

# **HERITAGE REVIVAL P/L**

***architecture, heritage,  
urban design & planning***

GPO BOX 268, MORNINGTON,  
VICTORIA, 3931

mobile 0416 062 744  
dalekellydesign@gmail.com  
ACN 600 133 668

## **PRESTON MARKET HERITAGE STUDY, 2017, CONTEXT P/L. REVIEW AND RECOMMENDATIONS March 26, 2018**

### **Introduction:**

This report is the result of a recent request for me to review Preston Market Heritage Study -Final Report - 2017 by Context P/L. I understand that Council and community groups are undecided on whether the study provides sufficient justification to confidently propose heritage protection for the part of the market site delineated on page ix of the study. I acknowledge that work involving a site of such potential heritage significance, largely subjective in nature, warrants a peer review to ensure Council can have confidence in the study's methodologies and recommendations before proceeding.

I have read the document, inspected the market and its surrounds, and familiarised myself with opinions expressed by Council planning and legal staff. I have also looked over the various plans proposed for the market, most particularly those for stage 1B, which I understand were substituted for previous versions, and approved conditionally by VCAT last year.

The opinions expressed below are mine, based on my own assessments, observations and experience. My review is intended to provide Council a useful and practical overview of the study, its methods, and its adequacy for the intended purpose of possibly attaining Heritage Overlay protection for the Preston Market, and to help determine the best next steps in the process of deciding whether the Preston Market should be proposed for heritage protection. It is not intended to provide expert evidence as detailed as might be expected for use in tribunal or panel hearings.

Given the breadth of the study, the range of community views expressed, and the market's endurance and continuing popularity over 50 years, there are many overlapping issues and considerations. Rather than to attempt a detailed analysis and resolution of them all, which may not be possible, I outline key considerations and options for reflection before taking further steps. Hopefully these may lead to practical outcomes that respect the rights and aspirations of the owners, Council's obligations and community hopes and expectations.

## **Summary / Conclusions:**

- 1 'social significance' is one of numerous possible grounds of eligibility (see page 4) for Heritage Overlay (HO) protection under the planning scheme and Planning Practice Note for applying the heritage overlay.
- 2 Context have presented a report that quantifies the essentially subjective manifestations of social significance as objectively as can be expected, sufficient to recommend seeking HO protection with a reasoned case, arguable at a panel hearing,
- 3 Context's study provides little indication of what outcomes could be reasonably expected if the market achieved HO status on social significance grounds alone. To maximise understanding and avoid unrealistic expectations, the study should be supplemented with the following, preferably before public release: (perhaps in an additional appendix)  
  
what would be protected and how could it be managed, if the Market achieved HO protection on social significance grounds alone,  
  
what would be protected and how could it be managed, if the Market achieved HO protection on social significance and aesthetic, technical or other grounds ?
- 4 if Context's further advice, as above, suggests that heritage protection on social significance grounds alone will not have sufficient 'on the ground' or lasting effect, (i.e. mainly symbolic measures like plaques, signs, interpretative material, historic literature and brochures etc.) consider investigating whether the original market buildings have aesthetic, technical or other significance (already recommended by Context)
- 5 Council now has an arguable case for seeking HO protection for the market on social significance grounds, but, in my view, insufficient reason to assume the likely outcomes would satisfy key community expectations. To have a better chance of achieving more meaningful and lasting protection, a broader investigation of possible significance should be undertaken that also includes aesthetic and technical factors and any other possible criteria on the Planning Practice Note 01. If a broader case can be established, Council should then consider whether to proceed with a proposal to apply a HO, bearing in mind that the case would need to be argued against other competing submissions, possibly from owners, stallholders and other interested parties, and there can be no guarantee of success. To the extent that protection is sought on a broader range of criteria, the chances of success should increase.
- 6 Taking account of Council's limited powers (except as Responsible Authority), the range of heritage criteria available for consideration, the documented and continuing community affection for the market and the legitimate rights of the owners, the following strategic statement may be able to be supported by key parties to engender complementary purpose and policy direction through planning, design guidelines, urban design improvements etc. with (or perhaps even without) heritage protection:

*'While it remains economically viable and functions as a market on its current site, Preston Market should continue to evolve respectfully from the original 1970 complex, with any substantial modifications requiring planning permits designed and informed by its history, architectural form and social significance, (if HO status is achieved on these grounds) notwithstanding the need to remain functional, compliant and safe, consistent with the legitimate aspirations of its owners.'*

## **Background, observations and key considerations:**

### **Study language:**

Initially the study presented as heavily reliant upon subjective, qualitative material, and the hearsay views and anecdotes of market users and traders. This is unusual for documents that are likely to be subjected to adversarial scrutiny during public processes, but to be expected in consideration of 'intangible' heritage qualities such as social significance.

