



# **Heritage Council Registrations and Reviews Committee**

## **Preston Market**

The Centreway, Preston, Darebin City Council

**Hearing** – 17 & 19 July 2019

**Members** – Mr Lindsay Merritt (Chair), Prof Stuart Macintyre, Ms Penelope Smith

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### **DETERMINATION OF THE HERITAGE COUNCIL**

**Not for inclusion in the Victorian Heritage Register but refer for consideration for an amendment to a planning scheme** – After considering the Executive Director's recommendation, all submissions and conducting a hearing into the submissions, the Heritage Council has determined pursuant to section 49(1)(c)(i) of the *Heritage Act 2017* that Preston Market at The Centreway, Preston is not to be included in the Victorian Heritage Register and refers the Recommendation and submissions to the Victorian Planning Authority for consideration for an amendment to the Darebin Planning Scheme.

**Lindsay Merritt (Chair)**

**Stuart Macintyre**

**Penelope Smith**

**Decision Date** – 18 September 2019

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## ACKNOWLEDGEMENT

As a peak Heritage body, the Heritage Council is proud to acknowledge the Traditional Owners as the original custodians of the land and waters on which we meet, and to acknowledge the importance and significance of Aboriginal cultural heritage in Victoria. We honour Elders past and present whose knowledge and wisdom has ensured the continuation of culture and traditional practices.

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## APPEARANCES / HEARING SUBMISSIONS

### EXECUTIVE DIRECTOR, HERITAGE VICTORIA ('THE EXECUTIVE DIRECTOR')

Submissions were received from the Executive Director, Heritage Victoria ('the Executive Director'). Ms Nicola Stairmand, Acting Principal – Heritage Assessments, appeared on behalf of the Executive Director. Mrs Emily McLean, Manager Statutory Approvals, was also present and available to take questions.

### DAREBIN CITY COUNCIL ('DAREBIN')

Submissions were received from Darebin City Council ('Darebin') in support of the Executive Director's recommendation. Ms Stevie Meyer, Strategic Planning Coordinator appeared on behalf of Darebin. Ms Wendy Dinning, Economic Development Coordinator was also present and available to take questions.

### PRESTON MARKET DEVELOPMENTS PTY LTD ('PMD')

Submissions were received from Preston Market Developments ('PMD'), the owner of the majority of the land holding that includes Preston Market, in support of the Executive Director's recommendation. Ms Marita Foley and Ms Carly Robertson of Counsel appeared on behalf of PMD, instructed by Mr Chris Taylor of Planning & Property Partners Pty Ltd.

PMD's submissions included statements of expert witness evidence from Mr Peter Lovell of Lovell Chen Pty Ltd and Mr Bryce Raworth of Bryce Raworth Pty Ltd. Mr Lovell and Mr Raworth were called to give evidence and were available to be cross examined by other parties.

### PADDS HOLDINGS PTY LTD ('PADDS HOLDINGS') AND R&C MAZZEI NOMINEES PTY LTD ('R&C MAZZEI NOMINEES')

Joint submissions were received from Padds Holdings Pty Ltd ('Padds Holdings') and R&C Mazzei Nominees Pty Ltd ('R&C Mazzei Nominees') in support of the Executive Director's recommendation. Mr Charles Leonidas and Mr Mark Fitzpatrick of ComLaw Barristers and Solicitors appeared on behalf of Padds Holdings and R&C Mazzei Nominees.

### **DAREBIN APPROPRIATE DEVELOPMENT ASSOCIATION ('DADA')**

Submissions were received from Darebin Appropriate Development Association ('DADA'), one of two nominators for the Preston Market, objecting to the Executive Director's recommendation. Ms Maria Poletti, President, appeared on behalf of DADA.

### **SAVE OUR PRESTON MARKET ('SOPM')**

Submissions were received from Save Our Preston Market ('SOPM'), the second of two nominators for the Preston Market, objecting to the Executive Director's recommendation. Ms Maria Poletti, President of DADA, made verbal submissions on behalf of SOPM.

### **DAREBIN ETHNIC COMMUNITIES COUNCIL ('DECC')**

Submissions were received from the Darebin Ethnic Communities Council ('DECC'), objecting to the Executive Director's recommendation. Mr Nalliah Suriyakumaran, Chairperson, appeared on behalf of the DECC.

### **ETHNIC COMMUNITIES COUNCIL OF VICTORIA ('ECCV')**

Submissions were received from the Ethnic Communities Council of Victoria ('ECCV'), objecting to the Executive Director's recommendation. Ms Jill Morgan, Director, appeared on behalf of the ECCV.

### **MR BARRY PEARCE AND MR DAVID RAYSON**

A joint submission was received from Mr Barry Pearce and Mr David Rayson objecting to the Executive Director's recommendation. Mr Pearce appeared and made verbal submissions at the hearing. Mr Rayson was also present and made a brief verbal submission.

### **MR GAETANO GRECO**

Submissions were received from Mr Gaetano Greco objecting to the Executive Director's recommendation. Mr Michael Cooke appeared and made verbal submissions at the hearing on behalf of Mr Greco.

### **ADDITIONAL WRITTEN HEARING SUBMISSIONS RECEIVED**

Written Hearing Submissions were received from the below, who did not appear at the hearing:

- Mr Stewart Midgely (objected to the Executive Director's recommendation)
- VicTrack and Level Crossing Removal Project (supported the Executive Director's recommendation)

## **OTHER SUBMISSIONS RECEIVED PURSUANT TO SECTION 44 OF THE *HERITAGE ACT 2017***

The following persons made written submissions pursuant to section 44 of the *Heritage Act 2017*, all objecting to the Executive Director's recommendation:

- Ms Patrizia Morello
- Ms Elvira Morello
- Ms Zora Marko
- Ms Sonya Everard
- Mr Keith Coffey
- Ms Rosalind O'Brien
- Mr Robin Casinader
- Darebin Ratepayers Group
- Darebin Progress Association and Friends of Preston Market Group

## **OTHER INTERESTED PARTIES**

The Victorian Planning Authority ('VPA') was notified of the matter as the relevant planning authority for the land where Preston Market is located pursuant to the *Planning and Environment Act 1987*. No submissions were received from the VPA and the VPA did not participate in the hearing.

## INTRODUCTION / BACKGROUND

### THE PLACE

**01.** On 19 November 2018, the Executive Director made a recommendation that Preston Market, The Centreway, Preston ('the Place') should not be included in the Victorian Heritage Register ('the Register'), and that the Heritage Council may wish to consider exercising its powers under section 49(1)(c) of the Heritage Act 2017 ('the Act') to refer the recommendation to the City of Darebin for inclusion of the Place including internal controls in the local Heritage Overlay ('the Recommendation').

**02.** The Place is described on page 4 of the Recommendation as follows:

*"Preston Market is located opposite Preston Railway Station and surrounded by carparks and commercial and retail premises. The market buildings and the carpark cover the land previously occupied by Broadhurst Tannery. The market itself is a series of single storey sheds or buildings containing 120 stalls located around two main intersecting pedestrian walkways. The roof connects the sheds and is of space frame construction with c.1980s pyramidal shaped canvas structures or opaque plastic sheeting over openings. The outer walls are tilt-up concrete painted externally with brightly coloured murals. The stalls are generally grouped according to type and provide a range of goods and services from fruit and vegetables, seafood and meat to clothing, artwork, delicatessens and cafes. Some stalls have open fronts and sides while others are more permanent in appearance. Tables, seating and children's play areas are located within the pedestrian walkways. The atmosphere is vibrant, multi-cultural and social."*

**03.** The following historical summary is taken from page 4 of the Recommendation:

*"The Wurundjeri people are the traditional owners of the land on which the suburb of Preston is located. In 1837 the area was surveyed by Robert Hoddle and evolved from farming and grazing land in the mid nineteenth century to more industrial uses in the late nineteenth century. Approximately twenty tanneries operated in Preston, including Broadhurst Tannery which was constructed in 1888 on what is now the Preston Market site. Following World War II, migrants from the United Kingdom and Europe arrived in Victoria in huge numbers. Many from Greece, Macedonia and Italy made Preston their home, followed by migrants from China, Vietnam, Sri Lanka, the Middle East and Somalia in later decades. Preston Market opened in 1970 at a time when new shopping centres based on the American model of enclosed, airconditioned centres were being constructed in Melbourne. One of these, Northland, had opened in 1966 just 2.5km to the east of the Preston Market site. Preston Market was a more traditional shopping experience. It was conceived of and operated by Polish migrants Leon and Lola Jolson who lived in Carlton and owned a real estate agency in East Prahran. When Preston Market opened, Leon Jolson commented that he had always had 'an urge to build and operate a market' and that he chose the site 'after many months of extensive investigations through the metropolitan area.' Preston Market was designed by Barry Pierce [sic] (architect), Noel Henderson (quantity surveyor) and David Rayson (builder) of Structural Consortium. It has operated continuously since it opened with the produce and the market community reflecting the waves of migrants who have settled in and around Preston. While many produce markets are owned by local councils, Preston Market has always been and remains a privately-owned market. The current owners*

*purchased Preston Market in 2004, although a small number of stalls are still owned by individual stallholders.”*

- 04.** The above place description and history summary have been taken from the Recommendation and are provided for information purposes only.

