identification of the places as proposed by the Amendment is appropriate, subject to the additional changes reflected in Council's preferred version of the Heritage Places Inventory.

D. 27 LYGON STREET

98. 27 Lygon Street, known as the '*John Curtin Hotel*' is identified as Significant within the Carlton Heritage Review as part of the *Carlton Union Hotels Precinct* HO64. HO64 is an existing heritage precinct. The precinct has been identified for its historical (Criterion A) and aesthetic (Criterion E) significance.
99. The place citation for the precinct is located within the Carlton Heritage Review at PDF pages 245-265.

Figure 3: The John Curtin Hotel (27-31 Lygon Street, Carlton)¹⁸



Submission 4 and 7

¹⁸ Carlton Heritage Review, page 245.

100. Submission 4 is made in support of increased heritage protection of the John Curtin Hotel. The submission notes the cultural and social value of the John Curtin Hotel as a live music venue has been recognised in a nomination to the Victorian Heritage Register prepared by the National Trust and the Victorian Trades Hall Council. The nomination recognises the importance of the Curtin as a gathering place for significant segments of the Victorian and local Carlton community, including the trade union movement, students, immigrants and Aboriginal people. The submission requests the citation for HO64 be amended to properly recognise the significance of the place pursuant to Criterion A (noting this is one of the criteria noted in the nomination to the Victorian Heritage Register), Criterion B and Criterion G for the place's association with Melbourne's live music fans and artists and in particular for its significance to Aboriginal people (noting this is one of the criteria noted in the nomination to the Victorian Heritage Register). The submission further requests the citation for HO1 be amended to give additional recognition to the role the John Curtin Hotel has played as a live music venue and gathering place.
101. Submission 7 expresses general support for the Amendment as it seeks to ensure diverse heritage is protected and respected, contributing to strong, vibrant and prosperous communities. The submission expresses support for the proposed HO64 precinct, notes the nomination of the John Curtin Hotel to the Victorian Heritage Register pursuant to Criteria A, G and H, and notes the submitter considers the John Curtin Hotel individually significant in its own right. On that basis, the submitter considers an individual Statement of Significance ought be prepared for the place. Submitter 7 further submits the John Curtin Hotel ought be recognised for its significance pursuant to its social significance (Criterion G).

Management Response

102. In response to Submission 4, the Management Response at page 12 agrees with Lovell Chen that additional reference to the use of the John Curtin Hotel as a live music venue could be incorporated into the citation (site history and Statement of Significance) for HO64. It is also acknowledged that the citation would benefit from acknowledgement of the site's social value.
103. Regarding Submission 7, the Management Response at pages 19-20 notes the Statement of Significance should be updated to reflect the social significance of the

place. Further, the precinct designation is most appropriate for the place, on the basis that the individual buildings within the precinct are better understood as a group with shared values that are interrelated and reinforced by the group designation.

Evidence of Ms Gray

104. In relation to Submission 4 and 7, Ms Gray's evidence notes the post-exhibition version of the Statement of Significance has been updated to recognise the social value of the John Curtin Hotel within the precinct. Ms Gray does not consider any further changes are required in response to the submission.

Status of Heritage Victoria's consideration of the Curtin Hotel

105. The Panel's Directions of 12 September 2022 included a direction for Council to provide the Panel with the status of Heritage Victoria's consideration of the Curtin Hotel.
106. By letter dated 18 July 2022, the DELWP advised Council that the assessment of the cultural heritage significance of the John Curtin Hotel had been completed and that as a result of that assessment, the Executive Director of Heritage Victoria will be recommending that the Heritage Council of Victoria will include the John Curtin Hotel in the Victorian Heritage Register as a place of State-level heritage significance. The letter notes notice of the recommendation would be published in *The Age* on 22 July 2022 and that interested parties may make written submissions regarding the Executive Director's recommendation to the Heritage Council of Victoria within 60 days of the recommendation being published. If no submissions are received by 20 September, the Heritage Council would consider the recommendations at its October meeting.
107. The letter is attached to this Part B submission as **Appendix D**.
108. On 20 September 2022, Council made a submission to the Heritage Council. Council's submission informed the Heritage Council of the progress of the Amendment, submissions received and Ms Gray's consideration of the asserted social significance of the place. Council advised that, while not considered as part of the Amendment, Council considers it is highly likely the John Curtin Hotel meets the threshold for State significance.
109. This letter is attached to this Part B submission as **Appendix E**.

110. Council notes the period for the receipt of submission regarding the Victorian Heritage Register nomination of the John Curtin Hotel have closed, but no decision has yet been made by Heritage Victoria regarding either the recommendation or whether the submissions will be considered at a hearing.

Position of Council

111. Council submits the identification of the place as Significant in the Amendment is appropriate. Further, Criterion G (Social Significance) should be added to the Former Carlton Union Hotels Precinct to recognise the social value of the John Curtin Hotel.

