

APPENDIX 3 HERITAGE COUNCIL REPORT

**WORLD HERITAGE ENVIRONS AREA
ROYAL EXHIBITION BUILDING AND
CARLTON GARDENS**

COMMITTEE REPORT

APRIL 2009

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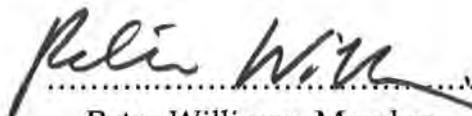
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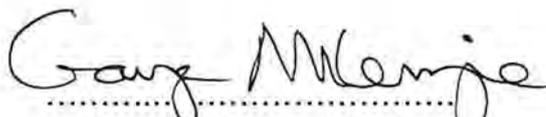
Susan Brennan, Chair



Renate Howe, Member



Peter Williams, Member



Gaye McKenzie, Member

April 2009

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1. Summary

The Royal Exhibition Building (REB) and Carlton Gardens have been inscribed in the World Heritage List. The World Heritage Environs Area (WHEA) has been declared by the Minister for Planning to act as a 'buffer zone' to assist in the conservation and protection of the world heritage values of the REB and Carlton Gardens.

The Heritage Act 1995 (Vic) provides for the preparation of a World Heritage Strategy Plan (Strategy Plan) for the WHEA. Under Section 62B of the Act the Strategy Plan must:

- set out the world heritage values of the REB and Carlton Gardens; and,
- set out strategies for appropriate use and development of the WHEA to ensure the world heritage values are protected and managed.

A draft Strategy Plan has been prepared on behalf of the Executive Director of Heritage Victoria.

A Committee of the Heritage Council was appointed to consider the draft Strategy Plan and submissions made in relation to it.

After considering the draft Strategy Plan and submissions made and conducting a hearing, the Committee has formed the view that, subject to the amendments outlined in this report, the draft Strategy Plan should be adopted. The amended Strategy Plan, in association with amendments to the Melbourne and Yarra Planning Schemes, will provide guidance for use and development in the WHEA to protect and manage the world heritage values of the REB and Carlton Gardens.

Given the level of significance of the REB and Carlton Gardens and the role of the WHEA as a 'buffer zone' in protecting their world heritage values, the Committee has formed the view that it is appropriate that:

- The world heritage values of the REB and Carlton Gardens and the role of the WHEA as a buffer zone be acknowledged in the State Planning Policy Framework and the Local Planning Policy Frameworks of the Melbourne and Yarra Planning Schemes;
- A separate Schedule to the Heritage Overlay be applied to the area of greater sensitivity within the WHEA (as amended, with the exception of the strip of land along the north side of Marion Lane) to protect and manage the values of the REB and Carlton Gardens;

- Schedules to the Design and Development Overlay (DDO) be applied to the land in the area of greater sensitivity (as amended) within the WHEA to protect designated views of the dome of the REB;
- Local heritage polices be introduced to the Melbourne and Yarra Planning Schemes to guide development in the WHEA Heritage Overlay;
- Statements of significance for places listed on the Victoria Heritage Register which are within the WHEA area of greater sensitivity be amended to reflect the role of the WHEA.

The Committee has identified various amendments to be made to the draft Strategy Plan.

In accordance with the instrument of delegation of the Heritage Council dated 11 March 2009, the Committee adopts the draft Strategy Plan with the amendments referred to in Section 10 of this report and forwards it to the Minister for approval. A final version of the Strategy Plan incorporating the amendments will need to be prepared by the Executive Director.

2. Background to draft Strategy Plan

2.1 World Heritage List inscription

The REB and Carlton Gardens was inscribed in the UNESCO World Heritage List under the Convention Concerning the Protection of the World Cultural and Natural Heritage (1972) on 1 July 2004.

The 'justification for inscription' reads:

Criterion (ii): The Royal Exhibition Building and the surrounding Carlton Gardens, as the main extant survivors of a Palace of Industry and its setting, together reflect the global influence of the international exhibition movement of the nineteenth and early twentieth centuries. The movement showcased technological innovation and change, which helped promote a rapid increase in industrialisation and international trade through the exchange of knowledge and ideas.

2.2 World Heritage Environs Area

The basis for providing a buffer zone for world heritage properties is found in the 'Operational Guidelines for the Implementation of the World Heritage Convention' adopted in 2005 by UNESCO. The Operational Guidelines provide as follows:

103. Wherever necessary for the proper conservation of the property, an adequate buffer zone should be provided.

104. For the purposes of effective protection of the nominated property, a buffer zone is an area surrounding the nominated property which has complementary legal and/or customary restrictions placed on its use and development to give an added layer of protection to the property. This should include the immediate setting of the nominated property, important views and other areas or attributes that are functionally important as a support to the property and its protection. The area constituting the buffer zone should be determined in each case through appropriate mechanisms. Details on the size, characteristics and authorized uses of a buffer zone, as well as a map indicating the precise boundaries of the property and its buffer zone should be provided in the nomination.

General Principle 1.01 of the Australian World Heritage Management Principles, as set out in Schedule 5 to the *Regulations to the Environment Protection and Biodiversity Conservation Act 1999 (Cth)* (EPBC Act) provides:

The primary purpose of management of natural heritage and cultural heritage of a declared world heritage property must be, in accordance with Australia's obligations under the World Heritage Convention, to identify, protect, conserve, present, transmit to

future generations and, if appropriate, rehabilitate the world heritage values of the property.

The 'Environment Protection and Biodiversity Conservation Act Policy Statement 1.1 Significant Impact Guidelines' published by Commonwealth Department of the Environment and Heritage in May 2006, lists actions which may have a significant impact on the world heritage values of world heritage listed properties. These actions include the following:

Involve construction of buildings or other structures within, adjacent to, or within important sight lines of, a world heritage property which are inconsistent with relevant values

and

Alter the setting of a world heritage property in a manner which is inconsistent with relevant values.

Section 62A of the Heritage Act 1995 (Vic) provides for Ministerial declaration of a world heritage environs area.

The declaration of the WHEA for the REB and Carlton Gardens was published in the Victorian Government Gazette on 11 October 2007.

The WHEA is an area around the REB and Carlton Gardens excluding the world heritage listed site.

The WHEA acts as a buffer zone to the REB and Carlton Gardens and will assist in conserving and protecting the world heritage values of the REB and Carlton Gardens by managing and controlling development outside the world heritage site but within the WHEA.

The WHEA incorporates predominantly residential areas (with some mixed use) in Carlton and Fitzroy and commercial and residential properties at the north end of Melbourne's Central Business District, immediately south of Victoria Street.

2.3 Draft Strategy Plan

Section 62B of the Act provides for the preparation of a draft Strategy Plan for the WHEA which must:

- Set out the world heritage values of the REB and Carlton Gardens
- Set out strategies for the appropriate use and development of the WHEA to ensure that the world heritage values of the REB and Carlton Gardens are protected and managed.

The draft Strategy Plan is intended to provide clear and justifiable direction for owners and relevant authorities in the management of the WHEA.

A draft Strategy Plan dated June 2007 was prepared by Lovell Chen, Architects and Heritage Consultants, for the Executive Director of Heritage Victoria.

The preparation of the draft Strategy Plan by the Executive Director was informed by input from a Steering Committee comprising representatives from Heritage Victoria, Museums Victoria and the Cities of Melbourne and Yarra.

The draft Strategy Plan contains the following content:

- it summarises the world heritage values;
- it outlines the statutory context for the development of the plan;
- it provides an overview of the methodology and approach undertaken in order to arrive at appropriate strategies for the use, development, management and protection of the WHEA;
- it describes the WHEA;
- it makes recommendations relating to future management and statutory protection of the WHEA.

3. Background to consideration of draft Strategy Plan

3.1 The Committee

In July 2007 the Heritage Council agreed that the Chair of the Heritage Council and the Chair of the Registrations Committee of the Heritage Council would nominate a Committee to consider and hear submissions in relation to the draft Strategy Plan.

This Committee was appointed on 7 February 2008 to hear and consider submissions to the draft Strategy Plan.

The Committee consisted of:

- Ms Susan Brennan (Chair)
- Dr Renate Howe
- Mr Peter Williams
- Ms Gaye McKenzie

By instrument of delegation dated 11 March 2009 the Committee was delegated the function of adopting and forwarding to the Minister the draft Strategy Plan and any amendments to the draft Strategy Plan.

3.2 Notification

The draft Strategy Plan dated June 2007 was advertised on 12 October 2007. A letter was sent to all property owners within the WHEA calling for public submissions in relation to the draft Strategy Plan. A public information session was held on 31 October 2007 to provide further information on the submission process. Submissions to the Heritage Council in relation to the draft Strategy Plan closed on 18 January 2008.

Seventeen submissions were received by 18 January 2008, of which 15 requested to be heard.

3.3 Hearings and inspections

The first part of the hearing was held on 9 and 10 April at the CO.AS.IT, 199 Faraday Street, Carlton.

A directions hearing was held on 19 June 2008.

The re-convened hearing was held on 11 and 12 September 2008 in the Bogong Room, Level 4, 8 Nicholson Street East Melbourne.

The Committee made unaccompanied inspections of the WHEA on 28 March, 21 August and 16 September 2008:

- on 28 March 2008, the Committee walked the perimeter of the REB and adjoining streets.
- on 21 August 2008, the Committee walked along Gertrude Street and Marion Lane to review the view cones set out in the Coomes report.
- on 16 September 2008, the Committee visited Spring Street and Queensberry Street to review material provided to it by Coomes and other submitters.

Further inspections were conducted by Committee members individually at other times.

3.4 Submissions

A list of all written submissions received in response to advertising is included in Table 1 below.

Table 1

Submitter
Executive Director Heritage Victoria
City of Melbourne
City of Yarra
St Vincent's Hospital
Roman Catholic Trusts Corporation For the Diocese of Melbourne
Royal Australasian College of Surgeons
Telstra Corporation Ltd
Carlton Residents Association
Protectors of Public Lands Victoria Inc
Westenders Business Owners / Small Business Association
Panorama Body Corporate
Residents 3000 Inc
Dominic Esposito Solicitors
Piccolo Developments Pty Ltd
Mr Geoff Roberts
Mr John Hillard

Submitter
Best Hooper Solicitors
Yarra City Activity Centres Business Forum
Mr John Alexander
Mr Graeme Lee
Mr Chris Goodman, 3068 Group
Yarra Community Housing (late submission)

The Committee heard the parties listed in Table 2 below on 9 and 10 April 2008.

