

2022

# DADA submission to the Standing Advisory Committee, Preston Market



Darebin Appropriate Development Association Inc.

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## **1. Acknowledgement to Country**

We acknowledge we are meeting on unceded lands of the Wurundjeri peoples of the Kulin nation and pay our respects to elders past and present and emerging. DADA supports the call for a voice, treaty and truth telling.

## **2. Introduction**

My name is Maria Poletti. I have been the President of Darebin Appropriate Development Association (DADA)<sup>1</sup> for 5 years and before that was DADA Secretary for 7 years. I am also a founding member of Save the Preston Market Action Group.

Though I do not have formal planning credentials I do have extensive experience, knowledge and service to the cause of the appropriate redevelopment of Preston Market.

I have been a member of and worked with Preston Market community representative groups in various iterations since July 2014 to ensure the outcome of the redevelopment of Preston Market both preserves valued heritage attributes and provides beneficial outcomes for the community as a whole.

I initiated the application for a state heritage listing with the Heritage Council of Victoria, provided advice and support for the Victorian Civil and Administrative Tribunal (VCAT) hearing on Stage 1B and 1C of the proposed redevelopment of Preston Market and attended community meetings with the Victorian Planning Authority (VPA).

I have written tens of thousands of words in submissions to Darebin Council, Heritage Victoria, VCAT and two parliamentary inquiries on planning matters.

I have been interviewed by local, state, and student newspapers, radio and TV on all manner of planning issues including the redevelopment of Preston Market.

I have a vast experience of markets. At last count I have visited and studied over 65 markets including fresh food markets, handicraft and flea markets across the world in Australia, Europe, the Middle East, the Pacific, Asia, North and Central America. I have real experience, understanding and appreciation of the importance of markets to communities as meeting and trading places, how heritage is preserved in place; including in the fabric of the market buildings, their unique qualities, community participation and market operation.

In situations where I was not able to represent community issues, DADA has ensured member representation including but not limited to the VPA community reference group and VCAT hearings.

The DADA Charter<sup>2</sup> states that we are not opposed to infill development but are predominantly concerned with the quantity and quality of infill development in meeting community needs for net benefit. We consistently assess planning applications against health and wellbeing standards for the whole community, including the future tenants and the current locals.

To the constant dismay and frustration of the community the issue of the redevelopment of Preston Market has been used as a political football by successive Darebin Councils, a number of Darebin Councilors and State governments.

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<sup>1</sup><https://www.darebinada.org/>

<sup>2</sup><https://www.darebinada.org/about-dada>

**3. Darebin Planning Scheme Draft Amendment C182dare: Preston Market Precinct Structure Plan**

The Darebin Planning Scheme and the Planning and Environment Act 1987 Act so far has proved a very blunt instrument for ensuring quality infill development in Darebin, in part because both are built on colonial values that interpret a particular type of gentrification as a bonus for the community and in part because both drive yield as the key priority.

The VPA and the SAC have made been clear about what is not allowed under the Planning Scheme and Act, proving that it is a poor framework by which to assess and develop appropriate responses for a site such as this; a civic market site.

An unfortunate and frustrating aspect of the SAC process is that there has been no clarification of thresholds for decision making, especially on contested aspects. We are not aware of how any of the committee will judge and weight arguments made. For example, do three experts who agree on a particular matter outweigh one expert that disagrees?

As a teacher I was not allowed to make a decision on a student's work unless I had clearly outlined in writing the weight and threshold attributes for graded levels or pass and fail. Not at VCAT, The Heritage Council or the SAC is there a published list of criteria and thresholds available before the hearings that identify exactly how decisions are made. This sets up parties for failure and gives particularly advantage to those who have a considerable history of the process and know the chair or SAC panel members, against those who do not, most notably the community submitters. A detailed written decision after the fact is no substitute for the guidance of a detailed explanation of weights and thresholds beforehand.

What we hope to see in the final Amendment C182dare is a framework for world best outcomes for the development of an asset of the importance and uniqueness of Preston Market.

We would like to see more emphasis placed on the impact to people's health in the development of Preston Market, inclusive of the health of future residents, visitors to the market and those who live, work and play in the precinct. It is a considerable problem that much of the expert advice relies on outdated pre pandemic documents and that future populations figures quoted ignored the possibility and effects of future pandemics.

The legislation has until now focused and guided minds and imaginations mostly to high density infill housing development, specifically yield, limiting possible outcomes for a site that is considered a civic space and that holds so much importance in the community. If we can switch our thinking from numbers and sizes of dwellings, and heights of buildings, we could develop the site to offer much more than just an infill housing opportunity. The market square is an opportunity for world's best development practice that can include infill dwelling development but which should offer so much more.

Dr Melissa Checker's research on sustainable development shows, '*Gentrification of affluent suburbs inevitably leads to poor livability outcomes in poorer postcodes*'<sup>3</sup>

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<sup>3</sup>Dr Melissa Checker, Future Tense, Sun 26 Sep 2021, 12:30pm,  
<https://www.abc.net.au/radionational/programs/futuretense/should-we-really-aim-for-sustainable-development/13540946>

DADA members have been assessing standards in development applications and completed developments in Darebin for over 10 years and there is very little about the “gentrification” of Darebin that has been positive for our community.

In Darebin the quality of development varies significantly from the more affluent southern wards of the municipality to the less affluent northern wards revealing the inconsistency in the assumption that all new development proposals will be an “improvement”. It is a failure of the Act and the Planning Scheme that there can be stark differences in design and development outcomes depending on the postcode of the development.