E. PUNT ROAD OVAL

112. The Punt Road Oval Heritage Review provides¹⁹:

The Review determined that it was appropriate to include Punt Road Oval in the Statement of Significance for HO2 East Melbourne & Jolimont Precinct, because of the historical connections of this area of land with Yarra Park. The Review also determined that Punt Road Oval (Richmond Cricket Ground) met the threshold for a 'significant heritage place' within HO2 in accordance with the category definitions in Local Planning Policy Clause 22.05 of the Melbourne Planning Scheme for heritage places outside the Capital City Zone. Because Punt Road Oval is not part of a collection or group of buildings or places, and in accordance with the definition for significant streetscapes, the Review determined that Punt Road Oval was not located within a Significant streetscape.

Notwithstanding the above, to ensure the statement of significance be listed in the Schedule to Clause 43.01 (Heritage Overlay) entry for Punt Road Oval and be an incorporated document to the Melbourne Planning Scheme, it is recommended that Punt Road Oval be removed from HO2 and be made an individual Heritage Overlay.

113. Accordingly, the Amendment proposes to remove the Punt Road Oval from the East Melbourne and Jolimont precinct and identify the Punt Road Oval as Significant within the Heritage Overlay HO1400 on the basis of its historical (Criterion A), representative (Criterion D), aesthetic (Criterion E), social (Criterion G) and associative (Criterion H) significance.

Figure 4: Punt Road Oval, Yarra Park, East Melbourne²⁰

¹⁹ Punt Road Oval (Richmond Cricket Ground) Heritage Review – Methodology Report (Context, 27 October 2021), page ii.

²⁰ Statement of Significance: Punt Road Oval (Richmond Cricket Ground), Punt Road, East Melbourne (September 2022), Appendix 6(c) to the Part A submission, page 1.



Submission 5, 7 and 9

114. Submission 5 notes the error in the site not being reclassified from its previous C grade to Significant in either Amendment C258 or C396 and expresses support for the continued recognition of the Punt Road Oval as a place of local heritage significance. The submission notes Amendment C421 which will facilitate the redevelopment of the site the proposed removal of the Jack Dyer Stand. Submitter 5 considers the history of the site is properly associated with the presence of the Richmond Football Club at the site, rather than building forms and infrastructure. The submitter considers that in the event C421 is approved, the Statement of Significance for the site ought be amended to reflect the changed built form conditions. The submitter further notes the application of the proposed HO1400 to Department of Transport land along both Brunton Avenue and the corner of Brunton Avenue and Punt Road. The submitters notes a number of proposed changes to the Statement of Significance, including that the site should not be recognised for its associative significance.
115. Submission 7 expresses strong support for the proposed upgrading of the significance of the Punt Road Oval, the proposed Statement of Significance and the assessment of significance pursuant to Criteria A, D, G and H.

116. Submission 9 notes that in relation to the site Heritage Overlay Map 9 includes land currently declared arterial road, but incorrectly zoned on planning scheme maps as Public Park and Recreation Zone (**PPRZ**), rather than Transport Zone – Schedule 2 (**TR2Z**) as required by *Ministerial Direction - The Form and Content of Planning Schemes*. The submitter requests that, while not part of the Amendment, the relevant land ought properly be rezoned TRZ2 as part of the Amendment. In conclusion, the submitter supports the proposed Heritage Overlay modifications to Map 9 in consideration of the planning permit exemptions within Clauses 36.04, 43.01, 62.01 and 62.02 of the Scheme.

Management Response

117. The Management Response at pages 13-16 provides a response to Submission 5 and notes the submission was referred to GML Heritage. In relation to removing Punt Road Oval from HO2 and applying an individual Heritage Overlay, that this was a planning decision guided by the DELWP and the Statement of Significance for the place has been prepared in accordance with PPN1. In relation to Amendment C421, the Management Response notes:

“...on 16 June 2022, the Minister for Planning approved Amendment C421 which facilitates the redevelopment of Punt Road Oval and allows the full demolition of the Jack Dyer Stand. It is appropriate to continue to pursue heritage protection for Punt Road Oval including the Jack Dyer Stand through Amendment C405 in the event the redevelopment proposal is not acted on, in line with standard City of Melbourne practice”.

118. The Management Response notes a number of proposed changes to the Statement of Significance in response to Submission 5 and recommends the Statement of Significance be updated in line with recommendations of GML Heritage. These changes are reflected in the tracked-change Statement of Significance circulated as Appendix 6(c) of Council’s Part A submission.
119. In relation to Submission 9, the Management Response notes at page 22 the rezoning of the land is not within the scope of the Amendment. No changes to the Amendment are recommended in response to Submission 9.

