

# Memorandum of Heritage Advice

233 Domain Road, South Yarra  
20 September 2023



## Memorandum of heritage advice regarding development potential of a site in a Heritage Overlay

This memorandum of heritage advice has been requested on behalf of the owners of the subject site at 233 Domain Road, South Yarra. It comments on the development potential of the site, having regard for the existing and proposed heritage grading of the building under the *South Yarra Heritage Review Amendment C426melb*.

An external inspection of the site has been undertaken, together with a review of the Melbourne Planning Scheme including *Clause 43.01, Heritage Overlay, Clause 15.03 Heritage*, incorporated documents *Heritage Places Inventory, (various dates), i-Heritage Database, Heritage Precincts Statement of Significance February 2020* (Amended April 2022), and various documents relating to Amendment C426. Historic sources have been cited where relevant.

### *Historical Background*

233 Domain Road, also known as Elm Tree House, is an early Victorian dwelling, which has been described as a “*two storey brick, plaster rendered house of eight rooms and outbuildings.*” (*i-Heritage Database*) Elm Tree House was built in 1857/8 for William Macredi, who lived there until his death in 1891. The house was passed down to Macredi’s widow and subsequently his daughter Alice. In 1920 the dwelling was purchased by Harry Emmerton for his daughter, (Dame) Mabel Brookes and her husband (Sir) Norman Brookes (*MCC Building Identification Form, 1984*).

Mr. Emmerton deeply cherished the 100 year old Elm Tree on the property and “*left instructions in his will that it was never to be cut down*”. In 1948, the subject property was described as “*practically the same as it was 100 years ago [...] apart from alterations to front staircase and staff rooms.*” (*Australian Women’s Weekly, 8/5/1948, p.36*). The property presents some historical associations with Dame Mabel Brooks having hosted President Lyndon Johnson here in the 1960s.

The Italian government purchased the subject site in 1974, with the Italian Cultural Institute now occupying the property.

### *Site Overview*

The subject site sits on the corner of Domain Road to the north, Walsh Street to the West and an unnamed laneway to the South. The dwelling comprises two storeys and is characterised by cream coloured stucco atop brick. It is bound by an unsympathetic breeze block wall to the north and a stepped down stucco boundary wall to the east and south.

The 1896 MMBW plan (Figure 1) shows the form of the house and its setting at that time. The surrounding area had been largely developed with a mix of terraced houses and large standalone houses and mansions. The footprint of the dwelling at 233 Domain Road indicates a house of modest size (albeit two storey), with its façade and main entrance addressing Walsh Street, formerly known as 142 Walsh Street. The dwelling was set back from both Domain Road and Walsh Street, with a square protrusion/room to its north east. On the block were two buildings, with the main house to the north and another building, which presumably served as a kitchen/laundry, to its south. Verandahs ran along the east, south and west elevation of the house and also served to link the main house to the building to its south. A shed, water closet and bath were located on the southern boundary of the property.

The Melbourne and Metropolitan Board of Works' plans indicate the dwelling underwent alterations and additions between 1938-1941 by architects Harold Desbrowe Annear and Robert B Hamilton. Some of these additions and alterations are visible in Figure 2 & 4 (c.1941 & c.1948) as the subject site is seen looking southeast and demonstrates change with the addition of a flat roof form to original Victorian envelope, the removal of the original verandah to the west and the first floor addition to the north with skillion roof.

The subject site underwent significant additions and alterations during the early 1960s while still in the ownership of Sir Norman and Lady Brookes. A new fence was also constructed c.1961 (refer to figure 2 & 4).

The c.1896 Victorian gabled envelope of the subject site, and its interwar updated fabric, has been substantially concealed by the 1960s additions and alterations and no longer reads as a building of that period.

