

Statement of Recommendation from the Executive Director, Heritage Victoria

Former Supreme Court, Bendigo, H1465
10-20 Gaol Road, Bendigo, Greater Bendigo City
Dja Dja Wurrung Country



Executive Director recommendation

I recommend to the Heritage Council of Victoria (Heritage Council) that the Former Supreme Court, Bendigo, located at 10-20 Gaol Road, Bendigo, Greater Bendigo City in the Victorian Heritage Register (VHR) be amended.

In accordance with section 62 and Part 3, Division 3 of the *Heritage Act 2017* (the Act), I suggest that the Heritage Council:

- determine to include additional land in the VHR being all of the place shown hatched on Diagram 1465 in accordance with section 49(1)(d)(i) and (ii) of the Act; and
- determine that the categories of works or activities which may be carried out in relation to the place for which a permit is not required (specific permit exemptions) would not harm the cultural heritage significance of the place in accordance with section 49(3)(a) of the Act.



STEVEN AVERY
Executive Director, Heritage Victoria
Date of recommendation: 7 January 2025

The process from here

1. The Heritage Council publishes the Executive Director's recommendation (section 41)

The Heritage Council will publish the Executive Director's recommendation on its website for a period of 60 days.

2. Making a submission to the Heritage Council (sections 44 and 45)

Within the 60-day publication period, any person or body may make a written submission to the Heritage Council. This submission can support the recommendation, or object to the recommendation and a hearing can be requested in relation to the submission. Information about making a submission and submission forms are available on the Heritage Council's website.

3. Heritage Council determination (sections 46, 46A and 49)

The Heritage Council is an independent statutory body. It is responsible for making the final determination to include or not include the place, object or land in the VHR or amend a place, object or land already in the VHR.

If no submissions are received the Heritage Council must make a determination within 40 days of the publication closing date.

If submissions are received, the Heritage Council may decide to hold a hearing in relation to the submission. The Heritage Council must conduct a hearing if the submission is made by a person or body with a real or substantial interest in the place, object or land. If a hearing does take place, the Heritage Council must make a determination within 90 days after the completion of the hearing.

4. Obligations of owners of places, objects and land (sections 42, 42A, 42B, 42C, 42D and 43)

The owner of a place, object or land which is the subject of a recommendation to the Heritage Council has certain obligations under the Act. These relate to advising the Executive Director in writing of any works or activities that are being carried out, proposed or planned for the place, object or land.

The owner also has an obligation to provide a copy of this statement of recommendation to any potential purchasers of the place, object or land before entering into a contract.

5. Further information

The relevant sections of the Act are provided at Appendix 1.

Description

The following is a description of the Former Supreme Court, Bendigo at the time of the site inspection by Heritage Victoria in September 2024

The Former Supreme Court, Bendigo is located on the traditional land of the Dja Dja Wurrung People.

The Former Supreme Court, Bendigo is located adjacent to Rosalind Park (VHR H1866), Bendigo, surrounded by the following registered places: Bendigo Gaol (VHR H1550), Bendigo Senior Secondary College (VHR H2229), the old Police Barracks (VHR H0545), and Camp Hill Primary School (VHR H1642).

The place comprises a detached building (1857-58) of sandstone painted cream designed in a simple Italianate style. It has a portico entrance facing southeast to Park Road, and a double height courtroom at the centre now used as a classroom. Single storey wings on either side originally housed ancillary court functions. A later single storey brick building (1927) surrounds this building on three elevations. To the north are other, detached, later-addition school buildings. The court building is visible from Park Road.

Description images



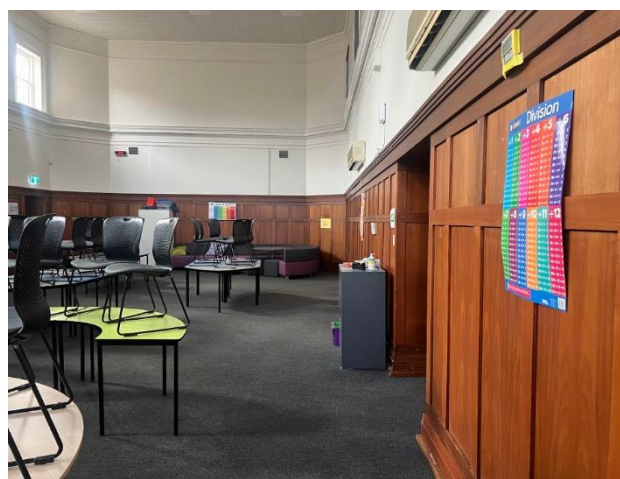
2008. Former Supreme Court, Bendigo.



