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VCAT Reference P792/2017

City of Yarra Planning Permit Application No. PLN16/1028

'Salisbury Place' 34-36 Nicholson Street, Fitzroy

1. The National Trust of Australia (Victoria) (National Trust) has grown since 1956 to become the state's largest independent community based heritage advocacy organisation actively working towards conserving and protecting our heritage for future generations to enjoy. Our mission is to 'inspire the community to appreciate, conserve and celebrate its built, natural and cultural heritage'.
2. Our organisation did not lodge an objection to the original application to council, as we were only notified of the permit application by concerned members of the community after the public exhibition period had concluded. As the place is classified on our Register of Significant Place both individually and within the South Fitzroy Heritage Area (further details below), and as the proposed development will impact upon the UNESCO World Heritage Site (WHS) Royal Exhibition Building (REB) and Carlton Gardens (CG), we have taken the opportunity to submit a Statement of Grounds at this later stage to provide information which we believe will be of assistance to the Tribunal.
3. We note the original planning application (before amended plans were submitted), was for the following:
 - a. *Retention of the front (hipped roof) element of the two terrace houses at 34-36 Nicholson Street, demolition of altered rear wings, outbuildings and later additions and the construction of a new ten-storey apartment building.*
4. Our key concerns regarding this application can be summarised in the following four points:
 - a. The potential impact of the proposed apartment building on view lines to and from UNESCO World Heritage Site (WHS) Royal Exhibition Building (REB) and Carlton Gardens (CG) and within the World Heritage Environs Area (WHEA);
 - b. The potential impact of the proposed apartment building on the streetscape of Nicholson Street and within the wider South Fitzroy Historic Area;

- c. The heritage impact of the proposed demolition of the rear wings and outbuildings, particularly the structure identified as the former 'stables'; and
 - d. The proposed internal alteration and 'remodelling' of the retained front portion of the place.
5. To summarise, the National Trust does not believe that the proposed retention of the front portion of the building mitigates the significant negative heritage impacts that will result from the demolition of the rear wings and outbuildings of the place, and the construction of a high-rise apartment tower. As such, based on the established cultural heritage significance of the place, its inclusion within the WHEA, and based on the relevant planning provisions, we submit that the permit application should be refused in its current form. Furthermore, we believe that if this permit application was to be approved in its current form, it would set a precedent for future inappropriate development within the WHEA. The National Trust submits that the incremental impact of inappropriate developments within the WHEA would irrevocably undermine the cultural heritage significance of the WHS and the identified character of its predominately nineteenth-century setting.

National Trust Classifications

6. The subject site was Classified by the National Trust as 'Pair of Houses', 34-36 Nicholson Street, Fitzroy, in 1988 as a place of 'Local Significance', and later reclassified at Regional level (National Trust File No. B6033) The Statement of Significance for this classification is reproduced below:
- a. *This pair of two-storey houses, the stone portion of which was built by James Lawrence in 1853-54, is amongst the earliest examples of this type of construction in Fitzroy. The buildings illustrate the combination of an early use of stone with an important early builder in that material. The buildings were refaced and rear extensions added in the 1890s when they were owned by Edwin Oldfield, a well-known Canadian dentist who was the founder in 1895 of the Dental College of Victoria, reputedly the first institution of its kind in the Southern Hemisphere. The two-storey brick stables and double brick toilets at the rear of the properties, which may date from the 1850s, are significant as rare survivors in Fitzroy.*
7. This classification clearly identifies the 1850s fabric of the building and the 1890s rear extension and outbuildings as being of cultural heritage significance, specifically mentioning the two-storey brick stables and double brick toilet.
8. In addition, the 'South Fitzroy—Historic Area', including Nicholson, Brunswick & Gertrude Streets and 91 Victoria Parade, Fitzroy, was classified by the National Trust in 1981 as being of State significance (National Trust File No. B4599). The subject site, 34-36 Nicholson Street, is included within the extent of registration within this classification.

9. Prior to this classification, in 1979, the National Trust Conservation Committee unanimously agreed that this area should be recommended for Classification as an 'Urban Conservation Area'. A report detailing the 'South Fitzroy Conservation Area No. 1' was prepared by Peter Lovell & Elizabeth Vines in November 1979, defining this area as containing 'one of the most interesting and intact selections of mid-nineteenth century architectures in Melbourne'. The 'Area Description' for the Historic Area specifically noted the following (pg. 5):
 - a. *This precinct is closely related to the development along Nicholson Street and the Exhibition Buildings and Carlton Gardens which together form an area of intact nineteenth century development.*
 - b. *Newtown, the area bounded by Nicholson, Gertrude, Brunswick Streets and Victoria Parade was Melbourne's first suburban development, containing three most important terraces of houses of the 1850s and a number of other buildings of that decade.*
10. While the National Trust Register does not carry statutory weight, our early classifications were assessed and determined prior to the implementation of statutory heritage controls, and subsequently informed much of what is protected under local Heritage Overlay provisions and in the Victorian Heritage Register today. As such, our early classifications are particularly instructive when considering the significance of heritage places. As demonstrated above, the place was a very early classification for our organisation, with the South Fitzroy Historic Area our first classified 'Urban Conservation Area'.

