



## **Heritage Council** Regulatory Committee

### **Walmer Street Bridge (H2401)**

Walmer Street, Kew and Walmer Street, Richmond, City of Boroondara and City of Yarra

**Hearing** – 30 September 2020

**Members** – Ms Louise Honman, Dr Karen Murphy, Mr Jeffrey Robinson

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#### **DETERMINATION OF THE HERITAGE COUNCIL**

**Inclusion in the Victorian Heritage Register** – After considering the Executive Director’s recommendation and all submissions received, and after conducting a hearing into the matter, the Heritage Council has determined, pursuant to section 49(1)(a) of the *Heritage Act 2017*, that the Walmer Street Bridge, located at Walmer Street, Kew, City of Boroondara and Walmer Street, Richmond, City of Yarra is of State-level cultural heritage significance and is to be included in the Victorian Heritage Register.

**Louise Honman (Chair)**  
**Karen Murphy**  
**Jeffrey Robinson**

**Decision Date** – 16 December 2020

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## ACKNOWLEDGEMENT

As a peak heritage body, the Heritage Council is proud to acknowledge the Traditional Owners, the Kulin Nation, as the original custodians of the land and waters on which we met, and to acknowledge the importance and significance of Aboriginal cultural heritage in Victoria. We honour Elders past and present whose knowledge and wisdom has ensured the continuation of culture and traditional practices.

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## APPEARANCES / HEARING SUBMISSIONS

### EXECUTIVE DIRECTOR, HERITAGE VICTORIA ('THE EXECUTIVE DIRECTOR')

Submissions were received from the Executive Director, Heritage Victoria ('the Executive Director'). Ms Clare Chandler, Heritage Officer (Assessments) appeared and made verbal submissions on behalf of the Executive Director. Mr Geoffrey Austin, Manager – Heritage Register, was also present and available to take questions.

### MS PENELOPE BROWN

Submissions were received from Ms Penelope Brown who appeared and made verbal submissions at the hearing.

### YARRA CITY COUNCIL ('YARRA')

Submissions were received from Yarra City Council ('Yarra'). Mr Bruce Phillips, Director of Planning and Place Making, appeared and made verbal submissions at the hearing on behalf of Yarra.

### BOROONDARA CITY COUNCIL ('BOROONDARA')

Submissions were received from Maddocks Lawyers on behalf of Boroondara City Council ('Boroondara'). Ms Briana Eastaugh, Partner, appeared and made verbal submissions at the hearing on behalf of Boroondara.

Boroondara's submissions included a statement of expert witness evidence from Mr Peter Andrew Barrett, architectural conservation consultant. Mr Barrett was called to give evidence and was available to be cross-examined.

### MR ROHAN LAMB

Written submissions were received from Mr Rohan Lamb who did not make verbal submissions or participate further in the hearing.

## OTHER INTERESTED PARTIES

### THE PARK HOUSE APARTMENTS PTY LTD ('THE PARK HOUSE APARTMENTS')

Correspondence in relation to the Walmer Street Bridge was received from Planning Property Partners on behalf of The Park House Apartments Pty Ltd ('The Park House Apartments'), the owner of land adjacent to the Place. The Park House Apartments did not participate in the hearing.

## INTRODUCTION/BACKGROUND

### THE PLACE

01. On 20 January 2020, the Executive Director made a recommendation ('the Recommendation') to the Heritage Council pursuant to section 37(1)(a) of the *Heritage Act 2017* ('the Act') that the Walmer Street Bridge, located at Walmer Street, Kew and Walmer Street, Richmond ('the Place') should be included in the Victorian Heritage Register ('the Register').
02. The Place is described on page 5 of the Recommendation as follows:

*'The Walmer Street Bridge provides a crossing between the Richmond and Kew sides of the Yarra River. It consists of a metal Pratt truss bridge span supported on brick piers and approach spans on both sides of the river. The approach span on the Kew side is the longer and is largely constructed of timber. The approach on the Richmond side is of steel construction with timber decking. An 18-inch (46cm) diameter wrought iron riveted pipe emerges from underground on the Kew side and is suspended under the length of the bridge. The pipe has been disconnected on the Richmond side. An additional, narrower pipe runs alongside the original pipe.'*
03. The following historical summary is taken from page 5 of the Recommendation:

