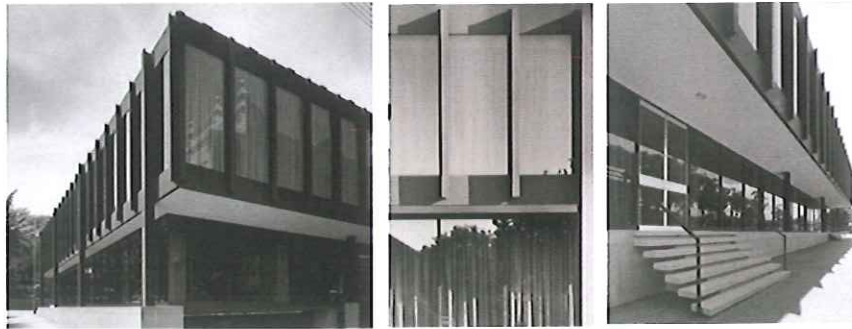


Proposed Development at  
407-411 King Street, West Melbourne



Report to Council –  
Assessment of Heritage Impacts

June 2016

PLANNING

13 JUL 2016

**BRYCE RAWORTH PTY LTD**  
Conservation Consultants  
Architectural Historians

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1.0 Introduction

This report was prepared at the request of the Planning and Property Partners Pty Ltd on behalf of the owners of the subject site at 407-411 King Street, West Melbourne. It relates to a proposal to demolish most of the existing built form on the site, retaining only the facades of the existing modernist office building, and to construct a multi-storey tower above the retained heritage fabric.

This document analyses the significance of the existing building on the site and the heritage impacts of the proposed development scheme. The report has been prepared by Bryce Raworth, Martin Turnor and Guy Murphy.

2.0 Sources of Information

The analysis below draws upon site visits and is intended to be read in conjunction with the drawings prepared by Plus Architecture and other documents submitted with respect to the application.

It makes reference to the relevant sections of the *Melbourne Planning Scheme*, notably *Clauses 22.05* and *43.01*, and the Melbourne City Council's *i-Heritage Database* and *Heritage Places Inventory June 2015*. Also referenced is the *West Melbourne Heritage Review* (Graeme Butler and Associates, 2016), along with historical sources including the State Library of Victoria picture collection (online). Several VCAT determinations are also cited within this assessment.

### 3.0 History & Description

In 1970-72 architects Yuncken Freeman designed new offices, known as 'Flagstaff House' to a design inspired by Mies Van Der Rohe on the southern corner of King and Batman Street, opposite Flagstaff Gardens. The firm had previously occupied a Victorian terrace row on the site. Typical of the Yuncken Freeman works led by director Barry Patten, Flagstaff House was characteristic of the Chicago Modern idiom. The building uses a simple ribbed steel cage structural system as its primary architectural expression, with the first floor cantilevering over the recessed ground floor.

Early photographs indicate the integrity of this heritage place remains fair, with some changes to the exterior. It is understood from photographs and consultation with Yuncken Freeman employees of the 1970s that the building was originally painted black, but this finish faded over time, more recently being painted brown. It is understood that the original black glazing of the building has been replaced at some time with dark brown glazing, which has further altered its appearance. Signs have also been added to the building at first floor that detract from its original clean lines and monochrome appearance.



Figure 1 A c.1970 photograph of the newly completed offices of Yuncken Freeman architects showing the steelwork painted black or similarly dark colour. Source: State Library of Victoria.

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Figure 2 (left) The King Street facade, 1970. Source: State Library of Victoria.



Figure 3 (left) The Batman street facade, 1970. Source: State Library of Victoria.



Figure 4 (left) The main stair, 1970. Source: National Library of Australia.



Figure 5 (left) Interior, 1970. Source: State Library of Victoria.

The surrounding urban fabric contains building stock that is mixed in terms of age, style and typology, although tall development is becoming increasingly prevalent. To the immediate south of the subject site, the site at 405 King Street is occupied by a 10 storey office with a broad frontage extending south to Jeffcott Street. St James Old Cathedral stands on the north side of Batman Street directly opposite the subject site. The church site also contains modern administrative offices on its west side fronting onto Batman Street.

West of the subject site, the site at 15-31 Batman Street has approval for a 25 storey apartment building. A medium-rise apartment tower has recently been built at a setback behind the retained heritage factory frontage to 41 Batman Street, within a similarly scaled apartment building also recently completed at 49 Batman Street. Further south, the site on the corner of Spencer and Batman Streets (355-371 Spencer Street, & 83 Batman Street) has approval for high-rise development incorporating lower rise heritage buildings.