Evidence of Ms Dyson

120. Ms Dyson’s evidence provides a detailed response to Submission 5 at pages 30-39, including a updated, tracked-change version of the Statement of Significance reflecting changes made in response to the submission. Ms Dyson’s response includes her view

that: the identified curtilage is appropriate; it is common practice to acknowledge an original place name in naming an individually Significant place; detail as to when cricket stopped being played at the ground should be added to the history and Statement of Significance; the approach to the determination of significance has been made in accordance with the Burra Charter and does not rely on long-standing use to establish significance; the Statement of Significance should be amended to make clear that the fabric and specific configuration of the oval are not of significance, however the absence of built form contributes to the landmark quality of the place as it is experienced from the public domain and this should be added to the citation.

121. Ms Dyson notes in relation to Criterion H, the association of the place with Jack Dyer was direct and enduring and remains in the physical fabric of the place. Significance attributed to Tom Willis should be removed.
122. Ms Dyson notes submissions 7 and 9 but makes no further comment in relation to the matters raised in those submissions.

Proposed boundaries of HO1400 (Punt Road Oval) and HO2

123. The Panel Directions of 12 September 2022 asked Council to provide an explanation of the proposed boundary of HO1400 (Punt Road Oval) in relation to the existing HO2 boundary in the same area.
124. As discussed above, the Punt Road Oval Heritage Review determined it was appropriate to include the Punt Road Oval in the Statement of Significance for HO2 *East Melbourne & Jolimont Precinct*, and that the place met the threshold for a Significant heritage place within HO2. In advice provided by DELWP dated 15 September 2021, DELWP noted:

The proposed approach to have multiple statements does not seem consistent with the way significant places within precincts are usually managed. All the relevant information for places within a precinct should be incorporated within the precinct citation and statement. This would also be consistent with previous advice provided by DELWP.

125. DELWP has provided similar advice in relation to other heritage amendments in North Melbourne and South Yarra. This advice was provided to Context, the authors of the Punt Road Oval Heritage Review on 20 October 2021, and it was determined appropriate to remove Punt Road Oval from HO2 and include it within an individual

Heritage Overlay with an individual Statement of Significance incorporated into the Scheme.

126. The following figure depicts the proposed removal of HO2 and inclusion of HO1400 within Heritage Overlay mapping:

Figure 5: Part of Planning Scheme Map 9HO (deletion of HO2)

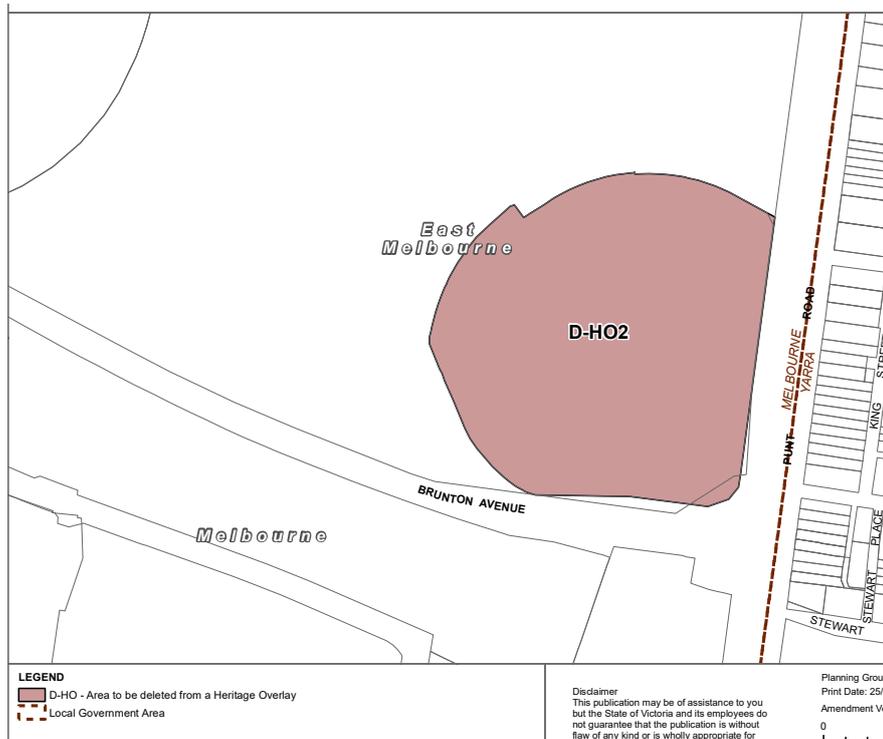
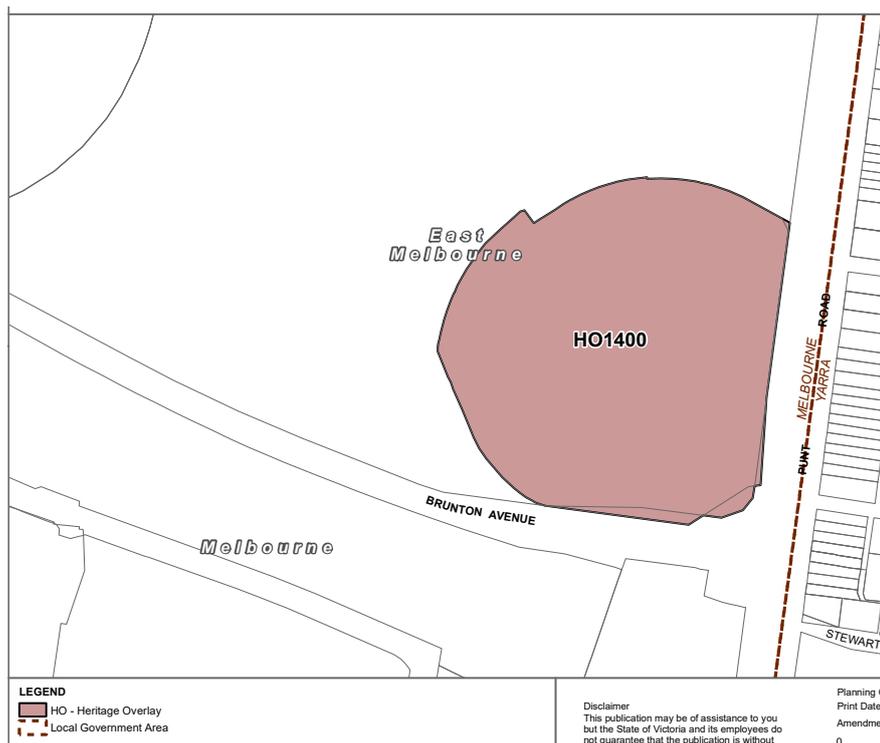