This is the inequitable and inevitable outcome of allowing developers ‘reasonable flexibility’ within the Planning Scheme.

Successive petitions have shown that many tens of thousands of community members do not want the market site gentrified or homogenized and believe that over-development of the site with high density apartment buildings will negatively impact on the future of the market, potentially leading to its demise. The community signatories want the market to continue on the current footprint with significant heritage features given due recognition and protected from demolition.

We believe that the SAC has the power through this process and should advise that the amendment specifies standards to better reflect the future needs of the community while protecting heritage standards that recognize the broad demographic population of Darebin and seeks to prioritize their participation, health and wellbeing within the market site.

#### **4. Fast Tracked Projects**

It is significant that the Preston Market redevelopment has been placed on the Fast Tracked list. It is recognition of both the size and importance of the market site not only to the Darebin community but also to the State. It is not only the purpose of the Fast Tracked Program to streamline planning approvals but also to remove community participation and oversight of planning applications.

Community oversight and participation leads to better development outcomes and we believe that Preston Market is too precious a site to exclude community participation at any level of decision making; therefore it should be removed from the fast track process.

#### **5. Variations to the Approved Planning Proposal**

A key unresolved issue for the community regarding the Preston Market redevelopment proposal and the VPA’s suggested structure plan is how variations to approved fast tracked planning proposals will be investigated and resolved. Currently community representation is excluded from the assessment of variations to approved planning proposals. Further, the workload of council officers means investigating variations is limited, giving developers, in reality, free range.

The following example from a Darebin officer outlines how difficult it is for the community to be confident that we are protected by the rules and regulations of the Planning Scheme.

*On 31/05/2022 5:04 pm, XXX wrote:*

*Hi Y.....*

*‘a developer can sell the properties without the all of the conditions on the Planning Permit being complied with. Often, a developer will get permit approval for a development, and then sell the site with the permit in place. The planning permit “travels” with the land, not a person. Essentially, it is buyer beware.’*

*On 3/06/2022 10:00 am, XXX wrote:*

*Hi Y.....*

*Due to the extent of use and development activity that goes on across a municipality (Darebin alone deals with at least a 1000 applications a year) most responsible authorities rely on a complaint alleging a planning breach (breach of Planning Conditions/endorsed plans) to trigger an investigation of the alleged breach.*

*As far as the Planning side of a development is involved, when Council issues a Planning permit/endorsed plans we don't monitor compliance with the Permit conditions/endorsed plans, or conduct inspections to ensure compliance with a Planning permit.*

The community, the council and the State government must be confident that the developer will do the “right thing” to achieve the best redevelopment outcomes but the community has very good reason to lack confidence in Preston Market Developments (PMD).

Quoted from an article in the Preston Leader, the managing director Sam Tarascio disingenuously claims “the proposed development would not affect the market’s existing footprint”<sup>4</sup>

The interview with City Shapers, The Urban Design from 2019 provides some insight into the type of dwellings Mr. Tarascio actually wants on the site:

<https://www.youtube.com/watch?v=KGwZzlrtaNg>

At approximately the 24 minute mark he talks about the “build to rent” model. He sees this type of accommodation as for dual income earners, earning up to five or six hundred thousand dollars a year to rent before buying.

The “Build to Rent” model will not provide the type of housing that is needed to support the continuation of the market. Tenants with preferred income of 500 to 600 thousand a year will not reflect the current cultural and social mix of the Preston Market and will instead achieve a critical mass on the site that will discourage shoppers not of that cohort from shopping at the market. This will be a negative gentrification outcome from a community perspective and have a negative impact on the desired social and cultural aspects of the market highlighted as worthy of protection in a number of heritage reports.

We believe the desired demography mix can be achieved and still provide developer profit. As an example, DADA has been working with a planning proposal on another site in Darebin, at Northern Careworks – 81-91 High Street Preston, to provide 50% social housing as well as developer profit. (see appendix 7)

The “Build to Rent” model will not encourage stability of tenants needed to develop and improve a caring community. We believe stable and caring communities are developed through long stays in housing. Long stays of over five years allows tenants to interact with their neighbours and builds positive neighborhood connections. It provides up-stream conditions for the best outcomes for the whole community and saves the community expense down-stream in dealing with the inevitable negative outcomes from poor housing.

PMD submissions are silent in any recognition of the civic nature of the Preston Market site or how they propose to enhance this aspect for the net benefit of the community.

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<sup>4</sup> PRESTON LEADER, Tuesday, December 6, 2016, prestonleader.com.au

## 6. Affordable and Public Housing

There is not a housing shortage in Melbourne, as stated by Joe Collins, Lecturer in the Faculty of Arts and Social Sciences, University of Sydney<sup>5</sup>. He says “*if we wanted to we could house every single person who required housing tomorrow*” by taking the housing where nobody lives and “*whack*”, his term, people in there. It is not a real housing crisis but a contrived housing crisis brought about and supported by government policy settings. The 2021 Census data shows that on the night of the census 10% of Melbourne’s private dwellings were unoccupied and 13 million bedrooms were vacant across Australia.<sup>6</sup>

What is in crisis is the availability of public and affordable rental and private housing. DADA has consistently advocated for a salt and pepper mix of affordable and public housing in all developments. The percentage of which should reflect the projected need. If the Darebin Housing Strategy<sup>7</sup> indicates that future public housing needs will be 20% then that is what each and every development application should include, evenly spread throughout the development and the Local Government Area (LGA), not segregated in any one development or area.

