

National Trust of Australia (Victoria) Submission

Planning Scheme Amendment	Planning Scheme Amendment C258: Heritage Policies Review and West Melbourne Heritage Review
Planning Authority	City of Melbourne
Submitter	Caitlin Mitropoulos Community Advocate – Built Heritage National Trust of Australia (Victoria)
Submission Date	Monday 13th August 2018

0. Introduction

The National Trust of Australia (Victoria) [National Trust] is an independent not-for-profit organisation established in 1956. The mission of the National Trust is to ‘inspire the community to appreciate, conserve and celebrate its diverse natural, cultural, social and Indigenous heritage.’ We would like to begin by congratulating the City of Melbourne for progressing this much-needed review of the City’s heritage policies and gradings, and recognise the urgency in aligning the City of Melbourne’s grading system with Practice Note 1 “Applying the Heritage Overlay”

We also acknowledge that this amendment should be viewed within the context of the heritage work currently being undertaken by council, including most recently, Southbank Amendment C207 and the Hoddle Grid Heritage Review which is currently underway. While the National Trust is supportive of Amendment C258, we do have some concerns and suggested amendments which we will address in our submission today. These issues will be addressed in the following order:

1. Gradings Review
2. Heritage Policy Review
3. Precinct Statements of Significance

1. Gradings Review

We acknowledge the direction from DEWLP that no new heritage reviews will be accepted or received until this gradings review has been undertaken’. Further, we support the updated system of grading based on ‘significant’ (individually and within a precinct), ‘contributory’ and ‘non-significant’.

As part of our original submission regarding this amendment, dated 12 May 2017, we expressed concern that the documentation exhibited as part of the amendment did not provide the transparency required to demonstrate the integrity of the conversion process. Based on the expert evidence provided by Ms Brady as part of this panel process, we are now

confident that the methodology applied is sound and has been undertaken as comprehensively as possible. We are particularly pleased to hear as part of Ms Brady's expert evidence that an evolved appreciation of interwar and post-war places, and an evolved understanding of social significance, was considered while undertaking the conversion of the C and D properties.

Our existing concerns regarding the conversion process, which I believe are concerns shared by other community submitters as part of this panel process, are less to do with the methodology applied, and more specifically relate to the need for heritage gap studies and further reviews to be undertaken as a matter of priority.

In acknowledging this, we suggest that the Panel may be able to provide suggested 'future recommendations' which could assist council in addressing the key issues and anomalies that have arisen as part of this planning scheme amendment process. For example, the need to review ungraded places within precincts, the various issues raised by the historical societies and residents' groups that have presented as part of this process, and other issues relating to incorrect addresses and mapping.

While we have concerns regarding places that may have 'fallen through the cracks' as part of the conversion process, which we fear may come under threat over the coming years in the face of increasing development pressures, we support the methodology which has been employed, and acknowledge that further work has been undertaken to address issues raised during the planning scheme amendment process.

1.1 Grading of heritage places 22.05-17

We support the inclusion of the following line within the definition of a 'significant heritage place' at 22.05-17:

- *'a significant heritage place may be highly valued by the community'*

Further, we support the following rationale provided by Ms Brady included in her evidence in chief in regard to this inclusion as follows:

- *'This definition places emphasis on the individual importance of a significant place; provides for a range of place types to be considered significant; and allows for a range of attributes to be taken into consideration when assessing this higher-level heritage place grading'.*

In our role as community advocates for significant heritage places, we take this opportunity to stress the importance of 'social significance', which in many cases, particularly through the VCAT process, is generally cast as being of 'lesser' or 'secondary' importance than architectural significance (for example). This consideration should be cast against our evolving understanding of tangible versus intangible cultural heritage, and how this relates to built fabric. Members of the community do not necessarily have an understanding of the different levels or types of significance, but care more about the history, character and identity of where

they live, and how to preserve this. As such, we believe the suggested inclusion of the phrase 'highly valued by the community' should remain in the finalised policy/policies.

