

13 February 2019



Mr Steven Avery
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File No: B6873

Dear Mr Avery,

Re: Objection to Permit Application P30209 to redevelop part Federation Square (PROV H2390)

1.0 Introduction

Thank you for the opportunity to respond to the above permit application. The National Trust of Australia (Victoria) (National Trust) is the state's largest community-based heritage advocacy organisation actively working towards conserving and protecting our heritage for future generations to enjoy, representing approximately 16,000 members across Victoria. As Victoria's premier heritage and conservation organisation, the National Trust has an interest in ensuring that a wide range of natural, cultural, social and Indigenous heritage values are protected and respected, contributing to strong, vibrant and prosperous communities.

The National Trust maintains a Heritage Register of Significant Places, including buildings, landscapes, gardens, trees, and public art. Federation Square was added to the National Trust Heritage Register in July 2018, and nominated to the Victorian Heritage Register in the same month. Following the National Trust's nomination of Federation Square to the Victorian Heritage Register, the Executive Director has recommended inclusion in the Register, and a Heritage Council Registration Hearing has been scheduled for April.

We note that Fed Square Pty Ltd (FSPL) accepts that Federation Square has heritage value to the state of Victoria, and does not object to its inclusion in the Victorian Heritage Register. It is therefore of great concern that this application has been submitted prior to the resolution of the heritage registration, as the granting of a permit to demolish part of the Square would have a significant impact on the site's heritage values, and therefore on the Heritage Council's determination of those values.

It is also highly problematic to assess a permit application for a place, particularly one so complex, which does not have a formally adopted Statement of Significance. This subverts the process of good heritage practice, as outlined in the *Australia ICOMOS Charter for Places of Cultural Significance, 2013* (the Burra Charter), which states the management of a heritage place should be informed by an understanding and analysis of its significance. The Heritage

Impact Statement prepared by Urbis (HIS) identifies the Yarra building as having “moderate heritage significance with respect to aesthetic criterion”, however this is not qualified by an analysis of the building’s values in relation to the other components of the Square. In Urbis’s analysis of significance on p16 of the HIS, it is noted that the statements of significance prepared by the National Trust and the Executive Director do not include “a discrete detailed analysis of the heritage significance as an individual element, nor of the considerations relevant to any alterations to Federation Square as necessary over time to accommodate change”. Arguably, the statements of significance do not reflect the complexity of the place because they have not been resolved through the registration process or examined further through the preparation of a Conservation Management Plan.

It is also problematic that the plans provided with the application are not fully resolved or detailed, which is noted on piii of the HIS. In FSPL’s response to the Executive Director’s Request for Information dated 24 January 2019, it is also noted that that neither the plans nor the physical model being made available to Heritage Victoria incorporate the modifications required by the Minister for Planning detailed in correspondence dated 30 September 2018, and that a digital model has not been prepared. We note that the Minister’s correspondence has not been made available as part of the current application, and we understand these changes are not reflected in the Book of Plans provided with the application. This lack of detail is unacceptable for a permit application which contemplates a major change to any heritage place, let alone one of Melbourne’s most prominent attractions and our premier civic space.

We nevertheless recognise that the Executive Director’s is required to consider the permit application under the *Heritage Act 2017*, including the following provisions under Section 101:

(a) the extent to which the application, if approved, would affect the cultural heritage significance of the registered place or registered object;

(b) the extent to which the application, if refused, would affect the reasonable or economic use of the registered place or registered object;

In our submission below, we will address these provisions in turn, with reference to the permit documentation including the HIS.

2.0 The Extent to which the application would affect the cultural heritage significance of Federation Square

The following discussion examines the impact of the proposal in relation to relevant criteria outlined in the “Recommendation of the Executive Director and assessment of cultural heritage significance under Part 3, Division 3 of the *Heritage Act 2017*”, dated 11 October 2018 (the Recommendation Report).

2.2 CRITERION D: Importance in demonstrating the principal characteristics of a class of cultural places and objects.

In his statement provided at Appendix A of the HIS, Professor Donald Bates says that the purpose of the Yarra Building was to provide “containment and sense of focus” for the civic plaza. The “Design Principles for the Apple Store” agreed to by the Steering Committee on 7 February 2018, outlined at pp20–21 of the HIS, also express a requirement to “balance an appropriate level of containment and activation to the southern edge of Fed Square’s plaza”. Based on the application however, we have concerns that the proposed building does not provide a level of containment which will maintain the identity and function of the place as a public square.

