

CITY OF MELBOURNE HERITAGE POLICY AMENDMENT C258
Submission by
MELBOURNE SOUTH YARRA RESIDENTS GROUP INC.

The purpose of the Review and Amendment C258 is to improve and update the current out-of-date policy and procedures and improve the protection provided to the remaining heritage buildings and areas.

We have been assured that under no circumstances will the current level of protection be reduced.

How best to protect our heritage

- Identify all heritage buildings and heritage streets or precincts.
- Grade their level of significance.
- Have a policy and laws that impose clearly defined rules governing building, demolition etc to heritage buildings and in heritage precincts.

Principal shortcomings in Amendment C258

1. Identifying Heritage Buildings – Annexure A

- (a) While C258 provides the mechanism for identifying and recording heritage buildings and converting them to the new gradings the proposed inventory is full of errors, omissions, confusion and is extremely incomplete.
- (b) The grading and conversion of gradings has been undertaken in an entirely ad hoc, inaccurate and unsatisfactory manner.
- (c) It must be corrected and brought up-to-date as a matter of urgency

2. Identification of heritage streets, precincts and areas – Annexure B

The mechanisms for identifying these areas under C258 are inadequate and poorly defined.

- (a) Precinct H06 and its schedule covers a much too large and diverse area to be of any assistance.
- (b) The Statement of Significance is also too broad in its description of H06 to enable the clear identification of particular streets and areas within that precinct that have heritage importance and should be protected. We have asked consistently for those obvious and important streets and areas to be identified and described as sub-precincts but our requests have been refused. We say again that such statements of sub-precincts are essential and could be contained in the Heritage Overlay in a form similar to those in the heritage overlay for the Capital City Zone (eg Bank Place precinct).
However, if that course of action is not to be taken these important heritage streets and areas should be given their own heritage overlay as an adjunct to H06 as, for example, in the City of Stonnington.

3. Streetscapes – Annexure C

- (a) Graded streetscapes, and not just significant streetscapes as is being proposed in C258, must be retained.
- (b) Streetscapes (properly implemented) play a critical role in identifying heritage areas in conjunction with statements of significance and are particularly important if statements of significance are too broad which is the case for South Yarra.
- (c) All three classes of streetscapes are important and particularly streetscape class 3 because it deals with streets containing significant buildings “from diverse periods or styles” which is a very important heritage feature of many parts of South Yarra.
- (d) All three current streetscape classes should be retained. However:
 - if it were two classes, combine current classes 1 and 2 as significant and class 3 as contributory; or
 - if there is to be only one class of streetscapes the definition must include buildings from diverse periods and be in the following form.
“Significant streetscapes are collections of buildings significant because they are a particularly well-preserved group from a similar period or style or because they retain the predominant character and scale of a similar period or style or because they represent diverse but important phases of housing development.”
- (e) All current streetscape gradings must be retained until a full review using new classifications has been completed and implemented.

4. Grading of Heritage Significance – Annexure D

- (a) The “contributory” classification downgrades the current level of heritage importance which classes all C and D as significant in their own right and also contravenes the government Practice Note which states that all C’s are individually significant.
The proposed definition of ‘contributory’ should therefore be amended by replacing the first sentence in the definition with the following.
“A contributory heritage place is an important heritage place in its own right and for its contribution to a precinct.”
- (b) The classification “non-contributory” should not be included in C258 as it will have the effect of down-grading buildings and areas that have heritage importance but have been overlooked or not properly assessed. Remove that classification altogether.

5. Section 22.05 – Heritage Places Outside the Capital City Zone – Annexure D

- (a) If heritage buildings and streets are to be protected they must be identified and their significance and “key attributes” defined somewhere.
- (b) The definitions in 22.05 and in particular the use of “heritage place” to include both buildings and areas creates confusion and difficulties and the definition should be split.
- (c) The single most important requirement for all building or development in heritage areas and which should be the starting point for consideration of every such application is:

“To ensure that all building and development is in terms of its height, scale, character, design and finish compatible with its neighbours and the heritage place and precinct.”

(d) This should be the first and primary statement of the Policy Objectives in 22.05-2.

If it were applied it would not only provide the necessary protection for our heritage but avoid many of the disputes that invariably arise.