2. HERITAGE POLICY REVIEW

2.1 Policy Basis 22.4-1 and 22.05-1

As noted in our original submission dated May 2017, we took issue with the following line from the originally exhibited policy:

*The heritage of the Capital City Zone encompasses heritage precincts, individual heritage places within and outside heritage precincts, and historic streets and lanes. **These places date from the mid-nineteenth century through to more recent times...** [our emphasis]*

We submit that this description is too narrow and does not capture the complexity of the City of Melbourne's tangible and intangible history and heritage, including in particular Aboriginal cultural heritage which pre-dates the mid nineteenth century by over 50,000 years. While we support the outright deletion of this reference from the policy basis, we believe it would have been preferable to find wording to capture this complexity, for example as included in the Boroondara Planning Scheme in 22.05 Heritage Policy:

22.05-1 Policy Basis:

- *Boroondara's heritage assets include, but are not limited to, Indigenous heritage sites, mansion and worker cottage developments from the last part of the 19th century, inter-war and post-war subdivisions from the 20th century, both individually significant and groups of Victorian, Federation, Inter-War and Post-War residences, former industrial sites, commercial buildings, public utilities including bridges, government buildings, railway stations, and parks and gardens.*

2.2 Combination of 22.04 and 22.05

We acknowledge that council have not formally adopted a view on whether 22.04 and 22.05 should be combined or left separate, viewing this as a drafting issue rather than a major policy change. We support the combination of 22.04 and 22.05 into one policy document, but believe further refinement is needed in response to Sophie Jordan's suggested wording provided as expert evidence as part of this panel process.

2.3 Facadism

In our original submission of May 2017, we made the comment that the existing policies do not go far enough to prevent 'facadism', an issue which was addressed by Melbourne Heritage Action in their submission in chief.

As outlined in the *Summary of Issues and Management Response* by the City of Melbourne, dated February 2018, we note the following:

Many submissions suggested that the policy around discouraging facadism needs to be much stronger. In response, it is recommended that the policies are changed in the following way:

- Definitions for 'facadism', 'façade(s)' and 'principal façade (s)' have been added to the policy*
- A clear policy objective to discourage facadism has been added to the policy objectives section*
- The terminology discouraging facadism in the provisions about demolition has been strengthened.*

We are pleased that the above changes have been incorporated and support their inclusion within the updated policy.

In comparing and contrasting the policy as first exhibited against the work of Ms Jordan, there seems to be some contention around the use of 'exceptional circumstances', particularly under 22.04-4 'Demolition' as follows:

'Full demolition of significant or contributory buildings would only be permitted in exceptional circumstances' (as exhibited).

versus

'Full demolition of significant or contributory buildings will not generally be permitted' (Sophie Jordan evidence)

As it stands, we are unclear which wording will be incorporated into the final policy but do submit some concern pertaining to the use of 'exceptional circumstances' and 'will not generally'. Our suggestion is to further define whichever wording is included in the finalised policy/policies and to provide design guidelines with examples of what each would be.

As also outlined by Melbourne Heritage Action in their submission in chief, we also express concern regarding the policy regarding demolition and how this would apply to industrial and/or commercial buildings where the 'front or principal part of a building' may not protect the specific heritage values of the place. For example, an industrial building may have an office at the front of the building, with the factory floor located behind. Therefore, the requirement to retain the "front or principle part" would result in the demolition of fabric demonstrating the primary use of the building.

We submit that more specific guidelines for the interpretation of "front or principle part of a building" should be developed for different building typologies, including factories and modernist office buildings, to prevent outcomes resulting in Facadism. We further express our support for the suggestions provided by Melbourne Heritage Action as presented in their submission in chief pertaining to this issue, particularly regarding the distinction between the

retention of 'internal structural features', such as columns, versus 'internal decorative features' such as wallpaper.

2.4 Adaptive Re-Use

While questioned in detail by the panel in response to recommendations provided by Melbourne Heritage Action on Friday, we would also like to provide input in response to the addition of the following point included under 22.04-2 Policy Objectives, as follows:

To encourage the adaptive reuse of heritage places.

We suggest that if this policy objective is to be retained, that a further definition or a series of design outcomes regarding what adaptive re-use is and what would be appropriate should be incorporated into the policy. *To preface our further suggestions regarding this issue, we acknowledge the concern of Melbourne Heritage Action that historic use is being discarded based on the potential for higher economic return, yet also the questions directed by the panel that use is also dealt with elsewhere in the scheme.*

In reviewing Plan Melbourne, the following direction and policy relating to adaptive re-use is specified:

- *Direction 4.4 Respect Melbourne's heritage as we build for the future:*
 - o *'Innovative approaches to the creative re-use of heritage places need to be adopted, ensuring good urban design both preserves and renews historic buildings and places'*
- *Policy 4.4.3 Stimulate economic growth through heritage conservation*
 - o *Regeneration of heritage assets through adaptive re-use can deliver unique and exciting places that can be used well into the future. Rehabilitating old buildings and places also creates opportunities for new investment and jobs.*

While we share the concerns as expressed by Melbourne Heritage Action, the National Trust is supportive of 'creative re-use' and stimulated economic growth through heritage conservation, and thus believe policy around adaptive re-use should be included in the policy if it can be worded correctly.