The 5% suggested by PMD is not adequate in the light of the need in Darebin and is not equitable where all development should provide at the very least a fair share. Why should a proposed development of this size and importance be allowed to ignore the responsibility to the community? Net benefit must include adequate provision for affordable and public housing. If not on this site then where? A higher mix of affordable and public housing would ensure a broader demographic mix that better represents the current social and culture mix of market attendees and better supports the ongoing sustainability of Preston Market.

The much talked about adjacent position to Preston Station makes this site more useful to potential residents of public and affordable housing i.e. those who are less likely to own their own private forms of transport and are more likely to rely on public transport and those of lower income brackets.

Further, the terminology of “affordable housing” needs to be clearly defined in the final amendment as a percentage of income, not as has been commonly argued by developers and councils alike at VCAT, that affordable means cheaper i.e. That any two bedroom apartment with a lower price tag meets the definition of affordable. This definition is spurious and has underpinned the glut of one and two bedroom dwellings built in Darebin since 2016.

What has been missing from this process is recognition of the changing needs for housing in a pandemic and post pandemic world. It would be an unmitigated failure if the development of Preston Market doesn’t give due consideration to livability and well being in the face of future pandemics.

If given the opportunity in any forum DADA would advocate for affirmative action policy to provide, as a priority, suitable affordable and public housing for indigenous families.

## 7. Built Form

DADA supports the provision in the Draft Preston Market Precinct Structure Plan; November 2021 for mandatory height limits however we would prefer these to be expressed as metres rather than stories.

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<sup>5</sup> Joe Collins, Housing part 2 – rent, The Philosophers Zone, Radio National, 11<sup>th</sup> of September, 2022

<sup>6</sup> Australian Housing and Urban Research Institute, <https://www.ahuri.edu.au/research/brief/are-there-1-million-empty-homes-and-13-million-unused-bedrooms>

<sup>7</sup> Page 50, Housing Strategy 2013 (Revised 2015)

A ten-storey limit with a four-storey podium or street wall is for all intents and purposes, a 14-storey building and nearly twice the height of the current highest building in the heart of Preston or in all of Darebin.

14-storeys or potentially higher buildings are not appropriate or necessary for this site as this type of infill will severely impact on the open air attributes of the market and the site and create unacceptable massing and overshadowing of both the market square and surrounding sites.

Four-storey podiums would mean greater visual mass and density at street level than is currently built around the site. A two-storey podium is the maximum appropriate for this site, given the main feature of the site will be the single-storey market building and adjacent buildings to the site are only up to two storeys. It is of no consequence that there is current planning approval for four-storey podiums. Planning regulations are changed and improved in an ongoing way without reference or deference to previous bad planning decisions. There is no need to negatively affect the design of future developments in this way. It is inappropriate to include as adjacent buildings those across the railway line or across Murray Road in a calculation of podium heights.

DADA believes that the maximum mandatory height limit on the Preston Market site should be the equivalent in metres of seven storeys, with lower mandatory heights set toward the north of the site to give maximum access to passive heating and daylight.

There are two early documents that give us a very clear view of the desires of the owner developer.

The Preston Market Masterplan of 2014 is a document produced by the developer. It is such a disappointment that the VPA Draft Structure Plan, November 2021 basically reflects the desired layout and density of the developer 2014 masterplan. We would rather see the final VPA Structure Plan and the amendment much better reflect community desires for the future use of the site.

Exceptional circumstances do apply to the market square and high density development should be integrated elsewhere in Darebin leaving the market buildings intact and surrounding open space of considerable size and quality.

## **8. Market Form and Urban Design**

The community has been very clear that we do not want to see the built form and fabric of Preston Market demolished, changed or moved elsewhere on the site. We believe there is significant heritage value in all of the technical and aesthetic qualities of the market, especially the space frame roof and tilt up concrete walls, to justify the rigorous protection to preserve all of these features. We do not want to see any demolished and expect them to be enhanced in any projected upgrade.

There has been discussion in the hearing of the concept of 'grit' as a way of describing the unique qualities of the market. We agree that the community values the concept and until now have incorporated the discussion 'grittiness' within the framework of the valued tangible and intangible heritage attributes of the market. It is what separates Preston Market as an alternative market in Melbourne. It would be a mistake of planning to seek to homogenize markets in Melbourne through white middle class gentrification and not preserve the alternate values currently embodied in Preston Market. It would be wrong if the amendment to force a gentrification model on the market instead of encouraging a more organic change over time that would best reflect the community.



A community management committee for the market could develop and oversee policy for positive measures to improve the cultural and social aspects of the market community to ensure these attributes are preserved in the future.

## 9. Density

The Future Project Staging in the planning application for stages 1A, 1B and 1C for infill development on the market square shows that the proposed number of dwellings was approximately 1500 to 1600 dwellings.<sup>8</sup> It is reasonable to assume that the developer could see suitable profits to be made in this proposal with this yield.

While the proposed draft structure plan in the second phase has suggested 1200, the Preston Market Developments submission claims that 2200 dwellings are not enough. The claim is *“with this preliminary modeling suggesting that some 370 fewer dwellings (some 16% less) would be achieved.”*<sup>9</sup>

If this is accurate modeling then it reinforces **two community concerns**:

**One**, that the projected zoning and draft amendment of this key civic site are not appropriate tools for planning the best outcome for the market square in terms of yield; and,

**Two** that the consecutive increase in the yield advocated by the developer is not defensible for anything other than developer profit.

We do not think that the yield should be a priority focus on the site. Instead the highest density of apartment dwellings should be located on the St George’s Road blocks of land and the market site be reserved for a medium density mix with civic buildings that do not compete with but support the market operations.

