

Planning and Environment Act 1987

Panel Report

Melbourne Planning Scheme Amendment C365

372-378 Little Bourke Street, Melbourne

20 December 2019

Planning and Environment Act 1987

Panel Report pursuant to section 25 of the Act
Melbourne Planning Scheme Amendment C365
372-378 Little Bourke Street, Melbourne
20 December 2019

A handwritten signature in blue ink, appearing to read 'M Ballock', is placed on a light pink rectangular background.

Michael Ballock, Chair

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Glossary and abbreviations

| | |
|-------------|--|
| Act | <i>Planning and Environment Act 1987</i> |
| Berjaya | Berjaya Developments Pty Ltd |
| Chart House | 372-378 Little Bourke Street, Melbourne |
| Council | Melbourne City Council |
| MHA | Melbourne Heritage Action |
| Study | Guilford and Hardware Lanes Heritage Study |

Overview

Amendment summary

| | |
|---------------------------|---|
| The Amendment | Melbourne Planning Scheme Amendment C365 |
| Common name | 372-378 Little Bourke Street, Melbourne |
| Brief description | The Amendment proposes to replace the interim Heritage Overlay control applying to 372-378 Little Bourke Street which identifies the entirety of the building as contributory to the Guildford and Hardware Laneways Precinct (HO1205), with a permanent Heritage Overlay control |
| Subject land | Chart House 372-378 Little Bourke Street, Melbourne |
| The Proponent | City of Melbourne |
| Planning Authority | City of Melbourne |
| Authorisation | By letter dated 25 September 2019 |
| Exhibition | 24 October to 7 November 2019 |
| Submissions | Number of Submissions: 21 Opposed: 1 |

Panel process

| | |
|----------------------------|---|
| The Panel | Michael Ballock (Chair) |
| Directions Hearing | Planning Panels Victoria, 21 November 2019 |
| Panel Hearing | 9 to 10 December 2019 |
| Site inspections | Unaccompanied, 7 December 2019 and 18 December 2019 |
| Appearances | Refer to Appendix B |
| Citation | Melbourne PSA C365 [2019] PPV |
| Date of this Report | 20 December 2019 |

Executive summary

Melbourne Planning Scheme Amendment C365 (the Amendment) seeks to replace the interim Heritage Overlay control applying to 372-378 Little Bourke Street, Melbourne with a permanent Heritage Overlay control. The building is known as Chart House and the interim Heritage Overlay identifies the entirety of the building as contributory to the Guildford and Hardware Laneways Precinct (HO1205).

The key issue raised in submissions was whether the new information provided to the Council warranted grading the building as contributory to the precinct.

The Panel for Amendment C271 considering the *Guildford and Hardware Lanes Heritage Study 2017* and recommended, amongst other things, the revision of the proposed grading of the building at 372-378 Little Bourke Street from contributory to non-contributory. Council adopted the Panel's recommendation.

However additional information provided by Melbourne Heritage Action initiated a reconsideration of the Chart House recommendation by the Council. In Council's view, the new information, which included the original building plans and oblique aerial photos warranted a change of the grading. As a consequence, an interim Heritage Overlay with a contributory grading was placed on the site with the Gazettal of Amendment C271. Amendment C365 proposes the replacement of the interim control with a permanent control and grading the building as contributory.

The building at 372-378 Little Bourke Street has been subject to a number of alterations since its construction in 1941. The considerations for the Panel were whether the building was too diminished by these alterations or whether it made an appropriate contribution to the precinct. The Panel was presented with the evidence of three experts who had differing views on the nature and impact of the alterations to the building and what contribution it could be said to make to the precinct.

The Panel took the view that the building does not make an important enough contribution to the precinct to warrant grading the building as contributory.

The Panel concludes that the building at 372-378 Little Bourke Street, Melbourne should be graded as non-contributory.

Recommendations

Based on the reasons set out in this Report, the Panel recommends:

- 1. Adopt Amendment C365 to the Melbourne Planning Scheme as exhibited with the following change:**
 - a) Amend the grading of 372-378 Little Bourke Street, Melbourne to non-contributory.**

1 Introduction

1.1 The Amendment

(i) Amendment description

The purpose of the Amendment is to replace the interim Heritage Overlay control applying to 372-378 Little Bourke Street, Melbourne which identifies the entirety of the building as contributory to the Guildford and Hardware Laneways Precinct (HO1205), with a permanent Heritage Overlay control.

Specifically, the Amendment proposes to:

- apply the Heritage Overlay to 372-378 Little Bourke Street on a permanent basis, recognising the entirety of the subject site as contributory to the Guildford and Hardware Lane Heritage Precinct (HO1205)
- amend the following incorporated documents in the Schedule to Clause 72.04:
 - Guildford and Hardware Laneways Heritage Study May 2017: Heritage Inventory by updating its title to Guildford and Hardware Laneways Heritage Study 2017: Heritage Inventory (Amended September 2019)
 - Guildford and Hardware Laneways Heritage Study (May 2017): Statements of Significance, November 2018 (Amended May 2019) by updating its title to Guildford and Hardware Laneways Heritage Study 2017: Statements of Significance (Amended September 2019), removing the reference to the interim heritage control applying to 372-378 Little Bourke Street and updating the description relating to the property
- amend the schedule to Clause 43.01 (Heritage Overlay) to remove reference to the interim heritage control applying to 372-278 Little Bourke Street and update all references within the schedule to the titles of the above incorporated documents
- update the local policy reference at Clause 22.04 to reflect the amended date of the Guildford and Hardware Laneways Heritage Study and title of the Statements of Significance
- amend the Planning Scheme Map No 8HO1 to update the Guildford and Hardware Laneways Precinct (HO1205) with a permanent Heritage Overlay control for this property.

