

# FITZROY GARDENS PAVILION

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HERITAGE IMPACT STATEMENT

Fitzroy Gardens, East Melbourne VIC 3002

March 2024

Prepared for

**FITZROY PAVILION PTY LTD**

Prepared by

**LOVELL CHEN**





## ACKNOWLEDGEMENT OF COUNTRY

This report was prepared on the lands of the Wurundjeri people who have been custodians of this land for thousands of years. We acknowledge their stories, connection to land, water and culture which is embedded in Country. We pay our respects to their Elders past and present and acknowledge that this report includes a post-contact history that forms only a small part of the ongoing story.

The Fitzroy Gardens Pavilion is located on the lands of the Wurundjeri people, who are, and have always been the custodians of this land. We pay our respects to the Elders past and present, and acknowledge the stories, traditions and cultures of all Aboriginal and Torres Strait Islander people.

## Quality Assurance Register

The following quality assurance register documents the development and issue of this report prepared by Lovell Chen Pty Ltd in accordance with our quality management system.

Project no.	Issue no.	Description	Issue date	Approval
20230228	A	Heritage Impact Statement	13/03/2024	KG
20230228	B	Heritage Impact Statement final	14/03/2024	KG

## Referencing

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Cover image: View of the proposed Pavilion from the north-west of the existing Pavilion's location

Source: Wardle, Heritage Victoria Design Report: Fitzroy Gardens Pavilion, 8 March 2024

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## 1.0 INTRODUCTION

This heritage impact statement (HIS) has been prepared for Fitzroy Pavilion Pty Ltd in relation to a Heritage Victoria permit application for works to the 1963 former Kiosk (now known as the Pavilion) in the Fitzroy Gardens. The proposal is for part demolition of the Pavilion and its redevelopment and refurbishment for a new restaurant.

The full extent of the Fitzroy Gardens is included in the Victorian Heritage Register (VHR) (H1834) but the works are confined to the Pavilion itself and the immediate surrounding area (Figure 1).

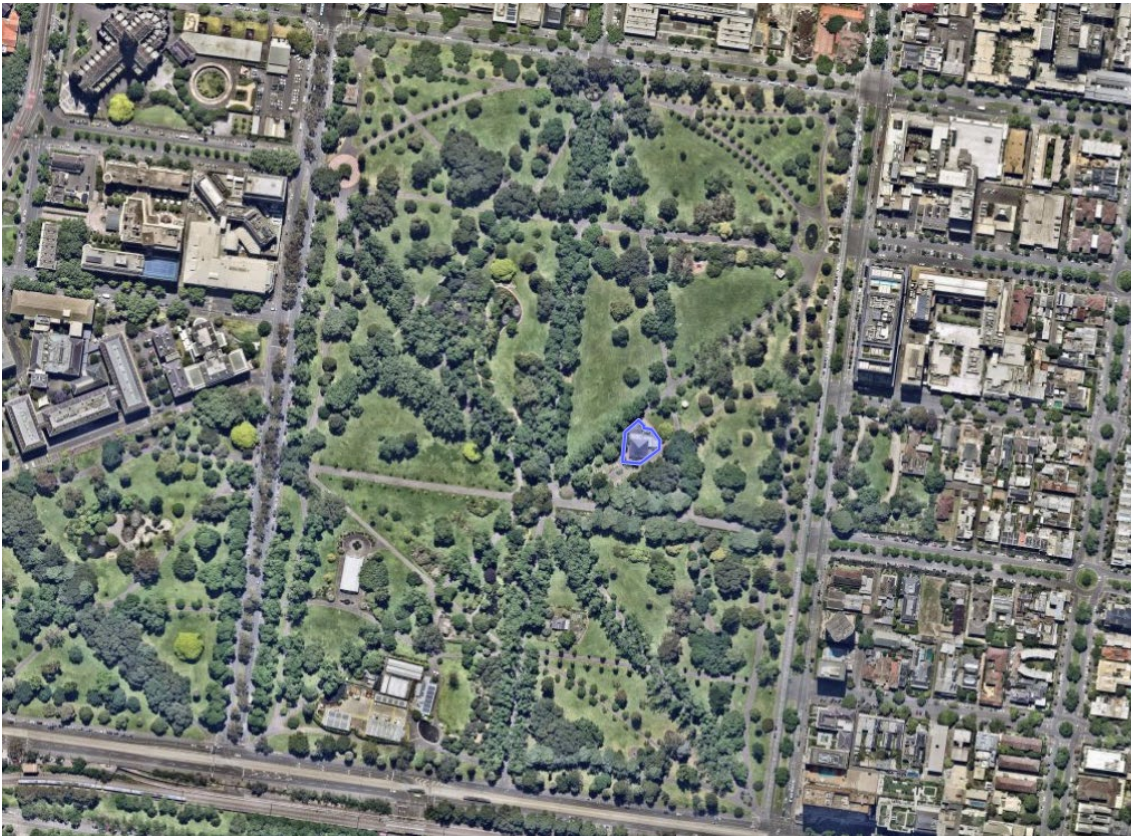


Figure 1 Satellite imagery indicating the location of the works within the Fitzroy Gardens  
Source: Nearmap, captured 10 November 2023

### 1.1 Background to the application

The Pavilion has been unoccupied since the closure of the Pavilion Café in 2017 and in recent years the City of Melbourne has considered options for the future use of the building, including extensive community consultation. An EOI process which contemplated a multi-use outcome with community uses combined with hospitality services was unsuccessful and a second commercial EOI process was undertaken. The outcome of that process was a lease agreement with Fitzroy Pavilion Pty Ltd which proposes to establish a new high-quality food and beverage venue in the building.<sup>1</sup>

<sup>1</sup> City of Melbourne, Report to the Future Melbourne Committee, Agenda 15 August 2023, Agenda Item 6.1, <https://www.melbourne.vic.gov.au/about-council/committees-meetings/meeting->

This application is for refurbishment works to accommodate the new use.

## 1.2 Pre-application consultation

A pre-application meeting (P39258) with Heritage Victoria was held on 7 February 2024 at which the proposed scheme was presented and feedback was sought on heritage issues associated with the project. The advice provided (at officer level) was generally supportive of the concept with some comments provided on the detail of the design and interface issues, as well in relation to the application requirements. These comments have been addressed in the application documentation submitted.

## 1.3 Documentation

Reference has been made to the following documentation in the preparation of this HIS:

### **Fitzroy Gardens Pavilion architectural and landscape plans**

- Site information – proposed site plan, AR.0101 Rev. D, Wardle (February 2024)
- Existing/demolition – ground floor plan, AR.0300 Rev. D, Wardle (October 2023)
- Existing/demolition – roof plan, AR.0301 Rev. D, Wardle (November 2023)
- Existing/demolition – elevations, AR.0302 Rev. D, Wardle (October 2023)
- Site works - landscape plan, AR.0400 Rev A, Wardle (February 2024)
- General arrangement – ground floor plan, AR.1000 Rev. D, Wardle (October 2023)
- General arrangement – roof plan, AR.1001 Rev. B, Wardle (October 2023)
- Major elevations – north and south elevations, AR.3000 Rev. B, Wardle (November 2023)
- Major elevations – east and west elevations, AR.3001 Rev. B, Wardle (November 2023)
- Major sections – section A, AR.3500 Rev. B, Wardle (November 2023)
- Heritage Victoria Design Report, Fitzroy Gardens Pavilion 08.03.2024, Wardle (March 2024).

## 1.4 Conservation Management Plan

In 1998 the *Fitzroy Gardens Conservation Analysis* (Conservation Analysis) was prepared by John Patrick Pty Ltd in association with Allom Lovell & Associates for the City of Melbourne. The Conservation Analysis included detailed historical and physical analysis and assessment of heritage significance, including consideration of the contribution made to significance by the various landscape and built elements at the place.<sup>2</sup> The Conservation Analysis was prepared at a time when the registration process for Fitzroy Gardens was occurring (the VHR listing was gazetted in August 1999). The Conservation Analysis is directly referenced in the permit exemptions and Permit Exemption Policy for the place.