More generally, the southern side of Batman Street (as viewed from the north) is seen against a backdrop of high rise buildings that characterise the Melbourne Central Business District.





*Figure 6 The adjoining building to the west at 15-31 Batman Street, Melbourne, a site that has recently had approval for a 25 storey tower development.*



*Figure 7 407-415 King Street, Melbourne as seen from the east side of King Street opposite the intersection with Batman Street, with the adjoining tall and broad built form of 401-405 King Street to the left.*



*Figure 8 View of the north-east corner of the building with the brown external treatment visible and some of the rooftop plant.*



*Figure 9 The north-west corner of 407-415 King Street, with the entry to the adjacent laneway between it and the neighbouring building at 15-31 Batman Street at centre right.*



*Figure 10 View from Batman Street looking south directly down the laneway between the subject site at 407-415 King Street (left) and the adjacent site to the west at 15-31 Batman Street (right).*



*Figure 11 The site to the west at 33-37 Batman Street has received an apartment tower at a setback from the intercar street facade.*





*Figure 12 View along the south side of Batman Street to the south-west, showing the recently constructed apartment tower at 49 Batman Street centre left, next to the former Keep Bros. & Wood factory at 55 Batman Street (centre right).*



*Figure 13 View of St James Old Cathedral from the diagonally opposite side of King Street.*





Figure 14 *St James Close, modern administrative buildings associated with St James Old Cathedral at 2-12 Batman Street.*



Figure 15 *The view cast along Batman Street terminates with the side embankment of the Flagstaff gardens.*



Figure 16 View west along Batman Street from the opposite (east) side of the intersection with King Street. The subject site is visible to the left.

#### 4.0 Significance

Council's *i-Heritage Database* does not currently provide a statement of significance for the site but instead lists the following description of its notable features

*Notable features include elegant Mies Van Der Rohe adaption by Yuncken Freeman architects for own use.*

A more detailed statement of significance was recently prepared as part of the *West Melbourne Heritage Review*. Council are proposing to adopt the following statement of significance and revised grading for the site under Amendment C272:

*What is significant?*

*Titled the Flagstaff House project, a permit for this steel clad, basement and two-level, office building was sought in July 1968 by owners, occupiers and designers, Yuncken Freeman Architects Pty. Ltd.. The proposed building was to replace four Victorian era row houses, then used as the firm's offices, at an estimated cost of \$310,000.*

*As Yuncken Freeman Brothers Griffiths and Simpson Architects, the firm had previously occupied the terrace houses at 411-415 King Street as 'Flagstaff House'. The new building, also Flagstaff House, marked a change in the firm's oeuvre if not the name. Balcombe Griffiths and Roy Simpson were from the five original partners, with descendant John Yuncken, but the new Mesian theme (after Mies van der Rohe of Chicago), that this building expresses so well, came with Barry Patten who joined the firm in c1953. Patten led a team for the prize winning Sidney Myer Music Bowl in 1957, marking a new structure-based design theme. The once large office of Yuncken Freeman Architects Pty. Ltd. no longer exists.*

*The new Flagstaff House is inspired by van der Rohe's Farnsworth House (1951), among others. As a 'skin and bones' (van der Rohe) architectural concept, the design can be seen as a horizontal parallel to the commercial towers of BHP house (1967-1972) and the aluminium clad Eagle House (1971-2).*

*Meticulously planned on an imperial module of 4'10", escape stairs, toilets and plant were in a service strip located along the south side of an open plan office, forming a square of three 27' structural bays per side. The main open stair was centred on the plan within a generous light well, the steel bar balustrades were minimal and the stair flights appeared to float within the space. Suspended ceilings followed the module with recessed low-brightness fluorescent fittings doubling as air distribution within each module; less was more. Upper floors were suspended reinforced concrete.*

*The south side service strip provided the concrete and masonry buttress for a steel and glass box attached on the north, with a cantilevering upper level, allowing column free - section marked the planning model planted on all glazed facades as structural mullions: exposed columns were also universal-sections painted matte black as was the facade. A shallow gabled steel deck clad roof set behind a minimal fascia gave the illusion of a flat roof. Double aluminium-framed entry doors were symmetrically arranged on the King Street elevation, accessed by minimalist stair flights that abutted a rendered podium that catered for the sloping site.*