(ii) The subject land

The Amendment applies to the building at 372-378 Little Bourke Street, known as Chart House. The site is part of the Guildford and Hardware Lanes Heritage Study area (Figure 1) which was included in the Melbourne Planning Scheme by Amendment C271.



Figure 1: The Guilford and Hardware Lanes Study area

The subject land is on the north west corner of the intersection of Niagara Lane and Little Bourke Street (Figure 2).



Figure 2: Location of 372-378 Little Bourke Street, Melbourne

1.2 Background

Council undertook a strategic review of its heritage program and released its Heritage Strategy in 2013. The Strategy contains 38 actions, the most relevant of which was to undertake the *Guildford and Hardware Lanes Heritage Study* (the Study). The Study, which comprised the area bounded by La Trobe, Elizabeth, Little Collins and Queen Streets, was implemented through Amendment C271 in August 2019.

The Study graded part of the property at 372-378 Little Bourke Street as contributory. This grading was applied only to the side wall of the building to Niagara Lane. The remainder of the building was graded as non-contributory.

The Precinct Property Schedule included a description of the building as ‘Six storey interwar factory to Little Bourke Street, with post war alterations to principal façade’. It also showed that the previous status of this property was ‘ungraded’.

The Panel for Amendment C271 recommended the adoption of the Amendment with changes, including changes to the *Guildford and Hardware Lanes Heritage Study 2017: Statements of Significance*, the *Guildford and Hardware Lanes Heritage Study 2017: Heritage Inventory* and the *Guildford and Hardware Lanes Heritage Study May 2017* to include the building in the precinct Heritage Overlay HO1205 but revise the grading of the entirety of the building at 372-378 Little Bourke Street from contributory to non-contributory.

On 13 November 2018, Council resolved to adopt the Amendment with all the Panel’s recommendations, including that Chart House be listed as non-contributory and forwarded it to the Minister for Planning for approval.

New information, including the original building plans and specifications and oblique aerial photographs were submitted by Melbourne Heritage Action (MHA) to Council on 24 December 2018. This information was not considered by the Study and Council commissioned a review of Chart House by Lovell Chen, the authors of the Study, and GJM Heritage Consultants. Both consultants recommended that Chart House be included within HO1205 with a contributory grading over the entire property.

Council then notified the Department of Environment, Land, Water and Planning of the consultants' recommendations.

By letter dated 23 June 2019 the Minister for Planning advised Council that he had decided:

- to approve Amendment C271, with the removal of 327-378 Little Bourke Street from the Amendment and
- to prepare, adopt and approve Amendment C355 to the Scheme under section 20(4) of the *Planning and Environment Act 1987*, to apply an interim contributory grading to the entirety of 327-378 Little Bourke Street for 12 months, expiring on 30 June 2020.

In response on 17 September Council resolved, amongst other things that it:

- Notes the gazettal of C271 Guildford and Hardware Lane Heritage Study, affording heritage protection to two precincts, including 113 properties, seven individual places and modifications to existing heritage overlays.
- Notes the decision of the Minister for Planning to remove 372-378 Little Bourke Street from Amendment C271 and to add introduce an interim Heritage Overlay identifying the entirety of the property as contributory to the Guildford and Hardware Lane Precinct (HO1205) until 30 June 2020.
- Resolves to seek authorisation from the Minister for Planning for the Council to prepare and exhibit Amendment C365 pursuant to Section 20(2) of the Planning and Environment Act 1987 in order to introduce a permanent Heritage Overlay to the property at 372-378 Little Bourke Street to identify the property as contributory to the Guildford and Hardware Lane Precinct (HO1205).
- Resolves to request that the Minister for Planning consider exempting Amendment C365 under section 20(2) of the Planning and Environment Act 1987 to provide for limited notice and to truncate the period in which submissions must be made.

By letter dated 15 October, the Minister for Planning authorised Amendment C365 subject to a minimum of two week's notification.

1.3 Summary of issues raised in submissions

(i) Planning Authority

The key issue for Council was:

- whether Chart House should be designated as significant or contributory in HO1205.

(ii) Individual submitters or groups of submitters

The key issues for submitters were:

- whether Chart House should be included in HO1205 with a significant grading
- whether Chart House should be included in HO1205 with a non-contributory grading.

These issues were outstanding at the commencement of the Hearing.

1.4 The Panel's approach

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
- The appropriate grading for Chart House.

