

**8.1 PRESTON MARKET PRECINCT UPDATE****Author:** Strategic Planner**Reviewed By:** General Manager City Sustainability and Strategy

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**EXECUTIVE SUMMARY**

Protecting the character and identity of Preston Market is a major focus of Council's work. Multiple studies have been commissioned to understand the different elements that make up the unique character that is so highly valued by the community.

The work to date has concluded that, due to the complexity of the multiple elements that make up the market's character, planning mechanisms alone will not be sufficient to protect them.

Council has consistently advocated for the Victorian Planning Authority (VPA) to consider a range of planning tools in the developing a structure plan and planning controls for the market, while also pursuing voluntary agreements with the developer that would cover non-planning matters, such as the community of traders and range and diversity of goods.

Following a request by the Darebin Appropriate Development Association and Save Our Preston Market, the Heritage Council of Victoria (HCV) recently reviewed the site and determined that the Preston Market was not of state heritage significance. The HCV made a formal referral to the VPA to consider a local heritage overlay. The HCV made no assessment of or determination on local significance (which is beyond their remit) but stated that new evidence was presented at the review hearing which had not been considered before and therefore recommended that the VPA revisit whether there might be justification for a local heritage overlay.

The Heritage Council of Victoria (HCV) did not assess Preston Market's significance at the local level - the HCV only considers if a Place is of State-level cultural heritage significance. The HCV did not, and is not able to, recommend that the Heritage Overlay (HO) be applied to the Preston Market, only that it be considered.

The new evidence presented at the HCV review hearing was in relation to the spaceframe technology and load bearing, tilt-up concrete walls. HCV recommended these should be further tested for local significance. As the Planning Authority, this should be undertaken by the VPA.

Should it be found that elements of the building are of local heritage significance, and if a HO is successfully applied to the Preston Market, this could protect specific elements of the built form. Depending on the findings of further studies, a spectrum of protections could be applied from retaining the roof structure and concrete walls in situ through to demolishing the building and commemorating or referencing the spaceframe technology in some way.

Due to the complexity of the issues around character, and the limits of the HO as a mechanism to protect elements of particular value to the community (such as the multicultural traders, the community of shoppers, the diversity of affordable goods on offer, the wide walkways and airy feel), several different mechanisms (both planning and voluntary agreements) will be needed to protect these diverse elements.

Officers recommend that Council should continue advocating to the State Government to protect social and cultural heritage through the planning controls. In light of the new evidence and the HCV referral, Council officers recommend writing to the VPA and the Minister for Planning to seek a full investigation of local heritage to determine if a HO should be applied.

The VPA have advised that they have received the submissions related to the hearings and are seriously considering the Heritage Council's referral. In addition, officers recommend continuing to pursue other mechanisms to protect all of the defining elements that contribute to the market's character, cultural and social heritage, as endorsed by Council in its objectives of 19th August and encapsulated in *The Heart of Preston* document.

<b>Recommendation</b>
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That Council:

1. Notes the Heritage Council Registrations and Reviews Committee's (the committee) determination of 18 September 2019 (**Appendix B**) that the Preston Market does not reach the threshold for State-level heritage significance and will not be included on the Victorian Heritage Register.
2. Supports the committee's referral of the recommendation and submissions to the Victorian Planning Authority for consideration for an amendment to the Darebin Planning Scheme under section 49(1)(c)(i) of the *Heritage Act 2017*.
3. Writes to Victorian Planning Authority (VPA) and the Minister for Planning requesting that the VPA undertake:
  - a) A new local heritage study on the Preston Market, that considers all previous reports and advice on heritage and the new evidence presented to the Heritage Council Victoria
  - b) If the study determines the market building, or elements of the built form, is of local heritage significance, request that the VPA carry out the following:
    - i. *In response to the evidence, incorporate into the planning controls as appropriate: a Heritage Citation, Heritage Design Guidelines and/or a Conservation Management Plan.*
    - ii. *If supported by the evidence, a planning scheme amendment process to apply a Heritage Overlay to the Preston Market.*
4. Notes that Council has recently called on the VPA to support Council's endorsed objectives and key elements (endorsed at Planning Committee Meeting of 19 August 2019 and shown in **Appendix C**), that relate to critical market identity and character elements.
5. Requests that the VPA does not proceed with a Framework Plan and planning scheme amendment for the structure plan and planning controls until the outcome of the above step(s) is fully understood and the most appropriate mechanisms to protect the heritage of the market can be incorporated.

