

*Planning and Environment Act 1987*

**Panel Report**

**Port Phillip Planning Scheme Amendment C161port Part 2  
Update Amendment**

**12 March 2021**

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### How will this report be used?

This is a brief description of how this report will be used for the benefit of people unfamiliar with the planning system. If you have concerns about a specific issue you should seek independent advice.

The planning authority must consider this report before deciding whether or not to adopt the Amendment, section 27(1) of the *Planning and Environment Act 1987* (the Act).

For the Amendment to proceed, it must be adopted by the planning authority and then sent to the Minister for Planning for approval.

The planning authority is not obliged to follow the recommendations of the Panel, but it must give its reasons if it does not follow the recommendations, section 31 (1) of the Act, and section 9 of the *Planning and Environment Regulations 2015*.

If approved by the Minister for Planning a formal change will be made to the planning scheme. Notice of approval of the Amendment will be published in the Government Gazette, section 37 of the Act.

### *Planning and Environment Act 1987*

Panel Report pursuant to section 25 of the Act

Port Phillip Planning Scheme Amendment C161port Part 2

Update Amendment

12 March 2021



Dalia Cook, Chair



Peter Gaschk, Member

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**Glossary and abbreviations**

Act	<i>Planning and Environment Act 1987</i>
the Amendment	Port Phillip Planning Scheme Amendment C161port Part 2
Barrett Heritage Assessment	<i>58-60 Queens Road, Melbourne Heritage Assessment</i> , November 2017, Peter Andrew Barrett
Council	Port Phillip City Council
HERCON Criteria	Heritage Convention Criteria 1998
HO	Heritage Overlay [Schedule Number X]
PPHR	<i>Port Phillip Heritage Review</i> (Incorporated document)
PPHR Update	<i>Port Phillip Heritage Review Update</i> , February 2019, David Helms Heritage Planning
PPN01	<i>Planning Practice Note 1: Applying the Heritage Overlay</i>
Planning Scheme	Port Phillip Planning Scheme
VPP	Victoria Planning Provisions

## Overview

Amendment summary	
<b>The Amendment</b>	Port Phillip Planning Scheme Amendment C161port Part 2
<b>Common name</b>	Update Amendment
<b>Brief description</b>	The Amendment proposes a series of detailed updates and technical corrections, including confined zoning changes and updates to Heritage Overlay schedules for individual properties and associated mapping. It also updates policy and particular provisions of the Planning Scheme to reflect updated heritage studies.
<b>Subject land</b>	Various sites as identified in exhibited documentation
<b>The Proponent and Planning Authority</b>	Port Phillip City Council
<b>Authorisation</b>	13 March 2020
<b>Exhibition</b>	25 June – 24 July 2020
<b>Submissions</b>	Appendix A Number of Submissions: 151

Panel process	
<b>The Panel</b>	Dalia Cook, Chair and Peter Gaschk, Member
<b>Directions Hearings</b>	29 October and 21 December 2020
<b>Panel Hearing</b>	27, 28, 29 January and 1 February 2021
<b>Site inspections</b>	Unaccompanied, 11 February 2021
<b>Parties to the Hearing</b>	Appendix B
<b>Citation</b>	Port Phillip PSA C161port Part 2 [2021] PPV
<b>Date of this Report</b>	12 March 2021

## Executive summary

Port Phillip Planning Scheme Amendment C161port Part 2 (the Amendment) seeks to make updates and technical corrections to aspects of the Port Phillip Planning Scheme (Planning Scheme).

Confined zoning changes are proposed to align zoning with title boundaries or existing land use. A significant element of the Amendment proposes updates to policy, Heritage Overlay (HO) schedules and associated mapping for individual properties by reference to updated heritage studies.

Key issues raised in submissions included:

- requests for more extensive rezoning
- support for inclusion of certain properties in the Heritage Overlay or regrading as exhibited
- concerns that inclusion in a Heritage Overlay or regrading was not warranted based on how the heritage values were identified for certain properties
- requests for further amendments to heritage mapping and citations
- potentially restrictive effects on future development of land or maintenance of buildings
- impacts on property values
- unresolved interaction with controls to manage flooding and inundation.

The confined rezoning proposals are relatively non-controversial. The Panel accepts that the request for additional rezoning of identified land is beyond the scope of this particular Amendment but could be considered as part of future strategic planning work for the relevant activity centre as suggested by Port Phillip City Council (Council).

In terms of changes to heritage controls and listings, the Panel accepts the submissions on behalf of Council that the principal focus of this Amendment is properly on the heritage values of the properties in question. The question is whether they meet the threshold for local significance having regard to established principles, including the application of *Planning Practice Note 1: Applying the Heritage Overlay* (PPN01).

Some submitters raised concerns that regrading had not been applied consistently with established practice or the provisions of the local heritage policy in Clause 22.04 of the planning scheme, for example, suggesting that threshold for grading properties as Significant was too low.

Council submitted that the treatment of properties within this Amendment was consistent with its practice for other heritage properties, founded in the methodology of the *Port Phillip Heritage Review*, an incorporated document in the Planning Scheme.

This Amendment seeks to update heritage controls applying to various properties to reflect updated heritage studies. It does not represent a fulsome review of the current grading system. On this basis, the Panel accepts submissions and evidence for Council that it is paramount to ensure that a consistent approach is taken to grading properties addressed by the Amendment as for other heritage listed properties.

To take a different approach would potentially trigger a complete review of the inclusion or grading of hundreds of properties already within the Heritage Overlay that are clearly outside scope of this Amendment.

However, the Panel acknowledges concerns expressed by some objectors that Council's threshold for grading a property as Significant is notably lower than for most other municipalities, even recognising the bespoke definition of this term in policy at Clause 22.04 of this Planning Scheme.

The Panel recognises that heritage values have often been characterised as both a constraint and an opportunity. While the Panel recognises that there may be financial implications of this Amendment for some individual property owners, this does not detract from the fact that the purpose of the Amendment is supported having regard to imperatives for heritage protection. Further, the exercise of discretion to demolish or modify heritage properties is provided in the Heritage Overlay provisions, guided by the application of policy in Clause 22.04.

To the extent that these financial impacts may be experienced by individuals rather than more broadly by the community, the Panel finds the Amendment meets the objectives of the *Planning and Environment Act 1987* for "fair, orderly, economic and sustainable use and development of land" as well as strategic planning objectives in Ministerial Direction 11 (Strategic Assessment of Amendments) and *Planning Practice Note 46: Strategic Assessment Guidelines*.

For the most part, the Panel accepts the assessment of experts engaged by Council to undertake the *Port Phillip Heritage Review Update* and its peer review by Ms Schmeder with consequential changes to the Amendment post exhibition. The exceptions to this are:

- the Panel does not support the regrading of 207 Little Page Street, Middle Park from Non-contributory to Significant
- the Panel is not persuaded that there is sufficient material currently available to justify regrading the St Kilda Sea Baths from Non-contributory to Significant in the absence of further heritage assessment, particularly the potential social significance of the reconstructed building and extent of remaining heritage fabric (if any)
- the Panel does not support the post exhibition change to regrade 293 The Boulevard, Port Melbourne from Non-contributory to Contributory.

The Panel supports the Amendment subject to modifications proposed by Council, taking account of the Panel's further recommendations.

## **Recommendations**

Based on the reasons set out in this Report, the Panel recommends that Port Phillip Planning Scheme Amendment C161port Part 2 be adopted as exhibited subject to the following:

**1. Amend the schedule to Clause 43.01 (Heritage Overlay) as follows:**

- a) amend Heritage Overlay HO239 to refer to 'Middle Park Primary School No 2815' and update property address to 194 Richardson Street (part), Middle Park
- b) amend Heritage Overlay HO489 to assign a new Heritage Overlay number and amend the property address to '29A Albert Road Drive, Albert Park'

- c) amend Heritage Overlay HO260 to refer to the 'Elwood Central School No. 3942' and replace the address with 49 Scott Street and 161 Mitford Street (part), Elwood
        - d) amend Heritage Overlay HO176 to refer to 'MacRobertson Girls' High School' and update property address to 350-370 Kings Way, Melbourne.
2. Amend Map no 8HO to reduce the curtilage of Heritage Overlay HO260 around the former Infants' School at Elwood Primary School to the rectangular curtilage of the building as proposed by Submitter 142.
3. Amend the Port Phillip Heritage Review to:
  - a) amend Citation 2311 – Railway Cutting and Bridges to: [8319475: 28658238\_1] page 33 to:
    - (i) remove references to 333, 335-337 and 341-351 Ferrars Street, South Melbourne from the citation address and map
    - (ii) specify that 335-337 Ferrars Street, South Melbourne and the former South Melbourne Cycling Club building do not contribute to the significance of the Railway Cutting and Bridges Precinct
  - b) amend Citation 2152 with the name of the principal place revised to that of its Victorian Heritage Register listing Former Royal Australian Corps of Signals Drill Hall.
  - c) amend Citation 2409 - Houses to include genealogical research confirming that James Downie Senior was the contractor for the houses at 2-6 Blanche and 110-118 Barkly Streets, St Kilda
  - d) amend the revised Citation 1106 – Middle Park Primary School to update the property address to '194 Richardson Street (part), Middle Park'
  - e) include a revised Citation for MacRobertson Girls' High School to update the address to '350-370' Kings Way, Melbourne
  - f) amend Citation 48 to update the property address from 'Ingles Street' to read '164 Ingles Street and 14 Woodruff Street, Port Melbourne', including an update to the mapping and wording to ensure the former factory complex on the subject land is acknowledged for historical importance (Criterion A).
4. Amend the Heritage Policy Map to:
  - a) amend the heritage grading of the railway reserve (Railway Cutting and Road Bridges) as described in Citation 2311 to Significant within Heritage Overlay HO440
  - b) amend the heritage grading of 333, 335-337 and 341-351 Ferrars Street, South Melbourne from Significant to Non-contributory within Heritage Overlay HO441
  - c) amend the heritage grading of 3 Havelock Street, St Kilda from Significant to Non-contributory within Heritage Overlay HO5
  - d) amend the heritage grading of 206 Page Street, Middle Park from Significant to Non-contributory within Heritage Overlay HO444
  - e) amend the heritage grading of 291 The Boulevard, Port Melbourne from Contributory to Non-contributory within Heritage Overlay HO2
  - f) amend the heritage grading of 137-139 Fitzroy Street, St Kilda from Non-contributory to Contributory in Heritage Overlay HO5 (St Kilda Hill Precinct).



- 5. Amend the Neighbourhood Character Map to:**
  - a) remove the proposed 'Contributory outside the Heritage Overlay' grading for 146 Dow Street, Port Melbourne.**
- 6. Amend the Statements of Significance for:**
  - a) Glen Eagles, Kinross and Kinfauns (58-60 Queens Road, Melbourne) to remove reference to developers O'Donohue and Lynch and inclusion of Criterion D in the section "Why is it significant"**
  - b) Elwood Central School No. 3942 (49 Scott Street and 161 Mitford Street, Elwood) to remove reference to shelter sheds and reference to the pair of Italian Cypress trees at the porch of the 1926 Infants' School.**
- 7. Abandon the proposal to regrade 207 Little Page Street, Middle Park to Significant and make any consequential changes.**
- 8. Abandon the regrading of 10-18 Jacka Boulevard, St Kilda (St Kilda Sea Baths) from Non-contributory to Contributory to enable the Council to undertake further investigation into the social and historical significance of the place, if any.**

# 1 Introduction

## 1.1 The Amendment

### Amendment description

Amendment C161port as initially exhibited proposes numerous updates and corrections to the Planning Scheme and seeks to implement the findings of updated heritage studies.<sup>1</sup>

These studies include:

- *Port Phillip Heritage Review Update*, February 2019 (PPHR Update) by David Helms Heritage Planning
- *Heritage Assessment 2-6 Blanche Street and 110-118 Barkly Street, St Kilda*, December 2017 by Context Pty Ltd
- *58-60 Queens Road, Melbourne Heritage Assessment*, November 2017 by Peter Andrew Barrett.

Key elements of the Amendment seek to:

- correct zoning anomalies including aligning zones to title boundaries
- change the schedule to the Heritage Overlay (Clause 43.01) and relevant maps to update heritage provisions in respect of identified properties
- update the incorporated document *Port Phillip Heritage Review* (PPHR) by substituting Volume 1, June 2020 (Andrew Ward) including identified citations
- update the incorporated documents *City of Port Phillip Heritage Policy Map* and *City of Port Phillip Neighbourhood Character Map* to reflect updated gradings of identified properties
- make consequential changes to aspects of planning policy including Clause 22.04 (Heritage Policy) and Clause 72.04 (Documents Incorporated in this Scheme) and include new individual Statements of Significance for identified individually significant properties.

Following receipt of public submissions, the Planning Authority determined to split the Amendment in two parts.<sup>2</sup>

Part 1 included changes where supportive submissions or no submissions were received. This was submitted to the Minister for Planning for approval on 30 September 2020.

Part 2 of the Amendment was referred to the Panel for consideration and includes updates to the Planning Scheme subject to contested or unresolved submissions.

<sup>1</sup> The Panel notes that Amendment C160 addresses obvious errors and technical corrections that were identified for a streamlined process without public notification. It was considered at the same time by the Planning Authority and was sent to the Minister for Planning for authorisation

<sup>2</sup> In accordance with section 29 of the *Planning and Environment Act 1987*

## **1.2 Background**

Authorisation for Amendment C161port was granted subject to the following conditions (in summary):

- removing HO383 (Dutch Elm Tree) from the Amendment
- providing individual Statements of Significance for new heritage places in the Schedule to the Heritage Overlay, consistent with Amendment VC148
- updating key incorporated documents identified above to correct version numbers and dates and to include recent changes from relevant Planning Scheme amendments
- reflecting the conventions in the Amendment Tracking System.

The Planning Authority confirmed in its submissions to the Panel that each of these matters had been addressed.

## **1.3 Procedural issues**

The Panel's directions included specific requirements for pre-circulation of evidence and submissions by parties. In circulating his submissions and associated documents, Mr Volovich included an Assessment of Soundness of 96 Grey Street, St Kilda prepared by Mr David Bick, heritage consultant dated January 2021.

Ms Sharp who appeared on behalf of Mr Volovich explained that she proposed to present this report to the Panel in the nature of submissions rather than evidence, but that Mr Bick would not be called to elaborate on his report and would not be available for cross examination.

In these circumstances, Ms Eastaugh on behalf of Council objected to the Panel receiving this report.

The Panel agreed that it would not be fair or appropriate for it to accept this report, even as a submission, observing that it should have more properly been prepared as an expert report following the Panel's guidelines for such documents and the author should have been made available for cross examination.

However, the Panel explained that it would allow Ms Sharp to make submissions on behalf of Mr Volovich having regard to the advice he had received from Mr Bick, and this course was adopted by Ms Sharp at the Hearing.

## **1.4 Summary of issues raised in submissions**

The majority of submissions related to site-specific proposals within the Amendment. A high proportion of submitters supported changes proposed within the Amendment including rezoning and application of the Heritage Overlay to individual properties.

Opposing submissions principally focused on:

- degree of alterations to a property or the extent of demolition diminishing claimed heritage significance
- loss of development potential for individual properties or a restricted ability to make building improvements
- the potential increased financial burden associated with the upkeep of a heritage listed property

- personal financial impact or loss of property value
- tension between heritage value and flooding impacts.

## **1.5 Council's response**

The Planning Authority supported a number of changes to the exhibited Amendment after considering the submissions. These changes were refined following its receipt of a peer review of heritage studies underpinning the Amendment by Ms Natica Schmeder of Landmark Heritage Pty Ltd in preparation for the Panel Hearing.

The Panel accepts these changes to the Amendment and they have formed the basis of its recommendations unless a contrary view is expressed in the body of this Report.

## **1.6 The Panel's approach**

The Panel has assessed the Amendment against the principles of net community benefit and sustainable development, as set out in Clause 71.02-3 (Integrated decision making) of the Planning Scheme.

The Panel considered all written submissions made in response to the exhibition of the Amendment, observations from site visits, and submissions, evidence and other material presented to it during the Hearing. It has reviewed a large volume of material and has had to be selective in referring to the more relevant or determinative material in the Report. All submissions and materials have been considered by the Panel in reaching its conclusions, regardless of whether they are specifically mentioned in the Report.

This Report deals with the issues under the following headings:

- Planning context and strategic justification
- Response to submissions with submitter participation at hearing
- Response to other submissions

## **1.7 Limitations**

In some instances, Council proposes to undertake further work, such as to review certain Heritage Overlay precincts or to consider additional levels of protection (such as tree controls) in respect of properties addressed in this Amendment.