## **NOMINATIONS**

- 05.** On 20 July 2018, the Executive Director accepted a nomination from DADA to include the Place in the Register ('the first nomination'). The extent of nominated land included the current trading area of the Preston Market only (**Attachment 1**).
- 06.** On 12 October 2018, the Executive Director accepted a second nomination to include the Place in the Register from SOPM ('the second nomination'). The extent of land included in this nomination included the broader area formerly occupied by Broadhurst Tannery, being the land bounded by Murray Road to the north, a road to the east which has the present-day assigned name of Mary Street, Cramer Street to the south and Mernda line railway reserve to the west (**Attachment 2**).

## **RECOMMENDATION OF THE EXECUTIVE DIRECTOR**

- 07.** On 19 November 2018, the Executive Director recommended that the Place not be included in the Register under section 37(1)(b) of the Act and that the Heritage Council may wish to consider exercising its powers under section 49(1)(c) of the Act to refer the Recommendation "to the City of Darebin for inclusion of the place including internal controls in the local Heritage Overlay".
- 08.** The Executive Director assessed the second, larger extent of nomination including the buildings and associated car parks located at the Place (**Attachment 2**).

## **PROCESS FOLLOWING THE RECOMMENDATION OF THE EXECUTIVE DIRECTOR**

- 09.** After the Recommendation of 19 November 2018, notice was published on 26 November 2018 in accordance with section 41 of the Act for a period of 60 days.
- 010.** Fourteen (14) submissions were received pursuant to section 44 of the Act. Of these, twelve (12) submissions objected to the Recommendation and four (4) submissions requested a hearing before the Heritage Council.
- 011.** In accordance with section 46(2)(a) of the Act, a hearing was required to be held.
- 012.** The Heritage Council Registrations and Reviews Committee ('the Committee') was constituted to consider the Recommendation and the submissions received in respect of the Recommendation and to make a determination. The Committee then invited further written submissions and a hearing was held on 17 and 19 July 2019 ('the hearing').

## **PRELIMINARY, PROCEDURAL AND OTHER MATTERS**

### **SITE INSPECTION**

- 013.** The Committee undertook a site inspection of the Place prior to the hearing, accompanied by the Heritage Council Project Officer. Access to the site was provided by a representative of PMD. No submissions were sought, made or received at the time of the site inspection.

## CONFLICTS OF INTEREST

- 014.** The Chair invited Committee members to make declarations, written or otherwise, in relation to any matters that may potentially give rise to an actual or apprehended conflict of interest. The Committee members were satisfied that there were no relevant conflicts of interests and made no such declarations.

## FUTURE USE AND DEVELOPMENT OF THE PLACE

- 015.** All parties were advised that, pursuant to section 44(4) and section 49 of the Act, it is not within the Committee's remit to consider future development proposals, or pre-empt any decisions regarding future permits under the Act. Pursuant to section 49(1) of the Act, the role of the Committee is to determine whether or not the Place or part of the Place is of State-level cultural heritage significance and is or is not to be included in the Register.
- 016.** The Committee notes that several submissions focused on the future use, management and development of the Place. According to its obligations pursuant to section 44(4) and section 49 of the Act, the Committee has not considered these matters in reaching its determination.

## LEGISLATIVE FRAMEWORK

- 017.** The Committee notes that a number of submissions related to the Place's significance at a national and international level, and included references to such heritage protection mechanisms as the National Heritage List and the *UNESCO Convention for the Safeguarding of the Intangible Heritage*.
- 018.** The Committee notes that its role is defined under the Act, and that the Committee is empowered only to consider and determine whether or not the Place is of cultural heritage significance to the State of Victoria. According to its role as defined pursuant to section 49 of the Act, the Committee has not given consideration to additional national and international thresholds as they might apply to the cultural heritage significance of the Place.

## REDACTED MATERIAL

- 019.** On day one of the hearing, PMD sought instructions from the Committee in relation to copies of two redacted emails provided, one within the Hearing Submission of SOPM and the other within the Submission in Reply of DADA. PMD requested that the emails either be withdrawn from the hearing material or full, unredacted copies be provided to all hearing participants. After receiving no verbal submissions from the parties, including no objection from SOPM and DADA, the Committee determined that copies of the unredacted emails would be provided to the Committee prior to circulation to hearing participants, to ensure none of the redacted material was of a personal or private nature.
- 020.** On 18 July 2019, SOPM and DADA provided unredacted copies of the two emails to the Heritage Council and, with the Committee being satisfied that no material of a personal or private nature was contained therein, unredacted copies of the emails were provided to all hearing participants.

## REQUEST FOR ADDITIONAL INFORMATION

- 021.** On the first day of the hearing, the Committee requested that the Executive Director provide additional information in relation to the registration for the Former Brunswick Market (H1307), having regard to the comparative reference thereto on page 21 of the Recommendation as being the only twentieth century produce market in the Register. The Executive Director provided this information via email

to the Heritage Council Secretariat on 18 July 2019, which was then circulated to hearing participants on 19 July 2019.

### **WITHOUT PREJUDICE DRAFT PERMIT POLICY AND PERMIT EXEMPTIONS**

- 022.** In accordance with *Heritage Council Protocol 1: Registration Hearings* (as updated on 4 April 2019), the Executive Director provided the Heritage Council Secretariat with a set of proposed without prejudice Permit Policy and Permit Exemptions for the Place, in the event that the Committee determined to include the Place in the Register. Hearing participants were given the opportunity to make verbal submissions in response to the without prejudice Permit Policy and Permit Exemptions at the hearing.

### **RIGHT OF REPLY**

- 023.** The Committee permitted all hearing participants a right of reply at the conclusion of the hearing.

### **ISSUES**

- 024.** The following section is not intended to be a complete record of submissions that were made to the Committee. It is a summary of what the Committee considers to be the key issues, followed by an explanation of the position that the Committee takes on each key issue.
- 025.** Any reference to Criteria refers to the *Heritage Council Criteria for Assessment of Places of Cultural Heritage Significance* (as adopted by the Heritage Council on 7 August 2008) (see **Attachment 3**).
- 026.** The Committee has referred to the assessment framework in *The Victorian Heritage Register Criteria and Threshold Guidelines* (6 December 2018) ('the Guidelines') in considering the issues before it.

### **SUMMARY OF ISSUES**

- 027.** The Executive Director recommended that the Place not be included in the Register as the Executive Director's assessment concluded that it did not satisfy any of the relevant criteria at a State level. PMD, Padds Holdings and R&C Mazzei Nominees agreed with the Executive Director.
- 028.** Darebin submitted that it accepted the assessment of the Executive Director, noting that the Place has a rich social heritage of importance to the Darebin community.
- 029.** PMD submitted that it supported the assessment of the Executive Director, and called evidence in support of this position from expert witnesses Mr Peter Lovell and Mr Bryce Raworth.
- 030.** Padds Holdings and R&C Mazzei Nominees submitted that it supported the Recommendation.
- 031.** DADA submitted that the Place is of cultural heritage significance to the State of Victoria. The nomination document provided by DADA indirectly submitted that the Place meets the State-level threshold for Criteria A, D, E, F and G, but in hearing submissions put forward the view that the Place especially satisfies Criterion F at the State level.
- 032.** SOPM submitted that the Place is of cultural heritage significance to the State of Victoria. The nomination document submitted by SOPM indicated that the Place

satisfies Criterion C at State level, but in its Hearing Submission and Submission in Reply SOPM submitted that the Place particularly meets Criteria E and F.

- 033.** The submissions of DECC, in addition to a number of other participants, focused partly on the future development of the Place. DECC further submitted that the Place satisfied Criteria A, D, F and G at State level.
- 034.** The submissions of ECCV primarily concentrated on the intangible cultural heritage values of the Place, as defined by the *UNESCO Convention for Safeguarding of the Intangible Heritage*, and implied that the Place satisfied Criteria A, C and G at State level.
- 035.** Mr Pearce and Mr Rayson submitted that the Place particularly satisfied Criteria E and F at State level.
- 036.** Mr Greco submitted that the Place satisfied Criteria A, F and G at State level.
- 037.** VicTrack and Level Crossing Removal Project made submissions in relation to the extent of nomination for the Place, requesting that the Preston Railway Station and associated VicTrack railway land be excluded from any consideration of the cultural heritage significance of the Place.
- 038.** Mr Midgeley made submissions in relation to the proposed development of the Place. Mr Midgeley's submissions provided an anecdotal account of the Place's atmosphere, and implied a view that Criterion F is satisfied at State level.
- 039.** Other parties who made submissions in accordance with section 44 of the Act contended that the Place is of State-level cultural heritage significance for the following reasons:
- a) The Place is a unique and significant market to Victorians;
  - b) The Place is the only working class, multicultural, purpose-built market in Victoria's northern suburbs; and
  - c) The Place attracts shoppers from all over the State.
- 040.** Other key points of discussion and debate included the matter of whether the Place was of local or State-level cultural heritage significance; how the Criteria and the Guidelines should be interpreted and applied; the suitability of the draft Permit Policy and Permit Exemptions submitted on a without prejudice basis by the Executive Director; and the extent of nomination for the Place.