The proposed building is lower in height than the existing Yarra Building, and compared to the other main buildings in the Square. The Heritage Impact Statement (p32) states that the reduced height ensures that “the building does not compete with the existing buildings designed in the Deconstructivist style”. We argue that the proposed building visually competes with the surrounding buildings because the design contrasts with the established architectural language of the Square, a factor which cannot be mitigated by a reduction in height. Rather, the reduction in height has a visual impact on the containment of the Square and changes the relationship between the buildings which define it.

We are also concerned that the transparency of the ground floor will impact on the containment of the Square. We note that no renders or photomontages have been provided which show key views looking towards the proposed building from inside the Square, making it difficult to assess the visual impact of the new building. However, the design intent statement by Foster + Partners outlined at pp22–23 of the HIS includes an emphasis on the “floating appearance of the upper volume”, with glazing “achieving full transparency and allowing views through to the river and landscape beyond”. We submit that the proposal would have an unacceptable impact on the framing and containment of the public square, which is defined by the buildings surrounding it.

2.3 CRITERION E: Importance in exhibiting particular aesthetic characteristics.

2.3.1 Evaluation of proposal against design logic of Federation Square

The HIS contends that “the Yarra Building does not share the high level of design resolution of other buildings within Federation Square” (pi) yet does not provide analysis to support this claim. The HIS notes that the “Yarra Building shares some of the design qualities, language and materials of other buildings within the Federation Square, notably recognisable by the geometric fractal facade cladding”. In his statement at Appendix G, architect Roger Poole elaborates further, stating that “The materiality and detailing of the building are typical of the remaining Federation Square. There is no remarkable or distinct design feature which is pivotal to the experience of the Square”.

We argue that this lack of individual distinction speaks to the role of the Yarra Building as a part of an integrated campus of buildings which shares design qualities, architectural language, and materials, recognised in the Executive Director’s Recommendation Report as contributing to the heritage significance of the place.

By comparison, the proposed Apple store is architecturally distinct from the rest of the Square. The HIS later argues that the proposed Apple store will provide “greater diversity” within the square (p27), arguing that “successfully designed squares generally have a diversity of buildings around a public gathering space. The proposed AGFB will provide a richer variety of architectural forms”. We argue that a richer variety of architectural forms is not necessarily appropriate at this site, and this statement has not been qualified by an analysis against the values of the Square or supported by evidence.

In his statement presented in support of the proposal at Appendix A of the HIS, Professor Donald Bates states that “because of the particular design logic that underwrote the winning and implemented design, it is necessary to take into account a more fluid, more provisional genesis for the design, one that is not open to all possible interpretations, nor is it a design that is fixed and locked into a formal embodiment.” We agree that change can be necessary and desirable at heritage places, and we do not object to change at Federation Square. However, the statement provided with this application does not provide clear principles which facilitate the evaluation of the current proposal against the logic of the design.

This view also appears to be at odds with project architect Peter Davidson’s statement in 2003, cited by the Executive Director in the discussion of Criterion A in the Recommendation Report (p9), that “the idea of a federated system is ... at the heart of the entire project. It’s about independent entities that come together to form a larger whole. Something that centres around coherence and differences. Differences about individual entities, coherence about the whole they form.” As one of the co-authors of Federation Square, we question whether Peter Davidson has been consulted as part of the current proposal, and if so, what his views are?

Regarding the current permit application, we do not believe the documentation provides a robust analysis of the original design logic, its relationship to the place’s heritage values, and how it is impacted by the current proposal. In the absence of clear principles to guide change, we therefore call on the Executive Director to refuse the permit application.

2.3.2 Materiality

It is unclear how the materiality of the proposed building relates to the other buildings in the Square, or to the design for the Melbourne Metro station entrance which was approved by the Executive Director in 2018. No palette of materials has been provided as part of the application, and materials are not detailed in the Book of Plans.

