

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

IN THE MATTER of Amendment C258 to the Melbourne Planning Scheme

BETWEEN:

**MELBOURNE CITY COUNCIL**

Planning Authority

-and-

**VARIOUS SUBMITTERS**

**AFFECTED LAND:** All land within the Melbourne municipal area affected by a heritage overlay and particular properties in West Melbourne

**DIRECTIONS HEARING 7 NOVEMBER 2018**

**SUBMISSIONS OF THE PLANNING AUTHORITY**

**I. INTRODUCTION**

1. The City of Melbourne (**Council**) is the Planning Authority for Amendment C258 (the **Amendment**) to the Melbourne Planning Scheme (the **Scheme**).
2. On 21 September 2018, the Panel for the Amendment made the following directions:
  1. *By 5 October 2018, the Council must provide information about the Amendment and the Panel Hearing to the owners of those properties which were not affected by a heritage overlay at the time the Amendment was originally exhibited but are now proposed to be included in a heritage overlay under Amendments C271, C305 and C328. The notice is to indicate that the notified persons may seek to be heard by the Panel.*
  2. *The information in the notice must include an explanation of the Amendment and a link must be provided to the exhibited documents and to the most recent version of the Clause 22.04 policy incorporating the changes recommended by Ms Brady and Ms Jordan. A link to the Council Committee meeting minutes of February 2018, and to these Panel Directions and submissions and evidence circulated during the Panel process to date, must also be provided. A link to the Panel document list is also to be provided (to follow).*

3. *The notice must indicate that by no later than 26 October 2018, any notified person who wishes to be heard by the Panel must provide to the Council a written submission and a request to be heard with an indication of the length of time that they request to present to the Panel.*
  4. *The notice must indicate that a Directions Hearing will be held by the Panel on 7 November 2018 at Planning Panels Victoria (address and PT access to be given) at 10am to consider how to further progress the remainder of the Panel Hearing and indicate a preference by the Panel for further Hearing days commencing at the end of November 2018. Persons wishing to present to the Panel are to be invited to attend the Directions Hearing.*
  5. *The notice should include the usual contact address, email and phone numbers for Planning Panels Victoria (per Joseph Morrow) to facilitate enquiries.*
  6. *The Council is to copy the Panel with all received responses to the notice and RTBHs and a summary of the latter by no later than 1 November 2018.*
3. By letter dated 3 October 2018, Council has provided information about the Amendment and the Panel Hearing to owners of properties proposed to be included in a heritage overlay by Amendments C271, C305 and C328, in accordance with the Panel directions.
  4. All information contained in Direction 2, including an explanation of the Amendment, a link to the exhibited documents and the most recent version of the Clause 22.04 policy incorporating changes by Ms Brady and Ms Jordan (see **Attachment A**) was provided.

## **II. PROGRESS OF THE AMENDMENTS**

5. On 18 October 2018, Amendments C327, C304 and C301 were introduced into the Scheme. Amendments C327, C304 and C301 introduce interim heritage controls for properties located within the *Hoddle Grid Heritage Review 2018*, the *Southbank & Fishermans Bend Heritage Review 2017* and the *Guildford and Hardware Laneways Heritage Study 2017* respectively.
6. The number of properties previously unaffected by a heritage overlay that were proposed to be included within a new heritage overlay via the interim controls, and thus notified of the Amendment on 3 October 2018, are:
  - a) Hoddle Grid: 126 properties (822 owners);

- b) Southbank and Fishermans Bend: 69 properties (3,059 owners); and
  - c) Guildford and Hardware Laneways: 91 properties (176 owners).
7. A letter from the Minister for Planning notifying the Council of the approval of Amendments C327 and C301 identified that properties that were the subject of a live planning permit were excluded from the interim controls introduced by these amendments.
8. In its current form, clause 22.04 provides:

***Policy***

*The following matters shall be taken into account when considering applications for buildings, works or demolition to heritage places as identified in the Heritage Overlay:*

...

- *The recommendations for individual buildings, sites and areas contained in the Central City Heritage Study Review 1993 except for the buildings detailed in incorporated documents titled Central City (Hoddle Grid) Heritage Review: Statements of Significance June 2013, the Guildford and Hardware Laneways Heritage Study 2017: Statements of Significance, and Hoddle Grid Heritage Review: Statements of Significance, September 2018, in which case the Central City (Hoddle Grid) Heritage Review: Statements of Significance June 2013 or the Guildford and Hardware Laneways Heritage Study 2017: Statements of Significance or Hoddle Grid Heritage Review: Statements of Significance, September 2018 will apply.*
9. The Policy Reference documents referred to in clause 22.04 include the *Southbank and Fishermans Bend Heritage Review, Biosis and Graeme Butler, 16 June 2017* and the *Hoddle Grid Heritage Review, September 2018*.
10. Council has elected to halt the further progress of the permanent controls sought by Amendments C328 (Hoddle Grid) and C305 (Southbank and Fishermans Bend), until the panel process for the Amendment has concluded.