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[archive/MeetingAgendaItemAttachments/1033/18272/AUG23%20FMC2%20AGENDA%20ITEM%206.1.pdf](https://www.heritage.vic.gov.au/MeetingAgendaItemAttachments/1033/18272/AUG23%20FMC2%20AGENDA%20ITEM%206.1.pdf), accessed 2 March 2023.

<sup>2</sup> Victorian Heritage Database: Fitzroy Gardens, <https://vhd.heritagecouncil.vic.gov.au/places/4703>, accessed 12 February 2024; John Patrick with Allom Lovell & Associates, *Fitzroy Gardens Conservation Analysis*, prepared for the City of Melbourne, 1998, p. 109.



In 2008 John Patrick Pty Ltd in association with Lovell Chen prepared a Conservation Management Plan (CMP) for the Fitzroy Gardens.<sup>3</sup> This built on the findings of the 1998 Conservation Analysis but included more detailed policies for the management of the place consistent with its heritage values.

Both documents are referenced in this HIS.

## 2.0 STATUTORY HERITAGE CONTROLS AND LISTINGS

### 2.1 Victorian Heritage Register

The Pavilion is located within the Fitzroy Gardens, bounded by Wellington Parade, Clarendon Street, Lansdowne Street and Albert Street, East Melbourne. The full extent of the Fitzroy Gardens is included in the VHR (H1834) pursuant to the *Heritage Act 2017*.

The state-level values of the Fitzroy Gardens are historical, aesthetic, architectural, scientific (horticultural) and social.

The statement of significance is as follows:

#### **What is significant?**

The Fitzroy Gardens were set aside as a public reserve, then known as Fitzroy Square, in 1848. Partially cleared and fenced during the 1840s and 1850s, it was not until 1859 that the reserve was laid out and developed as a garden under the supervision of Deputy Surveyor-General Clement Hodgkinson with the assistance of gardener James Sinclair. Fitzroy Gardens retain their original path system, albeit somewhat simplified and resurfaced. They also retain avenues of mature elms which are of national significance in their own right, together with remnants of the 1860s and 1870s mix of conifers and other specimen trees, and examples of ribbon border planting and sub-tropical planting of the late nineteenth century. A substantial collection of nineteenth century buildings also survives within the Gardens.

Like many nineteenth century gardens, the Fitzroy Gardens presents a layering of later phases of development, each curator introducing a slightly different landscape style and altering its overall character. In particular, the Gardens underwent major change in the interwar period, with the removal of large numbers of trees and the introduction of a new garden aesthetic. This period also saw the modification of path alignments and detailing and the expansion of the works area, as well as the addition of a number of distinctive new buildings, structures and works of sculpture. The interwar character is still visible to a large degree in the fabric of the place and demonstrates a major phase in its history. Today, the Fitzroy Gardens present as a series of layers that combine to create a cultural landscape of considerable individuality and diversity.

#### **How is it significant?**

The Fitzroy Gardens are of historical, aesthetic, architectural, scientific (horticultural) and social significance to the State of Victoria.

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<sup>3</sup> John Patrick Pty Ltd in association with Lovell Chen, *Fitzroy Gardens Conservation Management Plan*, 2008 (Final Draft), p. 390.

### Why is it significant?

The Fitzroy Gardens are of historical significance as one of a ring of public reserves around Melbourne established in the nineteenth century to provide respite and relaxation for the city's residents. The Fitzroy Gardens have been viewed as the flagship of this group of city gardens, which includes the Flagstaff, Treasury, Carlton and Alexandra Gardens and the Domain. In a statewide context, while not as intact as the Royal Botanic Gardens or the Ballarat Botanical Gardens, the Fitzroy Gardens are an important remnant of the city's nineteenth century garden heritage. They are also a reminder of the city's relatively large investment in public gardens, a reflection of 19th century beliefs about the moral and health benefits of green spaces in often dirty, smelly and overcrowded cities.

The Gardens contain several buildings and structures which are of architectural significance in their own right, including the Band Pavilion (1864), the Rotunda (1873), and an early gardener's cottage, Sinclair's Cottage (1866). Significant twentieth century buildings include the Spanish Revival-styled Conservatory (1930) and the Electricity Substation (1940).

The Fitzroy Gardens are of aesthetic significance for their surviving path system and magnificent avenues of elms and other species, providing a framework for the wide rolling lawns and vistas enhanced by garden structures and floral displays. The general topography that sets most of the gardens below street level, the sense of mystery and enclosure provided by the fern gully, the mound and lake and the majestic spreading specimen trees all combine to give the Fitzroy Gardens their unique character.

Fitzroy Gardens are of scientific (horticultural) significance for their outstanding collection of plants, including conifers, palms and deciduous trees. The avenues and rows of about 270 elms, *Ulmus procera* (English Elm) and *U. x hollandica* (Dutch Elm) throughout the gardens are some of the best avenues in Victoria. These avenues are of increasing international significance as Dutch Elm Disease has killed most of these species in the northern hemisphere. Other notable trees are: *Ficus macrophylla* (Moreton Bay Fig), *Ficus platypoda* (Small-leaved Fig), *Quercus bicolor* (Swamp White Oak), and the cedar avenue (*Cedrus deodara*) along the Hotham Walk. Significant individual tree species include a collection of nineteenth century conifers (including pines and Araucarias), the rare *Ficus palmata* (Indian Fig) and a collection of palms.

The Fitzroy Gardens are of social significance because, from their establishment in the early 1860s, the Gardens have been a place of relaxation, passive recreation and entertainment; the Gardens have been the people's park in the city. Attractions such as the indoor horticultural displays in the Conservatory, the Fairies' Tree, Model Tudor Village and Cook's Cottage have provided interest and pleasure for children and adults alike. Both the local and wider communities use the Gardens, which have been and remain a source of great pleasure to the many who frequent them.

While it forms part of the registered place, the Pavilion is not individually identified and listed in the description and accompanying plan as part of the gazetted VHR extent of registration (Figure 2). There are two 'built' elements identified within the VHR extent in the immediate vicinity; these are the Miniature Tudor Village (1948, B18) and the Fairies' Tree (1934, B12), both individually identified in the VHR documentation (refer to the detailed plan excerpt at Figure 3). There are also three individually

numbered trees, T2 (an *Araucaria bidwillii* or Bunya Bunya Pine next to the Model Tudor Village), T16 (a *Populus x canescens* or Grey Poplar immediately south of the Pavilion – removed due to poor condition in October 2021) and T17 (a *Quercus bicolor* or Swamp White Oak a short distance to the east).

The statement of significance for Fitzroy Gardens is discussed in more detail in section 5.0.