The Panel notes these proposals where relevant but it refrains from making recommendations since these matters do not form part of the exhibited Amendment.

## 2 Planning context and strategic justification

### 2.1 Legislation

The *Planning and Environment Act 1987* (the Act) establishes an objective relating to heritage conservation in section 4(1)(d):

... to conserve and enhance those buildings, areas or other places which are of scientific, aesthetic, architectural or historical interest or otherwise of special cultural value

The Planning Authority is required to regularly review the provisions of the Scheme under section 12(1)(c) of the Act. In its Part A submission it explained:

Updating and correcting anomalies and removing redundant provisions will ensure the Scheme remains current and accurate. The updates will also remove unnecessary permit triggers and strengthen Port Phillip's heritage planning controls, providing a basis for clear and consistent decision-making.<sup>3</sup>

### 2.2 Planning policy framework

Council submitted that the Amendment is supported by various clauses in the Planning Policy Framework, as summarised below.

#### Clause 15 (Built Environment and Heritage)

The Amendment supports Clause 15 by ensuring the conservation of places of heritage significance through:

- identifying, assessing and documenting places of cultural heritage significance as a basis for their inclusion in the Planning Scheme
- ensuring and appropriate setting and context for heritage places is maintained or enhanced.

#### Clause 21 (Municipal Strategic Statement)

The Amendment supports the Municipal Strategic Statement by:

- seeking to protect and reinforce the key elements of Port Phillip's urban structure including places and precincts of heritage significance (Clause 21.01-2)
- seeking to conserve and enhance the architectural and cultural heritage of Port Phillip (Clause 21.05-1).

#### Clause 22.04 (Heritage Policy)

The Amendment supports this policy by:

- updating incorporated and reference documents with a view to achieving its objectives
- applying concepts of Significant, Contributory and Non-contributory heritage value to individual properties
- identifying properties for inclusion in the Heritage Overlay that would be subject to the provisions of the policy in respect of demolition or buildings and works.

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<sup>3</sup> Page 14.

## 2.3 Other relevant planning strategies and policies

### Plan Melbourne

*Plan Melbourne 2017-2050* sets out strategic directions to guide Melbourne's development to 2050 to ensure it becomes more sustainable, productive and liveable as its population approaches 8 million. It is accompanied by a separate implementation plan that is regularly updated and refreshed every five years.

Plan Melbourne is structured around seven Outcomes, which set out the aims of the Plan. The Outcomes are supported by Directions and Policies, which outline how the Outcomes will be achieved. Direction 4.4 is particularly relevant, to "*respect our heritage as we build for the future*", and contributes to Outcome 4 – Melbourne is a distinctive and liveable city with quality design and amenity. It seeks to protect and recognise the value of heritage, especially when managing growth and change and to stimulate economic growth through heritage conservation.

## 2.4 Planning Scheme provisions

A common zone and overlay purpose is to implement the Municipal Planning Strategy and the Planning Policy Framework.

### Overlays

The land is subject to the Heritage Overlay. The purposes of the Overlay are:

To implement the Municipal Planning Strategy and the Planning Policy Framework.

To conserve and enhance heritage places of natural or cultural significance.

To conserve and enhance those elements which contribute to the significance of heritage places.

To ensure that development does not adversely affect the significance of heritage places.

To conserve specified heritage places by allowing a use that would otherwise be prohibited if this will demonstrably assist with the conservation of the significance of the heritage place.

## 2.5 Ministerial Directions and Practice Notes

### Ministerial Directions

The Explanatory Report discusses how the Amendment meets the relevant requirements of Ministerial Direction 11 (Strategic Assessment of Amendments) and *Planning Practice Note 46: Strategic Assessment Guidelines*, August 2018. That discussion is not repeated here.

### Planning Practice Notes

The Amendment has been prepared subject to appropriate consideration of *Planning Practice Note 1: Applying the Heritage Overlay* (PPN01).

PPN01 states the following places should be included in a Heritage Overlay:

Places identified in a local heritage study, provided the significance of the place can be shown to justify the application of the overlay.

It describes the threshold for determining 'local significance' (and consequently, being identified in a local heritage study) as:

... those places that are important to a particular community or locality.

Relevantly, PPN01 confirms that:

The heritage process leading to the identification of the place needs to clearly justify the significance of the place as a basis for its inclusion in the Heritage Overlay.

PPN01 goes on to point out that documentation as part of the identification process is to include a Statement of Significance that clearly establishes how the place is important. Importantly, the Statement of Significance must address as and where relevant, the HERCON Criteria<sup>4</sup> set out below:

- **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 an understanding of 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).
- **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).

Under PPN01, thresholds are to be applied in the assessment of significance of a place using either State and Local Significance, where Local Significance:

includes those places that are important to a particular community or locality.

Of relevance to this matter PPN01 also highlights in order to apply these thresholds:

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 that have previously been included in a heritage register or overlay.

Further reference to the identification and comparative analysis outlined in PPN01 is made in the following chapters, responding specifically to submissions in respect of particular places proposed for a Heritage Overlay or regrading of heritage significance through this Amendment.

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<sup>4</sup> Heritage Conservation Criteria 1998

## 2.6 Approach to grading heritage properties

This is an important issue that underpins Council's approach to this Amendment. A number of submitters and expert witnesses presenting to the Panel were concerned Council had nominated the threshold for inclusion in the Heritage Overlay and particularly for certain gradings too low.

The starting point for determining the grading of heritage properties in this Planning Scheme is Clause 22.04 which defines the terms Significant and Contributory heritage places as follows:

**Significant heritage places** include buildings and surrounds that are individually important places of either State, regional or local heritage significance and are places that together within an identified area, are part of the significance of a Heritage Overlay. These places are included in a Heritage Overlay either as an area or as an individually listed heritage place and are coloured "red" on the City of Port Phillip Heritage Policy Map in the Port Phillip Heritage Review, Volume 1- 6.

**Contributory heritage places** include buildings and surrounds that are representative heritage places of local significance which contribute to the significance of the Heritage Overlay area. They may have been considerably altered but have the potential to be conserved. They are included in a Heritage Overlay and are coloured "green" on the City of Port Phillip Heritage Policy Map, in the Port Phillip Heritage Review, Volume 1- 6.

The remaining category, Non-contributory properties, are defined as:

... buildings that are neither significant nor contributory. They are included in a Heritage Overlay and have no colour on the City of Port Phillip Heritage Policy Map in the Port Phillip Heritage Review, Volume 1-6. However, any new development on these sites may impact on the significance of the Heritage Overlay, and should therefore consider the heritage characteristics of any adjoining heritage place and the streetscape as covered in this policy.

Ms Schmeder identified in her evidence for Council that *"it is clear to me that the way in which defined terms are used differs from what I have seen in most other Victorian municipalities"*. This is also reflected in the *"noticeably different proportions"* in the Port Phillip grading maps as pointed out by Ms Schmeder; with the majority of properties being graded Significant in most areas and a minority graded Contributory.

This Panel makes a comparable observation from its own professional experience. In essence, the threshold for grading a property as Significant and, to some extent as Contributory, is lower in this Planning Scheme Heritage Overlay, compared with the approach taken by other municipalities.

In part, the rationale for this appears to stem from the methodology adopted by the Port Phillip Heritage Review (Volume 1), whereby places formerly ranked A, B, C or D within a Heritage Overlay area or A, B or C outside a Heritage Overlay were regraded Significant, with places graded E or F in a Heritage Overlay or D, E or F outside a Heritage Overlay were regraded Contributory.

Ms Schmeder deduced that:

These two extracts draw out several important aspects of Port Phillip's current heritage grading system:

- A site-specific Heritage Overlay is applied to places of national, regional and local significance (i.e. A, B & C grades). This is in accordance with most other municipalities in Victoria.



- Within a Heritage Overlay precinct, however, there is a wider range of places graded “Significant”: those of national, regional and local significance, as well as those that are ‘substantially intact but merely representative of an era’ that do not individually reach the threshold of local significance (i.e. D grade).
- Within a Heritage Overlay precinct, a Contributory grade is generally applied to places that are noticeably altered: either ‘the place had been defaced, but not irretrievably, or that it was aesthetically undistinguished’ (i.e. E grade), or ‘been important in the past but as a result of intervention now so compromised that it was likely to be of interest only’ (i.e. F grade).

The Panel considering Amendments C142port and C174port grappled with this issue as referenced in Council’s submission.<sup>5</sup> It concluded that while the application of the terms Significant and Contributory in Port Phillip differed from the norm, it is established and accepted practice for this municipality, which has been consistently applied for a number of decades.

Ms Schmeder took a similar view, that *“there is a long precedent for this and the most important thing is consistency in applying the grades as defined, and the establishment of the threshold of significance in keeping with PPN01”*.<sup>6</sup> Therefore, she adopted the differentiation by Council between:

- “Individually Significant” places (which meet the threshold of local significance and have their own citation), as opposed to
- those identified as “Significant in a precinct”, when considering what grades are appropriate for the places affected by this Amendment.

In its closing submissions, Council submitted that<sup>7</sup>:

... the differences between Port Phillip and other municipalities are largely semantic, separating higher-level properties that contribute to a precinct (“Significant”) from altered ones that still contribute (“Contributory”).

Council addressed this issue by explaining that its approach is in accordance with state heritage guidance and that individually Significant heritage places have been demonstrated to meet the threshold of local significance (having regard to the relative citation and Statement of Significance). It also emphasised that its comparative analysis accorded with the methodology in PPN01. Ms Eastaugh explained<sup>8</sup>:

... the definition of a ‘Significant’ heritage place in clause 22.04-5 includes those places that are individually important places of either State, regional or local heritage significance and are places that together within an identified area, are part of the significance of a Heritage Overlay ...

All ‘Significant’ properties (whether Individually Significant or only Significant as part of a precinct) are identified in red on the Heritage Policy Map. This does not mean, however, Council is incorrectly elevating the properties identified as only Significant to a precinct to the agreed-upon ‘highest’ level of local significance.

Mr Nicholls (Submitter 93) expressed concerns about the potential consequences of the low threshold for grading a property as Significant. He considered the approach proposed by Council in the Amendment would fundamentally undermine the meaning of the term

<sup>5</sup> Port PhillipC142port [2019] PPV and Port Phillip C174port [2020] PPV.

<sup>6</sup> Paragraph 42 of her expert report.

<sup>7</sup> Part C (closing) submission at page 3.

<sup>8</sup> Part C (closing) submission at page 2.

‘Significant’, particularly if places that are merely representative of an era and contribute to the significance of the precinct overall are graded Significant.

He suggested this approach did not accord with the definitions of the terms Significant and Contributory in Clause 22.04 and reiterated that these definitions do not expressly call for comparison with other heritage properties in the precinct when allocating a grading.

Mr Nicholls also explained that grading properties as Significant which did not warrant the highest grading would raise particular hurdles when applying to modify such properties, referring to the exercise of discretion under the Heritage Overlay in line with policy. In general, he emphasised that the lack of objection from other land owners should not be taken as acquiescence to the proposed Amendment since there are “substantial impediments” for owners to challenge regrading of properties.

The Panel is attuned to these concerns but is required to consider both its role and the scope of the Amendment relative to the remainder of the Planning Scheme. This Amendment seeks to update heritage controls applying to discrete properties to reflect updated heritage studies. It does not represent a fulsome review of the current grading system. On this basis, the Panel accepts submissions and evidence from Council that it is paramount to ensure that a consistent approach is taken to grading properties addressed by the Amendment as for other heritage listed properties already in the Planning Scheme.

To take a different approach would potentially trigger a complete review of the inclusion or grading of hundreds of properties already within the Heritage Overlay that are clearly outside scope of this Amendment.

Where heritage regrading is considered, the Panel needs to assess whether the grading is reflective of the relevant grading definitions applied elsewhere in the heritage precinct (if any) and supported by strong comparative analysis and consideration against any Thematic History.

In the Panel’s opinion, the heritage grading assessment process undertaken as part of this Amendment has involved sufficiently detailed and appropriate levels of research and comparative analysis in the preparation of a new or revised Statement of Significance for a heritage place or Citation. Therefore, it is satisfied that Council has met the key fundamentals of the heritage assessment process consistent with PPN01 and the HERCON Criteria.

That said, one potential way to reconcile the difference in approach taken by Port Phillip City Council compared with most other municipalities without substantially disrupting the status quo may be to revisit the wording of policy at Clause 22.04 in respect of degrees of significance and the exercise of discretion. This could in part temper the relatively low threshold for inclusion in the Significant grading.

For example, it may be appropriate to direct consideration of the relative degree of significance of the heritage place (even within the Significant category) having regard to conventional heritage principles and application of HERCON Criteria when considering the merits of demolition or the opportunity to add to or alter such a heritage place.

## **2.7 Discussion and conclusion**

For the reasons set out in the following chapters, the Panel concludes that the Amendment is supported by and implements the relevant sections of the Planning Policy Framework, and is consistent with the relevant Ministerial Directions and Practice Notes. The Amendment is well founded and strategically justified, and the Amendment should proceed subject to addressing the more specific issues raised in submissions as discussed in the following chapters.

### 3 Response to submissions with submitter participation at hearing

#### 3.1 207 Little Page Street, Middle Park

The Amendment proposes to revise the grading of this property from Non-contributory to Significant in the HO444 Precinct (Middle Park and St Kilda West).

**Figure 1** Streetscape photograph of 207 Little Page Street, Middle Park  
(Source: Ms Schmeder's expert report, page 18)



#### (i) The issues

The issues are:

- whether the proposed regrading of this property to Significant is justified on the basis of its historic significance?
- to what extent should the poor structural condition of this property affect this assessment?

#### (ii) Evidence and submissions

- Heritage values of the building
- Council proposes to revise the grading of this property since the PPHR Update assessed it as a Federation era dwelling, which is a type of housing stock of historic and aesthetic significance to the precinct. It is located at the junction of two bluestone laneways. Council further considered the authorship of the house by architect and developer Thomas R. Ashworth demonstrated its contribution to the historical significance of the precinct.

Both Council and Ms Schmeder regarded the dwelling as ‘largely intact to its original form’ (apart from overpainting) which would justify a Significant grading having regard to the definition of this term in Clause 22.04.

Submitters 13 and 130 are local neighbours who support the regrading. Mr Box participated throughout the hearing and submitted that the building was of sufficient local heritage significance to be graded Significant. In his view, the building retains its original layout, has had no recent external changes and appears to be sound but requires maintenance. He also emphasised that Little Page Street is an important thoroughfare for pedestrians and that heritage values and associated character within it should be preserved.

Submitter 151 has a current planning permit application (on review to the Victorian Civil and Administrative Tribunal) proposing to demolish the existing dwelling and to redevelop the site. Mr Song opposed the regrading on behalf of the Submitter 151 since (in summary):

- while representative of the relevant era, the heritage values of the property do not reach the threshold required for a Significant grading
- the structural condition of the dwelling is dire and cannot be rectified, as demonstrated in Inspection Report prepared by R.I. Brown Pty Ltd dated 12 December 2019.

Mr Bryce Raworth, heritage consultant was called to give evidence at the Hearing on behalf of this submitter. He considered a Significant grading was unwarranted given a combination of factors including:

- at best, the building fits the ‘aesthetically undistinguished’ category associated with contributory significance, rather than the highest level of significance
- the alterations are not consistent with such grading
- it is a modest, isolated building - the setting of the land in a rear laneway means it does not make a highly visible contribution to the main streetscapes of the precinct and the laneway itself is not an intact heritage environment
- demolition of this building could be supported without impacting the values of the precinct.

Consequently, Mr Song submitted the Panel should recommend abandonment of the Amendment as it relates to this property.

#### *Poor structural condition*

Council’s heritage advisor did not originally support the demolition of the dwelling. Council’s building surveyor confirmed in February 2020 that the existing dwelling is structurally unsound and unsuitable for retention (noting that the condition of the external masonry walls is too poor to allow for underpinning that would be required).

Consequently, in Council’s heritage advisor’s referral on 4 March 2020 it was accepted that demolition could occur after considering both the structural report on behalf of the applicant and the limited contribution of the dwelling to the HO444 Precinct.

Mr Raworth for the applicant considered that any proposed change in grading is “nullified” by the fact the building is no longer viable. Mr Raworth explained<sup>9</sup>:

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<sup>9</sup> Expert report at paragraph 36.

Typically, when it comes to grading buildings, the grading is made irrespective of the building's condition on the basis that poor conditions can be addressed or restored. Accepting this, the condition of the building can reasonably be taken into account in an instance such as this, where the building is seen to have structural issues as set out in the various reports. While habitable at present, the building has no future potential as a significant or contributory building, because it is essentially irreparable, and that should be taken into account in determining its value as a contributory element.