World Heritage Environs Area

11. The place is located within the WHEA. The UNESCO World Heritage List citation includes the following reference to the WHEA:
 - a. *A Conservation Management Plan for the whole site was finalised in 2009. A buffer zone, the World Heritage Environs Area, covering an additional 55.26 hectares, was established in 2010 and has been supplemented by the World Heritage Environs Area Strategy Plan. Changes to local government heritage overlays have been made to give effect to this plan. Any future developments immediately outside the World Heritage Environs Area, which are likely to have a significant impact on the World Heritage values of the Royal Exhibition Building and Carlton Gardens, are subject to the provisions of the EPBC Act.*
12. The National Trust submits that this planning application is not consistent with City of Yarra clause 22.14 *Development Guidelines for Heritage Places in the World Heritage Environs Area*. We believe the proposal to construct a high-rise apartment tower within the WHEA, in close proximity to the CG, is not consistent with any of the following objectives specified within 22.14-2:

- a. *To protect significant views and vistas to the Royal Exhibition Building and Carlton Gardens;*
- b. *To maintain and conserve the significant historic character (built form and landscapes) of the area;*
- c. *To ensure new development in the area has regard to the prominence and visibility of the Royal Exhibition Building and Carlton Gardens.*

13. Further, we do not believe that the planning application is consistent with the following policies listed at 22.14-3:

- a. *Retain and conserve individually significant and contributory places, including contributory fabric, form, architectural features and settings, to assist with maintaining the heritage character of the setting and context of the Royal Exhibition Building and Carlton Gardens.*
- b. *Retain and conserve the valued heritage character of streetscapes to assist with maintaining the heritage character of the setting and context of the Royal Exhibition Building and Carlton Gardens.*
- c. *Retain the predominantly lower scale form of development which provides a contrast to the dominant scale and form of the Royal Exhibition Building.*

14. As outlined in the Heritage Impact Statement prepared by GJM (GJM HIS) on (pg. 10):

- a. *This proposed development is located more than 30 metres from the outer boundary of Carlton Gardens within the highly variable built form context of the St Vincent Hospital complex. The Victorian terraces remain as the immediate interface between the REB&CB and the variable urban context behind. As such, none of the World Heritage or National Heritage values of the REB&CG are threatened or adversely impacted by the proposed development.*

15. Further, the GJM HIS states (pg. 27):

- a. *When considered in the context of the higher scale built form of St Vincent's hospital complex – which currently forms the physical and visual backdrop to existing views of the subject site from the World Heritage Site and elsewhere within the World Heritage Environs Area – the development is considered appropriate from a heritage perspective.*

16. The National Trust strongly objects to this interpretation, and submits that it does not take into consideration the significance or even the purpose of the WHEA. Regardless of how far the development may be located from the 'outer boundary of Carlton Gardens', the proposed apartment tower is still included within the extent of the WHEA 'buffer zone'. While the St Vincent Hospital complex can be characterised for its 'variable built form context', as this area is not directly included within the WHEA, with the majority of the buildings constructed before the WHEA was included within the planning scheme, these two considerations should not be conflated. We strongly

disagree with the assertion that ‘none of the World Heritage or National Heritage values of the REB&CG are threatened or adversely impacted by the proposed development’, and that based on the higher scale built form of St Vincent’s hospital complex ‘the development is considered appropriate from a heritage perspective’.

17. As outlined in the Statement of Significance for the WHEA Statement of Significance:
 - a. *Views out of the REB site into the precinct also reinforce the understanding and appreciation of the original nineteenth century context and significance setting of the REB.*
18. While the plans have been amended to reduce the height of the apartment building by 1-2 stories, the new built form will still be visible from Nicholson Street, and from various aspects in the CG. It should be noted that the amended plans included a cross-section of the new stepped design which measures the view lines from the top of the Osborne House parapet, rather than the roof line of Salisbury Place. As the parapet of Osborne House is approximately 5 metres higher than the roof line of Salisbury Place, we submit that the impact of the new tower on existing site lines has been miscalculated.
19. The National Trust submits that this proposal does not meet the guidelines for acceptable development within the WHEA, specifically as it relates to nineteenth-century streetscape and maintaining the predominantly lower scale form of development. As the purpose of the WHEA is based on protecting the cultural heritage significance of a site that reaches the threshold for World significance, it is essential that any development proposed within close proximity should be assessed and critiqued with the strictest possible interpretation of the planning controls. Anything less than this would undermine the importance of the sites significance within Melbourne, within Victoria, within Australia, and in world context.