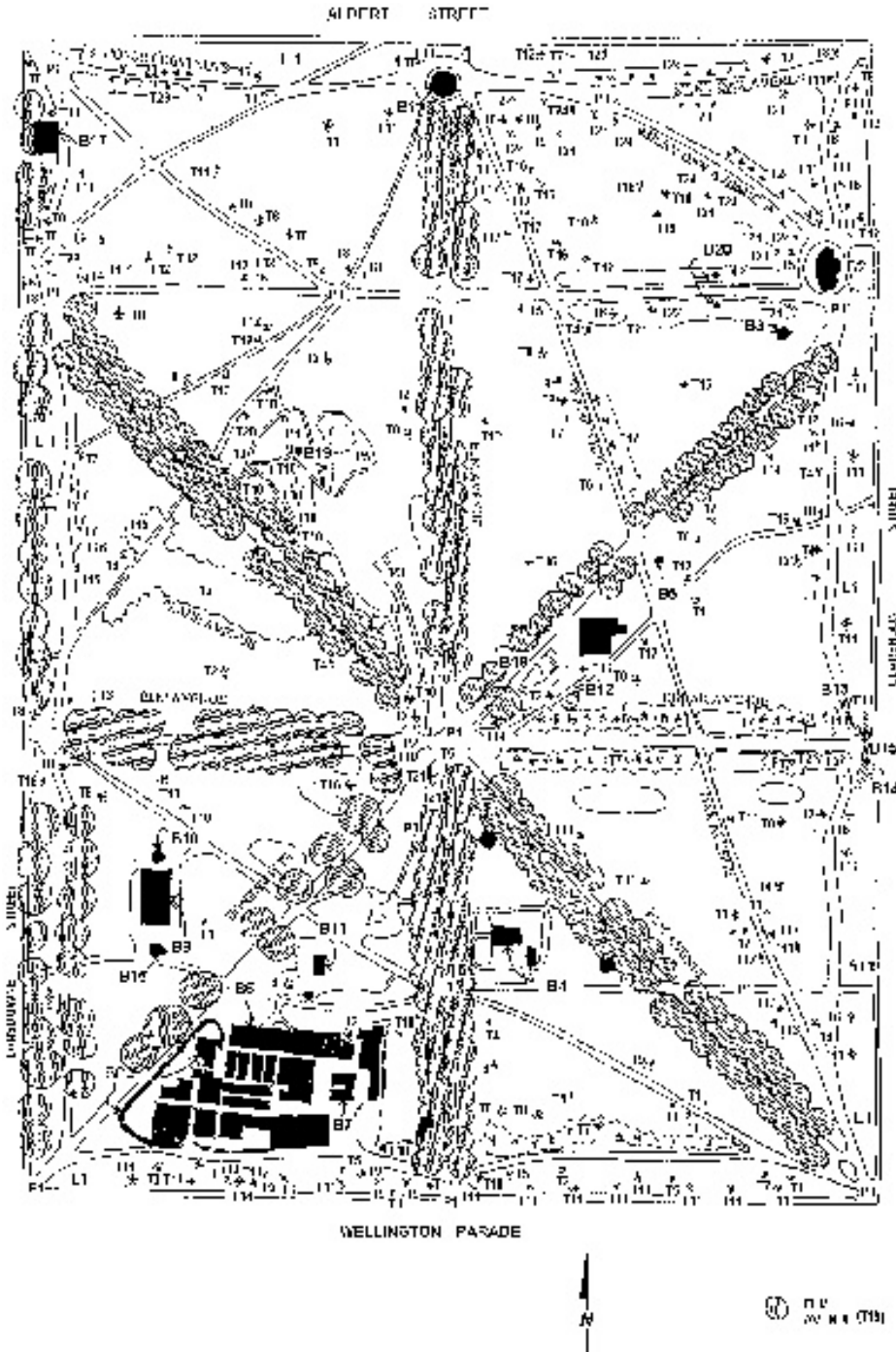


Figure 2 VHR extent of registration for Fitzroy Gardens  
 Source: Victorian Heritage Database: Fitzroy Gardens,  
<https://vhd.heritagecouncil.vic.gov.au/places/4703>, accessed 12 February 2024

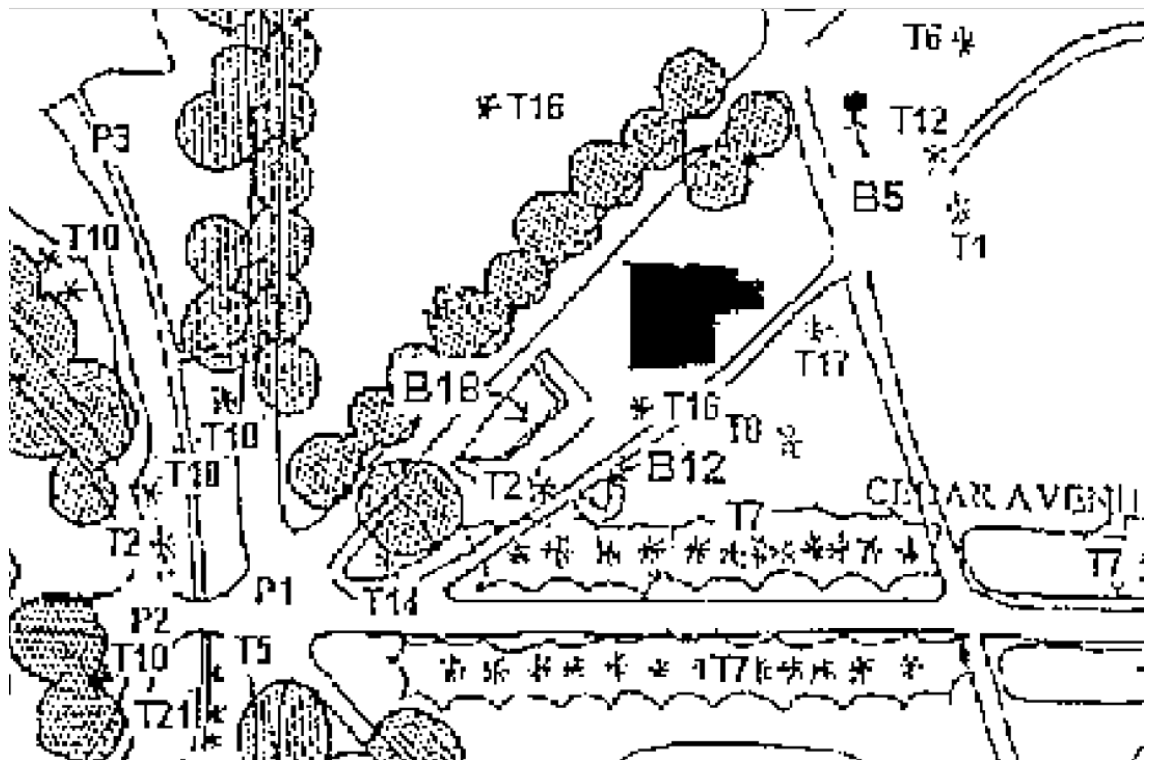


Figure 3 Detail showing the immediate environs of the Pavilion  
 Source: Victorian Heritage Database: Fitzroy Gardens,  
<https://vhd.heritagecouncil.vic.gov.au/places/4703>, accessed 12 February 2024

## 2.2 Melbourne Planning Scheme

The Fitzroy Gardens is identified as a site-specific Heritage Overlay (HO883) in the Schedule to the Heritage Overlay of the Melbourne Planning Scheme (Figure 4). This overlay reflects the extent of the VHR entry.