In his oral evidence, Mr Raworth confirmed his view that the structural reports have confirmed there is no potential for the building to be conserved therefore it would not fulfil a key element of the definition of a Contributory heritage place in Clause 22.04.

Likewise, Ms Schmeder noted that normally building condition is not taken into account in a heritage planning scheme amendment. However, she noted that in Melbourne Planning Scheme Amendment C207, the Panel recommended that the condition of a heritage property be taken into account in "*extreme cases of dilapidation where demolition is an inevitable outcome*". Ultimately, she considered that it was appropriate to give more weight to the very poor condition of this dwelling and its demolition, which she regarded as an "*irrefutable outcome*" than its heritage significance within the precinct. On this basis, she did not support the proposed regrading of the property to Significant.

Notwithstanding this view, Council maintained its position in respect of the proposed regrading for the purpose of this Amendment. In her submissions, Ms Eastaugh referred to a number of examples where independent Panels had considered that the structural condition of a property was not relevant to its heritage listing as part of a planning scheme amendment process. For example, in Boroondara Planning Scheme Amendment C276, the Panel confirmed that "*the tests nominated in PPN01 go to the value and importance of the place and not its condition*".<sup>10</sup>

Mr Box submitted that the building was not uninhabitable but that, in any event, its poor structural condition should not be a factor in determining its heritage grading.

### **(iii) Discussion**

This aspect of the Amendment raises two key issues. The first is whether the heritage value of the building warrants a Significant grading. The second is the proper influence (if any) of the poor structural condition of the building on its regrading.

The Panel's principal finding is that it has not been demonstrated that the property warrants a Significant rating, even accepting the relatively low threshold for such a grading under this Planning Scheme (discussed at Chapter 2.6).

#### *Heritage values of the building*

The Panel is not persuaded by the submissions or evidence for Council that this dwelling is 'largely intact' aside from overpainting. While it is in some ways recognisable as a Federation era dwelling, this if not of itself sufficient in our view to justify a Significant grading within the precinct.

If fully intact, there may be a greater argument for identifying this property as Significant. However, it is clear that there are many key external elements of the building that have been

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<sup>10</sup> Chapter 6.3.

significantly altered, including the bagging and overpainting of the brickwork, likely alteration or replacement of windows and roof materials and changes to detailing.

The Panel does not regard these changes as repairs or minor alterations as suggested by Council. They are fundamental to how the place is appreciated as a component of the precinct. For example, the Panel prefers the opinion of Mr Raworth that the particular bagging of the brickwork has caused significant permanent damage to heritage fabric that will be very challenging to reverse in situ. Contextually, the Panel considers the red brickwork is important to understanding this particular building as part of the relevant precinct and is likely to be a reason why external paint controls apply to this Heritage Overlay area.

Further, the Panel is not persuaded by evidence on behalf of Council that this property exhibits a comparable level of intactness to other buildings graded significant in the precinct.

The Statement of Significance for this precinct also mentions that *“irrespective of their style and era, the pre-war buildings within the precinct exhibit notable cohesion through their broadly consistent scale (mostly one and two storey) and materials, their closely-grained siting and relatively narrow setbacks”*.

In this instance, the property is located in a laneway context where the majority of buildings with heritage value have been substantially altered or added to. There is also a relatively high degree of modern new construction. Mr Raworth refers to this as a ‘non-heritage context’. For example, this context differs from the more intact and cohesive streetscape setting in the adjacent McGregor Street.

Ms Schmeder conceded that the potential demolition of the building would not impact on an appreciation of other Significant or Contributory buildings within the precinct.<sup>11</sup>

Absent a strong contextual heritage connection, the Panel does not see justification for elevating the grading of this building given the limited extent of its values and condition. This finding is also consistent with the aesthetic significance of the precinct being its ‘fine and largely intact streetscapes of Victorian and Edwardian housing’, as referred to in the Statement of Significance for the Precinct, which is contrasted with the current setting of this building.

While the original bluestone laneway context remains and enhances this setting, this is not sufficient to overcome the concerns the Panel has with the lack of immediate heritage relationships with other Significant or Contributory buildings.

Likewise, we do not consider the association with Thomas R. Ashworth elevates the significance of the property to any great extent. We accept the evidence of Mr Raworth in this regard that he is not known as an important architect and his works are rarely of high historic interest.

#### *Poor structural condition*

The Panel is attuned to practical considerations that may affect the future of a heritage asset. However, the Panel does not consider that the poor structural condition of this or any other building should automatically negate the property being included in the Heritage Overlay at first instance.

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<sup>11</sup> Expert report at paragraph 89.

A more nuanced question is whether the poor *structural* condition of a property (as opposed to its intactness or integrity in heritage terms) should limit its potential regrading.

In the Panel's opinion, this tension is to be resolved by separating the issue of structural condition (potentially relevant to the discretion to grant a permit for demolition) from the issue of integrity or intactness which *are* relevant matters to the heritage amendment process, particularly the grading of buildings, as outlined above. In some instances, they may be one and the same, but they will commonly have a different focus.

The Panel strongly agrees with the submissions of Council to Moreland Planning Scheme Amendment C129 as accepted by that Panel and referenced by Council in this Amendment that<sup>12</sup>:

Structural integrity and intactness of heritage places are important considerations in heritage places but are quite separate concepts and need to be applied at different stages.

There may be a degree of overlap between these concepts in any given instance. In the Panel's view this interrelationship is as suggested by the Panel considering Yarra Planning Scheme Amendment C183, as referenced by Council in this Amendment:

The Panel accepts the long-standing principle that condition should not impact upon the heritage significance of a place, unless it impacts upon its integrity or how the significance of the place is understood ... the Heritage Overlay is a decision making tool to manage the processes of conservation, alteration or even demolition ... balanced with an understanding of heritage value. [Current Panel emphasis].

This Panel is also conscious of the public policy consequences of this finding as referred to by the *Advisory Committee on the Review of the Heritage Overlay Provisions in Planning Schemes* (2007), that if structural integrity was a factor relevant to assessing heritage significance it may encourage owners of heritage properties who were opposed to listing to allow them to fall into disrepair.

The reasoning of the Panel in Melbourne Planning Scheme Amendment C207 applied to a proposal to amend a local heritage planning policy. The relevance of the condition of a heritage property was assessed in the context of a planning permit being sought for demolition under the Heritage Overlay. Ultimately, Council and the Minister for Planning did not support its recommendation and the gazetted form of wording in the policy in Clause 22.07 seeks to prevent the structural condition of a building being regarded as justification for demolition.

Consistent with the Panel's view in Melbourne Planning Scheme Amendment C207, the Panel accepts that there are instances where the condition of the building may be a relevant input into the acceptability of *demolition* of a structure protected by the Heritage Overlay (noting that a number of local planning policies in other planning schemes provide for this expressly). At that point, the "*community-wide costs and benefits of demolition versus conservation outcomes*" (as expressed by the Panel in Amendment C207) could be considered. However, this is not the questions before us.

Instead, the Panel is not persuaded that the poor (or even dire) structural condition of a dwelling should prevent it from being included in a Heritage Overlay or should affect its regrading.

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<sup>12</sup> Chapter 5.5 of the Panel report.



There are many examples of extant heritage buildings that continue to contribute to a heritage precinct in historic, aesthetic, or other ways even if they are not structurally sound. The Panel accepts there may be merit in regrading these properties if otherwise appropriate, so long as the building remains extant.

Therefore, in this instance, there would be notional scope to regrade this building notwithstanding its structural condition although the Panel defers to its primary heritage assessment above that this is not warranted.

#### **(iv) Conclusion**

The Panel concludes:

- it does not support the regrading of this property from Non-contributory to Significant.

### **3.2 335-337 Ferrars Street, South Melbourne**

The Amendment proposes to revise the heritage grading of the former railway reserve (Railway Cutting and Road Bridges) to Significant and include its entire length in the HO440 (Emerald Hill Precinct). Part of the former rail reserve located south of Park Street includes the subject property and building at 335-337 Ferrars Street South Melbourne, and is currently graded Non-contributory in the HO441 (St Vincent Place East precinct). This accords with the extent of the place identified and mapped in Citation 2311 that applies to the Railway Cutting and Road Bridges heritage precinct.<sup>13</sup>

#### **(i) The issues**

The issues are:

- whether the entire railway reserve (Railway Cutting and Road Bridges) should be identified as Significant within HO440
- whether the building at 335-337 Ferrars Street should be included within HO440 and if so, identified as Significant within HO440
- alternatively, whether the building at 335-337 Ferrars Street should be retained in HO441 with its Non-contributory grading.

#### **(ii) Evidence and submissions**

Submitter 66 (Noramax Pty Ltd) opposed the regrading of the property and building at 335-337 to Significant in HO440 and sought to have it removed from the Heritage Overlay, or alternatively regraded to Non-contributory in HO440. The submitter also relied upon expert heritage evidence from Bryce Raworth of Bryce Raworth and Associates. Mr Raworth supported amending Citation 2311 to clearly specify those buildings, highlighting the former premises of the South Melbourne Cycle Club at 335-337 Ferrars Street, which in his view did not contribute to the significance of the former railway cutting and bridges heritage precinct as described in Citation 2311.

Ms Schmeder agreed that Citation 2311 focussed solely on the railway infrastructure located within the railway reserve boundaries and acknowledged Citation 2311 did not consider 335-

<sup>13</sup> Further discussion on Citation 2311 and other properties addressed at 333-355 Ferrars Street South Melbourne can be found at Section 4.2 of this Panel Report.

337 Ferrars Street specifically. It was her opinion that only the Railway Cutting and Road Bridges described in Citation 2311 demonstrated heritage significance and that 335-337 Ferrars Street did not contribute to the particular heritage significance of the precinct as described in Citation 2311.

However, Ms Schmeder considered it appropriate to retain reference to 335-337 Ferrars Street within Citation 2311, noting that it did not specifically contribute to the heritage significance of the Railway Cutting and Road Bridges heritage precinct. She also recommended Council assess the role and cultural significance of the former South Melbourne Cycle Club (founded 1881), noting her initial investigations the club had operated from the subject building at 335-337 Ferrars Street.

Council accepted Ms Schmeder's evidence that Citation 2311 should be amended to identify those buildings which did not contribute to the significance of the Railway Cutting and Road Bridges precinct in HO440, specifically the building at 335-337 Ferrars Street.

### **(iii) Discussion**

The Panel accepts the subject building at 335-337 Ferrars Street located within that part of the rail reserve located south of Park Street is appropriately identified as Non-contributory in the HO441. It also notes that part located north of Park Street is designated Non-contributory in the HO440 Emerald Hill Precinct.

The Panel has reviewed the relevant heritage overlay precincts prepared as part of the PPHR Update and considered the supporting material provided by Council in its closing submission. It acknowledges the revised Citation 2311 includes a reference in the description to the building at 335-337 Ferrars Street, where it is described as located *alongside the railway cutting*. However, it does not state the building is Significant in this particular heritage precinct.

The Panel supports the agreed and updated positions put to the Panel at the hearing by both the submitter and council that this matter can be appropriately addressed by correcting heritage and Citation mapping boundaries and amending wording in Citation 2311. Acknowledging Council in its closing submissions confirmed the building at 335-337 Ferrars Street is not located in HO440 but HO441, where the building is currently identified as Non-contributory.

The Panel is also satisfied that the former rail reserve area described in revised Citation 2311, as the Railway Cutting and Road Bridges and located within HO440, is a place of heritage significance and supports grading its entire length in HO440 as Significant. The Panel considers this significance is aptly described and noted in the statement of significance prepared by Helms in his PPHR Update where he identifies:

The railway cutting and bridges are of local historic and aesthetic significance to the City of Port Phillip.

The Panel also notes Council intends to conduct further investigations to establish whether the subject building at 335-337 Ferrars Street is of cultural significance. However, this is outside the scope of the Amendment before the Panel.

**(iv) Conclusions**

The Panel concludes:

- the entire former railway reserve (Railway Cutting and Road Bridges) as described in revised Citation 2311 should be identified and graded as Significant within HO440
- the property and building at 335-337 Ferrars Street should not be included within HO440
- the heritage mapping and Citation 2311 should be corrected to reflect that 335-337 Ferrars Street is located within HO441 and identified as Non-contributory (current grading)
- the concerns of Submitter 66 can be appropriately addressed by correcting relevant heritage and Citation mapping boundaries and amending wording in Citation 2311.

**3.3 61 Farrell Street, Port Melbourne**

The Amendment proposes to regrade the property from Contributory to Significant in the Port Melbourne East sub-precinct of HO1 Port Melbourne Precinct.

**(i) The issue**

The issue is:

- is it appropriate to regrade the property to Significant within the precinct?

**(ii) Evidence and submissions**

Mr Nicholls and Ms Crossley opposed the regrading of their property to Significant and requested the Panel consider removing the Heritage Overlay from it.

They considered that the dwelling did not meet this threshold and the source of its significance had not been suitably demonstrated in the PPHR Update. They explained that the dwelling had been altered, particularly since it had a replacement verandah and fence that were not designed to match the original. They also emphasised that the building sat within a mixed streetscape where the majority of buildings were Non-contributory.

These submitters were particularly concerned that this grading might preclude updates to the dwelling, such as to achieve improved solar orientation and liveability.

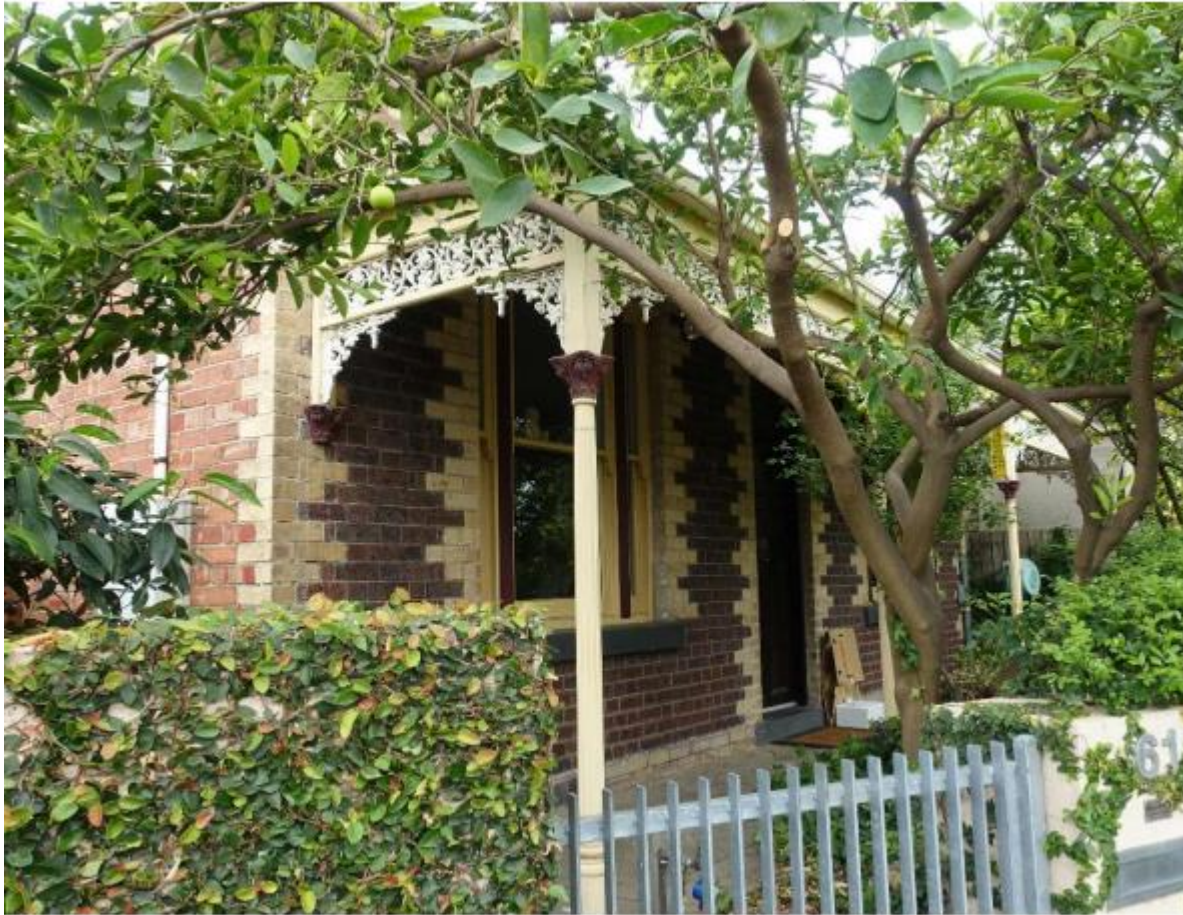
Ms Schmeder supported the enhanced grading of the property since the dwelling is from the Victorian era, recognised in the Statement of Significance for HO1 and is *“more substantial in size and materiality”* than many Significant graded properties in the precinct.