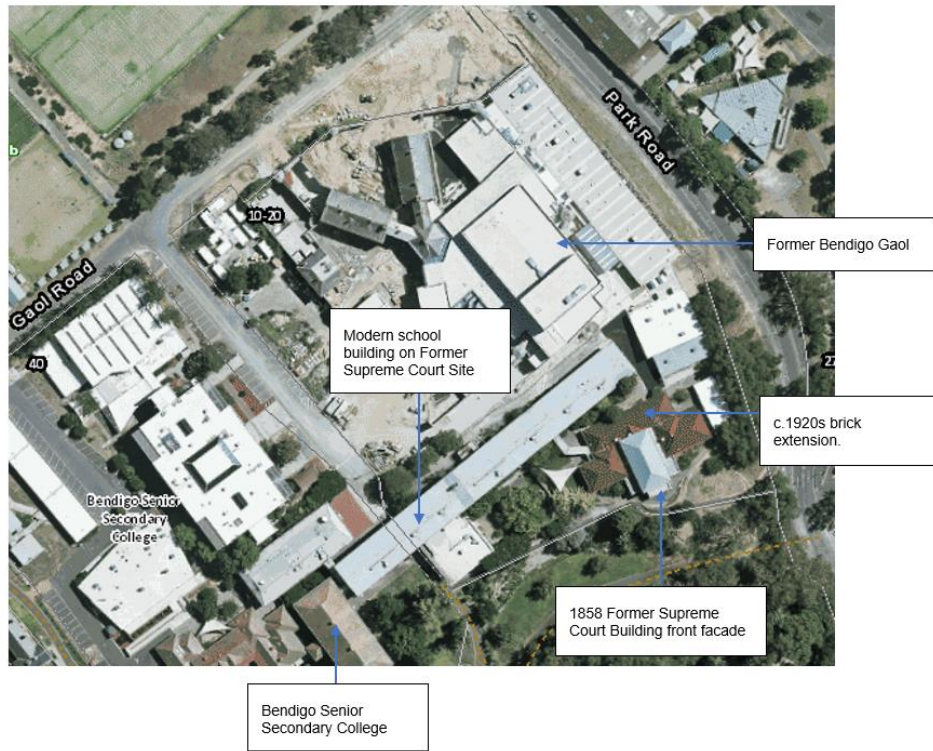
2024. Former Supreme Court, Bendigo viewed from Park Road.



2024. Brick extension around the original sandstone building. Roof of the sandstone building visible behind tile roofs.



2024. Central courtroom space, now a classroom.



Site plan.

History

Bendigo and the gold rush

In 1851, the discovery of gold in Bendigo spurred wealth and civic growth. The centre for the Supreme Court was Melbourne, but the provision of access to the Supreme Court was gradually extended to country centres. The towns to be visited by the Supreme Court required suitable premises including space for jurors, barristers, witnesses and members of the public along with secure accommodation for temporarily holding those people that were awaiting trial. Existing courts were to be extended, and new ones built. By 1863, the Supreme Court sat in eight country towns of Victoria, being Ararat, Ballarat, Beechworth, Castlemaine, Geelong, Maryborough, Port Fairy and Sandhurst (now Bendigo). By 1891, the number of towns in the Supreme Court Circuit was 16.

Bendigo Supreme Court

The Bendigo Supreme Court was built between 1857 and 1858 with sandstone and a slate roof. It was built on Camp Hill where an area had been set aside for police purposes in 1852. This area provided the base for military and police presence during the goldrushes in the 1850s. The Supreme Court building is one of only a few buildings remaining from the Government Camp which once served as the administrative centre of the Bendigo goldfields. Its historical significance lies in its place in the development of one of the most significant goldmining areas in Victoria when it was decided in 1857 to extend the circuit court of the Supreme Court to Sandhurst (the original name of Bendigo).

Alterations to the original building were made over a long period, first in 1860 when three new rooms were added to the rear of the building and rooms were re-distributed as they had become inadequate and unsuitable. Within six years of its construction the building was reported to have deteriorated to a dangerous extent, necessitating the removal and rebuilding of half the courthouse building. At this time, the original pediment was removed, and the hipped roof was introduced. The inappropriateness of the site had been realised at this stage, and removal of the court function to a more accessible site was urged at the time of rebuilding, though it never came to fruition.

The building was used as the Supreme Court until 1895, when court activity was transferred to a new building in Pall Mall (VHR H1466).

Educational uses

In 1907 the Former Supreme Court, Bendigo was acquired by the Education Department and used as a Continuation School. Internal changes were made at this time. In 1927, the building was adapted for use by the Bendigo Teachers' College. This involved the addition of a red brick extension, enveloping three of the elevations. In 1928 extensive alterations followed, including the remodelling of the front porch from a small square porch to a larger arcaded porch across the two-storey central section, and the removal of some of the single storey rooms from three sides at the rear of the court room. New classrooms replaced these rooms.