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## BACKGROUND / KEY INFORMATION

In August 2017, following advocacy from Council and community, the Minister for Planning directed the Victorian Planning Authority (VPA) to review the current planning controls for the Preston Market site, designating it as a strategic development site of state significance.

The Minister outlined that the review needed to be undertaken with Council, the owners of Preston Market, the traders and the broader community.

The Minister also introduced interim height controls in August 2017 which apply a maximum mandatory height control of 9 metres to the existing footprint of the Preston Market buildings on an interim basis until 30 June 2019. These interim controls were put in place while the VPA reviewed the broader controls, to *ensure that the open-air character of the Preston Market is protected and remains viable for future generations*. In June 2019, the State Government extended these interim height controls until 30 December 2020 while the review of planning controls is in progress.

The VPA finalised a Preston Market Planning review report in October 2018 that established a vision for the site:

*“The Preston Market site is a thriving place with a fresh food market at its core, complemented by housing; office and retail jobs; community services; and vibrant and accessible public spaces. Continuing its role as the gateway to Preston, the site welcomes a diverse community from the local area and across Melbourne.”*

The VPA’s vision for the Preston Market site was informed by both a vision produced by the community reference group and relevant state and local planning policy.

#### Wider Preston precinct

The Preston Market Precinct is a unique, strategically located site close to public transport, services, jobs and educational facilities. Its centrepiece is the Preston Market, a much-loved community asset with strong migrant and working - class roots.

Proximity to Preston Station, as well as the upcoming removal of nearby level crossings and the resulting creation of new open space means the site is ideally placed to welcome new residents to the area as part of a well-designed, diverse and connected community. Accommodating new growth at this strategic site also takes development pressure off surrounding lower-density neighbourhood streets.

The Preston station and railway line, that are subject to the State Government’s level crossing removals (from Bell Street to Murray Street), are immediately adjacent to the Preston Market strategic site. Council requested that the VPA also consider the established principles for the review of planning controls at the Preston Market strategic site be applied to the wider area.

#### Structure plan for Central Preston

Council is in the process of review its structure plan for Central Preston Activity Centre. This work will review planning controls in the wider Preston precinct outside the Preston Market strategic site including the areas discussed in this report and shown in the site plan.

To inform this Council has been consulting with the community and undertaking research to inform urban design and planning work for the whole precinct.

#### **Council’s Role**

Although Council is not the decision maker for the current review of planning controls, Council has long advocated for the best outcomes for the existing and future local community, including businesses, residents, visitors and workers.

Council has a role in advocating for planning controls that align with Council priorities and strategies to ensure the ongoing success and vitality of the Preston Market and create an exceptional place for the heart of Preston.

Council has for a long time noted “the rich social heritage and importance of the market to the community and reiterate[d] Council’s commitment to working to preserve the long-term viability of the market.” including in resolutions at public meetings on 3 September 2018 and 17 December 2018.

At its meeting held on 3 September 2018, Council also adopted the community vision that was developed as part of phase two of community engagement, reaffirmed its endorsement of principles adopted by Council on 21 May 2018 and developed detailed guiding principles. This vision and these principles have informed the development of this report.

The community vision for the site that was adopted was “*The market is a vibrant and diverse place for the community to gather around food and celebrate culture.*”

The principles Council reaffirmed that were established on 21 May 2018 included:

- Council loves the market and is committed to seeing the market thrive into the future.
- It’s important to Council that the community engagement process undertaken is extensive, inclusive and open to ideas.
- The market needs to remain accessible to all traders and the community during and post construction and the new development.
- The built form of the site needs to continue to support and encourage the market as a desirable community meeting place.
- The site will consistently provide a hub of vibrant activity, with varied uses for residents, businesses and visitors.