*'The Walmer Street Bridge was constructed in 1892 primarily for the purpose of conveying fresh water from the Yarra River near Dight's Falls to the Royal Botanic Gardens (VHR H1459). At this time, the Gardens could not access the mains water supply, and the waters of the Yarra River near the Gardens had become too saline for irrigation. The Public Works Department devised a system, known as Dight's Falls Scheme, to provide the Gardens with fresh water drawn from the area near Dight's Falls. The scheme also provided water for the Melbourne Hydraulic Power Company and the Brookes and Currie Paper Mill near Princes Bridge in central Melbourne. The Walmer Street Bridge carried the water pipe for the Dight's Falls Scheme across the Yarra River and was an important and substantial part of the scheme. The bridge also provided a crossing point for pedestrians. The first bridge was washed away in 1891 before it was complete. The present bridge dates from 1892.'*
04. While the above material is not endorsed by the Heritage Council, it has been relied on by the Committee in making its determination.

### NOMINATION

05. On 22 August 2019, the Executive Director accepted a nomination to include the Place in the Register.

### RECOMMENDATION OF THE EXECUTIVE DIRECTOR

06. On 20 January 2020, the Executive Director recommended that the Place be included in the Register pursuant to section 37(1)(a) of the Act.

### PROCESS FOLLOWING THE RECOMMENDATION OF THE EXECUTIVE DIRECTOR

07. After the Recommendation, notice was published on 24 January 2020 in accordance with section 41 of the Act for a period of 60 days.

08. Two (2) submissions were received pursuant to section 44 of the Act, from Yarra and Boroondara. The submission received from Boroondara objected to the Recommendation. The submission received from Yarra neither supported nor objected to the Recommendation but requested a hearing into the matter.
09. In accordance with section 46(2)(a) of the Act, a hearing was required to be held.
010. The Heritage Council Regulatory Committee ('the Committee') was constituted to consider the Recommendation and submissions received in response to it, and to make a determination.

#### **DELAYS IN SCHEDULING HEARING DATE DUE TO CORONAVIRUS ('COVID-19')**

011. On 7 April 2020 all interested parties to the Registration Hearing were advised by correspondence that Victorian and Commonwealth Government advice in relation to the novel coronavirus ('COVID-19') was impacting Heritage Council hearings and would affect the scheduling and arrangements for the Registration Hearing in relation to the Place.
012. On 3 July 2020 all interested parties were advised by correspondence that the Registration Hearing in relation to the Place would be held on 30 September 2020 ('the Hearing'). The correspondence also advised that the Microsoft Teams™ online platform would be used to conduct the Hearing by videoconference. Further specific technical guidance on how the Hearing would be conducted was provided.

#### **HEARING HELD VIA VIDEOCONFERENCE**

013. On 30 September 2020 the Hearing was conducted using the Microsoft Teams online platform.

#### **PRELIMINARY, PROCEDURAL AND OTHER MATTERS**

##### **SITE INSPECTION**

014. On 25 September 2020, the Committee undertook an unaccompanied site inspection of the Place. The Heritage Council Project Officer was also in attendance.

##### **CONFLICTS OF INTEREST**

015. The Chair invited Committee members to make declarations, written or otherwise, in relation to any matters that may potentially give rise to an actual or apprehended conflict of interest. The Chair and Mr Robinson were satisfied that there were no relevant conflicts of interests and made no such declarations.
016. Dr Murphy declared that she had previously provided advice, in her capacity as a Heritage Consultant, on the assessment of several places referred to by Hearing Participants in undertaking comparative analyses of the Place. No submissions were made or received in response to Dr Murphy's declaration.

##### **FUTURE USE, MAINTENANCE AND DEVELOPMENT OF THE PLACE**

017. It is not the role of the Committee to consider future proposals or to pre-empt any decisions regarding future permits under the Act. Pursuant to section 49(1) of the Act, the role of the Committee is to determine whether or not the Place, or part of it, is of State-level cultural heritage significance and is, or is not, to be included in the Register.