2 Planning context

2.1 Planning policy framework

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

Victorian planning objectives

The Amendment will assist in implementing the following state policy objectives set out in section 4 of the Act:

- 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.
- 4(1)(g) – to balance the present and future interests of all Victorians.

Clause 15 (Built Environment and Heritage)

The Amendment supports Clause 15:

- By including 372-378 Little Bourke Street within the Heritage Overlay on a permanent basis and with a contributory grading, the Amendment will ensure that the building's contribution to the Heritage Precinct is protected, conserved and enhanced.
- The Heritage Overlay will require that before any changes are made to the building, consideration is given to the building's contribution to the Heritage Precinct and will thereby encourage potential future development to be designed to respect the building's contribution to the Heritage Precinct.

Local Policy Framework

The Amendment supports the Municipal Strategic Statement:

- Clause 21.06-2 (Heritage) of the Municipal Strategic Statement seeks to conserve and enhance places and precincts of identified cultural heritage significance. The Amendment will contribute to achieving this objective by identifying and conserving places of heritage significance.
- Clause 22.04 (Heritage Places within the Capital City Zone) of the Local Planning Policy Framework seeks to conserve and enhance all heritage places as well as to promote the identification, protection and management of aboriginal cultural heritage values. The Amendment supports the objectives of Clause 22.04 by conserving, promoting and protecting additional places of heritage value within the Capital City Zone in both its current form and as proposed by Amendment C258.

2.2 Other relevant planning strategies and policies

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. Outcomes that are particularly relevant to the Amendment are set out in Table 1.

Table 1: Relevant parts of Plan Melbourne

| Outcome | Directions | Policies |
|---|---------------------------------------|---|
| A distinctive and liveable city with quality design and amenity | 4.4.4 – respect Melbourne’s heritage. | 4.4.1 – recognise the value of heritage when managing growth and change 4.4.3 – stimulate economic growth through heritage conservation 4.4.4 – protect Melbourne’s heritage through telling its stories. |

2.3 Planning scheme provisions

(i) Zones

The land is in the Capital City Zone Schedule 1. The purpose of the Zone is:

To provide for a range of financial, legal, administrative, cultural, recreational, tourist, entertainment and other uses that complement the capital city function of the locality.

(ii) Overlays

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

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.

The land is subject to the Design and Development Overlay Schedule 1. The purposes of the Overlay are:

To ensure ground floor frontages are pedestrian oriented and add interest and vitality to city streets

To provide continuity of ground floor shops along streets and lanes within the retail core.

To ensure ground floor frontages contribute to city safety by providing lighting and activity.

The land is subject to the Design and Development Overlay Schedule 11. The purposes of the Overlay are:

To ensure development achieves a high quality of pedestrian amenity in the public realm in relation to human scale and microclimate conditions such as acceptable levels of sunlight access and wind.

To ensure that development respects and responds to the built form outcomes sought for the Central City.

To encourage a level of development that maintains and contributes to the valued public realm attributes of the Central City.

To ensure that new buildings provide equitable development rights for adjoining sites and allow reasonable access to privacy, sunlight, daylight and outlook for habitable rooms.

To provide a high level of internal amenity for building occupants.

To ensure the design of public spaces and buildings is of a high quality.

To encourage intensive developments in the Central City to adopt a podium and tower format.

2.4 Ministerial Directions and Practice Notes

The Council submitted the Amendment is consistent with the Ministerial Direction on the Form and Content of Planning Schemes under section 7(5) of the Act.

The Amendment is consistent with Minister's Direction No. 9 – Metropolitan Strategy, pursuant to section 12 of the Act that requires planning authorities to have regard to the Metropolitan Planning Strategy, Plan Melbourne in preparing an amendment. Specifically, the Amendment is supported by Direction No. 4.4 - respect Melbourne's heritage as we build for the future.

2.5 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 should proceed subject to the change discussed in the following chapter.

3 The appropriate grading for Chart House

3.1 The issues

The issue is:

- Whether the building at 372-378 Little Bourke Street should be graded as significant, contributory or non-contributory in the precinct Heritage Overlay HO1205.

3.2 Relevant policies, strategies and studies

(i) Definitions in the Study

The *Guildford and Hardware Lanes Heritage Study – Methodology Report 2017* provides the following definitions

A significant heritage place:

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

A contributory heritage place:

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

A non-contributory heritage place:

A 'non-contributory' place does not make a contribution to the heritage significance or historic character of the precinct.

(ii) The precinct Statement of Significance

The following Statement of Significance for HO1205 is included in the incorporated document *Guildford and Hardware Laneways Heritage Study 2017: Statements of Significance*. This document was incorporated into the planning scheme by Amendment C271. It describes the elements of the precinct, but does not specifically mention Chart House (or any other individual buildings in the precinct).

What is significant?

