

## 5.4 PRESTON MARKET - SUBMISSION TO HERITAGE COUNCIL OF VICTORIA

**Author:** Coordinator Economic Development  
Principal Planner

**Reviewed By:** General Manager City Sustainability and Strategy

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### PURPOSE

The purpose of this report is to recommend that Council make a submission to the Heritage Council of Victoria, in response to the recommendation of the Executive Director of Heritage Victoria regarding the Preston Market not being a site of state heritage significance.

### EXECUTIVE SUMMARY

On 26 November 2018, the Executive Director of Heritage Victoria recommended that the Heritage Council not include the Preston Market on the Victorian Heritage Register in response to two applications received. See **Appendix A** for the full recommendation.

The Executive Director's recommendation to the Heritage Council in general terms was:

- That the place does not meet the criteria for State heritage significance, and
- In line with standard procedure (without forming any view on the local heritage significance), to refer the recommendation to the City of Darebin to give its own assessment on the merit of applying a local Heritage Overlay

It is important to note that the Executive Director's recommendation to refer the matter to Council for further consideration is a routine process in cases where Heritage Victoria's recommendation is that a place is not considered to be of state significance. The phrasing of this recommendation is somewhat confusing for those not familiar with Heritage Victoria's role or processes as it is not clear that this is simply a routine referral and that it does not indicate or imply that local significance has been found – in fact, whether or not the site has local significance has not even been considered by Heritage Victoria.

Also, in this case Council has already looked into the question of local heritage significance and not found a basis on which heritage controls could be meaningfully applied to the site. Given this, Council decided at its meeting of 21 May 2018 not to seek a heritage control at that time and instead sought to have social significance addressed in an integrated way as part of the current review of planning controls. The report to Council noted that *"on balance, officers conclude that seeking a heritage overlay or interim protection at this point would not be likely to succeed, nor would it provide meaningful protection"*. This advice remains current and the Executive Director's recommendation does not reveal any new information that would warrant Council revisiting its earlier decision.

Considering Council's own research, the report to Council on 21 May 2018, and having reviewed Heritage Victoria's report, officers advise that they accept Heritage Victoria's assessment that the Preston Market does not meet the criteria for inclusion on the Victorian Heritage Register as outlined in the *Heritage Act 2017*.

There are important elements of the market that contribute to the market's success such as the wide pedestrian streets, access to natural light and individualised tenancies. While these are not necessarily of heritage value (using the definitions of heritage as it applies under the *Heritage Act* and the *Planning and Environment Act*), they are defining elements of the

market's design, sense of identity and place. Council is keen to ensure these contributory elements are respected and retained, replicated or enhanced in any possible future redevelopment of the site.

Council has been seeking to ensure important elements are incorporated in an integrated way as part of the current Review of Planning Controls. This could be achieved via a number of different planning controls such as the incorporated plan, or a design and development overlay. Important elements include:

- The valued internal characteristics that are readily associated with the Preston Market through the built form, access to light, openness and composition of individual tenancies.
- The number of pedestrian thoroughfares, and community spaces within the market footprint
- The continuity of trade of the market and minimisation and mitigation of construction disruption
- The wide cruciform pedestrian streets that offer a stage for activities or encounters
- Crossing places that sustain social engagement
- Open edges that promote public access
- Natural light and a sense of being open to the outside ('open air market')

A draft submission has been prepared and attached to this report for Council consideration (**Appendix B**), which accepts heritage Victoria's submission, calls for the important elements of the built form that support the social role of the market to be incorporated into the planning controls, and requests that any referral be made to the Victorian Planning Authority rather than City of Darebin in recognition that they are formally responsible for the current review of planning controls.

Council could also choose to modify the submission, not to make a submission, or to seek heritage controls at either state or local level, and this report outlines these options in more detail.

### Recommendation

**That Council:**

- (1) Notes the rich social heritage and importance of the market to the community, and reiterates Council's commitment to working to preserve the long term viability of the market.
- (2) Endorses the submission to the Heritage Council regarding the nomination of Preston Market as presented in **Appendix B** and requests that officers submit to the Heritage Council for consideration before 24 January 2019.
- (3) Reiterates its commitment to working in partnership with the VPA to review the planning controls and future opportunities for the site and to engagement with the community, key stakeholders and the owners of the Preston Market as an important part of this review.