Table 2

Submitter	Represented By
Executive Director Heritage Victoria	Mr. J Gard'ner of Heritage Victoria and Ms A Brady of Lovell Chen Architects and Heritage Consultants
City of Melbourne	Ms L Kirkwood
City of Yarra	Ms V Williamson
St Vincent's Hospital	Mr Paul Chiappi who called evidence from: Mr Andrew Rodda, Town Planner, Contour Consultants Australia and Mr Chris Perry Architect of Daryl Jackson Pty Ltd
Roman Catholic Trusts Corporation for the Diocese of Melbourne	Ms Natalie Gray, Town Planner
Royal Australasian College of Surgeons	Ms Roz Hansen of Hansen Partnership
Telstra Corporation Ltd	Mr Jeff Lynn of Blake Dawson Solicitors
Carlton Residents Association	Ms Anne Ritter and Ms Margaret O'Brien
Protectors of Public Lands Victoria Inc	Ms J Bell Secretary
Westenders Business Owners / Small Business Association	Mr C Cachami
Panorama Body Corporate	Ms E Strong and Mr P Camm
Residents 3000 Inc	Mr P Matthews
Dominic Esposito Solicitors	Mr Dominic Esposito
Mr John Alexander	
Piccolo Developments Pty Ltd	Mr Peter Beaumont Deacons Lawyers who called Mr Stuart McGurn of Fulcrum Town Planners

3.5 Further directions

At the close of the hearing on 10 April 2008 the Committee gave the following directions to the Executive Director of Heritage Victoria:

- The Executive Director of Heritage Victoria is to provide further information in relation to the discrete issue of views and vistas. This is to be provided by way of a view line study of the views and vistas available to the dome of the REB from Gertrude Street, Queensberry Street, Spring Street and Marion Lane.
- Based on the view line study the Executive Director is to consider the need for the introduction of height controls to protect views and vistas which are the subject of the view line study.
- The Executive Director is to prepare a draft DDO including design objectives and height controls arising from his consideration of the view line study and in the event that he recommends the introduction of height controls by way of the DDO he is to comment on whether they should be mandatory or discretionary.
- The information prepared by the Executive Director is to be circulated to the Committee and parties who made a submission to the draft Strategy Plan.
- The hearing is to be re-convened on 19 June 2008 to consider submissions that relate to the issue of views and vistas only.

In accordance with the directions, a view line study was prepared by Coomes Consulting Pty Ltd (Coomes) for the Executive Director and circulated to the Committee and submitters to the draft Strategy Plan.

3.6 Directions hearing

On 16 June 2008 the hearings officer advised the parties that, due to a number of outstanding issues in relation to the notification of affected land owners and presentation of information to the Committee, the hearing would not proceed on 19 June 2008. Instead, a directions hearing was held to discuss ongoing arrangements in relation to the hearing of submissions, including the relisting of the hearing dates.

3.7 Terms

‘Dome’: where referred to in the report, ‘dome’ includes the drum, dome, lantern and flag pole of the REB.

3.8 Further submissions

As a result of the additional information prepared on behalf of the Executive Director, the parties listed in Table 3 below lodged further submissions with the Committee.

Table 3

Submitter
Executive Director, Heritage Victoria
City of Melbourne
City of Yarra
St Vincent's Hospital
Skin and Cancer Foundation
Royal Australasian College of Surgeons
Telstra Corporation Ltd
Carlton Residents Association, Carlton Gardens Group, Carlton Tennis Club, Westenders Traders and Small Business Association and Panorama Residential Apartment Owners
Westenders Business Owners
Panorama on Rathdowne Body Corporate
Dominic Esposito
John Alexander
Piccolo Developments Pty Ltd
Yarra Community Housing
Ms Elspeth Strong

The Committee heard from the parties listed in Table 4 below at the re-convened hearing on 11 and 12 September 2008.

Table 4

Submitter	Represented By
Executive Director Heritage Victoria	Mr. J Gard'ner of Heritage Victoria and Mr R Milner of Coomes Consulting
City of Melbourne	Ms J Cairns
Piccolo Developments Pty Ltd	Mr C Canavan QC and Mr P Connor who called Mr Stuart McGurn of Fulcrum Town Planners, Mr Chris Goss of Orbit Solutions P/L and Ms Sheridan Burke of Godden Mackay Logan P/L
Skin and Cancer Foundation	Mr Andrew Walker Special Counsel of Phillips Fox who called Ms B Hamilton Urban Designer of Hansen Partnership
St Vincent's Hospital	Mr Paul Chiappi
Royal Australasian College of Surgeons	Mr Damian Iles of Hansen Partnership
Yarra Community Housing	Mr Paul Connor who called Mr Stuart McGurn of Fulcrum Town Planners and Ms Robyn Riddett of Arthemion Consultancies
Carlton Residents Association	Ms Anne Ritter
Dominic Esposito Solicitors	Mr Dominic Esposito
Mr John Alexander	
Westenders Business Owners / Small Business Association	Ms V Brien

4. Existing Planning Controls

4.1 Zones

The Melbourne Planning Scheme applies to land west of Nicholson Street and south of Victoria Parade while the land east of Nicholson Street and north of Victoria Parade falls under the Yarra Planning Scheme.

A number of Zones apply to land contained in the WHEA.

Yarra Planning Scheme

On the east side of Nicholson Street most of this area is in the Residential 1 Zone of the Yarra Planning Scheme. The exceptions are a strip of Business 1 Zone along the north side of Gertrude Street, a Public Use Zone on the south east corner of Nicholson and Gertrude Streets and Business 2 and Public Use 3 Zones south of Gertrude Street to Victoria Parade and between Nicholson and Fitzroy Streets. These latter two Zones apply to land occupied by St Vincent's Hospital.

Melbourne Planning Scheme

Land along the west side of Rathdowne Street and on both sides of Drummond Street, between Latrobe and Grattan Streets, is in the Mixed Use Zone under the Melbourne Planning Scheme while land north of Carlton Street is in the Residential 1 Zone.

Land on the south side of Victoria Parade between Fitzroy Street and Spring Street is in the Business 2 Zone under the Melbourne Planning Scheme while land between Latrobe Street and Victoria Street is in the Mixed Use Zone. The other land between Spring Street and Latrobe Street is in the Capital City Zone 1.

Victoria Parade and Nicholson Street are in the Road Zone – Category 1 under the respective Planning Schemes.

4.2 Overlays

Yarra Planning Scheme

In the case of land contained in the Yarra Planning Scheme the majority is within the South Fitzroy Heritage Precinct (HO334) in which a number of properties are also individually listed in the Heritage Overlay.

In addition to the Heritage Overlay, the Main Roads and Boulevards Schedule of the Design and Development Overlay (DDO2) applies to the strip of land on the north side of Victoria Street, east of Nicholson Street. Individually listed properties include places on the Victorian Heritage Register.

Melbourne Planning Scheme

Under the Melbourne Planning Scheme, the Heritage Overlay (HO1) applies to all but eight properties on the west side of Rathdowne Street. These properties accommodate newer developments that have no identified heritage value.

A number of properties on the west side of Rathdowne Street and in Drummond Street are individually listed in the Heritage Overlay. Individually listed properties include places on the Victorian Heritage Register.

In addition to the Heritage Overlay that applies to land along, and west of, Rathdowne Street, most properties are governed by the DDO for the Carlton area. This DDO includes height controls.

4.3 Local Planning Policies

The Yarra Planning Scheme includes a local planning policy “Landmarks and Tall Structures” (Clause 22.03) that identifies and seeks to maintain the prominence of various landmarks in the municipality.

The objective of this policy is “*to maintain the prominence of culturally valued landmarks and landmark signs*” and it is policy that “*views to the silhouette and profile of culturally valued landmarks be protected to ensure they remain as the principal built form reference*”.

5. Key Issues

5.1 Summary of issues raised in submissions

The key issues raised in the submissions of the various parties are summarised as follows.

- The need for the protection proposed by the WHEA
- The arbitrary nature and extent of the WHEA
- The choice of planning tool
- Protection of views and vistas to and from the REB and Carlton Gardens
- The regulation of telecommunications infrastructure
- Lack of management of the REB and Carlton Gardens

5.2 Issues dealt with in this Report

The Committee has considered all written submissions, as well as submissions presented to it during the hearings. In addressing the issues raised in those submissions, the Committee has been assisted by the information provided to it as well as its observations during its inspections of the WHEA.

This report deals with the issues raised under the following headings:

- The need for and extent of the WHEA buffer
- Protection of views and vistas to the REB dome
- The choice and content of planning controls
- Other issues

6. Need for and extent of buffer

6.1 What is the issue?

The WHEA is a declared area around the REB and Carlton Gardens and is depicted in Map 1 at Appendix A.

The draft Strategy Plan analyses the WHEA as a whole and distinguishes between an area of greater sensitivity and an area of lesser sensitivity. The two areas as they are described in the draft Strategy Plan are depicted in Map 2 in Appendix A.

The draft Strategy Plan recommends additional planning controls in the area of greater sensitivity only.

6.2 Evidence and submissions

Some submitters believed the WHEA should be larger than that which had been declared. Other submitters either opposed the WHEA or were of the view it was too extensive and that the controls proposed for land in the 'area of greater significance' were unnecessary.

Mr McGurn argued that a buffer zone was unnecessary because the REB had been inscribed notwithstanding the presence of the Melbourne Museum within its setting. He concluded that if a building of the scale and form of the Museum had not adversely affected the REB so as to jeopardise its prospects of inscription, no development beyond the perimeter of the Carlton Gardens could be considered to diminish the world heritage values of the REB.

However Ms Burke, the immediate past international Vice President of ICOMOS, which is the UNESCO adviser on cultural aspects of world heritage, noted that "*in recent years, the use of buffer zones to manage the setting of the world heritage listed places has moved from being an optional tool to an essential management requirement. The current Operational Guidelines (2005) are clear that the buffer zone surrounds the property and includes its immediate setting, important views etc. (2.4)*".

Ms Gray, for the Roman Catholic Trusts Corporation for the Diocese of Melbourne, argued that as the 'area of greater significance' related to properties facing the REB and Carlton Gardens, the boundary should be redrawn to exclude the rear half of its site fronting Drummond Street from the 'area of greater significance' and from the proposed additional controls and instead be included in the 'area of lesser significance'.

6.3 Discussion

The declaration of the WHEA arises from the Heritage Act 1995 which seeks to protect the world heritage values of the listed place. The extent of the buffer zone depicted in the declared WHEA is determined by the Minister and the Committee has no role in revising the boundaries of the buffer zone. The Heritage Act limits the task of the Committee to consideration of the draft Strategy Plan and any amendments it believes should be made to it. This includes consideration of the location of the boundary between the areas of greater and lesser sensitivity and the planning tools to be applied to land in the area of greater sensitivity.

The Committee acknowledges the role of the declared WHEA and agrees that some parts of the WHEA are of greater sensitivity in protecting, presenting and transmitting to future generations the world heritage values of the REB and Carlton Gardens.

The Committee has no authority to revisit the extent of the WHEA but has formed the view that development within the area of greater sensitivity has the potential to adversely affect the world heritage values of the REB and Carlton Gardens and hence represents an appropriate buffer zone within which the introduction of additional planning controls achieves a legitimate heritage conservation purpose.

Whatever attitude one takes to the Melbourne Museum, it is evident that it has altered part of the context of the REB and Carlton Gardens. The purpose of regulating use and development within the WHEA area of greater sensitivity is to ensure that any future proposal within the buffer zone is assessed by reference to its relationship with the REB and Carlton Gardens to ensure that the world heritage values of the listed place are not diminished.