**III. ADDITIONAL PERSONS SEEKING TO BE HEARD BY THE PANEL**

11. Council has received submissions and requests to be heard by the Panel in regard to the following properties:
- a) 183-189 A'Beckett Street (owned by The Trust Company (Australia) Limited Trustee for WH A'Beckett Trust);

- b) 17-21 Bennetts Lane (owned by Foxglove Nominees Proprietary Limited);
  - c) 23 Bennetts Lane (owned by PJ & JT Conroy);
  - d) 134-144 Little Lonsdale Street (owned by Claredale Consolidated Pty Ltd);
  - e) 146-148 Little Lonsdale Street (owned by Claredale Consolidated Pty Ltd);
  - f) 134-136 Flinders Lane (owned by Owners Corporation PS334447S; A, A & A Tuteja; Barbara Toggias; Vera Constructions Pty Ltd; Natalie Ann Reiter; and JP Hanney and BD Prewett);
  - g) 20 King Street (owned by 18 King Street Nominees Pty Ltd);
  - h) 22-24 King Street (owned by Grooven Pty Ltd);
  - i) 234-244 King Street (owned by Tunnel Bar Entertainment Pty Ltd);
  - j) 239-241 King Street (owned by King Street Nominees Pty Ltd);
  - k) 577-583 Little Collins Street (owned by Sydney Road Holdings Pty Ltd c/- EMS);
  - l) 263-267 William Street (owned by Metro Pol Investment Pty Ltd).
12. Council notes that properties at 22-24 King Street and 234-244 King Street are listed on the Victorian Heritage Register, and are accordingly unaffected by the proposed heritage policy considered by the Amendment. Accordingly, Council does not refer submissions made in respect of these properties to the Panel.
13. The further information provided by the Council in accordance with the Panel directions of 21 September 2018 was clearly stated to be provided to owners of properties not originally included within a heritage overlay, but proposed to be included in a heritage overlay by Amendments C271, C305 and C328. Accordingly, it was not intended to grant owners unaffected by these amendments (but affected by the Amendment) another opportunity to participate in the panel process for the Amendment, when they had been originally notified, and had elected not to participate at that time. Properties at 183-189 A'Beckett Street, 20 King Street and

239-241 King Street were originally notified of the Amendment and did not elect to participate in the Panel process. They are unaffected by Amendments C271, C305 and C328 (with the exception of 183-189 A'Beckett Street, which is only affected insofar as Amendment C327 extends existing interim heritage protection and introduces an inventory grading and statement of significance, and C328 proposes permanent heritage controls). Council does not refer submissions made in respect of these properties to the Panel.

14. At the directions hearing held on 19 September 2018, Planning Property Partners appeared on behalf of landowners of properties at 62-66 Little Collins Street, 31-35 Flinders Lane, 96-98 Flinders Street and 243-249 Swanston Street. No submission or request to be heard has been received by Council in respect of these properties.
15. Accordingly, Council refers the following submissions to the Panel:
  - a) 17-21 Bennetts Lane (represented by Rigby Cooke);
  - b) 23 Bennetts Lane (represented by Rigby Cooke);
  - c) 134-144 Little Lonsdale Street (represented by Rigby Cooke);
  - d) 146-148 Little Lonsdale Street (represented by Rigby Cooke);
  - e) 134-136 Flinders Lane (represented by Natalie Reiter);
  - f) 577-583 Little Collins Street (represented by Best Hooper); and
  - g) 263-267 William Street (represented by Best Hooper).

#### **IV. PROPOSED TIMETABLE**

16. Amendments C305 and C328 are on hold pending the decision of the Panel regarding the Amendment. The Panel clearly foreshadowed the preference for the Panel hearing to recommence at the end of November in its Direction 4 of 21 September 2018, and this preference was referenced in the Council letter to landowners, dated 3 October 2018:

“... ”

***Dates for further Hearing days for Amendment C258 Panel Hearing***

*The Panel has indicated its preference for further Hearing days commencing at the end of November 2018. Council will request that the hearing resume on 26 November 2018 for 5 days with additional reserve dates on 3-4 December 2018.*

...”

17. In these circumstances, Council submits that it is appropriate that the Panel hearing recommence as soon as reasonably practicable, allowing the parties the opportunity to circulate evidence and prepare submissions.
18. The Council submits that it is appropriate that the following timetable be adopted for the remainder of the proceeding:
  - 12 November 2018, any further expert evidence to be relied upon must be circulated.
  - 26 November 2018: Council to recall Ms Brady and Ms Jordan, and make any additional submissions in relation to new submitters and evidence.
  - 27 November 2018: Melbourne Business School and Melbourne University.
  - 28 November 2018: Landowners represented by Rigby Cooke.
  - 30 November 2018: Landowners represented by Best Hooper.
  - 3 December 2018: Drafting day and Part C Submission of Council.

**Susan Brennan**

**Carly Robertson**

**Counsel for the Planning Authority**

**7 November 2018**