*When furnished the interior was among the most elegant Modernist office spaces the City had seen, with flush black modular panelling housing adjustable drafting desks, exposed black steel structural frame, grey tufted carpet, white plaster and black walls and suspended ceilings.*

*Contributory elements include:*

- *basement and two upper levels of offices in a rectanguloid form;*
- *no expressed roof;*
- *the counter play of simple geometric rectanguloid forms, as horizontal elements set again a masonry vertical element, with an offset to allow expression of each;*
- *glass and steel modular facade with full-height tinted glazing (floor to ceiling);*
- *imposed 'structure' as steel universal-section mullions on steel plate fascias;*
- *originally an open office plan with modular partitioning (modified);*
- *natural grey podium base;*
- *original black external colour scheme;*
- *floating external open-riser stairs with simple steel bar balustrading as handrails and newels only;*
- *flush plaster soffits with recessed downlights; and*
- *minimal landscaping, paved setting.*

*Sign panels have been added. External doors and furniture changed. Interior layout and furnishing changed (inspection from street only). Glass bricks added facing the rear car park.*

*How is it significant?*

*Flagstaff House, Yuncken Freeman Architects Pty. Ltd. offices is significant historically and aesthetically to West Melbourne, the City of Melbourne and Victoria.*

*Why is it significant?*

*Flagstaff House, Yuncken Freeman Architects Pty. Ltd. offices is significant.*

*Historically, for the close link with the important architectural firm of Yuncken Freeman Architects designed as their own offices, the firm being nationally prominent at that time; and*

*Aesthetically, the most accomplished, early small-scale International Modern office designs in*



*Victoria, serving as a prototype for the design and development of BHP house as well as an advertisement for the firm's design direction; perhaps one of the most faithful of the Mies van der Rohe inspired designs in Victoria, following an internationally applauded design theme.*

The *Heritage Places Inventory June 2015* and the *i-Heritage Database* identify the subject building as being a B grade building in a level 3 streetscape. The *West Melbourne Heritage Review* proposes an A grading in a level 2 streetscape. This is in the context of a building and street grading system defined at *Clause 22.05* as follows:

*'A' Graded Buildings*

*These buildings are of national or state importance, and are irreplaceable parts of Australia's built form heritage. Many will be either already included on or recommended for the Victorian Heritage Register or the Register of the National Estate.*

*'B' Graded Buildings*

*These buildings are of regional or metropolitan significance, and stand as important milestones in the architectural development of the metropolis. Many will be either already included on or recommended for inclusion on the Register of the National Estate.*

*'C' Graded Buildings*

*These buildings demonstrate the historical or social development of the local area and/or make an important aesthetic or scientific contribution. These buildings comprise a variety of styles and buildings types. Architecturally they are substantially intact, but where altered, it is reversible. In some instances, buildings of high individual historic, scientific or social significance may have a greater degree of alteration.*

*'D' Graded Buildings*

*These buildings are representative of the historical, scientific, architectural or social development of the local area. They are often reasonably intact representatives of particular periods, styles or building types. In many instances alterations will be reversible. They may also be altered examples which stand within a group of similar period, style or type or a street which retains much of its original character. Where they stand in a row or street, the collective group will provide a setting which reinforces the value of the individual buildings.*

*'E' Graded Buildings*

*These buildings have generally been substantially altered and stand in relative isolation from other buildings of similar periods. Because of this they are not considered to make an essential contribution to the character of the area, although retention and restoration may still be beneficial.*

*Level 1 Streetscape*

*These streetscapes are collections of buildings outstanding either because they are a particularly well preserved group from a similar period or style, or because they are highly significant buildings in their own right.*

*Level 2 Streetscape*

*These streetscapes are of significance either because they still retain the predominant character and scale of a similar period or style, or because they contain individually significant buildings.*

*Level 3 Streetscape*

*These streetscapes may contain significant buildings, but they will be from diverse periods or styles, and of low individual significance or integrity.*

While the subject building is certainly identifiable of the fine Miesian design typical of the Yuncken Freeman practice, it has in the past been seen to be a somewhat lesser work from this firm relative to more substantial projects and earlier projects – it is certainly less celebrated than other buildings such as the following:

*Myer Music Bowl (1956-59)*  
*State Office Block (1962-70)*  
*Royal Insurance (1967)*  
*Catholic Diocesan Offices, East Melbourne (1969-71)*  
*Eagle Star Insurance (1970-71)*  
*BHP (1967-72).*

The date of the building is identified in the Yuncken Freeman entry in the *Encyclopedia of Australian Architecture* (p 782) as 1971, one year before the more celebrated Toorak-South Yarra Library (1972), although perhaps the two were designed at essentially the same time:

*Key Miesian-inspired works faced in glass and black-painted steel include the Yuncken Freeman offices at 410 (sic) King Street, Melbourne (1971) and the Toorak-South Yarra Library, South Yarra (1972).*

The Toorak-South Yarra Library is subject to an individual heritage overlay under the *Stonnington Planning Scheme*, HO174.