## **CRITERION A – IMPORTANCE TO THE COURSE, OR PATTERN OF VICTORIA'S CULTURAL HISTORY**

### *Summary of submissions and evidence*

- 041.** The Recommendation found that Criterion A is not satisfied at State level. It found that, although the Place demonstrates a strong association with the historical theme of post-World War II migration to Victoria and the 'process of market shopping', the Place does not allow such associations to be understood better than most other places in Victoria with substantially the same association. The Executive Director identified a number of places in Victoria which more effectively allow these associations to be better understood at State level, including:
- Queen Victoria Market (VHR H0734);
  - Prahran, South Melbourne, Croydon, Camberwell and Footscray markets;
  - Maribyrnong Migrant Hostel (VHR H2190);

- Benalla Migrant Camp (VHR H2358);
  - Station Pier (VHR H0985); and
  - Cultural precincts associated with migrant communities, such as Lygon Street in Carlton, Lonsdale Street in the Melbourne CBD, Victoria Street in Richmond and Acland Street in St Kilda and Ripponlea.
- 042.** The Executive Director in the Recommendation additionally noted that at the 2016 census, 28% of Victoria's population was born overseas, and 49% of Victorians were either born overseas or had a parent who was born overseas. It was the view of the Executive Director that the number of heritage places and objects in Victoria associated with post-World War II migration potentially numbers in the thousands, if not millions.
- 043.** PMD submitted that it agreed with the Executive Director in relation to Criterion A and referred to expert witness evidence provided by Mr Lovell in supporting its submission.
- 044.** In expert witness evidence, Mr Lovell agreed with the Executive Director and found that whilst a valued part of the Place is derived from the presence of a strong migrant community and cultural diversity, Preston Market is not alone in demonstrating this character, and nor does this character present more strongly than occurs in other places in Victoria associated with migration.
- 045.** In expert witness evidence Mr Raworth also agreed with the Executive Director, concluding that the Place does not enable post-World War II migration to Victoria to be better understood than other places with substantially the same association, including places already included in the Register. Mr Raworth additionally concluded that the Place does not demonstrate the experience of market shopping in Victoria better than other comparable markets.
- 046.** Padds Holdings and R&C Mazzei Nominees submitted that it supported the Recommendation in relation to Criterion A, putting forward the view that the Place is one of many markets in Victoria, and that it does not significantly contribute to a better understanding of market shopping than other similar places of its type, such as the Queen Victoria Market.
- 047.** DECC submitted that the Place satisfies Criterion A at State level, as an example of the living history of working class migration patterns that occurred in the Darebin area, thereby reflecting the pivotal role played by migration in Victoria's history. In its submission, DECC put forward the view that it would not be appropriate to compare the Place with the Queen Victoria Market (VHR H0734), as the Queen Victoria Market no longer services the locals, but rather exists today as a tourist destination.
- 048.** Mr Greco also submitted that a number of comparative places cited by the Recommendation were not appropriate, putting forward the view that markets such as the Queen Victoria Market and Prahran Market have become gentrified and now cater largely to tourists. It was also the view of Mr Greco that migrant camps are now seen as museums, as opposed to the living and breathing nature of the Place. It was the submission of Mr Greco that the Recommendation had underplayed the significance of the Place by comparing it to the thousands, if not millions of heritage places in Victoria associated with post-World War II migration, and that the Place should be considered as rare and unique, being located centrally within a migrant and working class area which is frequented by the migrant community.

### *Discussion and conclusion*

- 049.** The Committee notes all submissions made in relation to Criterion A.
- 050.** The Committee accepts that the Place has very strong and enduring connections to Darebin's migrant community, in addition to the historical 'process of market shopping'.
- 051.** However, the Committee accepts the view put forward by the Executive Director, in addition to the expert witness evidence provided by Mr Lovell and Mr Raworth, that the Place does not allow these associations to be better understood than other Victorian places with substantially the same association.
- 052.** The Committee is of the view that the comparative analyses included in the Recommendation and the expert witness evidence of Mr Lovell are appropriate, and that a number of examples, particularly the Dandenong and Footscray markets, clearly demonstrate that the Place is not unique in its historical context; rather it is one of many places in the State with substantially the same associations with the historical themes of post-World War II migration and the 'process of market shopping'.
- 053.** The Committee acknowledges that a number of submissions put forward the proposition that the Place's location in the northern suburbs of Melbourne distinguished the Place from other markets with a strong connection to migrant communities. The Committee finds, however, that whilst the Place's geographic location is important, its particular connection to the northern suburbs further demonstrates that the Place's historical significance is best understood at a local, rather than at a State level.
- 054.** The Committee acknowledges the view put forward by two submissions that the function and significance of other comparable place types has changed as a result of tourist patronage. The Committee notes this position, but is of the view that this is a subjective opinion, and acknowledges that many would reject the characterisation of the Queen Victoria Market and the Prahran Market as being primarily tourist destinations.
- 055.** The Committee finds that no evidence was tendered in submissions that substantiated an elevated association with the theme of post-World War II migration to Victoria, or the 'process of market shopping', relative to similar places having the ability to clearly demonstrate the same associations.
- 056.** The Committee finds that Criterion A is not satisfied at the State level.

### **CRITERION B – POSSESSION OF UNCOMMON, RARE OR ENDANGERED ASPECTS OF VICTORIA'S CULTURAL HISTORY**

#### *Summary of submissions and evidence*

- 057.** The Executive Director stated in the Recommendation that the Place did not satisfy Criterion B at State level, as it is not rare or uncommon. It was the view of the Executive Director that there are many market places and other types of places which demonstrate post-World War II migration or the 'process of market shopping' in Victoria. The Recommendation further found that although the Place demonstrates an early application of space frame technology and tilt-up concrete walls, these could not be considered unusual features of note that were not widely replicated, also that both technologies had been previously used outside of Victoria and both were extensively used in the following years.

- 058.** PMD agreed with the Executive Director's findings in relation to Criterion B, submitting that the Place does not respond to any process, function, movement, custom or way of life that could be of importance as defined by the Guidelines.
- 059.** In expert witness evidence, Mr Lovell agreed with the findings of the Executive Director in relation to Criterion B. It was the view of Mr Lovell that the Place does not satisfy the basic test for this criterion, as set out in the Guidelines.
- 060.** Padds Holdings and R&C Mazzei Nominees submitted that the Place does not satisfy Criterion B at State level, as there are many markets and places which demonstrate post-World War II migration or the 'process of market shopping' in Victoria.

#### *Discussion and conclusion*

- 061.** The Committee accepts the views of the Executive Director, PMD, Padds Holdings and R&C Nominees, and the expert witness evidence of Mr Lovell in relation to Criterion B, in concluding that the Place cannot be considered to be rare, uncommon or belonging to a class of place that is endangered.
- 062.** The Committee additionally notes that no submissions from hearing participants were received making direct reference to the Place's satisfaction of Criterion B at State level.
- 063.** The Committee finds that Criterion B is not satisfied at the State level.

#### **CRITERION C – POTENTIAL TO YIELD INFORMATION THAT WILL CONTRIBUTE TO AN UNDERSTANDING OF VICTORIA'S CULTURAL HISTORY**

- 064.** The Recommendation acknowledged that the Place was constructed on the site of the former Broadhurst Tannery and that the Place may contain archaeological evidence about the tannery that is not currently visible or understood. However, the Executive Director submitted that Criterion C is not satisfied at State level, as the design, construction and processes associated with tanneries is well documented and readily available from other sources. It was the conclusion of the Executive Director that further archaeological investigation of the Place would be unlikely to yield information that could meaningfully contribute to the understanding of tanneries in Victoria more generally.
- 065.** PMD agreed with the Executive Director in relation to Criterion C, and referred to expert witness evidence submitted by Mr Lovell and Mr Raworth.
- 066.** In expert witness evidence, Mr Lovell submitted that tanneries were a relatively common industry in the late nineteenth century, and that in Preston alone there were approximately twenty operating tanneries. It was the view of Mr Lovell that any further information or objects found at the Place would be unlikely to meaningfully contribute to an understanding of tanneries as part of Victoria's cultural history in a way that has not been already well documented and made readily available from other sources. It was the conclusion of Mr Lovell that Criterion C was not satisfied at State level.
- 067.** In expert witness evidence, Mr Raworth submitted that the tannery industry has been well documented and in other sources the information is readily available. It was the view of Mr Raworth that Criterion C is therefore not satisfied.
- 068.** Padds Holdings and R&C Mazzei Nominees submitted that Criterion C is not satisfied at State level, and that no significant remains of the Broadhurst Tannery were likely to be in existence following the construction of the Place.