(e) The permit application requirements in 22.05-3 should in most cases be mandatory, should include a montage to assist with the issue of scale and appearance and the Heritage Impact Statement should include an explanation of how the building or development complies with the requirement in clause 5 (c) above.

(f) In clause 22.05-1 the incorporated documents should not just be the statements of significance but include the building inventory, streetscape gradings and the important historical information contained in Urban Conservation in the City of Melbourne 1985.

6. Conclusion

Unless, at the very least, amendment C258 enables not only heritage buildings but also areas to be identified and contains clearly defined objectives including in particular that described in paragraph 5 (c) above it will not protect our heritage effectively nor reduce the present argument and uncertainty.

Michael Butcher
President
Melbourne South Yarra Residents Group Inc
PO Box 33050
Melbourne 3004

12 May 2017

ANNEXURE A - BUILDING INVENTORY

Essential Premise

1. The review is being undertaken on the basis that no property or precinct will have less protection under the new policy as they have currently.

Errors and Omissions

2. The new inventory is full of errors, confusing and incomplete and on the basis of our review of the transfer from the old nomenclature to the new in a number of the heritage streets in South Yarra the following errors have become apparent.
 - (a) The property numbering system is confusing and seems to follow no consistent pattern. The numbering should be the actual number on the property and they should be listed on one side of the street from one end to the other side and then along the other side as is generally the case at present. Using rating numbers makes it difficult to identify the actual property.
 - (b) Properties currently listed have been omitted for no apparent reason.

Examples

 - 85 Hope Street previously D3 while its mirror image at 87 is contributory.
 - 16 and 18 Hope Street currently D2
 - 21 Leopold St presently D2
 - 2-4 Park Street (St Margarets) C2 although the southern part is listed at 110-104 Toorak Road West as significant.
 - (c) Each property should be listed separately and not like 112-118 Millswyn Street which encompasses four properties.
 - (d) Some properties have been upgraded in what seems to be an arbitrary fashion. Others should have been upgraded such as 30-41 Airlie Street currently C2 and all gradings reviewed particularly in important heritage precincts where protection is important but lacking.
3. The desktop transfer has been a failure and must be done on foot and corrections made.

Examples

- On the corner of Toorak Road West and Hope Street the Hotel 52-56 Toorak Road West is graded C1 and is now missing whereas the modern apartments at the back of the hotel 2-15 Hope Street have been included as contributory.
- 117 Hope Street has been included for the first time and is nothing but a brick wall.
- 87 Hope Street, currently D3, is now contributory but its mirror image property at 85 and currently D3 has been omitted.
- 43 Airlie Street is demolished and replaced with a modern building graded contributory.

CONCLUSION and ACTION

4. The replacement of gradings C and D with “contributory” downgrades their current level of heritage importance which classes them all as significant in their own right and also contravenes the government Practice Note which states that C’s are “individually significant”. The proposed definition of “contributory” should be amended by replacing the first sentence with the following.

“A contributory heritage place is an important heritage place in its own right and for its contribution to a precinct”.
4. The transfer of building gradings must be done properly on foot using actual property numbers in a consistent manner. This must be undertaken in South Yarra urgently and in particular in the more important heritage streets/precincts namely:
 - Domain Street (east side)
 - Hope Street
 - Toorak Road West
 - Millswyn Street
 - Mason Street
 - Park Street
 - Leopold Street
 - Marne Street
 - Airlie Street
 - Pasley Street
- 5 .All errors and omissions must be rectified.
6. The work done has revealed many ungraded buildings that need protection and in particular:
 - inter war and post war;
 - late Victorian 1850’s-1870’s;
 - intact terrace rows;
 - rows of modest workers cottages.These properties and those already included in C258 as Significant (including those omitted in error) should be given immediate protection by grading them A under the current law.
7. A full and proper assessment and grading of buildings must be completed urgently before more of our heritage is lost.

MSYRG
12-5-17

ANNEXURE B - STATEMENTS OF SIGNIFICANCE

How are Heritage Places (not Buildings) identified?