Darebin has by comparison to other LGAs very little of the most restrictive zoning protection with only 11% Neighbourhood Residential Zoning. This means there is more than ample opportunity for Darebin to meet future commitments for dwelling development spread across the city. There is not an argument for overdevelopment of the market square when medium and high-density development is better placed elsewhere and has less impact on the market.

The community vision for the site is profoundly supportive of a dwelling mix that is moderate, meets the future needs of the community and reflects the social and cultural demographic mix that frequents the market.

It is best that there is a mix of 1, 2, 3 and 3+ bedroom dwellings on the site to encourage single, couples and families including indigenous, retirees, migrants and refugees and better reflect the social and cultural demographic mix that has made the market thrive for over 50 years.

Bob Birrell and Ernest Healy point out the failure of apartment development in Melbourne (and Sydney) to meet housing needs:

*“In our view, the main reason for this outcome is that high-rise apartments do not meet the needs of the main source of growth in demand for dwellings, which is coming from families with children. High-rise apartments are simply unsuited to their requirements”*<sup>10</sup>

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<sup>8</sup> 1.4 Future Project Staging, Planning application Stage 1, 2016.

<sup>9</sup> Page 4, PRESTON MARKET PLANNING SCHEME AMENDMENT SUBMISSION ON BEHALF OF PRESTON MARKET DEVELOPMENTS PTY LTD

<sup>10</sup> Page 13, The Australian Population Research Institute, Research Report, July 2018, Immigration and the Housing Affordability Crisis in Sydney and Melbourne, Bob Birrell Ernest Healy

The amendment should include mandatory requirements for the provision of 1, 2, 3 and 3+ bedroom dwellings as well as mandatory requirements for affordable and public housing in medium-density.

The Darebin Housing Policy 2015<sup>11</sup> provides the benchmarks of future housing needs and clearly a meager 5% provision of affordable housing is not enough for such a site.

The market square is best suited to include integrated public and affordable housing to encourage a range of socio-economic tenants.

## **10. Open Space**

Both the quantity and the quality of open space, whether private or shared, have not been adequately provided in new development in Darebin. Darebin Council's own research has shown that in the future 18% of new development needs to provide open space to make up for the low level across the local government area.

Currently the public open space, much of it car parking, is a highly valued attribute of Preston Market by the community. A 5% public open space land contribution will not replace the potential loss of open space due to high density development on the site.

The open space of the car park enhances the linkage throughout the site in all directions and provides the opportunity for development of a civic site rather than a dwelling infill site. There will be fewer and fewer opportunities in Darebin to develop civic sites as all available space becomes packed with high density infill.

It is suggested by the VPA in the draft amendment that open space requirement can be traded for a cash payment or the alternate allocation of open space elsewhere in the municipality.

Open space should not be traded and must be located where it's most needed and most usable, adjacent to dwellings; otherwise there is an unacceptable reduction in livability and wellbeing and an increase in poor health and safety outcomes for residents.

The COVID-19 pandemic has provided sharp magnification of the faults of high density living and of the lack of adjacent private open space in apartment dwellings. It has shown that shared open space either adjacent or nearby does not replace the provision of attached private open space, especially for families with young children.

Communal open space is only useful if it is big enough to provide for required social distancing in a pandemic and big enough to provide a variety of outdoor activities.

The green open space on the top of infill apartment buildings, as suggested in the VPA draft amendment, will only provide adjacent open space for apartment residents and not replace the loss of open space to market shoppers and traders.

The 18% required on the site should be public open space and provided at ground level in addition to the private open space provided adjacent to dwellings.

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<sup>11</sup> Darebin Housing Policy 2013 revised 2015, City of Darebin

## **11. Sustainability**

Higher sustainable requirements are better for the health, wellbeing and livability of everybody on the planet not just those who live in the high and medium density developments and in the adjacent neighbourhoods.

The very best way to meet the sustainability objective on this site is to leave the market in place and continue to conserve and use the fabric of the buildings to the full extent of its life.

There is an appetite in the buyers' market for greater green standards than currently required in the planning provisions. Buyers who seek better standards are not protected by government policy if sustainable infrastructure is not provided.

We do not want to see in the development of Preston Market the opportunity for green washing where prospective buyers are offered green facilities that are not included in contracts and not delivered.

DADA strongly supports the inclusion of strong sustainability objectives in the amendment to be mandatory requirements at a global standard.

## **12. Landscaping**

Darebin Council has suffered a significant loss of green canopy and green space due to the loss of vegetation through the clear felling of trees for housing development. Some areas of Darebin, specifically those of lower socioeconomic postcodes, have endured the loss of at least 25% of the canopy. This has resulted in an increased heat island effect and poor health outcomes due to higher temperatures in summer. We also recognize that canopy vegetation along with other forms of vegetation provide much more than just cooling.

It is a failure of the planning scheme to not recognize the significance of vegetation on the health and wellbeing of residents. We consider it of vital importance to protect green canopy and ensure new developments seek to add to canopy rather than result in net removal. Canopy replacement should be, at the very least, to the same degree as any canopy removed. It is not good enough to replace a significant tree of considerable age with tube stock that will take a life-time to replace the canopy lost if not killed by neglect in the meantime.

There are a number of established trees of the Preston Market site. Most notably are the two eucalypts in the south west car park off Mary Street. At least one would meet Darebin Council's definition of significant and worthy of preservation. The other looks to be suffering under the restricted conditions of the car park site. Nonetheless it should be preserved and nurtured. We do not want to see the carbon stored in these trees released through their removal.

When assessing sustainability of any new development on the site, the historic carbon store and future carbon store should be assessed rigorously and applied for net benefit. .