- 069.** The second nomination by SOPM submitted that the potential archaeological remains of the Broadhurst Tannery and associated structures and deposits beneath the asphalt carparks within the Place, between Murray Road, Cramer Street, High Street and the rail line in Preston, are of local historic and archaeological significance to the State of Victoria. It was further submitted by the second nomination that this includes that part of the property where the potential remains of 'Congleton', the tannery owner's residence adjacent to Murray Road, was once located.
- 070.** The ECCV submitted that it believed that there is the potential to yield precious information through oral histories in relation to the Place, and that these oral histories would have the potential to contribute to an understanding of Victoria's cultural history.

### *Discussion and conclusion*

- 071.** Based on the information before the Committee, the Committee is not satisfied that the history of the Broadhurst Tannery demonstrates the potential to yield archeological remains of State-level significance, particularly when compared to the many tannery sites in the State of Victoria, including the approximately twenty tanneries that were operating in the Preston area in the nineteenth century. It is the view of the Committee that no satisfactory evidence was provided in submissions which indicated that the remains of the former Broadhurst Tannery would likely satisfy Criterion C at State level.
- 072.** The Committee additionally notes the information provided by the Executive Director at the hearing in relation to the existing protection of the Broadhurst Tannery as an archaeological site in the Victorian Heritage Inventory, under Part 6 of the Act. The Committee notes that any archaeological excavation or earth disturbance at the location of the former Broadhurst Tannery would require consent in accordance with section 124 of the Act.
- 073.** Whilst the Committee acknowledges the submission of the ECCV in relation to Criterion C, the Committee does not accept that the potential to yield oral histories in relation to the Place is relevant to the application of Criterion C. In accordance with the Guidelines, Criterion C may only be satisfied if a place or object demonstrates a likelihood that "physical evidence of historical interest that is not currently visible or understood" is present. This might include, for example, submerged archaeological remains, or concealed decorative elements of a place such as murals or layers of wallpaper. The potential to yield oral histories is not considered by the Committee to be relevant to Criterion C, and has therefore not informed the Committee's conclusions on the matter.
- 074.** The Committee finds that Criterion C is not satisfied at the State level.

## **CRITERION D – IMPORTANCE IN DEMONSTRATING THE PRINCIPAL CHARACTERISTICS OF A CLASS OF CULTURAL PLACES AND OBJECTS**

### *Summary of submissions and evidence*

- 075.** The Recommendation acknowledged that the Place belongs to the class of produce markets, with a clear association with post-World War II migration to Victoria. However, the Recommendation concluded that the Place did not satisfy Criterion D at State level as it does not qualify as being a notable example of this class of place, being neither an influential, pivotal or fine example of a market. Although the Recommendation acknowledged that the Place is substantially intact,

it also stated “that intactness alone is not enough for a place to be considered notable”.

- 076.** PMD submitted that it supported the Recommendation in relation to Criterion D, and called expert witness evidence in support of this position from Mr Lovell and Mr Raworth.
- 077.** In expert witness evidence Mr Lovell acknowledged that the Place is a modern example of the market typology, demonstrating key characteristics such as multiple individual stalls, open-air sections and a variety of goods, with an association with post-World War II migration. However, it was the view of Mr Lovell that the Place is not a notable example of a ‘market’; whereas the Queen Victoria Market (VHR H0734) is an archetypal example of a traditional market in Victoria, and is included in the Register for this reason. Mr Lovell noted that many fresh-food markets constructed in the post-war era tended to take the form of enclosed plazas or malls, and that the Place should be considered as being an anomalous rather than a representative example of the traditional market typology in the post-World War II period.
- 078.** In expert witness evidence Mr Raworth put forward the view that while the Place demonstrates the key characteristics of the ‘market’ typology, it is not a notable or particularly fine example in Victoria. Mr Raworth concluded that the evident market characteristics of the Place are not of higher quality than other markets already included in the Register, such as the Queen Victoria Market. It was the position of Mr Raworth that the concept for Preston Market was outdated at the time at which the Place was constructed, and that the Place was not influential or pivotal.
- 079.** Padds Holdings and R&C Mazzei Nominees submitted that it supported the findings of the Recommendation in relation to Criterion D.
- 080.** DECC submitted that the Place satisfies Criterion D at State level as it is one of the few remaining undercover markets in Melbourne and the only one in the northern suburbs. DECC further submitted that the culturally diverse nature of the Place reflects the multicultural soul of the Darebin area, and has the potential to teach the young gentrified Anglo-Celtic populations who are moving to Melbourne’s northern suburbs about issues of difference and diversity.

### *Discussion and conclusion*

- 081.** The Committee notes all submissions made in relation to Criterion D.
- 082.** The Committee agrees with the conclusions of the Executive Director and the expert witness evidence of Mr Lovell and Mr Raworth that while the Place undoubtedly demonstrates the key characteristics of the market typology, it cannot be considered to be a notable example of such class of places in Victoria.
- 083.** The Committee notes that, in accordance with the Guidelines, a place must be established to be an influential, pivotal, fine or highly intact example of its class in order to satisfy Criterion D at State level. It is the view of the Committee that no evidence was tendered in submissions that demonstrated the Place’s classification as an influential, pivotal or fine example of its class.
- 084.** From its site inspection, the Committee notes that the Place is substantially intact. The Committee also notes the position put forward by the Executive Director that a place cannot be considered to satisfy Criterion D at State level on the basis of being a “highly intact example” alone, given that any recently completed building in Victoria could then arguably satisfy Criterion D as being “highly intact”. The Committee observes that, notwithstanding such justification given, this is not in accordance with the definition of ‘notable example’ in the Guidelines as

encompassing any of 4 attributes i.e. “fine example” or “highly intact example” or “influential example” or “pivotal example”. Having regard to the Context heritage study<sup>1</sup> (Part 3.4 of Volume 1 - Current conditions and level of intactness) undertaken for Darebin (which formed part of the nomination by DADA and SOPM) and the Committee’s site inspection of the Place, the Committee finds that the Place does not meet the threshold of high intactness. The Committee notes that when opened for trading in August 1970 the Place comprised six sheds, that other buildings have been subsequently erected beside 2 of these sheds and that a range of alterations have been undertaken within several sheds. In addition, the Committee notes a seventh shed of a different design was erected at a later time.

- 085.** The Committee acknowledges the view put forward by DECC that the Place is of importance to the local Darebin area, but finds that no evidence was put forward establishing the Place as being a notable example of the market typology at State level. The Committee is of the view that the submissions of DECC in relation to Criterion D reflect the Place’s cultural heritage significance within a local context.
- 086.** The Committee finds that Criterion D is not satisfied at the State level.

## **CRITERION E – IMPORTANCE IN EXHIBITING PARTICULAR AESTHETIC CHARACTERISTICS**

### *Summary of submissions and evidence*

- 087.** The Recommendation acknowledged that the Place exhibits particular aesthetic characteristics through its industrial materials and construction methods, and that a dynamic and invigorating atmosphere is generated through the sights, sounds and smells of the Place. However, the Recommendation found that Criterion E was not satisfied at State level in accordance with the Guidelines, as there has been no critical recognition of the aesthetic characteristics of the Place as an outstanding example in Victoria or wide public acknowledgement of exceptional merit in Victoria through any other mediums.
- 088.** PMD submitted that it supported the findings of the Recommendation in relation to Criterion E. PMD acknowledged that the Place demonstrates a distinctive aesthetic as a result of its industrial materials and modern construction techniques. However, PMD agreed with a statement within the assessment section of the Recommendation that such techniques were driven by cost and function, rather than any aesthetic considerations. PMD further submitted that the Place has not been recognised in any capacity as being an outstanding example in the State, and the design has not received wide public acknowledgement of particular merit.
- 089.** In expert witness evidence Mr Lovell concluded that Criterion E is not satisfied at State level. It was the view of Mr Lovell that the Place does not display any design excellence or characteristics which would satisfy Criterion E in accordance with the Guidelines, and noted the absence of any critical recognition or wide public knowledge of particular merit in relation to the aesthetic characteristics of the Place. With reference to the intangible aesthetic characteristics of the market, such as its sounds, smells and ambience, Mr Lovell concluded that such characteristics are common of many markets and that there has been no wide public acknowledgement of these at the Place specifically.
- 090.** In expert witness evidence Mr Raworth acknowledged that the Place has a distinct industrial aesthetic which is enhanced by the multi-sensory atmosphere offered on

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<sup>1</sup> Context (December 2017) “Preston Market Heritage Study, Volumes 1,2”, undertaken for Darebin City Council.

market days, but found that Criterion E is not satisfied at State level. It was the view of Mr Raworth that although the Place was the subject of some print media coverage contemporaneous with its opening, such articles served to promote the new market, or provide an explanation of its construction techniques. Mr Raworth concluded that as the Place has received no formal critical recognition as an outstanding example within Victoria, and nor has its design received wide public acknowledgement of exceptional merit, Criterion E cannot be met.