1. The only "Precinct" for South Yarra (other than a few individual properties on the east side) is HO6 which covers a large, diverse area including many public buildings and facilities, and schools as well as residences. Other than identifying the area on a map with the limited information in the schedule this precinct is of absolutely no use when attempting to identify heritage places that need protection.
2. Precinct HO6 would only be useful if South Yarra contained large numbers of heritage buildings or areas. It does not. It has many buildings and some remaining areas or streets that must be identified and be protected before they too are lost.
3. We now have a Statement of Significance which we have said from the outset of this review is expressed in such broad terms in the case of residential heritage places to be of no value in identifying them and explaining why they are important.
4. We have graded streetscapes at the present time, although out of date and badly applied. However, if this were done properly it would identify groups of buildings and therefore neighbourhoods that have heritage value that could be identified and shown on a map. If properly assessed and graded it would play an extremely important part in identifying those heritage areas within HO6 that need to be protected on heritage grounds as was made clear by VCAT in the Red Dot Gunn Case. Graded streetscapes should therefore be retained, assessed and applied. None of them should be removed.
5. Various statements in the Municipal Strategic Statement and Design and Development Overlays contribute nothing worthwhile in terms of identifying specific heritage areas.

Solution:

6. We refer you to our submission to Council in 2015 prepared by Nigel Lewis which includes draft Statements of Significance for all of the important heritage areas (sub-precincts) in South Yarra, namely:
 - Airlie Street
 - Marne Street
 - Leopold Street
 - Park Street
 - Mason Street
 - Millswyn Street
 - Hope Street
 - Pasley Street
 - Toorak Road West
 - Domain Street (east side)
7. It would not be difficult to put the statements in a short form similar to "Statements of Significance and Key Attributes for Heritage Areas within the Heritage Overlay" prepared for the Capital Cities Zone (eg Bank Place Precinct) and give each of them an HO number. A schedule containing columns of do's and don't's can be added but by itself is not enough.

The Statement of Significance part could easily deal with the government Practice Note and the Key Attributes section would be of enormous value when considering the “key attributes” provisions in C258 and building applications in these sub-precincts.

8. The Stonnington Planning Scheme illustrates how well this will work as it contains many such “sub-precincts”, for example, H0127 Chatsworth Road.
9. We would be happy to have Statements of Significance in this form prepared by Nigel Lewis at our cost for these streets and areas in South Yarra which are at the moment lacking any sort of useful identification and description.
If we are serious about protecting our remaining residential heritage this must be done.

MSYRG
12-5-17

ANNEXURE C - STREETSCAPES

The analysis by Lovell Chen (LC) in paragraph 3.8 of their Methodology Report which they claim provides a basis for removing all streetscape gradings other than “significant” is inaccurate and provides no justification for the change.

The proposed definitions are.

Streetscape – “A streetscape is a collection of buildings along a street frontage. When referred to in relation to a precinct, a streetscape typically contains a majority of buildings which are graded significant or contributory”.

Significant Streetscape – “Significant Streetscapes are collections of buildings outstanding either because they are a particularly well-preserved group from a similar period or style, or because they are highly significant buildings in their own right.”

Contention 1:

That the Streetscape Grading System “does not necessarily assist in a better outcome or understanding of the particular importance of part of a precinct.”

Response:

- (a) What streetscapes do is identify important groups of buildings within a precinct and declare that group together to have important heritage value. It in fact identifies a sub-precinct or neighbourhood within a precinct and in order to protect heritage precincts they must be identified.
- (b) The South Yarra Statement of Significance is broad and does not identify and describe important groups of buildings or neighbourhoods.
- (c) There are many good example of significant streetscapes (currently not protected) such as the group of nine contiguous Victorian dwellings on the east side of Millswyn Street South Yarra together with the other period buildings nearby.
- (d) Finally, it was stated by VCAT in the Red Dot decision in the Gunn Case that graded streetscapes provide important and unambiguous assistance when dealing with applications in heritage areas.

Contention 2:

The contention is that “streetscape gradings combined with property gradings can lead to a formulaic approach to the management of heritage places”

Response:

That is not correct. Building gradings deal only with individual buildings and streetscapes deal with groups of buildings or neighbourhoods and have been a very successful tool for protecting heritage.