Figure 6: Part of Planning Scheme Map 9HO (inclusion of HO1400)



127. When viewing the proposed HO1400 alongside the HO2 to be deleted, it is apparent the curtilage of the proposed HO1400 includes additional land to the south and east. This is explained in the Punt Road Oval Heritage Review:

The Heritage Overlay polygon for Punt Road Oval (Richmond Cricket Ground) should extend to the Punt Road Oval property boundary including the small areas of land within the Punt Road Oval property boundary not currently included in the HO2 boundary, and extend to include the small section of parkland in the southeast corner removed from HO2 (see Figure 3.1). Applying the Heritage Overlay polygon to the Punt Road Oval property boundary is consistent with the general direction in PPN01 for curtilages and Heritage Overlay polygons. Extending the curtilage to include the additional area of parkland in the south east corner is important for ensuring an appropriate setting for the Oval is retained and for ensuring the significant landmark qualities of the Punt Road Oval are retained and protected²¹.

Position of Council

128. Submission 5 notes the status of Amendment C421, and suggests the citation and Statement of Significance ought be revised to remove references to the Jack Dyer Stand as it is permitted to be removed. As noted above, within its Management Response, Council does not agree and considers sites which have existing planning permissions ought properly have their heritage values and the appropriateness of their inclusion within the Heritage Overlay assessed on the basis that existing planning permissions may not be acted upon. In that circumstance, it is appropriate that any future approval be considered in light of the heritage values present, in the event the site is afforded heritage protection. If an existing planning permission is acted upon, the Heritage Overlay may be removed or amended via a subsequent amendment.
129. The Council considers this approach is consistent with the approach and direction provided by a number of previous planning panels.
130. In Melbourne C186 (PSA) [2012] PPV 79 (11 July 2012) the panel made the following comments about existing planning permits:

It is again our view that it is appropriate, in the context of considering the Amendment and whether Heritage Overlays should be applied, to consider only the heritage significance of the buildings. We do not believe that it is appropriate to consider the permits and applications - principally for the reason that the permits may never be acted upon (and the applications not granted), and thus the consequences for the integrity of the building remain uncertain²².

²¹ Punt Road Oval Heritage Review, page 11.

²² Melbourne C186 (PSA) [2012] PPV 79 (11 July 2012), page 38.

