

7 June 2024



Referrals Gateway
Department of Climate Change, Energy, the Environment and Water

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East Melbourne
VIC 3002

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Re: 2024/09860 Queen Victoria Market Southern Development project

Dear Sir/Madam,

Thank you for the opportunity to respond to the above referral under section 74(3) of the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act).

We write on behalf the Australian Council of National Trusts, and the National Trust of Australia (Victoria) (National Trust) in submission to the Queen Victoria Market (QVM) Southern Development project proposal, for works to replace the existing at-grade carpark with a new open public space (Market Square), works to the Franklin Street Stores, redevelopment of land abutting on the southern and part of the eastern boundaries of the QVM for three towers (T1, T2, T3) and a low rise civic building (Queens Corner Building).

1.0 Summary of National Trust Position

The National Trust believes that the proposal constitutes a “controlled action” under the EPBC Act, and warrants a full assessment under the relevant provisions of the Act.

The National Trusts of Australia (Australian Council of National Trusts) is the national body representing each state and territory National Trust. It is the peak heritage body in Australia responsible for advocating for better heritage funding and heritage policy outcomes for the Australian people.

The National Trust of Australia (Victoria) is the state’s largest community-based heritage advocacy organisation actively working towards conserving and protecting our heritage for future generations to enjoy, representing more than 60,000 members and supporters 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 recognises the national significance of the Queen Victoria Market (QVM) as one of the great nineteenth century markets of Victoria, which has been in continuous operation since the 1870s and is the only Melbourne market to survive from a group of important central markets built by the City of Melbourne Corporation. The National Trust in Victoria classified QVM at the national level of significance in 2000 (B2282) and supported its inclusion on the National Heritage List in 2017.

We also recognise the social significance of the QVM as a record of change and continuity in market activity over a long period and as an important shopping, leisure and meeting place for generations of Victorians and visitors from interstate. The complex of enclosed food halls, open sheds, shops, and stores perpetuates distinctive forms of trading, providing a very

tangible continuity from the nineteenth century to the present. The social significance of the QVM is reflected in its function as an affordable and diverse retail market serviced by small, independent businesses, from many different cultural backgrounds.

Furthermore, the Old Melbourne Cemetery located underneath the current at grade carpark is recognised through the edge of the Franklin Street Stores which are built on this alignment. It is Melbourne's first official cemetery, established in 1837, and is of archaeological significance as many burials remain on the site.

- The National Trust supports the proposal for the replacement of the open-air carpark with Market Square. However, we have concerns regarding the potential excising effect on the Franklin Street Stores from the rest of the Market site.
- The National Trust supports the proposed adaptive reuse of the Franklin Street Stores. However, we object to the temporary and permanent demolitions of the canopy to facilitate the encroachment and cantilever of the T1 and T2 tower developments.
- The National Trust objects to the construction of the three proposed towers, T1, T2 & T3 behind the Franklin Street Stores. We submit that the bulk, height and encroachment of the proposed towers would overwhelm the QVM and have a significant and adverse impact on the setting and National Heritage values of the place.
- The National Trust submits the Queens Corner building should be further set back from the Franklin Street Stores, as its proximity encloses Market Square and further confines and encroaches on QVM.

The proposed action will undeniably result in impacts where National Heritage Values of the site are damaged, notably altered, and obscured.

2.0 National Heritage Values

The QVM is nationally significant as an example of an Australian metropolitan food market established in the nineteenth century. Relevant sections of the [Statement of Significance](#) for the National Heritage List are extracted below:

Summary Statement of Significance

*... The Market contains a **substantially intact array of Victorian era buildings and structures, which is unique in its demonstration of all four key building typologies of a market from this period, including open sheds, enclosed market halls, warehouses, and perimeter shops. Together with its continued functioning as a modern day marketplace with a particular emphasis on produce, the layout and integrity of these features are significant aspects of the Market which strengthen its historic value...** The Market's continued operation as a produce market in its original location provides further representation of these values. The intangible and experiential qualities of the Market, **including its distinctive character and open setting, cultural variety, liveliness and traditional interactions between customers and traders all contribute to the authenticity and readability of the site as a marketplace with its origins in the nineteenth century...***

Official Values...