The National Trust classification report for the Toorak-South Yarra Library makes the following comments and comparison in relation to the Library and the King Street offices:

*The firm of Yuncken Freeman began their career with the structurally adventurous Myer Music Bowl of 1957. About a decade later, they began to produce refined commercial buildings (ie State Office Block, Scottish Amicable, Royal Insurance, BHP, all separately classified, and their own offices in King Street of 1967 (sic)). It would seem that the Toorak South Yarra Library was one of their last works in this mode. The King Street office is the most similar, involving black steel and glass detailing, with a first floor cantilevering over the setback ground floor. Located on a corner site, the setback only occurs on the front and side elevations, and the building is flanked by a much larger building to the south. Their offices therefore do not have the advantage of a spacious, open setting, with the result that it does not have the pure form or monumentality of the Library.*

It is understood that the King Street offices originally gained at least some of their architectural interest from their internal detailing and finishes, but there is to date no control over the internal fabric of the building. The interior has not been inspected to verify whether it remains intact or not, although it is understood to

have undergone at least some degree of change, as is noted in the cited passages of the *West Melbourne Heritage Review*.

## 5.0 Heritage Listings and Controls

### *City of Melbourne*

The site at 407-411 King Street is subject to an individual Heritage Overlay, HO842 (listed as 411-415 King Street). The control includes a requirement for permits for external paint colours, but there is no heritage control extended to the interior.

### *Victorian Heritage Register*

The subject site is not included on the *Victorian Heritage Register*.

### *National Trust*

The subject site is not registered by the National Trust.

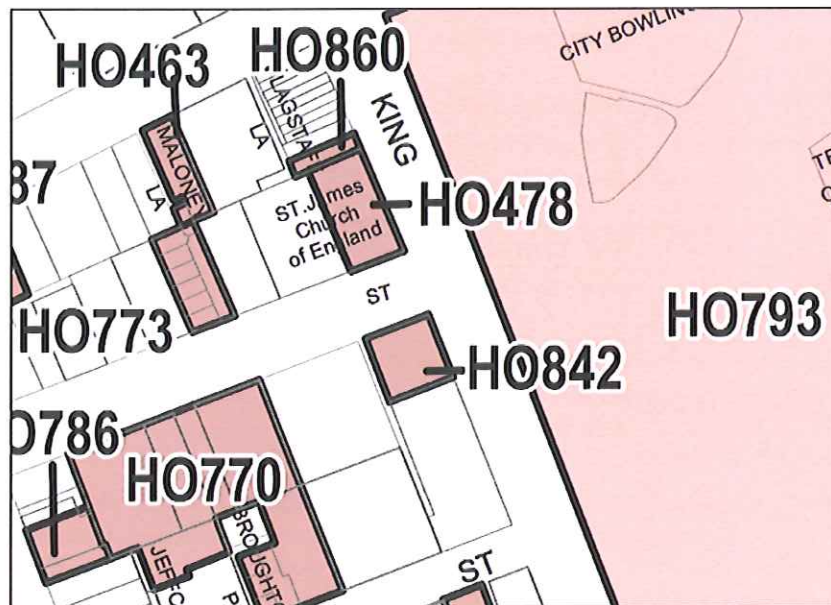


Figure 16 City of Melbourne Heritage Overlay Map showing the subject site, HO842, and other nearby heritage overlays.

## 6.0 Heritage Overlay

As noted, the subject site has an individual heritage overlay control and therefore the proposal should be assessed against the provisions of *Clause 43.01*, the Heritage Overlay. The stated purpose of this overlay is as follows:



- *To implement the State Planning Policy Framework and the Local Planning Policy Framework, including the Municipal Strategic Statement and local planning policies.*
- *To conserve and enhance heritage places of natural or cultural significance.*
- *To conserve and enhance those elements which contribute to the significance of heritage places.*
- *To ensure development does not adversely affect the significance of heritage places.*
- *To conserve specifically identified heritage places by allowing a use that would otherwise be prohibited if this will demonstrably assist with conservation of the significance of heritage places.*