The depression forced the closure of this college in the early 1930s, and the building remained vacant until it was occupied by the Bendigo Girls High School of Domestic Art in 1937. It was used for this purpose until this school moved to new premises in 1959. The Former Supreme Court, Bendigo was then used by Bendigo High School. It currently remains part of the Bendigo Senior secondary campus.

The Former Supreme Court, Bendigo (1857-58) was used as the Supreme Court for 37 years (1858 to 1895), and for educational purposes for more than a century (1907 to the present day, 2024).

Historical images



ca.1875, VIEW FROM CAMP HILL, LOOKING NORTHEAST, source: SLV



1860, screenshot from: *Map of the Sandhurst district by John Russell Jr.* (image 3 of 8), source: SLV



Ca.1920-ca.1927, *The Former Supreme Court, Bendigo* prior to the construction of the brick extension. Source: SLV

Selected bibliography

Butcher, Mike, and Gill Flanders and Author 2. *Bendigo Historic Buildings*. Maryborough: National Trust of Australia (Victoria), 1987.

McIntosh, Diahnn, & Frances O'Neill. *Court Houses in Victoria: a survey* / prepared for the Historic Buildings Council. 1991.

Ratio Consultants, Caulfield and Krivanek. *View Street Rosalind Park Study*. 1992.

Graeme Butler & Associates. *Eaglehawk and Bendigo Heritage Study*. 1993.

Further information

Traditional Owner Information

The place is located on the traditional land of the Dja Dja Wurrung People. Under the *Aboriginal Heritage Act 2006*, the Registered Aboriginal Party for this land is the Dja Dja Wurrung Clans Aboriginal Corporation.

Native Title

Native title is the recognition in Australian law that some Aboriginal and Torres Strait Islander people continue to hold rights and interests in land and water. Native title is not granted by governments. It is recognised through a determination made by the Federal Court of Australia under the *Native Title Act 1993* (Cth).

In 2010, acknowledging the difficult nature of having native title determined under the Native Title Act, the Victorian Government developed an alternate system for recognising the rights of Victorian traditional owners. The *Traditional Owner Settlement Act 2010* (Vic) allows the government and traditional owner groups to make agreements that recognise traditional owners' relationship to land and provide them with certain rights on Crown land.

There is a Recognition and Settlement Agreement under the Traditional Owner Settlement Act 2010 between the Victorian Government and the Dja Dja Wurrung Clans Aboriginal Corporation which recognises the Dja Dja Wurrung as the Traditional Owner group of public land within the boundaries of the agreement area.

As of November 2024, there is no Native Title determination, and the place is not within one of the jointly managed parks or reserves set out in the Recognition and Settlement Agreement.

Victorian Aboriginal Heritage Register

The place is in an area of Aboriginal cultural heritage sensitivity associated with the Bendigo Creek.
(September 2024).

Integrity

The integrity of the place is good. The cultural heritage values of the Former Supreme Court, Bendigo can be easily read in the extant fabric.

(September 2024)

Intactness

The intactness of the place is fair.

There has been a substantial amount of change at the place.

(September 2024)

Condition

The condition of the place is relatively poor.

Significant problems with damp in the northwestern room off the central courtroom. In the southeastern corner around the front portico, there have been problems with subsidence.

(September 2024)

Note: The condition of a place or object does not influence the assessment of its cultural heritage significance. A place or object may be in very poor condition and still be of very high cultural heritage significance. Alternatively, a place or object may be in excellent condition but be of low cultural heritage significance.

Intactness/ Integrity/ Condition images



2024. Damp around window in northwestern ancillary room.



2024. Ongoing works to address subsidence.

Amendment recommendation

State-level cultural heritage significance of the place

The cultural heritage significance of the Former Supreme Court, Bendigo was recognised when it was included in the Register of Government Buildings in 1982. Its State-level cultural heritage significance was confirmed in 1998 when it was transferred into the Victorian Heritage Register.

Amendment application

On 26 November 2024 the Executive Director made and accepted an application to amend the registration of the place to ensure it is consistent with current practices under the Act.

Additional land

The Executive Director recommends that the Heritage Council amend this registration because in accordance with section 40(4)(c)(i) and (ii):

- (i) the State-level cultural heritage significance of the place would be substantially less if the additional land or any part of the additional land which is or has been used in conjunction with the place were developed; or
- (ii) the additional land surrounds the place and is important to the protection or conservation of the place; or contributes to the understanding of the place.

Assessment and summary under section 40(4)(c)(i)

- The land proposed for inclusion is and has been used in conjunction with the place. The land proposed for inclusion allows for an understanding of the relationship between the Former Supreme Court and other buildings of the Government Camp to be understood, including the Bendigo Prison Complex. It also allows the relationship between the Former Supreme Court, Bendigo and the Bendigo Senior Secondary campus to be understood.
- The grounds of the place are relatively confined. Any development of the land or extensions to the school would occur at some point in close proximity to the modest sandstone building.
- If a large, new building was to be constructed near the former Supreme Court building, it would have the potential to diminish the setting and context of the Former Supreme Court. The building is small in scale and modest in its design, so there is the potential for the former Court to be overshadowed by development, therefore reducing its State-level architectural values.
- Including additional land will ensure that all works are managed through an approvals process consistent across the entirety of this place and would provide certainty for all parties.