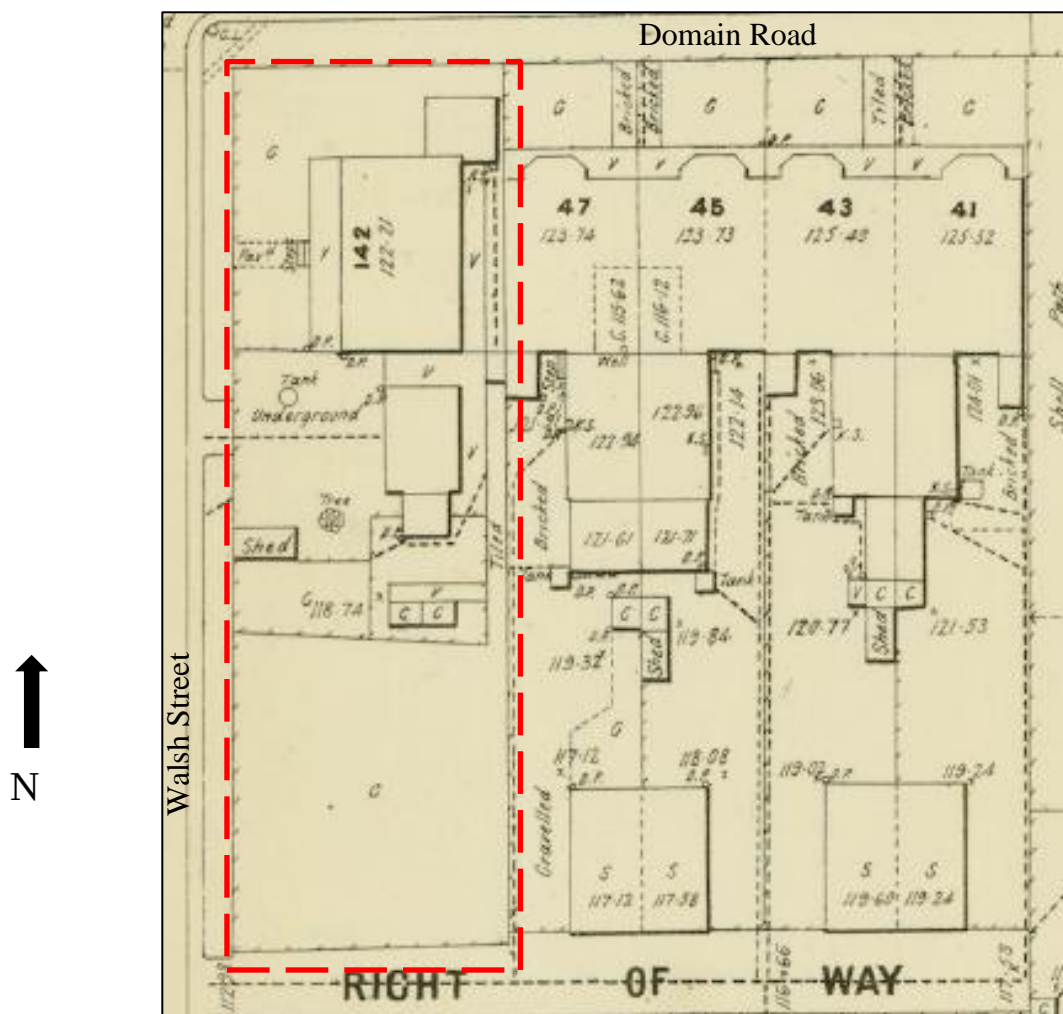


Figure 1 1896 MMBW Plan extract showing the subject site (dashed red). Source: State Library of Victoria.