The guiding principles Council established on 3 September 2018 to celebrate the fresh food market and seek to ensure that the market retains its important role as a valued community meeting space in the heart of Preston. Furthermore, these principles seek to ensure that any future redevelopment of the site contributes positively to the surrounding area and integrates successfully into the wider neighbourhood. These are included in full in this report (see the section on previous Council resolutions).

Officers have worked to influence the processes used by the VPA, in particular to strengthen the depth and reach of community engagement and to develop a detailed understanding of technical issues and evidence about the needs, opportunities and constraints. A range of technical reports and advice have been undertaken by both the VPA and Council on transport, affordable housing, heritage, urban design, construction management and infrastructure planning, identity analysis and economic analysis.

Council will continue to input into the VPA’s review of planning controls and the VPA will seek Council’s feedback when it proposes a plan and planning controls at future stages.

### **The VPA’s role**

The Minister for Planning designated the Victorian Planning Authority (VPA) as Planning Authority for the site in August 2017. The VPA was tasked with reviewing and updating the existing planning controls. Review of the controls was complete in October 2018, and the VPA are now preparing a Structure Plan and new planning controls for the site in the form of a Planning Scheme Amendment (PSA) package, to be submitted to the Minister for Planning.

### History of Preston Market

The Preston Market Precinct is approximately 4.6 hectares, bounded by Murray Road in the north, Cramer Street to the south, the rear of the High Street buildings to the east and the Preston Station car park to the west. Preston Market is located at the heart of the precinct and is a loved destination for locals and people to buy their groceries or meet socially.

The Preston Market first opened in 1970 on the former Broadhurst Tannery. The market originally housed approximately 250 stalls representing a variety of traders including green grocers, delicatessens, fresh fish and poultry, butchers and non-grocery goods.

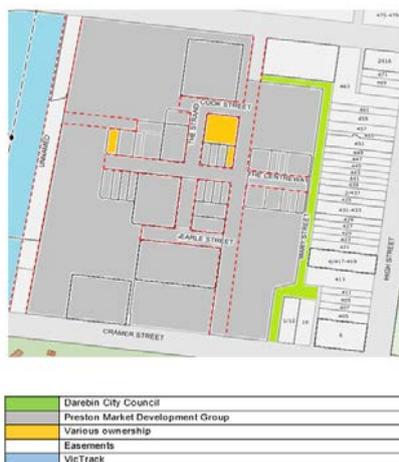


### Ownership and Easements of the Preston Market site

In 2004 the property was purchased by Salta Properties, from the previous owners Centro MCS. The site was then rezoned from the Business 1 Zone to a Priority Development Zone Schedule 1 (PDZ1) in June 2007 as part of the Preston Central Structure Plan implementation.

Land within the site is predominantly owned by Salta Properties and Medich Corporation, however there is another smaller landholder that owns several small parcels within the site (see map below – Ownership and Easements of the Preston Market site).

The private ownership of the Preston Market is highly unusual – in fact it is the only privately-owned similar market in Victoria and many mistakenly think that it is government owned. Other similar markets such as Queen Victoria Market, Dandenong Market and the South Melbourne Market are owned by government.



*\*Note that easements are shown within the red dashed lines.*

## Heritage

In 2017 Council commissioned a study to investigate the level of social and cultural heritage significance of the market site. The study explored the social history of the Market, as both a place and as a social artefact. Council sought advice more specifically on whether the Market held social, historical, or any other cultural value – addressing the questions of what is significant? How is it significant, and why is it significant? This report (by Context), stated the market did meet the criteria for local heritage significance and a HO should be applied.

The report was finalised in April 2018 in two volumes: a research report summarising the historical and social research (Volume 1: History and Community Connections); and a heritage assessment which assessed on a technical planning basis whether the site meets the criteria for a Heritage Overlay (Volume 2: Significance).

In line with standard practice on technical and often contested issues like heritage, a peer review of the draft report was sought in early 2018 to understand if the integrity of the methodology and conclusions of the study were robust enough to maintain a strong argument before an independent planning panel, should a Heritage Overlay be pursued. The Peer Review raised a number of questions which were further discussed with the consultant. Taken together, the advice at this point did not provide a clear answer as to the strength of the case for a Heritage Overlay, so this was tested further by seeking Legal Advice from a QC experienced in heritage matters. The legal advice indicated the Context Study had not established sufficient grounds to introduce a Heritage Overlay.