Assessment and summary under section 40(4)(c)(ii)

- The current extent is limited to the footprint of the Former Supreme Court building and is insufficient to protect, conserve and allow for a proper understanding of the place.
- Without an approval process, the Former Supreme Court could potentially be overshadowed or otherwise impacted by new buildings which, depending upon their siting, height, form, scale and materials, could affect the setting or context of the Former Supreme Court, Bendigo and its history.
- Including an area of land around the Former Supreme Court will enable works immediately adjacent to the building (for example, paving, landscaping or drainage works) to be managed under an approval process.
- Inclusion of an area of land around the Former Supreme Court will also enable works that are necessary for the ongoing operational requirements of the school but have the potential to impact the conservation of the building to be managed under an approval process.
- Inclusion of an area around the building provides a setting for the Former Supreme Court.

Statutory requirements under section 40

Terms of the recommendation (section 40(3)(a))

The Executive Director recommends that the registration of Former Supreme Court, Bendigo in the VHR is amended.

Information to identify the place or object or land (section 40(3)(b))

Number: H1465

Category: Registered Place.

Name: Former Supreme Court, Bendigo

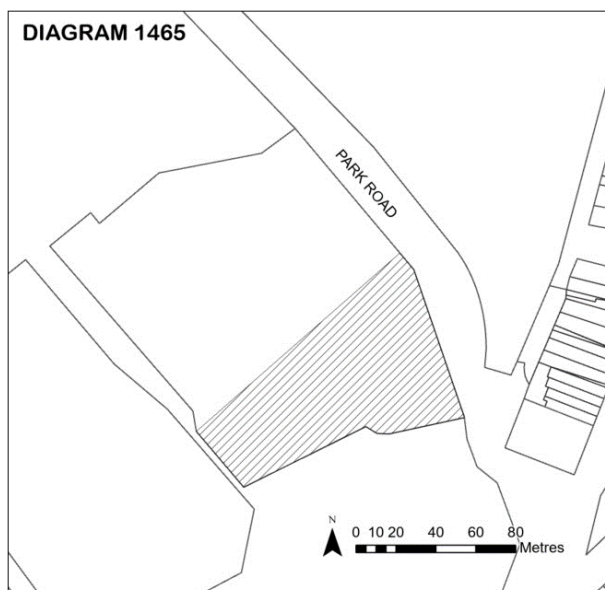
Location: 10-20 Gaol Road Bendigo

Municipality: Greater Bendigo City

Proposed extent of registration

The Executive Director recommends that the extent of registration for the Former Supreme Court, Bendigo be gazetted as:

All of the place shown hatched on Diagram 1465 encompassing part of Crown Allotment 17 Section 89C at Bendigo, Parish of Sandhurst excluding the land to the north occupied by the Former Bendigo Gaol (H1550).

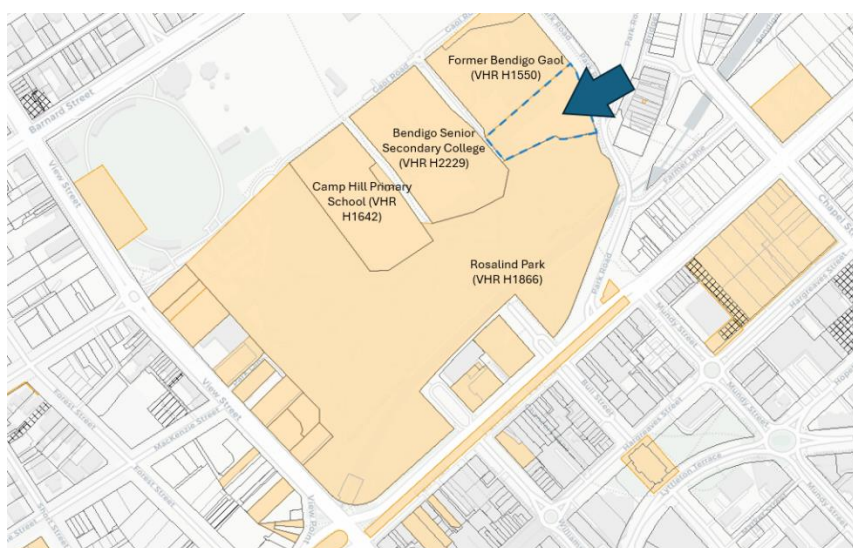


Aerial Photo of the Place Showing Proposed extent of registration



Note: This aerial view provides a visual representation of the place. It is not a precise representation of the recommended extent of registration. Due to distortions associated with aerial photography some elements of the place may appear as though they are outside the extent of registration.