The Foster + Partners design statement included at Appendix F of the HIS refers to the “sandstone clad core” on the East Façade. It should be noted that in our submission to Heritage Victoria regarding the Melbourne Metro station entrance, dated 12 September 2018, the National Trust objected to the proposed use of sandstone as cladding on the lift structure, arguing that the use of sandstone for this element would detract from the aesthetic significance of the Kimberley sandstone used in the Square.

The absence of detail regarding materiality, and the lack of consistency between the two projects, highlights the lack of an overarching masterplan or Conservation Management Plan to guide change, and we believe that the cumulative impacts of the Melbourne Metro and Apple projects on the Square would be unacceptable.

2.3.3 Lighting

No information has been provided about lighting, including for signage and landscaping, or how the building will appear at night in relation to the Square and other buildings. Given that there are many programs and events which take place in Federation Square at night, it is vital to understand how the proposed building and landscaping fits in with the rest of the Square at different times of day, and whether the Apple store would have increased prominence in the square at night due to illumination of the building or signage. Given the transparency of the ground floor, it is likely that illumination would give the building undue visual prominence in the Square.

The advertised plans do not make provisions for the catenary lighting system which is currently suspended above the Square and connects its surrounding buildings. We note that the catenary lighting system is specifically referenced in the Executive Director's Recommendation report (p28) and was included in the design requirements agreed to by the Steering Committee, referenced at p21 of the HIS, which requires that it "must be appropriately integrated with the new building".

The render on p70 of the Book of Plans shows the catenary lighting system connecting from the Alfred Deakin Building to the ground, and it has not been demonstrated if or how the lighting is proposed to be connected to the Apple store. Should the catenary lighting system not be connected to the new building, this would be an adverse heritage impact.

Given the proximity of the site to the Melbourne Observatory, regard should also be given to the Australian Standard AS4282 on "The Control of the Obtrusive Effects of Outdoor Lighting", October 1997, which provides guidelines for planning authorities to ameliorate the effects of light pollution in the vicinity of observatories.

2.3.2 Landscaping

We are concerned that the proposed impact on the existing topography and landscaping has not been adequately assessed against Federation Square's heritage values. The proposed tiered landscaping descending toward Princes Walk is a break with the current sense of containment of Federation Square as articulated in Section 2.2 above.

Any proposal for tree removal or landscape changes, especially for a place currently being considered for inclusion in the Victorian Heritage Register, should be accompanied by detailed plans for tree and landscaping reinstatement. The Oculus Landscape Report dated 17 July 2018 lacks any substantial detail regarding the proposed landscaping to the south of Federation Square. There is no definite selection of plant species, only proposed species for trees. It is not clearly evidenced in the documentation that the tree selection or grass species meets the City of Melbourne's requirements for planting in the public realm.

There is no contour plan of the site showing current and proposed conditions, or locations of plantings. It is unclear from the proposal whether the proposed species have been chosen for their ability to grow in this heavily shaded area, or for the soil and other climatic conditions. We also disagree with the characterisation made by James Edwards of Foster + Partners in the Design Statement for the landscape proposal, quoted in the HIS (p 23), that the new landscaped area will constitute an "arboretum".

It is also unclear whether the small garden beds and associated plantings to the west of the Yarra Building will be impacted by the works, or whether this impact has been assessed.

The four London plane trees (*Platanus X acerifolia*) lining the southern boundary of the Yarra Building make a significant contribution to the precinct. They are visible in key views from the south side of the Yarra River, from Princes Bridge, from Princes Walk and from views approaching the Yarra Building from the north. They also have a presence within the built form of the Yarra Building, particularly from the balcony on the south side of the building, which sits directly below the canopy.

We agree with the Arboricultural Assessment in Appendix B of the HIS that these trees are “well established in the landscape” and provide a “functional role in the landscape of screening of the adjacent building” (p3). We would also agree that they are “features of the landscape” (p3). We note that the Arboricultural Assessment does not give a Useful Life Expectancy (ULE) for these trees, nor an estimate of their age. We would expect that an ULE be reported on for any tree proposed for removal, and estimate that the trees would have an ULE of 20-30 years at least, if well maintained. This is based on similar sized London plane trees on St Kilda Road, which the City of Melbourne give a ULE of 21-30 years.