## BACKGROUND / KEY INFORMATION

### Market operation and interim controls

Unlike a number of markets in Melbourne, Preston Market is a private business on a privately owned site.

One of Council's core objectives is for the market itself to thrive as an ongoing operation, which is a critical ingredient of protecting its social heritage and importance to the community.

Protecting an ongoing operation or use is not something that heritage controls can do because they focus on the built form – the buildings and structures. While there are no specific tools (under Planning legislation) that can require the private owner and operator to continue the use, there are opportunities to facilitate and encourage this use through both planning controls and other opportunities. To this end Council has been working with the Victorian Planning Authority (VPA) on its current Review of Planning Controls at the Preston Market Site, and to ensure that other opportunities are explored as part of the current Review.

Officers are not aware of any proposal by the owners of the Preston Market site to stop operating the market or demolish it. Nor do officers regard it as likely to be in the interests of the owner to do anything that would undermine the community goodwill associated with the market.

In terms of controls presently applying to the Preston Market, after advocacy by the community and Council, the Minister for Planning resolved in 2017 to apply interim height controls for the Market footprint until 30 July, 2019. On 7 November 2018, Council called on the Minister to extend these until after the current Review of Planning Controls at the Preston Market is completed and any changes to the Planning Controls arising from the review have been made.

Council also requested that interim demolition controls be put in place while the current review of planning controls by the VPA are in progress, and until a Planning Amendment process has been finalised. Council's very clear intent is that no irreversible change occurs at the site while the Review is in progress. At this stage, Council has not received a response to this request from the state government.

#### Council assessment of heritage and importance of built form to success of the Market

Council commissioned extensive research and advice on heritage at this site which was summarised in a report to Council on 21 May 2018. The research articulated very valuable analysis of the social value of the site and the attributes of the market built form that contributes to this (such as the layout and open air feel). The research came in three documents:

- Heritage Study Research Report.
- Heritage Study Technical Report
- Preston Market Heritage Study Peer Review

The 21 May 2018 report noted that *"on balance, officers conclude that seeking a heritage overlay or interim protection at this point would not be likely to succeed, nor would it provide meaningful protection"*.

It also noted that there are elements of the market that contribute to the market's success such as the wide pedestrian streets, access natural light and individualised tenancies. These are not necessarily of heritage value (using the definitions of heritage as it applies under the *Heritage Act* and the *Planning and Environment Act*), but are defining elements of the market's design, sense of identity and place. These urban design elements are highly desirable and important and can also be readily translated into a design based planning control such as an incorporated plan, or a design and development overlay.

At the 21 May 2018 meeting Council resolved not to seek approval from the Minister to Planning to apply heritage controls (whether interim or permanent) to the market site at this time. Instead, it requested that heritage be considered in an integrated way as part of the current review of planning controls being led by the Victorian Planning Authority (VPA). Council's decision of 21 May had generally explored and considered the question of heritage significance at local and state level.

At its meeting held on 21 May 2018, Council resolved in part:

*'That Council:*

- (6) *Council request that the CEO write to the VPA to request that the Heritage Study and associated technical reports be considered in an integrated way as part of the current review of planning controls.*

Based on this resolution Council wrote to the VPA and subsequently received a response on 8 June 2018, confirming that the VPA review of the planning controls and future opportunities will:

- *"take into consideration the material Council have provided regarding social and cultural heritage"*
- *"commission a review of the local heritage significance of the site and the options available to protect the local heritage values of the site as part of the overall review of planning controls"*
- *"not consider assessing the site for state significance as the VPA remit only covers the review of the current local planning controls for the site"*
- *"consider the independent heritage advice along with other technical information, including community engagement, traffic, drainage and urban design reports to allow for a holistic review of the planning controls"*

Council's guiding principles, formally endorsed at its meeting on 3 September 2018, seek that work:

- *Ensures social heritage considerations are assessed as part of the VPA review process.*
- *Incorporates the valued internal characteristics that are readily associated with the Preston Market through the built form, access to light, openness and composition of individual tenancies.*
- *Ensures the market footprint has a number of pedestrian thoroughfares, and*
- *Is planned to "minimise and mitigate against the risk of construction disruption to continuous trade of the market".*

#### Victorian process for considering possible state heritage listing

For a place or object to be included in the Victorian Heritage Register it must meet at least one of the Heritage Council of Victoria's criteria for assessment. These criteria are used to determine the importance of a place or object to the history and development of Victoria.