Rationale for the extent of registration



The recommended extent of registration is all of the land associated with the Former Supreme Court, Bendigo which is part of the interlocking registrations of Rosalind Park and the buildings of the former government camp (all of which effectively form a precinct). Appropriate specific exemptions have been recommended to allow for the school's ongoing maintenance requirements to the detached non-heritage buildings.

The recommended extent of the registration is the same as the nominated extent of registration.

It should be noted that everything included in the proposed extent of registration including all of the place, the land, all soft and hard landscape features, plantings, and all buildings is proposed for inclusion in the VHR. A permit or permit exemption from Heritage Victoria is required for any works within the proposed extent of registration, apart from those identified in the categories of works or activities in this recommendation.

Summary of cultural heritage significance (section 40(4))

Statement of significance

What is significant?

The Former Supreme Court, Bendigo constructed in 1857-58 by the Public Works Department for the Crown Law Department, including a single-storey sandstone Court building designed in a simple Italianate style with a double height courtroom at its centre.

How is it significant?

The Former Supreme Court, Bendigo is of historical and architectural significance to the State of Victoria. It satisfies the following criterion for inclusion in the Victorian Heritage Register:

Criterion A

Importance to the course, or pattern, of Victoria's cultural history.

Criterion D

Importance in demonstrating the principal characteristics of a class of cultural places and objects

Why is it significant?

The Former Supreme Court, Bendigo is historically significant as one of the oldest surviving government buildings on the Bendigo goldfields. As one of only a few buildings remaining from the Government Camp, which once served as the administrative centre of the Bendigo goldfields, its importance lies in its place in the development of one of the most significant goldmining areas in Victoria into an important regional centre. It is also of historical significance as an early surviving building which was purpose built to accommodate the Supreme Court in Victoria, when it was decided to extend the circuit court to Bendigo in 1857. The provision of this facility was indicative of Bendigo becoming an established regional centre. [Criterion A]

The Former Supreme Court, Bendigo is significant as a notable example of a simply conceived Italianate design applied to a government building. Decoration is limited to smooth quoining which emphasises corners and window openings, and contrasts with the textured surface of the main building. Together with the other buildings of the old Government Camp, the Former Supreme Court, Bendigo represents a fine example of a nineteenth century government building, used to administer law and order on the goldfields. [Criterion D]

Recommended permit exemptions under section 38

Introduction

A [heritage permit](#) is required for all works and activities undertaken in relation to VHR places and objects. Certain works and activities are [exempt from a heritage permit](#), if the proposed works will not harm the cultural heritage significance of the heritage place or object.

Permit Policy

It is recommended that a Conservation Management Plan is utilised to manage the place in a manner which respects its cultural heritage significance.

Permit Exemptions

General Exemptions

General exemptions apply to all places and objects included in the VHR. General exemptions have been designed to allow everyday activities, maintenance and changes to your property, which don't harm its cultural heritage significance, to proceed without the need to obtain approvals under the *Heritage Act 2017*.

Places of worship: In some circumstances, you can alter a place of worship to accommodate religious practices without a permit, but you must notify the Executive Director, Heritage Victoria before you start the works or activities at least 20 business days before the works or activities are to commence.

Subdivision/consolidation: Permit exemptions exist for some subdivisions and consolidations. If the subdivision or consolidation is in accordance with a planning permit granted under Part 4 of the *Planning and Environment Act 1987* and the application for the planning permit was referred to the Executive Director, Heritage Victoria as a determining referral authority, a permit is not required.

Specific exemptions may also apply to your registered place or object. If applicable, these are listed below. Specific exemptions are tailored to the conservation and management needs of an individual registered place or object and set out works and activities that are exempt from the requirements of a permit. Specific exemptions prevail if they conflict with general exemptions.

Find out more about heritage permit exemptions [here](#).

Specific Exemptions

The works and activities below are not considered to cause harm to the cultural heritage significance of the Former Supreme Court, Bendigo subject to the following guidelines and conditions:

Guidelines

1. Where there is an inconsistency between permit exemptions specific to the registered place or object ('specific exemptions') established in accordance with either section 49(3) or section 92(3) of the Act and general exemptions established in accordance with section 92(1) of the Act specific exemptions will prevail to the extent of any inconsistency.
2. In specific exemptions, words have the same meaning as in the Act, unless otherwise indicated. Where there is an inconsistency between specific exemptions and the Act, the Act will prevail to the extent of any inconsistency.
3. Nothing in specific exemptions obviates the responsibility of a proponent to obtain the consent of the owner of the registered place or object, or if the registered place or object is situated on Crown Land the land manager as defined in the *Crown Land (Reserves) Act 1978*, prior to undertaking works or activities in accordance with specific exemptions.
4. If a Cultural Heritage Management Plan in accordance with the *Aboriginal Heritage Act 2006* is required for works covered by specific exemptions, specific exemptions will apply only if the Cultural Heritage Management Plan has been approved prior to works or activities commencing. Where there is an inconsistency between specific exemptions and a Cultural Heritage Management Plan for the relevant works and activities, Heritage Victoria must be contacted for advice on the appropriate approval pathway.

