

IN THE MATTER of the *Planning and Environment Act 1987* [the Act]

and

IN THE MATTER of City of Melbourne Amendment C258

and

IN THE MATTER of the submission (no. 75) by Stadiums Pty Ltd [Stadiums] as the owner of the property at 300 Dudley Street, West Melbourne [Festival Hall].

WRITTEN OUTLINE OF SUBMISSION
ON BEHALF OF STADIUMS PTY LTD [STADIUMS]

1. PREAMBLE

- 1.1 Stadiums accepts that under limited criteria Festival Hall may appropriately be included in the Schedule to the Heritage Overlay [HO] of the Melbourne Planning Scheme.
- 1.2 The primary thrust of the submission made on behalf of Stadiums concerns the form and content of the proposed Statement of Significance.
- 1.3 The proposed Statement of Significance on behalf of the Planning Authority relies entirely on the assessment by Mr Graham Butler, in respect of which Stadiums rely on the evidence of Mr Peter Lovell.
- 1.4 It is accepted that the Panel will follow the precedent created by earlier Panels in purporting to assign responsibility for the consequences of the application

of heritage policy consequent upon inclusion of the place in the HO to the subsequent decisions of others.

1.5 Nevertheless the assessment on behalf of the Planning Authority includes:

“The seminal work *What is social value* carried out for the Australian Heritage Commission lists place of social value would be expected to be places that (among other things):

- are accessible to the public and offer the possibility of repeated use to build up associations and value to the community of users; and
- places where people gather and act as a community, for example places of public ritual, public meeting or congregation, and informal gathering places.”

1.6 There is no suggestion or basis for a suggestion that externally Festival Hall demonstrates its past uses beyond the closed ticket windows and otherwise it is a utilitarian building indistinguishable from a warehouse or storage facility with its primary façade to the arterial traffic flowing down Dudley Street between mean concrete footpaths and under the rail line.

1.7 There appears no contention that the built form and aesthetics of the place are part of the heritage interest and in particular the significance attributed to Festival Hall does not ascribe any quality to the aesthetics, acoustics or comfort of the experience offered by Festival Hall which, in the face of the taxpayer funded or subsidised facilities of the Melbourne Recital Centre, Hisense, Margaret Court Arena, Etihad Stadium and the Palais Theatre, is now unable to compete with those facilities with the consequence that the

building will not continue to be accessible to the public, offer the possibility of repeated use or be a place where people gather and act as a community.

1.8 In the absence of a substantial subsidy at public expense, which is not in prospect, the future if included in the HO would appear to be limited to some warehouse or storage function accessed through the rejuvenating residential area surrounding Rosslyn Street.

1.9 As a key basis advanced by the Planning Authority for inclusion of Festival Hall in the HO is social considerations, the impact of inclusion in the HO on the future use and development and public access to the building is, it is submitted, clearly a social effect falling within the ambit of Section 12(2)(c) of the Act and relates to social values relating not to Stadiums as a private individual but to the community in whose benefit it is said that inclusion of Festival Hall in the HO is a community wide benefit.

1.10 Stadiums submits that this consideration is relevant to the appropriate breadth, precision and content of the Statement of Significance.

2. OUTLINE OF SUBMISSIONS

2.1 According to Planning Practice Note 1 an appropriate test for a potential heritage place to pass in order to apply to apply the HO is that “it has ‘something’ to be managed”.

2.2 The Practice Note further provides that the section of “What is significant” should be brief, no more than one paragraph or a series of dot points and that the paragraph should identify features or elements that are significant about the place as a guide to future decision makers.

- 2.3 Again the Practice Note in discussing “How it is significant”, that each item of significance should be contained within a sentence and that “Why it is significant” for each criterion should be in a separate point or paragraph.
- 2.4 In this context the proposed statement as to “What is significant” comprises 17 paragraphs including detail not relevant to the management of the place. Mr Butler conceded his description did not comply with the Practice Notes direction.
- 2.5 Mr Butler concedes reference to John Wren II and Chris Wren does not identify any contribution by them to the history of Festival Hall or to any social aspect of its past use or suggest that he had any material part in the activities undertaken within the building. He further concedes the use of the word “notorious” is inappropriate and that John Wren did not “develop” boxing stadiums. He did not know wrestling was not held at the Stadium during the Olympics.
- 2.6 Otherwise as to the appropriate form the Statement of Significance Stadiums adopts the evidence called on its behalf from Mr Peter Lovell.
- 2.7 Stadiums supports the evidence led by the Planning Authority from Ms Jordan that there is no warrant for two heritage policies based on whether land is within the Capital City Zone and it is contended that if there were a basis for different policies it would be between areas identified for change and areas where change is curtailed or limited. The draft West Melbourne Structure Plan 2018 currently proposes a preferred maximum building height of 10 storeys fronting Dudley Street (Document 9- Pg 87 - draft DDO for West Melbourne Structure Plan -Am C 309).

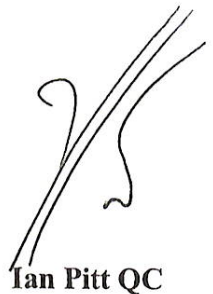
- 2.8 It is contended that integrated decision-making remains a fundamental purpose of the Planning Policy Framework under clause 71.02-3 and it is quite inappropriate for heritage policy to create a tension by failing to acknowledge that in decision-making there are a range of considerations to be weighed and heritage policy need not have primacy.

3. CONCLUSION

- 3.1 The Panel should recommend that Festival Hall should be included in the HO, but that the Statement of Significance should be in the form in Section 6.4 of the expert witness statement of Mr Peter Lovell and that the Panel should report on the impact on the historical and social significance of Festival Hall when it inevitably, unless the State makes a major financial contribution, ceases to undertake any of the activities which are relied upon as attributing historic and social significance to the place.

10 August 2018

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Ian Pitt QC
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