## **13. Car Parking and Traffic**

The community has been very clear in action dating back to 2016 that a reduction in the car parking attached to the market for market shoppers is undesirable and will negatively impact on the future viability of the market and central Preston. Market shoppers come from far and wide and use their cars for easy access.

Many market shoppers buy in bulk because the fresh food offered is cheaper than in supermarkets and they need to bring their cars to carry bulk loads. For many of the market shoppers using public transport is not a viable option.

We support the relocation of parking underground so that above ground open space can be enhanced and improved to provide quality green passive and active open space. There is concern regarding drainage and flooding of the site and we would want to see the plans that ensure that car parking is not flooded by “one in 100 year” climate events that would make the parking dangerous and unusable.

The amendment should not be silent on the placement of parking for users with a disability, senior visitors, parents with prams and the like to the market. These provisions should be mandatory and stipulated definitively.

#### **14. Access**

Approximately 18% of the Australian population has a disability, this percentage increases to around 50% for those aged 65 and over.<sup>12</sup> This means that the longer we live, the more likely we are to experience some form of disability. This also means that with our aging population we will need more dwellings with appropriate disability access and provision.

Retrofitting an apartment complex for disability is costly and is a down-stream cost when there hasn't been adequate provision in the first place. Provision for residents and visitors with a disability should reflect the percentage of need in the population including provision for the aging population, somewhere around 33%. Disability provision should not be the sole responsibility of public housing.

Provision of car parking for residents with a disability needs to reflect the number of dwellings provided for people with disabilities in each apartment complex, approximately 33% on top of the disability parking provision for the market visitors.

First responder access to apartments, or lack of the adequate provision for it, has a very direct effect on the health and safety of residents and visitors to apartment dwellings and the market. First responder access needs to be specified in the amendment provisions for Preston Market.

#### **15. Heritage**

DADA has been a very strong advocate for increased understanding and protection of the heritage values of Preston Market. We believe that the best heritage protection does include saving all of the market fabric on the current footprint and that recognition and appreciation of the heritage significance to the community, includes enhancement of key heritage values.

Mr. Gard'ner in evidence commented more than once that the community consultation did not show the community considered the heritage aesthetic qualities as significant. We have argued that the community consultation was tightly controlled so that discussion was not given air. The best evidence of the community appreciation of the aesthetic qualities is in the arguments made at the Heritage Council hearing by community members and including the architect's presentation on the aesthetic considerations.<sup>13</sup>

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<sup>12</sup> *People with disability in Australia 2020*: Australian Institute of Health and Welfare, 2020  
[People with disability in Australia](#).

<sup>13</sup> Heritage Council presentations, Barry Pearce and Chris Erlandsen, appendix documents 3 & 4

Community participants in the Heritage Council hearing, after seeing the evidence on the aesthetic values of Preston Market, commented that they '*would never look at the market in the same way again*'. The understanding of the aesthetic values had greatly increased their appreciation of them. It was requested of DADA to run tours through the market pointing out aesthetic and technical values to enhance greater understanding of their importance. This reinforces the point that the community generally would need to have education and training in aesthetics to be able to articulate their appreciation in the same way as an expert might.

Ms. Brady when questioned agreed that not all the Brutalist fabric was lost and could be reinstated. The community if given the opportunity to be represented in a management committee would seek to bring back some of the aesthetic values of the original market design but this could not be achieved if only the fruit and vegetable sheds were retained.

We reject Ms. Brady's assertion, in response to a question '*that if left to the community nothing would be built*'. This is an offensive example of the lack of recognition by experts in the value of community input to improve development outcomes.

Mr. Gard'ner commented twice that in his opinion keeping just the fruit and vegetable sheds of the current market is the **bare minimum** required to protect the market heritage. The bare minimum of heritage fabric protection is a very poor outcome for the market and the community.

The VPA position as outlined in the Heritage Interpretation Strategy should be seen as additional to the heritage preservation of the market not as a way of remembering the market heritage when the buildings have been demolished.

The VPA suggests an insubstantial level of protection offered under a local heritage overlay. It is very poor and reinforces Professor Michael Buxton's view that our heritage protection is ineffective compared to that of many other countries. That there is no proper consideration of precincts and that overlays omit too many important areas and buildings.

The recent interim report of the Victorian Government Inquiry into Protections within the Victorian Planning Framework includes the following contribution from The National Trust:

#### *5.6.1 Social and Cultural Reasons Included in Heritage Protection*

*The National Trust submitted that the ambit of the Planning and Environment Act needs to expand to cover heritage that is important for social and cultural reasons:*

*The challenge of our current system of protection is that it is fabric-focused, and cannot protect "intangible" values such as ongoing uses. There are also no guidelines on how social significance should be assessed and managed at the local level.*

*[...]*

*The loss of these buildings continues to be mourned by their local communities.*

*[...]*

*This can include places such as pubs, day care centres, schools, open spaces, theatres, Civic halls and buildings, heritage sites, football grounds, and **markets**.*<sup>14</sup>

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<sup>14</sup> Page 142, PARLIAMENT OF VICTORIA LEGISLATIVE COUNCIL, Environment and Planning Committee Inquiry into the protections within the Victorian Planning Framework, Interim report, appendix document 9.

The VPA draft does not go far enough in recognizing the importance of the market buildings and how the community will mourn the loss of the current market fabric, design and footprint.

We note that the expert witness conclave did not resolve the issue of the heritage significance and protection of the whole market fabric and footprint and ask the panel how they intend to make assessment when expert witness statements do not concur?