**YARRA CITY**

**FITZROY**

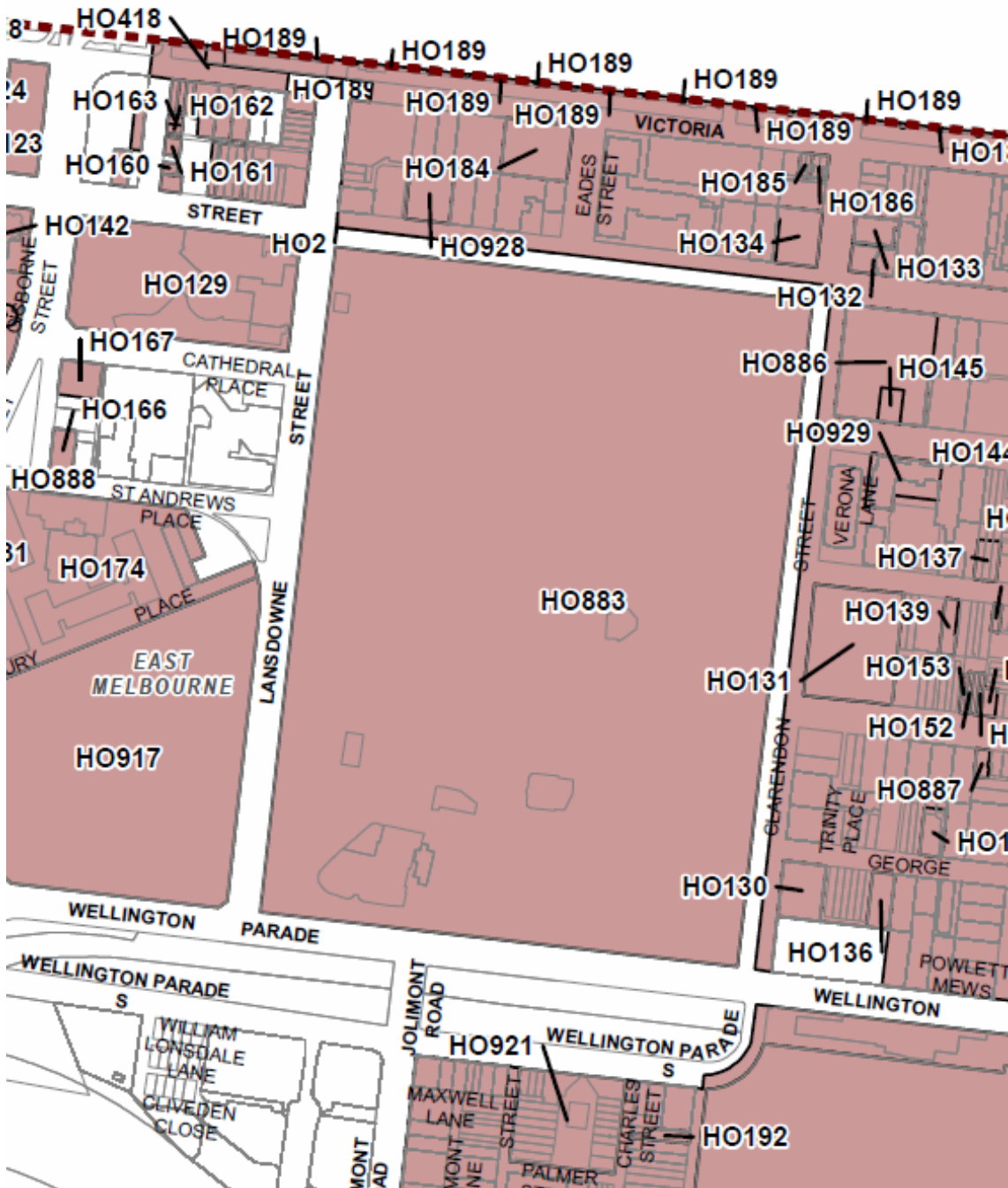


Figure 4 Fitzroy Gardens, shown on the Heritage Overlay map in the Melbourne Planning Scheme as HO883

Source: Heritage Overlay maps 8 and 9, Melbourne Planning Scheme

### 3.0 BRIEF HISTORY

#### 3.1 Fitzroy Gardens

The Fitzroy Gardens comprises 64 acres of gardens reserved for the public in the nineteenth century in a rectangular plan located at the south-eastern edge of the Melbourne central business district in East Melbourne. The Fitzroy Gardens is bounded by Albert Street to the north, Clarendon Street to the east, Wellington Parade to the south and Lansdowne Street to the west. The gardens are characterised by avenues of mature elms, and a diverse range of conifers, ribbon border planting and sub-tropical plantings of the late nineteenth century interspersed between open grass lawns. Within the Fitzroy Gardens are also a variety of buildings, a number of statues, water features and other structures that all offer varying experiences to visitors. A more detailed history of the Fitzroy Gardens can be found in the Fitzroy Gardens Conservation Management Plan, prepared by John Patrick Pty Ltd in association with Lovell Chen in 2008.<sup>4</sup>

Following is a brief history of the Pavilion within the Fitzroy Gardens.

#### 3.2 The Pavilion

The first Fitzroy Gardens Kiosk was constructed in 1908 on the Pavilion's current site. It was a two-storey timber pavilion in a rustic and picturesque Edwardian style (Figure 5).<sup>5</sup> The Kiosk was a popular attraction within the Gardens, with visitors being able to enjoy tea, coffee and light refreshments.<sup>6</sup>

In the interwar and early postwar periods, two other attractions were established in the immediate environs; the Fairies' Tree and the Miniature Tudor Village.<sup>7</sup> The Fairies' Tree is a dead River Red Gum tree stump that was sculpted and carved *in situ* in 1934 by prominent sculptor Ola Cohn; it displays images of little fairy people and Australian birds and animals.<sup>8</sup> Crafted by English pensioner Edgar Wilson, the Miniature Tudor Village was a gift to the people of Melbourne from the City of Lambeth, England, in appreciation for the generosity they demonstrated in sending food to Britain during World War II. Lord Mayor Cr Raymond Connelly formally opened the village on 21 May 1948.<sup>9</sup>

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<sup>4</sup> John Patrick Pty Ltd in association with Lovell Chen, *Fitzroy Gardens Conservation Management Plan*, 2008.

<sup>5</sup> John Patrick Pty Ltd in association with Lovell Chen, *Fitzroy Gardens Conservation Management Plan*, prepared for the City of Melbourne, December 2008, p. 389; 'The Garden Kiosk', *The Australasian*, 7 March 1908, p. 31.

<sup>6</sup> 'The Garden Kiosk', *The Australasian*, 7 March 1908, p. 31; John Patrick Pty Ltd in association with Lovell Chen, *Fitzroy Gardens Conservation Management Plan*, prepared for the City of Melbourne, December 2008, p. 389; 'Fitzroy Gardens: The Tea Kiosk', *The Herald*, 2 February 1909, p. 4; East Melbourne Historical Society, 'East Melbourne, Fitzroy Gardens Old Kiosk', [https://emhs.org.au/history/buildings/east\\_melbourne\\_fitzroy\\_gardens\\_old\\_kiosk](https://emhs.org.au/history/buildings/east_melbourne_fitzroy_gardens_old_kiosk), accessed 13 February 2024.

<sup>7</sup> 'The Fairy Tree', *The Herald*, 19 May 1934, p. 28; 'Model Village from Britain', *The Age*, 3 April 1948, p. 2.

<sup>8</sup> 'The Fairy Tree', *The Herald*, 19 May 1934, p. 28; John Patrick Pty Ltd in association with Lovell Chen, *Fitzroy Gardens Conservation Management Plan*, prepared for the City of Melbourne, December 2008, p. 47; Allom Lovell & Associates, *The Fairies' Tree, Fitzroy Gardens, East Melbourne: Conservation Analysis and Policy*, June 1997, pp. 6-7.

<sup>9</sup> City of Melbourne Art and Heritage Collection database, via <https://citycollection.melbourne.vic.gov.au/model-tudor-village/> accessed 3 March 2024.

By the 1950s the 1908 Kiosk had been extensively altered, and the building's dilapidated state came under public criticism.<sup>10</sup>

The current Pavilion building was constructed in 1963-4. It was designed by the City Architects Department of the Melbourne City Council and was originally referred to as the Fitzroy Gardens Kiosk (Figure 6).<sup>1112</sup>

The current Pavilion is relatively unaltered from its 1963 construction. The original floor plans show the layout with the main kiosk area and serving area under the hipped roof and the kitchen, toilets and store areas to the north-east (Figure 7). In c. 1966, a glazed takeaway food annexe was added to the north-western side as shown in Figure 8.

During the late 20th and early 21 centuries, the Pavilion has been used for a variety of purposes; including as a wedding venue, café, and for community and business functions.



Figure 5 The first Fitzroy Gardens Kiosk photographed upon opening in February 1908  
Source: 'The Garden Kiosk', *The Australasian*, 7 March 1908

<sup>10</sup> 'Dilapidation in Gardens', *The Age*, 21 April 1953, p. 4; 'Kiosk & Band Rotunda Fitzroy Gardens, Melbourne', c. 1910-20, State Library Victoria, H93.401; Georgina Whitehead, *A History of the Fitzroy Gardens*, prepared for the City of Melbourne Urban Design and Architecture Division, March 1993, p. 35.

<sup>11</sup> City Architects Department, *Proposed Kiosk in Fitzroy Gardens East Melbourne for Melbourne City Council*, Drawing No. WG 270.1, 11 January 1963, provided by City of Melbourne; John Patrick Pty Ltd in association with Lovell Chen, *Fitzroy Gardens Conservation Management Plan*, prepared for the City of Melbourne, December 2008, p. 389.

<sup>12</sup> City Architects Department, *Proposed Kiosk in Fitzroy Gardens East Melbourne for Melbourne City Council*, Drawing No. WG 270.1, 11 January 1963, provided by City of Melbourne; John Patrick Pty Ltd in association with Lovell Chen, *Fitzroy Gardens Conservation Management Plan*, prepared for the City of Melbourne, December 2008, p. 389.



