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**RE : AMENDMENT C240, MELBOURNE PLANNING SCHEME, BOURKE HILL HERITAGE AND HEIGHT CONTROLS**

**1. INTRODUCTION**

Following the introduction of interim controls by the Minister the National Trust is delighted to see this review for revised permanent controls progressing. We strongly support the general expansion and strengthening compared to the existing controls, which were both clearly out of date and inadequately justified.

We are extremely pleased to see such a great deal of excellent detailed work has been undertaken to identify the issues, understand the qualities of the precinct, examine the history of each place in detail, and even accurately model the effects of the proposed height controls.

**2. SUMMARY**

The Trust supports the majority of the proposed Amendment C240, but we believe it would be improved with the following changes:

- The study - *Bourke Hill Precinct Heritage Review 2014* - should be added to the list of Policy Reference documents at the end of Clause 22.05
- Consideration should be given to reducing the boundaries where ungraded buildings form its edges
- An assessment of places as 'significant' or 'contributory' (and 'not contributory') should be added to the gradings list for when this system becomes standard in the CBD
- All the individual HOs for places that are not on the VHR within the precinct should be considered for removal, or at least revised to be consistent with the newly revised gradings

- The Statement of Significance should include a short history, and wording of the some of the 'why' section and some of the Key Attributes be clarified and justified.
- The mandatory 40m height limit for Bourke Hill Sub-Precinct B2 (Central) should be reduced to 15m to match the rest of the heritage precinct.
- The discretionary 40m height limit Sub-Precinct B2 (South) should be lower or otherwise modified in order to prevent further overshadowing of the Melbourne Club Garden

### 3. HERITAGE CONTROLS

#### Study as Policy Reference document

There appears to be an oversight that the heritage part of the review is not mentioned in the Amendment. The exhibited amended Clause 22.05 'Heritage Places within the CCZ' does not include the addition of the Trethowan study title of *Bourke Hill Precinct Heritage Review 2014* to the list of Policy Reference documents at the end of the Clause. It would fail to have any relevance if it were not listed here.

#### Boundaries

The Trust strongly supports the proposed expansion of the boundaries. The Bourke Hill precinct, according to the existing Statement of Significance, was about the streetscape of Bourke Street itself, and the major historic buildings around it. The boundaries included a section of Little Bourke Street and therefore some of the lanes, but did not identify them as important in any way, and ignored other lanes and the plainer 'laneway' style buildings that faced them (many were not even graded).

In recent years, the laneways of Melbourne have become celebrated as a distinctive aspect of Melbourne's cultural identity. Their gritty character, created by un-elaborate sides of buildings fronting the main streets, and the frequently plain industrial/warehouse buildings that actually face them, is widely appreciated and embraced.

With this recognition, it makes sense for the precinct to expand to include more of Liverpool Street and Crossley Street, to include pre WW2 'laneway' buildings (as well as one notable post war building), as well as the Edwardian industrial building at 20 Myers Place.

It is also logical to include the front portion of Parliament House itself, since its looming presence has always been regarded as part of the precinct, and the policy has been about maintaining its dominance and viewlines. Perhaps the corner of the Parliament Reserve on the north side, and the Parliament Station entry on the other that the straight line includes should however be excluded.

There is another area where perhaps the boundary should be reduced. The properties on the north side of Little Bourke Street on Spring Street (nos. 18-20 Little Bourke and 185-197 Spring Street) are included even though they are ungraded, and do not contribute to the precinct. The same is true for the empty lot at 18-20 Punch Lane. The report states that

some ungraded properties are included at the boundaries “to give a buffer to the precinct from development”, however, since they are ungraded, their redevelopment is not prevented. If redeveloped, the current policy encourages any new building to be sympathetic to the precinct, but since these are at the edges, and not part of major continuous streetscapes, including them within the precinct boundaries seems unwarranted.

The reasoning is however sound for including the ungraded 1970s Chinese restaurant at 89-91 Bourke Street, and the altered 1920s factory at 27-29 Crossley Street, since they are part of continuous streetscapes within the precinct.