The Guildford and Hardware Laneways Precinct is located in the Melbourne Central Business District. The precinct occupies parts of four city blocks bounded by La Trobe Street to the north, Bourke Street to the south, Queen Street to the west and Elizabeth Street to the east. The precinct has a comparatively high proportion of buildings of heritage value, and significant and contributory buildings in the precinct date from the 1850s through to the interwar period. While precinct development is diverse, many of the graded buildings are former factories and warehouses, with some more modest workshops, of the late nineteenth and early twentieth centuries. The precinct boundary

is not contiguous, and in some cases the laneways stop at little streets or main streets and thoroughfares, before recommencing on the other side. The side and rear elevations of buildings of significant and contributory heritage value, can also be important precinct contributors. Where there is historic development to both sides of a laneway or street, including the fronts, sides or rears of properties, the precinct boundary generally incorporates the subject laneway or street. Laneways also provide a setting to the properties, again including property sides or rears. Lanes within the precinct also retain, to a greater or lesser degree, original bluestone kerbs, channels and flagstones.

How is it significant?

The Guildford and Hardware Laneways Precinct is of historical, social and aesthetic/architectural significance to the City of Melbourne.

Why is it significant?

The Guildford and Hardware Laneways Precinct is of historical significance. The laneway network within the precinct provides evidence of the evolution and growth of the Central City within the structure of the large city blocks and rigid geometry of the 1837 Hoddle Grid. While the grid plan included main streets, and east-west running little streets, the lanes proliferated off this framework, generally in a north-south direction, as the city evolved and developed. The precinct and its laneways and little streets also demonstrate changing historical land uses, and retain building types which reflect these uses and evolving patterns of occupation and development in central Melbourne. The number and extent of lanes in the precinct is reflective of their significant growth in the CBD from the mid-nineteenth to the mid-twentieth century, with 235 named lanes in the broader city by 1935. The precinct's lanes historically serviced the rears of properties fronting other streets, and acted as thoroughfares through large city blocks. Their typical north-south alignment is reflective of the boundaries of the late 1830s and 1840s large Crown allotments. With increasing subdivision, density and changing land use patterns, many early lanes also evolved into distinct streets with their own character and property frontages. The changing names of some lanes attests to their evolving histories and land uses. Throughout much of the second half of the nineteenth century, small scale residential development and commercial activity was the overriding precinct land use. The former included modest cottages and dwellings, sometimes of sub-standard construction; while the latter included Melbourne's famous horse bazaars, numerous hotels and small scale workshops. From the late nineteenth century and into the early twentieth century, many earlier small buildings were demolished and replaced by larger factories and warehouses. The precinct's location, away from the main commercial areas to the south and east, also enabled this next phase of development, due to the relatively cheaper land values. Diverse businesses occupied the buildings, and included printers, publishers and stationers, bulk stores, manufacturing businesses, and light industry. Many of these buildings remain in the precinct. In the later twentieth century, a new wave of residents and businesses were attracted back to the precinct, as part of the City of Melbourne's revitalisation of the Central City laneways. (Criterion A)

The Guildford and Hardware Laneways Precinct is of social significance. This largely derives from the popularity of the revitalised and vibrant laneways of the precinct, with residents and visitors attracted by the activated laneway streetscapes, street art, and numerous bars, cafes, night clubs, galleries and boutique retail outlets. The laneways are also valued by the community as unique public spaces within the CBD. (Criterion G)

The Guildford and Hardware Laneways Precinct is of aesthetic/architectural significance. The laneways in particular form distinctive streetscapes within the Central City, their significant heritage character enhanced by the diverse collection of historic buildings, including former factories and warehouses, with some workshops, and their rich materiality. Face red brick is the dominant material, complemented by bluestone, rendered masonry and concrete. The heritage character also derives from

the narrow footprint and dimensions of the lanes, given emphasis by the bordering buildings with tall and/or long facades and walls, with no setbacks. Some warehouses have elevated ground floors, and visible subbasements, which while being illustrative of original loading arrangements, also contribute to the distinctive aesthetic of some lanes. Lanes within the precinct retain to a greater or lesser degree original bluestone kerbs, channels and flagstones, which also contribute to the materiality and heritage character of the precinct. (Criterion E) The precinct is additionally important for demonstrating the principal characteristics of the laneway network of the broader city. The alignment and layout of the precinct's lanes reflects their origin within the formal Hoddle Grid, their proliferation within the original large city blocks, and their historic servicing and right-of-way roles. Importantly, the laneways of the precinct also largely retain their original arrangement, as evident in nineteenth century sources. (Criterion D)

The following are the key characteristics of the precinct, which support the assessed significance:

- Laneways predominantly follow a north-south alignment, reflective of the boundaries of the large Hoddle Grid (Crown land) allotments of the late 1830s and 1840s.
- Density of laneways is reflective of their proliferation within the large city blocks from the mid-nineteenth century, following increased subdivision and changing land use patterns.
- Laneways include those which are distinct streets with property frontages; and those which have formed to the sides or rears of properties.
- Narrow proportions, emphasised by walls of buildings, provide a unique character to the laneways as public spaces.
- Contributory components of buildings to the precinct include side and rear elevations, as well as property frontages and facades.
- Contributory building materials include face red brick, bluestone, rendered masonry and concrete. Of note is the limited overpainting of original external walls.
- Windows and doors expressed as punched openings in masonry walls rather than large expanses of glazing.
- Original window and (to a lesser degree) door joinery, including nineteenth century timber elements, and more commonly steel windows from the interwar period.
- Buildings are typically constructed from boundary to boundary, with no setbacks.
- Heights of buildings vary but are generally within the one to four storey range, with some exceeding this.
- Other notable built form characteristics include elevated ground floors and visible basements; high parapets and very little visibility of roof forms; original signage and building names; chamfered corners; hoists and crane beams to warehouses, providing access to upper levels; and timber and concrete buffers.
- There is a general absence of vehicle parking arrangements.
- Contributory laneway materials include bluestone kerbs, channels and flagstone.