*(left) c.1941 MMBW Plan extract demonstrating additions to the north, east and south of the original building footprint. (right) MMBW Plan extract showing the subject site having undergone significant alterations and additions by this time, with works completed and signed off June 1961. Source: South East Water.*



*Figure 4 View of Elm tree house showing the century old tree from which it takes its name. The Victorian house at this time had been altered by Annear and Hamilton to adopt an interwar character. Source: The Australian Women's Weekly, 8 May 1948, page 37 'Charming Elm Tree House'.*



*Figure 5 Current photo of the subject site looking in a similar southwest direction to that seen in Figure 4 above. The Victorian gabled roof remains visible, however it is enveloped by predominantly postwar additions to the north and east, and substantial additions have also been made to the rear or south. The Victorian and interwar characters are now largely concealed by the 1960s additions in terms of views from the public realm.*



*(Photo dated: August 31, 2023).*

#### *Significance*

233 Domain Rd was previously graded C in the *South Yarra Heritage Study 1985* and subsequently 'C2' in *The Incorporated Document Heritage Places Inventory June 2016*. Below are the definitions for these gradings:

*Streetscapes, that is complete collections of buildings along a street frontage, have also been assessed and graded. Individual buildings are graded from A to E, while streetscapes are graded from Level 1 to 3, both in descending order of significance.*

#### *Level 2 Streetscape*

*These streetscapes are of significance either because they still retain the predominant character and scale of a similar period or style, or because they contain individually significant buildings.*

#### *'C' Graded Buildings*

*These buildings demonstrate the historical or social development of the local area and/ or make an important aesthetic or scientific contribution. These buildings comprise a variety of styles and buildings types. Architecturally they are substantially intact, but where altered, it is reversible. In some instances, buildings of high individual historic, scientific or social significance may have a greater degree of alteration.*

The 1984 Building identification Sheet (BIF) for the site made the comment that '*The 1857 two storey house for William Macredie is concealed by many later alterations and additions however it is probably a part of the rear wing which faces Walsh Street.*' In addition, the BIF noted that the buildings integrity in 1984 was 'poor', an observation that seems appropriate both then and today in light of the assessment above.

This was revised to a contributory grading in a not significant streetscape via Amendment C258, which introduced a new grading system to the City of Melbourne. The Heritage Places Inventory March 2022 (Amended February 2023) provides the following definition of these gradings:

*A contributory heritage place is important for its contribution to a heritage precinct. It is of historic, aesthetic, scientific, social or spiritual significance to the heritage precinct. A contributory heritage place may be valued by the community; a representative example of a place type, period or style; and/or combines with other visually or stylistically related places to demonstrate the historic development of a heritage precinct. Contributory places are typically externally intact, but may have visible changes which do not detract from the contribution to the heritage precinct.*

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

*Significant streetscapes are collections of buildings outstanding either because they are a particularly well preserved group from a similar period or style, or because they are a collection of buildings significant in their own right.*

GML Heritage have recently completed the *South Yarra Heritage Review (2020-2022)* on behalf of the City of Melbourne. Council is pursuing *Amendment C426*, which inter alia uses the *South Yarra Heritage Review* to revise gradings and correct errors and omissions. The study recommended 233 Domain Road be upgraded from contributory to significant in a significant streetscape. That is to say, both the building grading and the associated streetscape grading are subject to 'uplift' as a result of this review. The site is to be included in Area 4, of the broader HO6 precinct for South Yarra. Area 4 is broadly bound by Domain Road to the north, Punt Road to the East, Toorak Road to the south and Walsh Street (inclusive) to the west.

The rationale provided for the revised grading was that the subject property has been identified by GML as:

- *High historical merit*
- *Of social value*
- *[Streetscape] Part of a collection of buildings significant in their own right*
- *Shows some signs of alterations.*

There is an entry for the subject site in Council's i-Heritage Database, but no Statement of Significance for the individual property that would provide Council's rationale for grading the building. Council's 1984 Building identification Form has slightly more information, including allusions to the ownership of the Brookes family. This said, it is not clear on what basis the building is ascribed high historical merit or social value (by contrast, the signs of alterations are self evident).

The following table summarises the current and proposed gradings for this part of Domain Road, within Heritage Overlay 6.