Further the heritage experts are precisely divided on their summation of the protection of the fabric and footprint of the market in line with the submissions made by their respective employers. The fact that the heritage experts are divided in this way throws doubt on their ability to provide an unbiased assessment of heritage of the Preston Market.

However the RBA Architects position on the retention of at least 75% of the spaceframe fabric was determined prior to Darebin Council's decision to support the community call for retention of the market with heritage values intact and on the current footprint.

Heritage expert witness evidence often included a statement of 'balance' of heritage issues with other competing factors. But, no expert witness, from other fields, in their evidence felt a need argue balance with heritage factors. It is stated in the conclusion at (171) of Mr. Gard'ner's evidence that the site is subject to 'increased development pressure' as though this is a higher priority for the consideration of heritage than heritage itself. Ms Brady in her summary of position talks about competing potential outcomes.

This is a clear indication that heritage is considered differently and of less importance than the competing factors and may point to the fact that Mr. Hemingway is the only heritage expert who considered heritage merits as a priority and not in deference to yield.

No heritage expert witness adequately clarified the thresholds they used when assessing heritage values either in balance or as standalone issues. Though it was suggested by at least two and stated by one of the heritage experts that the state level thresholds were used given there is no local level guidance. How can anyone compare expert heritage statements without an understanding of the thresholds used by each? If different thresholds were used then there is no like for like comparison between the heritage expert evidence and advice.

There was no evidence given of what world class heritage preservation might look like. Examples given lack direct comparison to the Preston Market and were misleading as there is no example of like for like with Preston Market, it is a unique living and breathing place.

Further we are concerned how the committee may attribute value to the number of representations on matters of heritage. If the SAC considers three heritage experts advice outweighs one heritage expert's advice, then this would reinforce the community view that money spent, in this case on heritage expert advice, wins the argument.

In the cross examination of Mr. Hemingway's expert evidence Mr. Gobbo suggests a privileged white male hierarchy as a way to weight heritage expert evidence. We call this out as completely inappropriate and offensive and request the panel ignores those comments.

The best heritage outcome is what this site deserves and other competing priorities can be adequately incorporated on the site and surroundings without the need to demolish any part of the current fabric or footprint.

Most importantly, no heritage expert indicates or argues that keeping all of the current market fabric and footprint equates to a poor heritage outcome. In our view the more heritage fabric left in place does the most to ensure the continuation of the market into the future for net community benefit.

#### **16. Market Survival**

Demolishing the current market to move from the centre of the site to the eastern edge will not guarantee its survival. Nobody can guarantee the future survival of the market, but a 50-year history of the market's success on its current footprint points towards a viable future.

It is noted, with absolute disappointment, that the SAC does not include an expert on markets, and that no authority has included an expert on markets in their submissions, a signal to the community that the market continuation is of less significance than the yield on the site.

It has been noted that the conclave statements show a broad degree of consensus that the market should stay as a 'centrepiece' of the site. A quick search of the definition of centrepiece includes: *placed in the middle, occupying a central position*. This is exactly what the community wants. We fear there is more guarantee that the market will fail if it is not central to the site.

For the past 50 plus years The Preston Market has been integral to providing food security for our community. It is especially crucial for families of lower socio economic income who come from greater distances than the Darebin LGA. Just visit the market on Saturday the hour before closing to see the influx of shoppers who are looking for a bargain amongst the fresh fruit and vegetable offerings.

But it is not only the Saturday morning shoppers who hunt for a bargain. The fact is that nowhere in the north of the state offers equitable cheap food variety.

The expert witness statement on economics does not even ventilate food security. There is no comparison with South Melbourne Market where demographics of market shoppers vary considerably.

Since 2014 the Darebin Council has held a number of positions on how to save and protect Preston Market, not always reflecting or aligned with the dominant community position.

Since 2016 one council faction sought to see the current market and its significant heritage attributes bulldozed to provide greater infill density on the site. The alternate faction of council successfully passed a motion to protect the market and market fabric on the current footprint. The flip flopping of Darebin council on protection of the market has created confusion and lacks continuity, the result of which means the community cannot trust or rely on Darebin Council to support the dominant community view unless it reflects the dominant political faction view at the time.

For this reason the future of the Preston Market cannot rest with Darebin Council alone. Darebin Council cannot be relied upon to form a consistent, progressive, affirmative position on the future of Preston Market that reflects the community desires.

Alternatively, the community has been clear in a number of surveys and petitions, that to quote one: “we want the market to stay where it is and how it is”.<sup>15</sup>

To date there are over 30,000 signatures on at least five different petitions. Wording of petitions has varied and become more concise to more definitively reflect the community position and to try and prevent particular political spin that would see the market moved rather than preserved and protected on the current footprint.

The bulk of the community are very clear about their desire and need to keep the market operating on the current footprint with all heritage attributes, tangible and intangible, protected in place.

The Covid19 Pandemic has changed the world for ever. It has changed how we live, how we shop, how we learn, how we work and how we care for ourselves and others. It has changed migration patterns.

Before the pandemic nearly half of the population increase in Melbourne was due to migration from regional and rural areas. The pandemic resulted in a reversal in that migration pattern.

It would be a mistake to think the pandemic is over or that we will never have another pandemic. It is very likely we will have at least one pandemic before the Preston Market redevelopment is completed.

Most of the expert documents submitted were based on reports and statements written prior to the pandemic. No planners predicted the pandemic, the war in Ukrainian or the global financial crisis but they are confident in asserting that migration numbers will return to pre-pandemic numbers and this is an argument for consideration of the maximum yield allowance on the site.