Council relied on Ms Schmeder’s analysis that *“the streetscape is intact enough to warrant protection as part of the larger HO precinct”*, noting that the entire east side of the street (Port Phillip Specialist School) is individually significant and the side where the property has approximately two thirds graded properties and one third Non-contributory.

**(iii) Discussion**

It was apparent on the Panel’s inspection that the property is a fine example of its type, with particularly intact and detailed bichromatic brickwork. While the verandah is a replacement, in our view it is highly sympathetic to the styling of the dwelling and features of its time. The remainder of the building as visible from the public domain is also highly intact.

**Figure 2** Streetscape photograph of 61 Farrell Street, Port Melbourne  
(Source: Ms Schmeder's expert report, page 33)



The Panel considers that the property sits comfortably within the Significant grading having regard to the use of this grading within the Planning Scheme, as discussed in Chapter 2.6. That is, it is consistent with comparable properties sharing this grading and would be a suitable outcome in heritage terms.

The fact that it is not within a consistently graded heritage streetscape does not in our view detract from the proposed grading – the grading relates to the values of the recognised precinct, in which buildings may be Non-contributory, Contributory or Significant. This particular dwelling is well aligned with the Statement of Significance for the precinct which references the Port Melbourne East Sub-precinct of local historical and architectural significance in its own right, as a largely nineteenth century residential area (with some later development of the Federation and interwar periods).

The property is also located within the part of the street where the substantial heritage school premises opposite forms part of the setting, reflective of the institutional buildings that are mixed within historic residential areas as referred to in the Statement of Significance.

We accept that this shift in grading may mean that it becomes more challenging to obtain permission to undertake significant works to the building façade, for example. However, it would not preclude a respectful extension or update to the liveability of the dwelling in other ways, guided by the policy in Clause 22.04.

**(iv) Conclusion**

The Panel concludes:

- the regrading of the property from Contributory to Significant is supported as proposed.

**3.4 2 Carlisle Street, 3, 5 and 9 Havelock Street, St Kilda**

The Amendment proposes to:

- downgrade part of 2 Carlisle Street (also known as both 11 Havelock Street and 3 Albert Street) from Significant to Non-contributory in HO5 (St Kilda Hill Precinct)
- regrade 5 Havelock Street from Contributory to Significant in HO5.

**(i) The issues**

The issues are whether:

- the subject site at 2 Carlisle Street, 3, 5 and 9 Havelock Street should be removed entirely from HO5
- 3 Havelock Street should be regraded to Non-contributory in HO5
- 5 Havelock Street should be regraded to Significant in HO5.

**(ii) Evidence and submissions**

Submitter 131 (Meydan Group)<sup>14</sup> opposed the Amendment and submitted:

- the subject site (collectively referred to as the “Cosmopolitan land holding”<sup>15</sup>) was strategically important within St Kilda, given its relationship with the St Kilda Activity Centre located at the edge of the Acland Street commercial precinct
- the Cosmopolitan land holding should be removed from HO5 due to the low heritage value and contemporary nature of key properties identified in this land holding.

The Meydan Group submitted:

- 3 Havelock Street should be regraded from Significant to Non-contributory in HO5, given it was now a car park servicing the Cosmopolitan Hotel Apartment Building.
- 5 Havelock Street should be removed from HO5 due to its poor condition and alterations made to the building and its physical location within the heritage precinct.
- 9 Havelock Street should be removed from HO5 due to the extent of modifications and its location in Havelock Street and what it described as “*a fragmented streetscape*”.

Ms Riddett from Anthemion Consultancies gave evidence that grading of 5 Havelock Street from Contributory to Significant was not justified. It was her opinion that insufficient

<sup>14</sup> Meydan Group comprises a group of companies, including Stameen Pty Ltd, the registered proprietor of the land at 5 Havelock Street, St Kilda which is the subject of the Amendment. The Panel Was advised that Stameen Pty Ltd owns a group of properties, collectively described by Submitter 131 as the “Cosmopolitan” land holding.

<sup>15</sup> The Cosmopolitan land holding comprises:

- 2 (part thereof) Carlisle Street – the main hotel building
- 3 Albert Street – hotel apartment building extending to Havelock Street
- 3 Havelock Street – a vacant hotel car park
- 5 Havelock Street – a dwelling
- 9 Havelock Street – a dwelling.

information had been advanced in the exhibited Amendment (including in the PPHR Update) to support heritage regrading.

Ms Riddett considered heritage grading definitions had not been applied appropriately by Council, noting:

It appears that reliance has been placed on the integrity and intactness of the place rather than an appropriate assessment against actual definition.

Ms Riddett highlighted the HO5 precinct Citation lacked any specific comment on the importance (or otherwise) of ‘timber dwellings’ or ‘modest cottages’ in the heritage precinct. Nor did it specifically mention Havelock Street (or the timber dwellings located therein) as contributing in any way to the significance of the heritage precinct. She considered this was a significant omission, noting in particular:

There is no mention in the existing precinct citation of the ‘flat area’ and the working classes, and therefore any attributed importance to them, as compared with the wealthy citizens ‘on the hill.’

Ms Riddett concluded that 5 Havelock Street was at best “representative” of significance at a local level and considered the most appropriate grading was Contributory within the HO5. In her opinion, 5 Havelock Street could not be considered “*an important example of a dwelling of its era and type*”, within HO5. She noted that:

There is nothing in the Environmental History or the Citation for the St Kilda Hill Precinct which sheds any light whatsoever as to any heritage importance of, and therefore any appropriate grading, for the modest timber dwellings which are centred around Neptune, Clyde, Fawkner and Havelock Streets.

Ms Riddett also recommended a strategic review of the entire HO5 heritage precinct occur before any regrading of 5 Havelock Street was finalised.

Ms Schmeder did not agree with this position. She was of the view that the heritage regrading of 5 Havelock Street to Significant in HO5 was appropriate. She stated:

The level of intactness with 5 Havelock Street is directly comparable to that seen on other Significant-graded Victorian houses in the precinct (HO5).

The other heritage properties to the east and across the street from 5 Havelock Street give it a clear and physical link to the rest of the HO5 precinct.<sup>16</sup>

Ms Schmeder considered it was preferable to retain the entire Cosmopolitan land holding within the HO5 precinct:

So future impact on heritage significance can be appropriately managed through the planning permit process.

Council agreed with Ms Schmeder’s evidence. Council noted that HO5 was a relatively large precinct and that:

... timber dwellings were a recognised type of Victorian style architecture.

Council supported the Significant grading proposed for the dwelling at 5 Havelock Street, noting this was consistent with similar gradings applied to other comparative Victorian style timber dwellings analysed in Ms Schmeder’s evidence. Council submitted the detailed

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<sup>16</sup> Ms Schmeder’s Expert report at page 43.

comparative analysis conducted by Ms Schmeder clearly demonstrated that the regrading of 5 Havelock Street to Significant was consistent and appropriate.<sup>17</sup>

In response to Ms Riddett's call for a complete strategic review of HO5, Council acknowledged a full review of the HO5 precinct was expected to be progressed in the 2021/22 or 2022/23 financial years. However, it submitted that any review of HO5 precinct should not prevent the subject property at 5 Havelock Street being graded consistently with the balance of the precinct pending any further strategic review of HO5.

### **(iii) Discussion**

The Panel agrees with submissions and evidence that 3 Havelock Street should be regraded to Non-contributory, given it was now a vacant site used as a car park. The Panel support its heritage regrading as part of the Amendment, noting this was not contested during submissions and evidence and was supported by Helms in his work on the PPHR Update.

The Panel also supports the heritage regrading proposed to part of 2 Carlisle Street (also known as both 11 Havelock Street and 3 Albert Street) from Significant to Non-contributory in HO5, noting this set of buildings on the land holding were contemporary and did not directly contribute to the heritage significance of HO5. However, the Panel does not support the submitter's request to remove the entire Cosmopolitan land holdings at 2 Carlisle Street, 3, 5 and 9 Havelock Street from HO5. The Panel considers this position has not been substantiated for the reasons outlined below.

#### *5 Havelock Street*

The Panel inspected the existing timber dwelling at 5 Havelock Street and was able to obtain a clear view of the front and sides of the building on the property from the public realm. The Panel is satisfied Ms Schmeder's assessment and description of the dwelling as a relatively intact single storey, double fronted timber dwelling in Italianate style (circa late 19<sup>th</sup> century) is appropriate. The Panel is satisfied the dwelling on this property should be graded Significant, having regard to the use and application of the heritage grading assessment and definitions discussed in Chapter 2.6.

The Panel agrees with Submitter 131 that it is relevant to consider the location of 5 Havelock within the HO5 precinct more generally to help determine how that place relates to its surrounds and wider heritage setting of the precinct. The Panel acknowledges Ms Schmeder's detailed comparative assessment that was undertaken of some 23 Significant and seven Contributory Victorian timber houses located in HO5 across Neptune, Clyde, Fawkner and Havelock Streets all located within HO5. The Panel sighted a number of these dwellings during its inspection of the precinct and is satisfied that an appropriate level of comparative analysis has been undertaken by Ms Schmeder to support the Significant heritage grading of 5 Havelock Street.

The Panel considers the lack of specific reference in the Statement of Significance for HO5 to "timber dwellings" or "modest cottages" raised by Ms Riddett, does not lead it to conclude that these places should or cannot be graded Significant within HO5. The Panel acknowledges that PPN01 provides that a Statement of Significance should identify those physical elements

<sup>17</sup> Ms Schmeder confirmed in her evidence in chief that she observed 23 Significant and 7 contributory Victorian timber houses across Neptune, Clyde, Fawkner and Havelock Streets.

that are considered significant or contributory to the respective heritage precinct. Nevertheless, the Panel considers that Victorian era styled heritage dwellings as a grouping can also include timber dwellings of the style and type found in HO5, as observed within Havelock and surrounding streets.

The Panel acknowledges there was divergence in expert opinion about the relevance of building condition and intactness to the heritage grading of this particular dwelling. However, both Ms Schmeder and Ms Riddett acknowledged that the dwelling was relatively intact. With the noticeable loss of chimney caps and some other replacement elements to the façade of the building - which both experts acknowledged could either be reconstructed or were reversible.

The Panel considers the building condition and intactness is a relevant consideration in this instance to help determine the heritage grading status of this place. It considers the dwelling at 5 Havelock Street is a relatively intact representation of this Victorian era style of timber dwelling found in HO5, noting that newer alterations and additions do not detract from the relationship of the heritage values to the precinct and are reversible in any event.

The physical setting and urbanised setting presented by the Cosmopolitan Hotel and apartment building also assists in an appreciation of the heritage significance of the two Victorian era dwellings located at 5 and 9 Havelock Street. The Panel considered this physical context added a level of authenticity to the heritage story of these dwellings in Havelock Street and more generally in HO5. This is consistent with Ms Schmeder's evidence which concluded that other heritage properties to the east and across the street created a strong physical and visual link to HO5.

The Panel is satisfied that the regrading of the dwelling at 5 Havelock Street to Significant is appropriate and consistent with the grading guidelines in PPN01 and heritage policy intent expressed in Clause 22.04.

The Panel notes Council's advice that an overall review of HO5 is anticipated in 2021/22 or 2022/23 and acknowledges that the broader strategic review of HO5 is outside the scope of the Amendment. Relevantly, the regrading of these two properties as part of this Amendment is a discrete issue that can be resolved through conventional assessment (undertaken above) and is properly the subject of an update heritage amendment. On this basis, the Panel does not support the submitter's view that it is necessary or preferable to await the broader review of HO5 before making these changes.

#### *9 Havelock Street*

The submitter also sought the removal of 9 Havelock Street from HO5. The Panel notes this was not proposed or included in the exhibited Amendment and the subject dwelling is already graded Significant in HO5. Council noted the Amendment did not propose any changes to the current Significant grading of 9 Havelock Street.

Ms Schmeder had not undertaken a detailed comparative analysis of this place and Ms Riddett had not provided specific comment on this property. Council submitted that any further review of 9 Havelock Street, as well as Havelock Street more broadly, could occur as part of any future review it undertook in relation to HO5.



**(iv) Conclusions**

The Panel concludes:

- part of 2 Carlisle Street (also known as both 11 Havelock Street and 3 Albert Street) should be regraded to Non-contributory in HO5
- 3 Havelock Street should be regraded to Non-contributory in HO5
- 5 Havelock Street should be regraded to Significant in HO5
- 9 Havelock Street should not be removed from HO5.

**3.5 58-60 Queens Road, Melbourne**

The Amendment proposes to apply a new individual heritage overlay HO512 to the inter war apartment style buildings known as *Glen Eagles*, *Kinross* and *Kinfauns*, located at 58, 59 and 60 Queens Road Melbourne respectively. This is consistent with the *58-60 Queens Road, Melbourne Heritage Assessment*, November 2017, prepared by Peter Andrew Barrett (Barrett Heritage Assessment).

**(i) The issue**

The issue is whether:

- applying an individual Heritage Overlay HO512 to 58-60 Queens Road, Melbourne is appropriate.

**(ii) Evidence and submissions**

**Figure 3** Streetscape photograph of part 58-60 Queens Road, Melbourne  
(Source: Ms Schmeder’s expert report, page 47)



The proposed Statement of Significance prepared in the Barrett Heritage Assessment 2017 is provided below:

*What is Significant?*

Glen Eagles, Kinross and Kinfauns at 58, 59 & 60 Queens Road, Melbourne, built in 1940-41 as an investment for Margot O'Donohue and Frank Lynch are significant. The three-storey brick blocks of flats are of a restrained, but well composed, Moderne design and are situated within a landscape setting that contributes to their character.

Along the rear boundary of the site is a row of 23 single car garages for its residents, which are supplemented by vehicle parking elsewhere on this site.

Non-original alterations and additions are not significant.

*How is it significant?*

The complex containing Glen Eagles, Kinross and Kinfauns flats, their landscape setting, and rear garages, is of local aesthetic and historic significance to Port Phillip.

*Why is it significant?*

This complex of flats is of local historical significance to Port Phillip. It is a large and intact complex of low-rise flats built in Queens Road, Melbourne in the early 1940s. This complex is of local historical value as it demonstrates the significant role that Queens Road played in flat development in the municipality from the Interwar period, due largely to its close proximity to public transport and the views it afforded to Albert Park Lake. It is also an example of a flat development by Margot O'Donohue and Frank Lynch, who built at least one other large block of flats in Queens Road. (Criterion A)

The complex is of local aesthetic significance to Port Phillip, as a large and intact example of an early 1940s flats complex designed in a restrained, but well composed, Moderne style. The three blocks of flats, Glen Eagles, Kinross and Kinfauns, demonstrate a transition in styling of blocks between the more ornate styles of historicism and Streamline Moderne, to that of the uncompromisingly Modern developments of Newburn and Stanhill flats. (Criterion E)

Submitters 3, 10 and 132 opposed the application of the proposed individual Heritage Overlay HO512 over the grouping of the apartment styled, circa inter war buildings and surrounding landscape setting on the subject property. They raised the following concerns:

- the heritage significance of the property has not been established and the validity of the Moderne style is questionable (Submitters 3 and 132)
- the Heritage Overlay would adversely impact ongoing maintenance costs and future property values (Submitters 3 and 10)
- the property could otherwise be redeveloped to accommodate high density housing (Submitters 3 and 132)
- the significance of the buildings must be higher to warrant an individual Heritage Overlay (Submitter 3)
- greater emphasis should be placed on providing opportunities for future housing needs on this site.

Submitters 6-9, 12, 14-32, 34-51, 54-65, 67-92, 94-96, 98-107, 110-113, 115-118, 120-122, 126, 128, 134, 137-140, 144-149 supported the proposed Heritage Overlay on the subject property. A detailed overview of key matters raised in these submissions was included with Council's supporting documents and have been considered by the Panel.

Submitter 148 (Yve Owners Corporation) included a heritage assessment from Mr Roger Beeston, Heritage Conservation Architect of RBA Architects in its support for the Amendment.

Further, it called Mr Anthony Hemmingway, a heritage consultant to present expert evidence to the Panel.