Upon reflection, I recognise that it is very difficult to make a case for social significance, (quite different from dealing with bricks and mortar) and can understand why so much of the language in Context's study is like this. Any argument is reliant on whatever evidence can be brought together from disparate social sources, and very little of it can be quantifiable or conclusive in a technical sense. Because social significance is one of numerous valid grounds on which to determine heritage value, the system must deal with the material presented irrespective of how objective or subjective it may be perceived. It is cultural information that needs to be expressed in qualitative, cultural terms.

Although little is specified about how the various heritage criteria should be assessed, social significance can be seen as complementary to other heritage values due to the development control system's lack of effective tools for protecting intangibles. Social significance is sometimes used as an intensifier of other types of significance, for example, a building of moderate architectural significance may be considered worthy of HO protection if it is also demonstrated to have social significance, - typically if it had strong associations with a particular community or cultural group.

In this case where so much of what is perceived to be of value about the market is intangible, it is unclear how social significance alone, can be satisfactorily protected. It would be advantageous for something tangible and complementary to also be protected, as may be possible judging by Context's recommendation for further work on assessment of the space frame structure.

### **Prima facie market value:**

Prima facie, and from just being a citizen of Melbourne for 30 of the market's 50 year life to date, I find it plausible that the market is perceived as having broad and enduring social significance, in a similar way that other landmarks are deemed to, e.g. other Melbourne markets, Flinders Street Station, Abbotsford Convent etc. etc. While this is only a personal impression, the evidence provided certainly appears to indicate favourable public sentiment, at least from many in its prime catchment, the northern suburbs. The difficulty is in quantifying social significance such that it may be argued effectively in an adversarial public forum.

How can it be measured, should the measures be quantifiable, how many of which qualities are necessary to conclude that it has social significance? There can be no definitive answer to such arguable questions. Despite the study presenting on the surface as subjective, anecdotal, and not very definitive, it must be asked how else can the intangible qualities pertaining to a dynamic, evolving public institution that's endured 50 years, be expressed other than in such relative terms? On balance I consider that Context has produced a sound and arguable case for heritage protection of the market on social significance grounds – the criteria seem to have been addressed and satisfied.

They have presented subjective matter as objectively as can reasonably be expected. Given the public process that needs to be negotiated to make the recommendation effective, i.e. consideration and testing of evidence from all interested parties, there is no need for the study to have done anything more – if heritage protection is initiated by Council, the study will presumably be challenged and assessed against other evidence in a contest of ideas and judgements.

Any outcome will be the result of careful and transparent consideration of all evidence presented to an independent panel, including open panel hearings and the potential for interested parties to be heard. Irrespective of my or others opinions, the only one that matters will be that of any panel, which must be convinced of the argument if HO status is to be applied to the market.

### **Council powers to intervene / ownership:**

The market remains privately owned, so the rights of the owners to plan and develop it as they see fit must be acknowledged and respected. Despite what is a common perception, Council has no ownership, and very limited influence over its future, except in so much as it is Responsible Authority for determining any development applications within the provisions of the planning scheme (subject to VCAT review), and has the power to initiate HO protection (but the completion of the process is independent of Council). I understand that there is community concern that the market is, or may be, under threat of redevelopment and/or loss of economic viability. There is no current development proposed that threatens the continuity or viability of the market, or even any of its built fabric.

I am aware of the major redevelopment of parts of the site adjacent to the key market structures, that was conditionally approved by VCAT in 2017. Those plans do not seem to have any direct physical impact on the market or on its relevance and importance to the market community. In fact, if constructed, it might reasonably be assumed that the increase in local resident numbers would make the market even more economically viable. In any case, Council has limited power to intervene other than in a spirit of co-operation with the owners and potentially to negotiate on issues in the public interest as they arise.

### **Multiple heritage significance criteria:**

Planning Practice Note 01 - Applying the Heritage Overlay, lists the following as valid criteria for assessing heritage value.

1. **'Criterion A:** Importance to the course or pattern of our cultural or natural history (historical significance).