## **Gradings**

The Trethowan report recommends revising many of the A, B, C, and D gradings upwards, and eliminating D grades, as is standard outside the CBD. Without re-examining them all, we generally agree that the gradings had undervalued the significance of many of the buildings, and were clearly out of date. We are also pleased to see streetscape gradings done away with; these were confusing and rarely made any difference to actual planning decisions.

We note, as does the report, that the standard approach is now to grade places, especially within precincts, as ‘significant’ or ‘contributory’ (and ‘not contributory’) rather than use letter gradings. While the current Clause 22.04 ‘Heritage Places within the CCZ’ policy refers only to letter gradings, this policy is under review, and it is already understood that the new system will be used. Since there is no particular definition in use for these gradings, there is no reason not to include them as well, perhaps by simply making every A and B building ‘significant’, and C’s ‘contributory’.

We therefore suggest that the Trethowan document be modified to also list every building as either ‘significant’, ‘contributory’ or ‘not contributory’, so that the document will remain relevant (with no modification required) when the new policy comes into force.

## **Individual HOs (map HO2)**

We note that map HO2, which identifies places with individual Heritage Overlays in the CBD, is only to be modified by the deletion of a single property behind the Princess Theatre, which is now an uninteresting 1980s residential building.

However, the individual HOs, which date from the early 1980s, have little logic to them, as some higher grade places do not have them, while lower grade ones do. There is no record of why some have them and some do not, and there are an unusually high number of them for such a small precinct.

If the individual HO schedule remains this lack of correlation will have to be translated at a later stage. For instance, the Victorian building covered by HO536 (73-77 Bourke Street) is

proposed to be C graded, while next door the Interwar building at 79-83 Bourke Street, is proposed to be B graded, but would remain without an individual HO.

We suggest that the standard approach recommended by *the Victorian Planning Practice Note for applying a Heritage Overlay (2012)* be adopted; that is that only places with a special 'trigger', such as being on the VHR or having an internal control, should have an individual HO.

Removing individual HOs will not affect the actual level of control under the existing heritage policy, because there is no distinction between an individual building HO and a precinct one. Instead the policy refers to the letter grading, and their individual Building Identification Sheet, whether a building is in a precinct or not. When the policy is reviewed, there will no doubt be more policies specifically for precincts as a whole, but within a precinct, it will refer to whether a place is 'significant' or 'contributory', rather than its letter grading, or whether it has an individual HO. Individual HOs within precincts are, and will remain, redundant.

### **Statement of Significance**

The wording of the Statement of Significance is often crucial in decisions making for planning applications, especially when to allow demolition. It is important that they include all relevant aspects of significance, while being not too broad, neither so specific that is something is left out it can be claimed to not be relevant. While it is important that they explain the historical significance of the place, they should particularly include all *physical* attributes of the precinct that have any significance, as these are the elements that would be subject to change that can be controlled by the planning scheme.

It is good to see that there is a concerted effort to cover all these elements in the 'Key Attributes' section. However, the Statement of Significance as proposed to be inserted into the local policy is only the 'why' section of the Statement as provided in the study, while part of the 'what' become the Key Attributes. The Statement should be placed in the policy in its entirety, like those in other reviews, such as the Elizabeth Street CBD precinct from the City North study.

#### **-Main Statement**

As noted, this is only the 'why' section. Normally it would include a 'what' section that includes an overall history and description, and a 'how' section. This is lacking from both the study itself, as well as the Statement. This may have been due to time constraints, but the history is quite well documented, and indeed is somewhat outlined in detail in the various datasheets. Instead of an overall history, there is a very brief history and description of each street and lane. While it is good to see the laneways assessed, perhaps for the first time in a CBD study, this is an odd way of assessing a precinct as a whole.

As a result, some of the aspects of significance are not explained or justified, either within the statement itself, or by background in the study. For instance, why is "The Bourke Hill Precinct is of scientific significance through the presence of Turnbull Alley, and a notable

collection of pre-gold rush buildings.”? Also, the statement “The Bourke Hill Precinct is significant for its association with the following Victorians who have played a role in the development of the city: Robert Hoddle, surveyor of the original city grid and Sir Richard Bourke Governor of NSW.” seems completely superfluous, as their joint survey work is significant across the whole CBD, not just this precinct, which in any case is more notable for its privately created lanes than the officially surveyed main streets.