Before deciding on a development application, in addition to the decision guidelines in *Clause 65*, the responsible authority will need to consider the following (as appropriate):

- *The State Planning Policy Framework and the Local Planning Policy Framework, including the Municipal Strategic Statement and local planning policies.*
- *The significance of the heritage place and whether the proposal will adversely affect the natural or cultural significance of the place.*
- *Any applicable heritage study and any applicable conservation policy.*
- *Whether the location, bulk, form or appearance of the proposed building will adversely affect the significance of the heritage place.*
- *Whether the location, bulk, form or appearance of the proposed building is in keeping with the character and appearance of adjacent buildings and the heritage place.*
- *Whether the demolition, removal or external alteration will adversely affect the significance of the heritage place.*
- *Whether the proposed works will adversely affect the significance, character or appearance of the heritage place.*
- *Whether the proposed subdivision will adversely affect the significance of the heritage place.*
- *Whether the proposed subdivision may result in development which will adversely affect the significance, character or appearance of the heritage place.*
- *Whether the proposed sign will adversely affect the significance, character or appearance of the heritage place.*
- *Whether the pruning, lopping or development will adversely affect the health, appearance or significance of the tree.*

The proposal also needs to be reviewed in light of Council's local heritage policy as set out under Clause 22.05, Heritage Places outside the Capital City Zone, which provides more detailed guidelines about development that might be appropriate in Heritage Overlay areas.

#### *Demolition*

*Demolishing or removing original parts of buildings, as well as complete buildings, will not normally be permitted in the case of 'A' and 'B', the front part of 'C' and many 'D' graded buildings. The front part of a building is generally considered to be the front two rooms in depth.*

*Before deciding on an application for demolition of a graded building the responsible authority will consider as appropriate:*

- *The degree of its significance.*
- *The character and appearance of the building or works and its contribution to the architectural, social or historic character and appearance of the streetscape and the area.*
- *Whether the demolition or removal of any part of the building contributes to the long-*

*term conservation of the significant fabric of that building.*

- *Whether the demolition or removal is justified for the development of land or the alteration of, or addition to, a building. A demolition permit should not be granted until the proposed replacement building or works have been approved [...]*

#### *Designing New Buildings and Works or Additions to Existing Buildings*

##### *Form*

*The external shape of a new building, and of an addition to an existing building, should be respectful in a Level 1 or 2 streetscape, or interpretive in a Level 3 streetscape.*

##### *Facade Pattern and Colours*

*The facade pattern and colours of a new building, and of an addition or alteration to an existing building, should be respectful where visible in a Level 1 streetscape, and interpretive elsewhere.*

##### *Materials*

*The surface materials of a new building, and of an addition or alteration to an existing building, should always be respectful.*

##### *Details*

*The details (including verandahs, ornaments, windows and doors, fences, shopfronts and advertisements) of a new building, and of an addition or alteration to an existing building, should preferably be interpretive, that is, a simplified modern interpretation of the historic form rather than a direct reproduction.*

##### *Concealment Of Higher Rear Parts (Including Additions)*

*Higher rear parts of a new building, and of an addition to an existing graded building, should be concealed in a Level 1 streetscape, and partly concealed in a Level 2 and 3 streetscape. Also, additions to outstanding buildings ('A' and 'B' graded buildings anywhere in the municipality) should always be concealed. In most instances, setting back a second-storey addition to a single-storey building, at least 8 metres behind the front facade will achieve concealment. These provisions do not apply to land within Schedule 5 to the Capital City Zone (City North).*

##### *Facade Height and Setback (New Buildings)*

*The facade height and position should not dominate an adjoining outstanding building in any streetscape, or an adjoining contributory building in a Level 1 or 2 streetscape. Generally, this means that the building should neither exceed in height, nor be positioned forward of, the specified adjoining building. Conversely, the height of the facade should not be significantly lower than typical heights in the streetscape. The facade should also not be set back significantly behind typical building lines in the streetscape. These provisions do not apply to land within Schedule 5 to the Capital City Zone (City North).*

##### *Building Height*

*The height of a building should respect the character and scale of adjoining buildings and the streetscape. New buildings or additions within residential areas consisting of predominantly single and two-storey terrace houses should be respectful and interpretive ...*

*[...]*

## 7.0 Design and Development Overlay

The site is also located within a Design and Development Overlay (DDO33), which has a preferred maximum height of 40m and a preferred podium height of 16m, with preferred setbacks above the podium of 6m except to a lane, where 2m is acceptable.