Figure 6 The Fitzroy Gardens Kiosk shortly after completion, c. 1960s  
 Source: Rose Stereograph Co., The Kiosk Fitzroy Gardens Melbourne, Vic, State Library Victoria

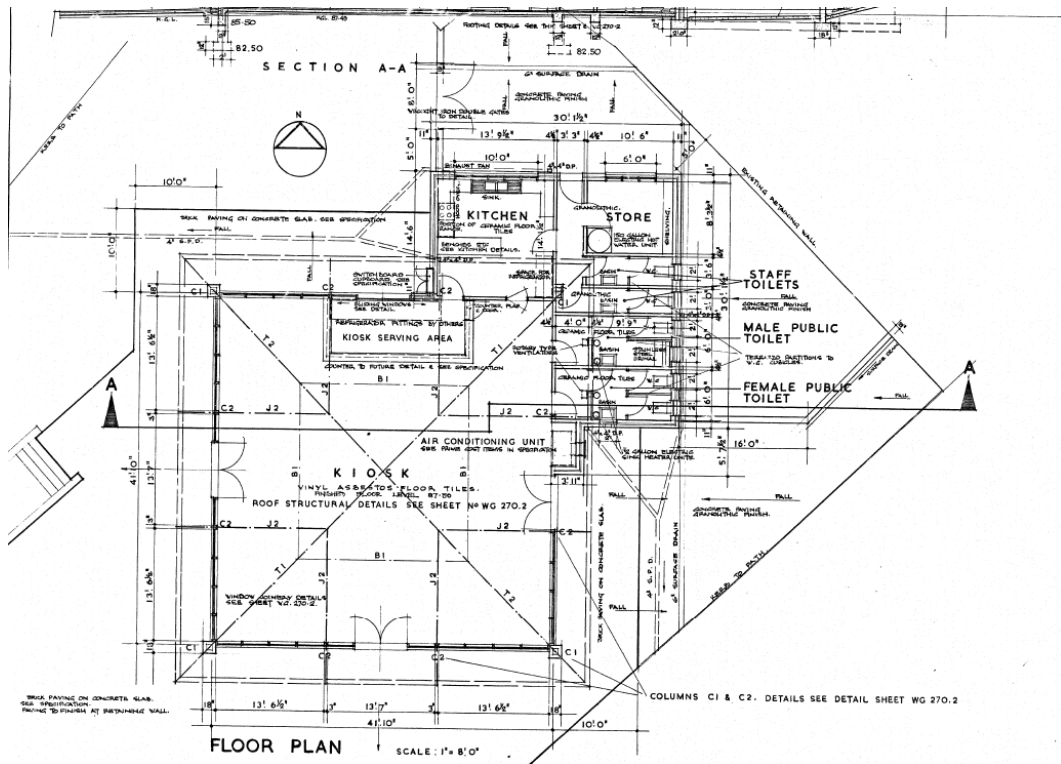


Figure 7 Floor plan for the proposed Kiosk, 1963  
 Source: City Architects Department, *Proposed Kiosk in Fitzroy Gardens East Melbourne for Melbourne City Council*, Drawing No. WG 270.1, 11 January 1963, provided by City of Melbourne



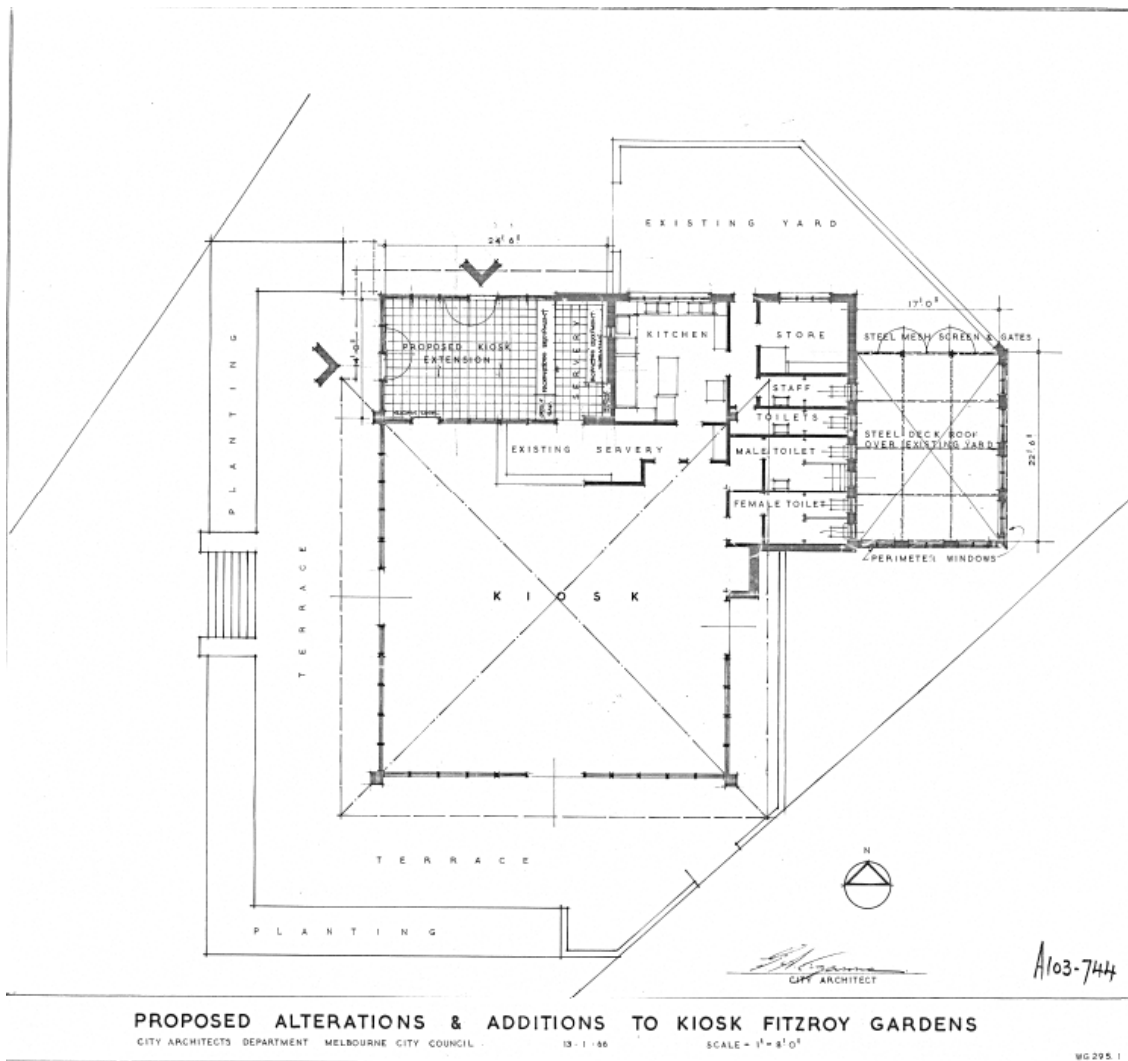


Figure 8 Drawings of the proposed (and completed) additions to the Pavilion, 1966  
 Source: City Architects Department, *Proposed Alterations & Additions to Kiosk Fitzroy Gardens for Melbourne City Council*, Drawing No. WG 295.1, 13 January 1966, provided by City of Melbourne

#### 4.0 DESCRIPTION

The Pavilion is located in the upper north-eastern quadrant of the Fitzroy Gardens, adjacent to the Miniature Tudor Village and the Fairies' Tree (Figure 9).

Approaching the Pavilion's front entrance from the south of the Fitzroy Gardens, the single-storey building presents as a glazed room beneath a hipped slate roof (Figure 10). An elevated outdoor red brick terrace atop a concrete slab separates the Pavilion from the paths that run alongside the Pavilion to its south-east and north-west (Figure 11). Note that the original concept for the west and south interfaces of the terrace was for a planted batter to slope up to the terrace rather than the hard edge of the retaining wall (this is indicated on the section at Figure 12).

To the rear (east and north) of the Pavilion are non-descript red brick amenity and service structures, these are a mix of original and later fabric (Figure 13 and Figure 14).

An area of bitumen hardstand immediately to the north of the Pavilion provides accommodation for service/delivery vehicles.

The elevated brick terrace incorporates hedges and banana trees set within shallow garden beds (Figure 15 and Figure 16). Other landscaping in the immediate vicinity comprises a mix of low-scale garden beds with small trees, and lawn (Figure 17). Specimen trees are located further east in the lawn, these are *Ulmus procera* (English Elm) x 2, *Quercus robur* (English Oak) and *Ulmus glabra* 'Lutescens' (Golden Elm).