131. In Melbourne C215 (PSA) [2014] PPV 121 (3 September 2014) the panel considered the Kensington Heritage Review:

The Panel does not consider that the issue of a demolition permit is reason to exclude the property from the Heritage Overlay area. The application of the Heritage Overlay should be based on heritage significance.²³

132. In Melbourne C240 (PSA)[2015] PPV 37 (4 May 2015), the panel considering Bourke Hill said:

In relation to this issue, the Panel agrees with the Minister's submission that '...consideration of this amendment ought consider the most appropriate control on the basis that the proposed development may or may not be completed as approved.'²⁴

133. In Melbourne C305 (PSA) [2020] PPV 68 (4 September 2020), the panel considering the Heritage Overlay in Southbank found:

The Panel has assessed each property based on existing heritage fabric irrespective of whether they have a permit. There may be permits which are never acted on so it would be incorrect to assume that the heritage fabric will no longer exist simply because there is a permit. Council should reassess these properties if the permits are acted on in the future.²⁵

134. In Melbourne C387 (PSA) [2021] PPV 89 (10 November 2021), the panel considering the Hoddle Grid Heritage Review found:

In the context of considering the Amendment and whether a place is of local heritage significance, the Panel considers that it is appropriate to only consider whether a place meets the necessary threshold using appropriate assessment considerations and tools such as PPN01.

It is not appropriate to consider existing permits proposing demolition or significant change as a reason to exclude a place from the Heritage Overlay. This is primarily because those permits may not be acted on or completed as approved and the consequences for the integrity of the building or place would remain uncertain.

The Panel has assessed each property based on existing heritage fabric irrespective of whether it has a permit.

The Panel notes that many of the current permits discussed at the Hearing provide for complete demolition or significant building redevelopment and retention of only the façade or portions of the identified building. While it is not appropriate for the Panel to comment on the heritage outcomes for these sites, it is appropriate that such buildings are reassessed if the permits are acted on in the future. In the case of imminent demolition, which appears likely for several identified places, the Panel considers that Council should review the status of those places before adopting the Amendment. Buildings which have been demolished or are in the

²³ Melbourne C215 (PSA) [2014] PPV 121 (3 September 2014), page 20.

²⁴ Melbourne C240 (PSA)[2015] PPV 37 (4 May 2015), page 105.

²⁵ Melbourne C305 (PSA) [2020] PPV 68 (4 September 2020), page 12.

*process of active demolition (that is not just at boarding erection or preparation stage) should be excluded from the Amendment.*²⁶

135. Council submits the identification of the place, including the Jack Dyer Stand, as Significant in the Amendment is appropriate. Council notes the preferred version of the Statement of Significance was circulated to the Panel and submitters as Appendix 6(c) to the Part A submission, and included within the evidence of Ms Dyson.

F. 1-13 ELGIN STREET AND 16-18 BARKLY STREET

136. The exhibited *Heritage Places Inventory February 2020 Part A (Amended November 2021)* provides the following listing for 1-13 Elgin Street and 16-18 Barkly Street:

Figure 7: *Heritage Places Inventory February 2020 Part A (Amended November 2021)*, (extract)²⁷

<u>Elgin Street</u>	<u>1-13, includes:</u>	<u>Contributory</u>	=
	• <u>16 Barkly Street</u>	<u>Contributory</u>	=

137. Attachment F to the Carlton Heritage Review Methodology Report²⁸ notes 16 Barkly Street / 1-13 Elgin Street is part of Amendment C396. Attachment F confirms the building has been considered as part of the Carlton Heritage Review and recommends the single-storey nineteenth century cottage at this address which faces Barkly Street, be graded. The Lovell Chen commend within Attachment F notes:

Contributory grading applies to the single-storey nineteenth century cottage at this address, which faces Barkly Street, and not to the adjoining industrial building/ motor garage, which appears to also be part of the address.

138. This is the same assessment and recommendation made as part of Amendment C396 Heritage Places Conversion, also undertaken by Lovell Chen. Attachment A *Spreadsheet of Places Subject to Heritage Category Conversion Review*²⁹ within the *Methodology Report – Amendment C396 Heritage Category Conversion* notes 16 Barkly Street was confirmed as Contributory as part of a full address of 1-13 Elgin Street. The Lovell Chen comment within the final column of the table in Appendix A notes:

²⁶ Melbourne C387 (PSA) [2021] PPV 89 (10 November 2021), page 27.