Advice provided by the National Trust’s Expert Significant Tree Committee indicates that these trees may be 40 to 60 years old. Archival images indicate that there have historically been tree plantings in this location, along the former Batman Avenue, some of which were removed as part of the Federation Square works. The oldest of these trees known to remain are the Elms further east of Federation Square. There are a number of historical photographs of the area which demonstrate the landscaping of this area from the 1920s to the 1980s, documented at Appendix 1. Trees appear in this location in photographs dating to 1926, and planting in this area may have been part of post-World War I works which occurred along the Yarra River, at Como Park, Yarra Boulevard, Burnley, and Ivanhoe. It is likely that the current London plane trees are replacements, potentially dating to c1940. We highlight that formal tree planting in this location has been a feature of the landscape for the last 100 years, which should be taken into consideration in assessing the impact of the works.

In proposing the removal of these trees, we would expect further research to be undertaken to demonstrate an approximate date that the London plane trees were planted and a consideration of any historical connection they have to the landscaping of Federation Square, Princes Walk, the Yarra River and the former Batman Avenue. They certainly pre-date the construction of Federation Square, and therefore form a physical link to the former landscaping and condition of the site.

The loss of these four London Plane tree at this location would have a substantial impact, beyond the historical connections made above, and we object to their removal as part of the current proposal. They form a visual demarcation of the Square on the south side of the site and are the only trees retained on the Federation Square site prior to its development. They are the largest set of trees throughout the whole site, providing the amenity benefits of shade, and increased permeability during rain. They also define key views of the Square, softening the line of built form when viewed from the south side of the Yarra River, and

screening the Yarra Building. Should these trees be removed in line with the proposed landscape works, the proposed Apple store would dominate views of Federation Square from the south, detracting from its established architectural character. It would take at least 20 years to get the amenity benefits of any new canopy trees planted in this location, perhaps longer considering the substantial amount of shading the area receives. It is likely that loss would be felt by pedestrians using the Princes Walk at this location, particularly during summer months.

2.5 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 people as part of their continuing and developing cultural traditions.

The National Trust strongly supports the Executive Director's assertion in his Recommendation Report that there is a strong and special association between Federation Square and the Victorian community.

However, we note that no public consultation has been undertaken to inform the current proposal, apart from the current 14-day statutory time period required under the *Heritage Act 2017*. Indeed, there is strong evidence that the proposal would have a substantial adverse impact on the social significance of Federation Square, as evidenced by:

- Three online petitions¹ with more than 100,000 signatories opposing the proposal to replace the Yarra building with an Apple Global Flagship Store;
- More than 750 submissions supporting the inclusion of Federation Square in the Victorian Heritage Register
- Approximately 2,500 submissions (at the time of writing) opposing the current permit application, a record number of objections to a Heritage Victoria permit application.

We believe this proposal would fundamentally change the mix of commercial and cultural uses at the Square and make Apple's corporate brand identity a key element of the public square, forming a backdrop to public events. We do not believe these impacts have been assessed as part of the current proposal.

In the discussion of social significance in the HIS (p28), Urbis states that the proposed Apple store "will be an internationally inspired community and innovation hub that will enhance Melbourne's inclusiveness, connections and conversations." The HIS further states that "Apple aims to create a gathering place for the community, which reaffirms the original intent and aspiration of Federation Square". The HIS then outlines Apple's "Today at Apple" program, which will be offered for free at Federation Square.

We strongly object to the assertion that this proposed programming creates an inclusive place of gathering for the community in line with the objectives of Federation Square's Civic

¹ <https://www.change.org/p/victorian-premier-daniel-andrews-stop-the-apple-store-planned-for-federation-square>; <https://www.change.org/p/daniel-andrews-no-apple-store-store-at-federation-square>; <https://www.change.org/p/daniel-andrews-save-federation-square-s-yarra-building> (accessed 12 February 2019)

and Cultural Charter.² It is our understanding that participation in Apple’s programming is dependent on participants having an “Apple ID” (account with Apple), and that their programs exclusively relate to the use of Apple products. This may appeal to some visitors but cannot be said to be an inclusive “gathering place for the community”, or mitigate the heritage impacts being contemplated.