Further to this, DDO33 states that a permit may be granted to vary any Maximum Building Height, Podium Height or Minimum Building Setback listed in the table.

## 8.0 Development Proposal

The development proposal involves the retention of the perimeter external fabric of the modernist office building with demolition of the balance of the fabric and construction of a contemporary styled multi-storey hotel and apartment building retaining.

From a heritage perspective, the proposed works raise two separate issues – firstly, the extent of demolition of the existing structures on the site and, secondly, the appropriateness of the proposed built form of the proposed mixed use tower. These two issues are discussed separately below.

### *Demolition*

It is proposed retain the visible external facades to the east and north and the raised concrete plinth of the existing office building on the site, with demolition of the rear (or west) walls and of the interior and roof. The south wall will be retained but is concealed against the neighbouring building. The raised concrete plinth will be altered to provide appropriate and equal access to the ground floor of the building, as would be required for any adaptive reuse of this building.

As noted, the key elements of policy at Clause 22.05 are as follows:

### *Demolition*

*Demolishing or removing original parts of buildings, as well as complete buildings, will not normally be permitted in the case of 'A' and 'B', the front part of 'C' and many 'D' graded buildings. The front part of a building is generally considered to be the front two rooms in depth.*

*Before deciding on an application for demolition of a graded building the responsible authority will consider as appropriate:*

- *The degree of its significance.*
- *The character and appearance of the building or works and its contribution to the architectural, social or historic character and appearance of the streetscape and the area.*
- *Whether the demolition or removal of any part of the building contributes to the long-term conservation of the significant fabric of that building.*
- *Whether the demolition or removal is justified for the development of land or the*



*alteration of, or addition to, a building. A demolition permit should not be granted until the proposed replacement building or works have been approved [...]*

Although the proposal results in the removal of 'original parts' of this B graded building, the extent of demolition can reasonably be contemplated given it involves fabric that is either not visible from the public realm, or that is secondary in character (ie the west elevation and the interior). The significance of the building derives essentially from its external presentation, most notably the contribution the King and Batman Street facades make to the corner location. Removal of the interior volume is acceptable given there are no internal controls. Removal of the roof will not adversely affect the appearance of the building.

Beyond this, the key consideration is the appropriateness of the proposed additional envelope, the proposed multi-use tower.

*The proposed multi-use tower additions*

It is proposed to construct a multi-storey building on the site, incorporating the retained facades to the modernist office, the latter effectively becoming a low rise podium to the tower. The tower above is massed in the form of two stacked volumes with curved corners, with a recessed level, or 'shadow line', set immediately above the existing facade, and with a cantilevered or projecting structural/sculptural element at level 12 separating the hotel and apartments. The setbacks of the lower levels of the tower relative to the heritage envelope are based on those established in DDO33.

The external elevations will be clad with a combination of steel blades, steel structure and glazing that interpret but do not mimic the character of the heritage fabric that is retained below.

While the heritage policy does not in any appreciable sense countenance the form of development proposed for the subject site, for that matter it does not countenance the 40 metre height limit encouraged by the existing DDO. Accepting the impossibility of concealing such a tower form, even if of a lesser height such as the 40 metres encouraged by the DDO, a number of elements of the current proposal seek to respond to the requirements of the Heritage Overlay.

Notably, the setbacks from the podium edges allow the heritage fabric to retain architectural independence from the tower above. The physical separation between new and old, and the clearly expressed architectural and material differences between new and old, will also enable them to be read as distinct elements rather than competing elements.

In terms of precedents for this form of development, the amended proposal recognises and responds to the significance of the heritage building in a manner that is consistent with a number of recent approvals within and nearby the CBD involving contemporary style towers above retained heritage facades, with varying setbacks (including instances where the tower occupies the 'air space' above the

heritage building). While the heritage policy settings vary depending on whether one is within the CBD or not, the key heritage considerations with regard to Clause 43.01 remain constant.