## CORRESPONDENCE FROM THE PARK HOUSE APARTMENTS

- 018.** On 29 September 2020, the Heritage Council received correspondence from Planning & Property Partners on behalf of The Park House Apartments in relation to the Place. The correspondence noted that, although not a participant to the Hearing, in the event that the Committee determined to include the Place in the Register The Park House Apartments would support the inclusion of a permit exemption with the registration of the Place which allowed for the construction of a pedestrian and bicycle link to the Place in accordance with Development Plan No. DP1500043.
- 019.** The Committee, having received no objections in relation to the material's receipt, ruled to accept it.

## LATE MATERIAL

- 020.** Boroondara sought to introduce some new written material in the week prior to the Hearing, after the specified submission lodgment dates. The Committee, having considered the nature of that material – which amounted to a without prejudice copy of the proposed permit exemptions for the Place with suggested changes marked up by Boroondara, and visual material intended to assist the presentation of Mr Barrett's evidence at the hearing – and having received no objections in relation to the material's receipt, ruled to accept it.
- 021.** The Committee records its preference, however, that participants should ordinarily lodge submissions and supporting documents within the specified timeframes in order to afford all parties the same opportunity to review the written material relied on by others in advance of verbal submissions at the Hearing.

## PROCESS FOLLOWING THE HEARING

### REQUESTS FOR INFORMATION

- 022.** At the Hearing, the Committee requested information from Mr Phillips on behalf of Yarra in relation to whether the Place had been assessed under the Yarra Planning Scheme for cultural heritage significance at the local level. Mr Phillips took the request on notice and on 7 October 2020 correspondence was received from Yarra confirming that no local heritage assessment had been undertaken in relation to the Place and that there is currently no heritage overlay in relation to the Place under the Yarra Planning Scheme.
- 023.** Following the conclusion of the Hearing and having regard to the receipt of the late material received from Boroondara, the Committee requested the Executive Director provide a written response to the without prejudice permit exemptions marked up by Boroondara. The Committee noted that Ms Chandler responded to Boroondara's suggested changes verbally at the Hearing, but that it would assist the Committee to have the Executive Director's responses in writing. A written response was received from the Executive Director on 7 October 2020.

## ISSUES

- 024.** The following section is not intended to be a complete record of submissions that were made to the Committee. It is a summary of what the Committee considers to be the key issues, followed by an explanation of the position that the Committee takes on each key issue.
- 025.** Any reference to the Criteria or to a particular Criterion refers to the *Heritage Council Criteria for Assessment of Places of Cultural Heritage Significance*

(updated by the Heritage Council on 4 April 2019) [‘Criteria for Assessment’]. Please refer to **Attachment 1**.

- 026.** The Committee has referred to the assessment framework and ‘steps’ in *The Victorian Heritage Register Criteria and Threshold Guidelines* (updated by the Heritage Council on 4 April 2019) [‘the Guidelines’] in considering the issues before it. Any reference to ‘Guidelines’, ‘Steps’ 1, 2 or 3 or ‘threshold for inclusion’ refers to the Guidelines.

### **SUMMARY OF ISSUES**

- 027.** The Executive Director recommended that the Place be included in the Register for its historical significance to the State of Victoria in relation to Criterion A.
- 028.** The proposed extent of registration in the Recommendation included: ‘All of the place shown hatched on Diagram 2401 encompassing part of Crown Allotment 2812 Parish of Jika Jika and part of the reserves for Walmer Street and the Yarra River representing a buffer of 5 metres on either side of the centre-line of the footbridge and from the abutments of the bridge’.
- 029.** Pursuant to section 38 of the Act, the Executive Director also recommended categories of works or activities for inclusion with the registration which may be carried out in relation to the Place for which a permit under Section 5 of the Act is not required (‘permit exemptions’).
- 030.** Ms Brown supported the Recommendation but submitted that the recommended extent of registration was insufficient and submitted an alternate extent of registration to capture the integration of the Place into the ‘historic design of the Studley Park parkland’.
- 031.** Mr Lamb also supported the inclusion of the Place in the Register, noting the significance of the Dight’s Falls Scheme (‘the Scheme’) to the Royal Botanic Gardens (listed in the Register as H1459) (‘the Botanic Gardens’) and the Melbourne Hydraulic Power Company, and the importance of the Place as the sole surviving above-ground feature of the Scheme.
- 032.** Yarra neither supported nor objected to the Recommendation, but provided information on the importance of the Place as a ‘critical strategic transport link’ to greater Melbourne and in the context of the obligation to provide a connection from the Place to the proposed Walmer Plaza development.
- 033.** Boroondara objected to the inclusion of the Place in the Register. It was the position of Boroondara that the Place does not satisfy any of the Criteria for Assessment at the State level for inclusion in the Register. Notwithstanding its position in relation to the cultural heritage significance of the Place, Boroondara also made submissions on the recommended extent of registration and permit exemptions for the Place, in the event that the Committee agreed with the Recommendation and determined to include the Place in the Register. In making its submissions, Boroondara relied on the evidence of Mr Barrett.