5. Specific exemptions do not constitute approvals, authorisations or exemptions under any other legislation, Local Government, State Government or Commonwealth Government requirements, including but not limited to the *Planning and Environment Act 1987*, the *Aboriginal Heritage Act 2006*, and the *Environment Protection and Biodiversity Conservation Act 1999* (Cth). Nothing in this declaration exempts owners or their agents from the responsibility to obtain relevant planning, building or environmental approvals from the responsible authority where applicable.
6. Care should be taken when working with heritage buildings and objects, as historic fabric may contain dangerous and poisonous materials (for example lead paint and asbestos). Appropriate personal protective equipment should be worn at all times. If you are unsure, seek advice from a qualified heritage architect, heritage consultant or local Council heritage advisor.
7. The presence of unsafe materials (for example asbestos, lead paint etc) at a registered place or object does not automatically exempt remedial works or activities in accordance with this category. Approvals under Part 5 of the *Act* must be obtained to undertake works or activities that are not expressly exempted by the below specific exemptions.
8. All works should be informed by a Conservation Management Plan prepared for the place or object. The Executive Director is not bound by any Conservation Management Plan and permits still must be obtained for works suggested in any Conservation Management Plan.

Conditions

1. All works or activities permitted under specific exemptions must be planned and carried out in a manner which prevents harm to the registered place or object. Harm includes moving, removing or damaging any part of the registered place or object that contributes to its cultural heritage significance.
2. If during the carrying out of works or activities in accordance with specific exemptions original or previously hidden or inaccessible details of the registered place are revealed relating to its cultural heritage significance, including but not limited to historical archaeological remains, such as features, deposits or artefacts, then works must cease and Heritage Victoria notified as soon as possible.
3. If during the carrying out of works or activities in accordance with specific exemptions any Aboriginal cultural heritage is discovered or exposed at any time, all works must cease and the Secretary (as defined in the *Aboriginal Heritage Act 2006*) must be contacted immediately to ascertain requirements under the *Aboriginal Heritage Act 2006*.
4. If during the carrying out of works or activities in accordance with specific exemptions any munitions or other potentially explosive artefacts are discovered, Victoria Police is to be immediately alerted and the site is to be immediately cleared of all personnel.
5. If during the carrying out of works or activities in accordance with specific exemptions any suspected human remains are found the works or activities must cease. The remains must be left in place and protected from harm or damage. Victoria Police and the State Coroner's Office must be notified immediately. If there are reasonable grounds to believe that the remains are Aboriginal, the State Emergency Control Centre must be immediately notified on 1300 888 544, and, as required under s.17(3)(b) of the *Aboriginal Heritage Act 2006*, all details about the location and nature of the human remains must be provided to the Aboriginal Heritage Council (as defined in the *Aboriginal Heritage Act 2006*).

Exempt works and activities

1. All internal works to and demolition of post-World War II detached buildings within the extent of registration which date from the Bendigo High School era.

Existing registration details

Existing extent of registration

Amendment of Register of Government Buildings

Bendigo City

Former Supreme Court, Bendigo (now High School), Rosalind Park, Bendigo.

[*Victoria Government Gazette* No. G39 12 October 1988 p3087]

Transferred to the Victorian Heritage Register 23 May 1998 (2 years after the proclamation of the Heritage Act 1995 pursuant to the transitional provisions of the Act)

Existing statement of significance

What is significant?

The Former Supreme Court, Bendigo, Bendigo was constructed in 1857-58 by the Public Works Department for the Crown Law Department, necessitated by the decision to hold circuit court sessions in Bendigo. It was built on Camp Hill where an area had been set aside for police purposes in 1852, providing the base for military and police presence during the goldrushes in the 1850s. It was used as the Supreme Court until 1895, when court activity was transferred to a new building in Pall Mall. In 1907 it was acquired by the Education Department and used as a Continuation School until its conversion for use by the Bendigo Teachers College in 1927. The depression forced the closure of this college in the early 1930s and it remained vacant until it was taken over by the Bendigo Girls High School of Domestic Art in 1937. It was used for this purpose until the Domestic Art School moved to new premises in 1959. The building was then used by Bendigo High School and remains part of the Bendigo Senior Secondary College campus.