The path to the south-east does not feature avenue plantings, while the diagonal path to the north-west features a mature avenue of *Ulmus* Elms. Both form part of the original nineteenth century path network. The canopy and TPZ for the closest of the existing Elms to the west extends into the immediate Pavilion environs, but to its north-east there is a break in the avenue for the Pavilion and its northern service access.

As noted, the Fairies' Tree and the Miniature Tudor Village are both located in close proximity, to the south and south-west respectively (Figure 18, Figure 19 and Figure 20). Both are surrounded by fencing.



Figure 9 Aerial view of the Pavilion and surrounding landscape that forms part of the proposed works and indicating the lease area

Source: Nearmap, captured 10 November 2023





Figure 10 View from the west of the Pavilion's entrance stairs and terrace and the glazed façade set beneath the hipped slate roof



Figure 11 View of the western terrace, note the glazed addition on the far left



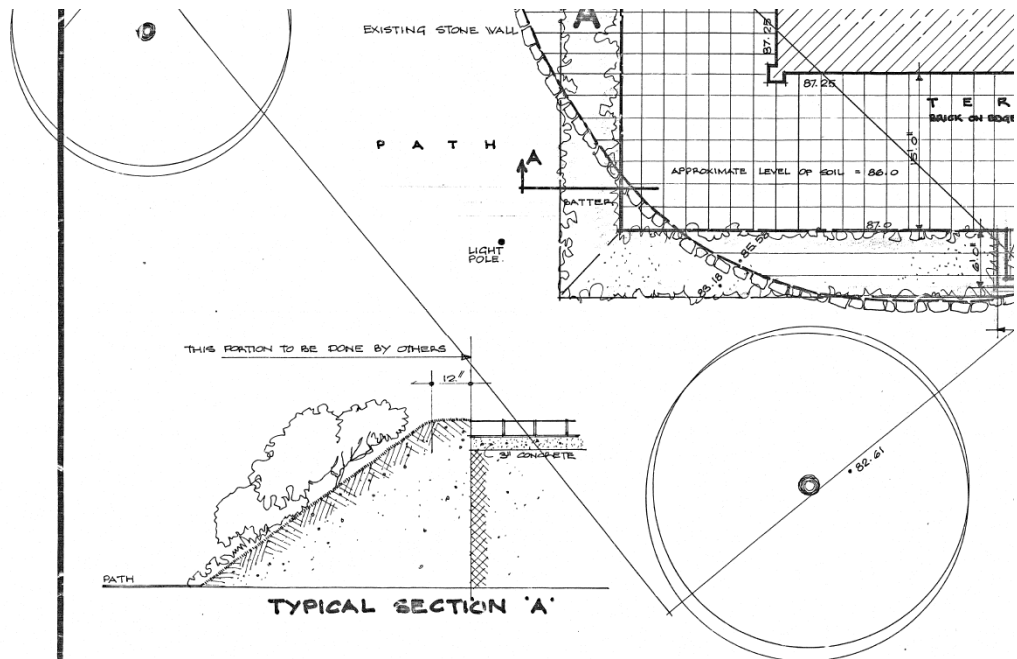


Figure 12 Section showing the original concept for the planted batter on the south and west edges of the terrace

Source: City Architects Office, *Terrace & Concrete Paved Areas, Kiosk Fitzroy Gardens*, Drawing No. WG 270-17, 16 August 1963, provided by City of Melbourne



Figure 13 Red brick service wings at the rear (east) of the Pavilion





Figure 14 View from the west to the north façade with glazed addition



Figure 15 The elevated brick terrace interfaces directly with the adjacent path to the south-east





Figure 16 Banana trees and hedges planted to the terrace; this view is from the south



Figure 17 Recent garden bed plantings on the east side of the Pavilion





Figure 18 View east in the area to the south of the Pavilion, with the Miniature Tudor Village in the foreground and the Fairies' Tree in the background (indicated)



Figure 19 View over the Miniature Tudor Village, looking south





Figure 20 Fairies' Tree from the north-west

## 5.0 SIGNIFICANCE

As noted earlier, the state-level heritage values for the Fitzroy Gardens in the VHR are identified as historical, aesthetic, architectural, scientific (horticultural) and social.

The Pavilion is not specifically referenced as an element within the heritage place in the VHR statement of significance.

Accepting this, both the current Pavilion and earlier Kiosk both were important aspects of the social fabric of the Fitzroy Gardens and that historically, this location within the Gardens has been a focus for gatherings and enjoyment at the place.

This was recognised in the 1998 Conservation Analysis, which included a comment on the history of this area within the Gardens as a meeting place and place of refreshment while concluding that the 1960s Pavilion (Kiosk) building itself was not of significance:

The building is located on the same site as the earlier Tearooms/Kiosk building of 1908. Within the Gardens this site has been the focus of much activity and has been a traditional place for visitors, family groups and others to gather. As a place which continues the function of the earlier kiosk as a meeting place and place of refreshment, the current building is of social value to its patrons, past and present. Accepting this, it is considered that this social value relates to the use of this part of



the site and the building, rather than the physical fabric of the building itself. The Kiosk building is considered to be of no significance.<sup>13</sup>

The CMP drew the same conclusions in relation to significance. The CMP established four levels of significance:

- Primary significance
- Contributory significance
- Little or no significance
- Intrusive elements

In this context, the building was assessed as of Little or No Significance as a built element within the Gardens.<sup>14</sup> The comment on significance was identical to that in the Conservation Analysis.

## 6.0 PROPOSED WORKS

The proposal is for the refurbishment and redevelopment of the existing building to accommodate a new restaurant.

The original main roof and supporting structure are to be retained but the balance of the building including the service structures and areas to the east and north and surrounding terrace and hard and soft landscaping generally are to be demolished or replaced with new.

The design retains the concept and clarity of the original glazed pavilion concept. New glazed walls would be reinstated to the west and south and part of the north and east, with this main pavilion to accommodate the main restaurant and show kitchen. The new service areas are separately planned and are to be combined in new single-storey build to the east and north. A new entrance and entry sequence is to be located on the northern side - this is accommodated within sinuous curved walling and is connected to small drinks terrace located at the north-west corner. Diagonally opposite, on the south-eastern side is a small curved private dining room.

The additions are low-scale and of modest scale, all unified by a consistent masonry wall treatment of red brick with slumped mortar.

While all works require approval, the interiors are not directly relevant to the heritage interface issues and are not described in detail here.

The existing landscaping in the terrace and garden beds directly abutting the existing building would be removed including banana trees, shrubs and small trees (landscape removal works are shown on the demolition plan AR.0300). All mature trees would be retained and protected.

A new landscape treatment is proposed to be introduced; in place of the red brick terrace with its visually prominent retaining walls and paving, new landscaped berms would be located to the south and west of the main pavilion form. These would rise up gently to the building, creating a sense of the glazed pavilion sitting into the landscape rather than sited over a retained terrace. Note that the landscaped berms are not intended to be trafficable and would be planted with low ground covers and other

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<sup>13</sup> John Patrick with Allom Lovell & Associates, *Fitzroy Gardens Conservation Analysis*, prepared for the City of Melbourne, 1998, p. 109.

<sup>14</sup> John Patrick Pty Ltd in association with Lovell Chen, *Fitzroy Gardens Conservation Management Plan*, 2008, p. 97.

species (to be confirmed) rather than lawn. Elsewhere the landscape is to be low-scale and understated, sympathetic to the broader character of the Fitzroy Gardens.

Limited areas of new paving are proposed, these are proposed to be in an exposed aggregate concrete, as used at Kere Kere Green on the southern edge of the Gardens.

Specific species are yet to be selected and it is proposed that a detailed planting layout be submitted under a condition on permit.

It is also noted that there will be some interface works required on the north-east side of the affected area, outside the lease line. This is as related to construction access and activities and some minor regrading works. The landscape outside the lease area will be made good in consultation with the City of Melbourne and details of the planting layout would be submitted to Heritage Victoria for approval.

It is possible that there may be other minor works required for services/utility tie-ins, with details to be provided under a permit condition.

There would be no change to the immediate setting of the Miniature Tudor Village or the Fairies' Tree.