### **CRITERION A – IMPORTANCE TO THE COURSE, OR PATTERN OF VICTORIA’S CULTURAL HISTORY**

#### *Summary of submissions and evidence*

- 034.** In assessing the Place in relation to Criterion A, the Executive Director found that the Place has a clear association with water supply systems, which are of historical importance to the State of Victoria, having provided water for a variety of vital purposes. The Executive Director noted that unlike many water supply

systems which were constructed to provide water for domestic and agricultural purposes, the Place was part of a system constructed specifically to convey fresh water to the Botanic Gardens. The Executive Director assessed that the Scheme was necessary for, and ensured the survival of, the Botanic Gardens when other sources of fresh water were restricted or problematic, allowing the important horticultural, research and recreational uses of the Botanic Gardens to continue. The Executive Director also noted that the Scheme supplied fresh water to the Melbourne Hydraulic Power Company and the Brookes and Curries paper mill.

- 035.** The Executive Director found that the association of the Place with the supply of water is evident in the physical fabric of the Place, including the original central span of the bridge, the brick piers and the 18-inch wrought-iron pipe suspended below the bridge structure.
- 036.** In assessing the Place under Step 2 of Criterion A, the Executive Director stated that the Place allows the association with water supply systems, specifically the Scheme, to be better understood than most other places in Victoria. It was the view of the Executive Director that the Place was constructed as an integral part of the Scheme and remains a substantial and highly visible remnant today. The Executive Director recommended that Criterion A is likely to be satisfied at the State level.
- 037.** Ms Brown and Mr Lamb agreed with the assessment of the Executive Director in relation to Criterion A. In addition, Mr Lamb noted the importance of the construction of the Scheme in demonstrating the value placed by the State on the role of botanic study and the development of the Botanic Gardens for use by all Victorians.
- 038.** Yarra submitted that while it acknowledged the history of the Place in connection to the Scheme, the strategic importance of the primary function of the Place today – in providing a link for the local community to greater Melbourne – should not be overlooked in assessing the Place for inclusion in the Register.
- 039.** Boroondara, in objecting to the Recommendation, was of the view that the Place does not meet the threshold for inclusion in the Register in relation to Criterion A, submitting that the Place was only used to supply water to the Botanic Gardens for 40 years, while the Scheme itself was considered a ‘folly’ and ‘unnecessary’. Boroondara relied on Mr Barrett’s evidence which found that while the Place is historically associated with the supply of water, ‘there is no clear visual evidence in the fabric [of the Place] of this association’.
- 040.** In relation to the historical importance of the Scheme, it was the view of Boroondara that this phase did not make a strong or influential contribution to Victoria. This position was supported by Mr Barrett’s evidence, which found that the Place was part of a ‘minor water supply system’ and concluded that the importance of the Scheme in supplying water, particularly for hydraulic lifts, is ‘overstated’.
- 041.** Boroondara, supported by Mr Barrett’s evidence, submitted that the Place does not allow the association with water supply to be better understood than most other places in Victoria. It was the view of Mr Barrett that other elements of the Scheme which better represent the Scheme and this phase remain today, including the former reservoir, now occupied by the Sir Arthur Rylah Oval, and Guilfoyle’s Volcano, located in the Botanic Gardens. Mr Barrett questioned whether the Place, being ‘a section of pipe...some kilometres away from both Dight’s Falls and the Botanic Gardens, served much interpretative value’ in understanding the Scheme and the association of the Place to water supply systems.