Mr Hemmingway's evidence included a detailed summary assessment schedule of a range of contemporary "flats" located in the area. He observed:

Architecturally, the popular contemporary styles are apparent in this group – primarily the Moderne and the English Vernacular Revival (or Tudor Revival), with one example of the Georgian Revival style. As a group they are largely intact and good to fine examples of their respective idioms.

In his opinion, the group of three apartment buildings met the threshold for local heritage significance in three of the HERCON Criteria, namely:

- Criterion A (historical significance)
- Criterion D (representativeness)<sup>18</sup>
- Criterion E (aesthetic significance).

Mr Hemmingway generally supported the recommendations of the Barrett Heritage Assessment. However, he recommended adding Criterion D (Representativeness) into the "Why is it significant" section of the Statement of Significance. In addition, he recommended adding tree controls into this new Heritage Overlay Schedule to reflect what he considered to be a historic Canary Island Date Palm (*Phoenix Canariensis*) located in the front of the subject property.

In her review and assessment of this matter, Ms Schmeder considered the Barrett Heritage Assessment lacked comparative analysis examples and undertook this as detailed at pages 48-52 of her evidence statement. Based on this, Ms Schmeder was satisfied the buildings on the subject land met the threshold of local significance when compared to other similar places of individual significance identified in the Heritage Overlay.

Council agreed with Ms Schmeder's evidence and recommendations on this matter, including the significance of the landscape setting in which the three buildings are located. In addition, it supported Mr Hemmingway's recommendation to add Criterion D into the Statement of Significance for HO512. However, Council noted further investigation was required to establish the significance of the Canary Island Date Palm tree on the subject land for the purpose of potential tree controls.

### **(iii) Discussion**

The Panel considers the additional comparative analysis undertaken by Ms Schmeder as supported by Mr Hemmingway's analysis and evidence, establishes the threshold of local and individual heritage significance of this place. The Panel is satisfied the comparative analysis completed by both experts supports the significant role that Queens Road played in the ongoing development of these particular types of inter war period flat development (Criterion A – historical significance). The Panel agrees the buildings at 58-60 Queens Road are a strong representation of this transitional apartment or flat development.

The Panel notes the extremely high level of integrity, intactness and cohesiveness demonstrated by all three building forms, further complemented and strengthened by the prominent and well-established landscaped garden setting.

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<sup>18</sup> The exhibited Amendment and Statement of Significance for HO512 did not include this Criterion.

In response to submissions around the use of the term “Moderne Style” in the Statement of Significance, the Panel accepts the explanation by Ms Schmeder that this is a legitimate and appropriate use of the term describe the style of the subject buildings. This view was also supported by Mr Hemmingway.

In particular, Ms Schmeder noted that the term is often used by academics and heritage professionals to describe a number of divergent sub styles, often found within this grouping of apartments and flat developments built during the inter war period. The Panel is satisfied that Ms Schmeder’s additional comparative analysis also demonstrates consistency with Criterion E (Aesthetic Significance). It further agrees with Mr Hemmingway’s recommendation to add Criterion D (Representativeness) into the Statement of Significance for similar reasons outlined above. It supports the removal of the names of the developers O’Donohue and Lynch from the Statement of Significance, particularly given the significance of these developers has not been clearly established within this area.

The Panel considers that specific issues raised by opposing submitters in respect to ongoing maintenance costs, property values and potential use the land for increased density housing have been adequately addressed in Council’s submission. The Panel highlights that planning policy at both state and local level requires planning authorities to ensure all places of heritage significance are identified and appropriately recognised and managed through appropriate Planning Scheme controls, using such tools as the Heritage Overlay. This is an important planning approach that has been consistently advocated by Panels responding to these types of submissions.<sup>19</sup>

The Panel notes that further investigation may be warranted to establish the significance or otherwise of the Canary Island Date Palm tree located on the subject land.

#### **(iv) Conclusions**

The Panel concludes:

- an individual Heritage Overlay HO512 is appropriate for this property
- the Statement of Significance for HO512 should be amended to delete reference to the developers O’Donohue and Lynch and include Criterion D - Representativeness in the section of the Statement of Significance headed ‘Why is it significant’.

### **3.6 96 Grey Street, St Kilda**

The Amendment proposes to add the property at 96 Grey Street, St Kilda to HO5 as an individually Significant place, with its own place Citation 2002 prepared as part of the PPHR Update. The property is currently outside HO5.

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<sup>19</sup> See for example Panel comments in respect to Amendment C6 to the Southern Grampians Planning Scheme and Amendments C266 and C274 to the Boroondara Planning Scheme.

**Figure 4** Streetscape photograph of 96 Grey Street, St Kilda  
(Source: Ms Schmeder's expert report, page 56)



The new place Citation 2002 is provided below:

*What is Significant?*

'Greycourt', designed by Richardson & Wood and constructed in 1920, at 96 Grey Street, St Kilda is significant. This is an example of the 'Bungalow Court' flat type comprising four dwellings around a central courtyard, now converted to a driveway. The walls are roughcast with brick details to the verandah piers and around the arched entrances to some flats. The hip and gable roofs extend to form porches over the entrances to three of the flats, and there have shingles to the gable ends. The architects have attempted to individualise each of the four units, using slight variations to porches and feature windows, reflecting the concern in the development of the 'Bungalow Court' type to create an 'unflatlike' living environment.

Non-original alterations and additions are not significant.

*How is it significant?*

'Greycourt' at 96 Grey Street, St Kilda is of local historic and architectural significance to the City of Port Phillip.

*Why is it significant?*

It is significant as an early example of the 'Bungalow Court' type that demonstrates the experimentation with multi-dwelling and flat types occurring in St Kilda during the early twentieth century and forms part of an important collection of flats within the St Kilda Hill area. It is also significant as a design by architects Richardson & Wood who designed a number of multi-dwelling developments that demonstrate the evolution of flat types in St Kilda in the 1910s and 1920s. (Criteria A & D)

**(i) The issues**

The issue is whether:

- the addition of 96 Grey Street, St Kilda into HO5 as an individually Significant place, with its own place Citation 2002 is appropriate.

**(ii) Evidence and submissions**

Submitter 143 opposed the property at 96 Grey Street being placed into HO5 as an individually Significant place and new Citation 2002, raising the following concerns:

- the buildings at 96 Grey Street have no intrinsic heritage value and have been so significantly altered over many years that any alleged heritage value has been completely lost

- the supporting documentation and evidence for the cultural heritage significance of the property does not justify the proposed HO5 inclusion or Significant heritage regrading and individual Citation 2002
- the buildings on the property are not an example of a bungalow court; rather a pair of 1920's single storey semi-detached dwellings with a central accessway
- insufficient evidence has been provided to demonstrate the buildings are an early example of a bungalow court development
- the proposed Statement of Significance contains many errors
- insufficient comparative analysis
- the application of HO5 and a Significant grading would unreasonably constrain redevelopment of the property.

Ms Schmeder's evidence was that the property at 96 Grey Street was a "*rare example*" in Melbourne's inner suburbs of the bungalow court style. She described this in her evidence as a "*phenomenon*." She noted<sup>20</sup>:

The first classic bungalow court was built in Pasadena, California, in 1909, which were 'a symmetrical grouping of compact, detached, one-story cottages framing a central landscaped courtyard'. The type proliferated across Southern California over the next twenty years, and in the suburb of Pasadena alone, 414 courts for 6,500 residents had been constructed by 1933. While early bungalow courts in California were quite spacious, during the interwar period they evolved from freestanding dwellings to higher density developments, often attached units in pairs or rows.

Her evidence provided examples of the bungalow court style located at 73 McKillop Street and 22A Park Street, Geelong. Both of these examples are listed in the Victorian Heritage Register. Ms Schmeder considered the existing dwellings on the subject property had a form and layout that demonstrated their historical and architectural significance of the bungalow court style of development, albeit in a more urbanised setting with a more compact form. This was supplemented by what she regarded as a sufficient level of external intactness notwithstanding more recent additions.

Council further highlighted that the layout of the development demonstrated the "*evolution and transition*" of higher density versions of the bungalow court form that included "*semi-detached and terraced forms*" of urban development, noting:

Ms Schmeder's evidence describes the evolution of the Bungalow Court concept in California and then Australia. In Council's submission, Ms Schmeder's evidence stands for the proposition that the Subject Land is important in demonstrating that the Bungalow Court style was indeed used in Melbourne's suburbs and not just Geelong as previously believed.

Council submitted the alterations to the buildings did not detract from the original physical appearance of the four-dwelling layout around a court setting. In Council's closing submission the property demonstrated an "*experimentation*" of "*high density living in an acceptable single storey format*." It also considered the front and internal fences were easily reversible alterations.

Council noted the only expert evidence in respect to this matter that was tested through cross examination was that of Ms Schmeder.<sup>21</sup>

<sup>20</sup> Page 56 of her expert report.

<sup>21</sup> See comments in Chapter 1.3.

It submitted that:

Notwithstanding Submitter #143's heavy reliance on the opinions and views of Mr Bick, those opinions and views can only be afforded the weight of a submission. Mr Bick was not made available at the hearing to explain those opinions and views and allow the Panel and Council to test them.

**(iii) Discussion**

The PPHR Update provides:

Greycourt is of local historic and architectural significance for its associations with the building of flats in St Kilda and as an early example of 'Bungalow Court' flats.

As the building adjoins the HO5 precinct, and is historically related to it, it is recommended for inclusion in the precinct rather than as an individual place. No specific HO controls (e.g., external painting, internal alterations, trees, outbuildings) are required.

This is generally consistent with Ms Schmeder's evidence by way of peer review.

The Panel does not support the view advocated by Ms Sharp on behalf of Submitter 143 that Council's heritage assessment lacked rigour and consistency. Instead, it finds that the layout of the semi-detached pairs of bungalow dwellings located on the subject property does not lack a court like setting.

While the Panel acknowledges this property does not exhibit all the key characteristics of the State listed examples provided in Geelong (such as landscaped communal open space), it does not need to in order to be individually listed as Significant at a local level.

The Panel accepts the visual setting of the bungalow dwellings on the subject land is currently partially obscured by the external front fence and the smaller 'court' area now includes a series of internal fences that in part curtails the visual appearance of the court setting when viewed from the street. However, during its inspection, the Panel was able to gain a clearer perspective of the court setting when viewed immediately opposite the site. In the view of the Panel, the court setting is still identifiable as a bungalow court style development as described in Ms Schmeder's evidence. The Panel considers the appearance and setting of the courtyard could be easily highlighted through the removal and replacement of the external and internal fencing on the site.

The Panel accepts Ms Schmeder's evidence that the development layout on the subject land in Grey Street demonstrates what Council termed a "*transition of development form*" that had occurred in the bungalow court style within inner Melbourne. This view was supported by Ms Schmeder's comparative analysis that included reference to two other bungalow court flat examples located at 27-29 and 45 Jackson Street. In these comparable examples Ms Schmeder noted:

The single-storey dwellings at 27-29 Jackson Street comprise eight attached dwellings in a U-shaped plan, while 45 Jackson Street comprises nine attached dwellings in an L-shape plan. This may indicate that the bungalow court phenomenon evolved in two distinct directions in the Melbourne suburbs: to cul-de-sacs as documented by Freestone and Nichols, and attached forms as seen in Port Phillip.

In respect to the alterations to the dwellings on the site, the Panel is satisfied these alterations do not detract from the significance and heritage setting of the development as a whole. It concurs with Ms Schmeder's assessment that the replacement of the roofing material and some painting of the roughcast rendered walls should be considered "cyclical maintenance"

and alterations to the front porch areas of the two front dwellings, still retain evidence of original supports, masonry balustrade and roof, including further evidence of terracotta shingles on the roof of a corner bay window area.

Therefore, the Panel concurs with the evidence of Ms Schmeder and Council's submission that the heritage significance of the building form overall supports the addition of 96 Grey Street, St Kilda as an individually Significant place within HO5 with its own place Citation.

While the Panel acknowledges the subject land is within close proximity to the St Kilda Activity Centre where taller contemporary built form is being introduced (as referenced by the Submitter), the principal consideration as to the inclusion of the property in the HO5 is determined by and through its established heritage significance. It is not an outcome that is determined or influenced through potential development expectations resulting from the property's location.

#### **(iv) Conclusions**

The Panel concludes:

- the addition of 96 Grey Street, St Kilda as an individually Significant place within HO5 with its own place Citation is appropriate as exhibited.

### **3.7 152 and 154 Mitford Street, Elwood**

The Amendment proposes to apply an individual Heritage Overlay (HO511) to these properties which are not currently covered by the Heritage Overlay.

#### **(i) The issues**

The issue is:

- whether concerns about flood management is relevant to a decision to apply the Heritage Overlay to these properties?

#### **(ii) Evidence and submissions**

The properties contain two semi-detached houses of 'early bungalow' style.

Submitters 125 and 129 opposed the inclusion of their properties in the Heritage Overlay.<sup>22</sup> Their principal concerns were that the sites are in an area of high flood risk. One submitter suggested at some stage it may be desirable to demolish and replace their dwelling to achieve a higher floor level. Another explained that their dwelling has deficient foundations and may not comply with current building codes. They were concerned that applying the Heritage Overlay may restrict their ability to carry out these works.

The PPHR Update explains that the dwellings are "*a finely detailed and early example of bungalow design that demonstrates both Japanese and Arts and Crafts influences*". It also identifies "[the] *unusual building type as a 'bungalow duplex' that has been skilfully designed to fit a small site*".

Ms Schmeder confirmed that the dwellings jointly warrant protection in a site-specific Heritage Overlay since<sup>23</sup>:

<sup>22</sup> They did not appear at the hearing but their written submission to the Planning Authority has been taken into account.

<sup>23</sup> Expert report page 64.



This is on the basis of the very early date of this Arts & Crafts Bungalow – built at the time the style was first established in Victoria, the renown of architects Schreiber & Jorgensen’s interwar residential designs, and the retention of Asian-influenced details that characterised the American Craftsman Bungalow style and was seen in early architect-designed Australian examples of this type.

Council pointed out that the submitters did not contest the alleged heritage significance of the buildings which had been identified in the PPHR Update as being of historic, architectural and aesthetic significance. Instead, they were concerned about the interaction between heritage controls and other regulations that seek to mitigate flooding.

Ms Schmeder responded to these submissions in her report<sup>24</sup>:

I acknowledge that repeated flooding could have a deleterious impact on the condition of the dwellings, particularly by introducing moisture to the subfloor area and timbers. However, no evidence has been presented to demonstrate that demolition of either of the semi-detached dwellings is an inevitable outcome. In this circumstance, in line with my discussion in the introduction to this chapter, condition should not be taken into account when considering whether 152-154 Mitford Street should be added to the Heritage Overlay.

Council acknowledged the notable flood risk to these properties which is addressed in part by the provisions of the Special Building Overlay. Council considered this to be the primary mechanism by which the need for flood management is taken into account in redevelopment applications. It explained that<sup>25</sup>:

While the flood risk of the properties is indeed a significant issue for the owners, Council submits that the task of the Panel is to consider whether the Heritage Overlay should be applied having regard to the heritage significance of the property.

Further while the Heritage Overlay would introduce an additional layer of planning control over the properties, the purpose of the Heritage Overlay is for heritage protection, rather than to limit redevelopment opportunities or building improvements.

... the application of the Heritage Overlay does not preclude nor encourage buildings, works or demolition of a property altogether. Rather heritage, along with flood risk, would become another matter to be balanced with the various objectives and requirements of the Scheme when a permit application is considered.

In addition, Council has developed the Elster Creek Flood Management Plan in conjunction with relevant flood authorities to progress a long-term coordinated approach within the catchment.

### **(iii) Discussion**

The Panel is aware of the significant flooding issues (including flash flooding) that affect properties within the Elster Creek (Elwood) catchment. It is expected that the new Flood Management Plan will go some way to addressing these issues more systemically than on an individual property basis.

Notwithstanding, in the Panel’s opinion, the values of the property that would justify the application of any individual overlay should be considered with a primary focus to the purpose of that overlay itself. In this instance, Council is correct that these purposes seek to protect and preserve heritage assets.

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<sup>24</sup> Expert report page 64.

<sup>25</sup> Part B submission at pages 25 and 26.

The Panel accepts the heritage analysis undertaken in both the PPHR Update and subsequently by Ms Schmeder, that these semi-attached dwellings have multiple elements of heritage significance justifying the application of an individual heritage overlay to these properties.

It is not unusual for multiple overlay controls to apply to a single property and for a decision maker to need to reconcile policy, the purpose of the controls and decision guidelines when an integrated permit application is evaluated. The Panel has experience with properties in both the Heritage Overlay and Special Building Overlay and is aware that there may be various design and engineering techniques that can potentially satisfy both.