The physical setting of this world heritage place traverses the cities of Melbourne and Yarra where the building fabric predominantly maintains the differential scale and landmark presence of the REB and the Carlton Gardens.

North of Victoria Parade the predominant building height is two and three levels and is largely of 19th century origin, although there are isolated examples of development from later periods. Where there are examples of larger scale 19th century buildings, such as churches, school buildings and former hospitals, these provide a contextual contrast of scale and visibility to those viewing the REB and Carlton Gardens from within the WHEA.

By way of contrast, the area south of Victoria Parade, at the northern edge of the Melbourne CBD, no longer has a 19th century scale. Sites within this area, including those inside the WHEA gazetted boundary accommodate large undistinguished high rise constructions of the 20th and 21st centuries which are occupied by residential, office

or commercial uses. The scale of this development is in sharp contrast to the predominantly lower built form north of Victoria Parade.

To evaluate the effectiveness of the buffer, the means of experiencing the world heritage site in its physical form must first be understood. This appreciation is separate from the well documented historical character of the area as a largely intact 19th century setting for the REB and Carlton Gardens.

The WHEA provides a buffer extending out from the REB and Carlton Gardens, varying in width from around 165 metres to 250 metres. At various points around and within this buffer a visitor is intimately connected with the REB and Carlton Gardens in terms of views and sense of proximity. In other locations there is an apparent distance between the REB and the viewer with occasional glimpses of the dome of the REB.

The world heritage values, as set out in UNESCO Criterion 2 and in the justification for inscription are manifest in the REB and its setting of the Carlton Gardens. These heritage values are recorded not in the sense of the REB being notable as an architectural masterpiece on a world scale, but as having social and cultural significance in reflecting the great optimism in industry and manufacturing in the late 19th century.

However in the Committee's opinion the UNESCO citation of the REB as a 'palace of industry' means it is not possible to divorce the social and cultural values of the place from their physical manifestation in the building. The intention at the time of staging the great Melbourne International Exhibition was that a prominent, permanent and large scale building, with associated pavilions and annexes, would be constructed.

The Committee has therefore formed the view that critical to an appreciation of the world heritage values of the REB and its presentation is an understanding of its scale and placement within the fabric of Melbourne at the time of the International Exhibition movement.

The declared WHEA provides the buffer to ensure the full appreciation of the building that housed and presented the international exhibition can continue from various vantage points outside the world heritage site.

Turning to the demarcation between the areas of greater and lesser sensitivity shown in the draft Strategy Plan, the Committee has formed the view that this should be revised. This revision will transfer some sites from the 'area of greater sensitivity' to the 'area of lesser sensitivity' and include others in the 'area of greater sensitivity' in preserving nominated view-lines to the dome of the REB.

The sites which the Committee concludes should be transferred from the area of greater sensitivity to the area of lesser sensitivity are:

- The site occupied by multi level residential on the south west corner of Spring Street and La Trobe Street.
- The site on the north east corner of Victoria Parade and Nicholson Street (part of St Vincent's Hospital).
- The site occupied by the multi-level office building on the south east corner of Victoria Parade and Nicholson Street.

The Committee has formed the view that the location of these sites at the southern edge of the world heritage site, the existing multi level buildings that occupy them and any redevelopment that may occur on the St Vincent's Hospital site will not diminish the world heritage values of the REB and the Carlton Gardens, including the impact of any overshadowing on the southern part of the gardens.

This said, the Committee is of the view that the presentation at street level of any redevelopment on the above mentioned sites is critical to create an engaging pedestrian environment with light, shade and variation of scale, solid and void elements. Incorporation of such a design approach at street level will continue to provide the setting that will contribute to an appreciation of the qualities of the WHEA manifest in the 19th century streetscape that exists elsewhere along its long east and west boundaries and its shorter northern and southern boundaries. The Committee is of the view that the existing provisions in the Melbourne and Yarra Planning Schemes provide the respective Councils with the planning tools necessary to ensure this outcome is forthcoming.

Turning to the southern interface of the world heritage site, with the exception of the sites occupied by the 19th century $\frac{1}{4}$ Society building and the Royal Australian College of Surgeons, the latter also being located within an important view corridor of the dome from Spring Street, the sites on the south side of Victoria Parade in the CBD and the multi storey developments that occupy them do not contribute to an appreciation of the REB site. Furthermore the angular alignment of the CBD grid with respect to the Carlton Gardens disconnects these sites visually from the REB and its garden setting.

By contrast to the multi-storey buildings in the CBD, the low and modest scale Royal Society building, in its own mini garden setting offers an entirely different connection with the REB site. It enhances any pedestrian approach from the city from the southwest and it continues the notion of well detailed 19th century public buildings in a formal setting to the street. The adjoining triangular pocket of island open space also contributes to an appreciation and understanding of the REB and Carlton Gardens.

In relation to those properties the Committee believes should be added to the 'area of greater sensitivity', these lie within existing view-lines to the REB dome that should be preserved. The revised boundary should include the following properties:

- Properties on the north and south sides of Gertrude Street west of Fitzroy Street.
- Properties on the north and south sides of Queensberry Street east of Drummond Street.
- Marion Lane and land on the north side of Marion Lane for a depth of 5 metres.

The Committee considers it appropriate to retain the Roman Catholic Trusts Corporation property between Rathdowne and Drummond Streets within the area of greater sensitivity, given it is in single ownership on one title, and is occupied by buildings some of which predate or are contemporaneous to the REB and Carlton Gardens.

6.4 Conclusions

The Committee concludes that:

- The declared WHEA includes the immediate setting of and important views to the REB and Carlton Gardens as a world heritage place and presents the contemporaneous late 19th century context of the REB and the Carlton Gardens.

The Committee considers the following amendments should be made to the draft Strategy Plan:

- The boundary of the areas of greater and lesser sensitivity be amended to transfer the following sites into the area of greater sensitivity:
 - *Sites on Queensberry Street east of Drummond Street.*
 - *Sites on Gertrude Street west of Fitzroy Street.*
 - *Marion Lane and land on the north side of Marion Lane for a depth of 5 metres.*
- The boundary of the areas of greater and lesser sensitivity be amended to transfer the following sites into the area of lesser sensitivity:
 - *The corner of Spring Street and La Trobe Street (apartment building).*
 - *The north east corner of Victoria Parade and Nicholson Street (part of St Vincent's Hospital).*
 - *The south east corner of Victoria Parade and Nicholson Street (offices at 8 Nicholson Street).*

The revised boundaries of the area of greater sensitivity are depicted in Map 3 of Appendix A.

7. Protection of views and vistas

7.1 What is the issue?

The issue for the Committee to consider relates to whether identified view-lines to the dome of the REB from vantage points within and beyond the WHEA should be protected and what planning tools should be applied to land within the WHEA to ensure this outcome.

7.2 Evidence and submissions

An objective of the draft Strategy Plan is *to protect direct views and vistas to the Royal Exhibition building, dome and gardens from bordering/abutting streets; and other views and vistas to the dome available from streets within the precinct including Gertrude and Queensberry Streets.* (p 36).

An important issue for the Committee is the adequacy of the planning controls proposed in the draft Strategy Plan for the buffer zone in relation to protecting views and vistas of the REB.

At the reconvened hearing, Mr Milner of Coomes, took the Committee through his report which dealt with the following 'viewing corridors' to the dome of the REB:

- North along Spring Street from Collins Street.
- West along Gertrude Street from Little George Street.
- East along Queensberry Street from Iever Place.
- West along Marion Lane from Fitzroy Street

Based on these viewing cones, the Coomes study identified those properties where it recommended mandatory height limits be applied to protect views of the REB dome.

To protect these views of the REB dome it drafted new Schedules to the DDO which included a Table that listed affected properties and the mandatory height that would apply to any future development.

Of the further submissions lodged, there was general support for the use and application of a DDO by the two Councils, Hansen Partnership (for the RACS), the Carlton Residents Association (and associated groups), Panorama on Rathdowne, and Mr Alexander.

The City of Yarra submission referred to the opinion of its heritage consultant that the DDO should be applied to properties on both sides of Gertrude Street and all sites in Marion Lane between Fitzroy Street and Royal Lane.

Mr Alexander was of the view that, in addition to protecting views to the dome from various vantage points, those *from* the REB should also be protected.

At the hearing Mr Alexander was concerned that mandatory height controls, as applying to the east side of Nicolson Street and the 'Royal Terrace', could result in redevelopment at the rear of this terrace being of a height that impinged on the importance of Royal Terrace.

St Vincent's Hospital supported the use of the DDO as proposed by Coomes, noting that it did not apply it to the properties it owns on the south side of Gertrude Street.

The Skin and Cancer Foundation was concerned that the proposal to apply height controls would compromise its plans to develop 80 Drummond Street, which at the time of purchase was not subject to mandatory height controls. It proposed an increase to the existing heights in the Schedule to the DDO, which would allow a higher building, closer to Queensberry Street to be built on its site.

Hansen Partnership supported the selection of the DDO as the appropriate planning tool but questioned the validity of the diagrams produced by Coomes as they related to the RACS site. The Hansen submission was also critical of the Coomes study in that it did not take account of the effect existing vegetation had on screening views of the REB dome from the south, in Spring Street.

It was also put to the Committee that any height controls should be discretionary, as was presently the case under the Melbourne Planning Scheme.

Evidence called on behalf of Piccolo Developments Pty Ltd was critical of the Coomes study particularly:

- The point from which the view line was taken and its height above ground level.
- The use of a mandatory maximum height control which may thwart innovative design solutions.

In providing evidence in relation to the Piccolo site, Mr McGurn did not support the introduction of additional DDO controls and was of the opinion that the significance of identified views had not been justified in terms of the impact on the REB dome and its setting. It was suggested that attempts to protect views were not based on world heritage values but urban design objectives in relation to local landmarks. In the event a separate Schedule to the DDO was to be applied, he believed it should be performance based and informed by the visual analysis undertaken by Orbit Solutions and Woods Bagot, Architects.

However, the expert heritage opinion before the Committee supported the protection of the views. In giving evidence in relation to the Piccolo site, Ms Burke stated that

“the protection of the view along Queensberry Street from Lygon Street is an appropriate objective.”

In giving evidence for Yarra Community Housing, Ms Riddett also supported *“protecting significant views to and from the Royal Exhibition Building and Carlton Gardens through planning and Heritage Overlay and/or heritage controls under the provisions of the Heritage Act”*. Ms Riddett went on to say *“there may be a case for height controls in some view cones but this appears unnecessary on the south side of Gertrude Street”*.