- 042.** In response to the submissions and evidence of Boroondara, it was the view of the Executive Director that the fact that the Scheme received criticism does not necessarily diminish its significance at the State level, submitting that the Scheme, and the Place as a whole, demonstrate the first successful and long-lasting attempt to secure a reliable source of fresh water for the Botanic Gardens. It was also the position of the Executive Director that the Sir Arthur Rylah Oval can no longer be read as a reservoir and retains very little integrity or intactness in relation to the Scheme, while Guilfoyle's Volcano is associated with a number of different schemes and is of lesser value than the Place in allowing the Scheme to be understood.

### *Discussion and conclusion*

- 043.** The Committee, broadly, agrees with the Executive Director's assessment of the Place in relation to Criterion A.
- 044.** The Committee is not convinced by the submissions and evidence of Boroondara that the association of the Place to the supply of water is not evident in the physical fabric of the Place. The Committee is of the view that the historical significance of the Place cannot be reduced to an association with the 1892 water pipe alone, noting that the integrity and intactness of the original form and construction of the Place as a bridge supporting a pipe remains high.
- 045.** The Committee agrees with the Executive Director and Mr Lamb that the Scheme is of historic importance to the State of Victoria, having made a strong contribution to the survival of the Botanic Gardens and the supply of water to Melbourne for a specific purpose.
- 046.** While the Committee agrees with Mr Barrett that the Place, as with many places, would benefit from interpretive analysis on site, it is the view of the Committee that the association of the Place to the Scheme and the supply of water is evidenced in the physical fabric of the Place, and is understood better at the Place than at most other places in Victoria with substantially the same association. The Committee provides further discussion on the comparative analyses undertaken in relation to the Place at paragraphs 054–056.
- 047.** The Committee finds that Criterion A is satisfied at the State level.

## **INCLUSION IN THE REGISTER IN RELATION TO MULTIPLE CRITERIA**

### *Summary of submissions and evidence*

- 048.** The Executive Director assessed that the Place was unlikely to meet the State-level threshold for inclusion in the Register in relation to any of the other Criteria for Assessment, namely Criteria B, C, D, E, F, G and H.
- 049.** No submissions or evidence were advanced by Hearing Participants for the inclusion of the Place in the Register in relation to Criteria B, C, D, E, F, G, or H.
- 050.** In verbal submissions at the Hearing, Ms Eastaugh noted that while Boroondara accepted that a place or object may be included in the Register for significance in relation to just one Criterion, most places and objects are included in the Register for significance at the State level in relation to multiple Criteria. It was the position of Boroondara that for a place to satisfy the threshold for inclusion solely in relation to one Criterion, it would need to be highly significant.



### *Discussion and conclusion*

- 051.** The Committee agrees with the Executive Director’s assessment of the Place in relation to Criteria B, C, D, E, F, G and H, and finds that the Place does not satisfy the State-level threshold for inclusion in the Register in relation to these Criteria.
- 052.** The Committee notes that whether a place or object is found to satisfy multiple Criteria, or a single Criterion, at the State level has no bearing on inclusion in the Register, rather, places and objects must be found to meet the State-level threshold in relation to at least one Criterion to warrant inclusion in the Register. The Committee also notes that the Guidelines make no reference to an additional, or higher, threshold for the inclusion of a place or object that satisfies the State-level threshold in relation to one Criterion alone.
- 053.** For reference, the Committee notes that a number of places are currently included in the Register for significance at the State level in relation to a single Criterion, including but not limited to, the Monster Meeting Site, Chewton (H2368) [Criterion A], Kilmore Brewery Site, Kilmore (H2375) [Criterion C] and the Former Clifton Motor Garage, Clifton Hill (H2380) [Criterion D].

## **COMPARATIVE ANALYSES**

### *Discussion and conclusion*

- 054.** The Committee notes that both the Executive Director and Mr Barrett undertook comparative analyses of the Place in assessing its cultural heritage significance. Although both compared the Place to other water supply systems, the Executive Director also compared the Place to various separate components of water supply systems included in the Register, while Mr Barrett compared the Place to other pipe bridges, particularly examples not included in the Register. Broadly, the Committee finds the Executive Director’s comparative analysis most useful in assisting it to determine whether or not to include the Place in the Register.
- 055.** The Committee agrees that the Scheme, being a self-contained system constructed for a specific reason, is difficult to compare to the large, general use water supply systems already included in the Register. The Committee is of the view, however, that the significance of the Place is demonstrated by the specific reasons for the construction of the Scheme, particularly when compared to other, large-scale and general use water supply systems.
- 056.** The Committee finds that Mr Barrett’s comparison of the Place to other pipe bridges did not assist its decision-making process, especially considering Mr Barrett’s selected comparators were constructed as adjuncts to large-scale general use water supply schemes, unlike the Place which was part of a discrete scheme developed for a specific purpose. The Committee is persuaded by the Executive Director’s comparison of the Place to separate components of water supply systems that are included in the Register, and broadly agrees that the Place is of equivalent or greater significance than other individual places associated with water supply that are already included in the Register.