There is also an opportunity under the provisions of the Heritage Overlay to carry out rectification works to enhance or repair damage, albeit this is likely to require relevant assessments to be provided to ensure key heritage fabric is suitably protected.

#### **(iv) Conclusions**

The Panel concludes:

- the application of an individual Heritage Overlay to these properties is justified, notwithstanding potential flooding issues to be addressed in the management of these properties.

### **3.8 Recommendations**

The Panel recommends:

**Abandon the proposal to regrade 207 Little Page Street, Middle Park to Significant and make any consequential changes.**

**Amend the Port Phillip Heritage Review to:**

- a) amend Citation 2311 – Railway Cutting and Road Bridges to: [8319475: 28658238\_1] page 33 to:
  - i. remove references to 333, 335-337 and 341-351 Ferrars Street, South Melbourne from the citation address and map
  - ii. specify that 335-337 Ferrars Street, South Melbourne and the former South Melbourne Cycling Club building do not contribute to the significance of the Railway Cutting and Road Bridges Precinct

**Amend the Heritage Policy Map to:**

- a) amend the heritage grading of the railway reserve (Railway Cutting and Road Bridges) as described in Citation 2311 to Significant within Heritage Overlay HO440
- b) amend the heritage grading of 333, 335-337 and 341-351 Ferrars Street, South Melbourne from Significant to Non-contributory within Heritage Overlay HO441
- c) amend the heritage grading of 3 Havelock Street, St Kilda from Significant to Non-contributory within Heritage Overlay HO5.

**Amend the Statement of Significance for:**

- a) Glen Eagles, Kinross and Kinfauns (58-60 Queens Road, Melbourne) to remove reference to developers O'Donohue and Lynch and inclusion of Criterion D in the section "Why is it significant".**

## 4 Response to other submissions

The Panel has considered all submissions referred to it. The Panel has not specifically referred to each submission, particularly where they are consistent with the position of Council as the planning authority and supported by the Panel.

### 4.1 10-18 Jacka Boulevard, St Kilda (St Kilda Sea Baths)

The property is included in HO168. The Amendment proposes to regrade the property from Non-contributory to Contributory.

#### (i) The issues

The issues are:

- is it premature to regrade the property to Contributory?
- how should the social significance of the place be addressed?

#### (ii) Evidence and submissions

In response to questions from the Panel, Council advised that the property is the only one in HO168. The Statement of Significance identifies explains:

This building is of significance as a type: it is a remnant of one of only a few structures built in Australia to function as a sea baths complex, and, of these, was in its heyday among the largest of this type in Australia. It is the last in a line of sea baths for which St Kilda was famous in the nineteenth century and into the twentieth century, and represents a culmination of this type of complex in Victoria. It forms part of a collection of structures on Jacka Boulevard which reflect the use of St Kilda as Melbourne's prime seaside and recreational resort in the first half of this century. The building itself is an excellent example of resort architecture of the period. Its Moorish domes form a highly characteristic landmark on the Foreshore.

Council's heritage officer explained in a report tabled at Council's meeting in May 2018 that the inclusion of this property in the Heritage Overlay is a "historical legacy" and that the reconstructed towers are the only element relatively consistent with the original building, with the metal cupolas on top of the towers potentially as the only surviving fabric.

Relying on this advice, Submitter 108 concluded the Sea Baths have no real heritage value and the proposed Statement of Significance is misleading. It suggested there is no "nexus" between the current building and the proposed alteration of the citation to Contributory. It considered it was arguable it should be removed from the Heritage Overlay altogether.

This submitter also referred to the numerous overlay controls that continue to apply to the property and that *"irrelevant planning hurdles will add additional expense, time and debate"*.

Council took a different view at the Hearing. The PPHR Update proposes to note that *"the buildings and most of the original fabric associated with this place have been demolished/removed"*. Therefore, Council advised that it proposes to revise Citation 2031 (post exhibition) to include the date of reconstruction of the Sea Baths building (in the 1990s).

Ms Schmeder in evidence for Council accepted that the Sea Baths were rebuilt in a largely non original form, although the towers appear as a largely accurate reconstruction. She explained<sup>26</sup>:

PPN01 provides a test when considering whether places of historical or social significance should be included in the heritage overlay. This is ‘that it has “something” to be managed. This “something” is usually tangible but it may, for example, be an absence of built form or the presence of some other special characteristic.’ Is there something to manage at the Seabaths in their present state? While this case is borderline, in my professional opinion, the combination of the original fabric of the copper domes combined with the largely accurate reconstruction of the associated towers does provide “something” to manage in the Heritage Overlay.

The marginal state of intactness of the place is reflected in the proposed Contributory grade ...

Ms Schmeder indicated that there are also “intangible aspects” of the Sea Baths’ significance that warrant further investigation, potentially relevant to establishing social significance. This is consistent with Mr Helms’ recommendations in the PPHR Update.

### **(iii) Discussion**

This individual Heritage Overlay is currently an anomaly. It applies only to this property which was once of highly significant heritage value, but does not currently identify any heritage assets on the property warranting protection.

Applying Council’s heritage policy at Clause 22.04, it defines a Contributory property as:

... including buildings and surrounds that are representative heritage places of local significance which contribute to the significance of the Heritage Overlay area. They may have been considerably altered but have the potential to be conserved.

In the Panel’s opinion, the reconstructed Sea Baths do not meet the requisite threshold for a Contributory grading if assessed on traditionally recognised heritage criteria such as historical or aesthetic significance or representativeness. There is also no potential for the original heritage values to be conserved.

The Panel gave Council time following the hearing to provide evidence of the copper domes being original fabric (as had been assumed by it) but this information was not forthcoming. Even if this had been demonstrated, these are relatively confined elements of the building and would not of themselves be likely to justify the Contributory grading proposed.

In addition, the schedule applies paint controls and internal controls to this property, which would not be proportionate to the purported heritage significance of the place in circumstances where the heritage fabric has been destroyed and the replacement building is not a faithful reconstruction of the original.

We recognise that the existing anomaly (Heritage Overlay with no heritage assets to protect) would continue since the Amendment does not propose to remove the Heritage Overlay from the property altogether (as alluded to by the submitter) and this would necessitate further consideration and public notice.

That said, the Panel recognises the strong legacy of sea baths in St Kilda and on this site in particular. It is conceivable that the reconstructed Sea Baths would justify heritage

<sup>26</sup> At paragraphs 233 and 234 of her report.

recognition on the basis of social significance (Criterion G). However, to our knowledge, this has not been investigated to date as part of this Amendment and would need to constitute future strategic work on behalf of Council.

#### **(iv) Conclusion**

The Panel concludes:

- there is insufficient evidence to justify the regrading of the property to Contributory at the present time as part of the current Amendment.

## **4.2 341 Ferrars Street, South Melbourne**

The Amendment proposes to regrade properties addressed as 341-351 Ferrars Street South Melbourne, from Non-contributory to Significant within HO441 (St Vincent Place East Precinct).

The property at 341 Ferrars Street is one of a row of late 20<sup>th</sup> century townhouses existing at 339-351 Ferrars Street, together with a circa 2017 apartment building located at 333 Ferrars Street. These properties are located within a linear parcel of land running north-south along the former railway reserve, referred to as Railway Cutting and Road Bridges in Citation 2311.<sup>27</sup>

#### **(i) The issues**

The issue is whether:

- The property at 341 Ferrars Street South Melbourne, including those associated properties at 341-351 Ferrars Street South Melbourne, should be regraded to Significant within HO441.

#### **(ii) Evidence and submissions**

Submitter 123 opposed the upgrading of the property at 341 Ferrars Street from Non-contributory to Significant within HO441. The submitter highlighted that the subject property included contemporary styled townhouses (built circa late 20<sup>th</sup> century). The submitter considered these dwellings did not demonstrate any of the significant features identified in the relevant Citation and Statement of Significance and noted the property did not relate to the significance of the historic railway reserve and cutting identified in HO440.

#### **(iii) Discussion**

As part of its post exhibition proposed changes Council acknowledged that the respective properties at 341-351 Ferrars Street included contemporary buildings that were not considered significant to HO441. This was a view supported by Ms Schmeder.

Council supports changes to the exhibited Amendment to now show the heritage grading of the properties at 333 Ferrars Street and 341-351 Ferrars Street South Melbourne as Non-contributory in HO441 and shown as such on the Heritage Policy Map. In addition, it proposes to amend the Citation 2311 address and associated map to remove references to 333 Ferrars Street and 341-351 Ferrars Street, South Melbourne.

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<sup>27</sup> Further discussion on Citation 2311 and related properties at 335-337 Ferrars Street is included in Section 3.2 of this Panel Report.

Given the contemporary built form of the townhouses and circa 2017 apartment building existing on the subject properties at 341-351 Ferrars Street and their lack of heritage significance to HO441 as acknowledged by council and supported by Ms Schmeder, the Panel supports Council's updated recommendations for these properties, including the subject property at 341 Ferrars Street South Melbourne.

**(iv) Conclusion**

The Panel concludes:

- properties at 333 and 341-351 Ferrars Street, South Melbourne should be regraded from Significant (as exhibited) to Non-contributory (proposed post exhibition) in HO441.
- the Citation 2311 address and associated map be amended to remove references to 333 and 341-351 Ferrars Street.

**4.3 14 Woodruff Street, Port Melbourne**

The Amendment proposes to retain 14 Woodruff Street and 164 Ingles Street in HO164 and to retain the heritage grading of these specific properties as Significant. Further, the Amendment proposes to add explicit mention of 14 Woodruff to the revised Citation 48.

**(i) The issues**

The issue is whether:

- 14 Woodruff Street and 164 Ingles Street should be retained in HO164 and the heritage grading of these properties be retained as Significant.

**(ii) Evidence and submissions**

Submitter 124, submitted that:

- 14 Woodruff Street should be removed entirely from HO164; or
- 14 Woodruff Street should be graded Non-contributory, not Significant
- Citation 48 should be amended to remove 14 Woodruff Street; and
- the Schedule to Clause 43.01 (Heritage Overlay) should be amended to remove reference to 14 Woodruff Street.

The submitter pointed out that the subject property has been substantially redeveloped in accordance with Planning Permit 640/2017. These works included part demolition and refurbishment and extension of the existing building to provide for a mixed-use development comprising retail, office space and residential apartments. The submitter considered the current new works had negated the heritage significance of the former use of the building for industrial purposes, with only remnants remaining "*in situ*."

Ms Schmeder accepted the majority of the former J Kitchen & Sons building complex have been demolished and replaced with contemporary development. However, she considered these changes have retained the main elevation of the subject industrial building facing Ingles Street, enabling the two surviving building forms to be understood as related and having former industrial use.

Council submitted it was appropriate to retain the Heritage Overlay for the subject property as proposed by the Amendment, ensuring that heritage matters are a consideration when evaluating any future new works that may be proposed on the site.

**(iii) Discussion**

The Panel acknowledges the observations of Ms Schmeder, noting the clear and readable profiles of the gabled and sawtooth roofs of the adjacent buildings described above during its own inspection of the site. This important silhouette view from Ingles Street in particular, provides a clearly visible and intact representation of the building form located on the southern wall of the building located facing Ingles Street, as to its former industrial use and scale.



**Figure 5** Streetscape photograph of 14 Woodruff Street, Port Melbourne  
(Source: Ms Schmeder's expert report, page 71)



The Panel agrees that 14 Woodruff Street still retains sufficient physical and visual heritage evidence from the public realm and provides an important reminder of the large scale of the former industrial complex on the land. It notes that a similar approach was achieved with the State listed HV McKay Harvester Factory site in Sunshine (VHR H667).

The Panel supports Council's proposed post exhibition changes to the Amendment for a revision to Citation 48 to ensure the former factory building at 14 Woodruff Street is expressly referenced.

#### **(iv) Conclusions**

The Panel concludes:

- 14 Woodruff Street and 164 Ingles Street should be retained in HO164 and the heritage grading of these properties retained as Significant
- Citation 48 should be amended as proposed by Council post exhibition including an update to the mapping and wording to ensure the former factory complex on the subject land is acknowledged for historical importance (Criterion A).

#### **4.4 2-6 Blanche and 110-118 Barkly Streets, St Kilda**

The Amendment proposes to apply a new individual HO507 to these properties (a group of eight houses and a terrace of three houses), consistent with *Heritage Assessment 2-6 Blanche Street and 110-118 Barkly Street, St Kilda, December 2017* by Context Pty Ltd.

#### **(i) The issues**

The issues are:

- is it appropriate to apply an individual Heritage Overlay to this property?
- are development expectations relevant?

**(ii) Evidence and submissions**

Submitter 141 opposed the application of what they regarded as a “*residential based heritage overlay*” to this land since it is zoned Commercial and would otherwise be a suitable redevelopment site. They were also concerned the application of the overlay would affect the value of the land.

Proposed Citation 2409 explains that the dwellings are significant given:

- their association with the residential development of St Kilda after the economic depression of the 1890s, being representative of Edwardian-era speculative housing development on the remaining vacant sites in St Kilda (Criterion A – historical significance)
- they are representative examples of Federation or Edwardian housing, with the design demonstrating the transition from the Victorian to Federation or Edwardian styles (Criterion D - representativeness)
- they are a cohesive and distinctive group due to their shared materials, details, setback and form (Criterion E – aesthetic significance).

Ms Schmeder conducted a peer review of the heritage assessment prepared by Context Pty Ltd. She also carried out genealogical research in respect of the purported building contractor to confirm the accuracy of the assessment history by Context Pty Ltd.

Ms Schmeder confirmed that despite the difference between the two types of houses on the submitter’s property, they form a cohesive group “*because of their history (built in short succession under a single builder), their materiality, and their physical arrangement in an L-shape centred on the subject building at the corner of Barkly and Blanche streets*”. In addition, she considered all houses in the group contribute to the three criteria for significance, noting that their significance only rests partly on the oculi detail mentioned by the submitter.

Post exhibition, Council accepted that it would be reasonable to refine the heritage citation to confirm the building contractor for the houses on the property. This is in line with Ms Schmeder’s recommendation.

Like submitter 141, a number of other submissions raised concerns about the potential limitations on the redevelopment of land if the Heritage Overlay was applied. Council submitted<sup>28</sup>:

Council confirms that the purpose of applying the Heritage Overlay is to ensure the conservation of heritage places across the municipality and ensure that development would not adversely affect the significance of these places.

Council acknowledges that the Heritage Overlay introduces a layer of control for property owners by imposing additional permit triggers and relevant considerations to a future planning permit application. However, in Council’s submission, this is necessary to ensure those places with the requisite level of heritage significance are recognised and appropriately managed ...

Future redevelopment opportunities of heritage properties are immaterial to this stage of the planning process. They are properly considered at the time a planning permit is applied for.

Council considers this approach correctly recognises the importance of prioritising enduring and long term matters such heritage protection and conservation over matters

<sup>28</sup> Page 5 of its Part B submission.

of development potential, building condition, personal economic matters and planning approvals which are, by contrast, short-term in nature.

... the need to accommodate housing must be balanced with Council's responsibility to ensure that places of heritage significance are protected.

Council referenced a number of Panel reports that recognised provisions within the Scheme restricting land use and development are not uncommon and that alterations to heritage properties are possible.<sup>29</sup>

### **(iii) Discussion**

The Panel supports the approach taken by Council and the Panel reports referred to in its submission as to the primary focus of heritage amendments being the historic significance of the property in question.

The Panel accepts that the heritage significance of this group of buildings has been properly evaluated and identified in the report by Context Pty Ltd and the Statement of Significance within the proposed citation. This assessment warrants the application of an individual Heritage Overlay as proposed.

In so far as submitters opposed the application of a "residential based" overlay to this land, it is true that the extant buildings are residential but there is nothing to prevent the application of this overlay to land in any zone, including commercial zones. They are not mutually exclusive and the Heritage Overlay may restrict or temper but not necessarily ban development.

If a development application is made once the overlay is applied, the purpose of both the overlay and the zone control, relevant policies (including Clause 22.04) and decision guidelines will need to be balanced by the decision maker.

### **(iv) Conclusion**

The Panel concludes:

- it supports the application of an individual Heritage Overlay to these properties and the refinement of the draft citation as proposed.

## **4.5 Four State Schools – Middle Park Primary School, South Melbourne Park Primary School, Elwood Primary School and MacRobertson Girls' High School**

The Amendment proposes to make minor changes to Citation 1106 such as corrections to place names, addresses and the like. It would also include a new detailed thematic context section. Much of this was non-controversial and Council accepted changes proposed by the Victorian Schools Authority and the Panel is equally supportive and gives effect to these through its recommendations as necessary.