Council informed the Panel that the definitions of significant, contributory and non-contributory are contained in Clause 22.04 Heritage Places within the Capital City Zone proposed by Amendment C258 and also in the proposed 'Melbourne Planning Scheme, Heritage Places Inventory 2017'. The C258 Panel Report was received by Council in May 2019 but has not yet been considered by Council.

3.3 Evidence and submissions

Council submitted that the principal question before the Panel was whether Chart House makes a contribution to the cultural heritage significance of the Guilford and Hardware Lanes precinct. Council argued that all three experts, *“in their own way, accept that Chart House passes this test.”*

Council advised the Panel that in preparing for Amendment C271, the Study concluded that that the Little Bourke Street frontage of Chart House was not sufficiently intact to warrant a contributory grading. This assessment was informed by an assumption that the building was originally five stories high and a sixth was added some time after completion.

It followed, in their opinion, that the modifications to this frontage were too important to allow the building to contribute to the cultural heritage significance of the Precinct when appreciated and understood from Little Burke Street.

Council argued that the new material provided by MHA justified a reassessment of the building. The building plans obtained from the Public Records Office showed the building had been designed as a six storey building and an aerial photo taken around 1950 showed that it had been constructed that way.

Council submitted that:

A contributory place's significance is contextual and relational, arising from its contribution to the collective cultural heritage significance of the precinct in which it is located.

The construction of Chart House was completed in 1941 and Council contended that only small changes had been made to the appearance of the building in the past 78 years. It added:

The photographs in the experts' reports confirm that this building presents to the public realm much as it did when it was built in the second year of World War II.

With respect to the HO1205 Statement of Significance, Council agreed that nine of the 13 characteristics of the precinct were not relevant to Chart House. However, the remaining four were seminal to the building's contribution to the precinct. In Council's submission the following were the relevant characteristics:

- the height, siting and massing of the sideage contributes to the narrow feel of the laneway;
- the external materials of the building include rendered masonry. There is no conclusive evidence that any part of the front façade or either the west or east sides of the place have been overpainted;
- the frontage is marked by punched openings in masonry walls rather than large expanses of glazing. This is, indeed, a perfectly apt description of its presentation to Little Bourke Street from the second to the sixth storey; and
- original signage - being the name John Doone & Son - remains on the ground floor window. Only the original high parapet is gone.

Mr Gard'ner's evidence was that the building *“remains highly intact to its original construction in 1941”*. Chart House is comparable to other contributory buildings in the precinct. Mr Gard'ner did not agree that the building should be graded as significant. He did not accept that the building was an early example of modern city building and considered

that it was more a reflection of the practical constraints imposed at the beginning of the second World War.

He added:

Specifically, it was found that the subject building, in its entirety, falls within the identified historical period of significance for HO1205 and contributes to its identified architectural character by demonstrating the following key features from the Statement of Significance for the precinct:

- Rendered masonry and concrete;
- Windows and doors expressed as punched openings in masonry walls rather than large expanses of glazing;
- Original window (and to a lesser degree) door joinery, including steel windows from the interwar period;
- Buildings constructed from boundary to boundary, with no setback; and
- Heights of buildings generally fall within the one to four storey range, with some exceeding this.

Mr Gard'ner described Chart House in the following manner.

The subject site comprises a six storey concrete frame building constructed in 1941, located at the intersection of Little Bourke Street and Niagara Lane. The principal façade to Little Bourke Street comprises large rectangular steel-framed windows arranged in a grid pattern, with a stairwell located at the west end of this elevation. The stairwell is expressed by a series of paired narrow horizontal windows set within rendered panels. At the roof level, the original parapet has been removed. At the ground floor, the two shopfronts comprise recessed entries with terrazzo floors and large chromed steel-framed windows, with projecting canopies extending over. The original tiled shopfronts have been rendered over and painted. Gold lettering reading 'JOHN DONNE & SON MAPS & GLOBES' survives in the highlight shopfront window of no.372.

The Niagara Lane elevation is utilitarian, punctuated by the same rectangular steel-framed windows as the principal façade, and also arranged in a regular grid pattern. The west wall of the building visible above the lower neighbouring buildings has an expressed concrete frame with red brick infill.

It is my observation that the following changes have been made to the exterior of the building since its construction:

- Removal of parapet;
- Removal of roof-top signage;
- Rendering of the stairwell;
- Painting of the stairwell element and Niagara Lane elevation in a dark grey;
- Overpainting of ground floor shopfront tiles; and
- Canopy detail.