Parliament House is mentioned twice for its social significance, but neither the Princess nor the Palace Theatres, nor the long operating cafes such as Pellegrini’s or the Waiters Club are noted for theirs. We suggest that this statement needs a substantial review, or at least the addition of a brief history, to establish the historical background, and fully tease out and clarify exactly what is significant.

The modifications suggested by the City Of Melbourne’s submission address some of these issues and certainly improve the Statement and the Key Attributes.

#### -Key Attributes

It is good to see that the proposed new Statement of Significance includes a long list of Key Attributes, unlike the existing version. It includes many general attributes that are important but unlikely to change, such as the hierarchy of streets and lanes, and some that planning cannot control, such as the café culture within the precinct.

The most useful are those that specifically identify significant built form characteristics, such as the “early street materials including bluestone pitchers, kerbs and gutters” (though we note that these were standard up to the 1920s, and are more important for being traditional in Melbourne rather than being ‘early’. In fact the kerb and gutters and footpath paving along Bourke Street itself is 1980s / 90s, and Crossley Street has had its footpaths widened in recent years).

Attributes such as “Cohesive massing and use of materials present on Bourke Street”, “The diverse architectural expression linking the key periods of Melbourne’s development (from pre gold rush to the Postwar period), seen throughout the precinct”, and “Evidence of layering through the application of later change and the influence of various cultures, seen throughout the precinct”, may be too vague to be useful. Such statements should be made more specific, or deleted.

The attribute about Crossley Street - “The cohesive scale, Interwar & Postwar character and materiality of Crossley Street.” – is perhaps meant to identify that this is the only laneway that has a cohesive set of early laneway buildings remaining, but does not clearly state this as the significance.

The vague attribute: “The diverse architectural expression linking the key periods of Melbourne’s development (from pre gold rush to the Postwar period), seen throughout the precinct” is really the essence of any heritage precinct, but is poorly expressed. This should really say something like “The dominance of buildings considered to be historic,

predominantly from the pre WW2 period, with some complementary early post war structures and elements.”

We suggest that some more useful attributes covering significant physical aspects include:

- The unusually elaborate upper facades of many of the Victorian and Edwardian retail buildings facing Bourke Street.
- The dominating character of the larger scale buildings on Bourke Street, namely the Boom period City Temple and the three storey terrace at 32-38 Bourke Street, the 1920s bookstore at no 86, and the Palace / Metro Theatre façade.
- The heritage character of the various laneways, formed by the plainer, mainly industrial buildings that face onto them, along with the side walls of contributory buildings that face onto the main streets.

#### **4. HEIGHT CONTROLS**

The Trust commends the department on the excellent detailed work examining all the effects of the proposed height controls, using 3D modelling, and making well justified recommendations.

We are particularly pleased to see that the controls are designed to maintain the low scale of the areas that are also covered by the Heritage Precinct, to ensure no further overshadowing to the footpaths of the southern side of the main streets, to protect the vista to and from Parliament House, and to protect the Parliament forecourt and steps from further overshadowing.

There are however a few areas that we believe should be changed or improved.

##### **Height Controls also protect heritage buildings**

Three of the CBD heritage precincts were originally established in the 1980s along with height controls that covered closely matching areas (Bourke Hill, Chinatown and the Retail Core). Whilst all the height limits in the CBD were justified mainly on the basis of protecting the low scale pedestrian oriented nature of the areas covered, where they were over heritage precincts, they provided extra protection for the actual heritage building stock. This was necessary, since at the time, only buildings on the VHR, or that were listed as ‘Notable Buildings’, were specifically and strongly protected. All other buildings, whether in a precinct or not, relied on an assessment of their value based on their grading when there was a proposal to alter or demolish.

The original mandatory height controls for the Bourke Hill precinct were to a large extent clearly based on the scale of the actual historic building stock. The 15m limit (essentially struck from the Princess Theatre parapet height) covered the 2-3 storey buildings, the majority of the area, and the 23 m limit (struck from the Windsor parapet) covered the taller Windsor Hotel, as well as a section within the block on the north side of Bourke Street.