2. **Criterion B:** Possession of uncommon rare or endangered aspects of our cultural or natural history (rarity).
3. **Criterion C:** Potential to yield information that will contribute to an understanding of our cultural or natural history (research potential).
4. **Criterion D:** Importance in demonstrating the principal characteristics of a class of cultural or natural places or environments (representativeness).
5. **Criterion E:** Importance in exhibiting particular aesthetic characteristics (aesthetic significance).
6. **Criterion F:** Importance in demonstrating a high degree of creative or technical achievement at a particular period (technical significance).
7. **Criterion G:** Strong or special association with a particular community or cultural group for social, cultural or spiritual reasons. This includes the significance of a place to Indigenous peoples as part of their continuing and developing cultural traditions (social significance).
8. **Criterion H:** Special association with the life or works of a person, or group of persons, of importance in our history (associative significance).'

Context has recommended that the architectural significance of the market be investigated, (criteria E and F). This is sensible and necessary, as to proceed only on social significance grounds would not present the most influential case. Apart from dealing specifically with each clearly defined criterion, surely there is a question of how social significance can be separated from the actual place, the site and the fabric of the market, especially its remaining original elements? If the market were totally redeveloped or demolished, how would its social significance remain relevant and how would it be expressed?

Similarly, if with further investigation the fabric of the market were to be protected by HO, but the market function were to cease, how would this be seen as an acceptable outcome to the market community? Either option can only provide a partial solution to recognising overall heritage value. I believe that attempting HO protection for the market on the grounds of social, but not aesthetic, technical or other significance, (or vice versa), is not the best approach for achieving a satisfactory and lasting outcome. With social and aesthetic/technical significance hard to justify separately, but apparent public sentiment for the market in its totality, they should be considered as complementary, i.e. jointly contributory to the market's overall significance.

If protection on social and aesthetic/technical significance grounds is possible, there would be something tangible relative to the site, the buildings, the history and the layout, to provide context and meaning to the less tangible qualities of social significance. This nexus of significance could also accommodate reasonable levels of change, both to the built fabric and the use patterns, while retaining the essential core qualities that enable the market, physically and figuratively, to live on with meaning and to further adapt to changing times.

If broader heritage significance can be established (by Context or others), and based on two or more complementary criteria, any subsequent change to either fabric or social significance (like, for example, very different uses or use patterns and interfaces with surroundings etc.), would be scrutinised from a more robust range of considerations.

This would be likely to enable more meaningful and tangible protection of 'the market' in its various dimensions, but could also mean that there may be a case for removal of HO protection if for example, the market could no longer function for economic reasons, or its structure outlived its structural life etc.

### **Protection provided by HOs:**

Protection provided by heritage overlay is not nearly as definitive as is commonly assumed. The provisions only become effective once development and change are proposed, prompting the need for planning permits. The HO is primarily a development control that is integral with the approval process, rather than a 'heritage' control per se – it protects the public's expectations that proper processes and considerations will be used in regulating change to heritage values covered by HO. Ultimately, any disputes arising are dealt with in a planning tribunal, i.e. by negotiation and on balance of evidence rather than by expertise or legal authority. The identification of heritage items and their grounds of significance defines what needs to be managed, so the broader the range of criteria used the better protection can be provided. It is not commonly appreciated that even demolition is not specifically prohibited within heritage overlays, even for tangible heritage items such as buildings, structures and monuments. If only protected on the basis of social significance, it would be very difficult to retain any of the built form of Preston Market should redevelopment be proposed or its use changed. Its social significance might only continue to be recognised through essentially commemorative or symbolic devices like plaques, signage, interpretation, historic literature or brochures (although Context of others may be able to recommend other methods). This would probably not be seen as an optimal outcome by the market community or Council?

### **Conclusion:**

This is a brief overview of Context's study, raising what I consider are the key issues for consideration in achieving an appropriate outcome, i.e. tangible, physical and enduring outcomes if broader based significance can be established, rather than essentially symbolic and interpretative measures if only social significance is relied upon. Council has already engaged experts in the field to prepare the study, and, consistent with recommendations already made, should extend the scope of work to include assessment and documentation of other possible heritage significance, especially aesthetic and technical, in order to prepare the strongest possible case for protection if it is to be proposed.

**DALE KELLY**

B.A. Env. Des, P.G.Dip Urb. Plng, P.G.Dip Arch

**DIRECTOR**

**HERITAGE REVIVAL P/L**