Anyone can nominate a place or object to be listed on the Victorian Heritage Register. Applications to register a place or object on the Victorian Heritage Register are processed by Heritage Victoria, a part of the Department of Environment, Land, Water and Planning. The Executive Director of Heritage Victoria recommends whether a place or object should be registered but the final decision is made by the Heritage Council of Victoria, an independent statutory body.

The *Heritage Act* requires criteria to be used when assessing the cultural heritage significance of places and objects and determining whether those places or objects warrant inclusion in the Victorian Heritage Register.

In 2008 the Heritage Council adopted the heritage assessment criteria set out below. This criteria is used by Heritage Victoria to determine whether a criterion is applicable when considering the significance of a particular place or object.

- a) Importance to the course, or pattern, of Victoria's cultural history.
- b) Possession of uncommon, rare or endangered aspects of Victoria's cultural history.
- c) Potential to yield information that will contribute to an understanding of Victoria's cultural history.
- d) Importance in demonstrating the principal characteristics of a class of cultural places and objects.
- e) Importance in exhibiting particular aesthetic characteristics.
- f) Importance in demonstrating a high degree of creative or technical achievement at a particular period.
- 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.
- h) Special association with the life or works of a person, or group of persons, of importance in Victoria's history.

Detailed guidance is provided in the Victorian Heritage Register Criteria and Thresholds Guidelines (Endorsed by Heritage Council 6 December 2012 - reviewed and updated 5 June 2014).

#### Heritage Council decision and submissions process

Council has been notified that two applications were received on 20 July 2018 and 12 October 2018 by Heritage Victoria from the Darebin Appropriate Development Association requesting that the Preston Market be added to the Victorian Heritage Register and be afforded a level of protection through heritage control. The applications outline that the Preston Market's built form, social fabric and archaeological value is of substantial importance to Darebin and Victoria's heritage.

The first application, nominated that the built form and social contribution of the Preston Market was of Local and State significance. The second application concentrated on seeking protection and/or further investigation into the historical contribution and archaeological significance of the Preston Market site relating to its historical use for a number of tanneries. The applications have been reviewed by the Executive Director of Heritage Victoria. On Monday 26 November, the Executive Director made a recommendation to the Heritage Council of Victoria not to include Preston Market on the Heritage Register or to seek further analysis.

People with an interest in the Preston Market and the recommendation now have the opportunity to provide a submission to the Heritage Council of Victoria. The Heritage Council of Victoria is an independent statutory authority responsible for reviewing recommendations made by the Executive Director and for adding places and objects to - and removing them from - the Heritage Register.

Council understands that Heritage Victoria have notified all applicants and people who registered as having an interest in this application on the same day as Council was notified of the recommendation.

The statutory process pursuant to the *Heritage Act 2017* allows for 60 days for submissions to be received. The closing date of submission is the 24 January, 2019.

Following the close of submissions the Heritage Council can request further information on any of the submissions. After the 60-day submission period, the Heritage Council must conduct a hearing in relation to a submission if:

- a) The submission includes a request for a hearing before the Heritage Council; and
- b) The submission is made by a person or body with a real or substantial interest in the place or object that is the subject of the submission

Despite this the Heritage Council may conduct a hearing in relation to a submission in any other circumstances the Heritage Council considers appropriate.

If no hearing is held, the Heritage Council has 40 days in which to make a determination whether or not to include the place in the Victorian Heritage Register (VHR). If the Heritage Council conducts a hearing, it must make a determination whether or not to include the place or object in the VHR within 90 days of the last day of the hearing.