This latter area covered the rear of two low graded buildings, and two ungraded buildings, allowing for some redevelopment or additional floors.

### **Bourke Hill DDO Sub-Precinct 2 (Central) – 40m.**

With the expansion of the heritage precinct, and the regrading of buildings, the rationale for an area of the middle of the otherwise same low-scale heritage precinct to allow for higher development should be reviewed. We do not believe it should be reviewed *upward* from 23m to 40m. The rationale that it would provide “some development opportunities” is not justified, given how limited they would be, nor given that it would involve the probable destruction of contributory buildings.

We note that the area of the sub-precinct has been cut back from the west, so that the streetscapes of Liverpool Street and Crossley Street, now within the heritage precinct, have the lower 15m mandatory height limit.

One of the stated reasons for the mandatory 15m height limit for Sub-Precinct B1 within the report (p52) is to: “encourage low scale historic buildings to be retained to their full extent (and not as shallow facades)”. This is not restated in the Built Form Outcomes for this precinct in the DDO62 Schedule, but would be an inevitable outcome as most buildings are already near that scale. It seems far more logical that the same reasoning should apply to Bourke Hill Sub-Precinct 2 (Central) (B3 in the Schedule).

This now impacts on two contributory buildings, the Palace Theatre, proposed to be a B grade building, and the Angliss warehouse at 27-35 Little Bourke Street (proposed C grade) and two other ungraded buildings, one fairly recent, the other being 1980s apartments unlikely to be redeveloped. A 40m height limit on the rear halves of the two graded buildings only encourages redevelopment rather than preservation, with a likely result being extensive demolition, probably facading. This is not appropriate for a heritage precinct.

We also note that this area appears to allow a 40m wall on Liverpool Street, and on Harwood Place, despite the Built Form Outcomes statement that “Development respects the existing built form context of Liverpool Street and Harwood Place.” Respecting that low 3-4 storey scale, while allowing 10-11 floor development is somewhat contradictory.

It would be far preferable that this area simply also be part of the mandatory 15m area B1.

### **Melbourne Club Garden and DDO Sub-Precinct B2 south**

The report mentions that this highly significant and valued garden should be protected from further overshadowing, and the City of Melbourne submission notes – mistakenly - that Sub-Precinct B2 south is a 30m discretionary height limit, and this it is appropriate, as it would “Protect sunlight access to the Melbourne Club Heritage Gardens and Ridgway Place between 11 am and 2 pm on 22 September (both of which are outside the study area).”

However, this area is actually **40m**, and there does not appear to be any particular assessment of the extent of overshadowing of the gardens within the report. The 3D

modelling clearly shows additional overshadowing of the gardens at the equinox, which would be far greater in the winter months. The DDO64 schedule Built Form Outcomes for this precinct state only that “Development responds to the human scale of Little Collins Street.”; there is no mention of the Garden at all. Neither is it added to the Clause 22.02 Sunlight to Public Spaces policy. The general ‘public spaces’ part of that policy cannot be relied on, as it does not mention private gardens. This is a concern, since it is a ‘discretionary’ control, a development well over 40m may be proposed.

The previous and interim control is 15m, far lower than the now proposed 40m control. As a heritage listed garden with significant trees, access to sunlight is vital to its health. An arborist’s opinion should be sought, but the gardens should receive at least a similar amount of sunlight as they currently enjoy, and be protected well beyond the equinox.

Given the importance of the garden, the justification of “providing opportunities on the Kings Parkade site...” is not sufficient for raising the height limit. The site could be redeveloped without being substantially taller, though the economics of such a project may well be that even a 40m development would not be viable.

Further modelling on how best to protect the garden from further overshadowing should be done, or the existing 15m height limit maintained. It could be discretionary, with the DDO schedule Built Form Outcomes including a statement that the gardens ‘should be protected from any further overshadowing’ which would allow for some taller development towards Bourke Street.

We welcome the opportunity to comment on this important amendment and participate in any planning panel that may be convened.

Yours sincerely

A handwritten signature in blue ink, appearing to read 'P. Roser'.

**Paul Roser**  
Senior Manager, Advocacy & Conservation