Alterations to the original building were made over a period of time, the first in 1860-61 when it appears that three new rooms were added to the rear of the building and rooms were re-distributed as they had become inadequate and unsuitable. By 1865 it was reported that the condition of the building had deteriorated to a dangerous extent, resulting in the removal and rebuilding of part of the court house building. Internal changes were made in 1907 and in 1928 extensive alterations were made, including the remodelling of the front porch from a small square porch to a larger arcaded porch across the two storey central section, and the removal of some single storey rooms from three sides at the rear of the court room. New classrooms replaced these rooms.

The original sandstone building consisted of a two storey central courtroom, which is still visible above later classrooms, with single storey rooms either side. Designed in a very simple Italianate style, subsequent alterations have not been unsympathetic.

How is it significant?

The Former Supreme Court, Bendigo, Bendigo is of architectural and historical significance to the State of Victoria.

Why is it significant?

The Former Supreme Court, Bendigo building is of architectural significance as a simply conceived Italianate design as applied to a government building. Decoration is limited to smooth quoining which emphasises corners and window openings, and contrasts with the textured surface of the main building. Subsequent alterations have been sympathetic to the original concept and additions have been restricted to the rear of the building.

The Former Supreme Court, Bendigo building is of historical significance as the earlier of only two buildings remaining from the Government Camp, which once served as the administrative centre of the Bendigo goldfields. As the oldest government building on the Bendigo goldfields, its importance lies in its place in the development of one of the most significant goldmining areas in Victoria into an important regional centre.

It is also of historical significance as an early surviving building which was specifically constructed to accommodate the Supreme Court in Victoria, when it was decided to extend the circuit court to Bendigo in 1857. The provision of this facility was indicative of Bendigo becoming an established regional centre.

[*Online Data Upgrade Project 2004*]

Existing permit policy and permit exemptions

Nil.

Appendix 1

Heritage Council determination (section 49)

The Heritage Council is an independent statutory body that will make a determination on this recommendation under section 49 of the Act. It will consider the recommendation after a period of 60 days from the date the notice of recommendation is published on its website under section 41.

Making a submission to the Heritage Council (section 44)

Within the period of 60 days, any person or body with a real and substantial interest in the place or object may make a submission to the Heritage Council regarding the recommendation and request a hearing in relation to that submission. Information about making a submission and submission forms are available on the Heritage Council's website. The owner can also make a submission about proposed permit exemptions (Section 40(4)(d)).

Consideration of submissions to the Heritage Council (section 46)

(1) The Heritage Council must consider—

- (a) any written submission made to it under section 44; and
- (b) any further information provided to the Heritage Council in response to a request under section 45.

Conduct of hearings by Heritage Council in relation to a recommendation (section 46A)

(1) The Heritage Council may conduct a hearing in relation to a recommendation under section 37, 38 or 39 in any circumstances that the Heritage Council considers appropriate.

(2) The Heritage Council must conduct a hearing if—

- (a) a submission made to it under section 44 includes a request for a hearing before the Heritage Council; and
- (b) the submission is made by a person or body with a real or substantial interest in the place, object or land that is the subject of the submission.

Determinations of the Heritage Council (section 49)

(1) After considering a recommendation that a place, object or land should or should not be included in the Heritage Register and any submissions in respect of the recommendation and conducting any hearing, the Heritage Council may—

- (a) determine that the place or object is of State-level cultural heritage significance and is to be included in the Heritage Register; or
- (ab) in the case of a place, determine that—
 - (i) part of the place is of State-level cultural heritage significance and is to be included in the Heritage Register; and
 - (ii) part of the place is not of State-level cultural heritage significance and is not to be included in the Heritage Register; or
- (ac) in the case of an object, determine that—
 - (i) part of the object is of State-level cultural heritage significance and is to be included in the Heritage Register; and
 - (ii) part of the object is not of State-level cultural heritage significance and is not to be included in the Heritage Register; or
- (b) determine that the place or object is not of State-level cultural heritage significance and is not to be included in the Heritage Register; or