In assessing Criterion G in the Recommendation Report, the Executive Director has found that the cultural institutions and their communities currently located at Federation Square form part of the social significance of the place (pp16-17). It is unclear to what extent the cultural tenants of Federation Square and their communities have been consulted regarding the proposal.

3.0 The extent to which the application would affect the reasonable or economic use of Federation Square

3.1 Reasonable Use

The National Trust acknowledges that the Yarra Building, previously referred to as the “South Commercial Building” during the planning phase of the project, is intended to have a commercial use. We therefore agree that a retail use is a “reasonable use” for the subject site.

However, we would also argue that the proposed Apple store is not simply a retail use, but a brand activation, which is embodied in the fabric of the proposed building. While there are several cultural and commercial tenancies across Federation Square, the branding of those tenancies is clearly subservient to the unified architectural character of the site. The architecture of Federation Square itself has developed a strong brand identity. However construction of a bespoke, purpose-built retail store is at odds with this established character, and the proposed building is essentially the physical embodiment of the Apple brand. This is confirmed by the Design Statement by Foster + Partners at Appendix F of the HIS, which states “our design approach merges with the Apple requirements and expectations in a seamless collaboration to produce buildings unique to their location **whilst accommodating the hallmarks of the Apple Brand**” [our emphasis].

We do not agree that the “reasonable use” of the site for a retail operation extends to the demolition of the existing building and construction of a new building for retail and brand activation purposes. As outlined in the permit documentation, the proposed Apple store is at odds with the established character of the Yarra building, and its place in the square.

We do not consider that the reasonable use of the place would be affected if the permit is refused based on the “requirements” for building put forward by Apple. We submit that Apple’s brief expresses preferences, rather than requirements, and that the need for demolition has not been justified. We note that alternatives including restructuring and a redesign of the building services were canvassed, but “it was decided that there would be too great an impact on the existing building and a new structure would better meet the

² Federation Square Civic and Cultural Charter, <https://s3-ap-southeast-2.amazonaws.com/assets-fedsquare/uploads/2014/12/Civic-and-Cultural-Charter1.pdf> (accessed 12 February 2019)

requirements” (HIS Appendix F). Yet there can be no greater impact on the building than full demolition.

By comparison, we refer to the permit application by Rail Projects Victoria to demolish the former “Western Shard” and construct a new station entrance as part of the Melbourne Metro Rail project, a project which will arguably benefit millions of Victorians each year. At the pre-application stage, the National Trust strongly advocated for the adaptive re-use of the building, however were advised that there were functional requirements relating to construction and passenger circulation which necessitated the demolition of the building. In granting the permit for these works, the Executive Director arguably acknowledged that the refusal of the permit would affect the reasonable use of the place, and that the heritage impacts associated with the proposal could be mitigated through conditions.

In contrast, we do not believe that the destruction of part of a heritage place in order to provide a bespoke building for a tenant holding a 21-year lease is a reasonable use of the place. Arguably, the construction of a new building for a tenant with a 21-year lease is not an acceptable long-term solution to issues of viability and does not provide adequate justification for the demolition of a building being considered for inclusion in the Victorian Heritage Register. We note that there is no discussion in the application about how Apple intends to use the building in the long-term, the building’s potential to support flexible uses, or how the building will be able to be repurposed following Apple’s departure from the site.

3.2 Economic Use

The National Trust does not believe that the Economic Analysis Summary provided with the application demonstrates that the refusal of a permit application would affect the reasonable or economic use of Federation Square. We note that under the *Heritage Act*, the Executive Director must consider the extent to which refusal would affect the reasonable or economic use of the place, along with several other considerations, including the impact on the heritage values of the place, however no guidance is provided in the Act about how these considerations should be weighted. It is our position that FSPL has not been able to demonstrate that the proposed works are the only viable option to ensure the financial security of the Square in the long term, and we submit that any projected financial benefits are far outweighed by the negative heritage impacts the proposal would have on the Square.