### **Previous Council Resolution**

At its meeting held on 21 May, 2018, Council resolved:

*'That Council:*

- (1) *Council reiterates Council's commitment to working in partnership with the VPA to review the planning controls and future opportunities and to engage with the community, key stakeholders and the owners of the Preston Market as an important part of this review.*
- (2) *Council notes the community feedback received to date received through the Community Engagement Findings Report – Phase One. (Appendix A).*
- (3) *Council notes the community engagement planned in Phase Two of the review of planning controls and future opportunities.*
- (4) *Council notes the rich social heritage and importance of the market to the community, and reiterates Council's commitment to working to preserve the long term viability of the market.*
- (5) *Council resolves not to seek approval from the Minister of Planning to apply heritage controls (whether interim or permanent) to the market site at this time.*
- (6) *Council request that the CEO write to the VPA to request that the Heritage Study and associated technical reports be considered in an integrated way as part of the current review of planning controls.*
- (7) *Council release heritage reports in full including the research report (Heritage Study Volume 1: history and community connections, Appendix B), and the technical reports (Heritage Study Volume 2: significance Appendix C) and the Peer Review (Appendix D) to the community on 22 May 2018.*
- (8) *Council request that Council Officers meet with site owner's representatives to discuss the heritage reports and highlight Council's view of the importance of the market to the municipality and Melbourne more generally.*
- (9) *Council resolves that this Council report becomes public and that it releases all Appendix A, B, C and D*

- (10) Council immediately releases the Council resolution; and
- (11) The timing of the release of Appendix A to be done in consultation with the VPA.'

At its meeting held on 3 September 2018, Council resolved:

*That Council:*

- (1) Notes the rich social heritage and importance of the market to the community, and reiterates Council's commitment to working to preserve the long term viability of the market.
- (2) Reiterates its commitment to working in partnership with the VPA to review the planning controls and future opportunities for the site and to engagement with the community, key stakeholders and the owners of the Preston Market as an important part of this review.
- (3) Thanks community members for their feedback and participation in Phase Two community engagement.
- (4) Endorses community engagement proposed in Option One of this report and works with the VPA to progress this.
- (5) Endorses the community vision as a guide for the future of the market at the site.
- (6) Reaffirms Council's endorsement of the following principles adopted by Council on 21 May, 2108 to guide Council's participation in the current the Review:
  - Council loves the market and is committed to seeing the market thrive into the future.
  - It's important to Council that the community engagement process undertaken is extensive, inclusive and open to ideas.
  - The market needs to remain accessible to all traders and the community during and post construction and the new development.
  - The built form of the site needs to continue to support and encourage the market as a desirable community meeting place.
  - The site will consistently provide a hub of vibrant activity, with varied uses for residents, businesses and visitors.
  - Any future development of the site should incorporate environmental sustainability design and include affordable housing.
  - The location of the site is a good location for meeting Darebin's growing population's needs, as it is strategically located near transport, services and jobs.
  - Any future development must integrate well with the wider neighbourhood and contribute to connectivity and accessibility for pedestrians and active transport users with Central Preston as a whole.
  - Parking needs must be sufficiently addressed.
- (7) Endorses the following further guiding principles to support and inform Council's participation in the next stage of the Review noting that Council may refine or update these in future when it considers further technical advice and future community engagement.

*Guiding principles*

*Recognising that the site is a designated strategic development site of state significance being well located close to transport, services and jobs, that any development of the site:*

*Design Outcomes*

- a. *Gives priority to pedestrians and high pedestrian amenity to Cramer Street, Mary Street and Station Avenue.*
- b. *Delivers strong levels of activation through the site.*
- c. *Delivers a sustainable, liveable future neighbourhood both for the site itself but in its contribution to the wider Precinct.*
- d. *Prioritises community safety including 24/7 safety by design on all pedestrian links.*
- e. *Incorporates improved and safe walking links connecting High Street, Preston Railway Station, Preston Library, Preston High School and Melbourne Polytechnic (to and from the Market).*
- f. *Ensures access to daylight and sunlight of open space.*
- g. *Achieves best practice environmentally sustainable design as standard.*
- h. *Aspires to have a net zero energy requirement from the grid*
- i. *Has a complementary and positive economic and place based impact on High Street.*
- j. *Includes well-located, high quality, attractive public and community spaces.*
- k. *Recognises and plans for the future significance of the public realm interface and linkages between a redeveloped Market site and Preston railway station.*
- l. *Ensure spaces are accessible for all ages and abilities.*
- m. *Provides good solar access and wind protection throughout the year*
- n. *Ensures sunlight reaches the open space to the south of Cramer Street including at the winter solstice.*
- o. *Provides for the inclusion of floor space for creative studios.*
- p. *Provides for the inclusion or provision of high quality, public art integrated into the design of public spaces and buildings.*
- q. *Adopts a planned/curated approach to cultural infrastructure across the site.*
- r. *Incorporates additional dedicated commercial buildings to deliver non-retail employment outcomes.*
- s. *Incorporates exemplary design and architectural quality and include the use of quality durable materials.*
- t. *Incorporates a diverse range of housing options on site, including the provision of affordable housing.*
- u. *Ensures developers contribute to community and recreation infrastructure to meet needs of future community.*
- v. *Ensures that intensity and height of any future development is such that the guiding principles in this list are achieved.*