- (c) in the case of a recommendation in respect of a place, determine that the place or part of the place is not to be included in the Heritage Register but—
 - (i) refer the recommendation and any submissions to the relevant planning authority or the Minister administering the Planning and Environment Act 1987 to consider the inclusion of the place or part of the place in a planning scheme in accordance with the objectives set out in section 4(1)(d) of that Act; or
 - (ii) determine that it is more appropriate for steps to be taken under the Planning and Environment Act 1987 or by any other means to protect or conserve the place or part of the place; or
 - (ca) in the case of a recommendation in respect of an object nominated under section 27A, determine that the object, or part of the object, is to be included in the Heritage Register if it is integral to understanding the cultural heritage significance of a registered place or a place the Heritage Council has determined to be included in the Heritage Register; or
 - (d) in the case of a recommendation in respect of additional land nominated under section 27B, determine that the additional land, or any part of the additional land, is to be included in the Heritage Register if—
 - (i) the State-level cultural heritage significance of the place, or part of the place, would be substantially less if the additional land or any part of the additional land which is or has been used in conjunction with the place were developed; or
 - (ii) the additional land or any part of the additional land surrounding the place, or part of the place, is important to the protection or conservation of the place or contributes to the understanding of the place.
- (2) The Heritage Council must make a determination under subsection (1)—
- (a) within 40 days after the date on which written submissions may be made under section 44; or
 - (b) if any hearing is conducted, within 90 days after the completion of the hearing.
- (3) A determination made under subsection (1)(a), (ab), (ac), (ca) or (d)—
- (a) may include categories of works or activities which may be carried out in relation to a place, object or land, or part of a place, object or land, for which a permit under this Act is not required, if the Heritage Council considers that the works or activities would not harm the cultural heritage significance of the place, object or land; and
 - (b) must include a statement of the reasons for the making of the determination.
- (4) If the Heritage Council determines to include a place, or part of a place, in the Heritage Register, the Heritage Council may also determine to include land that is not the subject of a nomination under section 27B in the Heritage Register as part of the place if—
- (a) the land is ancillary to the place; and
 - (b) the person who owns the place, or part of the place—
 - (i) is the owner of the land; and
 - (ii) consents to its inclusion.
- (5) If a member of the Heritage Council makes a submission under section 44 in respect of a recommendation, the member must not take part in the consideration or determination of the Heritage Council.
- (6) The Heritage Council must notify the Executive Director of any determination under this section as soon as practicable after the determination.

Obligations of owners (section 42, 42A, 42B, 42C, 42D)

42 Obligations of owners—to advise of works, permits etc. on foot when statement of recommendation given

- (1) The owner of a place, object or land to whom a statement of recommendation has been given must advise the Executive Director in writing of—
- (a) any works or activities that are being carried out in relation to the place, object or land at the time the statement is given; and

- (b) if the place, object or land is a place or additional land, any application for a planning permit or a building permit, or any application for an amendment to a planning permit or a building permit, that has been made in relation to the place or additional land but not determined at the time the statement is given; and
- (c) any works or activities that are proposed to be carried out in relation to the place, object or land at the time the statement is given.

(2) An advice under subsection (1) must be given within 10 days after the statement of recommendation is given under section 40.

42A Obligations of owners before determination or inclusion in the Heritage Register—to advise of permits

(1) This section applies if—

- (a) an owner of any of the following is given a statement of recommendation—
 - (i) a place or object nominated under section 27;
 - (ii) an object nominated under section 27A;
 - (iii) land nominated under section 27B; and
- (b) any of the following occurs within the statement of recommendation period in relation to the place, object or land—
 - (i) the making of an application for a planning permit or a building permit;
 - (ii) the making of an application for an amendment to a planning permit or a building permit;
 - (iii) the grant of a planning permit or building permit;
 - (iv) the grant of an amendment to a planning permit or building permit.

(2) The owner must advise the Executive Director in writing of—

- (a) the making of an application referred to in subsection (1)(b)(i) or (ii), within 10 days of the making of the application; or
- (b) a grant referred to in subsection (1)(b)(iii) or (iv), within 10 days of the owner becoming aware of the grant.

42B Obligations of owners before determination or inclusion in the Heritage Register—to advise of activities

(1) This section applies if—

- (a) an owner of a place, object or land is given a statement of recommendation; and
- (b) within the statement of recommendation period it is proposed that activities that could harm the place, object or land be carried out.

(2) The owner, not less than 10 days before carrying out the activities, must advise the Executive Director in writing of the proposal to do so.

42C Obligations of owners before determination or inclusion in the Heritage Register—to advise of proposal to dispose

(1) This section applies if—

- (a) an owner of a place, object or land is given a statement of recommendation; and
- (b) within the statement of recommendation period a proposal is made to dispose of the whole or any part of the place, object or land.

(2) The owner, within 10 days after entering into an agreement, arrangement or understanding for the disposal of the whole or any part of the place, object or land, must advise the Executive Director in writing of the proposal to do so.

42D Obligations of owners before determination or inclusion in the Heritage Register—requirement to give statement to purchaser

(1) This section applies if—

- (a) an owner of a place, object or land is given a statement of recommendation; and

(b) the owner proposes to dispose of the whole or any part of the place, object or land within the statement of recommendation period.

(2) Before entering into an agreement, arrangement or understanding to dispose of the whole or any part of the place, object or land during the statement of recommendation period, the owner must give a copy of the statement of recommendation to the person who, under the proposed agreement, arrangement or understanding, is to acquire the place, object or land or part of the place, object or land.

Owners of places and objects must comply with obligations (section 43)

An owner of a place, object or land who is subject to an obligation under section 42, 42A, 42B, 42C or 42D must comply with that obligation.

Penalty: In the case of a natural person, 120 penalty units;
 In the case of a body corporate, 240 penalty units.