Address	Current Grading	Proposed Grading
221-223 Domain Road	Contributory	Significant
*233 Domain Road	Contributory	Significant & significant streetscape
234-236 Domain Road	Significant	Significant & significant streetscape
237-239 Domain Road	Significant	Significant & significant streetscape
238-242 Domain Road	N/A	Contributory& significant streetscape
241-247 Domain Road	Significant	Significant & significant streetscape
244-246 Domain Road	Contributory	Significant & significant streetscape
248-250 Domain Road	Contributory	Contributory& significant streetscape
249-251 Domain Road	Contributory	Significant & significant streetscape
252 Domain Road	Significant	Significant & significant streetscape
253-257 Domain Road	Significant	Significant & significant streetscape

Under the present *Amendment C426*, the area previously designated as the South Yarra Precinct (HO6), has been divided into smaller Areas within the Precinct, with each Area defined in close detail. The subject site is located within Area 4 with the proposed revised Statement of Significance for HO6 reproduced, in part, below:

***What is significant?***

*The South Yarra Precinct, South Yarra, incorporating an area in the Parish of Melbourne South developed from the 1840s, is significant.*

*Elements that contribute to the significance of the precinct include (but are not limited to): [...]*

*Area 4, including*

- *early pattern of subdivision of the land comprising two 9 1/2-acre allotments (Crown Allotments 20 and 21), sold in 1849. Formed in the 1850s, spacious villa allotments fronting Walsh Street, Mona Place and Tivoli Place were among the earliest residential subdivisions in South Yarra*
- *mixed-era residential buildings representing the phase of active flat development following demolition and subdivision of nineteenth century estates*
- *a number of early houses (such as those at 98–110 Walsh Street and 107–111 and 113–117 Walsh Street and 249 Domain Road and 255 Domain Road) which reinforce the traces of the earliest layer of residential development in this area*
- *the low-scale external form of buildings developed pre-World War I (typically one to three storeys); featuring original hipped and gabled roof forms (sometimes with parapets); early chimneys; timber and masonry construction and finishes (some painted and rendered); the pattern and size of original fenestration; stylistic detailing; and early iron palisade fences on stone plinths or retaining walls*
- *the low-scale external form of buildings from 1918–45 (typically one to four storeys) featuring masonry construction and finishes (some painted and rendered), original hipped, gabled and flat roof forms (sometimes with parapets); intact early chimneys; the pattern and size of original fenestration; stylistic detailing; and early low masonry fences (some with integrated letter boxes and garden beds)*
- *the typical external form of post-1945 buildings (with varying heights); which have masonry and concrete construction and finishes; original hipped, gabled and flat roof forms (sometimes with parapets); early chimneys; the pattern and size of original fenestration; stylistic detailing; and early fences and landscaping (including masonry or stone fences, garden edging, garden beds or retaining walls)*
- *early subdivision patterns as evidenced in the hierarchy of principal and secondary streets and lanes (including the layout and width of streets), allotment sizes, and setbacks from property boundaries [...]*
- *views into and out of the adjoining parks and gardens.*
- *early fences and landscaping contribute to the significance of the precinct.*
- *more recent (post-1980s) alterations and additions to significant and contributory buildings are not significant.*

The provisions of the Heritage Overlay under *Amendment C426* includes external paint controls and solar energy system controls.

Any development proposal for sites subject to a Heritage Overlay will be assessed against local planning policies at *Clause 15.03-1L-02 Heritage*. These include the following relevant objectives and policy, with key policies underlined for emphasis (based on the C426 significant grading of the site):

***Demolition strategies***

*The demolition of a non-contributory place will generally be permitted.*

*Full demolition of significant or contributory buildings will not generally be permitted.*



Partial demolition in the case of significant buildings and of significant elements or the front or principal part of contributory buildings will not generally be permitted.