All the advice concluded that the site has cultural value, thus social significance. However, the heritage experts made different conclusions on whether a sufficient case was made for the connection of the social significance to elements of the built form / fabric of the building.

In summary:

- **Heritage Study (Context, Volume 2: technical report)** - Advised the market has local social and built form significance in relation to five of eight criteria. The report also recommended that further exploration be done on the potential of state significance relating to space frame technology.
- **Heritage Revival Peer Review** - was not confident that case had been made for built form significance. Questioned whether the social and cultural significance could be meaningfully protected by a heritage overlay and raised a number of questions for further exploration.

- **QC Legal Advice Peer Review** – The study has not established grounds to introduce a heritage overlay on the basis of social heritage significance. It described that a heritage overlay had some merit on the grounds of built form however outlined that further work is needed. Articulates that a heritage overlay does not regulate the use of the land and cannot protect the market use.

### **Council Decision – 21 May 2018**

The 21 May 2018 Council report explored the heritage studies to date and noted that *“on balance, officers conclude that seeking a heritage overlay or interim protection at this point would not be likely to succeed, nor would it provide meaningful protection”*.

At the 21 May 2018 meeting, Council resolved not to seek approval from the Planning Minister to apply heritage controls (whether interim or permanent) to the market site at this time.

Council resolved:

*(4) Council notes the rich social heritage and importance of the market to the community, and reiterates Council’s commitment to working to preserve the long term viability of the market*

*(5) Council resolves not to seek approval from the Minister of Planning to apply heritage controls (whether interim or permanent) to the market site at this time.*

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

*(7) Council release heritage reports in full including the research report (Heritage Study Volume 1: history and community connections, Appendix B), and the technical reports (Heritage Study Volume 2: significance Appendix C) and the peer review (Appendix D) to the community on 22 May 2018.*

*(8) Council request that Council Officers meet with site owner’s representatives to discuss the heritage reports and highlight Council’s view of the importance of the market to the municipality and Melbourne more generally.*

The conclusion at the time was that if Council resolves to pursue the application of heritage controls, it would require commitment of time and resources, without guarantee of success, and it also brings risks to other work in progress, including the current review of planning controls.

Instead, Council referred the heritage study and technical reports on the same topics to the VPA and requesting that it be considered in an integrated way as part of the current review of planning controls.

The report from 21 May 2018 also noted that there are elements of the market that contribute to the market’s success such as the wide pedestrian streets, access to natural light and individualised tenancies. These are not necessarily of heritage value (using the definitions of heritage as it applies under the *Heritage Act 2017* and the *Planning and Environment Act 1987*, but are defining elements of the market’s design, sense of identity and place. These urban design elements are highly desirable and important and should be translated into a design based planning controls.

### VPA Response to Heritage

The Council's CEO wrote to the VPA and subsequently received a response on 8 June 2018, confirming that the VPA review of the planning controls and future opportunities will:

- *"be taking into consideration the material Council have provided regarding social and cultural heritage."*
- *"commission a review of the local heritage significance of the site and the options available to protect the local heritage values of the site as part of the overall review of planning controls."*
- *"not [be] responsible for assessing the state significance of heritage". This is because state heritage is the role of the HCV and local heritage is the role of VPA as the planning authority.*
- Consider the independent heritage advice *"...along with other technical information, including community engagement, traffic, drainage and urban design reports. This will allow for a holistic review of the planning controls."*

The Preston Market Planning Review (October 2018) published by the VPA notes the findings of an independent review commissioned by the VPA of council's heritage assessment:

*"(the) peer review identifies that there is insufficient justification for application of a Heritage Overlay. The report by GJM Heritage acknowledges the cultural significance of the market use. However, their assessment does not link the cultural significance of the site to the built fabric. GJM Heritage highlights that there are more appropriate planning tools than a Heritage Overlay to protect the cultural significance of the site. This technical assessment, in addition to others, is expected to inform the development of new planning controls."*

### Identity Study

Council commissioned an Identity Study to investigate and understand in detail the market's unique characteristics and social history, in response to advice that heritage tools in the planning scheme are not able to meaningfully protect many of the things that give rise to the market's social function and cultural significance.

