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Re: 2024/09860 Queen Victoria Market Southern Development Project - Draft Public Environment Report

Dear Adam,

Thank you for the opportunity to respond to the above Draft Public Environment Report (PER) under Sections 15A and 15C 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).

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.

1.0 Summary of National Trust Position

The National Trust disagrees with the conclusions of the Draft PER and believes the proposal would cause significant damage to the National Heritage Values of the site. These impacts include substantial alterations and obstructions resulting from the development of buildings on adjacent land (T1, T2, T3 behind the Franklin Street Stores), changes to the

Franklin Street Stores, and the proposed Queens Corner Building (QCB) on the east side of Market Square. In summary:

- 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 current form 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 particularly the Franklin Street Stores and have a significant and adverse impact on the setting and National Heritage values of the place.
- The National Trust submits that it is unacceptable that the completely unresolved design of the QCB can be assessed for impacts based solely on a maximum building envelope.
- Further to this, The National Trust submits that if built to the maximum allowable envelope, the QCB would negatively impact on significant views within the site.

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

Additionally, we find that the Draft PER and peer review down-play the negative impacts the proposed adjacent developments would have on the National Heritage Values of QVM. Both documents appear to disregard adverse effects to significant view lines and notable changes to the setting, which are inconsistent with maintaining the 'distinctive character and open setting' of QVM.¹

2.0 Impact to National Heritage Values

The National Trust recognises the national significance of the 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.

¹ Queen Victoria Market National Heritage Listing Summary Statement of Significance

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]

While the Draft PER includes an assessment against the Significant Impact Guidelines, it simultaneously dismisses the potential for any impacts caused by the proposed developments adjacent to the listed site. Early in the report, it asserts that the significant 'open setting' does not extend beyond the QVM, claiming that the 'expansive and low-scale site of distinct and definable character is essentially inward-looking and experienced from within.'

The National Trust objects to this dismissal of any consideration of the impacts from changes to the surrounding setting, located outside the boundaries of the nationally listed QVM, and finds the resulting assessment fundamentally flawed in concluding there will be no significant impact due to these developments.

This is entirely contradictory to the [Matters of National Environmental Significance Significant Impact Guidelines, 2013](#), which clearly states that construction of buildings adjacent to, or within important sight lines of, a National Heritage place which are inconsistent with relevant values are likely to have a significant impact.

We submit that the construction of the three towers behind the Franklin Street Stores in their current form and the construction of the QCB to the maximum allowable envelope would have adverse impacts on the National Heritage values of the QVM through; removal of fabric, construction of buildings within, adjacent to and within important sight lines, and making notable changes to the setting in a manner inconsistent with the relevant values of the National Heritage place.

The overwhelming nature of the three proposed tower constructions in height, bulk and proximity to the QVM, the potential impact of the QCB on important sight lines, and 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.

In addition, the current looming size and encroaching design of the three towers and the current scale and placement of the QCB disturb the 'distinct character and open setting' of the market and impact the connectivity of the Franklin Street Stores to the remainder of the QVM.

3.0 QVM Precinct Renewal Program

As you are aware, 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.²

However, the protection afforded to QVM through its inclusion on the National Heritage List specifically allows for the consideration of the impacts that the proposed adjacent developments would have on the site. Given the level of significance QVM holds, not only for the Victorian community but for all Australians, the construction of buildings adjacent to and within important sight lines of the place—if inconsistent with its relevant values—should result in a significant revision of the proposed works, to mitigate the substantial impacts they would have on QVM.

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 note that the agreements between state and local government regarding the Renewal Program, and the subsequent planning controls enacted, such as DPO11, hold no sway over the Commonwealth Government's responsibility to assess the proposal's impact on the National Heritage values of the site. We submit that the Draft PER should reflect this in its assessment against the Significant Impact Guidelines.

The fact that state approvals have been secured does not negate the need for a thorough national review and approval process. However, we find that the Draft PER seems to overlook this fundamental point, undermining the integrity of the assessment process. The Draft PER perpetuates the assumption that the towers are effectively a foregone

² Queen Victoria Market 65-159 Victoria Street Melbourne, Melbourne City VHR H0734 Officer's report and recommendation Heritage permit application P36779

conclusion. This is not only misguided but dismisses the very purpose of the Commonwealth's role in safeguarding National Heritage.

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;
- the wrapping of T3 around the southeast corner of the Franklin Street Stores further envelopes and dominates the stores diminishing their visibility and distinctiveness; and
- we note that T1 is stepped in consideration of impacts on the adjacent Flagstaff Gardens there has been no such consideration and respect for the adjacent (and in closer proximity) nationally significant QVM – particularly the Franklin Street Stores.

We disagree with the Draft PER assessment that,

...the new buildings will change the immediate context of the heritage place but in terms of the National Heritage values against Criterion D, the change would not have an adverse impact on the National Heritage values. This is because QVM is an expansive low-scale site of distinct and definable character which is both essentially inward-looking and experienced from within.