- 091.** Padds Holdings and R&C Mazzei acknowledges the aesthetic appeal of the Place's sights, smells and sounds, but submitted that the physical form of the Place offers no aesthetic importance.
- 092.** DADA did not make specific reference to Criterion E in submissions, but put forward the view that an article appearing in the Foundations journal<sup>2</sup> in relation to the Place had not been mentioned or cited within any of the "Key References Used to Prepare Assessment" within the Recommendation, and that this article, together with various newspaper articles (1970) around the opening of Preston Market (as noted in the Recommendation), demonstrated that the Place had received critical recognition from within the architectural engineering and building community. In this respect, the relevant 13-page Foundations article plus front cover and publisher notes/index page formed part of the DADA Hearing Submission.
- 093.** SOPM submitted that the design philosophy behind the Place was intentional, innovative and experimental, and that it drew inspiration from modernist architects and architectural movements such as Harry Seidler, Robin Boyd and the Bauhaus movement. SOPM further submitted that the aesthetic appeal of the space frame roof has been understated and down-played to the public over the recent past, as much of it is concealed, particularly in the shed that houses the deli section.
- 094.** Mr Pearce and Mr Rayson did not make direct reference to Criterion E in their Hearing Submission, but put forward the view that the Place is an example of the built form that utilises the materials and structures as the fundamental aesthetic, with a complete honesty and lack of compromise in its "brutalist" and "modernist" expression.

### *Discussion and conclusion*

- 095.** The Committee notes all submissions made in relation to Criterion E.
- 096.** The Committee accepts that the Place exhibits distinctive industrial aesthetic characteristics, and that its dynamic and lively atmosphere, including its sights, smells and sounds, are typical of the market typology.
- 097.** The Committee notes a statement within the Recommendation that appears to imply that a design driven primarily by cost and function is likely to be at the expense of aesthetic considerations. However, in general terms, the Committee agrees with the verbal submission of Mr Pearce and Mr Rayson that good design to address cost and functional requirements can also be mutually inclusive with aesthetic considerations.
- 098.** The Committee notes that in order for the Place to satisfy Criterion E at State level in accordance with the Guidelines the aesthetic characteristics of the Place must be appreciated or valued by the wider community or an appropriately related discipline as evidenced, for example, by critical recognition as an outstanding example within Victoria, or wide public acknowledgement of exceptional merit in

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<sup>2</sup> 'Preston Market' Issue 70 *Foundations: The Journal of Architecture, Engineering and Building*, pages 7-19 (4 attributed authors).

Victoria. The Committee notes that “critical recognition” of the aesthetic characteristics of the Place must be within an art, design, architectural or related discipline, and that “wide public acknowledgement of exceptional merit” may take the form of medium such as songs, poetry, literature, painting, sculpture, publications and print media, etc.

- 099.** The Committee accepts the position of the Executive Director as expressed in the Recommendation, in addition to expert witness evidence provided by Mr Lovell and Mr Raworth, that there is an absence of any evidence demonstrating that the Place has received any critical recognition as an outstanding example or wide public knowledge of exceptional merit that would satisfy the State-level thresholds in relation to exhibiting particular aesthetic characteristics as set out in the Guidelines.
- 0100.** Although the Committee accepts the position put forward by SOPM and Mr Pearce and Mr Rayson that the aesthetics of the Place were the result of a conscious design philosophy, and not driven by cost and function alone, the Committee cannot accept that the “brutalist” and “modernist” expression evidenced at the Place satisfy Criterion E at State level, given the absence of any evidence of critical recognition or wide public knowledge of exceptional merit in relation to exhibiting particular aesthetic characteristics as required by the Guidelines.
- 0101.** The Committee notes that since Preston Market was opened in August 1970, the relatively low roof height and the partitioning of enclosed stalls together with internal aisles beneath most of the roof area of the various sheds has meant that full-area, clear-span views of the space frame roof structure have been wholly negated. However, the Committee does not accept that initial or subsequently extended obscuration of the space frame roof structure over many sections of the Place has prevented critical or widespread appreciation of the Place’s aesthetic characteristics. It is the view of the Committee that the space frame system is clearly visible from various vantage points throughout the Place, and has been readily apparent for the appreciation of visitors throughout its history.
- 0102.** Whilst the Committee notes the submissions of DADA in relation to the Foundations article, the Committee refers to the Submission in Reply made by the Executive Director in relation to this matter, and agrees that the Foundations article does not constitute independent critique of the Place’s aesthetic characteristics. However, the Committee does not agree with the Executive Director’s reason given for suggesting that the Foundations article was more ‘promotional’ in nature, i.e. that one of the eight sections of the Foundations article which was authored by Standard Steel Pty Ltd, also contained the name of the relevant contact member of staff. The Committee would observe that any technical paper written by a person who has been directly involved is, by its very nature, likely to focus on the positive aspects of how solutions were developed to address functional requirements and best outcomes achieved. The Committee is of the view that the test for any industry sector journal article is considered to be whether its substantive content can be regarded as fair and reasonable in terms of accuracy, completeness and balance. In this respect, the Committee received no cogent evidence that this was not likely to be the case for the Foundations article, noting that all parties had such opportunity in submissions in reply.
- 0103.** The Committee finds that no evidence was tendered in submissions establishing that, with respect to the exhibiting of particular aesthetic characteristics, the Place has received any critical recognition as an outstanding example within Victoria, nor that the Place has received any wide public acknowledgement of exceptional merit, as required by the Guidelines. Therefore, the Committee finds that Criterion E is not satisfied at the State level.

## CRITERION F – IMPORTANCE IN DEMONSTRATING A HIGH DEGREE OF CREATIVE OR TECHNICAL ACHIEVEMENT AT A PARTICULAR PERIOD

### *Summary of submissions and evidence*

- 0104.** The Recommendation stated that the space frame roof structure and tilt-up concrete walls at Preston Market are among the earliest examples of both technologies in Victoria, but that 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 required by the Guidelines in order for Criterion F to be satisfied at the State level. It was the view of the Executive Director that both technologies were already in use internationally and within Australia at the time of construction, and that the use of the space frame roof structure or tilt-up concrete walls at the Place has not received any critical recognition as being a breakthrough in terms of design, fabrication or construction techniques, or as extending the limits of existing technology. It was the conclusion of the Recommendation that Criterion F is not likely to be satisfied at the State level.
- 0105.** PMD submitted that it agreed with the Executive Director in relation to Criterion F, and referred to expert witness evidence provided by Mr Lovell and Mr Raworth.
- 0106.** In expert witness evidence Mr Lovell acknowledged that the Place appears to be one of the first examples, if not the first, of the use of space frames in Victoria, also acknowledging that the space frame roof structure at the Place was locally researched, designed and manufactured and was not a proprietary system. It was the view of Mr Lovell that while this claim distinguishes the Place, the system developed for the Place was not used in any subsequent projects. Mr Lovell noted that the use of tilt-up precast concrete slabs or panels had been in use since the 1920s, and found that there is no evidence demonstrating that the Place was a particularly influential or significant example of this technology which led to later use or widespread adoption. Mr Lovell found that the technological innovations evident at the Place cannot be considered to be “beyond the ordinary for the period in which it was undertaken” as required by the Guidelines, and that public recognition and acknowledgement of the Place’s technical merit to date have been essentially promotional, and not critical, in nature. It was the conclusion of Mr Lovell that whilst the construction techniques used at the Place are of interest, they do not satisfy Criterion F at State level.
- 0107.** In expert witness evidence Mr Raworth submitted that while the use of the space frame roof structure and tilt-up precast concrete technology was of interest within the construction industry at the time of the Place’s completion, there is no evidence that the Place’s use of these technologies has proven to be influential, nor is there any evidence that the use of these technologies can be considered to be “beyond the ordinary” for the time in which the work was undertaken. Mr Raworth noted that the purpose-built space frame system designed and developed by Standard Steel Pty Ltd does not appear to have been used in any subsequent projects of note, including Collins Place or the spire at the Victorian Arts Centre (VHR H1500), both of which used proprietary space frame systems. Mr Raworth acknowledged that while the use of tilt-up precast concrete technology at the Place represents an early non-residential use of this technology, precast concrete had been in use for many years in Victoria at the time of the Place’s construction, including a number of houses built in Sunshine and Footscray in the 1920s. It was the conclusion of Mr Raworth that Criterion F is not satisfied.
- 0108.** DADA submitted that Criterion F is satisfied at State level, citing the Foundations article in asserting that a number of techniques used during the construction of the Place were new, such as hot dip galvanising of the finished space frame modules,

the onsite fabrication including design of lifting points and load bearing of the tilt-up concrete panels. DADA further submitted that the “Pyramid Module Spaceframe Technology was not just an ‘early example’”, but was first introduced to Australia through the Place’s construction, therefore rendering the technology “beyond the ordinary” for the time in which it was undertaken.