Demolition of the rear wings

20. As outlined in the GJM HIS (pg. 21):
 - a. *demolition of the terrace houses beyond the front two rooms depth is proposed, including demolition of the rear wings and the post-war addition connecting the rear of the houses.*
21. The National Trust submits that the proposal to demolish the rear wings and outbuildings will have an unacceptable impact on the cultural heritage significance of the place. We do not believe that adequate justification for the demolition of the rear wings has been provided in the GJM HIS, particularly relating to the potential 1850s fabric that may still remain within the outbuildings.
22. The National Trust does not believe that the proposed development in its current form is consistent with clause 22.02 *Development Guidelines for sites subject to the Heritage Overlay*, specifically, the following objectives outlined in 22.02-4:

- a. *To conserve Yarra's natural and cultural heritage.*
- b. *To conserve the historic fabric and maintain the integrity of places of cultural heritage significance.*
- c. *To retain significant view lines to, and vistas of, heritage places.*
- d. *To preserve the scale and pattern of streetscapes in heritage places.*
- e. *To encourage the preservation, maintenance, restoration and where appropriate, reconstruction of heritage places.*
- f. *To ensure the adaptation of heritage places is consistent with the principles of good conservation practice.*
- g. *To ensure that additions and new works to a heritage place respect the significance of the place.*
- h. *To encourage the retention of 'individually significant' and 'contributory' heritage places.*
- i. *To protect archaeological sites of cultural heritage significance.*

23. Based on the level of heritage fabric proposed to be demolished, we submit that the proposed scheme does not adequately 'conserve the historic fabric or maintain the integrity' as it relates to the established cultural heritage significance of the place. Nor does it 'encourage the retention of individually significant and contributory heritage places'.

24. Further, the HIS provided for the development does not provide adequate justification for the demolition of the rear wings and outbuildings, and as such, does not address the decision guideline outlined in 43.01-4:

- a. *Whether the demolition, removal or external alteration will adversely affect the significance of the heritage place.*

Demolition of the former 'Stables'

25. As outlined in the GJM HIS on (pg. 6):

- a. *A two-storey structure (now attached to the residence via a large extension) is located on the rear boundary of 36 Nicholson Street. The footprint of this outbuilding matches the footprint of a stables on the 1898 MMBW detail plan, however, it appears to be of largely modern construction. Potentially original (or reconstructed) sections of the main building remain at ground floor of the north and east elevations; as evident by bluestone footings and bluestone sills originally to openings for internal water closets, which remain on the east elevation (the arches to the openings no longer remain, suggesting a reconstruction of the wall). Post-war modern bricks are evident at the first floor. This may indicate that the stables were originally one-storey and later extended in height, or that they were re-built on original footings, using original and modern bricks'.*

26. Information extracted from a National Trust archival document assessing the significance of the place prepared in 1988 provides the following insight:
- a. *Both the brick outbuildings, the two-storey brick stables at the rear of No 36 and the double brick toilet at the rear of No 34, have importance as rare survivors. Both may date from the 1853-54 period when brick toilets and kitchen/servants rooms were listed. Physical examination provides evidence that the stable building with its fire place and chimney may have been used for other than stable purposes. These outbuildings were certainly there from the 1890s, as has been confirmed by two MMBW drainage plans dated 1897 and 1898. A two-storey stable dating from this period may still be regarded as an unusual survivor in Fitzroy.*
27. While we have been unable to gain access to the site to undertake an updated assessment of the rear wings and outbuildings, we submit that there is a high chance that a major portion of this building fabric could date to the earliest phase of the building's construction. The National Trust submits that the significance of the outbuildings, or more specifically the structure identified as the former stables, should be independently reassessed before complete demolition is considered. This is based on two considerations:
- a. That existing fabric from the 1850s may still be evident, and further;
 - b. That this may be one of the last stable buildings dating from this period in the City of Yarra. We note the rarity of stable buildings within this part of Fitzroy, particularly after the introduction of the cable trams on Nicholson Street in the 1880s.