The *Preston Market Quarter Identity Study (Hello City, 2019)* identifies the social and cultural heritage of Preston Market in a more nuanced and detailed way than a traditional heritage study would, in order to identify the tangible and intangible elements that contribute to its identity, and how these can be protected through the redevelopment. It does not focus solely on the significance of buildings, but rather on the relationship between the complex built form, open space, management and ritualised use of the market.

This study provides the strategic justification for pursuing design based controls in the planning scheme for those spatial and organisational elements of the market that make it a special and successful place, along with pursuing non-planning asks through S173 agreements and a Community Charter.

### Heritage Council of Victoria Process

Two applications were received by Heritage Victoria on 20 July 2018 and 12 October 2018 requesting that the Preston Market be added to the Victorian Heritage Register and be afforded a level of protection through state heritage controls.

The *Heritage Act 2017* sets out criteria which applications are assessed against to determine whether a place or object should be included on the Victorian Heritage Register. An application must meet one of the following criteria:

- a) Importance to the course, or pattern, of Victoria's cultural history.
- b) Possession of uncommon, rare or endangered aspects of Victoria's cultural history.

- c) Potential to yield information that will contribute to an understanding of Victoria's cultural history.
- d) Importance in demonstrating the principal characteristics of a class of cultural places or environments.
- e) Importance in exhibiting particular aesthetic characteristics.
- f) Importance in demonstrating a high degree of creative or technical achievement at a particular period.
- g) Strong or special association with a particular community or cultural group for social, cultural or spiritual reasons. This includes the significance of a place to Indigenous peoples as part of their continuing and developing cultural traditions.
- h) Special association with the life or works of a person, or group of persons, of importance in Victoria's history.

The applications were reviewed by the Executive Director of Heritage Victoria. On Monday 26 November, the Executive Director made a recommendation to the Heritage Council of Victoria that Preston Market not be included on the Heritage Register.

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

- That the place does not meet the criteria for State heritage significance, and
- In line with standard procedure (without forming any view on the local heritage significance), to refer the recommendation to the planning authority to consider a local Heritage Overlay.

It is important to note that the Executive Director's recommendation to refer the matter to the planning authority (usually Council, but in this case the VPA) for further consideration is a routine process in cases where Heritage Victoria's recommendation is that a place is not considered to be of state significance.

The phrasing of this recommendation is somewhat confusing for those not familiar with Heritage Victoria's role or processes as it is not clear that this is simply a routine referral and that it does not indicate or imply that local significance has been found – in fact, whether or not the site has local significance has not been determined by Heritage Victoria.

Council resolved on 17 December 2018 to accept the recommendation of the Executive Director that the Preston Market does not meet the criteria for inclusion on the Victorian Heritage Register.

Heritage Council of Victoria received a number of submissions in response to the Executive Directors recommendation and a Registration and Review Hearing was held over two days 15 and 17 July 2019.

### Heritage Council of Victoria Determination

The Determination of the review hearing was released in a report on 18 September 2019 and found:

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

In reaching this decision, the HCV cited new evidence and made the following statements:

- "... the Committee considers that there is sufficient evidence that the Place **may** have cultural heritage significance at a local level to **justify** the Heritage Council **referring** the Recommendation and submissions to the VPA for consideration for an amendment to the Darebin Planning Scheme, pursuant to section 49(1)(c)(i) of the Act." (Paragraph 0156)