## **EXTENT OF REGISTRATION**

### *Summary of submissions and evidence*

- 057.** The Executive Director recommended that the extent of registration for the Place include: ‘All of the place shown hatched on Diagram 2401 encompassing part of

Crown Allotment 2812 Parish of Jika Jika and part of the reserves for Walmer Street and the Yarra River representing a buffer of 5 metres on either side of the centre-line of the footbridge and from the abutments of the bridge’.

058. In submissions to the Hearing, the Executive Director submitted that the proposed written extent of registration for the Place could be better expressed by making the following changes in bold (original emphasis):

*‘All the place shown hatched on Diagram 2401 encompassing part of Crown Allotment 2812 Parish of Jika Jika and part of the reserves for Walmer Street and the Yarra River representing a buffer of 5 metres on either side of the centreline [sic] of the **entire** footbridge and from the **end of the approach spans on both sides of the river**’.*

No change was recommended to the mapped extent of registration.

059. In supporting the inclusion of the Place in the Register, Ms Brown submitted that the recommended extent of registration was insufficient. It was Ms Brown’s position that that Place has been integrated into the historic design of the surrounding parkland, being located at a picturesque bend in the Yarra River and serving as a significant viewing point. Ms Brown submitted that the extent of registration for the Place should be increased to meet the edge of the avenue of trees to the north of the bridge to conserve the integrity of the historic context of the bridge and the ‘design scheme of the park to which it is linked’.

060. In response to Ms Brown’s proposed extent of registration for the Place, it was the view of the Executive Director that it is the bridge structure itself which is significant, rather than the parkland in which it is located. The Executive Director submitted that the recommended extent of registration is sufficient to provide for the protection, conservation and understanding of the cultural heritage values of the Place.

061. Notwithstanding its position that the Place does not warrant inclusion in the Register, Boroondara submitted that the Executive Director’s proposed extent of registration for the Place was excessive and inconsistent with the Recommendation, which noted that:

*‘Fabric that has been gradually replaced over time, such as the timber decking and handrails, is not significant. The approaches on both sides of the bridge were added in the latter part of the twentieth century and are not significant.’<sup>1</sup>*

062. It was the view of Boroondara that, in the event of the registration of the Place, the extent of registration should ‘be reduced to exclude the entire bridge or at least the land bridge on the Boroondara side of the Yarra River’.

063. In verbal submissions at the Hearing, Mr Phillips submitted that, in the event that the Committee determined to include the Place in the Register, Yarra supported both approaches to the Place being excluded from the extent of registration, on the basis that they are not of significance in relation to the Place. Mr Lamb submitted that he also supported the removal of the approaches from the extent of registration. It was the position of the Executive Director, however, that the inclusion of these elements in the extent of registration was important for the protection, conservation and understanding of the Place. The Executive Director acknowledged that elements such as the approach spans have been replaced

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<sup>1</sup> Executive Director’s recommendation for the Place, 20 January 2020, pg 13.

over time and are not significant, in and of themselves, but that they should be considered part of the Place and included in the extent of registration.

### *Discussion and conclusion*

- 064.** The Committee agrees with the extent of registration recommended, and updated, by the Executive Director.
- 065.** The Committee is of the view that the Executive Director's extent of registration is sufficient for the protection and conservation of the Place and agrees that while the approach spans do not contain significant fabric, these elements are important for the protection and conservation of the Place and contribute to the understanding of the cultural heritage significance of the Place.
- 066.** The Committee records its determination as to the extent of registration of the Place in **Attachment 2**.