Contention 3:

That “the removal of lower streetscape gradings including Level 3 will assist the lower graded properties (C and D) in not having the perception of their significance diminished.”

Response:

To the contrary, it will weaken the current protection and remove the control over important groups of buildings. All of the current streetscape gradings identify, grade and enhance the heritage value of the neighbourhood.

Contention 4:

That by retaining only the significant streetscape grading the new policy “largely maintains the current policy approach”.

Response:

That is clearly not the case. The current policy using three grades of streetscapes, all of which are expressed as “significant”, identify important heritage neighbourhoods and that protection must be retained.

Contention 5:

That removing streetscape classifications 2 and 3 will bring Melbourne “into line with more contemporary systems.”

Response:

That is absolutely no justification for change when the change weakens the very neighbourhood protection that streetscape gradings provide.

Lovell Chen Recommendations (Paragraph 6.0)

Finally LC make a number of recommendations in paragraph 6.0 of their Methodology Report including the following.

- (a) There should be an additional reference document they call an updated Heritage Places Inventory containing all incorporated documents that identify all heritage places and all streetscape gradings.
- (b) This should include a coloured map showing not just significant streetscapes as LC suggest but all streetscapes so that all classified groups of buildings (and in effect sub-precincts) are readily identified.
- (c) They recommend a reassessment of all significant streetscapes be undertaken having regard to the length of time since the last grading was undertaken. We agree but that should include all three streetscape classifications. When completed this would provide a significant heritage protection.
- (d) We strongly disagree with the recommendation that Urban Conservation in the City of Melbourne 1985 by Scott be removed as a reference document. It is the most detailed heritage review undertaken to date and is a significant heritage record and source of heritage information.

CONCLUSION AND ACTION

1. Gradings deal with individual buildings and Streetscapes deal with groups of buildings (neighbourhoods) and must be retained.
2. Streetscapes (properly implemented) play a critical role in identifying “heritage places”. Otherwise we must rely on Statements of Significance which are expressed too broadly to be of any practical use (certainly in South Yarra) and the schedule to heritage overlay H06 which is of no use at all.

3. The three current streetscape gradings are important for different reasons each of which identify important heritage places.
 - outstanding because they are a particularly well preserved group from a similar period or style.
 - significant because they still retain the predominant character and scale of a similar period or style.
 - a group that may contain significant buildings “from diverse periods or styles”.

All should continue to be identified and protected.

4. However, if there were to be only two classes of streetscape combine current classes 1 and 2 as Significant and class 3 as Contributory. Current classes 1 and 2 deal with similar issues but class 3 is important because it deals with buildings from “diverse periods or styles”. This is recognised as an important heritage feature of much of South Yarra.
5. However, if there is to be one class of Significant Streetscapes the definition should be amended to read as follows.

“Significant streetscapes are collections of buildings significant because they are a particularly well preserved group from a similar period or style or because they retain the predominant character and scale of a similar period or style or because they represent diverse but important phases of housing development.”
6. All current streetscape gradings and protections must be retained until the review under the new classification has been completed and implemented.
7. Implement the Lovell Chen recommendations as referred to above except do not remove Urban Conservation in the City of Melbourne 1985 as a reference document.

MSYRG
12-5-17

ANNEXURE D - 22.05 - HERITAGE PLACES OUTSIDE THE CAPITAL CITY ZONE

What and where are the “Heritage Places”?

1. The purpose of clause 22.05 and the terminology used is to preserve and protect “heritage places” and “precincts”. For example:
 - new buildings should not detract from “the assessed significance of the heritage place” and
 - “be respectful of the heritage place and in keeping with identified key attributes of the heritage precinct.”
 - the first policy objective is “to conserve and enhance Melbourne’s heritage places”.
2. However the only identified “precinct” is H06, which covers a large and diverse area, and the schedule to H06 is of absolutely no assistance when determining whether a particular street or part of South Yarra has any heritage value worth protecting.
Furthermore, while the policy describes what a heritage place is it does not identify any of the heritage places within the precinct other than the graded buildings which are well out of date and provides no real assistance identifying a street or area within H06 which is a heritage place. The only way this can be addressed is by expert evidence, argument with all the resulting uncertainty and cost.