#### *Vehicles and Parking*

- w. *The impact of heavy vehicles is minimised and encouraged via Murray Road.*
- x. *Parking and loading areas are located at basement level.*
- y. *Ensures there is no net loss of car parking attributable to the market use in any future development and parking numbers are maintained during construction activities .*
- z. *Ensures parking requirements do not impinge on good/safe design outcomes for redevelopment on High Street.*



*Preston Market*

- aa. Ensures Preston Market thrives into the future as the heart of this site and of Preston.*
  - bb. Ensures that Preston Market complies with regulatory requirements including safety standards.*
  - cc. Ensures that Preston Market is not detrimentally affected by overshadowing.*
  - dd. Ensures social heritage considerations are assessed as part of the VPA review process.*
  - ee. Ensures relevant social and cultural considerations are captured and used to identify and inform recommendations in regards to the overall site and the built form.*
  - ff. Incorporates the valued internal characteristics that are readily associated with the Preston Market through the built form, access to light, openness and composition of individual tenancies.*
  - gg. Ensures the market footprint has a number of pedestrian thoroughfares.*
  - hh. Ensures that street and pedestrian edges are activated with uses.*
  - ii. Plans to minimise and mitigate against the risk of construction disruption to continuous trade of the market.*
- (8) Notes that there is a currently an application with Heritage Victoria relating to the Preston market site and requests that a further report come to Council during any future submission period to consider a submission from Council.*
- (9) Requests that Council officers engage with stakeholders to advocate for Council's principles and to explore options for achieving these to inform future Council decisions including engaging with market traders, community, site owners, developers and the VPA.*

The guiding principles were established to guide Council's comment on the VPA's Preston Market Planning Controls Review and to also to guide Council's participation in future considerations for the Preston Market.

**COMMUNICATIONS AND ENGAGEMENT****Consultation**

- Officers have contacted key stakeholders and community members that are known to have an interest in the Preston Market to ensure they understand the process of making a submission to the Heritage Council.
- Officers have updated Frequently Asked Questions (FAQs) and information on Council's website.

**Communications**

A detailed communications plan will continue to be delivered for the length of this project and so far has included:

- Regular Councillor updates, briefings and reports
- Updates to engaged stakeholders
- Updates to traders both operating in the Market but also within Preston Central
- Posts on Council's Facebook and Instagram accounts
- Regular updates on Council's community engagement platform

- Promotion of future community engagement opportunities

Key messaging covers:

- Council's commitment to helping the market thrive
- Council's commitment to full community engagement
- How the review process works and how the community can get involved
- Local stories celebrating the market and what people love about it
- Practical Council services and activities that support the area

## **ANALYSIS**

### **Alignment to Council Plan / Council policy**

Goal 3 - A liveable city

### **Environmental Sustainability Considerations**

Council has established in its guiding principles that "any future development of the site should incorporate environmental sustainability design". Any future development must integrate well with the wider neighbourhood and contribute to connectivity and accessibility for pedestrians and active transport users with Central Preston.

### **Equity, Inclusion and Wellbeing Considerations**

Council recognises the cultural importance of the Preston Market to Darebin and at the heart of the principles Council has established to guide this work is equity, inclusion and wellbeing considerations.

### **Cultural Considerations**

Council recognises the cultural importance of the Preston Market to Darebin. The submission presented in **Appendix B** addresses the social and cultural significance of the Market and the findings from the Heritage Study undertaken by Council that articulates very valuable analysis of the social value of the site and the attributes of the market built form that contributes to this (such as the layout and open air feel).

### **Economic Development Considerations**

There are no economic development implications associated with this submission.

### **Financial and Resource Implications**

Preparation of the submission has been completed within existing budgets.

### **Legal and Risk Implications**

If Council does not endorse or support preparation of a submission, Council officers would not have the delegation to present a submission to the Heritage Council.