A noted approval of this kind was for a site at 1 Queen Street (VCAT Ref. No. P476/2015). The approved development is for a 23 storey tower, retaining and in part reinstating the facades of a Victorian era building with an individual heritage overlay control (HO1037). The lower levels of the tower are setback 7.0 metres from the Queen Street frontage and approximately 4.0 metres from Flinders Street frontage. The Tribunal provide useful commentary on setbacks and extent of demolition:

- *The visual relationship between the new building, as it rises above the restored facades of the existing building is of heritage importance. It is accepted by all parties that the new building elements should not so overwhelm or distract from the existing building that a passer-by cannot understand the three-dimensional character of the original heritage building.*
- *Both Council and the applicant accept that within the central city area very large extensions, commensurate with the high-rise character of the city, are an acceptable approach to the adaptation of heritage buildings to the needs of the present day. Indeed, Melbourne now has a significant number of examples of heritage buildings which have been adapted in this way, as have other Australian cities and similar cities within the western world.*
- *Setbacks between the old and new elements of buildings adapted in this way are an important device to reduce the extent to which these very large extensions overwhelm or distract from the heritage building. As a consequence of various architectural devices employed in the design of the proposed building, the setbacks of building elements in the new building, to the facade of the old building is highly diverse ...*
- *... it is possible for there to be expert disagreement in relation to the application of planning policy, and in the exercise of judgements in relation to heritage or urban design impacts, in the task of arriving at an appropriate set of setback relationships to ensure that an extension neither overwhelms nor distracts. On balance we are of the opinion that the montages prepared in support of the application demonstrate the setbacks proposed in the application are sufficient to enable an observer to understand the three-dimensional past of the heritage building. In this case, this three-dimensional understanding is facilitated by the fact that this building has frontages to three streets and as a consequence the existing building is understood by an observer to extend around all three visible faces of the new building.*
- *Moreover, we are of the view that because the existing building can be understood as a three dimensional object, it is unlikely that the proposed building will distract from a heritage understanding of the old, provided that the architecture of the transition, the tower and the cap is appropriately handled.*

A comparable development currently proposed at 111-125 A'Beckett Street recently received support from the Future Melbourne Committee (TP-2-15-30). The existing building on this site has an individual heritage overlay control (HO994) and is graded B. It is to be retained only to the extent of the facade and the first bay of the eastern laneway elevation, with the remaining bays to this elevation reconstructed (after the tower has been constructed). It is proposed that a 64- storey residential tower be constructed behind the retained heritage facade at broadly comparable setbacks to that proposed for the subject site.

Further to this, the character of the present proposal is part of a broader shift to forms of development in other parts of Australia and elsewhere where historic



buildings are used as a podium treatment to substantial development above. Other approvals along similar lines include 17-23 Wills Street (VCAT Reference No. P527/2013) and the Celtic Club, 316-320 Queen Street. The heritage buildings on those sites are retained to comparable or even lesser extent than the building upon the subject site, and also have towers of considerable scale occupying the air space over the heritage buildings.

Of relevance also, particularly in terms of sites outside the CBD, is the determination of the VCAT in relation to 205-223 Pelham Street (*P1595 2014 Vaughan Constructions Pty Ltd v Melbourne CC & Ors*), a proposal for a twelve storey tower redevelopment of a C grade industrial building that was also assessed against heritage policy at *Clause 22.05*. This decision provided the following commentary on development of this kind and facadism:

- 27 *The heritage issue here is the relationship between the retained facade of the building and the new tower element. Specifically, should there be greater setbacks above the retained element and should there be a reduction on the overall height of the building?*
- 28 *Putting aside the tension created between the proposed Heritage Overlay and the proposed DDO61 which contemplates a 32 metre height for new development, this building is a 'C' graded building in a Level 3 streetscape. It is agreed that it is worthy of some level of retention, but to what extent is debatable.*
- 29 *We are not persuaded that the roof of the existing building should be retained and the tower element further set back. Mr Beeston provided some photographs of examples of buildings where it appeared the roof of buildings had been retained and taller elements set back behind the retained roof. However, the successfulness of such outcomes was questionable and Mr Beeston was unable to provide full details of each photograph, such as the heritage grading of the buildings and the extent of new and existing development. We have not found the photographs particularly useful to our assessment. Further, we were not provided with any evidence suggesting the existing roof, as an individual element of the subject building, is notable from a heritage perspective.*
- 30 *What we consider is important is that the facade of the industrial building remains legible. The setback of the proposed development at Levels 2 and 3 ensures that this will be achieved. The building then cantilevers over these lower levels. We are persuaded by Mr Raworth that the key contribution the building makes to the public realm is through its street elevations and these will be retained and restored. This contribution will not be unreasonably compromised by the proposal.*
- 31 *We are persuaded by the Applicant and by the evidence of Mr Raworth, that given the heritage status of the building and the context of competing planning policies, the proposed siting and design of the tower is appropriate.*
- 32 *In the context that Amendment C198 is not considered a seriously entertained planning proposal and the debate of whether to apply Clause 22.04 or Clause 22.05, we give consideration to the objective of Clause 43.01 which states:  
*To ensure that development does not adversely affect the significance of heritage places.**
- 33 *We consider that the proposed tower is appropriate given the potential grading of the building and of the streetscape. We have concluded that the proposed works do not adversely affect the significance of the building.*

While this decision related to a site containing an industrial building, graded C, the issues are very similar. The key contribution the modernist office building makes to the public realm is through its street facades, and these are being retained in the new development.