Criterion D Principal characteristics of a class of places

...The Queen Victoria Market is the only nineteenth century market to display all of the building typologies of a market of this time, and is the largest and most intact nineteenth century market in Australia. It continues to operate as a city produce and general market, and exhibits a high degree of social interaction, mixture of cultural experiences and authenticity in its practices, providing a tangible link to the Market's origins in the nineteenth century. Features expressing these values include but are not limited to the collection of open sheds in upper and lower markets, enclosed market halls, stores and perimeter shops. ...The Elizabeth Street and Victoria Street Shops are significant as demonstrating the nineteenth century principles associated with perimeter shops, while the Franklin Street Stores illustrate the utilitarian aspect of market buildings as well as the wholesale function of the Market in the early twentieth century. In relation to both the shops/terraces and stores, their uniformity of alignment in row pattern, consistency of features, orientation and original features such as shopfronts and verandahs, are all significant contributory attributes. [Our emphasis]

According to the Significant Impact Criteria outlined in the [Matters of National Environmental Significance Significant Impact Guidelines, 2013](#),

An action is likely to have a significant impact on historic heritage values of a National Heritage place if there is a real chance or possibility that the action will:

- *permanently remove, destroy, damage or substantially alter the fabric of a National Heritage place in a manner which is inconsistent with relevant values...*
- *...involve the construction of buildings or other structures within, adjacent to, or within important sight lines of, a National Heritage place which are inconsistent with relevant values, and*
- *make notable changes to the layout, spaces, form or species composition of a garden, landscape or setting of a National Heritage place in a manner which is inconsistent with relevant values. [Our emphasis]*

We believe the construction of the three towers behind the Franklin Street Stores, will have an adverse impact on the National Heritage values of the National Heritage place through; removal of fabric, construction of buildings within and adjacent, and making notable changes to the setting in a manner inconsistent with the relevant values.

The overwhelming nature of the three proposed tower constructions in height, bulk and proximity to the QVM, paired with the proposed demolition of part of the Franklin Street Stores canopy due to the overhang of T1 and T2 is an unacceptable outcome for a place of outstanding heritage value to the nation.

The looming size and encroaching design of the three towers disturb the 'distinct character and open setting' of the market.

3.0 QVM Precinct Renewal Program

In 2014 the Victorian Government and the City of Melbourne entered into a formal agreement to support a market renewal program. Subject to the delivery of key outcomes across the QVM Market Precinct. To support the market renewal, Crown land south of the Franklin Street Stores was transferred to the City of Melbourne with plans that the land

would be developed. Funds from this development would be reinvested into the market, and this would ensure the renewal program would incur no cost to the Government.

There was no public consultation on the terms of this agreement, effectively meaning that the City of Melbourne and State Government committed to the Renewal, and the key terms of the Renewal, without consulting with community stakeholders.

The National Trust in Victoria has been actively engaged in the [Queen Victoria Market Precinct Renewal](#) process for many years, including as a member of the Queen Victoria Market People's Panel in 2018 after [conditionally supporting](#) the Precinct Renewal Plan in 2017. The National Trust continues to consult with the Market Renewal team to provide input and advocate for positive heritage outcomes on the site.

We acknowledge that this referral of works is seeking to implement key outcomes that were terms of the agreement between the City of Melbourne and the Victorian Government as part of the Market Renewal and the proposal is subject to the requirements of a Development Plan Overlay (DPO11), Design and Development Overlay and terms of the QVM Precinct Renewal Master Plan.