Mr Gard'ner evidence was that the following elements of the precinct Statement of Significance applied to Chart House:

- built in the interwar period
- it meets the description of many of the graded buildings in the precinct, namely former factories and warehouses, with some more modest workshops, of the late nineteenth and early twentieth centuries

- the precinct and its laneways and little streets also demonstrate changing historical land uses, and retain building types which reflect these uses and evolving patterns of occupation and development in central Melbourne
- from the late nineteenth century and into the early twentieth century, many earlier small buildings were demolished and replaced by larger factories and warehouses
- their significant heritage character enhanced by the diverse collection of historic buildings, including former factories and warehouses, with some workshops
- face red brick is the dominant material, complemented by bluestone, rendered masonry and concrete
- given emphasis by the bordering buildings with tall and/or long facades and walls, with no setbacks
- contributory components of buildings to the precinct include side and rear elevations, as well as property frontages and facades
- contributory building materials include face red brick, bluestone, rendered masonry and concrete
- windows and doors expressed as punched openings in masonry walls rather than large expanses of glazing
- original window and (to a lesser degree) door joinery, including nineteenth century timber elements, and more commonly steel windows from the interwar period
- buildings are typically constructed from boundary to boundary, with no setbacks
- heights of buildings vary but are generally within the one to four storey range, with some exceeding this
- original signage and building names are present.

MHA submitted that an argument could be made that the building warranted individual significance because of the level of intactness and *the “uniqueness of the building as a precursor to post war modernism”*.

MHA argued that there was no clear evidence that the façade of Chart House was in face brick. Nevertheless, the change was cosmetic and did not diminish the significance of the building. It stated that a number of other contributory graded buildings have been more substantially altered and added to:

It is possible that the built project was simpler than the drawings indicate, without brick, and perhaps even without the 'mock joints', so it always looked much as now – the only change in colour being the current dark grey which is simply recent paint.

Berjaya Developments Pty Ltd (Berjaya) submitted that the new information served to confirm that there have been substantial alterations to the Little Bourke Street frontage which reinforced the position of the C271 Panel. As a consequence, the building should be graded non-contributory.

Berjaya argued that the evidence presented at the C271 Hearing demonstrated that the addition of a 6th floor was not a matter that was pursued by one of the authors of the Study. Berjaya contended that there have been substantial alterations to the Little Bourke Street frontage. These alterations included:

- the removal of the parapet and signage
- covering over of pink bricks used in piers

- covering over of the shop front tiles
- replacement of the canopy cladding.

Berjaya submitted that that the initial conclusion of the authors of the Study was correct and that the façade of Chart House was sufficiently altered to warrant its non-contributory grading.

Ms Riddett's evidence was there was nothing in the building's history that was more than "ordinary or typical" and it has minimal aesthetic qualities.

Ms Riddett stated that the building had been substantially altered. She described these alterations as follows:

In summary, the façade has been altered by removal of signage, lowering of the parapet, probable removal of a flagpole, rendering or painting over the pink bricks, rendering over any original tiling or removal of tiling to the shopfronts and overpainting of the metalwork to No. 374 Little Bourke Street. The upper level façade edges appear to have always been rendered rather than tiled. The steel-framed windows are stock standard and the metal portions of the shopfronts and some, or all, of the glazing is original. The shopfronts are generally typical of many made by Duff, Brooks Robinson and the like, and which exist in suburban shopping strips of the era. Some of those are quite elaborate while others are fairly plain. These are slightly Moderne.

Ms Riddett concluded that the building was designed for general commercial use, partly as a factory but also accommodating offices, showrooms and storage. As early as 1947 some part of the building was leased by the Commonwealth Government. She agreed with Mr Gard'ner that a claim of individual significance could not be justified.

She summarised her opinion as:

My assessment against the definition of a contributory building and against the Criteria and Thresholds, indicate that the building does not meet the thresholds or the definition, the latter only in a factual sense and without higher value as would be expected by being "important".

The basis for the contributory grading appears to be less to do with the building itself and more to do with the pattern of the narrow street and the laneways and the general replacement of 19th century buildings in the 20th century. In my opinion case for a contributory grading has not been made and on the basis of the current factual materials probably cannot be made.

Given that the case for being contributory is related to the streetscape and the laneway by virtue of height and street wall at the corner, then in my opinion this can be achieved appropriately by another wall or building.

In my opinion, to grade the building at No. 372 – 378 Little Bourke Street as "contributory" only because of a perceived contribution to the character of Little Bourke Street and Niagara Lane, is unwarranted, moreover since the building itself has been found to not have any individual heritage significance and therefore could be demolished. It should be graded non-contributory.

Her conclusion was the contributory grading was more to do with the pattern of narrow streets and laneways and the replacement of 19th century buildings with 20th century buildings than with Chart House itself.

Mr Barrett's evidence was a number of key characteristics of buildings in the precinct identified in the Statement of Significance have been altered or removed from Chart House. His evidence was that the building lacked the following characteristics:

- narrow proportions, emphasised by walls of buildings, provide a unique character to the laneways as public spaces
- limited overpainting of original external walls
- punched openings in masonry walls rather than large expanses of glazing
- high parapets and original signage and building names.