## **PERMIT EXEMPTIONS**

### *Summary of submissions and evidence*

- 067.** In recommending the Place for inclusion in the Register, the Executive Director recommended some permit exemptions. The permit exemptions recommended by the Executive Director included several 'general' exemptions, and specific exemptions for repairs and maintenance, to enable safety requirements, and to maintain the landscape.
- 068.** Although Yarra made no submissions in relation to the recommended permit exemptions for the Place, the Executive Director noted Yarra's submissions in relation to the strategic importance of the Place and acknowledged that providing an improved pedestrian and bicycle link to the Place was a matter of considerable concern for Yarra. The Executive Director submitted that he supported the inclusion of a permit exemption to carry out the works shown in the endorsed 2017 Development Plan No. DP1500043. It was the view of the Executive Director that these works would not cause harm to the cultural heritage significance of the Place.
- 069.** As previously noted, the correspondence received from the Park House Apartments advised that it also supported the inclusion of a permit exemption which allowed for the construction of a pedestrian and bicycle link to the Place in accordance with DP1500043.
- 070.** The late material received from Boroondara prior to the hearing included suggested changes to the Executive Director's recommended permit exemptions, provided without prejudice to its position in relation to the cultural heritage significance of the Place. Boroondara's suggested changes to the recommended permit exemptions removed 'general condition' 3, namely that all works to the Place should be informed by a Conservation Management Plan ('CMP') and labelled 'general conditions' 4 and 5 as 'notes', rather than specified exemptions. Boroondara also reworded several of the exemptions recommended by the Executive Director and proposed an additional exemption for the erection of temporary security fencing, scaffolding, hoardings, signage or surveillance.
- 071.** In response to Boroondara, the Executive Director noted his preference that the condition in relation to a CMP be retained but agreed that this may be expressed as a 'note' rather than an exemption. The Executive Director also provided specific responses to each of the exemptions reworded by Boroondara. Generally, the Executive Director noted that Boroondara's reworded exemptions

included phrases such as ‘in a manner that does not have a negative impact on the cultural heritage significance of the Place’. The Executive Director noted that the Committee may wish to consider the suitability of this wording.

### *Discussion and conclusion*

- 072.** The Committee, broadly, agrees with the permit exemptions recommended by the Executive Director and reworded by Boroondara, but has made minor adjustments to provide for the protection, conservation and management of the Place.
- 073.** In relation to the Executive Director’s submission that he would be open to the inclusion of a permit exemption for the construction of a pedestrian and bicycle link to the Place in accordance with Development Plan No. DP1500043, the Committee is of the view that development-specific exemptions should be a matter for the consideration of the Executive Director pursuant to Part 5 of the Act, rather than included at the time of the registration of a place or object by the Heritage Council, or by way of an amendment to the Register pursuant to Division 7 of the Act. The Committee notes that it is usual practice that the assessment of cultural heritage significance is undertaken separately from considerations of management and future proposals that may affect a place or object.
- 074.** The Committee notes that several of the reworded permit exemptions suggested by Boroondara referred to the ‘inspection, repair, maintenance or replacement’ of the fabric of the Place (emphasis added). The Committee is of the view that while the inspection, repair and maintenance of fabric may be carried out without the need for a permit, the replacement of original and non-original fabric should more appropriately be considered by the Executive Director pursuant to Part 5 of the Act, rather than included as part of a permit exemption at the time of registration.
- 075.** The Committee has listed the categories of works and activities that may be carried out in relation to the Place without the need for a permit under the Act at **Attachment 3**.

### **CONCLUSION**

- 076.** After considering the Executive Director’s recommendation and all submissions received, and after conducting a hearing into the matter, the Heritage Council has determined, pursuant to section 49(1)(a) of the *Heritage Act 2017*, that the Walmer Street Bridge located at Walmer Street, Kew, City of Boroondara and Walmer Street, Richmond, City of Yarra is of State-level cultural heritage significance and is to be included in the Victorian Heritage Register.

## ATTACHMENT 1

### HERITAGE COUNCIL CRITERIA FOR ASSESSMENT OF PLACES OF CULTURAL HERITAGE SIGNIFICANCE

CRITERION A	Importance to the course, or pattern, of Victoria's cultural history
CRITERION B	Possession of uncommon, rare or endangered aspects of Victoria's cultural history.
CRITERION C	Potential to yield information that will contribute to an understanding of Victoria's cultural history.
CRITERION D	Importance in demonstrating the principal characteristics of a class of cultural places or environments.
CRITERION E	Importance in exhibiting particular aesthetic characteristics.
CRITERION F	Importance in demonstrating a high degree of creative or technical achievement at a particular period.
CRITERION G	Strong or special association with a particular present-day community or cultural group for social, cultural or spiritual reasons.
CRITERION H	Special association with the life or works of a person, or group of persons, of importance in Victoria's history.