3.2.1 Financial Assumptions

In the Economic Analysis Summary, Urbis’s projection of FSPL’s Net Operating Position (Table 4, page 10), factors in an average annual growth rate in transaction income of 1.3%. This is the figure they report for growth in FSPL trading income for the 13 years to 2018. However, Table 2 on page 9 shows that between 2012 and 2018, FSPL’s trading income grew at more than twice this rate at 3.2% per annum.

Urbis does not explain why the low 2005 to 2018 growth rate was used in its base case projection rather than the higher 2012 to 2018 growth rate. Arguably, the latter is more relevant as it relates to contemporary trading conditions and prospects.

If 3.2% is substituted for 1.3% growth rate in the Urbis cash flow projection, the outcome in 2028 for net operating position would be a positive \$2.98 million versus Urbis's negative \$3.86 million in 2028. Factoring in the 3.2% average annual growth rate for income would provide a net cash flow over the 2019 to 2028 period with a NPV of negative \$5.8 million (using a 7% discount rate) versus Urbis's negative \$27 million. Arguably, Urbis grossly overstates the prospective financial losses for FSPL under the continuing current configuration of Federation Square.

3.2.2 Alternatives Not Explored

Urbis's analysis has not proven that demolition and redevelopment of the Yarra building is essential for the financial health of FSPL. In fact, it demonstrates that with extremely strong visitation at 10 million patrons per year, there should be many options which FSPL could pursue to improve revenue generation, including changing the tenancy mix in the Yarra Building and curating an events program around this building and its tenants. No evidence has been provided that alternatives to the current proposal have been meaningfully explored.

The proposal also highlights a need for the Victorian Government and FSPL to reassess the business model of Federation Square, with a view to providing recurrent government funding for capital expenditure and to sustain the cultural activities of the square. The social and economic value of the Square to the state should be thoroughly assessed, and taken into account in the funding and management of the place, such as the work undertaken by Deloitte to quantify the value of the Sydney Opera House.³

While FSPL have put forward a worst-case position of a \$45m burden on the public purse over 10 years, there is no evidence to demonstrate that an investment of \$45m in the Square is not warranted based on its public benefit. This figure also pales in comparison to the hundreds of millions of dollars spent to construct the Square. The original cost of designing and constructing the Yarra Building has also not been considered. We also note the government's recent commitment to fund other works in the Square, including \$31.6m in the 2018-19 budget for an upgrade to the Australian Centre for the Moving Image.⁴

3.2.3 Adverse Effects Not Considered

The Urbis analysis does not consider the negative effects that may result from the rebranding of Federation Square in line with Apple's corporate objectives. Visitation may suffer due to the loss of cultural cache, and other spaces in Federation Square may see a reduction in rent potential consequently.

Since opening in 2002, Federation Square has become a strong brand, particularly with respect to the unique geometry of the architecture. Examples of this brand influence can be seen in the livery of PTV trams, and the logo of the City of Melbourne. The documentation provided with the application does not provide any analysis of this brand value, or adverse impacts which may arise from the introduction of a corporate brand activation in the space.

³ Deloitte Access Economics, *Revaluing Our Icon – Midpoint in Sydney Opera House's Decade of Renewal*, 2018, https://www.sydneyoperahouse.com/content/dam/pdfs/deloitte/Deloitte%20Report_Revaluing%20Our%20Icon%202018.pdf (accessed 12 February 2019)

⁴ <https://architectureau.com/articles/fed-square-building-to-be-redeveloped/> (accessed 12 February 2019)

The incorporation of Apple's branding into the built form of Square also ties Federation Square and its brand to Apple's success as a company, which will inevitably change over time, along with its products and branding strategies.

4.0 Conclusion

In conclusion, the National Trust of Australia (Victoria) strongly objects to the current permit application for the demolition of the Yarra Building and construction of an Apple Global Flagship Store at Federation Square. We believe the proposal would have an unreasonable negative impact on the heritage values of Federation Square, and do not believe that the economic case provides adequate justification for these impacts. We do not believe that these impacts can be adequately mitigated through permit conditions, and therefore call on the Executive Director to reject the application.

Yours Sincerely,

A handwritten signature in black ink, appearing to read 'F Watson', with a long horizontal flourish extending to the right.

Felicity Watson,
Advocacy Manager
National Trust of Australia (Victoria)