7.3 Discussion

Based on the submissions made along with its inspections of the WHEA, the Committee makes the following observations:

- On the west side of Rathdowne Street, between Queensberry Street and Pelham Street, and on the east side of Nicholson Street, between Palmer Street and Gertrude Street, there are strong visual links and an intimate connection with the REB. The fine 19th century buildings that line these streets can also be appreciated in the context of the REB and Carlton Gardens.
- Further north, beyond the central Rathdowne and Nicholson Street zones referred to above and along the northern most boundary of the REB site on Carlton Street the presence of the REB is not obvious and from some locations cannot be viewed at all, even when the deciduous trees are not in leaf. This is due to vegetation and topography but mostly due to the introduction of the Melbourne Museum building.
- The important axial view taken from the mid point of the southern boundary of the site on Victoria Parade looking north along the access path to the southern facade of the REB and the Hochgurtel (or Exhibition) Fountain is an iconic setting in the Melbourne context. Moving away from this pathway to the east or west, the ability to see the REB is diminished and the viewer must move further afield to appreciate the landmark form of the REB and its notable dome set within the mature grand scale plantings of the Carlton Gardens.
- The approach to the REB from the south along the west side of Spring Street is of particular importance because it is viewed in the context of other grand Victorian buildings including the Victorian Parliament, the Windsor Hotel and the Princes Theatre.
- The view west along Marion Lane provides a most impressive view of the dome over ‘Royal Terrace’, on the east side of Nicholson Street.
- Views to the REB and its dome are notable approaching the Carlton Gardens from the east along Gertrude Street and from the west along Queensberry Street.
- Oblique view lines to the REB from the southern footpath of Victoria Parade, in the vicinity of the intersection with Nicholson Street, are not affected by the multi storey St Vincent building on the north east corner of this intersection.

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- Views within the city looking north to the REB are obstructed by existing multi storey CBD buildings.

The central zones to the east (on Nicholson Street) and west (on Rathdowne Street) of the REB are locations where the world heritage values of the REB and Carlton Gardens are presented and can be appreciated. In addition to these views at the perimeter of the world heritage site, the Committee has identified the importance of longer range views to the dome from various vantage points, particularly those approaching the site from the east along Gertrude Street and Marion Lane, from the west along Queensberry Street, and from the south along Spring Street where vistas unfold of the prominence of the dome.

The Committee acknowledges that most of these views are not derived from deliberate axial planning of the REB to align with neighbouring streets. In this respect, views to the REB differ from views to the Shrine of Remembrance along St Kilda Road, which are protected by the mandatory provisions of the Shrine Vista Control.

However, in the opinion of the Committee the preservation of these view-lines is important in appreciating the values of the REB as “an extant survivor of a Palace of Industry”.

It accepts the submissions of Piccolo and RACS and the concession of Mr Milner that some of the views depicted in the Coomes study were somewhat unhelpful because they are taken from an elevated position.

The Committee found the montages prepared by Orbit Solutions and Woods Bagot for the Piccolo site, those prepared for the Skin and Cancer site and those prepared for the RACS site particularly helpful in ascertaining the effect any future development would have on views to the dome of the REB. This material also demonstrated that building heights could vary on these sites without necessarily blocking views of the REB dome.

At the conclusion of the hearing the Committee re-visited Spring Street and Queensberry Street to study views to the dome from the various reference points identified in both the Coomes and submitters’ reports. These further visits confirmed that at certain vantage points on Spring and Queensberry Streets existing vegetation, either in the road reserve or on private land, including a large evergreen tree in the Carlton Gardens, already obscures views to the dome.

Based on the information provided to it by submitters, and on observations from its visits to the WHEA, the Committee concludes that the preservation of the following views to the dome of the REB is important:

- views from the south east corner of Queensbury Street and Lygon Street;
- views over the RACS site from the corner of Spring and Bourke Streets;

- views over the buildings on the north side of Gertrude Street from the corner of Fitzroy Street;
- views along Marion Lane over Royal Terrace from Fitzroy Street.

In the Committee's opinion the appropriate planning tool to protect these view lines is the DDO. Details concerning this control are set out in the following Section of this report.

Having considered the Views and Vistas Analysis prepared Coomes, the Committee notes that three of the four identified viewing corridors and the associated properties proposed for inclusion in the DDO extend beyond the boundary of the 'declared' WHEA.

In the Committee's opinion, the Strategy Plan can properly have regard to views from beyond the WHEA but can only lawfully recommend planning controls over properties within the WHEA.

During the course of oral submissions and without notice to any parties, Mr Canavan QC and Mr Connor on behalf of Piccolo submitted that there was no power to consider the impact on the REB of development on properties beyond the boundaries of the REB and Carlton Gardens and that there was no power to introduce additional planning controls seeking to govern use and development of land beyond the REB and Carlton Gardens.

The Committee does not accept this submission. The Heritage Act contemplates the declaration of a buffer zone beyond the boundaries of the listed place within which use and development of land may need to be regulated to ensure that world heritage values are protected and managed.

While the world heritage values attach to the REB and Carlton Gardens, development outside the REB and Carlton Gardens may adversely affect these values by compromising the presentation, transmission and appreciation of these values. Examples of development which might have such an impact include development which prevents physical or visual access, development which poses structural threats or other damage to physical fabric, or development which detracts from or competes with the prominence of a listed place. In the specific case of the REB and Carlton Gardens, examples of development which do adversely affect its values include the scale of the Panorama building and the loss of views from the north due to the insertion of the Melbourne Museum. Notwithstanding these impacts, the REB and Carlton Gardens was still inscribed on the World Heritage List. However, the Committee is concerned to ensure that future development in the WHEA does not diminish the values of the listed place.

The *Environment Protection and Biodiversity Conservation Act* "Significant Impact Guidelines" explicitly identify construction of buildings or structures within important sight lines of a listed place as actions which may adversely affect a world heritage place.

7.4 Conclusions

The Committee concludes that:

- Additional planning controls are warranted to protect views of the dome from nominated approaches to the REB. These are to be in the form of DDOs in the Melbourne and Yarra Planning Schemes.
- Additional controls to protect views from the REB are not considered necessary given the extent of changes that have occurred in the broader area since its construction and which dramatically influence the outlook from the REB platform. From this viewing point now the higher, more recent built form backdrops the lower 19th century fabric.
- Additional controls over land outside the WHEA to protect more distant views to the REB and dome are outside the scope of the draft Strategy Plan and in any case such views are too far removed from the REB and Carlton Gardens to be materially affected by intervening development.

8. Proposed planning controls

8.1 What is the issue?

The draft Strategy Plan recommends amendments to the Melbourne and Yarra Planning Schemes to recognise and protect the world heritage values of the REB and Carlton Gardens. The issue arising from this recommendation relates to the appropriateness of the proposed controls and whether different or additional controls should be applied under the respective Planning Schemes over the 'area of greater sensitivity' of the WHEA.

8.2 Evidence and submissions

In its exhibited form, the draft Strategy Plan prepared for the REB and Carlton Gardens recommends the following changes to the provisions of the Melbourne and Yarra Planning Schemes as they apply to land within the WHEA:

- Amend *Clause 15.11-2* of the State Planning Policy Framework to require that planning and responsible authorities should take into account provisions relating to World Heritage listed places and declared World Heritage Environs Areas.
- Amend the Schemes to include a Schedule to the Heritage Overlay over the area the area of greater sensitivity in the declared WHEA. This Schedule will replace the existing Schedules to the Heritage Overlay that presently apply to land in the WHEA. The provisions of *Clause 43.01* Heritage Overlay and Local Planning Policies in relation to heritage will apply to the land affected by the new Schedule.
- Include the Strategy Plan for the WHEA as a reference document to *Clauses 22.04* (Heritage Places within the Capital City Zone) and *22.05* (Heritage Places outside the Capital City Zone) in the Melbourne Planning Scheme and to *Clause 22.02* (Development Guidelines for Heritage Places) to the Yarra Planning Scheme.
- Insert the map of the WHEA in *Clause 21.08-7* 'Carlton' in the Melbourne Planning Scheme along with text in the section on 'Carlton' in that Clause.
- Insert the map of the WHEA in *Clause 21.05* of the Yarra Planning Scheme along with nominated text.
- Amend the existing citation for the South Fitzroy Precinct (HO334) to include a reference to the proximity to the REB and adjacency to the WHEA and the contributory importance of the nineteenth century development and character of the precinct to the broader setting and context of the REB.
- Prepare a citation for the Carlton area (HO1).

- The City of Yarra to consider amending *Clause 22.02 'Landmarks and Tall Buildings'* to include specific reference to the dome of the REB and views to it from outside the WHEA, such as from Gertrude Street, Fitzroy.
- The City of Melbourne to investigate the appropriate mechanism to protect vistas within the city but outside the WHEA.

The draft Strategy Plan does not recommend that the existing DDO under the Melbourne Planning Scheme be varied, but does recognise the importance of views and vistas to the REB and states that if changes are considered in the future, regard should be had to the general principles contained in the SPPF.

A number of submitters, including the two planning authorities, supported the recommendations of the draft Strategy Plan, including reference to the REB and Carlton Gardens and the WHEA in the State Planning Policy Framework (SPPF), and in the two Municipal Strategic Statements (MSS). They also supported the inclusion of the area of greater sensitivity within the WHEA in a new Schedule to the Heritage Overlay.

While some submitters supported the introduction of a new Schedule to the Heritage Overlay, others were of the opinion that there was no need to change the existing Schedules to the Heritage Overlay applying to land within the WHEA.

The view was put by some submitters and their experts that the DDO, not the Heritage Overlay, was the correct planning tool to control development in order to protect views and vistas of the REB and its dome.

There were differing opinions as to whether any Schedule to the DDO should set mandatory or discretionary height controls.

In giving evidence for the Piccolo site, Ms Burke stated that the *"mandatory 10m maximum building height proposed by the Coomes Report fails to provide the flexibility that would allow an appropriate design response to the heritage values of the streetscape on the Piccolo site"*.

In response to questioning by the Committee relating to mandatory controls, Ms Burke did concede there may be a need to set an upper limit on building height in the Schedules to the DDO.

8.3 Discussion

Having considered all the written submissions, and submissions made at the hearings, the Committee has formed the view that the SPPF and the MSS of the Schemes should be amended to refer to the world heritage importance of the REB and Carlton Gardens

and to the role of the WHEA in protecting these values, as recommended by the Executive Director of Heritage Victoria.

It also agrees that referring to the WHEA in the MSS of each Scheme will affirm the importance of the environs of the REB and Carlton Gardens as a buffer zone intended to protect the world heritage values of the REB and Carlton Gardens.

The Committee agrees that the WHEA is comprised of an 'area of greater sensitivity' and an 'area of lesser sensitivity'. The draft Strategy Plan uses the term 'area of greater sensitivity' interchangeably with 'area of primary significance' and the term 'area of lesser sensitivity' interchangeably with 'area of contributory significance'. It considers that terms referring to the relative sensitivity of parts of the WHEA are preferable to terms which imply that the cultural heritage significance of the REB and Carlton Gardens extends beyond the borders of the inscribed place into the WHEA. It is important to reinforce that the world heritage values attach to the listed place and do not apply to the WHEA. The role of the WHEA is to provide a buffer of protection to the REB and Carlton Gardens to ensure its presentation and transmission are not adversely affected and to ensure that the world heritage values of the REB and Carlton Gardens can be appreciated from beyond the listed place. Accordingly, the Committee recommends the removal of all references to the primary or contributory significance of the WHEA from the draft Strategy Plan.