To assist the panel in exploring this issue in further detail, we draw attention to the objectives and strategies included in the Banyule Planning Scheme at 21.03 Heritage Place, which also discusses sustainability and environmental performance, two emerging considerations in the adaptation of heritage places to 21st century standards and requirements.

Banyule Planning Scheme, 21.03 Cultural Heritage:

- o *Objective 3 - Sustainability of Heritage Places:*
 - *To support the sustainable use and improved environmental performance of heritage places and precincts.*

- *Strategies to achieve this objective include:*
 - *Support the retrofitting of heritage buildings with sensitively designed environmental measures.*
 - *Encourage and support adaptive re-use of heritage buildings if the original use is no longer viable.*
 - *Encourage the reuse of original material for new works or additions to a heritage building.*

2.5 Restoration and Reconstruction, 22.04.9

As outlined in our original submission of May 2017, we took issue with the use of the term 'renovation' which we are pleased to see has been deleted from the policy.

2.6 Subdivision (specific comments relating to trees and gardens) – 22.04.10

As outlined in our original submission of May 2017, in regard to clause 22.04-10 regarding 'subdivision', we noted that no specific policies had been included addressing significant trees and gardens. As such, we strongly suggested a review of the policy to include a more explicit policy basis similar to that included in the Greater Bendigo Planning Scheme—Heritage Policy 22.06:

Subdivision: Ensure that appropriate settings and elements for heritage places are maintained including the retention of any original garden areas, large trees and other features which contribution to the significance of the place.

Similar helpful policies are included in the Boroondara Planning Scheme—22.05 Heritage Policy:

Subdivision: Ensure that appropriate settings and contexts, including gardens and landscaping, for 'significant' or 'contributory' heritage places are maintained.

We are pleased to note that some of the wording based on our suggestions, as included in our original submission, have been incorporated to strengthen this policy.

2.7 Relocation, 22.04.11

In the proposed 22.04 and 22.05, we note that the line relating to 'relocation' has been removed. We question why this has been removed, and whether it has been incorporated/addressed elsewhere in the scheme. While a rare occurrence, the application to relocate heritage places does occur, and should be addressed in the heritage policy if possible.

We suggested in our original submission of May 2017 to strengthen this point rather than weaken it, and suggested in particular developing a more comprehensive policy such as that contained in the Greater Bendigo Planning Scheme—22.06 Heritage Policy:

- *Relocation: Encourage the retention of significant and contributory buildings in original location unless:*
 - *It can be shown that the relocation is the only reasonable means of ensuring the continued existence of the heritage place.*
 - *The building has a history of relocation and/or is designed for relocation.*
 - *The building can be relocated without damage.*
 - *Ensure that the building is historically recorded on its current site prior to relocation.*
 - ***Ensure that an appropriately qualified person oversees the relocation procedure and undertakes the historical recording [our emphasis].***

2.8 Fences and Gates 22.04-13

As noted in our original submission dated May 2017, under the proposed policies, new fences would either have to be a reconstruction based on documentary or physical evidence or ‘an appropriate contextual design response, where the details and materials are interpretive’. We submit that this policy is too narrow, and that an additional and more clearly worded clause should be added to permit a “new front fence consistent in style, details and materials with the architectural period of the heritage place”, thereby permitting accurate reproduction fences appropriate to heritage places to be constructed.

This would bring the City of Melbourne’s policies in line with successful approaches taken in other municipalities, for example the City of Port Phillip, whose guidelines are outlined in detail in the *Heritage Service Practice Note 01: Fencing in Heritage Overlay Areas*.

We are pleased to note that the following wording has been incorporated into this clause as follows:

*The new fence is an appropriate contextual design response, where the **style, detail and materials are interpretative and consistent with the architectural period of the heritage place and established streetscape characteristics.***

We are satisfied that our suggested amendment has been incorporated in this regard.

2.9 Street Fabric and Infrastructure – 22.04-15

As noted in our original submission dated May 2017, the proposed policy for ‘Street Fabric and Infrastructure’ exclusively relates to new installations and does not recognise or provide a policy basis for existing historic street fabric and infrastructure, such as memorials, drinking foundations, gas lamps, public seating, horse troughs, or bluestone kerbs and channelling.

We submit that historic street fabric and infrastructure is an essential part of Melbourne's history and heritage, many examples of which are not yet formally identified, but could become a relevant consideration in the undertaking of the upcoming Hoddle Grid Heritage Review.