- “As noted at paragraphs 0116 and 0124 the Committee gave particular consideration to the technical significance of the Place’s space frame roof structure and loadbearing, tilt-up concrete walls. Whilst it was the ultimate conclusion of the Committee that the State-level threshold was not satisfied in relation to Criteria F, the Committee is of the view that the technological achievements associated with the design and construction of the Place **may** strongly indicate cultural heritage significance at a local level, to the extent that internal controls **may** be warranted.” (Paragraph 0157)
- “Given the direct link between the technological achievements evidenced by the Place and the Place’s fabric, the Committee is of the view that internal controls **may** be required in order to conserve the Place’s cultural heritage significance at a local level, and that a Heritage Overlay is the most appropriate planning mechanism to enact such controls.” (Paragraph 0158)
- “The Committee resolves to exercise its power under section 49(1)(c)(i) of the Act to refer the Recommendation and submissions to the VPA for **consideration** for an amendment to the Darebin Planning Scheme to include the Place in the Heritage Overlay.” (Paragraph 0159)

The report makes a clear recommendation for the VPA to further investigate the space frame technology and load bearing, tilt-up concrete walls and whether they meet the criteria for significance at the local level.

## Previous Council Resolution

### Recent Planning Committee decision – 19 August 2019

Protecting the character and identity of Preston Market is a major focus of Council’s work. Multiple studies have been commissioned to understand the different elements that make up the unique character that is so highly valued by the community.

At its Planning Committee meeting on the 19 August 2019, Council noted *The Preston Market Quarter Identity Study* – which was commissioned to explore the tangible and intangible elements that contribute to the market’s unique character and social heritage.

Based on the identity study report and findings from community engagement processes, Council also endorsed at the Planning Committee meeting 19 August 2019 a list of objectives and key elements which it considers as essential characteristics and element to be included in any redevelopment. The resolution called on the state government and developer to commit to achieving these objectives, even on matters that are beyond the scope of planning.

The identity study explicitly draws out the defining elements that contribute to the market’s character and social heritage such as the wide pedestrian streets, access to natural light and individualised tenancies. These are not necessarily of heritage value (using the definitions of heritage as it applies under the *Heritage Act* and the *Planning and Environment Act*), but are defining elements of the market’s design, sense of identity and place.

### Other Council resolutions on Heritage matters:

- **17 December 2018** – Council resolved (in part):
  - Notes the rich social heritage and importance of the market to the community, and reiterates Council’s commitment to working to preserve the long-term viability of the market
  - To endorse the submission to the Heritage Council
- **21 May 2018** – Council resolved (in part):

- Not to seek approval from the Minister for Planning to apply heritage controls to the market at this time
- Write to the VPA to request that the Heritage Study and associated reports be considered in an integrated way as part of the current controls
- **3 September 2018** –Council resolved (in part) that Council:
  - Notes the rich social heritage and importance of the market to the community and reiterates Council's commitment to working to preserve the long - term viability of the market.
  - Endorsed guiding principles including to ensure social heritage considerations are assessed as part of the VPA review.

See **Appendix C** for full details of previous Council resolutions relating to the Preston Market site.

## ENGAGEMENT AND COMMUNICATIONS

### Engagement

Four phases community engagement have been conducted since January 2018 with over 2,000 people providing valuable feedback. This engagement was run by both Council and the VPA, in some cases jointly. The findings of these phases of engagement have been presented to Council previously, with the most recent round of engagement noted by Council at its 19 August 2019 Planning Committee meeting.

Later this year, VPA are expected to release a draft version of the Framework Plan (approximately 23 October 2019). The Framework Plan is a high-level plan that is intended to show the future layout of the Preston Market site and key directions. It will later form part of the Structure Plan that will also including background, guiding principles, design elements and other requirements that any future development of the Preston Market will be guided by.

The release of the Framework Plan will be a two-week 'check-in' consultation period, circulating the plans and some associated material. The way this consultation will be run has not been finalised and will be led by the VPA.

Council will consider the Draft Framework Plan when it is released at a future meeting.

### Communications

At its meeting on the 19<sup>th</sup> August, Council endorsed Objectives and key supporting elements that are needed to realise the opportunities of the site, meet local need and protect the market's unique character. The endorsed resolution sought to call on the developer and state government to realise these objectives and key elements in any redevelopment of the future precinct.

The report further established a Council vision for the site, based on the community engagement findings, identity study and technical studies. Following the endorsement of these objectives and key elements, Council publicly communicated its decision and called for support from the community, developer and state government to join Council in achieving the vision.