C258 provides no answer

3. Definitions:

Heritage Precinct – “an area which is identified as having heritage significance. It is identified as such in the Schedule to the Heritage Overlay and mapped in the Planning Scheme Heritage Overlay Maps”.
Precinct H06 covers a wide and diverse area and provides no assistance when attempting to identify a heritage area within the precinct and the schedule and map referred to are absolutely of no assistance.

Heritage Place – “has identified heritage value” and can be an area building or group of buildings etc. However, none of these heritage places are identified nor are they generally identifiable from the broadly expressed draft statement of significance.

Individual Heritage Place – “is equivalent to a significant heritage place”.

This makes no sense at all. Surely it must be either a “significant” or “contributory” heritage place.

In any event, it is of absolutely no use when attempting to identify an important heritage area which must be separately identified.

Key Attributes – “the key attributes or important characteristics of a heritage precinct are identified in the precincts statement of significance”. However, the new Statement of Significance is too broad to be of little value when identifying the important characteristics of a particular street or area.

Conclusion:

In the event of a planning dispute in HO6 the only way to determine whether the proposed activity is in a “heritage place” is by expert evidence and argument with all the resulting uncertainty and cost.

Drafting and other solutions

Policy Basis (22.05-1)

4. The final sentence should be deleted and replaced by the following.
“This policy should be read in conjunction with all documents incorporated into this Scheme.”
It should not be limited as at present to just Statements of Significance but should include building gradings, streetscape gradings and also the important historical information contained in Urban Conservation in the City of Melbourne 1985 which must not be removed.

Policy Objectives (22.05-2)

5. If the heritage protection provided by 22.05 at the present time is to produce any meaningful outcomes it must apply not just to “heritage places” (generally not identified) but also to heritage precincts. Therefore, amend dot point 1 by adding “and heritage precincts”.
6. The single and most important policy that should be included and should be applied to all building or development in heritage precincts is as follows:
“To ensure that all building and development is in terms of its height, scale, character, design and finish compatible with its neighbours and the heritage place and precinct.”
If all such applications satisfied this requirement the heritage area would be protected and the vast majority of most building disputes in heritage areas would be overcome.
This should replace dot point 4 which, as is too often the case, uses words that are too imprecise and fail to state clearly and simply what is required.

Permit Application Requirements (22.05-3)

7. In the first line of the second dot point add after “contributory heritage places” the words “or heritage precincts”.
8. In the second line of the second dot point substitute “should” for “may” as a Heritage Impact Statement must ensure the heritage issues are properly addressed from the outset.
9. At the end of the second sentence in the second dot point the following words should be added: “including a photo montage to assist with the issue of scale.”
10. To reinforce the overriding principle to be applied in heritage areas the following sentence should be added to the second dot point.
“In both cases the HIS should demonstrate why the proposed building is in terms of its height, scale, character, design and finish compatible with its neighbours and the heritage place and precinct.”
In addition the first line should be amended by adding after the words “contributory heritage places” the words “or heritage precincts”.

[I would like to review and add further specification in this section about making and dealing with applications]

11. If our remaining heritage is to be preserved it is essential that the requirements are made clear at the very first discussion with the applicant.

Grading of Heritage Places (22.05-17)

12. The clause heading is incorrect. The clause only deals with graded properties and streetscapes not “heritage places” being streets or areas etc.
In line 1 delete “non-contributory” as there must be no such class and before “properties” add “individual”.
In line 3 delete “Significant” as all streetscape gradings must be included.
13. The definition of “contributory heritage place” must be amended to ensure the existing level of protection is retained. The replacement of gradings C and D with “contributory” downgrades their current level of heritage importance which classes them all as significant in their own right and also contravenes the government Practice Note which states that C’s are “individually significant”.
The first sentence should be as follows.
“A contributory heritage place is an important heritage place in its own right and for its contribution to a precinct.”

Heritage Places – the fundamental problem.

14. “Heritage place” refers to both individual graded buildings and also areas, streets and sub-precincts.
They should be separated into, say, ‘heritage buildings’ and ‘heritage places’.
15. Amendment C258 identifies and grades buildings (although not well) but does not identify and grade the heritage streets and areas.

MSYRG
12-5-17