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<sup>29</sup> Including Moonee Valley C164 [2009] PPV 27 at 21, Boroondara C266 [2018] PPV 63 at 26 and Boroondara C274 Part 2 [2018] PPV 99 at 85.

**(i) The issues**

The issues arising in the Hearing for Panel consideration are:

- how much of the curtilage of the former Elwood Infants' College should be included in heritage mapping?
- how should the anomaly in heritage mapping of the building at MacRobertson Girls' High School be addressed?

**(ii) Evidence and submissions**

*Elwood Primary School (Elwood Central School)*

The eastern part of the school site is covered by HO260. The western part is currently outside the Heritage Overlay. The Amendment as exhibited proposes to add all of the western part (161 Mitford Street) to the overlay.

Submitter 142 opposed the expansion of the overlay mapping to cover the entirety of the school property with the consequence that the entire school site would be regarded as Significant in heritage terms.

Responding to this submission, Council now proposes to reduce the extended mapping to only the footprint of the 1926 Infants' School building and to amend the place citation to delete reference to the skillion shelter shed. This is generally consistent with Ms Schmeder's evidence that the two new, large school buildings on this part of the land and former shelter shed (significantly altered) do not warrant heritage protection.

Council would also amend the revised Statement of Significance in citation 801 to delete reference to the cypress trees flanking the Infants' School (as recommended by Ms Schmeder) as these have been removed.

However, Council and Ms Schmeder took a different view of how the mapping polygon should be configured to protect the former Infants' School building. Council preferred to align the polygon with the building curtilage while Ms Schmeder recommended a curtilage to include enough space to allow a viewer to get a full view of the side/s of the building (nominated at 10 metres but adjusted to recognise former title boundaries).

Ms Schmeder also recommended that Council consider through a separate amendment process whether the mature plane trees within the now closed section of Mitford Street should be included within the heritage overlay mapping, consistent with the Statement of Significance and for the schedule to include tree controls. Council was willing to include this in its further investigations.

*MacRobertson Girls' High School*

The northern part of the site is covered by HO176 and VHR H1641, but the southwestern part is Non-contributory in HO446 (Albert Park Lake Precinct).

The exhibited Amendment proposes to update zone boundaries to align with title boundaries but would not make any change to the heritage citation or controls.

Submitter 142 opposed the proposed extent of the Heritage Overlay polygon.

**(iii) Discussion***Elwood Primary School*

The Panel notes the guidance in PPN01 relating to Curtilages and Heritage Overlay polygons. In essence, it provides that *“it is usually important to include land surrounding a building ... to ensure that any development, including subdivision, does not adversely affect the setting, context or significance of the heritage item”*.

While this approach has merit in principle, the Panel accepts that it would be sufficient in this instance to draw the polygon around the curtilage of the Infants’ School building itself (in a rectangular form as proposed by the submitter), rather than adopting a 10 metre curtilage as suggested by Ms Schmeder in her evidence.

**Figure 6 Panel preferred Heritage Overlay curtilage for the Elwood Primary School**  
(Source: Submission No. 141)



The Panel’s view is influenced by the fact that a more tightly drawn polygon would capture those elements of the place that are significant, noting that the building has a well-defined curtilage. This is also a readily recognisable ‘boundary’. By contrast, a 10 metre curtilage, if applied, seems somewhat arbitrary, especially since it has not been demonstrated that the building is historically important as a standalone structure, rather than as part of a complex of school buildings.

We recognise that it may be desirable to regulate development in proximity to this building, however, as mentioned by Ms Eastaugh on behalf of Council, there are other provisions of this Planning Scheme that would call for consideration of the impact on the heritage significance of this building if adjacent land was proposed for redevelopment, such as the detailed policy in Clause 21.05-1.

*MacRobertson Girls’ High School*

The historic school buildings are currently included in the Victorian Heritage Register with one exception. Ms Schmeder’s further investigations on behalf of Council revealed that part of the original fabric of the school building (two ends of the south-west wing) was not covered by the Victorian Heritage Register listing. She suggested this could potentially be rectified in the interim by including it as Significant within HO446 to indicate there is some valued building fabric outside HO176 but that once the VHR and HO176 mapping were corrected, this allotment (No 2103) could be downgraded to Contributory.

On further consideration, Council referred the Panel to PPN01 which provides:

Planning authorities should not amend the schedule or maps as they relate to places in the Victorian Heritage Register and certainly not without the prior approval of Heritage Victoria. This is to ensure that planning schemes accurately reflect the Heritage Register as required by the Heritage Act.

On this basis, Council now proposes to (separately) approach the Victorian Heritage Register to seek to expand the relevant listing to cover all heritage assets on the school property. Local heritage mapping would be adjusted subsequently for consistency.

#### **(iv) Conclusions**

The Panel concludes:

- it is sufficient to protect the rectangular building curtilage of the former Infants' School building without a broader 10 metre 'buffer' as recommended by Ms Schmeder
- the local heritage mapping for the MacRobertson Girls' High School should reflect the Victorian Heritage Register. If this is extended, a subsequent amendment could be made to local heritage mapping for consistency.

## **4.6 HO1 Port Melbourne Precinct**

### **146 Dow Street, Port Melbourne**

The Amendment proposes to rezone part of the property from Neighbourhood Residential Zone (Schedule 2) to General Residential Zone (Schedule 1) and to align the Residential Zone to the title boundary. It also proposes to delete Heritage Overlay (Schedule 1) from the rear of the property.

The exhibited Amendment proposed to show the entire property as 'Contributory Heritage Place Outside the Heritage Overlay' on the Neighbourhood Character Map but, after considering submissions, Council proposes to remove its status from the mapping.

#### **(i) The issue**

The issue is:

- are the changes proposed by the Amendment appropriate?

#### **(ii) Evidence and submissions**

Submitter 1 noted that the former Victorian dwelling had been lawfully demolished and a contemporary building constructed on the land. On this basis, it supported the removal of HO1 from the property but requested Council exclude it as a Contributory Heritage Place from the Neighbourhood Character Map.

Ms Schmeder supported these changes, as did Council.

#### **(iii) Discussion**

The Panel supports the analysis of Council and Ms Schmeder in light of the demolition and replacement of the former dwelling on this land. It is appropriate to delete the Heritage Overlay and the rezoning is not opposed.

**(iv) Conclusion**

The Panel concludes:

- it supports the post exhibition changes proposed for this land.

**4.7 273 Bridge Street, Port Melbourne**

The Amendment proposes to regrade the existing dwelling located at 273 Bridge Street from Non-contributory in HO1 (Port Melbourne precinct) to Contributory.

**(i) The issue**

The issue is:

- whether the regrading of the dwelling at 273 Bridge Street, Port Melbourne from Non-contributory to Contributory is appropriate.

**(ii) Evidence and submissions**

Submitter 109 opposed the regrading of this property, raising the following:

- the architectural integrity of the building on the property has been substantially altered, including loss of the Victorian heritage façade
- the building fabric is from a mismatch of periods
- non-heritage fabric has been used on the building including steel, aluminium windows, wrought iron and brick patterns.

Ms Schmeder agreed with the submitter that the building on this property has had various alterations she considered were not sympathetic, including the re-bricking of the front façade, changes to the front windows and rebuilding the front verandah. However, she observed that the building still retained some original features of the Victorian Italianate style (including massing of the M-hipped roof form, projecting gable, two rendered chimneys with ornamental vermiculation on the shafts, run cornices, door highlights and fielded panels with glazing, red brick side walls and a flat arched window opening on the north-side elevation).

**Figure 7** Streetscape photograph of 273 Bridge Street, Port Melbourne  
(Source: Ms Schmeder's expert report, page 107)



Taking a comparative approach, Ms Schmeder considered this extent of original heritage fabric compared well to other similar period dwellings she observed in the precinct that were also graded Contributory.

### **(iii) Discussion**

The Panel notes the Contributory heritage grading definition in Clause 22.04-5 of the Planning Scheme includes reference to heritage places that *“may have been considerably altered but have the potential to be conserved.”* No evidence was submitted to suggest many of the alterations made to the building were not reversible, at least to some degree. In addition, the Panel agrees that while altered, the building on the subject property is still clearly recognisable as a Victorian period house.

The Panel further accepts Ms Schmeder's evidence that the level of alteration of the building is comparable to a number of other Contributory graded houses found in HO1, and that this grading is appropriate particularly where many alterations have the potential to be reversed.

The Panel considers the upgrading of the heritage grading to the building from Non-contributory to Contributory is appropriate and consistent with other Contributory graded houses in the heritage precinct.

### **(iv) Conclusion**

The Panel concludes:

- the regrading of the dwelling at 273 Bridge Street, Port Melbourne from Non-contributory to Contributory is appropriate as exhibited.



## 4.8 293 The Boulevard, Port Melbourne

The Amendment proposes to change the grading of this heritage property from Significant to Contributory within HO2.

**Figure 8** Streetscape photograph of 293 The Boulevard, Port Melbourne  
(Source: Ms Schmeder's expert report, page 107)



### (i) The issues

The issues are:

- should the property be regraded to Contributory or Non-contributory in HO2?
- what is the relevance of permission for substantial demolition and new development to the heritage grading?

### (ii) Evidence and submissions

Submitter 127 requested a further change to the Amendment to regrade this property to Non-Contributory given its extent of alteration and the recent grant of a planning permit.

It relied on advice of Ms Robyn Riddett, heritage consultant, Anthemion Consultancies who considered that this dwelling is the most significantly altered in The Boulevard and within the heritage precinct more broadly such that it should be graded as Non-Contributory.

The Statement of Significance for the precinct HO2<sup>30</sup> identifies the Garden City housing estates (including this one) as significant for reasons including their innovation as a public housing rental estate, their size, use of modern planning ideas and high architectural and urban design status for a housing commission estate.

The Guidelines identify important features such as the scale of the buildings, the design of individual dwellings as pairs, their consistent design detailing and front fences. While noting the substantial intactness of the estate, the Guidelines and the Statement of Significance identify that *“a number of houses along The Boulevard have sustained marked change ... They are now unrelated to the cohesive architectural character of the estate”*. This view is reinforced in the PPHR Update which notes that this dwelling is very altered but “traces” of the original dwelling remain.

Council’s position at its meeting on 16 September 2020 was to support a change to the exhibited Amendment to regrade the property to Non-Contributory. This was based on its acceptance that the integrity of the building would be further reduced once substantial demolition and reconstruction under an approved planning permit starts.<sup>31</sup>

However, Ms Schmeder recommended that the property nevertheless be identified as Contributory, since she regarded it of comparable intactness to other graded properties in the precinct and considered the original appearance of the dwelling could easily be reinstated (referencing the potential for conservation as part of the definition of a Contributory heritage place in Clause 22.04 of the Planning Scheme).

Council subsequently updated its position at the Hearing accordingly.

Ms Schmeder acknowledged that if the building was substantially demolished (in line with the permit) before the Amendment was gazetted, it would be appropriate to downgrade it to Non-contributory. However, in the interim, it would not be appropriate to downgrade the contribution of the property through presuming a future outcome.

### **(iii) Discussion**

The Panel was not advised whether the planning permit for this land remains current. Irrespective, the Panel accepts the advice of Ms Riddett that so little original fabric and design remains of the original dwelling and the alterations are so substantial and unsympathetic to the values of the precinct that it does not warrant a Contributory grading.

The Panel has had regard to the values of this property relative to the identified significance of the precinct, which relies heavily on the purpose and intactness of the layout and development of the estate, with a relatively direct focus on the design of paired dwellings.

We take a similar view to the Victorian Civil and Administrative Tribunal in the related proceeding, that the contribution of this dwelling to the significance of the precinct is very limited due to the lack of remaining original fabric. The addition to the front of the building has also changed the dwelling almost beyond recognition of its original form and in a way that has rendered it atypical in this part of the heritage precinct.

<sup>30</sup> Supplemented by the Fishermans Bend Design Guidelines.

<sup>31</sup> Planning Permit 1161/2017 granted by the Victorian Civil and Administrative Tribunal in *Coluccio v Port Phillip CC (corrected)* [2019] VCAT 1302.

We do not accept the evidence of Ms Schmeder that it would be “very straightforward” to reinstate the original roof form since this would presumably involve removal of the whole second storey.

The lack of heritage contribution of this property is exacerbated by the fact that the former second half of the pair at 291 The Boulevard (which Council now accepts should be Non-contributory) is not considered to retain any of the character of the valued period of the HO2 precinct.<sup>32</sup> The Panel is not persuaded that the dwelling on 293 The Boulevard has any greater heritage significance than its neighbour.

In addition, if the approved demolition and reconstruction works were to occur to the building on this land, this would comprehensively indicate that the property should be identified as Non-Contributory within HO2.

#### **(iv) Conclusion**

The Panel concludes:

- it is appropriate to regrade the property to Non-Contributory (rather than Contributory), consistent with Council’s former position.

### **4.9 137-139 Fitzroy Street, St Kilda**

The Amendment proposes to regrade the property at 137-139 Fitzroy Street, St Kilda from Non-contributory in HO5 (St Kilda Hill precinct) to Significant.

#### **(i) The issue**

The issue is:

- whether 137-139 should be regraded from Non-contributory in HO5 (St Kilda Hill precinct) to Significant (as exhibited) or Contributory (as proposed by Council post exhibition)?

#### **(ii) Evidence and submissions**

Submitter 133 opposed the heritage regrading of the subject property from Non-contributory to Significant as shown in the exhibited Amendment, submitting the building has had many modifications, including a rebuild due to fire damage and addition of a new awning in 1995.

Ms Schmeder noted in her evidence that the Victorian era commercial building has had a number of significant alterations.<sup>33</sup> She undertook a comparative analysis with other commercial buildings within HO1 and noted in her evidence that:

There are, however, Victorian commercial buildings of a smaller size but with a high level of ornament and intactness, at 121 & 123 Fitzroy Street and 13-19 Grey Street, all of which are graded Significant in HO5. I consider these examples superior, in intactness of their upper stories and ornamentation, to 137-139 Fitzroy Street. Among them, only 17-19 Grey Street has an intact ground floor (largely because it does not have shopfronts, which are an architectural element frequently replaced).

<sup>32</sup> Ms Schmeder’s expert evidence at page 111.

<sup>33</sup> See Building Permit No. 270/137/P3, issued in 1993)

Although the building is still legible as a Victorian building, due to the extent of alterations noted by Ms Schmeder, she considered it warranted a lower grading level of heritage significance within HO5 to Contributory rather than Significant.

At the Hearing, Council supported the Contributory heritage grading as recommended by Ms Schmeder.

**(iii) Discussion**

The Panel agrees with Council and Ms Schmeder, accepting that the extent of observable alterations to this building are more appropriately addressed through the Contributory heritage grading described in Clause 22.04-5.

**(iv) Conclusion**

The Panel concludes:

- 137-139 Fitzroy Street, St Kilda should be regraded from Non-contributory to Contributory in HO5 (St Kilda Hill Precinct).

#### **4.10 9 Maryville Street, Ripponlea**

The Amendment proposes to regrade the property at 9 Maryville Street, Ripponlea from Contributory in HO7 (Elwood, St Kilda, Balaclava and Ripponlea Precinct) to Significant. The subject property contains a semi-detached pair of single storey late inter war period (Moderne style) dwellings.

**(i) The issue**

The issue is:

- whether 9 Maryville Street should be regraded from Contributory to Significant in HO7 (Elwood, St Kilda, Balaclava and Ripponlea Precinct).

**(ii) Evidence and submissions**

Submitter 114 opposed the regrading of the subject property as proposed in the Amendment, stating:

- the building has been rendered within the last 25 years, diminishing its historical and architectural significance in the heritage precinct
- the surrounding streetscape is not intact, including flats at 8 and 10 Maryville Street built circa 1970's to 1980's
- the building is not listed as significant by the Victorian Heritage Council.

The submitter also advocated for grants or loans to be provided to owners of heritage graded buildings to offset costs associated with the planning permit process.

Ms Schmeder recognised that though both parts of the semi-detached pair of dwellings have been bagged and painted, but considered other aspects of the built form on the property are relatively intact. She considered that the dwellings contributed to the heritage streetscape and wider heritage precinct. Ms Schmeder noted that apart from the two blocks of flats observed by the submitter, the majority of the streetscape contained a continuous row of rendered houses built in the late 1920's and early 1930's, proving a relatively intact streetscape.

Council supported the assessment and recommendation of Ms Schmeder.