In late 2023, Heritage Victoria conditionally approved permit P36779 for the Southern Precinct development, the [Officer's report and recommendation](#) that resulted in this decision were publicly released with the permit. This report outlines that the state heritage listing does not afford authority to Heritage Victoria to make decisions on matters of development outside the Victorian Heritage Registered place boundary. Therefore, despite many misgivings regarding the proposal and its impacts on the heritage values of QVM, there is a sense of inevitability regarding the developments in the report,

The reporting officer does not support the construction of Towers One and Two (or Tower Three and the Queens Corner Building) in such close proximity to the Franklin Street Stores. Towers One and Two cantilever over and directly abut the Stores and would dominate and overpower them. It would be necessary to remove sections of the southern canopy to ensure the Stores are functional and inviting. As discussed earlier, the bulk of the towers are outside the extent of registration and will be constructed regardless of whether this permit application is approved or not.¹

However, the protection afforded to QVM through its inclusion on the National Heritage List specifically does enable consideration of the impacts of the proposed developments on the subject site. Due to the level of significance QVM holds, not just for the Victorian community, but all Australian peoples, the impact of the construction of buildings adjacent to, and within important sight lines of the place which are inconsistent with relevant values is a "controlled action".

Due to the nature of the QVM Renewal Program deal between the City of Melbourne and the Victorian Government, the proposed tower designs have been repeatedly presented as a fait accompli throughout the planning process, despite the negative heritage impacts.

We submit that the agreements between state and local government regarding the Renewal program, and the subsequent planning controls enacted such as DPO11, should hold no sway

¹ Queen Victoria Market 65-159 Victoria Street Melbourne, Melbourne City VHR H0734 Officer's report and recommendation Heritage permit application P36779

over the Commonwealth Government deeming this proposal a significant impact to the National Heritage values of the site.

Positive heritage outcomes through innovative companion building designs are possible. The Australian people deserve more for our National Heritage places than a development that simply seeks to achieve a highest and best use outcome.

4.0 Tower developments

The National Trust objects to the looming size and encroaching design of the proposed three towers T1, T2 and T3 behind the Franklin Street Stores. We find issue with the following aspects of the proposed tower designs;

- the height and mass of the towers would have an overwhelming effect on the market,
- the separation between each tower is so minimal that it produces a cumulative bulk and walled effect along the Franklin Street boundary,
- the cantilever of T1 and T2 over the Franklin Street Stores, which it has been argued necessitates the partial demolition of the Stores' canopy is an unacceptable heritage outcome for this nationally significant site.

We do not agree with the assessment in the Heritage Impact Statement (HIS) that, 'The presence of new built form on the edge of the QVM will not impact on the ability to appreciate the layout and arrangements of the market complex.' We submit the construction of these towers, adjacent to and within important sight lines of the QVM would impact the National Heritage place in a manner inconsistent with its National Heritage values, such as the 'distinct character and open setting' of the market.

4.1 Impact of height and bulk

The height and proximity of the three towers creates a wall effect on the Franklin Street boundary which overwhelms the Franklin Street Stores and looms over the rest of the QVM.

Furthermore, we submit this large-scale development on the fringes of the QVM will diminish its intactness and legibility as an early market complex. The overwhelming nature of this proposed development, and the encroachment and cantilever over the Franklin Street Stores, prevents the appreciation of these structures in their own right.

These towers will also impact the wider site and its important value of distinct character due to the significant impact on the traditionally low scale density sightlines of the place. The transition from the higher built form of the central city to the very low scale of the QVM will be starkly disrupted if the proposed tower developments are approved.

The Heritage Victoria officers report makes the following comments regarding these impacts,

Although mostly outside the registered place, the towers will have a substantial impact on the cultural heritage significance of QVM. They are massive in scale (both height and width) and will dwarf the single storey Franklin Street Stores located at their base. When viewed from the north, the Stores will read as a low

height podium to the towers with the tower podiums rising above the Stores and the cantilever projecting over the Stores at a higher level.