## **DISCUSSION**

Officers' advice concurs with Heritage Victoria's recommendation on state significance

Heritage Victoria's recommendation report (**Appendix A**) outlines the Executive Director's assessment of the place against the tests for state significance set out in The Victorian Heritage Register Criteria and Thresholds Guidelines (2014). Note that Heritage Victoria have not assessed local significance and this is not covered in their report.

Considering Council's own research, the report to Council on 21 May 2018, and having reviewed Heritage Victoria's report, officers advise that they accept Heritage Victoria's assessment that the Preston Market does not meet the criteria for inclusion on the Victorian Heritage Register as outlined in the *Heritage Act 2017*. Further, officers are aware of no further evidence to suggest there is a case for state significance.

Heritage Victoria has specifically assessed whether the space frame has significance, which is a matter that was identified as worth of further research in Council's research. Heritage Victoria's recommendation report concludes:

- the space frame system and tilt-up concrete walls at Preston Market are among the earliest examples of both technologies in Victoria but the nature and scale of the achievement is not of a high degree or 'beyond the ordinary' for the period in which it was undertaken.
- As one of the earliest uses in Victoria of the space frame system and tilt-up concrete walls, the construction of Preston Market generated interest in the construction industry. However both systems were already in use nationally and internationally well before the construction of Preston Market. There are places in Victoria which are better able to demonstrate space frame technology and that this is not an element of the building that is of state significance.

#### Local significance

The 21 May 2018 report to Council noted that *"on balance, officers conclude that seeking a heritage overlay or interim protection at this point would not be likely to succeed, nor would it provide meaningful protection"*. This advice remains current and the Executive Director's recommendation does not reveal any new information that would warrant Council revisiting its earlier decision.

The 21 May 2018 report to Council also noted that there are elements of the market that contribute to the market's success such as the wide pedestrian streets, access to natural light and individualised tenancies. These are not necessarily of heritage value (using the definitions of heritage as it applies under the *Heritage Act* and the *Planning and Environment Act*), but are defining elements of the market's design, sense of identity and place. These elements of urban design are highly desirable and important and can also be readily translated into a design based planning control such as an incorporated plan, or a design and development overlay.

Part of the Executive Director's recommendation is to refer the matter back to Council to consider whether to apply a local Heritage Overlay. The phrasing of this recommendation is somewhat confusing for those not familiar with Heritage Victoria's role or processes as it is not clear that this is simply a routine referral and that it does not indicate or imply that local significance has been found – in fact, whether or not the site has local significance has not even been considered by Heritage Victoria.

In this case, Council has already looked into the question of local heritage significance and not found a basis on which heritage controls could be meaningfully applied to the site. As outlined in further detail in the background section of this report, this conclusion was informed by an independent expert report that covered both social history and a heritage assessment and a further peer review. The conclusion was that both state and local heritage significance was

difficult to justify in the context of considering planning controls largely because the intangible element of social history and cultural significance, while unquestionably significant, was virtually untranslatable into planning controls through a heritage overlay.

#### Important elements of the built form

As identified through the heritage research, above, there are elements of the market built form that contribute to its success performing its social role in the community such as access to light, openness and composition of individualised tenancies. Council has been seeking to ensure these elements of the built form are incorporated in an integrated way as part of the Review of Planning Controls, which could be achieved via a number of different planning controls such as the incorporated plan, or a design and development overlay. These planning controls are generally more flexible than heritage controls and provide a good opportunity to ensure that these elements of built form are incorporated.

As mentioned previously, these attributes include:

- The valued internal characteristics that are readily associated with the Preston Market through the built form, access to light, openness and composition of individual tenancies.
- The number of pedestrian thoroughfares, and community spaces within the market footprint
- The continuity of trade of the market and minimisation and mitigation of construction disruption
- The wide cruciform pedestrian streets that offer a stage for activities or encounters
- Crossing places that sustain social engagement
- Open edges that promote public access
- Natural light and a sense of being open to the outside ('open air market')

#### Limits of heritage controls generally

It is important to note that even if the Preston Market site had heritage planning controls this would not prevent any alterations or future developments on the site. It is common for heritage controls to allow development as long as any identified heritage elements can be satisfactorily managed. This is evident throughout Melbourne and Victoria. Any works would be subject to an additional permit process.

Further, inclusion of the site in the State Heritage Register or application of a Heritage Overlay would not provide any protection for the ongoing use of the land for the purpose of a market because heritage overlays can only protect the built form – buildings and structures.