Mr Barrett's evidence was:

Chart House does not have narrow frontages (either to Little Bourke Street or Niagara Lane), whereas other buildings within the precinct are generally defined by a fine grain character. The large sections of glazing on the upper levels of Chart House (both Little Bourke Street and Niagara Lane), are in contrast with the punctured wall openings said to be commonly found on buildings in the precinct. Although render is included as a key characteristic of the precinct, it is the red brick of buildings that contribute most in the aesthetic value of Niagara Lane. Overpainting of facades (and the rendering over of original finishes), as has occurred to Chart House, is also not a key characteristic of the precinct.

Mr Barret concluded:

Chart House is not a ground-breaking example of modernism in Melbourne, as has been claimed. The conclusion it was at the forefront of Modernist design in Melbourne in the mid-twentieth century, and more representative of a later generation of modernism, is based upon a limited comparative analysis of 1930s and 40s architecture in this city. This claim also fails to appreciate that much of the existing Modernist appearance of Chart House is not the work of R M & M H King, but of a later architect, or designer, that remodelled the building in recent decades to have a more contemporary appearance.

Chart House has little in common with most other contributory built form of this precinct. It shares very little with the materiality and fine grain character of the Pre-World War II building stock of this precinct, which are often of a higher architectural resolve and often more intact. In the context of Little Bourke Street, and in Niagara Lane, Chart House contributes little to surrounding built form and the key characteristics of the built form discussed in the precinct's Statement of Significance, and the heritage (HERCON) criteria attributed to the broader HO1205 Hardware and Guildford Laneways Precinct.

Mr Barrett stated that Chart House's contribution to Niagara Lane is minimal. It is built along the boundary, but its rendered surface is in contrast to the face brick and rendered detail of the other buildings fronting the Lane.

3.4 Discussion

The issue before the Panel is what grading is appropriate for Chart House in the context of its location in HO1205.

Under the three category grading used in the Study, a significant heritage place is *"individually important at state or local level, and a heritage place in its own right"*, whereas a contributory heritage place is *"important for its contribution to a precinct"*.

Amendment C271 as exhibited included Chart House in the HO1205 with a non-contributory grading on the building and a contributory grading on the Niagara Lane wall. The Panel supported including the building in the precinct Heritage Overlay, but did not support the proposed grading and recommended that the entire building be graded as non-contributory.

This Panel notes that none of the parties have challenged the inclusion of the building in the HO1205 and reaffirms the recommendation of Amendment C271 that the building be included in the precinct Heritage Overlay HO1205.

The significant, contributory and non-contributory grading was used as the basis for grading buildings in the Study in anticipation of the approval of Amendment C258. Amendment C258 proposed to amend Clause 22.04 Heritage Places within the Capital City Zone by, amongst other things, including this three category grading detailed in section 3.2 above. The Amendment C258 Panel recommended changes to the definitions and the Amendment is yet to be adopted by Council. However, because significant, contributory and non-contributory classifications were the basis for grading buildings in the Study, the Panel has adopted these classifications for the consideration of this matter.

The Panel agrees with the evidence of all three experts that Chart House does not meet the criteria to warrant a significant grading. The building is not individually important at a state or local level and does not meet the criteria for a significant grading set out in the Study.

Ms Riddett's and Mr Barrett's evidence was that the building has been substantially altered, was unremarkable in its appearance and consequently was not important and did not make a contribution to the precinct. Mr Gard'ner took the view that a building "*need not be a fine, notable or pivotal example of the type*" to make a contribution. In his view the historical use, the architectural characteristics and its date of construction all combined to make a contribution to the precinct.

Chart House did not achieve the thresholds for either a significant or a contributory grading in Amendment C271 and in the Panel's view the new material does not warrant a reconsideration of its grading under Amendment C365.

The authors of the Study did not identify the building as contributory in the initial assessment of the building. In the Panel's view, the memorandum dated 11 February 2019 by Lovell Chen (Document 1) is useful in its assessment of the building. In part this memorandum states:

Regarding the architects R M & M H King, while it is acknowledged that the Kings (father and son) ran a large practice over a considerable period of time, they appear to have been journeyman architects. The practice is understood to have received no awards.

The early practice (under father Ray King) concentrated on polite architecture for churches and suburban residences. Kurrajong House in Melbourne (built in 1926-27, see Figure 9) was something of a break for the practice in terms of its scale and concrete construction, and was designed around the time that Maurice King, an engineer, joined his father. Maurice appeared to be fairly competent with the Moderne design of the interwar period, which was applied by the practice to both residential and industrial buildings with some mixed success. Their interwar houses in the Art Deco (Moderne) mode are better regarded, while not as widely recognised as many within the broader context of Moderne design in Melbourne immediately before WWII.

Chart House is of the Kings' late interwar oeuvre. It was a capable but unremarkable attempt to produce something different to the practice's work of the early to mid-1930s. In this way it was following the example they set with the 1937 Drayton House (Figure 11) on the opposite side of Little Bourke Street, but it is not as intact as that building nor as architecturally distinguished (discussed below).