Internal alteration and 'remodelling' of the retained front portion of the place

28. As noted in the GJM HIS on (pg. 9):
- a. *The interior spaces have been altered, resulting in the loss of chimney pieces but some decorative mouldings including architraves, cornices and skirting boards have been retained.*
29. As further noted in the GJM HIS on (pg. 21):
- a. *Some internal walls within the retained portion of the houses and the existing staircase to 34 Nicholson Street will be removed to facilitate its conversion to apartments*
 - b. *The front portions of the terrace houses will be reconfigured to provide a self-contained two-storey apartment accessed via 36 Nicholson Street.*
30. The National Trust submits that the proposed alteration and 'remodelling' of the retained front portion of the place will have an adverse impact on the cultural heritage significance of the place. Not only will the removal of the staircase to 34 Nicholson Street erase the reading of the two terraces as distinct entities, but the removal and rearrangement of the walls will further mean the destruction and/or removal of various

original decorative elements. While internal controls have not been enacted in the Schedule to the Heritage Overlay, we submit that the removal of these elements will have an adverse impact on the cultural heritage significance of the place, and more tangibly on the level of integrity and intactness of the remaining heritage fabric.

Proposed Built Form

31. The National Trust submits that the proposed high-rise apartment tower is inconsistent with clause 22.02 *Development Guidelines for sites subject to the Heritage Overlay* as the current plans will not '*retain significant view lines to, and vistas of, heritage place*', particularly in relation to Nicholson Street, the South Fitzroy Historic Area, and view lines to and from REB and CG.
32. Subsequently, the National Trust does not believe that the proposed apartment tower is consistent with clause 21.05 *Built Form*, specifically the following identification:
 - a. *With over half of the municipality having heritage protection, heritage features, including buildings, subdivision patterns, open spaces, and streetscapes, underpin Yarra's valued character.*
33. We believe that this proposal will have an adverse impact on the streetscape of Nicholson Street which is arguably the most contributory streetscape to the nineteenth-century 'valued character' of the municipality, further elevated for its position within the WHEA and for its relationship to REB & CG.
34. As further outlined in clause 21.05:
 - a. *Objective 14: to protect and enhance Yarra's heritage places*
 - i. *Strategy 14.6: Protect buildings, streetscapes and precincts of heritage significance from the visual intrusion of built form both within places and from adjoining areas.*
35. In direct contrast to *Strategy 14.6*, the built form proposed within this planning application provides a major visual intrusion within the streetscape from multiple adjoining areas and viewpoints.
36. To summarise, the addition of build form at this height, insofar as it impacts upon the Nicholson Street streetscape and view lines to and from CG, is not supported by the National Trust, or by the relevant planning scheme provisions outlined above.

Archaeological considerations

37. Further, we submit that clause 22.02-6 *Archaeological sites* is a relevant consideration, which specifies the following:
 - a. *Applicants consult with Heritage Victoria where any proposed buildings or works may affect archaeological relics to facilitate compliance with Part 6 of the Heritage Act 1995 (Protection of Archaeological Places).*

38. As one of the oldest pair of terrace houses in one of Melbourne's first suburban developments, the National Trust submits that the site has high archaeological potential, with the potential for evidence to be uncovered which may tell an important story regarding the foundation of the colonial city of Melbourne, and the lives and activities of those that attended the Grand Exhibitions held at WHS REB&CG in the 1880s. Potential artefacts revealing the traditional custodianship of the land by the Aboriginal people should also be a key consideration. As outlined in the *Aboriginal Heritage Act*, any Aboriginal remains uncovered during excavation should be deferred to Aboriginal Victoria. Appropriate conditions relating to the investigation and management of archaeology should be included in any permit for the subject site.

Conclusion

39. To summarise, the National Trust does not support the height, bulk or massing of the proposed apartment building insofar as it impacts upon the view lines to and from the WHS REB &CG; within the WHEA, upon the Nicholson Street streetscape, and within the wider South Fitzroy Historic Area. Further, we submit that the proposed demolition of the rear wings and outbuildings of the place, and the proposed internal alteration and 'remodelling' of the retained front portion of the place, do not provide an acceptable outcome based on the established cultural heritage significance of the place, and are contrary to the relevant planning scheme provisions discussed above.

40. As such, the National Trust submits that the height, bulk and massing of the proposed apartment tower should be dramatically reduced/further amended; that the cultural heritage significance of the rear wings and outbuildings (specifically the former stables) be reassessed and ideally preserved and incorporated into any new development; that more of the original elements contained within front portion of the building be retained; and finally, if demolition of existing heritage fabric is to be undertaken, that a full archaeological excavation is undertaken in compliance with Part 6 of the *Heritage Act 1995*.

Yours sincerely,



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