#### Referral authority should be updated to reflect current responsibility

The reference in the Executive Director's recommendation to refer Preston Market to the 'City of Darebin' be directed to the Victorian Planning Authority (VPA), as they are currently the relevant Planning Authority.

#### What happens next in regards to the Review of Planning Controls?

The next stage of the Review of Planning Controls is planned to include in-depth community engagement in the first half of 2019 to develop foundational elements for planning controls and to build a stronger understanding of opportunities issues and trade-offs amongst a large, diverse segment of the community, involving all key stakeholders.

Based on Council's guiding principles, officers will continue to seek that social heritage is considered in an integrated way as part of the current Review of Planning Controls and also

to seek that important elements of the built form are incorporated into planning controls at the site. The VPA have also committed to considering these matters in an integrated way.

## OPTIONS FOR CONSIDERATION

In regards to the next steps on the submission, there are several options open to Council.

**1) Council makes a submission that:**

- a) accepts Heritage Victoria's assessment that the Preston Market site does not have state significance, and**
- b) outlines Councils view that there are important elements of the built form that must be incorporated into planning control.**

This option and the draft submission (**Appendix B**) reflects Council's heritage assessment and supports Council's previous resolutions and the guiding principles which have been developed to guide Council's work with the VPA. These principles seek to incorporate the important elements of the built form in the Review of Planning Controls.

**(2) Council makes a submission that asks the Heritage Council places Preston Market on the Heritage register. (Not recommended)**

This option is not supported by evidence in regards to the heritage assessment. It would also be contrary to Council's recent decisions not to seek heritage controls but instead to seek protection of the important elements in an integrated way via the Review of Planning Controls.

It may be confusing to stakeholders without knowledge of the heritage definitions in Victoria and the tests that apply given Council's credibility as an authority on these matters.

**(3) That Council decide not to make a submission. (Not recommended)**

Officers have not identified any benefits in not making a submission. For a site of such importance to Council it would be appropriate for Council to make a submission and would support a clear and transparent approach.

**(4) Any of options 1, 2, 3 above, and seek to have a local Heritage Overlay applied by writing to the Minister for Planning. (Not recommended)**

Council has already considered this at 21 May 2018 and decided not to seek a heritage control at that time and instead sought to have social significance addressed in an integrated way as part of the current Review of Planning Controls. The Executive Director's recommendation does not reveal any new information that would warrant Council revisiting its earlier decision.

This option is not supported by evidence in regards to the heritage assessment. It would also be contrary to Council's recent decisions not to seek heritage controls but instead to seek protection of the important elements in an integrated way via the Review of Planning Controls.

**(5) Any of options 1,2,3 above, and resolve not to seek that a local Heritage Overlay be applied**

Council has already considered this at 21 May 2018 and resolved not to seek a heritage control at that time and instead sought to have social significance addressed in an integrated way as part of the current Review of Planning Controls.

Council could consider reaffirming its previous decision however this is not necessary.

## IMPLEMENTATION STRATEGY

### Details

- Council Officers would submit the submission to the Heritage Council as requested by Council.
- Council will continue to work with the VPA to develop planning controls and future opportunities for the Preston Market precinct in line with Council's guiding principles and with in-depth community engagement.

### Communication

- A copy of Council's report and submission will be made available on the Preston Market yoursay website.

### Timeline

- Officers to submit Council's submission to the Heritage Council before the submission close period (24 January, 2019)
- Officers offer to answer any additional questions that the Heritage Council may have at any hearing of submissions, should a hearing occur.

## RELATED DOCUMENTS

- Council Minutes – 21 May 2018
- Council Minutes – 3 September 2018
- Heritage Study Research Report
- Heritage Study - Technical Report
- Heritage Study - Peer review

### Attachments

- Heritage Victoria Recommendation - Preston Market (**Appendix A**)
- Draft Submission Heritage Council of Victoria (**Appendix B**)

## DISCLOSURE OF INTEREST

Section 80C of the *Local Government Act 1989* requires members of Council staff and persons engaged under contract to provide advice to Council to disclose any direct or indirect interest in a matter to which the advice relates.

The Officer reviewing this report, having made enquiries with relevant members of staff, reports that no disclosable interests have been raised in relation to this report.