We note that the following wording has been included in the proposed 22.04-15:

- *For existing significant and contributory street fabric and infrastructure, it is policy that;*
 - o *Restoration, reconstruction and maintenance should be carried out in a way that retains the original fabric, form and appearance*

While support the inclusion of this wording, we believe this clause could be made even stronger, and point once again to the suggestions provided by Melbourne Heritage Action as part of their submission in chief.

2.10 'Trees', 22.04-XX

The policy basis for 22.04 and 22.05 as originally exhibited failed to mention significant trees or gardens. In our submission dated May 2017, we suggested the incorporation of additional text regarding natural heritage elements. With reference to trees, we suggested the incorporation of the following clause taken from the Yarra Planning Scheme—22.02 Development Guidelines for sites subject to the Heritage Overlay:

- *22.02-5.5 Culturally Significant Trees: Encourage the retention of culturally significant trees in a heritage place unless:*
 - o *The trees are to be removed as part of a maintenance program to manage loss of trees due to deterioration caused by old age or disease.*
 - o *The trees are causing structural damage to an existing structure and remedial measures (such as root barriers and pruning) cannot be implemented.*
 - o *Ensure additions and new works respect culturally significant trees (and where possible, significant garden layouts) by siting proposed new development at a distance that ensures the ongoing health of the tree.*
 - o *New buildings and works should also comply with the Australian Standard AD 4970-2009 Protection of trees on development sites for vegetation of assessed significance.*

We note the following has been incorporated into 22.04-XX under the heading 'Trees':

- *Ensure buildings and works respect trees with assessed significance (as noted in the schedule to the heritage overlay) by siting proposed new development at a distance that ensures the ongoing health of the tree.*
- *New buildings and works should also comply with the Australian Standard AD 4970-2009 Protection of trees on development sites for vegetation of assessed significance.*

While we support the inclusion of this wording, the proposed wording should also be amended as follows to include reference to significant garden layouts/plantings (our changes in red):

*Ensure buildings and works respect trees **and significant garden layouts/plantings** with assessed cultural significance (noted in the schedule to the Heritage Overlay) by siting proposed new development at a distance that ensures the ongoing health of the tree or **significant garden plantings and/or ensures the maintenance of the overall design layout (including stonework, paths, fences, art-work, statues or water features).***

Reference could usually be given to the City of Melbourne's Exceptional Tree Register, recognising that many trees identified in register have connections to heritage places, and a reference in the policy could also be made to the maintenance of culturally significant trees as per the Australian Standard for *Pruning of amenity trees* (AS4373-2007).

2.11 Laneways

Despite their highly valued heritage qualities, there are no specific guidelines for historic lanes and laneways included in either 22.04 or 22.05.

We are also concerned that the Heritage Gradings Review, which has only retained Level 1 Streetscapes, has resulted in the loss of gradings for laneways and lane-scapes, for example the narrow rear wings of terrace houses and rear toilets and outbuildings, which are becoming increasingly rare. We recommend policy provisions to require the consideration of the rhythm and scale of laneways and back-scapes where intact and discourage the construction of bulky and wide extensions out to the rear boundary. While there is some recognition in 22.04 and 22.05 that new buildings "should be respectful of the scale and forms of historic development to the lane", stronger guidelines should be applied for the protection of the most intact laneways.

We note the City of Melbourne's ongoing work to identify and protect historic laneways, including the current Guildford and Hardware Lanes heritage review. The identification and protection of particularly intact and significant laneways should be included as part of future heritage reviews for precincts within the City of Melbourne.

2.12 Archaeological sites

We note that there is no clause in the Heritage Policy that deals directly with archaeological sites. The following is included in the Yarra Planning Scheme— 22.02 Development Guidelines for Sites Subject to the Heritage Overlay and should be considered for inclusion:

22.02-6 Archaeological Sites: Encourage applicants to consult with Heritage Victoria where any proposed buildings or works may affect archaeological relics to facilitate compliance with Part 6 of the Heritage Act 1995 (Protection of Archaeological Places).

The following is also mentioned in the Boroondara Planning Scheme— 22.-5 Heritage Policy:

- *Archaeological Sites: Where sites are known to contain archaeological material or have been identified as likely to contain archaeological material, a report prepared by an archaeologist is to be submitted by the applicant with any application for a planning permit. Proposed development must not adversely impact on Aboriginal cultural heritage values as indicated in an archaeologist's report.*

2.13 Aboriginal Cultural Heritage

We note in particular the inclusion in 22.04-12 Policy Objectives:

'To promote the protection of Aboriginal cultural heritage'.