**(iii) Discussion**

The Panel notes the subject dwellings are located within what Ms Schmeder has identified as a “*very fine interwar streetscape*”, apart from the block of contemporary flats at 8 and 10 Maryville Street. Apart from the bagging and painting treatment to the subject dwellings, Ms Schmeder could not discern any other significant alterations to the semi-detached pair of dwellings. The Panel concurs.

Based on the manner in which Council has applied the Significant heritage gradings through the Amendment and the further comparative assessment carried out by Ms Schmeder, the Panel is satisfied these two relatively intact inter war period dwellings should be regraded to Significant within HO7.

**(iv) Conclusion**

The Panel concludes:

- 9 Maryville Street should be regraded from Contributory to Significant in HO7 (Elwood, St Kilda, Balaclava and Ripponlea Precinct).

#### **4.11 210-218 Dorcas Street, South Melbourne**

The Amendment proposes to rezone parcel of land at the rear of the St Luke’s church site from Commercial 1 Zone to the General Residential Zone (Schedule 1).

**(i) The issue**

The issue is:

- is the extent of the rezoning appropriate?

**(ii) Evidence and submissions**

Submitter 119 was generally supportive of the Amendment but sought a greater extent of rezoning of the eastern portion of the land from General Residential Zone to Commercial Zone. This was intended to facilitate improved loading and unloading for an existing supermarket. This submitter also sought an extension of the Design and Development Overlay (Schedule 8) along part of the north-east edge of the site “*to align with other planning scheme provisions*”.

It considered these proposed changes would be broadly compatible with the intent of the Amendment C161port and would further key policy goals of the Planning Scheme. It suggested that a further public notification process could be undertaken at the direction of the Panel.

Council explained that the extent of rezoning currently proposed was intended to correct an identified anomaly. By contrast, it considered that the further zoning change advocated for by the submitter was not part of the scope of the current Amendment and would require public consultation.

However, Council advised that it proposes to undertake a broader structure planning exercise for the Clarendon Street (South Melbourne) Activity Centre within which the land sits. This

would also entail consideration of the application of Design and Development Overlay controls and would form part of a separate Planning Scheme amendment.

### **(iii) Discussion**

The exhibited Amendment is an update amendment and includes a review of heritage properties and citations. It does not encompass more substantial changes to zoning of land which, as indicated by Council, are likely to be considered as part of its future consideration of the controls that apply across the broader activity centre context.

The Panel does not support the expansion of the Amendment in respect of this individual property, especially in circumstances where there is an alternative, strategic program that can achieve this. Alternatively, Submitter 119 could consider whether a combined planning permit and Planning Scheme amendment process would be appropriate.<sup>34</sup>

### **(iv) Conclusion**

The Panel concludes:

- it supports the extent of the rezoning proposed by the Amendment.

## **4.12 Recommendations**

The Panel recommends:

**Amend the schedule to Clause 43.01 (Heritage Overlay) as follows:**

- a) amend Heritage Overlay HO239 listing to refer to 'Middle Park Primary School No 2815' and update property address to 194 Richardson Street (part), Middle Park
- b) amend Heritage Overlay HO260 to refer to the 'Elwood Central School No. 3942' and replace the address with 49 Scott Street and 161 Mitford Street (part), Elwood
- c) amend HO176 listing to refer to 'MacRobertson Girls' High School' and update the property address to 350-370 Kings Way, Melbourne.

**Amend Map no 8HO to reduce the curtilage of Heritage Overlay HO260 around the former Infants' School at Elwood Primary School to the curtilage of the building as proposed by Submitter 142.**

**Amend the Port Phillip Heritage Review to:**

- d) amend Citation 2152 with the name of the principal place revised to that of its Victorian Heritage Register listing *Former Royal Australian Corps of Signals Drill Hall*.
- e) amend Citation 2409 - Houses to include genealogical research confirming that James Downie Senior was the contractor for the houses as 2-6 Blanche and 110-118 Barkly Streets, St Kilda
- f) amend Citation 1106 – Middle Park Primary School to update the property address to '194 Richardson Street (part), Middle Park'
- g) include a revised Citation for MacRobertson Girls' High School to update the address to '350-370' Kings Way, Melbourne.

<sup>34</sup> Under section 96A of the Planning and Environment Act 1987, as suggested in Council's officer's report.

- h) amend Citation 48 to update the property address from 'Ingles Street' to read '164 Ingles Street and 14 Woodruff Street, Port Melbourne', including an update to the mapping and wording to ensure the former factory complex on the subject land is acknowledged for historical importance (Criterion A).**
- i) amend the Citation 2311 address and map to remove references to 333, 335-337 and 341-351 Ferrars Street, South Melbourne.**

**Amend the Heritage Policy Map to:**

- a) amend the heritage grading of 291 The Boulevard, Port Melbourne from Contributory to Non-contributory within Heritage Overlay HO2**
- b) amend the heritage grading of 333, 335-337 and 341-351 Ferrars Street, South Melbourne from Significant to Non-contributory within Heritage Overlay HO441**
- c) amend the heritage grading of 137-139 Fitzroy Street, St Kilda from Non-contributory to Contributory in Heritage Overlay HO5 (St Kilda Hill precinct).**

**Amend the Neighbourhood Character Map to:**

- a) remove the proposed 'Contributory outside the Heritage Overlay' grading for 146 Dow Street, Port Melbourne**

**Amend the Statement of Significance for:**

- a) Elwood Central School No. 3942 (49 Scott Street and 161 Mitford Street, Elwood) to remove reference to shelter sheds and reference to the pair of Italian Cypress trees at the porch of the 1926 Infants' School.**

**Abandon the regrading of 10-18 Jacka Boulevard, St Kilda (St Kilda Sea Baths) from Non-contributory to Contributory to enable the Council to undertake further investigation into the social and historical significance of the place, if any.**

## Appendix A Submitters to the Amendment

No.	Submitter	No.	Submitter
1	Tim Ballan	33	Samantha Smith and Matthew Carrick
2	Juliet Forsyth and Anthony Cuzzupe	34	Julian O'Grady
3	Chris Fogarty	35	Dave Schelling
4	Michaela and Andrew McIntosh	36	Selena Zou
5	Jo Bell and Ray Boseley	37	Syed Ali Abbas
6	Brett Ryan	38	Jessica Bosua
7	Graham Mascord	39	Helen Ward
8	Evelyn Woo	40	Pam and Lionel Burke
9	Juan Huang	41	Amy Tan
10	Adam McKenzie	42	Tao Xiong
11	Anni MacDonald-Penney	43	Gary Klien
12	Finlay Macrae	44	Helen McKenna
13	Jacquelyn Anderson and Gwilym Box	45	Kevin and Beverley McDermott
14	Linling Zhou	46	Frances Annal
15	Linda	47	Gary Tan
16	Srecko Lorbek and Chantel Thornton	48	Vicki and Tim Redrup
17	Richard and Catherine Sutcliffe	49	June Hamilton
18	John Larner	50	Paul Preat and Angela Cook
19	Alan Naghshineh	51	Marcus Chua
20	Steven and Ann Richards	52	Mark and Gina Brickles
21	Alex Guan	53	Sym Kohn
22	Helen Faulkner	54	Dinesha Gunatillake and Alexander Earl
23	Sharon Sun	55	Stefan Angelini
24	Paris Purmohamadi	56	Sharon Wu
25	Russell Jessop	57	Xiao Hong Wu
26	Jennifer Speed	58	Avi Milder
27	Pasquale D'Orazio	59	Al Spilman
28	Larisa Ryan	60	Lars Tommy Westloef
29	Dianne Wills	61	Peter Dobos
30	Oz O'Connell	62	Stephen Pettigrew



No.	Submitter	No.	Submitter
31	Vincent Vozzo	63	Marie Van De Walle
32	Susanne Sweetland	64	Trevor Ausbruch
65	Kerry Klineberg	99	Susan and David Ingham
66	Noramax Pty Ltd	100	Pamela Hall and Robert Leung
67	Deborah Cheetham	101	Bronwyn Etheridge
68	Cliff and Jane Gale	102	Rosa Giuliano
69	Toni Lalich	103	Trevor Main
70	Bonnie Cham	104	Kelly Ng
71	Julie Piper	105	Rubin and Vivienne Muller
72	Nelson Kong	106	Yuanya Wang
73	Vince Morabito	107	Julie and John Sewell
74	Carmel Origlia	108	South Pacific St Kilda Pty Ltd
75	Scott Yurisich	109	Betty Vassiliou
76	Feng Ye	110	Anita and Brendan Smith
77	Peter Tilley	111	Nedim and Durda Bacvic
78	Robert and Wendy Borrius Broek	112	Ruvinda Jayamaha
79	Howard and Dianna Ryan	113	Christine and Eriks Muske
80	Val Connor	114	Maria Sponza
81	Daniel Daniello	115	Robert Comninus
82	Geoff and Karen Wanless	116	Linden and Robin Hughes
83	George Norris	117	Viv and Tony Weldon
84	Michelle Gibson	118	Ruth Hunter
85	Damon Tink	119	Clarendon Property Group
86	John Quinlan	120	David and Kati Tribe
87	Kerrie Benfield	121	Craig Brown
88	Xiaoming Feng	122	Terry Laragy
89	Alex Angelini	123	Janet Miller
90	Helen Fraser	124	HACP Pty Ltd
91	Vicki Heyward	125	Leonie King and Ben Crouch
92	Monica and Anthony Dowd	126	Robert Graham
93	Andrew Nicholls and Anne Crossley	127	Maria Culluccio

No.	Submitter	No.	Submitter
94	Andrew and Sue Buckley	128	Stuart and Montana Howe
95	Neale Brideson	129	Adriane Couch
96	Bruno and Samantha Longano	130	Gavin Randles and Joanne Leonard
97	<i>(not related to Part 2 of the amendment)</i>	131	The Meydan Group
98	Desmond Berkowitz	132	Paul Simmons
133	Mark Burton	143	Gene Volovich
134	Li Chen	144	Jessica Ozols
135	St Lukes Anglican Church	145	Peter Brooksbank
136	Port Melbourne Historical and Preservation Society	146	Owners Corporation - Grosvenor on Queens
137	Geraldine O'Connor and Richard Yared	147	Monique Westmore
138	Jan Weatherley	148	Yve Owners Corporation
139	Russell Croker	149	Jocelyn Logan
140	Nicolas Kenos	150	Daniella Greenwood
141	Chris and Layla Clegg	151	John Whitechurch
142	Victorian School Building Authority		

## Appendix B Parties to the Panel Hearing

Submitter	Represented by
Port Phillip City Council	Ms Briana Eastaugh, Solicitor, Maddocks who called the following expert evidence: <ul style="list-style-type: none"> <li>- heritage from Ms Natica Schmeder, Landmark Heritage Pty Ltd</li> </ul>
John Whitechurch	Mr David Song, Town Planner, Song Bowden who called the following expert evidence: <ul style="list-style-type: none"> <li>- heritage from Bryce Raworth of Bryce Raworth and Associates</li> </ul>
Noramax Pty Ltd	Mr Sean McArdle of Counsel instructed by Mr Luke Mercurio, Solicitor, JRT Partnership. They provided an expert report on heritage from Bryce Raworth of Bryce Raworth and Associates but did not call Mr Raworth to give evidence at the Hearing given the extent of agreement between parties.
Andrew Nicholls	
Yve Owners Corporation	Mr Stephen Dabkowski and Mr Peter Brooksbank who called the following evidence: <ul style="list-style-type: none"> <li>- Heritage from Anthony Hemingway of RBA Architects and Conservation Consultants</li> </ul>
Meydan Group	Gemma Robinson, Solicitor, Rigby Cooke who called the following evidence: <ul style="list-style-type: none"> <li>- Heritage from Robyn Riddett of Anthemion Consultancies</li> </ul>
Gwilym Box and Jacquelyn Anderson	Mr Gwilym Box
Chris Fogarty	In person
Eugene Volovich	Ms Jane Sharp of Counsel by direct brief
Joanne Leonard and Gavin Randles	Listed on the Hearing timetable but did not appear
Leonie King	Listed on the Hearing timetable but did not appear

## Appendix C Document list

No.	Date	Description	Provided by
1	17/12/2020	Letter referring submission 151 to the Panel	Maddocks
2	17/12/2020	Memorandum of advice from Landmark Heritage Pty Ltd regarding 293 The Boulevard, Port Melbourne dated 16 December 2020	Maddocks
3	12/01/2021	Council Part A submission	Maddocks on behalf of Port Phillip City Council
4	15/01/2021	Expert witness report of Anthony Hemingway, RBA Architects and Conservation Consultants	Yve Owners Corporation
5	15/01/2021	Expert witness report of Natica Schmeder, Landmark Heritage	Maddocks
6	15/01/2021	Planning permit and endorsed plans for 293 The Boulevard, Port Melbourne dated 29 August 2019 (amended 23 December 2020)	Maddocks
7	15/01/2021	Planning application referral to building department regarding 207 Little Page Street, Middle Park dated 19 February 2020	Maddocks
8	15/01/2021	Planning permit and endorsed plans for 137-139 Fitzroy Street, St Kilda dated 21 May 1993	Maddocks
9	15/01/2021	<i>Coluccio v Port Phillip CC</i> [2019] VCAT 1302	Maddocks
10	15/01/2021	Expert witness report of Bryce Raworth of Bryce Raworth and Associates	JRT Partnership for Noramax Pty Ltd
11	15/01/2021	Expert witness report of Bryce Raworth of Bryce Raworth and Associates	Song Bowden for John Whitechurch
12	18/01/2021	Expert witness report of Robyn Riddett of Anthemion Consultancies	Rigby Cooke on behalf of Meydan Group
13	22/01/2021	Council Part B submission	Maddocks
14	22/01/2021	PPN01 – Applying the Heritage Overlay	Maddocks
15	22/01/2021	Port Phillip C142port Panel Report [2019] PPV 67	Maddocks
16	22/01/2021	Southern Grampians C6 Panel Report[2009] PPV 27	Maddocks
17	22/01/2021	Boroondara C266 Panel Report[2018] PPV 63	Maddocks
18	22/01/2021	Boroondara C274 Part 2 Panel Report[2018] PPV 99	Maddocks

No.	Date	Description	Provided by
19	22/01/2021	Moreland C129 Panel Report [2013] PPV 11	Maddocks
20	22/01/2021	Melbourne C207 Panel Report [2014] PPV 10	Maddocks
21	22/01/2021	<i>Dustday Investments Pty Ltd v Minister for Planning and Another</i> [2015] VSC 101	Maddocks
22	22/01/2021	Moonee Valley C164 Panel Report [2016] PPV 148	Maddocks
23	22/01/2021	Greater Shepparton C205 Panel Report [2020] PPV 12	Maddocks
24	22/01/2021	Heritage advisor referral 207 Little Page Street dated 28 August 2019	Maddocks
25	22/01/2021	Heritage advisor referral 207 Little Page Street dated 4 March 2020	Maddocks
26	22/01/2021	Planning property reports for 335 Ferrars Street, South Melbourne	Maddocks
27	25/01/2021	Development Plan 96 Grey Street, St Kilda	Gene Volovich
28	27/01/2021	Submissions for Noramax Pty Ltd	JRT Partnership Pty Ltd
29	27/01/2021	Submissions for John Whitechurch	Song Bowden
30	27/01/2021	Information from St Kilda rate books	Rigby Cooke
31	28/01/2021	Submissions for Andrew Nicholls	Andrew Nicholls
32	28/01/2021	Submissions for Meydan Group	Rigby Cooke
33	29/01/2021	List of houses in HO5 for Panel inspection	Maddocks
34	31/01/2021	Submissions for Gene Volovich	Gene Volovich
35	31/01/2021	Building permit for 96 Grey Street, St Kilda	Gene Volovich
36	31/01/2021	Certificate of final inspection for 96 Grey Street, St Kilda	Gene Volovich
37	31/01/2021	Closing submissions for Council	Maddocks
38	31/01/2021	Port Phillip C174port Panel Report [2020] PPV 32	Maddocks
27	31/01/2021	Plan of strata subdivision for 58-60 Queens Road, Melbourne	Maddocks
28	01/02/2021	Structural drawings for 96 Grey Street, St Kilda	Gene Volovich
39	03/02/2021	Council's closing submission in relation to 96 Grey Street	Maddocks
40	03/02/2021	VHR Heritage Citation Report for Belmont Flats	Maddocks

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No.	Date	Description	Provided by
41	03/02/2021	Article <i>Diversifying Suburbia: Bungalow Courts as Spaces of Social Transformation</i> , Rene David, University of California, Berkley 1999	Maddocks

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