The DDO for the site and its area encourages taller built form, and such an outcome seems appropriate also in terms of the corner location and prominence of the site. There are numerous approvals for tall buildings in the immediate context of the site, including the adjacent site on Batman Street and the recent approvals for 386-390 Spencer Street and the Bennelong development at 371 Spencer Street & 83-113 Batman Street.

The tension that exists between development of scale proposed by a DDO and the application of *Clause 22.05* for sites outside the CBD was a matter commented upon at length in the Panel Report for Amendment C198 at Section 4.9 and elsewhere (pp 40-41):

*The Panel acknowledges that Clause 22.05 currently applies to the bulk of the City North area – in fact in areas where tall buildings exist and where Design and Development Overlay controls which facilitate tall buildings have been in place for some time. Decision makers clearly use the provisions of Clause 22.05 in this built form context, and presumably ignore the requirements for concealment of additions when assessing heritage buildings. The Panel questions the point of having provisions in a policy if they are simply to be ignored because they do not fit the site context. Although this might be a practical approach at the permit stage, it is not good practice when implementing new strategic directions.*

*The Panel does not accept the argument that the Heritage Overlay should not be applied to certain properties because the objectives of the Overlay, namely ‘to conserve and enhance heritage places of natural or cultural significance’, and ‘to ensure that development does not adversely affect the significance of heritage places’, will be contrary to achieving other planning objectives in the City North area. There are many examples of where heritage buildings have been retained and have accommodated significant development around them.*

*However the Panel agrees with Mr Pitt, Mr Cicero and Mr Chiappi that it is up to this Panel to make recommendations to resolve the policy tension. It accepts that Council has concerns in relation to low rise transition areas of City North. The Panel recognises the Mixed Use Zone area in North Melbourne behind the Flemington Road spine as an example. The Panel also finds however, that the heritage management policy Clause 22.05 proposed by C198 in so far as its policy statements on Concealment of Higher Rear Parts (including Details), Facade Height and Setback (New Buildings) and ‘Buildings Height’ clearly contradict the Design and Development Overlay and therefore recommends that these aspects of the Policy should not apply in the City North area. Alternatively, the Panel agrees that Ms Heggen’s suggestion to apply Clause 22.04 to the CCZ area in City North as well as the DDO61A1 – The Haymarket would provide an interim solution until Council has completed the review of its heritage policies. The Panel therefore recommends that the provisions of Clause 22.04, or alternatively Clause 22.05 be amended in this way as an interim position. In addition, following the adoption of the Amendment, the Council prepare a heritage policy for the City North area which reflects the Structure Plan’s aim to integrate the area’s heritage into urban renewal in the City North area.*

The Panel made recommendations to the effect that Council should amend the provisions of *Clause 22.04*, ie the CBD heritage policy, so that they apply to the City North area in place of *Clause 22.05*, or else prepare some form of an alternative heritage policy for the City North area. These amendments have been made to *Clause 22.05*, as cited in the policy quoted above.

More broadly, while the development will constitute a major change to the setting of the retained office exterior, it is already seen against an existing background of high rise built form, to the south. The intersection of King and Batman Streets is already dominated by high rise development, with more nearby construction of

this scale likely to occur in the future. This circumstance can be contrasted with the original low rise setting of the site as seen in Figure 1 above.

One aspect of the scheme that may require further analysis and development is the manner in which internal walls for the first floor meet the external glazing of the building. It is not clear that this has been achieved in an appropriate manner in the present iteration of the scheme.

It will also be appropriate to develop a scheme of external conservation works that enable the restoration of the original black appearance of the building, as opposed to its current brown colouring.

In conclusion, the proposed development scheme for this site is sufficiently respectful of the existing heritage building. The new building represents a carefully considered and interpretive response to the retained modernist external envelope and its corner site. While resulting in an appreciable shift in scale and a contrast in character, the outcome can reasonably be considered having regard for the balance of heritage and DDO (urban design) considerations on this site.