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 as outline below.

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, this large-scale development on the fringes of the QVM would diminish its intactness and legibility as an early market complex. The overwhelming nature of this proposed development, and the encroachment and cantilever of T1 and T2 over the Franklin Street Stores, prevents the appreciation of these structures in their own right and diminishes their visibility in views within the market.

The three towers would 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 would be starkly disrupted if the proposed design of the tower developments are approved.

While it is acknowledged that there are tall tower forms to the southern and eastern sides of the site, none of these are in such close proximity and none provide a continuous high wall of buildings as a backdrop across a whole street block with minimum views to sky in between. These towers provide a sharp change in scale directly behind the Franklin Street Stores rather than the distinctive scale transition the QVM's context is known for.

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.

This adjacent development directly behind the Franklin Street Stores would have significant impacts on their readability as part of the marketplace, directly impacting the National Heritage values of the QVM.

4.2 Impact of the cantilever

The National Trust objects to the cantilever of T1 and T2 over the Franklin Street Stores and finds it inappropriate that this aspect has not been addressed in the Draft PER's significant impact assessment. Our views on this matter are outlined further below. 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.

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.

Additionally, we are not satisfied that a commercial 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. Therefore, 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, the Franklin Street Stores are one of the key building typologies demonstrating the QVM as a nineteenth century market. Therefore removing portions of the southern canopy to accommodate the development of the cantilevered T1 and T2 Towers, would compromise the integrity of significant contributory attributes of the National Heritage values.

The National Trust disagrees with the Draft PER's assessment of the demolition of part of the southern canopy as a relatively minor impact on the sites National Heritage Values. This removal cannot be considered in isolation; it must be assessed in the context of other proposed changes, including the cantilever of T1 and T2 (which were not addressed in the Draft PER's significant impact assessment), as well as the close proximity and overwhelming presence of T1, T2, and T3. Cumulatively, these changes diminish the visibility, understanding, and interpretation of the Franklin Street Stores as part of the marketplace, all of which are integral to the National Heritage Values of QVM.

We note that, as requested by the PER Guidelines, the Draft PER outlines the alternatives for canopy retention. However, the options explored and excluded only include full retention, partial retention, and non-retention of the canopies, with no consideration given to altering the proposed design or setback of the towers, to allow for the canopies to be retained.

Furthermore, the Draft PER states that retaining the canopies would result in 'a dark and uninviting space.' However, the Draft PER fails to recognise that this 'dark and uninviting space' is caused by the proposed new buildings being in such close proximity and cantilevering over the Stores. We submit that the PER should be revised to more thoroughly explore alternatives for canopy retention, including options where the design of the towers is adjusted to accommodate the Stores canopy. The proposed tower designs should not take precedence over the retention of the nationally significant fabric of the QVM. If a compromise is necessary, it should prioritise preserving the National Heritage values of the site rather than the proposed development.

6.0 Queens Corner Building

The National Trust submits that not only is it impossible to accurately assess the impact of the Queens Corner Building without a detailed design, which has not been supplied, but in its currently proposed outline, built to the maximum allowable building envelope, the building would impact views across the market, particularly obscuring sight lines from the lower market and Queen Street to the proposed Market Square.

Additionally, the building would enclose Market Square, further impacting on the openness of the market and accentuating the visual separation between the lower and upper market from the Franklin Street Stores. The cumulative impacts of both the three towers behind the Franklin Street Stores and the Queens Corner Building on the 'distinct character and open setting' should be recognised.

The Queens Corner building should therefore not be designed to the maximum building envelope and articulated to allow views through to Market Square from the lower market Queen Street.

However, given that the Draft PER does not provide a detailed design for the Queens Corner Building, we submit this element of the proposed works should be removed from consideration under this Controlled Action assessment and re-submitted for referral and if required subsequent approval at such a time as the applicant can provide a detailed design.

Should the applicant produce further detailed plans for the Queens Corner Building and subsequently submit them under the assessment of this Controlled Action, these too should be made available for public comment before the PER is finalised.

Conclusion

The National Trust conditionally supports the development of Market Square and the adaptive reuse of the Franklin Street Stores. However, we strongly oppose the partial demolition of the Franklin Street Stores canopy, as well as the height, bulk, and cantilever of the proposed tower developments and the Queens Corner Building.

We are not satisfied that the Draft PER meaningfully explores alternatives to mitigate the impacts of the proposed action. Furthermore, we do not find the justification for ignoring negative impacts of buildings outside the boundary of the QVM an appropriate assessment under the protections afforded through the EPBC Act.

It is our position that the National Heritage Values of the QVM would be significantly damaged, notably altered, and obscured should the proposed tower developments and the Queens Corner Building proceed.

Therefore, we respectfully request that Lendlease reconsider the designs for developments T1, T2, T3, and the Queens Corner Building, as we fundamentally object to the adverse and irreversible impacts these developments would have on the National Heritage Values of the QVM.

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



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