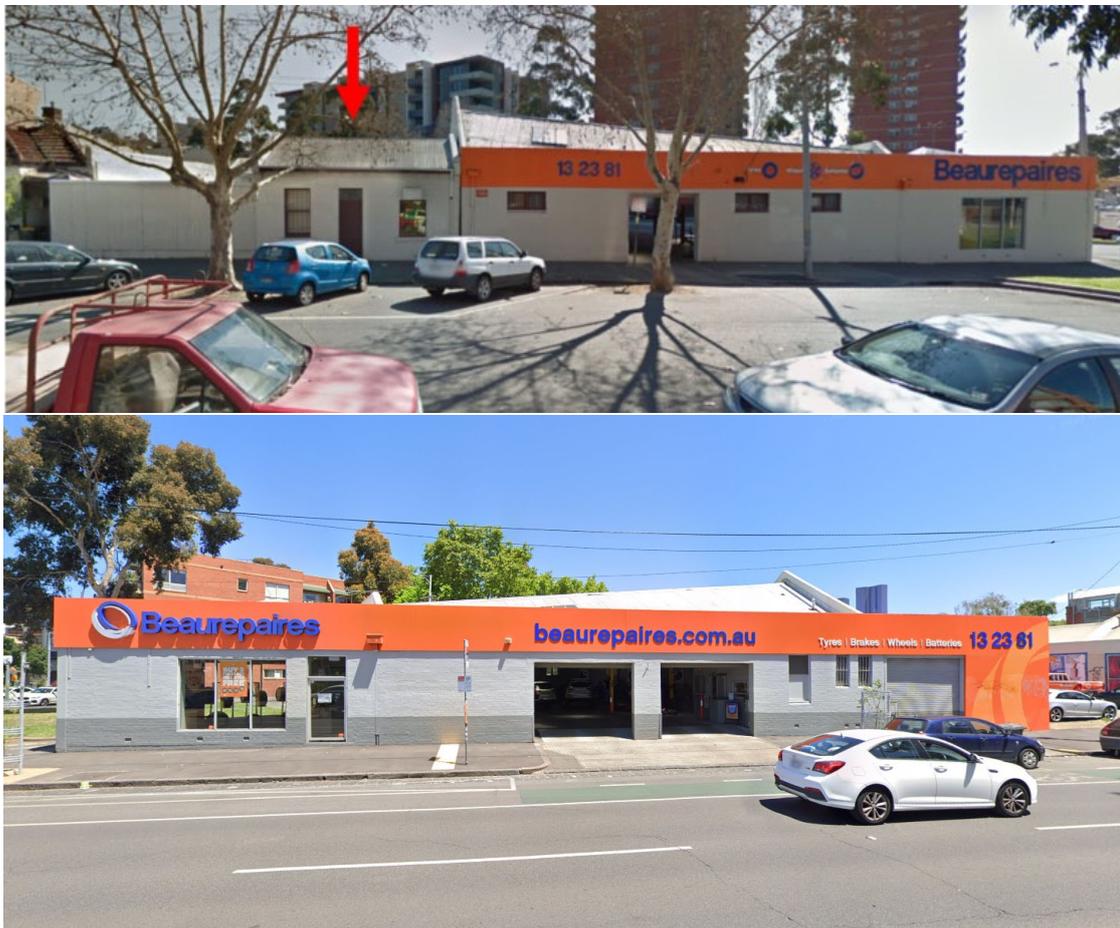
²⁷ *Heritage Places Inventory February 2020 Part A (Amended November 2021)*, page 23 of 226.

²⁸ Carlton Heritage Review Methodology Report, Attachment F, pdf page 764.

²⁹ *Methodology Report – Amendment C396 Heritage Category Conversion*

Contributory grading applies to the single-storey nineteenth century cottage at this address, which faces Barkly Street, and not to the adjoining industrial building/ motor garage, which appears to also be part of the address.

Figure 8: 16-18 Barkly Street and 1-13 Elgin Street³⁰



Submission 6

139. Submission 6 was made on behalf of the owners of 1-13 Elgin Street, Carlton and 16-18 Barkly Street and notes the property has been combined into one landholding and is tenanted as one landholding. The submission notes the properties were identified in Amendment C396 as 1-13 Elgin Street, with the sub-address of 16 Barkly Street with a category change of 'Contributory'. The submitter notes the Amendment proposes 1-13 Elgin Street as Contributory, effectively upgrading classification of the building from its current classification of Non-contributory. The submitter states that an amendment is required to the table attached to the Explanatory Report to clearly identify the two addresses.

³⁰ Attachment 2 – *Summary of Submissions and Management Responses* to the Report to the Future Melbourne Committee of 16 August 2022, page 17. The top image shows the Barkly Street frontage with a red arrow indicating 16-18 Barkly. The bottom image shows the Elgin Street frontage.

Management Response

140. Management has not proposed to make a change to the Explanatory Report. Updated Amendment documentation to reflect all changes to the Amendment will be prepared as part of the approval and gazettal process. The Management Response at pages 17-18 agrees that the entry in the exhibited Amendment includes a Contributory classification against 1-13 Elgin Street in error. As a result of the gazettal of Amendment C396, the Heritage Places Inventory incorporated document now refers to 1-13 Elgin Street and lists the sub-address of 16 Barkly Street with a Contributory building category. This is how the submitter has identified that the entry should be listed, and Council identified that this correction should be made to Council's preferred version of the Amendment and the Inventory should be updated in the following way:

Figure 9: Council preferred listing of 1-13 Elgin Street and 16 Barkly Street

Elgin Street	1-13, includes:	Contributory	:
	<ul style="list-style-type: none">16 Barkly Street	Contributory	=

Evidence of Ms Gray

141. Ms Gray notes the exhibited Heritage Places Inventory (Part A) has been updated in the Council preferred version of the Amendment, consistent with the Amendment C396 version.