It is the worst possible outcome were the market demolished and moved so that dwelling yield could be increased and resulted in empty dwellings for a considerable amount of time. A considerable rate of empty apartments would in turn result in the ultimate demise of the market.

Given the changing world it is unreasonable that Amendment C182 dare be constrained by the Stage 1B and 1C planning application approved by VCAT in 2017. We recognize that Stage 1B and 1C are still in place but argue that under a public acquisition model the community can decide if those plans go ahead or not.

## 17. Section 173 Agreements

An unresolved issue for the community is how best to ensure the viability and continuation of the market on the site on its current footprint.

Darebin Council’s suggestion of a S173 agreement is problematic.

They ask at:

### ***Submission Request 5 – Secure the market use on site***

- *Strengthen the market use condition in the zone to prohibit any other use from locating within the market footprint on the framework plan.*
- *Require the developer enter into a s173 agreement with Council, committing to the ongoing market use on the site.*<sup>16</sup>

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<sup>15</sup> Change.org petition, Help show how much the community cares about Preston Market!<https://www.change.org/p/help-show-how-much-the-community-cares-about-preston-market>

<sup>16</sup> Page 6, Darebin City Council Submission to VPA Proposed Preston Market Precinct Framework



Given Darebin Council's previous views on Preston Market and their tendency to flip flop in their commitment to save the entire footprint of the market, the community cannot trust that the proposed S173 Agreement with the owner/developer is strong enough or clear enough to ensure the market will stay in place into the future.

We believe that an S173 Agreement can be changed or removed with a stroke of a planning officer's pen. That the developer can apply for an amendment to an approved planning proposal to remove the S173 agreement and that the community may not even be aware of it.

If the SAC is of a mind to consider inclusion of S173 agreements it would be prudent to include significant penalties for both the developer and Darebin Council should either seek to amend or agree to a change or removal of an S173 Agreement.

A Darebin planning officer is currently considering an amendment seeking the deletion of an S173 Agreement that was set as a condition of a VCAT ruling on a planning application for 629-631 Plenty Road, Preston.<sup>17</sup>

This is especially of concern for a project on the Fast Tracked list where the State might sign off on such an amendment without community knowledge or agreement.

In her presentation to Darebin Council, Dr Jane Stanley, an internationally recognized expert on markets, argued there are other arrangements that could be made if the market site was to stay in private hands.

*Given that the land was purchased with a designation as a market precinct, and that the landowner does not appear to have any experience or interest in running a market, I would have thought that it would be entirely reasonable for the Council to present and push for other options. My suggestions would be:*

- Council to lease the market site at a peppercorn rental, recognising that the landowner is not currently running the market as a profitable enterprise, and that the need for upgrading means that the market is a liability;*
- Council to establish a Trust to run the market, with representation from the traders (via traders' association);*
- Advice to be sought from the Manager of South Melbourne Market on appropriate operational arrangements under a Trust structure (which oversees that market);*
- Preparation of a Business Plan that identifies ways of increasing productivity and returns on investment for the traders and the Trust;*
- Incremental market improvements to be funded over time from the proceeds achieved by running the market.<sup>18</sup>*

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<sup>17</sup> VCAT REFERENCE NO. P590/2018, PERMIT APPLICATION NO. D/1083/2016, appendix document 5.

<sup>18</sup> PRESENTATION ON THE VALUE OF RETAINING AND STRENGTHENING PRESTON MARKET  
Dr Jane Marilyn Stanley, Director, FOCUS Pty Ltd, appendix document 6.

Mandatory requirements in the amendment could include these suggestions if the panel is not of a mind to recommend public acquisition.

## 18. Public Acquisition

As shown by the number of submissions to the VPA draft Structure Plan and the number of signatories to community sponsored petitions, we are consistently disappointed with the authority's response to options for redevelopment of the Preston Market.

We believe that the only way to strengthen Preston Market within a civic focused space is for the community to oversee its operation through public acquisition and a community management or trust committee. It is possible and likely that a community management committee would develop and implement affirmative action policies and strategies, ensuring the market survives and thrives with heritage attributes in place, incorporating world best market and urban design practices and achieves the future housing needs of Darebin.

The Save The Preston Market Action Group petition has garnered over 10,000 signatories for public acquisition of the market and placing it in community hands. The demand on the petition is:

*"The petitioners therefore request that the Legislative Assembly of Victoria calls on the ... Minister for Planning to... commence compulsory acquisition of Preston Market to put it in public hands ...."(see appendix 9)*

There are two acts of government that provide authority, to three ministers, and structure for public acquisition of privately owned land, one with specific reference to acquisition of markets.

There are a number of models to enable public acquisition, some not requiring significant funds.

**The Crown Lands Reserves Act 1978** in Part 2 section 4 (h) lists markets specifically as land that may be reserved for public purposes.<sup>19</sup>

The act also specifically states at point 5 that the Minister may purchase ... any land which s/he considers should be reserved for any of the purposes specified in section 4 (1)<sup>20</sup>

The act reinforces at 5 (4), the notion that the Minister may compulsorily acquire for and on behalf of Her Majesty- (a) any land which s/ he is satisfied on reasonable grounds should be reserved for- (i) any of the purposes specified in paragraphs (l), (m) ... of section 4 (1).<sup>21</sup>

There is reference made to the companion act of land acquisition which states at (8) that *"Any land acquired by the Minister under this section –(a) vests in the crown under section 24 of the **Land Acquisition and Compensation Act 1986** despite anything to the contrary in that section; and (b) may be dealt with as unalienated land of the Crown temporarily reserved under this Act for the purpose for which the land was acquired."*<sup>22</sup>

There is more than adequate provision and authority in the Crown Land (Reserves) Act 1978 and the Land Acquisition and Compensation Act 1986 for Preston Market to be purchased and reserved either by agreement or by compulsion.