- 0109.** SOPM submitted that it is not appropriate to compare the Place to other structures that employed space frame technology, such as Collins Place, given the differences in project scale and budget. SOPM further submitted that the Place may have inspired the use of the space frame system on warehouses, stadia and factories. SOPM additionally referred to the Foundations article and its use of the word “novel” to describe the technologies employed in the Place’s construction, which in the opinion of SOPM indicates a high degree of technical achievement for the period. It was the conclusion of SOPM that the Place satisfies Criterion F at State level, particularly noting ways in which the techniques of construction exceeded technical limits in order to solve engineering problems and time constraints.
- 0110.** DECC submitted that the Place satisfies Criterion F at State level, as its innovative design, layout and ability to adapt for multiple uses demonstrates a high degree of creative and technical achievement.
- 0111.** Mr Greco echoed the submissions of DECC above, further submitting that the Place’s use of concrete, metal and glass, and its lack of ornamentation, reflect its modernist roots. It was the submission of Mr Greco that replication of the roof space frame within the Place meant the flexible skeleton could be adapted and changed to meet the Place’s ever evolving needs, and that the Place was the “first” to use this architectural innovation.
- 0112.** The submissions of Mr Pearce and Mr Rayson provide detailed information in relation to the design and construction process of the Place, primarily in support of the Place’s satisfaction of Criterion F at State level. Mr Pearce and Mr Rayson submitted that the Place was designed and constructed using pioneering and unique applications and that the conceptual design, detailed design, prototype fabrication, structural testing, integration into the total building system, transport and erection represent a “world first”. Mr Pearson and Mr Rayson further submitted that the design of the concrete walls and floor, and their assembly process, were the first of their kind in Australia, and that Structural Consortium created the unique space frame system used at the Place after concluding that existing patented space frame systems, one of which was used for the only space grid in Australia (being under construction at that time in New South Wales), would be economically prohibitive.
- 0113.** Mr Midgely submitted that the Place holds a special place in local architecture, being an early adopter of space frame technology and load bearing precast concrete walls.

#### *Discussion and conclusion*

- 0114.** The Committee notes all submissions in relation to Criterion F, and acknowledges that the consideration of this Criterion formed a key focal point of the hearing process.
- 0115.** The Committee additionally acknowledges that the design methods evident at the Place demonstrate notable innovation and technical achievement, principally relating to the technological discipline of structural engineering.

**0116.** Further, from the Committee's consideration of the Recommendation and all submissions in respect of the Recommendation, the Committee acknowledges and accepts the following, in the context of Criterion F:

a) Dates for buildings and structures, for comparative purposes

- Based on examples under Criterion F in the Guidelines and from the Recommendation, this is taken to be when the relevant overall building or structure reached practical completion.

b) Space Frame Roof Structure of the Place (total area approximately 11,150sqm)

- The design was based on the applied mechanics characteristics of a rigidity matrix formed by a 3 dimensional horizontal 'slab' of interlocking 4-sided solid pyramids built from slender metal struts.
- The structure was of an unconventional or complex nature for the period in which it was undertaken.
- The design was original in terms of materials used, theoretical analysis, prototype structure load and deflection testing, modular fabrication, corrosion protection and site assembly. Aspects of the theoretical analysis were computer-aided, being beyond the orthodox for its time.
- The design and fabrication involved a well-documented collaboration of Melbourne-based professional practitioners, fabrication industry companies, and a tertiary education institution.
- The design, fabrication and site assembly did not use a proprietary system, all of which systems were overseas-based.
- Practical completion was approximately July 1970. In this respect, references within the expert witness evidence of Mr Lovell cite the Former Q Store Building, Bourke Road, Alexandria NSW as being completed in 1970 and Collins Place at 35-55 Collins Street, Melbourne as being completed in 1977, both using proprietary space frame systems.
- It is highly likely that the Place is the first example of space frame construction within a building in Victoria, also being on a significant scale.

c) Cantilevered Load-Bearing Tilt-Up Concrete Walls at the Place (total area approximately 927sqm)

- During 1970-71 the Place was one of 3 known sites in Melbourne (the other 2 were Miles Laboratories in Mulgrave and a supermarket for Safeway in Moonee Ponds) where cantilevered load-bearing concrete walls for low-rise commercial/industrial buildings were first introduced into Victoria, being the forerunner of an expanded technology which has since become widely used to the present day, whether or not precasting is on-site or factory-based. Such load-bearing concrete walls are designed to transfer roof and wind loads on the building to the foundations.
- The distinction between the tilt-up concrete walls at the Place and earlier tilt-up construction systems both before and after World War II (up to 1970) was that such earlier systems were largely confined to non-structural pre-cast cladding panels i.e not forming part of the structural framework for a building above foundation level.
- As practical completion at the Place was approximately July 1970 it is highly likely that the Place was the first example of construction of cantilevered load-bearing, tilt-up concrete walls within a building in Victoria, also being on a significant scale.

- 0117.** As discussed above in paragraph 0102, the Committee also finds that the Foundations article does not constitute independent critique of whether or not a high degree of technical achievement at a particular period has been demonstrated for the Place. The Committee accepts in part the position put forward by the Executive Director's Submissions in Reply (in response to the DADA Hearing Submission) that certain of the technologies referred to in the Foundations article were not new technologies at the time of the Place's construction but considers this only relates validly to the last three pages of the 13-page Foundations article, i.e. roof cladding, suspended ceilings over stalls and internal aisles, stall enclosure partitioning and air curtains for certain fresh food retail areas. Otherwise, most of the first 10 pages of the Foundations article related to the overall space frame roof structure and tilt-up concrete wall technologies, for which the Committee was given detailed comments in paragraph 0116 above.
- 0118.** Having regard to paragraph 0116 above, the Committee does not accept the generality of the statement within the Recommendation that both space frame systems and tilt-up concrete wall systems "were already in use nationally... well before the construction of Preston Market", noting that the assessment of the cultural heritage significance of places and objects for State heritage listing under the Guidelines requires tests to be applied solely pertaining to places and objects in the State of Victoria. However, the Committee accepts that being the first example, or a very early example, of a certain technology in Victoria does not automatically qualify a place as being of State-level cultural heritage significance in relation to Criterion F; it must clearly satisfy the requirements of the Guidelines, which are discussed in closer detail at paragraphs 0121 and 0122 below.
- 0119.** The Committee does not accept the submissions of SOPM in its view that it is inappropriate to compare the Place with that part of Collins Place where a space frame roof structure has been erected. The Committee finds that it is appropriate and, indeed, necessary to compare the Place with other buildings that have utilised space frame technology, in order to comprehensively assess and understand whether or not the Place satisfies Criterion F at State level. The Committee acknowledges that there are marked differences between the two buildings, including scale and project budget, but a comparison between the two places affords pertinent information to this process, including establishment of the fact that the Place was not alone in its utilisation of this technology in the period in which it was undertaken, but noting that practical completion of the Place occurred approximately 7 years before practical completion of Collins Place.
- 0120.** The Committee finds that no evidence was provided in submissions establishing that the Place influenced or inspired the use of space frame technology on other warehouses, stadia and factories, as put forward by SOPM.
- 0121.** The Committee appreciates the insight and images of the construction phase provided by two designers of the Place, Mr Pearce and Mr Rayson, being two of the three principals of Structural Consortium Pty Ltd., such firm managing design and construction of the Place. The Committee also wishes to reiterate that the task before the Committee is to assess the cultural heritage significance of the Place in accordance with the Criteria and Guidelines. The requirements for satisfying Criterion F at State level are outlined below:
- "The nature &/or scale of the achievement is *OF A HIGH DEGREE* or 'beyond the ordinary' for *THE PERIOD IN WHICH IT WAS UNDERTAKEN* as evidenced by:
- *CRITICAL ACCLAIM* of the place/object within the relevant creative or technological discipline as an outstanding example in Victoria; or

- wide *ACKNOWLEDGEMENT OF EXCEPTIONAL MERIT* in Victoria in medium such as publications and print media; or
- recognition of the place/object as a *BREAKTHROUGH* in terms of design, fabrication or construction techniques; or
- recognition of the place/object as a successful solution to a technical problem that *EXTENDED THE LIMITS* of existing technology; or
- recognition of the place/object as an outstanding example of the *CREATIVE ADAPTATION* of available materials and technology of the period.”

**0122.** The Committee wishes to acknowledge that the information provided by the Place’s designers during the course of hearing may well indicate that the Place’s construction demonstrates a strong degree of technical achievement, and a successful solution that extended the limits of existing technology and demonstrated creative adaptation of available materials and technology of the period. However, the Committee is mindful that the requirements above clearly call for “critical acclaim”, “wide acknowledgement of exceptional merit” and “recognition” of such factors.