4.2 Impact of the cantilever

The National Trust objects to the cantilever of T1 and T2 over the Franklin Street Stores. We acknowledge the proposed cantilever is not as extensive as DPO11 allows, however, we submit that just because it is not as extensive as it could be, this does not result in the cantilever becoming a positive heritage outcome.

Additionally, we are not satisfied that a feasibility argument justifies either the partial removal of the canopy or the cantilever over the Franklin Street Stores. We see this proposal as seeking a best development-based outcome, rather than a best heritage values-based outcome. If the applicant cannot adjust their design to be both economically sustainable and a positive response that does not compromise the National Heritage fabric of the place, then it should not be progressed.

5.0 Works to the Franklin Street Stores

The National Trust supports the adaptive reuse of heritage buildings to ensure they have an ongoing purpose and remain viable assets to their communities. We generally support the plans to adaptively re-use the Franklin Street Stores, and the required conservation works and removal of non-original fabric to facilitate this.

However, we have serious concerns with the proposed removal of the Franklin Street Stores canopy as part of the development of the T1 and T2 towers. The Franklin Street Stores illustrate key historic elements that define the National Heritage value of the QVM as a nineteenth century market. The stores' uniformity of alignment in row pattern, consistency of features, orientation, and original features are all significant contributory attributes that strengthen the historic value of QVM.

The Heritage Victoria officer report provides the following comments regarding the removal of the canopy,

*The close alignment of the towers to the Stores means that they will directly abut the canopy which extends to the edge of the extent of registration. The canopy has a solid roof which will result in a dark tunnel once the towers are constructed. The parapet above the canopy – the most decorative part of the Stores and the defining southern edge of QVM since the 1930s – will not be visible from either the street or from beneath the canopy...The reporting officer does not agree with the OVGA that the decision on whether to remove the canopy should be informed by the new urban condition created by the towers. Rather, the location of the towers should have been informed by the cultural heritage significance of the Franklin Street Stores in the context of QVM in its entirety. **It is a poor heritage outcome that a place of State and National significance should have to be physically altered to allow for an improved development outcome.** [Our emphasis]*

As outlined in the National Heritage listing Statement of Significance, one of the key building typologies demonstrating the QVM as a nineteenth century market are the Franklin Street Stores. By removing portions of the southern canopy to accommodate the development of the cantilevered T1 and T2 Towers, the integrity of significant contributory attributes of the National Heritage values will be compromised.

The National Trust objects to the HIS justification for the demolition of part of the southern canopy as a relatively minor change in the context of the intactness/condition of the complex as a whole.' We submit that necessitating the demolition of the canopies would indicate the cantilever produces an overwhelming effect on the Franklin Street Stores, in that elements of their built fabric must be removed to accommodate the towers. Furthermore, it is in direct contradiction of policies in the QVM Conservation Management Plan, 2017.

6.0 Queens Corner Building

The National Trust submit the Queens Corner building should be further set back from the Franklin Street Stores, as is advised in the Heritage Victoria officer report,

The Queens Corner Building is... smaller in scale than the towers, but it will have the effect of enclosing Market Square and further confining and encroaching on QVM. It would be preferable from a heritage perspective that an undercroft is included in the design to allow for pedestrian views from Queen Street through to Market Square and the QVM Sheds to the north.

In addition to the looming nature of the three towers behind the Franklin Street Stores, the proposed Queens Corner building would further impact the 'distinct character and open setting' of the market contrary to the National Heritage values of the place.

Conclusion

In conclusion, we believe that the proposal constitutes a "controlled action" under the EPBC Act, and warrants a full assessment under the relevant provisions of the Act.

Should you require any clarification on our position, I welcome you to contact this office on (03) 9656 9879 or at madeleine.moore@nattrust.com.au.

Yours faithfully,



Lachlan Molesworth
Chair
Australian Council of National Trusts



Philip Martins
Interim Chief Executive Officer and CFO
National Trust of Australia (Victoria)