Encourage the retention of the three dimensional form regardless of whether it is visible whilst discouraging facadism.

Encourage adaptive reuse of a heritage place as an alternative to demolition.

The poor structural or aesthetic condition of a significant or contributory building will not be considered justification for permitting demolition.

A demolition permit will not be granted until the proposed replacement building or works have been approved.

Preserve fences and outbuildings that contribute to the significance of the heritage place.

### **Demolition policy guidelines**

Consider as relevant:

- The assessed significance of the heritage place or building.
- The character and appearance of the proposed building or works and their effect on the historic, social and architectural values of the heritage place and the street.
- The significance of the fabric or part of the building, and the degree to which it contributes to its three-dimensional form, regardless of whether it is visible.
- Whether the demolition or removal of any part of the building contributes to the long-term conservation of the significant fabric of the building.
- Whether the demolition will adversely affect the conservation of the heritage place.
- Whether there are any exceptional circumstances.

### **Alteration Strategies**

Preserve external fabric that contributes to the significance of the heritage place on any part of a significant building, and on any visible part of a contributory building.

Ensure alterations to non-contributory buildings and fabric respect, and not detract, from the assessed significance of the heritage precinct.

Avoid sandblasting of render, masonry or timber surfaces and painting of previously unpainted surfaces.

Encourage removal of paint from original unpainted masonry or other surfaces, provided it can be undertaken without damage to the heritage place.

Support reconstruction of an original awning or verandah where it is based on evidence of the original form, detailing and materials.

Support new awnings or verandahs that are an appropriate contextual design response, compatible with the location on the heritage place and that can be removed without loss of fabric.

### **Alterations policy guidelines**

Consider as relevant:

- The assessed significance of the building and heritage place.
- The degree to which the alterations would detract from the significance, character and appearance of the building and heritage place.
- The structural condition of the building.
- The character and appearance of the proposed replacement materials.
- Whether the alterations can be reversed without loss of fabric which contributes to the significance of the heritage place.

### ***Addition strategies***

*Ensure additions to buildings in a heritage precinct are respectful of and in keeping with:*

- *'Key attributes' of the heritage precinct, as identified in the precinct Statement of Significance.*
- *Precinct characteristics including building height, massing and form; style and architectural expression; details; materials; front and side setbacks; and orientation.*
- *Character and appearance of nearby significant and contributory buildings.*
- *Where abutting a lane, the scale and form of heritage fabric as it presents to the lane.*

*Ensure additions to significant or contributory buildings:*

- *Are respectful of the building's character and appearance, scale, materials, style and architectural expression.*
- *Do not visually dominate or visually disrupt the appreciation of the building as it presents to the street.*
- *Maintain the prominence of the building by setting back the addition behind the front or principal part of the building, and from other visible parts.*
- *Do not build over or extend into the air space directly above the front or principal part of the building.*
- *Retain significant roof form within the setback from the building façade together with roof elements of original fabric.*
- *Do not obscure views of façades or elevations associated with the front or principal part of the building.*
- *Are distinguishable from the original fabric of the building.*

*Ensure additions:*

- *Adopt high quality and respectful contextual design.*
- *Avoid direct reproduction of the form of historic fabric.*
- *Adopt an interpretive design approach to other details such as verandahs, fences, and shopfronts.*

### ***Concealment of additions strategies***

*Outside the Capital City Zone and Docklands Zone, ensure additions are:*

- *Concealed in significant streetscapes for significant or contributory buildings.*
- *Concealed in other streetscapes for significant buildings, for a second-storey addition to a single storey building, concealment is often achieved by setting back the addition at least 8 metres behind the front facade. [...]*
- *For ground level additions to the side of a building, set back behind the front or principal part of the building.*
- *All additions to corner properties may be visible, but should be respectful of the significant or contributory building in terms of scale and placement, and not dominate or diminish the prominence of the building or adjoining contributory or significant building.*

### ***Discussion***

We have been asked to comment on whether we consider the proposed change to the grading (from 'contributory' to 'significant in a significant streetscape') to be justified, and if so, what the development potential would be for the site with this grading.