Based on the information provided to it, the Committee supports the inclusion of land contained in the 'area of greater sensitivity' (as amended, but with the exception of the strip of land on the north side of Marion Lane) as a separate Schedule to the Heritage Overlay, in recognition of the importance of this buffer zone to the protection of the world heritage values of the REB and Carlton Gardens. The Committee notes that, under the Melbourne Planning Scheme, this new Schedule to the Heritage Overlay will apply to some sites on the west side of Rathdowne Street that are not covered by an existing Schedule to the Heritage Overlay. The strip of land on the north side of Marion Lane has been included in the 'area of greater sensitivity' because of the impressive view along Marion Lane over Royal Terrace to the dome of the REB but does not think it is necessary to include this land in the proposed WHEA heritage overlay. The Committee has recommended a DDO to cover this strip of land and the Heritage Overlay for the South Fitzroy precinct under the Yarra Planning Scheme will continue to apply to it in any case.

In the case of land in the 'area of lesser sensitivity', the Committee is of the opinion that the existing controls under both Schemes are adequate to control development and does not believe this area should be included in the new Schedule.

Because the Schedule to the Heritage Overlay cannot currently include a Statement of Significance, design objectives or detailed requirements, the Committee is of the view that it would be useful to insert a new local Heritage Policy in each scheme to deal

with these matters based on the precinct of objectives set out in the draft Strategy Plan. The Committee has perused the existing policies contained in the Melbourne and Yarra Planning Schemes, and has formed the view that it is preferable to draft a new policy for inclusion in each Scheme. In the event that future changes to the Heritage Overlay enable these matters to be scheduled in, the local policies could be deleted from the Schemes.

To protect important views and vistas of the REB, in particular its dome, from identified vantage points, the Committee believes that the DDO is the planning tool best able to achieve this aim of the draft Strategy Plan.

Under the Melbourne Planning Scheme, a DDO currently applies over most of the land in the 'area of greater sensitivity' in the draft Strategy Plan. DDO6 and DDO13 provide 'preferred' height and set back controls. In the case of land under the Yarra Planning Scheme no such overlay currently applies to the 'area of greater sensitivity'.

By amending Schedules 6 and 13 to the existing DDO in the Melbourne Planning Scheme and introducing a new Schedule under the Yarra Planning Scheme, the view line to the dome of the REB along Queensberry Street, Spring Street, Gertrude Street and Marion Lane can be preserved.

As to whether protection of the view lines should be through mandatory or discretionary controls the Committee makes the following comments.

It is generally accepted that height controls should retain a level of discretion unless there are exceptional circumstances. The Panel appointed to hear submissions to Amendment C7 to the Queenscliffe Planning Scheme formed the view that Queenscliff was an exceptional case, justifying mandatory height controls. On the other hand, the Bayside C2 and Melbourne C20 Panels did not support the adoption of mandatory controls over the wide areas they were to apply to.

This Committee is of the view that the specific qualities of the REB dome would support the introduction of mandatory height controls if there were clear evidence that views to it would be fully blocked by future development. The Committee has not been provided with sufficient or reliable information to determine precisely at what heights or setbacks future development would fully or partially obscure views to the dome, but it accepts that in some cases, future development on land within the view corridors may not affect views to the dome. In the circumstances, the appropriate course is to include a clear design objective to protect views and to require any future development seeking approval to demonstrate that it will not obscure, partially or fully, the silhouette of the dome from relevant vantage points. Hence, the Committee is of the opinion that the discretion currently contained in the Schedule in the Melbourne Planning Scheme should be retained.

In relation to the evidence presented by Ms Hamilton for the Skin and Cancer Foundation, the Committee is not persuaded that the permissible height of a building on this site should be increased and setbacks from Queensberry Street reduced from what is presently in the Schedule applying to this site. A hearing in relation to the WHEA is not the appropriate case to relax controls which support other planning objectives. In any case, in the Committee's view what was suggested by Ms Hamilton would have an impact on the view of the dome from the south side of Queensbury Street.

In the case of the Yarra Planning Scheme, the DDO does not presently apply to land in the vicinity of the REB and Carlton Gardens. While the existing Policy at *Clause 22.03* (Landmarks and Tall Structures) could be amended to require new structures along Marion Lane and on the north side of Gertrude Street to be designed to retain views of the dome, the Committee also supports the introduction of a Schedule to the DDO over land on the north sides of Gertrude Street and Marion Lane.

Mr Alexander's concern that development which met any new height controls but adversely affected Royal Terrace is addressed by the requirement to obtain a permit for works within the curtilage of Royal Terrace from Heritage Victoria and by the policy for land in the WHEA heritage overlay and DDO to maintain and conserve the historic character of the area and to protect views down Marion Lane respectively.

The Committee is of the opinion that the DDO should only apply to properties within the 'area of greater sensitivity' as revised and not, as suggested by Coomes, to land that is outside the WHEA.

8.4 Conclusions

Based on the information put to it at the hearing along with its considerations following inspections of the WHEA, the Committee concludes that the views to the dome of the REB from particular vantage points warrant preservation. The Committee is of the opinion that the appropriate planning tool to protect these views is the DDO.

The draft Strategy Plan should be amended to recommend the following amendments to the Melbourne and Yarra Planning Schemes:

- Under the Melbourne Planning Scheme, introduce a new Heritage Overlay for the area of greater sensitivity in the WHEA. The extent of the new Heritage Overlay in the Melbourne Planning Scheme is shown in Map 4 in Appendix A.
- Under the Yarra Planning Scheme, introduce a new Heritage Overlay for the area of greater sensitivity in the WHEA, excluding the strip of land on the north side of Marion Lane. The extent of the new Heritage Overlay is shown in Map 5 in Appendix A.

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- Under the Melbourne Planning Scheme, amend the existing Schedule 6 to the DDO to protect views across the Drummond Street road reserve, 80 Drummond Street and 83 to 95 Rathdowne Street Carlton to the REB dome. A suggested draft of this Schedule is included in Appendix B.
 - Under the Melbourne Planning Scheme, amend the existing Schedule 13 to the DDO as it applies to the RACS site bounded by Victoria, Lonsdale, Spring and Nicholson Streets. A suggested draft is included in Appendix B.
 - Under the Yarra Planning Scheme introduce a new Schedule to the DDO to apply to land on the north side of Gertrude Street between Fitzroy and Nicholson Streets, over 50 – 60 Nicholson Street and over land on the north side of Marion Lane for a depth of five metres. A suggested draft is included in Appendix B. The extent of the new DDO is shown in Map 6 in Appendix A.
 - Under the Yarra Planning Scheme, amend *Clause 22.03 “Landmarks and Tall Structures”* to include a further dot point under the heading ‘Landmarks and Tall Structures Design Response’ to read:
 - *Protect the silhouette / profile of the drum, dome, lantern and flagpole of the Royal Exhibition Building as viewed from Marion Lane over ‘Royal Terrace’ and from the south side of Gertrude Street from the corner of Fitzroy Street.*
 - Under the Melbourne Planning Scheme draft a new local policy “*Heritage Places in the World Heritage Environs Area of greater sensitivity*”. See Appendix C.
 - Under the Yarra Planning Scheme draft a new local policy “*Development Guidelines for Heritage Places in the World Heritage Environs Area of greater sensitivity*”. See Appendix C.

9. Other issues

9.1 What are the issues?

Other matters that were raised by submitters related to:

- limitations a new Schedule to the Heritage Overlay would place on public streets;
- use of the Carlton Gardens for the annual Melbourne International Flower and Garden Show;
- the effect of overhead power lines and super tram stops on views to the REB.

9.2 Evidence and submissions

Telstra Corporation made submissions about the extent of the proposed Heritage Overlay, objecting to the inclusion of the perimeter streets of the Carlton Gardens.

Mr Lynn, for Telstra, stated his client supported the declaration of the WHEA but was concerned that the proposed additional heritage controls would affect its ability to install telecommunications network assets.

The Carlton Residents Association and associated residents' groups and the Protectors of Public Lands Victoria Inc objected to the Carlton Gardens being used for the annual Melbourne International Garden Show, particularly the erection of structures associated with this event and the damage caused to the gardens.

9.3 Discussion

The Committee regards the inclusion of the perimeter streets in the proposed heritage overlay as essential to the management and protection of the REB and Carlton Gardens. Some telecommunications infrastructure is exempt from the operation of the Planning and Environment Act 1987; other telecommunications infrastructure is not exempt.

The Committee does not consider it appropriate to reject the introduction of a heritage overlay to avoid further regulation of the telecommunications carrier; the introduction of telecommunications infrastructure has the potential to adversely affect the listed heritage place, for example in terms of visual impact and clutter, and if the infrastructure is not otherwise exempt from the operation of the planning system, it is appropriate that such infrastructure be governed by the proposed heritage overlay.

In relation to telecommunications infrastructure that is not exempt, the Committee is of the view that, given the REB has been recognised as being of world significance, it is

appropriate that the same level of control over private land owners in the more sensitive part of the WHEA also be applied to service authorities.

As the Committee explained to the parties during the hearing, the draft Strategy Plan for the WHEA is not concerned with the management and use of the listed heritage place, but with the management and protection of the area around the listed heritage place which has been declared the WHEA. The gazetted WHEA does not include the REB and Carlton Gardens and the Committee has no statutory role in relation to the management and use of the REB and Carlton Gardens.

A plan for the REB and Carlton Gardens will be prepared which will *inter alia* set out policies designed to ensure that the world heritage values of the place are identified, conserved, protected, presented and transmitted to future generation; set out mechanisms designed to deal with the impacts of actions that individually or cumulatively degrade, or threaten to degrade the world heritage values of the REB and Carlton Gardens; and provide for management actions for values other than world heritage values that are consistent with the management of the world heritage values of the REB and Carlton Gardens. Upon completion of the draft plan for the REB and Carlton Gardens, notice of the plan is required to be given, inviting submissions to the Steering Committee established for the REB and Carlton Gardens. The Steering Committee may conduct a hearing in relation to the draft Plan for the REB and Carlton Gardens. After considering submissions, the Steering Committee may adopt the draft Plan or adopt it with amendments.

During the course of the hearing, the Executive Director explained that the draft plan for the REB and Carlton Gardens was under preparation and was proposed for exhibition after the draft Strategy Plan for the WHEA had been progressed.

For the sake of consistency, it is appropriate that the statements of significance for places on the Victorian Heritage Register within the WHEA area of greater sensitivity refer to the Strategy Plan so that decision making in relation to those places has regard to their relationship with the REB and Carlton Gardens.

9.4 Conclusions

The Committee concludes that:

- Given the world significance of the REB and Carlton Gardens, it is appropriate to include the streets bordering the site in a new Schedule to the Heritage Overlay.
- In the Statement of Significance for all registered places on the Victorian Heritage Register that are within the WHEA area of greater sensitivity, include the requirement that in determining an application regard is to be had to the Strategy Plan.

10. Conclusions

10.1 Conclusion

In conclusion, the Committee finds that the draft Strategy Plan is generally well researched and presented and, with the exception of its treatment of views and vistas to the REB, comprehensive and well founded. Subsequent analysis of views and vistas has confirmed the need for additional planning controls to protect key views and vistas to the REB dome. Subject to modifications to strengthen strategies for appropriate development within the WHEA area of greater sensitivity, the draft Strategy Plan meets the requirements of the Heritage Act.