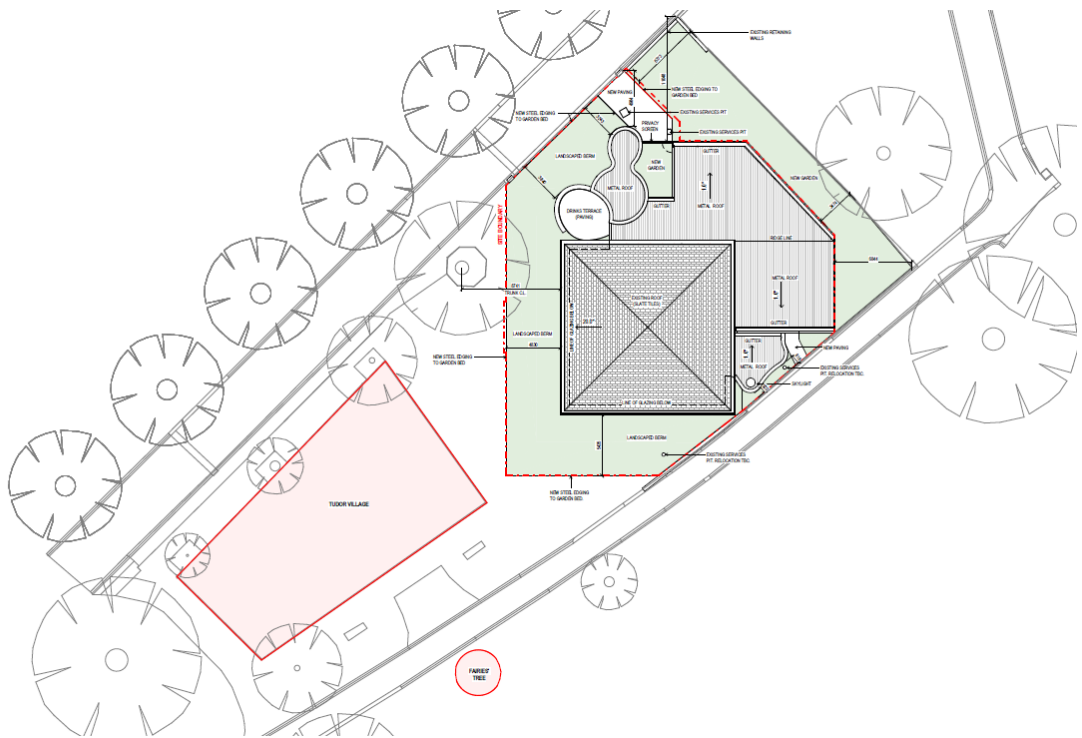


Figure 21 Site plan showing the relationship of the Miniature Tudor Village and the Fairies Tree to the project works area

Source: Wardle, Heritage Victoria Submission, dated 13 March 2024

## 7.0 ASSESSMENT OF HERITAGE IMPACTS

### 7.1 Permit Exemptions and Policy

#### 7.1.1 Exemptions

The VHR documentation for the place includes an exemption for elements of Intrusive Elements or of No Significance in the Conservation Analysis, as follows:

2. Existing elements identified in the Conservation Analysis Report for the Fitzroy Gardens as Intrusive Elements or of No Significance may be removed or internally altered without a permit from Heritage Victoria.

There are also general landscape exemptions that allow for the process of gardening consistent with the landscape character of the Fitzroy Gardens:

\* The process of gardening; mowing, hedge clipping, bedding displays, removal of dead plants, disease and weed control, emergency and safety works and landscaping and planting to retain the existing landscape character.

#### 7.1.2 *Permit Exemption Policy*

The importance of the Fitzroy Gardens lies primarily in its layers of development which combine to create a cultural landscape of considerable individuality and diversity. The Conservation Analysis identifies elements of Primary Significance and Contributory Significance worthy of conservation and protection. Intrusive Elements and Elements of No Significance have also been identified in the Conservation Analysis being elements which do not contribute to the cultural heritage significance of the Fitzroy Gardens.

#### 7.1.3 *Comment:*

Some aspects of the proposal would fall within the scope of permit exemptions (eg works to the interior of the existing Pavilion), albeit the full scope does not. The permit exemption policy makes reference to the levels of significance in the Conservation Analysis (and reproduced in the later CMP).

### 7.2 Assessment against Conservation Management Plan policies

By way of introduction, the CMP establishes a series of overarching objectives for the management of the Fitzroy Gardens (Statement of Policy); these are found at section 4.2 (Statement of Policy):

- Retention of the Fitzroy Gardens and its individual identity and character;
- Maintenance of the Fitzroy Gardens as a place of public relaxation, passive recreation and entertainment, the people's park in the city
- Management of the significant fabric with respect to the historical, aesthetic, architectural, scientific and social significance of the place
- Retention of a sense of the nineteenth century planning and layout of the Gardens and of the fabric relating to this early phase in its history
- Retention of a sense of the subsequent layering of development in the history of the place, in particular the changes which occurred under John Guilfoyle and in the interwar period and which have been identified as being of significance
- Retention and conservation of elements identified as being of primary and contributory significance

Beyond these overarching objectives, policies of relevance to the proposal include the following (explanatory notes are reproduced where relevant). A response is provided to each.

Policy	Response
4.4 Elements of significance	
Policy 5: Elements identified as being of little or no significance could be retained or removed as required.	Complies.
4.6 Use and public access	
Policy 13: A range of passive recreation uses and activities, including tourist attractions, should be permitted within the Gardens. Activities that have potential to affect the significance of the Gardens through damage to fabric should be discouraged.	Complies. Recognising that use is not controlled under the Heritage Act, the proposed use is consistent with this policy (it does not damage significant fabric and is consistent with the traditional of providing refreshment in this area of the site).
Future development	
<p>Policy 16: The landscape of the Fitzroy Gardens should not be dominated by any built structures or service areas.</p> <p>The landscape of the Fitzroy Gardens is the dominant feature of the place and this should be retained. Built form or service areas should be discreet and not dominate the landscape.</p> <p>Though there are opportunities to replace existing buildings and facilities, the use and character of Fitzroy Gardens should not be compromised by the imposition of large scale built form into the Gardens.</p>	<p>Complies.</p> <p>The proposal replaces the existing somewhat intrusive service areas with a more integrated design of consistent aesthetic quality and distinctive but visually understated materiality.</p> <p>The modest footprint, form and mass of the new build are all responsive to context and will not dominate.</p>
<p>Policy 17: Where required, future development within the Fitzroy Gardens generally should be limited to replacement of existing structures. New development should occur only in the context of the replacement of existing facilities or if necessary for the use or maintenance of the Gardens and should be of limited scope and scale.</p> <p>The Fitzroy Gardens is a landscape which accommodates a considerable number of buildings and structures, many of which are relatively substantial.</p> <p>Notwithstanding, there is only limited scope for future development in the form of built structures within the Fitzroy Gardens.</p> <p>The introduction of replacement buildings / facilities associated with the traditional operation and use of the Gardens could be considered if required. (This does not apply to</p>	Complies.