Position of Council

142. Council submits the Heritage Places Inventory introduced through Amendment C396 properly reflects that the Contributory building category applies to 16 Barkly Street within 1-13 Elgin Street but does not apply to the whole of 1-13 Elgin Street. No further change is needed to this entry and it is recommended that 16 Barkly Street within 1-13 Elgin Street be removed from the Amendment on the basis that this entry has already been introduced through Amendment C396³¹.

G. SUBMISSION 8

Submission 8

³¹ As identified within Attachment 5 to Council's Part A submission.

143. Submission 8 notes the submitter considers too many places are already affected by the Heritage Overlay in Carlton and the Carlton Heritage Review risks turning the suburb 'into a museum' rather than a part of a thriving city. Further, the submitter considers insufficient consideration has been given to people who will not be able to reside in the suburb as a result of additional properties being placed within the Heritage Overlay.

Management Response

144. The Management Response at page 21 notes heritage is critical to Carlton's identity and character. The protection of heritage buildings and precincts does not preclude development that respects their heritage significance.

Evidence of Ms Gray

145. Ms Gray's evidence notes she considers the Amendment has appropriately considered the heritage values of the study area.

Position of Council

146. No change is recommended to the Amendment in response to the submission received.

H. 47-49 CANNING STREET, 207-221 DRUMMOND STREET & 96 GRATTAN STREET

147. 47-49 Canning Street was identified within Amendment C258 as Contributory. This category was confirmed through the Carlton Heritage Review, however as this building was already located within the Heritage Overlay, the Carlton Heritage Review does not provide a detailed review, citation or Statement of Significance for the place.
148. 207-221 Drummond Street is identified as Significant within the Carlton Heritage Review and recommended for an individual Heritage Overlay HO1395 on the basis of its aesthetic (Criterion E) significance. The individual place citation for the site is located within the Carlton Heritage Review at PDF pages 605-620.
149. 96 Grattan Street, known as the '*Cardigan House Carpark*' and formerly the '*Royal Women's Hospital Carpark*' is identified as Significant within the Carlton Heritage Review and is recommended for an individual Heritage Overlay on the basis of its representative (Criterion D) and aesthetic (Criterion E) significance. The individual place citation for the site is located within the Carlton Heritage Review at PDF pages 535-552.

Figure 11: 207-221 Drummond Street³²



Figure 12: 96 Grattan Street³³



Submission 10

150. Submission 10 raises general concern in relation to housing affordability and a lack of ‘medium scale development’ leading to a lack of families with multiple children in the area. In relation to 47-49 Canning Street, the submission notes a lack of information

³² Carlton Heritage Review, PDF page 605.

³³ Carlton Heritage Review, PDF page 535.

concerning the property identified as Contributory through Amendment C258 and seeks that it either be developed by Council for affordable housing or approved for development. In relation to 207-221 Drummond Street, the submission identifies the site as another large site with limited redevelopment opportunity as a result of the Heritage Overlay. The submitter also notes a lack of community value in the site. In relation to 96 Grattan Street, the submitter expresses an opposition to heritage protection for car parks generally, and considers the site would be of higher value redeveloped for an alternate use.

Management Response

151. The Management Response does not provide a response to Submission 10, as the submission was received outside the exhibition period for the Amendment.

Peer Review of Built Heritage

152. In relation to 207-221 Drummond Street, Mr Reeves agrees with the overall assessment undertaken for the place, but makes a number of recommendations in relation to the citation and Statement of Significance:

- a) update the date to recognise the construction and likely year of design as 1986 rather than 1986-87;
- b) include a discussion of conservation guidelines and heritage advisors' role as a key influence;
- c) include more detail around the evolution of the design, publicity and prizes, tilt slab concrete construction and notes the potential to expand the comparative analysis;
- d) Mr Reeves notes the incorrect date is provided for the Housing Commission Victoria Holland Court development (should be 1992 not 1988);
- e) the response to Criterion E should refer more explicitly to the theoretical underpinnings of its design; and
- f) Mr Reeves considers additional Criteria (Criterion F) is met based on the high degree of creative achievement and (Criterion H) is met based on its status as an early 'breakout' project for Ashton & Raggatt (later ARM).