We submit that reference to Aboriginal cultural heritage could be expanded in the policy/policies. We note the following objective and strategies included in the Banyule Planning Scheme which could be a model for the City of Melbourne policy:

- *Banyule Planning Scheme, 21.03 Cultural Heritage: Objective 2 - Protection of Aboriginal Cultural Heritage:*
 - o *Protect Aboriginal sites, places and objects and enhance the broader Aboriginal cultural heritage values associated with a site, place or object. Strategies to achieve this objective include:*
 - o *Work with land owners and managers, the registered Aboriginal party, the Traditional Custodians of Banyule and Aboriginal Affairs Victoria to support the continued conservation and management of Wurundjeri cultural heritage in Banyule.*

We make these recommendations based on the evolving approach to *meaningfully* protect and celebrate Aboriginal cultural heritage in Victoria, both in an historic and contemporary sense, and make particular reference to the Direction and Policy as set out in Plan Melbourne:

- *Direction 4.4 Respect Melbourne's heritage as we build for the future: Aboriginal cultural heritage, including important landscapes and places, must be protected and conserved. Custodianship of country, as well as contemporary Aboriginal cultural heritage values associated with residents of places, must be respected.*
- *Policy 4.3.1 Promote urban design excellence in every aspect of the built environment: More sophisticated design understands, and capability will help support local government in their capacity to act as design advisers and assessors in the development approvals process. Promotion of the inclusion of Aboriginal urban design perspectives will be improved as part of this.*

We note our particular concern regarding the line suggested by Sophie Jordan (pg. 8 of 10), as follows:

'Do not impact adversely on the aboriginal cultural heritage values, as indicated in an archaeologist's report, for any site known to contain aboriginal archaeological relics'.

In the first instance, we object to the use of lower case 'a' in the spelling of 'Aboriginal' and believe further clarification should be incorporated as to what an 'archaeologists report' is and when it is required. If this wording is to be included in isolation, we also submit that an appreciation of Aboriginal cultural heritage is more than just 'Aboriginal archaeological relics,' and relates to both tangible and intangible significance which is both historic and contemporary.

While we acknowledge that identified Aboriginal Cultural sites are protected and dealt with separately under the *Aboriginal Heritage Act*, in many cases diverse values are intrinsically linked. As such, we do not believe it is sufficient to conclude that these considerations should be dealt with in isolation. We note that the City of Melbourne is currently undertaking significant work to meaningfully engage with Traditional Owners within the municipality, with a robust Reconciliation Action Plan and well-respected Indigenous Advisory Committee, and believe that this intention should be reflected in the updated policy.

3. PRECINCT STATEMENTS OF SIGNIFICANCE for 'Outside the Capital City Zone'

3.1. Parks and gardens

We support the suggested amendments as outlined by Anita Brady on pg. 8-9 of her expert witness statement, noting in particular [our emphasis]:

*"Following the Lovell Chen July 2017 review of submissions and updated to the precinct statements of significance, the next iteration of the statements were included by Council in the Report to the Future Melbourne Committee Meeting (20 Feb 2018). These generally incorporated the post-exhibition changes identified by Lovell Chen, although **it is noted that some of the recommended changes were not included** in the Feb 2018 statements. In each of the statements, under the first paragraph of 'What is Significant' section, **references to parks, squares, street trees, plantings and medians have been removed**. While references to these elements are generally still included in the 'key attributes' section of the statements, it is preferred that the removed sentences be reinstated to each of the opening paragraphs, **(e.g. the various parks, gardens and squares, and mature street plantings and rows, are also components of the significant development of the precinct)**."*

We question why reference to parks and gardens were removed from the statements of significance and believe this should be rectified by council as recommended by Ms Brady.

3.2 Sub-precincts

As already expressed by other submitters as part of this panel process, we also express our concern regarding the loss of detail in the scheme relating to the individual and streetscape

values of heritage places within precincts. Under the proposed scheme, the revised Statement of Significances provide only generalised guidance that will not necessarily address the nuances of buildings and streetscapes across complex precincts. We believe that this issue could be addressed through the development of more detailed sub-precinct citations, noting in particular the commentary by Lovell Chen in response to submissions (dated July 2017):

'There may be justification for sub-precincts, or new discrete precincts within the larger precincts of the municipality. Identifying where this might occur was outside the scope of the current project, but Council may consider a review of this type in the future. Lovell Chen agrees that the nuances of some of the important sub-areas could be more effectively addressed in specific statements for these areas. However, again this was not part of the scope of the current project.'

4 Conclusion

To conclude, we would like to again congratulate the City of Melbourne for progressing this much-needed review of the City's heritage policies, and hope the issues outlined in our submission ensure this amendment provides a strong foundation for the protection of heritage in the City of Melbourne moving forward.