Policy	Response
<p>structures of primary significance, which should be retained. In the case of structures of contributory significance, retention is preferred.)</p> <p>Structures which may require replacement or upgrading might include toilets, kiosk facilities, the Cooks' Cottage ticket booth and the non-significant buildings within the existing Nursery/Works area.</p> <p>New structures should be designed in accordance with the principles set out in Policy 18 below and should be limited to those required for the ongoing use and operation of the Gardens, such as toilets, service buildings, kiosks or other visitor amenities.</p> <p>Professional heritage advice should be sought as part of the design process for any proposed new buildings and consideration should also be given to whether the proposed use is compatible with the place.</p>	
<p>Policy 18: Any new development should be carefully sited and be of an appropriately understated scale, form and design.</p> <p>The following general principles should be considered when considering any new development :</p> <p>No development which has the potential to dominate the landscape of the Gardens should be contemplated. This would include any new buildings or structures, new service areas, roads, paths and the like.</p> <p>Any new development should be carefully sited and be of an appropriately understated and sensitive scale, form and appearance.</p> <p>Generally, good quality contemporary design should be preferred over period-style or reproduction architecture, though an approach which interpreted traditional forms in a contemporary manner may also be appropriate.</p> <p>Particular care needs to be taken in the selection of materials and colours so as to minimize the visual impact of new development. Traditional materials and muted colours are preferred.</p>	<p>Complies.</p> <p>The proposal is consistent with these principles.</p> <p>In the new design the siting, scale, form and appearance have all been carefully resolved to ensure the building will sit comfortably in its garden context.</p> <p>The works will result in an improved interface when compared with the existing.</p> <p>The proposal is for a high-quality contemporary design which intentionally adopts and reinforces the concept of a glazed pavilion in the park. It defers to its context in its understated aesthetic and careful choice of contemporary and traditional materials and muted colours.</p>
<p>Policy 19: The Refreshment Pavilion (Kiosk) could be replaced with a new building on the same site if required.</p>	<p>There will be no adverse impact on significant elements or fabric in the immediate vicinity.</p>



Policy	Response
<p>A refreshment pavilion / kiosk has been located on the site of the existing building since the late nineteenth century and should it be proposed to demolish the existing building, consideration could be given to a replacement building in the same location. Refer also to the principles for new development at Policy 18 and to the data sheet for the existing Kiosk (see sheet C 26). If a new building is proposed in this location, care should be taken that its design and that of any associated hard landscaping (terracing and the like) has regard for the impact not only on the Gardens as a whole but also on the adjacent features of primary and contributory significance, including the Fairies' Tree and Model Tudor Village.</p> <p>While not part of the original planning of the Gardens, there is a long tradition of a kiosk/refreshment pavilion sited in this location, which has been a focus of social activity within the site as a whole.</p>	<p>There is a close interface with the adjacent path to the south-east (as there is at present) while there will be an improved outcome with the larger north-west path.</p> <p>There would be no change to or impact on the immediate settings to either the Fairies' Tree or the Miniature Tudor Village.</p> <p>The Elm to the west and the other trees in the east in the lawn are all to be retained and protected and will be subject to a Tree Protection Management Plan to the City of Melbourne requirements (<a href="#">tree protection fact sheet</a>).</p>
<p>The following are specific policies for the Kiosk</p>	
<p>Policy 178: Retain or demolish the Kiosk as required.</p> <p>Although the use of the site has some social value, the present Kiosk building is of no heritage significance and could be retained or removed as required.</p>	<p>Complies.</p>
<p>Policy 179: If required, a new kiosk facility could be developed in this location.</p> <p>It is noted that the present structure is reaching the end of its useful life. A new facility could be developed in this location if required.</p> <p>Consideration of any new proposal should respect the existing elements of primary and contributory significance including the soft landscaping features, path system, Fairies' Tree and Model Tudor Village which are also in this location.</p>	<p>Complies.</p>
<p>Policy 180: Ensure that back of house and works areas are appropriately screened from the main body of the Fitzroy Gardens.</p> <p>There is a long tradition of a kiosk-type of facility in this location. While there is no need on conservation grounds for this to continue,</p>	<p>Complies. The back of house areas will be incorporated into the new build.</p>

Policy	Response
equally on the basis there has been a building in this location over a long period of time, the site could be redeveloped for a new facility if required.	

### 7.3 Assessment of heritage impacts

The following assessment provides a response to the considerations at sections 101(2)(a) (impact on cultural heritage significance) and 101(2)(b) (impact on reasonable or economic use) of the Heritage Act.

#### 7.3.1 *The extent to which the application, if approved, would affect the cultural heritage significance of the registered place or registered object*

The proposed works will see the remodelling/redevelopment and a *re-presentation* of the existing Pavilion in a manner which is highly responsive to the sensitive Fitzroy Gardens context and which will result in an improved heritage outcome. The project will also see a continuation of the historical use of this part of the site as a place of refreshment and enjoyment.

The design builds on the positive attributes of the existing building while replacing the collection of additions/services on the north and east. It does so with a design that is understated but elegant and distinctive. The scheme also proposes an alternative to the existing arrangement of red brick terracing and garden beds with a softer landscaped treatment which will allow the building to sit more comfortably into the site. Note the original concept for the building included similar batter forms to the west and south (refer Figure 12).

In terms of the interface with existing elements of significance, these are the paths (to the north-west and south-east), the mature Elm to the west and the Miniature Tudor Village and Fairies' Tree, respectively to the south-west and south.

In terms of the paths, to the north-west side the project will see the removal of an area of bitumen interfacing with the path and its replacement with low landscaping to the proposed berms, with one smaller area of paving. On the other (south-east) side of the Pavilion, the relationship with the existing path is close, as is the case with the existing building and red brick terrace. For the majority of this interface there will be landscape adjacent to the path edge but with some interaction with the new build. At its closest point, the private dining room comes forward towards the path with a setback of 520mm, while the corner of the services wing directly abuts. A small area of paving also connects the path to an access gate. On balance the interaction is episodic rather than wholesale, however, and the reading of the path with its characteristic red brick edging will not be compromised.

In relation to the Elm, this tree is to be retained and protected from harm during or as a consequence of works. A Tree Protection Management Plan is to be prepared to the City of Melbourne's requirements and it is expected that this would also be required under a condition on permit.

There would be no impact on the presentation or significance of the Miniature Tudor Village or the Fairies' Tree. The immediate setting to both would be unaltered and there would be no change to their accessibility. The scale relationship and separation from the Pavilion would be unaltered and the landscaping changes around the Pavilion would not have any bearing on the presentation of these features.

Overall, while there would be a modest increase in the building footprint, there would also be an improvement in terms the way the building addresses its landscaped setting.

The project would see a change but no adverse impact to the state-level heritage values of the Fitzroy Gardens.



Figure 22 View from the west  
Source: Design Report (Wardle)



Figure 23 View from the north-west, showing the new entry  
Source: Design Report (Wardle)

### 7.3.2 *Extent to which a refusal would affect the reasonable or economic use of the registered place or registered object [ s. 101(2)(b)]*

For the purposes of Heritage Victoria's policy for *Reasonable or economic use* (June 2021), the use of the Pavilion as a hospitality venue is considered to be a reasonable use. This is having regard for the historic, recent and current uses of the registered place (historically as a focus for gathering and hospitality, purpose-built Kiosk replacing earlier version).

Also of relevance, the current facilities are inadequate in a number of areas and require substantial upgrading and renewal to meet current requirements and expectations.

As assessed above, the works are consistent with the policies in the CMP and there would be no impact on the heritage values of the Fitzroy Gardens.

In considering the detail there would be a close interface with the path to the south-east of the Pavilion at two points – the private dining room and the corner of the services component of the building. The design of these elements has been reviewed in light of the reasonable use considerations and in terms of the operational requirements of the restaurant.

The following comments are provided in the context of the reasonable use of the place.

- The proposed works, including the area for the dining room and associated show kitchen (within the pavilion form), the entry sequence to the north and the associated back of house and service areas have all been designed to the functional requirements and patron expectations for a high-quality contemporary hospitality venue.
- With specific reference to the path interface:
  - The private dining room is a key aspect of the hospitality offer and is required to support the feasibility of the venture. The footprint of this component of the design has been reviewed and optimised and held back off the path edge as far as is possible (setback is 520mm).
  - The internal planning of the services/back of house area has also been optimised and a further reduction of the footprint would be difficult to achieve without operational impacts.

No specific information is provided in relation to the issue of impacts on economic use, albeit it is noted that to be a successful adaptive reuse of the building, the reasonable use of the place as a hospitality venue must also be an economically viable use.

## 7.4 Permit conditions

It is anticipated that details of the landscaping treatment, including make good works to the area on the north-east side of the lease boundary, could be approved under a condition on permit.

Similarly, details of any works associated with services and utilities including tie-in or modification to existing could be provided under a condition on permit.

The usual requirements for documentation of protection works including tree protection would also be expected.

## 8.0 CONCLUSION

In conclusion, the proposal for the adaptation, refurbishment and redevelopment of the Fitzroy Gardens Pavilion is considered to represent a positive outcome from a heritage perspective. The proposed use is consistent with the historical uses of this part of the Gardens and there would be no adverse impact on nearby elements of heritage significance.

The proposal has been developed having appropriate regard for the sensitive interfaces and the need for careful understated design within the heritage place.