153. In relation to 96 Grattan Street, Mr Reeves agrees with the overall assessment undertaken for the place, but makes the following recommendations:

- a) the citation and Statement of Significance should be updated to recognise the date of the design (1971-2) and construction (1973-4) rather than completion (1974);
- b) the builder, Lewis Construction Company Pty Ltd should be identified;
- c) additional historical content on the Royal Women's Hospital's development of residential accommodation in addition to the carpark and consulting suites should be included;
- d) descriptive content, additional analysis of remnants of landscaping and consideration of whether these relate to an original scheme by Beryl Mann should be provided;
- e) the comparative analysis could be expanded;
- f) Mr Reeves considers the place is an outstanding rather than a representative example and suggests it meets Criterion F (demonstration of creative and technical achievement) rather than Criterion D (for representativeness);
- g) Mr Reeves further considers the place also meets Criterion H (special associations with the life or works of a person, or group of persons of importance in our history) for its association with Mockridge Stahle & Mitchell;

Evidence of Ms Gray

154. In relation to 47-49 Canning Street, Ms Gray notes as part of the Amendment C258 process, an initial grading of D was incorrectly applied to the place, and then a classification of Contributory was applied. Ms Gray notes through the Carlton Heritage Review the property was inspected from the street and the Contributory category was confirmed. As part of the preparation of expert evidence, an additional site inspection and historical research was undertaken for the site with the objective of confirming the appropriate category within HO1. The site was assessed as consistent with the Contributory categorisation currently applied.

155. Regarding 207-221 Drummond Street, Ms Gray notes the building has been assessed as meeting the threshold of local heritage significance pursuant to Criterion E. In

response to Mr Reeves' recommendations, Ms Gray agrees that the citation and Statement of Significance should be updated to include the updated date information and identify the builder. She doesn't recommend further changes.

156. For 96 Grattan Street, Ms Gray notes the building has been assessed as meeting the threshold of local heritage significance pursuant to Criterion D and E. In response to Mr Reeves' recommendations, Ms Gray agrees that the citation and Statement of Significance should be updated to include the updated date information and additional historical and descriptive material. Ms Gray does not consider the assessment of significance ought reference either Criteria F or H.

Position of Council

157. Council submits the identification of the place as Significant in the Amendment is appropriate, subject to the further recommendations of Ms Gray.

I. 148-150 QUEENSBERRY STREET, CARLTON

158. 148-150 Queensberry Street, known as the '*Chinese Mission Church*' is identified as part of the *Hotel Lincoln and Environs Precinct* as Significant within the Carlton Heritage Review and recommended for individual Heritage Overlay HO97. The precinct is identified as having historical (Criterion A), representative (Criterion D), aesthetic (Criterion E) and associative (Criterion G) significance.

159. The individual place citation for the site is located within the Carlton Heritage Review at PDF pages 346-377.

Figure 13: 148-150 Queensberry Street³⁴



³⁴ Carlton Heritage Review, PDF page 363.

Submission 11 and 12

160. Submission 11 is made on behalf of the purchaser of the Site. The submitters considers the site is not of sufficient significance to warrant inclusion in the Heritage Overlay.
161. Submission 12 is made on behalf of the current owner of the Site. The submission considers the classification of the property proposed by the Amendment is unjustified on the following bases: the site will cease to operate as a church in July 2023; the Melbourne Chinese Church of Christ is in the process of finding alternate premises; the property is not of significance to the Chinese Christian Community; the congregation that attends the church is small and has no relationship to the community that originally occupied the property many years ago; the property is not a sacred building to the Church; current church members are from the eastern suburbs of Melbourne and are not local residents; and the building is beyond its useful life.
162. The submission further notes there are 'other reasons' that the Amendment will not achieve a net community benefit.

Management Response

163. As submissions 11 and 12 were provided late in the process, well outside the exhibition period for the Amendment, the Management Response does not provide any response to these submissions.

Evidence of Ms Gray

164. Ms Gray's evidence notes that the issues raised in Submission 12, including the discontinuation of the use of the building do not impact upon the historical values identified. These historical uses remain in the documentary record and the building fabric itself. Ms Gray further considers that in light of the impending discontinuation of the use and submissions made on behalf of the church community, it is accepted that the social connection has been or will be lost. On that basis she recommends the citation and statement of significance for the Hotel Lincoln and Environs Precinct be revised to remove reference to social value.

Position of Council

165. Council submits the identification of the place as Significant in the Amendment is appropriate. The citation and Statement of Significance should be amended to remove reference to social value.

IX. COUNCIL'S FINAL POSITION ON THE AMENDMENT

166. Council's final position on the Amendment is as detailed within Council's Part A submission, subject to the additional recommendations of Ms Gray as referenced within this submission.
167. Changes to the Statement of Significance for Punt Road Oval recommended by Ms Dyson and accepted by Council are reflected in the updated version of the Statement of Significance appended to the Part A submission as Appendix 6(c) and included within Ms Dyson's evidence.

X. CONCLUSION

168. The Council submits the Amendment has strategic justification and respectfully requests that the Panel recommend adoption of the Amendment.
169. The Council will address further issues which arise over the course of the Panel hearing in its reply in the form of a Part C submission.

Carly Robertson

Counsel for the Planning Authority
Instructed by Melbourne City Council
30 September 2022