The Moderne style of architecture (as opposed to Modernist architecture of the post-WWII period) was also in decline by the late 1930s. Chart House, in this somewhat changing context, was reasonably conventional. It was also subsequently, through changes to the building, given more of a 'cleaner' postwar expression through the removal of the high parapet and signage, and the rendering/smoothing over of some of the earlier external materials.

To explain further, the building, in its current form, does have somewhat of a post-WWII expression, which could be seen as early Modernist. But this is not the original design intent, which had more of a late interwar Moderne expression. The latter derived from the very high parapet, which was typical of Moderne styling, as was the tiling and some other external fabric details which have been removed or rendered over. These subtle, and not so subtle, changes have diminished the later interwar aesthetic. The currently flat finish to the top of the building, immediately above the top floor windows, is more of a post-WWII feature, but again it is not original and was not intended by the architect. The original high parapet was not a Modernist feature, it was an interwar device; tiling to buildings was also more of an interwar treatment.

In short, Chart House is a late interwar factory/warehouse/office building, which retains its original windows to the south and east elevations, and largely original shopfront arrangements, but has otherwise been altered to the top of the building, and through removal/change to some external fabric.

This assessment confirms the Panel's view that Chart House has been significantly altered and is not important for its contribution to the precinct and should be graded as non-contributory.

3.5 Recommendation

The Panel recommends:

- 1. Adopt Amendment C365 to the Melbourne Planning Scheme as exhibited with the following change:**
 - a) Amend the grading of 372-378 Little Bourke Street, Melbourne to non-contributory.**

Appendix A Submitters to the Amendment

| No. | Submitter | No. | Submitter |
|-----|---|-----|---|
| 1 | Best Hooper on behalf of Berjaya Developments Pty Ltd | 12 | Susan McDougall |
| 2 | Caitlin Mitropolis | 13 | Tristan Davies on behalf of Melbourne Heritage Action |
| 3 | Kevin O'Rafferty | 14 | Jack Leishman |
| 4 | Wayne Coles-Janess | 15 | Greg Branson |
| 5 | Sioux Clark | 16 | Max Leishman |
| 6 | Amanda Witt | 17 | Phillip Taylor-Bartels |
| 7 | Damian Thompson | 18 | Julie Taylor-Bartels |
| 8 | Fiona Griffiths | 19 | Justin Flanagan |
| 9 | Ingrid Curry | 20 | Fiona McLeod |
| 10 | Kristen Solury | 21 | Paul Morgan |
| 11 | Shane Rogers | | |

Appendix B Parties to the Panel Hearing

| Submitter | Represented by |
|------------------------------|--|
| Melbourne City Council | Mr Ian Munt of Counsel, who called expert evidence from: - Jim Gard'ner of GJM Heritage on Heritage. |
| Berjaya Developments Pty Ltd | Mr John Cicero of Best Hooper who called expert evidence from: - Robyn Riddett of Anthemion Consultancies on Heritage - Peter Barrett of Peter Andrew Barrett on Heritage. |
| Melbourne Heritage Action | Mr Tristen Davies. |

Appendix C Document list

| No. | Date | Description | Provided by |
|-----|----------|--|---------------|
| 1 | 26/11/19 | Correspondence from Melbourne Heritage Action, Lovell Chen and GJM Heritage to the City of Melbourne | Council |
| 1a | 28/11/19 | Council Part A submission | Mr I. Munt |
| 2 | 3/12/19 | Evidence report Jim Gard'ner | Council |
| 3 | 4/12/19 | Evidence report Robyn Riddett | Council |
| 4 | 4/12/19 | Evidence report Peter Barrett | Council |
| 5 | 9/12/19 | Chart House plans | Mr I. Munt |
| 6 | 9/12/19 | Chart House plans and engineering drawings | Mr J. Cicero |
| 7 | 9/12/19 | Photo Little Bourke Street circa 1950 | Mr J. Cicero |
| 8 | 9/12/19 | Photos of Chart House façade and materials | Mr J. Cicero |
| 9 | 9/12/19 | Photos of the laneways in the Gilford and Hardware Lane Precinct | Mr J. Cicero |
| 10 | 9/12/19 | Photos - Chart House hotel entrance alterations 2008 | Mr J. Cicero |
| 11 | 9/12/19 | Council Part B submission | Mr I. Munt |
| 12 | 9/12/19 | Chart House façade photos | Ms R. Riddett |
| 13 | 9/12/19 | Chart House photos and materials | Ms R. Riddett |
| 14 | 9/12/19 | Pebbledash information sheet | Ms R. Riddett |
| 15 | 9/12/19 | Pebbledash removal and replacement options | Ms R. Riddett |
| 16 | 9/12/19 | 372-378 Little Bourke Street Notes for Panel – MHA | Mr T. Davies |
| 17 | 10/12/19 | Submission on behalf of Berjaya Developments Pty Ltd | Mr J Cicero |
| 18 | 10/12/19 | Closing submission on behalf of Council | Mr I. Munt |