**0123.** The Committee does not consider itself empowered to provide the critical acclaim, recognition or wide acknowledgment as required by the Guidelines in relation to Criterion F. The critical acclaim, recognition and wide acknowledgment of exceptional merit must be in existence, and evidence of which be available, at the time at which the assessment process is undertaken (including consideration and determination by the Heritage Council under Division 4 of the Act). The Committee therefore finds, in strict adherence with the provisions of the Guidelines in relation to Criterion F, that in the absence of any substantive evidence that the Place has previously received any critical acclaim, wide acknowledgement of exceptional merit in Victoria, recognition of the Place as being a “breakthrough” in terms of design, fabrication or constructions techniques, recognition of the Place as being a successful solution to a technical problem that extended the limits of existing technology, or recognition as an outstanding example of the creative adaptation of available materials and technology of the period, the Committee cannot conclude that the Place demonstrates an achievement of a high degree, or beyond the ordinary, for the period in which it was undertaken. As such, Criterion F is not satisfied at State level.

**0124.** However, the Committee finds that the hearing process has brought to light information that indicates that the technological achievements evident in the physical fabric of the Place may be of cultural heritage significance at the local level. Therefore, the Committee has resolved to exercise its power pursuant to section 49(1)(c)(i) of the Act and refer the Recommendation and hearing submissions to the VPA for consideration for an amendment to the Darebin Planning Scheme; including the consideration of internal controls to protect elements of the Place evidencing its technical achievements.

**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**

*Summary of submissions and evidence*

**0125.** It was noted in numerous submissions and by the Committee that whilst Criterion G has recently been reviewed and updated, this update was adopted by the

Heritage Council on 4 April 2019, but only operative for recommendations made by the Executive Director after 4 April 2019. Therefore, the recent updates to Criterion G do not apply to this matter. For the purpose of this decision, Criterion G has been considered in accordance with the Heritage Council Criteria for Assessment of Places of Cultural Heritage Significance adopted by the Heritage Council at its meeting on 7 August 2008, and the Criteria and Threshold Guidelines endorsed by Heritage Council 6 December 2012 and reviewed and updated 6 December 2018.

- 0126.** The Executive Director acknowledged the strong and enduring connection of the Place with its customers and traders, and that the Place offers a place of cultural familiarity and security for migrant communities. However, it was the view of the Executive Director that Criterion G is not satisfied at State level, as the connection between the Place and its community does not resonate across the Victorian community more broadly. The Executive Director submitted that the interaction between the Place and its local and migrant communities is typical of many other shopping precincts or markets in Victoria, and that there is no demonstrated influx of visitors to the Place from other parts of Melbourne or Victoria. The Executive Director further noted the numerous heritage studies previously conducted in relation to the Place; all of which recognised a strong localised attachment and use, but concluded that the Place was not of State-level cultural heritage significance.
- 0127.** PMD submitted that it supported the Recommendation of the Executive Director in relation to Criterion G, and called expert witness evidence in support of this position from Mr Lovell and Mr Raworth.
- 0128.** In expert witness evidence Mr Lovell acknowledged that there is clearly a strong and longstanding association between the Place and its community of shoppers and traders, and that the Place allows for the practice and exchange of cultural traditions. However, Mr Lovell concluded that the community associated with the Place is predominantly local in nature, and that the Place's strong connection with its community is a typical characteristic of this common type of place. Mr Lovell also noted that there are a number of places included in the Register which demonstrate social significance as related to post-war migration at State level. It was the view of Mr Lovell that Criterion G is not satisfied.
- 0129.** In expert witness evidence Mr Raworth acknowledged the strong and enduring attachment between the Place's shoppers and stallholders, and the value of the shared experience of buying and selling in the market place. However, it was the view of Mr Raworth that the social value associated with the Place is localised to the Preston and Darebin areas, and does not extend to the broader community of Victoria. As such, Mr Raworth concluded that Criterion G is not satisfied at State level.
- 0130.** Padds Holdings and R&C Mazzei Nominees acknowledged that the Place demonstrates a strong connection with its community, but that this connection is confined to the local context. It was the submission of Padds Holdings and R&C Mazzei Nominees that Criterion G is not satisfied at State level.
- 0131.** DECC submitted that Criterion G is satisfied at State level, as the Place allows for cultural diversity to be maintained through dialogue between cultures and the promotion of respect towards other ways of life. DECC referred to the *UNESCO Convention for Safeguarding of the Intangible Heritage* in supporting this position.
- 0132.** Mr Greco submitted that the Place satisfies Criterion G at State level as it plays an important role in helping people from diverse backgrounds to express and retain their culture and traditions. It was further submitted that these elements of the

Place had been “grossly undervalued” by the Recommendation of the Executive Director.

### *Discussion and conclusion*

- 0133.** The Committee notes all submissions received in relation to Criterion G.
- 0134.** The Committee refers to paragraphs 017 and 018 above, outlining the legislative framework relevant to this proceeding. The Committee wishes to note that this matter is confined to the parameters of the Act, which does not provide a definition for intangible heritage. Therefore, the Committee has not been able to give consideration to the arguments put forward by the DECC in relation to the *UNESCO Convention for Safeguarding of the Intangible Heritage* in reaching its conclusions in relation to Criterion G.
- 0135.** The Committee acknowledges the very strong connection between the Place and its community. The many submissions received on this matter clearly demonstrate the deep connection to the Place felt by its shoppers and traders.
- 0136.** However, the Committee agrees with the Executive Director, the submissions of PMD and Padds Holdings and R&C Mazzei Nominees, and the expert witness evidence of Mr Lovell and Mr Raworth, in that it finds that the very strong social value connected to the Place is best understood at a local, but not at State, level.
- 0137.** Whilst the Committee accepts and acknowledges the special role played by the Place in fostering connections between diverse cultures, in addition to facilitating a welcoming and familiar environment for recently arrived migrant communities, the Committee accepts the position put forward by the Executive Director and Mr Lovell that this relationship between the Place and its local and migrant communities is typical of many other markets and shopping precincts in Victoria. The Committee notes that many other markets in the Melbourne area facilitate this role, including the Queen Victoria Market (VHR H0734), Dandenong Market and Footscray Market.
- 0138.** The Committee also accepts submissions made by a number of parties highlighting that it is not markets alone that engender this type of welcoming environment for migrant communities and diverse cultural groups, noting the many social clubs in existence throughout Melbourne and the State more broadly, and other well-established cultural precincts such as Lygon Street in Carlton, Lonsdale Street and Chinatown in the Melbourne CBD, and Carlisle Street in St Kilda.
- 0139.** The Committee agrees with the Executive Director’s Recommendation in its conclusion that a number of places are included in the Register that better demonstrate a strong connection to the important historical event of post-World War II migration to Victoria. Whilst the social significance of these places (i.e. the Queen Victoria Market [VHR H0734]; the Former Benalla Migrant Camp [VHR H2358]; and Station Pier [VHR H0985]) clearly resonates throughout the State, the Committee is not satisfied that the same can be said of the Place.
- 0140.** The Committee is of the view that no evidence was tendered in submissions which established a resonance of the Place’s social, cultural or spiritual significance beyond the Preston and Darebin area.
- 0141.** The Committee additionally acknowledges that the Place has been the subject of numerous studies and reviews, all of which have given consideration to the social values of the Place, and all of which have concluded that the Place is of local, and not State-level, cultural heritage significance.
- 0142.** The Committee finds that Criterion G is not satisfied at State level.

## **CRITERION H – SPECIAL ASSOCIATION WITH THE LIFE OR WORKS OF A PERSON, OR A GROUP OF PERSONS, OF IMPORTANCE IN VICTORIA’S HISTORY**

### *Summary of submissions and evidence*

- 0143.** The Executive Director recommended that the Place did not satisfy Criterion H at State level as those with a special association with the Place – being founding owners Leon and Lola Jolson, and the principals of Structural Consortium Pty Ltd. – cannot be considered to have made a strong or influential contribution to the course of Victoria’s history.
- 0144.** PMD agreed with the Executive Director in relation to Criterion H, and called evidence in support of this position from Mr Lovell.
- 0145.** In expert witness evidence, Mr Lovell submitted that Criterion H is not satisfied at State level for the reasons outlined in the Recommendation.
- 0146.** Padds Holdings and R&C Mazzei Nominees supported the Recommendation in relation to Criterion H.

### *Discussion and conclusion*

- 0147.** The Committee accepts the views of the Executive Director, PMD, Padds Holdings and R&C Nominees, and the expert witness evidence of Mr Lovell in relation to Criterion H, in concluding that the Place cannot be considered to have a special association with the life or works of a person, or a group of persons, of importance in Victoria’s history.
- 0148.** The Committee notes that no additional submissions were heard during the course of the hearing that made direct reference to the Place’s satisfaction of Criterion H.
- 0149.** The Committee finds Criterion H is not satisfied at State level.

## **RECOMMENDATION FOR INCLUSION IN A HERITAGE OVERLAY**

### *Summary of submissions and evidence*

- 0150.** The Recommendation concluded that the Heritage Council may wish to consider exercising its powers under section 49(1)(c) of the Act to refer the recommendation to Darebin for consideration for an amendment to the Darebin Planning Scheme to include the Place in the Heritage Overlay.
- 0151.** Darebin submitted that the VPA, not Darebin, is the planning authority for the Place pursuant to the Planning and Environment Act 1987.