As noted, this section of Domain Road under Amendment C426 is considered a significant heritage streetscape, containing a variety of heritage buildings from the various periods noted in the statement of significance. That said, to some extent the significance of the streetscape is affected by the degree of significance of the subject site.

Having regard for the above, the rationale provided for the change in significance to the subject property speaks primarily to its social and historical value and not to its architectural integrity. In our view the extent of change to the building in the 1960s is sufficient to warrant a challenge to the proposed 'significant' grading. The *South Yarra Heritage Review 2022* provides insufficient detail to justify the proposed significant grading and does not include information about the extent of research undertaken or the basis upon which the grading change is put forward. It is possible that the recommended regrading has proceeded without a detailed understanding of the extent of change to which the building has been subjected.

The existing building is a composite structure, which appears to retain some fabric from the double-storey Victorian building shown on the MMBW plan but has otherwise been extensively modified with additions and alterations. It now reads as a late inter-war dwelling that has itself been subsumed within 1960s additions to the degree that its integrity is, as noted in Council's 1984 document, 'poor'. Having regard for this, the uplift in grading to 'significant' seems inappropriate.

The statement of significance for H06 comments that '*post-1980s alterations and additions [are] not significant*', and this would seem to keep the door open to the notion that the 1960s changes to the subject site are contributory to its heritage value. However, it can reasonably be argued that post-1960s additions and alterations are not significant and do not contribute to the importance of significant and/or contributory buildings – in fact, they have detracted very substantially from the earlier character of this building.

The statement of significance for HO1416, another precinct identified within the *South Yarra Heritage Review 2022*, states that '*Post-1961 developments and other extensively altered properties are not significant*' and this approach to 1960s and later changes should reasonably apply to many older heritage buildings in South Yarra, including the subject property.

If Amendment C426 is gazetted as currently proposed, with the change in grading, it can be anticipated that demolition of the entire building or even partial demolition would be opposed by Council. The heritage policy at Clause 15.03-1L-02 of the Melbourne Planning Scheme generally discourages partial demolition of a significant building. If the 1960s additions are construed as having significance, including the long wing extending to the south of the main house envelope, policy would argue against their demolition, which would encumber much of the site and greatly limit the extent of potential new works on the site.

Heritage policy seeks the retention of the front or principal part of a contributory building (typically the front 8-10 metres). That is to say, a contributory grading theoretically allows for a greater extent of demolition than is afforded a significant graded building. Moreover, if it is recognised that this is a contributory building of low integrity, there may even be potential for full demolition (although this cannot be anticipated with any certainty).

It should also be noted that demolition is not typically supported in the absence of an approved replacement building, and an application for demolition by itself would be refused on that basis. While it may or may not ultimately be possible to demolish the entirety of the building, full demolition is not the most likely outcome for the site, and it would not be permitted by Council simply for the purposes of facilitating a good sale price for the land.

The designation of the streetscape as significant also has potential ramifications in terms of future development. If it can successfully be argued that the building should be graded contributory (only), it may also be possible to argue that the significant streetscape grading should not extend to this property.

In summary, it is the view of this office that a case can be made against the proposed uplift in gradings for the site and we could provide expert evidence to a Panel hearing to that effect. It is nonetheless noted that there will remain an appreciable risk that the Panel might support the implementation of the proposed changes to gradings to this site. We look forward to further discussions in relation to these matters.

**Bryce Raworth Pty Ltd**

20 September 2023

This advice is provided on a preliminary basis only, having regard for a site inspection and review of Council policy.  
The author has not had the benefit of an exhaustive briefing or of extensive research into the site or any related matter. This memorandum is provided for use by the client group only, and is not suitable for consideration by Council or any third party entity or individual.