In accordance with the instrument of delegation of the Heritage Council dated 11 March 2009 and section 62G of the Heritage Act 1995, the Committee adopts the draft Strategy Plan with amendments.

The draft Strategy Plan with the amendments will be forwarded to the Minister for approval in accordance with section 62G(2) of the Heritage Act.

10.2 Amendments and recommendations

Based on the reasons set out in this Report, the Committee has determined as follows:

- a) Adopt the Strategy Plan with the following amendments:
 - Section 2. Update sections 2.1 and 2.2 to reflect adoption of the Strategy Plan by the Heritage Council.
 - *Clause 5.4* generally. Delete references to primary and contributory significance.
 - *Clause 5.4.1. Area of Greater Sensitivity* last dot point. Delete the last sentence of this dot point.
 - *Clause 5.4.2. Area of Lesser Sensitivity.* Amend to read:

“The area of lesser sensitivity within the WHEA, shares some of the attributes of the more sensitive area including the nineteenth century built form. The area of lesser sensitivity also includes a number of key heritage buildings (from the nineteenth and twentieth centuries), which while not necessarily having a strong visual relationship with the REB, help demonstrate aspects of historical development within the area of geographical proximity to the character of the setting. The area includes properties in the vicinity of the REB site, in the

southern portion of the WHEA and at the northern edge of the CBD and East Melbourne, which are not of heritage significance and may be subject of development in the future."

- **Clause 6.2. Planning Scheme Amendments.** Replace the last sentence with:
“By virtue of section 62L(4) of the Heritage Act there is no further public notification of the proposed planning scheme amendments.”
- **Clause 6.2.1. WHEA Heritage Overlay Precinct.** Replace the third paragraph with the following:
“The relevant provisions, considerations and decision guidelines at Clause 43.01 ‘Heritage Overlay’ will apply to the Precinct. In addition a new Policy ‘Heritage Places in the WHEA’ and ‘Development Guidelines for Heritage Places in the WHEA’ shall be inserted into the Melbourne and Yarra Planning Schemes respectively to apply to land in the WHEA Heritage Overlay Precinct. These respective Policies shall reference the Strategy Plan and include the Precinct Objectives generally based on what is in the WHEA precinct citation in the Strategy Plan.”
- The following revisions are to be made to the WHEA precinct citation.
 - **How is it significant.** Amend to read:
“The ‘World Heritage Environs Area’ Heritage Overlay Precinct is of historical, social, and architectural / aesthetic significance as a buffer zone for the world heritage listed Royal Exhibition Building and Carlton Gardens.”
 - **Why is it significant.** In the third paragraph, amend the first sentence to read:
“The precinct is of architectural and aesthetic significance.”
 - Delete the last paragraph in the section of the citation.
- Under Precinct Objectives in the section commencing “the following objectives apply to the ‘World Heritage Environs Area’ Heritage Overlay precinct, amend the third dot point to read
“Retain the predominantly lower scale form of development in the precinct which provides a contrast to the dominant scale and form of the Royal Exhibition Building.”
- In the fifth dot point, in the third line, after the words ‘Gertrude and Queensberry streets’ (sic), add the words “Marion Lane,”.
- **Clause 6.2.2. Reference documents.** Amend to read:
“It is recommended that this Strategy Plan be included as a Reference Document to the new policies “Heritage Places in the WHEA Heritage Overlay precinct” in the Melbourne Planning Scheme and “Development Guidelines for Heritage Places in the WHEA Heritage Precinct in the Yarra Planning Scheme” and in the Schedules to the Design and Development Overlays in the respective Schemes.”

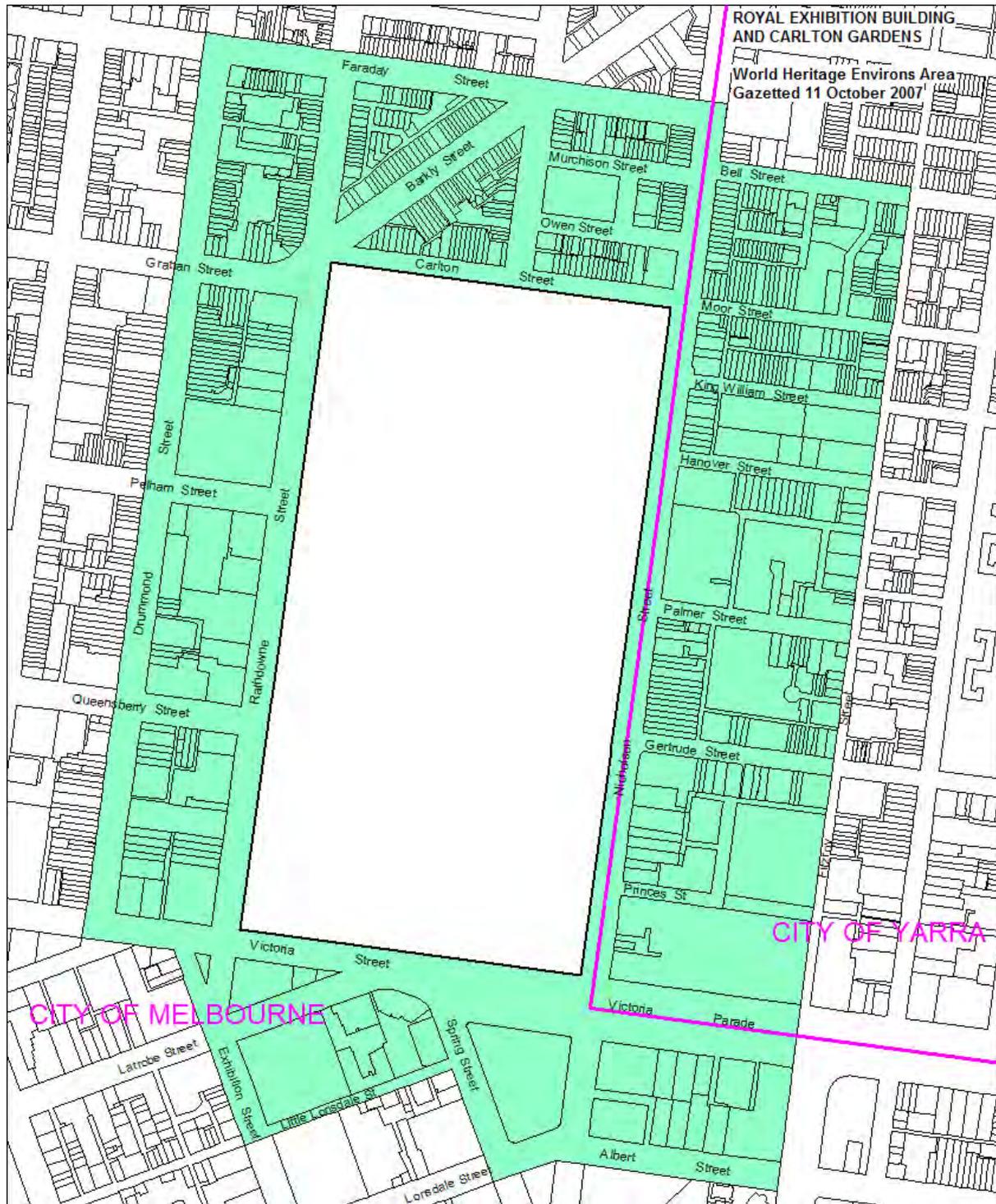
- *Clause 6.2.3. Municipal Strategic Statements.*
 - **City of Melbourne.** Amend the second sentence of the text to be inserted after paragraph 4 of *Clause 21.08-7 'Carlton'* to read:

"The WHEA which includes land in Carlton and Melbourne acts as.....World Heritage property."
 - *Clause 6.3. Design and Development Overlay.* Replace the text to now refer to the proposed Schedules to the DDOs to be placed over the area of greater sensitivity in the respective Schemes.
 - Delete *Clause 6.4 Views and Vistas from Outside the WHEA* in its entirety. Insert a new *Clause 6.4* that refers to the introduction of the two new Local Planning Policies to be inserted into the respective Schemes and amendment of *Clause 22.02 'Landmarks and Tall Structures'* in the Yarra Planning Scheme to reference the views from within the WHEA from Marion Lane and from the corner of Gertrude and Fitzroy Streets.
 - Amend Figure 12 in the Strategy Plan to reflect the Committee's recommendation for the new boundary of the area of greater sensitivity.
- b) Recommend amendment to the State Planning Policy Framework as set out in the draft Strategy Plan.
 - c) Recommend amendment to the Municipal Strategic Statements of the Melbourne and Yarra Planning Schemes as set out in the amended Strategy Plan.
 - d) Recommend inclusion of the area of greater sensitivity (except for the strip of land along the north side of Marion Lane) in a new Schedule to the Heritage Overlay.
 - e) Recommend amendment to Schedules 6 and 13 to the DDO in the Melbourne Planning Scheme and insertion of a new Schedule to DDO in the Yarra Planning Scheme generally as set out in Appendix B.
 - f) Recommend insertion of a new local heritage policy in the Melbourne and Yarra Planning Schemes to include the citation, design objectives and requirements based on the Statement of Significance contained in the amended Strategy Plan.
 - g) Recommend insertion of new Overlay maps in the Melbourne and Yarra Planning Schemes as per the Committee's conclusions.
 - h) In the Statement of Significance for all places on the Victorian Heritage Register that are within the WHEA area of greater sensitivity, include the requirement that in determining an application regard is to be had to the Strategy Plan.