A communications campaign was publicly launched following the 19 August decision. Council publicly shared its vision in *The Heart of Preston* document, supporting billboards, pavement decals, videos and online supporting website and social media posts.

The campaign was specifically designed to call on the state and the developer to support and commit to delivering Council's vision and to build community support for the advocacy document.

## **ANALYSIS**

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

Goal 3 - A liveable city

#### **Environmental Sustainability Considerations**

Council continues to advocate for high standards for environmentally sustainable design from any future development at the site

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

Council recognises the cultural significance of the Preston Market to Darebin. Any future development of the Preston Market Precinct must integrate well with the neighbourhood and contribute to connectivity and accessibility for pedestrians and active transport users with Central Preston.

#### **Cultural Considerations**

Council recognises the cultural significance of the Preston Market to Darebin. Any future development of the Preston Market precinct must respect the cultural significance, identity and value of the site to various users with Central Preston.

#### **Economic Development Considerations**

This area is a strategic location for economic development in Darebin. The Market plays an important role in this, and this area is a strategic priority for stimulating future economic development and employment opportunities. The Preston Market is an anchor and key economic generator in the Preston Central Principal Activity Centre and more broadly in Darebin. The market brings considerable economic benefit to Darebin in terms of employment and its flow on benefits to Preston Central through things such as multi-purpose trips.

Council continues to advocate that the Market and commercial opportunities are preferred outcomes from any future development at this site

#### **Financial and Resource Implications**

The planning work associated with Preston Market is currently expected to be accommodated within the overall operating budget. There is some uncertainty about the extent of further work required in the later part of 2019-20 and associated with advocating Council's position through public exhibition and a planning Panels process will require resources on the project continue until at least November 2020.

#### **Legal and Risk Implications**

Council remains committed to maintaining high standards to the probity and ethics in all aspects of purchasing as set out in the Procurement Policy and *Local Government Act 1989*.

## DISCUSSION

### Heritage Council of Victoria Determination – what it means

The Heritage Council of Victoria (HCV) found that the Preston Market *does not reach the threshold for State-level significance* for inclusion in the Victorian Heritage Register.

From the submissions it received at the Hearing the HCV found that the Preston Market **may** have cultural heritage significance at the local level (based on new evidence not previously considered by either the VPA or Council), and that the VPA, as planning authority, should consider all the submissions and determine if the Market meets the criteria for inclusion at the local level.

The Committee gave particular consideration to the technical significance of the Place's space frame roof structure and loadbearing, tilt-up concrete walls.

The HCV **did not** determine that the Preston Market was of heritage significance at the local level (the HCV only considers heritage matters of State significance). It recommended that, in light of new evidence, local significance should be further considered by the VPA.

There is now a clear recommendation for the VPA to further investigate the space frame technology and load bearing, tilt-up concrete walls and whether they meet the criteria for significance at the local level. The HCV referral does not compel the VPA to act its recommendations are not binding.

The VPA have advised that they have received the submissions related to the hearings and are seriously considering the implications of the Heritage Council's referral.

### Work that VPA would need to do to assess local heritage and respond

The new evidence presented at the HCV review hearing has been referred to the VPA, as the Planning Authority. As such, officers recommend supporting the HCV determination that refers the Recommendation and submissions to the Victorian Planning Authority for consideration for an amendment to the Darebin Planning Scheme.

Further officers recommend requesting specifically that the VPA:

- Carry out a new local heritage study that includes:
  - Investigate all submissions referred to it by the Committee
  - Assess for local heritage significance against all heritage criteria;

And, that if the VPA finds that any built-form elements of the Preston Market (Criterion E – aesthetic and F - technical) meet the threshold for local heritage significance that they:

- Prepare a heritage citation (if local heritage significance is found) with a Statement of Significance
- Prepare a Conservation Management Plan and/or Heritage Design Guidelines by an independent heritage advisor, to guide sensitive development.
- Apply a Heritage Overlay to the market through a planning scheme amendment process, if supported by the evidence.

VPA have been planning to release their draft framework plan at the end of October 2019. In order to ensure that full and meaningful consideration is given to the local heritage significance, it is recommended that first the outcome of the local heritage study should be confirmed, understood, and incorporated into appropriate planning control(s).