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<sup>19</sup>Page 15, Authorised Version No. 128, Crown Land (Reserves) Act 1978, No. 9212 of 1978, Authorised Version incorporating amendments as at 1 December 2021

<sup>20</sup>Ibid, Page 18

<sup>21</sup>Ibid, Page 19

<sup>22</sup>Ibid, Page 20

Advice to the Minister should be that public acquisition is the best option to ensure the future of Preston Market in the manner the community expects, keeping intact social, cultural, technical and aesthetic valued attributes of the market while building on the vibrant multicultural, multi-demographic atmosphere with significant percentage of public and affordable dwellings.

Possible models for acquisition include:

1. Acquisition by agreement or by compulsion could proceed using funds from one or more government authorities; council, state and federal. Funding could come from grants for public and affordable housing with the assurance that a significant percentage of the development be given to providing for the groups in most need. Government funding is available from Development Victoria and Housing Australia Future Fund.
2. Underutilized land already owned by the crown could be swapped for the Preston Market site allowing higher density development to be built in an integrated way throughout the council and electorate. This model provides a much better outcome by spreading development, with less impact on the market square.
3. The land and market could be gifted to the community.
4. The community is given the opportunity to work with government authorities to raise the funds needed to acquire the site. A loan matched by government grants could be paid off with profits from the market.

A further advantage of public acquisition of the site removes the current owners and their competing view of the site and allows for a more cohesive vision of the future of Preston Market in line with community wishes.

Despite the many requests from the community to government authorities, none have bothered to do any research on the possibilities or models for public acquisition, instead there has been consistent off hand rejection of the idea. No expert on public acquisition has been called by any party and it is hard to see how the panel could achieve an informed decision on this matter without further work.

What is important is that the final amendment can be delivered to a publically owned Preston Market. Proof of this as doable can be found in other examples of community controlled markets in Melbourne.

Ms Gordon on behalf of Save the Preston Market Action Group will present an excellent model that best reflects discussions and consultations within that group and the broader community. DADA has long used the example of BEDZED<sup>23</sup> in London of a community controlled development that has a focus on building community rather than maximizing yield.

Either example, that can include a publically owned market at the centre of the site, can deliver better on every metric of consideration in the hearing for the proposed amendment, including yield.

## **19. Conclusion**

DADA believes Preston Market is a significant site and deserves, as a priority objective, a world best practice re-development for a civic site to ensure upstream health and wellbeing for the whole community.

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<sup>23</sup> BEDZED, The-BedZED-Story\_Bioregional\_2017, appendix document 7.

We are acutely aware of the down-stream cost to the community, if health and welfare outcomes are not assessed as a key priority of a world class development like Preston Market.

We expect to see development that is appropriately sympathetic to the market heritage attributes and preserves them while producing housing that best meets the future needs of Darebin.

We believe this is best achieved by public acquisition and the removal of the site redevelopment from the fast track program.

We believe public acquisition will be able to deliver on every mandatory standard included in the amendment and that a market trust or management committee will have a mind and be more generous on delivering better outcomes on those values important to us.

We have argued that the best way to achieve a world's best practice is to ensure a community trust has input from experts on market management as well as urban design, traffic management, health and wellbeing and heritage.

The community asks for assurance and clarity in the final amendment and structure plan. We want to be clear about what can and cannot be built on the site. We believe it is essential that key provisions in the amendment are mandatory and expect to see these used for objectives of most contention and concern to the community. Fine grain detail in the amendment is critical if the Preston Market is to meet world class standards and be a model civic development.

We require a detailed, definitive Heritage Overlay that protects the heritage attributes recognized by the community as established in the place and the fabric of the market in its current form and on its current footprint.

We believe there needs to be a reimagination by government at all jurisdictional levels to address the creation of truly diverse communities that support social cohesion, rather than a focus on high density apartment yields that do not best serve the entire community.

We understand that Darebin needs to provide its share of infill development and ask the panel to consider and include in the amendment definitive provisions for how the Preston Market site will provide an appropriate share of the 25,000 public homes that need to be built every year in Australia to fill the backlog.

We ask the SAC to consider, in its final recommendation to the Minister for Planning, the downstream negative effects of the infill development and include these in their calculation of net benefit and cost to the community.

We wish the committee good luck in their deliberations and hope that the final outcome does not confirm the community view that money speaks louder than community in planning matters.

Maria Poletti -President, Darebin Appropriate Development Association

**20. Appendix**

1. DADA Submission (visual) to the Standing Advisory Committee, Preston Market
2. Document- Heritage Preston Market C Erlandsen
3. PRESTON MARKET WRITTEN SUBMISSION\_Criterion f\_130619-2 B Pearce and D Rayson
4. VCAT REFERENCE NO. P590/2018, PERMIT APPLICATION NO. D/1083/2016
5. PRESENTATION ON THE VALUE OF RETAINING AND STRENGTHENING PRESTON MARKET  
Dr Jane Marilyn Stanley, Director, FOCUS Pty Ltd
6. The-BedZED-Story\_Bioregional\_2017
7. Northern Careworks, 210803\_NCCC\_Report\_Digital
8. PARLIAMENT OF VICTORIA LEGISLATIVE COUNCIL, Environment and Planning Committee  
Inquiry into the protections within the Victorian Planning Framework, Interim report
9. Save The Preston Market Action Group Petition sample