Appendix A

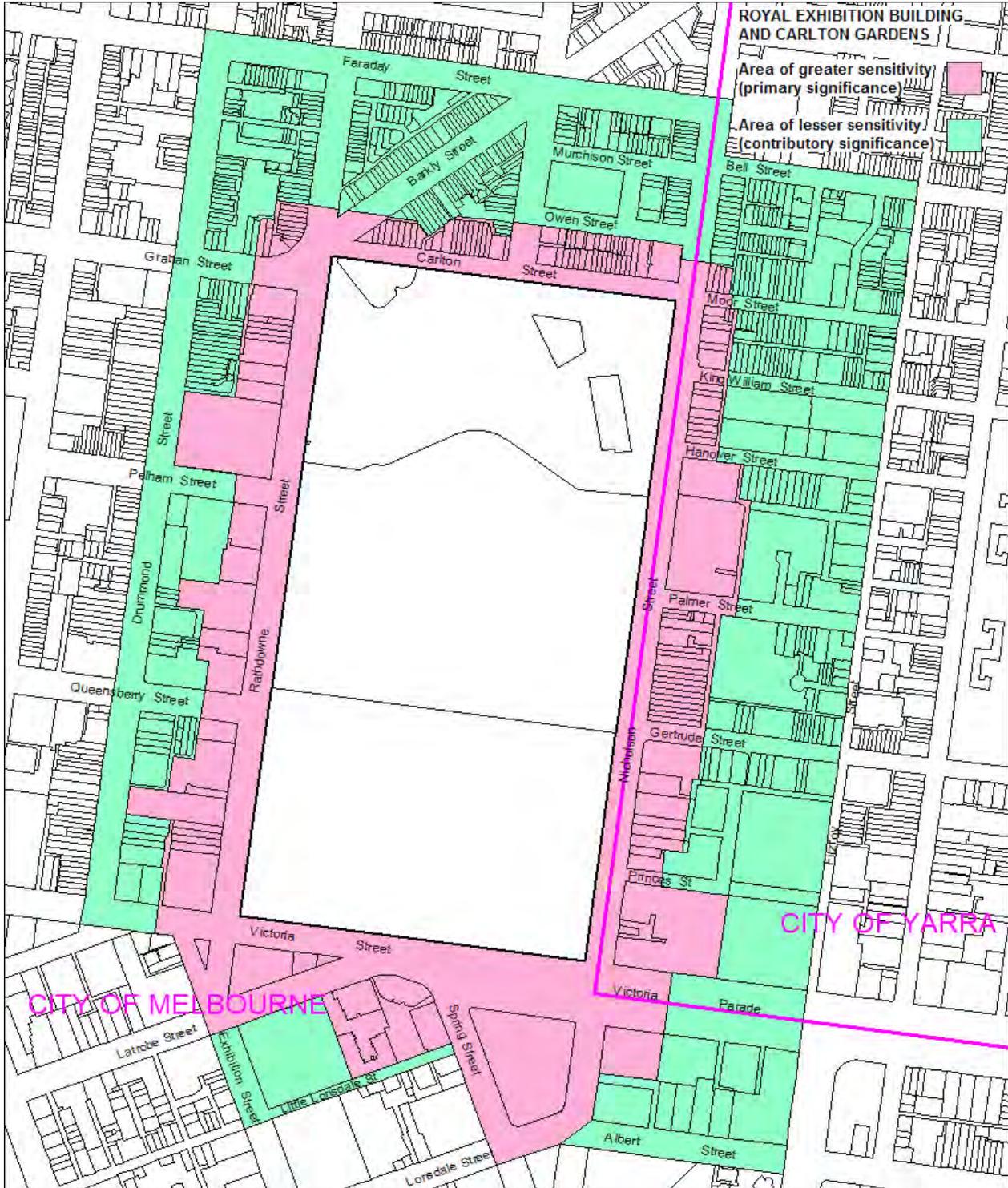
A.1 Map 1

THE DECLARED WORLD HERITAGE ENVIRONS AREA FOR THE ROYAL EXHIBITION BUILDINGS AND CARLTON GARDENS.



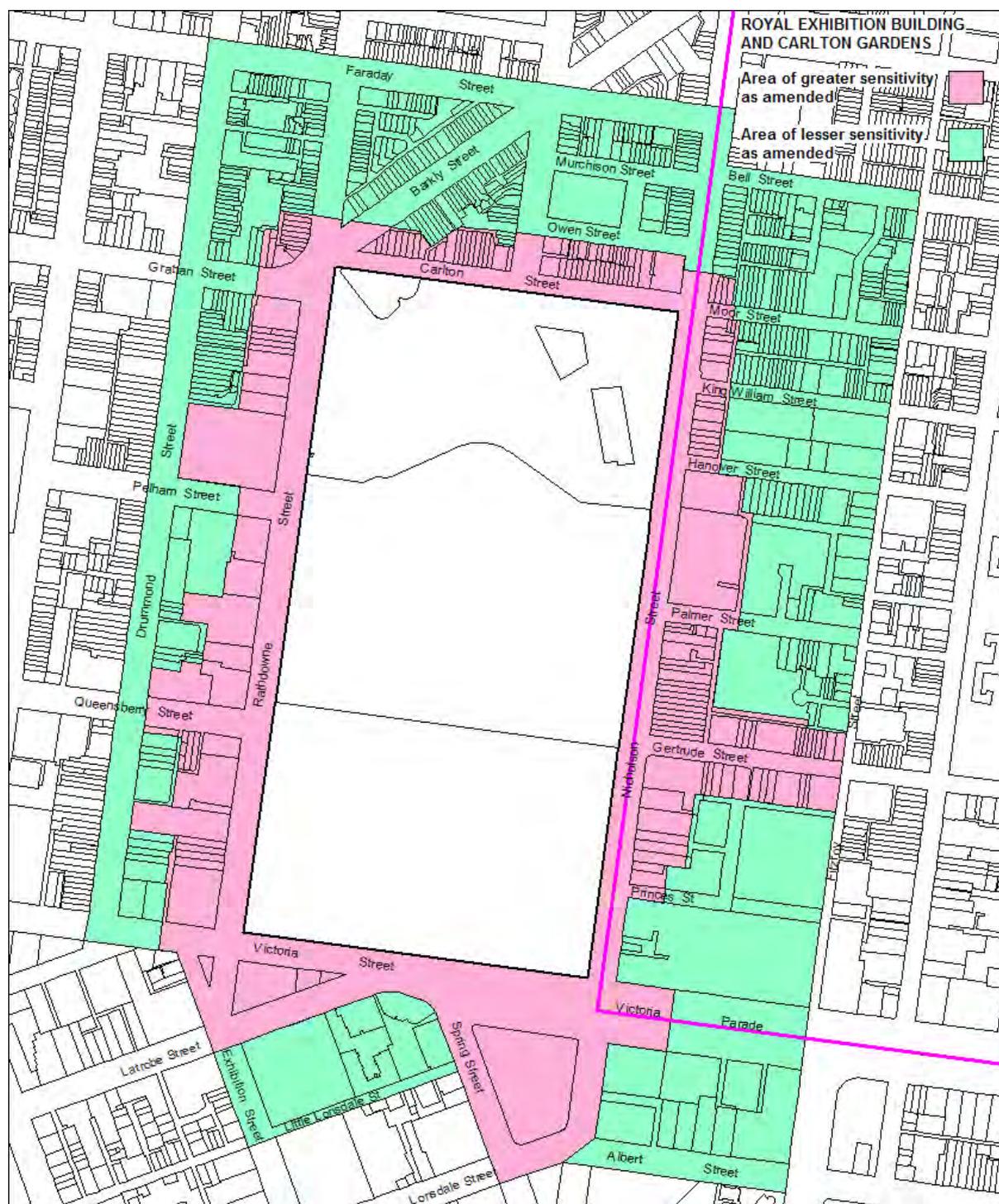
A2. Map 2

THE AREAS OF GREATER AND LESSER SENSITIVITY IN THE WHEA IN THE DRAFT STRATEGY PLAN.



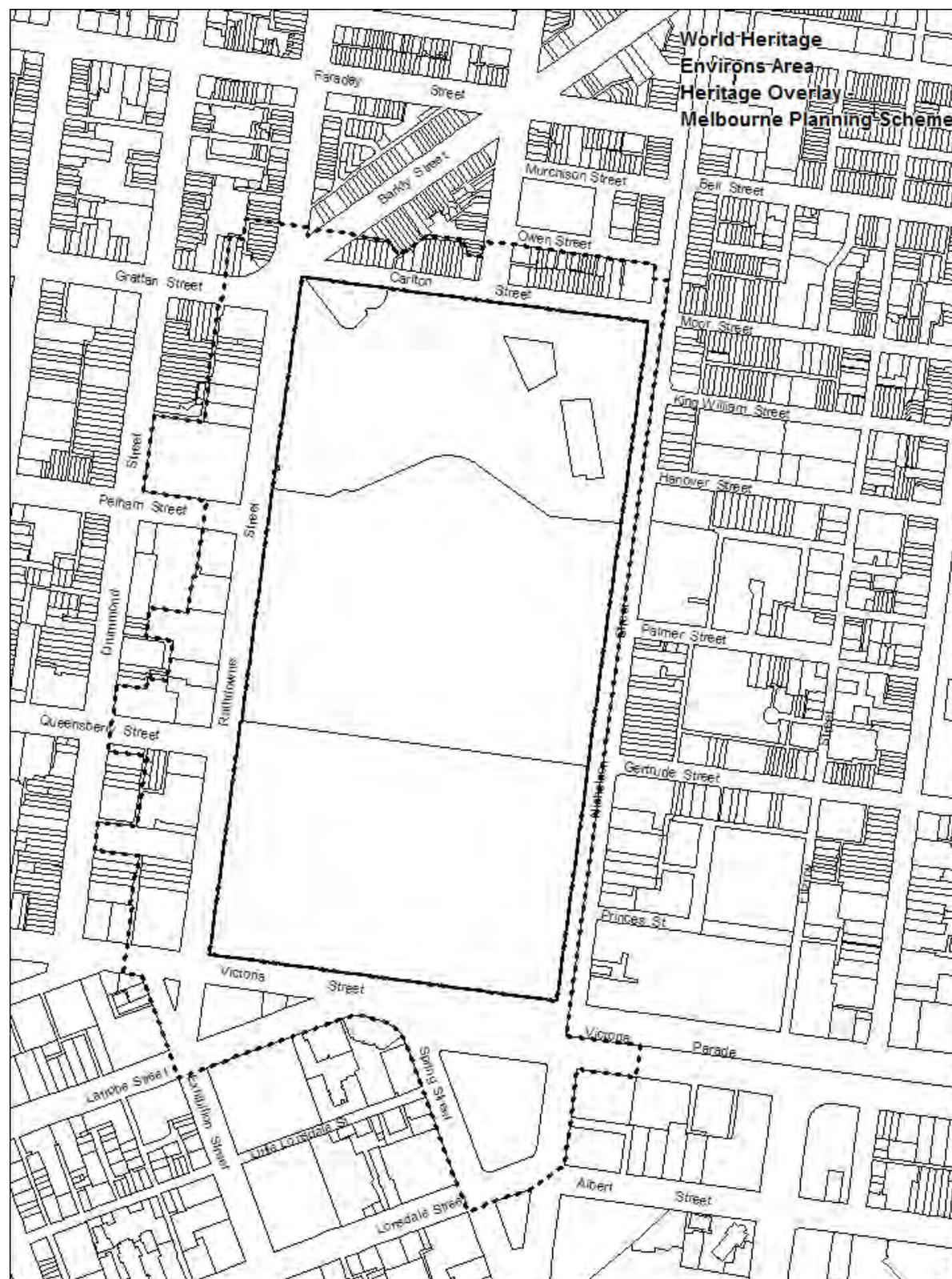
A.3 Map 3

REVISED BOUNDARIES OF AREAS OF GREATER AND LESSER SENSITIVITY.