**Advocacy to ensure that identity and character is protected remains important**

Some of the most critical elements of social and cultural heritage and character of the market, including its multicultural traders, the community of shoppers, the diversity of affordable goods on offer, the wide walkways and airy feel, and even the market use itself cannot be protected by a heritage overlay.

Therefore, alongside consideration of a local heritage overlay around elements of the building's fabric, officers advise that it remains important that the multiple other elements that make up the market's unique character are also pursued, as these would not be protected by a heritage overlay alone.

Council's previous resolution on 19 August 2019 which called on the state government and the developer to support its call for five key Objectives and 40 supporting elements to be incorporated into any future redevelopment and planning controls remains a clear call for the identity and character of the market to be protected (see **Appendix A** '*The Heart of Preston*').

Council is seeking that these are formally recognised in the Structure Plan and accompanying Community Charter. These objectives and elements were informed by community consultation and the Identity Study and demonstrate that the most important aspects of the market to the community are beyond the physical building, and include the feel, diversity, authenticity and pedestrian nature of the market.

Ongoing advocacy work is planned to advocate for the best possible outcome for the community and to call for the state governments and developers support to protect all critical market character and identity elements, whether through planning or non-planning mechanisms.

**OPTIONS FOR CONSIDERATION**

In all options below ongoing advocacy work is important to advocate for the best possible outcome for the community and to call for the state governments and developer's support to protect all critical heritage, market character and identity elements, whether through planning or non-planning mechanisms.

**Option 1 - Call on VPA to undertake further work to assess further local heritage (recommended)**

Officers recommend this approach. The key elements are that Council would:

1. Note the Heritage Council Registration and Review Committee determination of 18 September 2019 and support its recommendation.
2. Write to the VPA, requesting they undertake further heritage work, and if this work determines the market building, or elements of the built form, are of local heritage significance, request that the VPA carry out the necessary work to apply a heritage overlay and other planning controls to achieve best protection of any elements assessed as significant.

**Option 2 - Note HCV determination only (not recommended)**

The main drawback of this option is that Council would forego an opportunity to advocate for the VPA to fully consider the implications of the HCV referral, and potential for local heritage significance, in their current planning for the site.

**Option 3 - Call for a local Heritage Overlay to be applied immediately (not recommended)**

This option is not recommended, as while the Heritage Council of Victoria has referred this to the VPA for further assessment of local heritage, it has confirmed that it has not undertaken that assessment and has **not** recommended an overlay be applied, but rather that investigating it further is recommended.

This further work is needed before it is clear whether an Overlay is recommended, and for any future case to be made to support an overlay, it is critical that this assessment work be done.

There are no particular risks associated with the assessment work being done before forming a view about this.

## IMPLEMENTATION STRATEGY

### Timeline

The timelines below show planned timing before the Heritage Council decision. It is highly possible that these will need to change to accommodate new work necessary to understand new evidence around local heritage significance and how this should be incorporated into the planning controls.

1. **14<sup>th</sup> October 2019** – Council meeting to consider HCV determination.
2. **23<sup>rd</sup> October 2019** – VPA had planned to share draft framework plan with the community for 2 weeks.
3. **TBC** - Council consider VPA draft framework plan.
4. **Early December 2019** – VPA had planned to submit Planning Scheme Amendment (PSA) package for noting to the Minister for Planning.
5. **Early 2020** - Public Exhibition of PSA, following Ministerial sign off.
6. **February 2020** – Submissions accepted by VPA in response to the PSA.
7. **March/April 2020**. Panel Hearings by Planning Panels Victoria. The Panel will consider the strategic basis for the PSA and any submissions.

### RELATED DOCUMENTS

- Heritage Council Registrations and Reviews Committee Report - Preston Market, September 2019
- The Heart of Preston, Darebin City Council, August 2019

### Attachments

- The Heart of Preston (**Appendix A**)
- Heritage Council Victoria Determination Report (**Appendix B**)
- Previous Council resolutions on Preston Market (**Appendix C**)

### DISCLOSURE OF INTEREST

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

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

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