### *Discussion and conclusion*

- 0152.** The Committee notes that the VPA, and not Darebin, is the relevant planning authority for the Place, pursuant to the Planning and Environment Act 1987. Darebin also expressed a view that there are likely to be better planning controls than a Heritage Overlay (in isolation) for protecting the cultural heritage values of the Place.
- 0153.** PMD’s Hearing Submission referred to the VPA commissioning the consultancy GJM Heritage to provide a review of the Context heritage study (also refer to paragraph 084), apparently resulting in a report titled “Peer Review of Preston Market Heritage Study Volumes 1 and 2” (2018), by reference to “Key References Used to Prepare Assessment” within the Recommendation. The Recommendation also made reference to a separate study by the consultancy Heritage Revival

commissioned by Darebin, also titled “Peer Review of Preston Market Heritage Study Volumes 1 and 2” (2018).

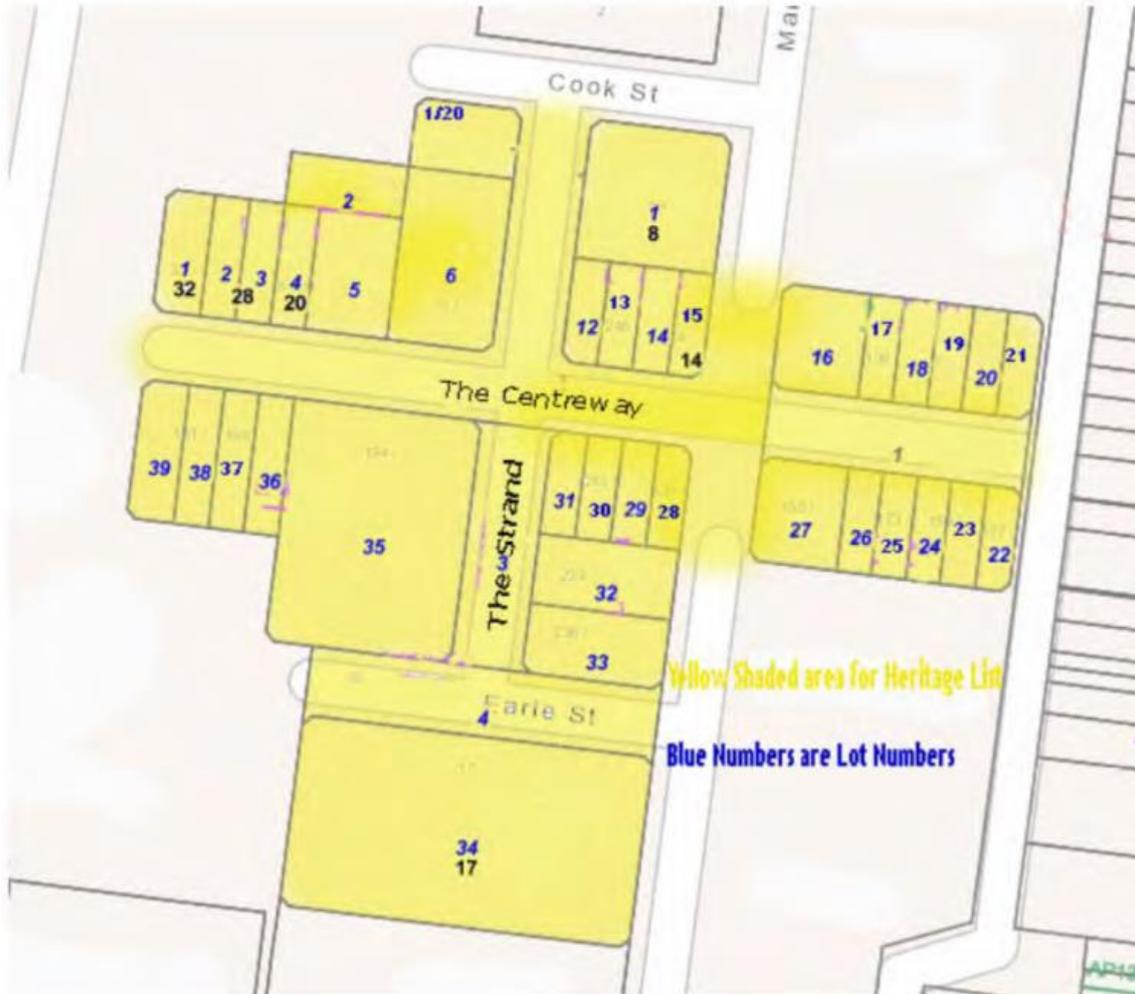
- 0154.** The Committee notes that Darebin’s submission makes no mention of the Context heritage study (December 2017) commissioned by Darebin “to provide a heritage study of the Preston Market, addressing all the potential heritage values that may be associated with the Preston Market and giving a particular emphasis to historical and social values”. The Committee also notes that Darebin’s submission makes no specific mention of a subsequent review of the Context heritage study during 2018 commissioned by the VPA, nor Darebin’s separately commissioned subsequent review of the Context heritage study also during 2018.
- 0155.** The Committee acknowledges that it is not within its remit to be made aware of the scope, research, assessment and findings of previous heritage studies relating to the Place commissioned by Darebin or the VPA as the Committee’s task is to consider the Recommendation and submissions thereto as to whether the Place or part of the Place is of State-level cultural heritage significance, under the provisions of the Act. Notwithstanding, having regard to particularly paragraphs 0153 and 0154 above, the Committee has received the impression of what may be a relatively disjointed approach to the processes of recent heritage studies relating to the Place.
- 0156.** The Committee notes that the Recommendation concluded that Step 1 for assessment of criteria under Part 4 of the Guidelines was likely to be satisfied for Criteria A, C, D, E, F and G. Taking this into account and having regard to the Committee’s discussion of the Criteria in the preceding paragraphs, the Committee considers that there is sufficient evidence that the Place may have cultural heritage significance at a local level to justify the Heritage Council referring the Recommendation and submissions to the VPA for consideration for an amendment to the Darebin Planning Scheme, pursuant to section 49(1)(c)(i) of the Act.
- 0157.** As noted at paragraphs 0116 and 0124 the Committee gave particular consideration to the technical significance of the Place’s space frame roof structure and load-bearing, tilt-up concrete walls. Whilst it was the ultimate conclusion of the Committee that the State-level threshold was not satisfied in relation to Criteria F, the Committee is of the view that the technological achievements associated with the design and construction of the Place may strongly indicate cultural heritage significance at a local level, to the extent that internal controls may be warranted.
- 0158.** As in paragraph 0152 the Committee notes that in its submissions Darebin expressed a view that there are likely to be better planning controls than a Heritage Overlay (in isolation) for protecting the cultural heritage values of the Place. However, the Committee is of the view that this position ought to be revisited in light of submissions received in relation to Criterion F in particular. Given the direct link between the technological achievements evidenced by the Place and the Place’s fabric, the Committee is of the view that internal controls may be required in order to conserve the Place’s cultural heritage significance at a local level, and that a Heritage Overlay is the most appropriate planning mechanism to enact such controls.
- 0159.** The Committee resolves to exercise its power under section 49(1)(c)(i) of the Act to refer the Recommendation and submissions to the VPA for consideration for an amendment to the Darebin Planning Scheme to include the Place in the Heritage Overlay.

## CONCLUSION

**0160.** The Committee finds the Preston Market located at The Centreway, Preston does not reach the threshold for State-level significance in relation to any of the Heritage Council's criteria for inclusion in the Victorian Heritage Register and refers the Recommendation and submissions to the Victorian Planning Authority for consideration for an amendment to the Darebin Planning Scheme.

**ATTACHMENT 1**

**FIRST NOMINATED EXTENT OF REGISTRATION**



**ATTACHMENT 2**

**SECOND NOMINATED EXTENT OF REGISTRATION**



## **ATTACHMENT 3**

### **HERITAGE COUNCIL CRITERIA FOR ASSESSMENT OF PLACES OF CULTURAL HERITAGE SIGNIFICANCE**

CRITERION A	Importance to the course, or pattern, of Victoria's cultural history
CRITERION B	Possession of uncommon, rare or endangered aspects of Victoria's cultural history.
CRITERION C	Potential to yield information that will contribute to an understanding of Victoria's cultural history.
CRITERION D	Importance in demonstrating the principal characteristics of a class of cultural places or environments.
CRITERION E	Importance in exhibiting particular aesthetic characteristics.
CRITERION F	Importance in demonstrating a high degree of creative or technical achievement at a particular period.
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.
CRITERION H	Special association with the life or works of a person, or group of persons, of importance in Victoria's history.

**These were adopted by the Heritage Council at its meeting on 7 August 2008, and replace the previous criteria adopted by the Heritage Council on 6 March 1997.**