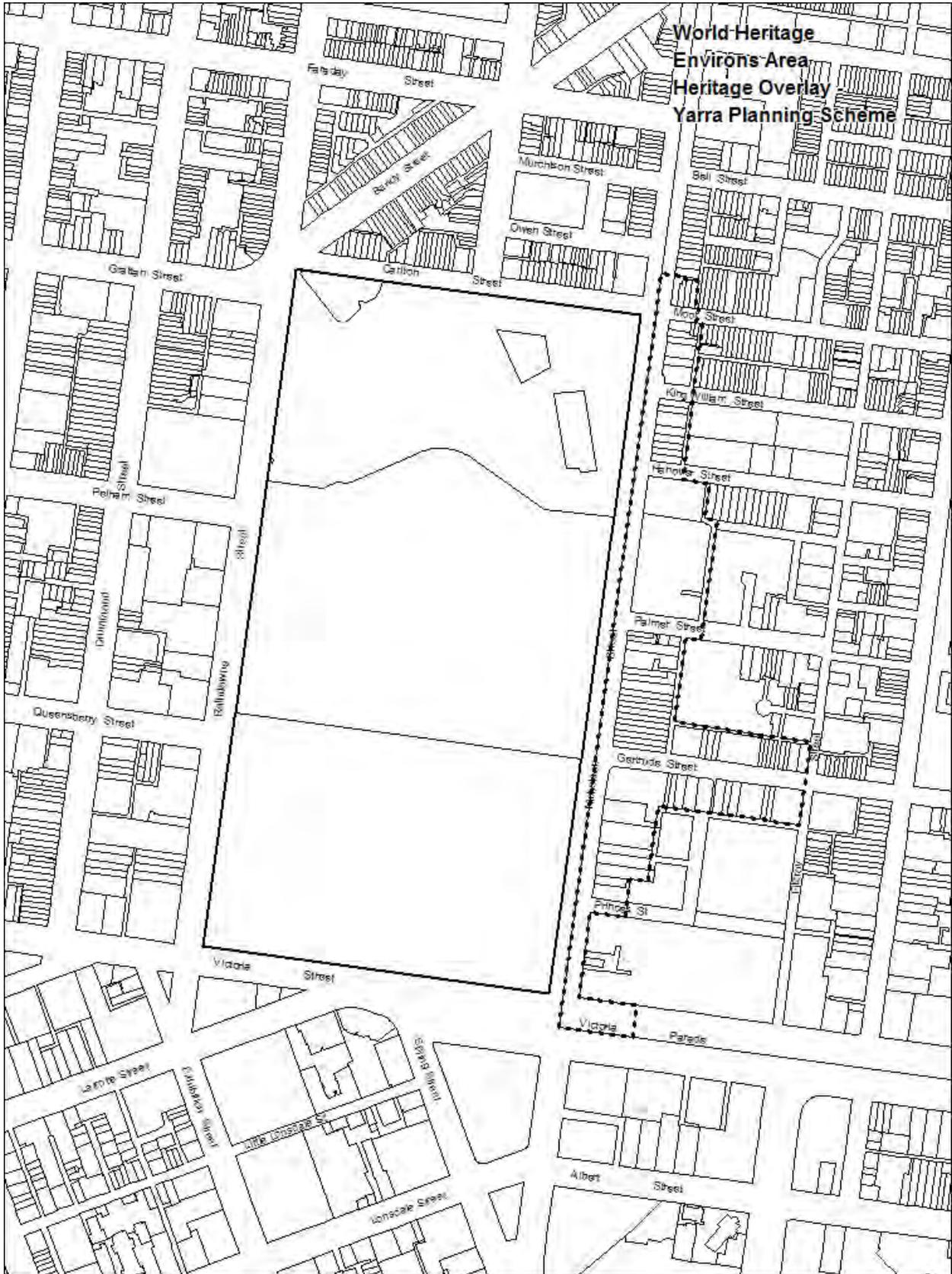
A.4 Map 4

NEW HERITAGE OVERLAY:- MELBOURNE PLANNING SCHEME.



A.5 Map 5

THE NEW HERITAGE OVERLAY:- YARRA PLANNING SCHEME.



A6. Map 6

**MAP OF PROPOSED SCHEDULE TO DESIGN AND DEVELOPMENT
OVERLAY:- YARRA PLANNING SCHEME**



Appendix B

B.1 Schedule 6 to the Design and Development Overlay in the Melbourne Planning Scheme

Amend the first dot point under the Design objectives to read *“To protect and conserve buildings and streetscapes of significance, to protect and manage the values of the REB and Carlton Gardens and to reinforce the built form character of the area as being essentially of low rise buildings.”*

Under the Table to Schedule 6 insert the following under the column ‘Outcomes’ for Areas A12, A13 and A14:

- *“Views across 83 - 95 Rathdowne Street and 80 Drummond Street and along Drummond Street to the drum, dome, lantern and flagpole of the Royal Exhibition Building, from the footpath on the south side of Queensberry Street, between the south west corner of Lygon Street and Rathdowne Street, are to be protected.”*

Add:

3.0 Decision Guidelines

Before deciding on an application for 83-95 Rathdowne Street, 80 Drummond Street or the Drummond Street road reserve, the responsible authority must consider:

- the views of the Executive Director of Heritage Victoria;
- the impact on the view of the drum, dome, lantern and flagpole of the REB.

B.2 Schedule 13 to the Design and Development Overlay in the Melbourne Planning Scheme

Add the following additional dot point under the heading Design objective.

- *To ensure that new development protects views of the Royal Exhibition Building from the south.*

In the Table to Schedule 13 insert a new ‘Area 26’ over the land bounded by Victoria Street, Nicholson Street, Lonsdale Street and Spring Street (in lieu of Area 23 as now appearing) and in the column headed ‘Outcomes’ insert the words *“The views of the drum, dome, lantern and flagpole of the Royal Exhibition Building from the western footpath of Spring Street, between the north west corner of Bourke Street and the south west corner of Lonsdale Street and from Spring Street are to be protected”*.

Add:

3.0 Decision Guidelines

Before deciding on an application for 240 Spring Street, the responsible authority must consider:

- the views of the Executive Director of Heritage Victoria;
- the impact on the view of the drum, dome, lantern and flagpole of the REB.

B.3 New Schedule to the Design and Development Overlay to the Yarra Planning Scheme

Prepare a new Schedule to the DDO and apply it to land on the north side of Gertrude Street, between Fitzroy Street and Nicholson Street, to land to the north side of Marion Lane for a depth of 5 metres and to land at Nos 50 – 68 Nicholson Street (Royal Terrace).

DRAFT SCHEDULE OF THE DESIGN AND DEVELOPMENT OVERLAY – FITZROY SOUTH AREA

1.0 Design objectives

- *To protect the values of the REB and Carlton Gardens.*
- *To reinforce the built form character of the area as being essentially of low rise buildings.*
- *To protect views of the drum, dome, lantern and flagpole of the REB from the footpath on the south side of Gertrude Street and along Marion Lane, west of Fitzroy Street.*

2.0 Requirements

2.1 Building height

An application for a new development on the north side of Gertrude Street and on land abutting Marion Lane, between Nicholson Street and Fitzroy Street, and at 50 to 60 Nicholson Street must be accompanied by a site analysis and urban context report that demonstrates views from the footpath on the south side of Gertrude Street or west along Marion Lane to the silhouette and profile of dome of the REB will not be obscured.

3.0 Decision Guidelines

Before deciding on an application, the responsible authority must consider:

- the views of the Executive Director of Heritage Victoria;
- the impact on the view of the drum, dome, lantern and flagpole of the REB.

B.4 Clause 22.03 Landmarks and Tall Structures: Yarra Planning Scheme

Under *Clause 22.03-3* headed 'Landmarks and Tall Structures Design Response' add the following additional dot point.

- *Protect views of the drum, dome, lantern and flagpole of the REB from the footpath on the south side of Gertrude Street and along Marion Lane, west of Fitzroy Street.*

Appendix C

New Local Policies

Melbourne Planning Scheme

Heritage Places in the WHEA area of greater sensitivity

This Policy applies to all places in the world heritage environs area for the Royal Exhibition Building and Carlton Gardens heritage overlay.

Policy objectives

- To protect significant views and vistas to the Royal Exhibition Building and Carlton Gardens.
- To maintain and conserve the significant historic character of the area.
- To ensure new development in the area has regard to the prominence and visibility of the Royal Exhibition Building and the Carlton Gardens.

Policy

It is policy to:

- Retain and conserve significant and contributory heritage buildings within the precinct, including contributory fabric, form, architectural features and settings, to assist with maintaining the heritage character of the setting and context of the Royal Exhibition Building and Carlton Gardens.
- Retain and conserve the valued heritage character of streetscapes within the precinct, to assist with maintaining the heritage character of the setting and context of the Royal Exhibition Building and Carlton Gardens.
- Retain the predominantly lower scale form of development in the precinct which provides a contrast to the dominant scale and form of the Royal Exhibition Building.
- Avoid consolidation of allotments in residential areas of the precinct, which will result in the loss of evidence of typical nineteenth century subdivision and allotment patterns.
- Protect direct views and vistas to the Royal Exhibition Building and **Carlton Gardens** from bordering/abutting streets and other views and vistas to the dome available from streets within the precinct including Queensberry Street, the north ends of Spring and Exhibition Streets, and the east end of Latrobe Street.

-
- Discourage the introduction and proliferation of permanent structures and items, such as shelters, signage (other than for historic interpretation purposes), kiosks and the like, around the perimeter of the Royal Exhibition Building and Carlton Gardens site in order to:
 - avoid impacts on the presentation of the Royal Exhibition Building site, including impacts on axial views along treed allees and avenues within the gardens; and
 - minimise inappropriate visual clutter around the perimeter of the Royal Exhibition Building site.

Yarra Planning Scheme

Development Guidelines for Heritage Places in the WHEA area of greater sensitivity

This Policy applies to all places in the world heritage environs area for the Royal Exhibition Building and Carlton Gardens heritage overlay.

Area objectives

- To protect significant views and vistas to the Royal Exhibition Building and Carlton Gardens.
- To maintain and conserve the significant historic character (built form and landscapes) of the area.
- To ensure new development in the area has regard to the prominence and visibility of the Royal Exhibition Building and the Carlton Gardens.

Policy

It is policy to:

- Retain and conserve significant and contributory heritage buildings within the precinct, including contributory fabric, form, architectural features and settings, to assist with maintaining the heritage character of the setting and context of the Royal Exhibition Building and Carlton Gardens.
- Retain and conserve the valued heritage character of streetscapes within the precinct, to assist with maintaining the heritage character of the setting and context of the Royal Exhibition Building and Carlton Gardens.
- Retain the predominantly lower scale form of development in the precinct which provides a contrast to the dominant scale and form of the Royal Exhibition Building.
- Avoid consolidation of allotments in residential areas of the precinct, which will result in the loss of evidence of typical nineteenth century subdivision and allotment patterns.

-
- Protect direct views and vistas to the Royal Exhibition Building and **Carlton Gardens** from bordering/abutting streets and other views and vistas to the dome available from streets within the precinct including Gertrude Street, Marion Lane, and in Victoria Parade immediately east of the junction with Nicholson Street.
 - Discourage the introduction and proliferation of permanent structures and items, such as shelters, signage (other than for historic interpretation purposes), kiosks and the like, around the perimeter of the Royal Exhibition Building and Carlton Gardens in order to:
 - avoid impacts on the presentation of the Royal Exhibition Building and Carlton Gardens, including impacts on axial views along treed allees and avenues within the gardens; and
 - minimise inappropriate visual clutter around the perimeter of the Royal Exhibition Building and Carlton Gardens.