These were updated by the Heritage Council at its meeting on 4 April 2019, and replace the previous criteria adopted by the Heritage Council on 6 December 2012

## ATTACHMENT 2

### EXTENT OF REGISTRATION

All the place shown hatched on Diagram 2401 encompassing part of Crown Allotment 2812 Parish of Jika Jika and part of the reserves for Walmer Street and the Yarra River representing a buffer of 5 metres on either side of the centreline of the entire footbridge and from the end of the approach spans on both sides of the river.



The extent of registration of the Walmer Street Bridge in the Victorian Heritage Register affects the whole place shown on Diagram 2401 including the truss bridge, brick piers, wrought-iron pipe, the approach spans on both sides of the river, and the land.

## **ATTACHMENT 3**

### **PERMIT EXEMPTIONS (PURSUANT TO SECTION 49(3) OF THE *HERITAGE ACT 2017*)**

It should be noted that Permit Exemptions can be granted at the time of registration (under section 38 of the *Heritage Act 2017*). Permit Exemptions can also be applied for and granted after registration (under s.92 of the *Heritage Act*).

Under section 38 of the *Heritage Act 2017* the Executive Director may include in his recommendation, categories of works or activities which may be carried out in relation to the place or object without the need for a permit under Part 5 of the Act. The Executive Director must not make a recommendation for any categories of works or activities to be permit exempt if he considers that the works or activities may harm the cultural heritage significance of the place or object. The following permit exemptions are not considered to cause harm to the cultural heritage significance of the Walmer Street Bridge.

#### ***General Conditions***

##### **General Condition 1**

All exempted alterations are to be planned and carried out in a manner which prevents damage to the fabric of the registered place or object.

##### **General Condition 2**

Should it become apparent during further inspection or the carrying out of works that original or previously hidden or inaccessible details of the place or object are revealed which relate to the significance of the place or object, then the exemption covering such works shall cease and Heritage Victoria shall be notified as soon as possible.

#### ***Specific Permit Exemptions***

##### **General**

Inspection, repair and maintenance of non-original physical fabric, being all fabric other than the two brick piers and bluestone coping, the portion of the bridge comprised of the Pratt iron truss bridge and 18-inch wrought iron water pipe in a manner that does not change the appearance of the heritage place.

Inspection, repair or maintenance of original physical fabric that is damaged or deteriorated and is beyond further maintenance, in a manner that is undertaken to the same details, specifications and materials and does not have a negative impact on the cultural heritage significance of the place and does not change the appearance of the heritage place.

Painting of previously painted surfaces, but not painting that would constitute advertisement.

Works or activities, including emergency stabilisation (including propping) of the north and south approach spans, necessary to comply with Australian Standards or other relevant statutory standards or requirements and/or secure safety in an emergency where a structure or part of a structure has been irreparably damaged or destabilised and poses a safety risk to its users or the public. The Executive Director, Heritage

Victoria, must be notified within seven days of the commencement of these works or activities.

Cleaning including the removal of surface deposits, organic growths or graffiti by the use of low pressure water (less than 100 psi at the surface being cleaned) and neutral detergents and mild brushing and scrubbing.

The erection of temporary security fencing, scaffolding, hoardings, signage or surveillance systems to prevent unauthorised access or secure public safety which will not adversely affect significant fabric of the place. Such temporary structures should not be attached to the piers, truss or pipe and be of limited duration.

### **Landscape elements**

The processes of landscape maintenance including pruning, mulching, removal of dead shrubs, planting, disease and weed control and maintenance to care for existing plants.

Subsurface works involving the installation, removal or replacement of drainage systems or other services provided there are no visible above ground elements.

Works and activities associated with the management of possums and vermin.

Maintenance and care of trees and removal or pruning of dead or dangerous trees to maintain safety.

Maintenance and repair of existing paving and other hard landscaping elements.

### **Notes**

All works should ideally be informed by Conservation Management Plans prepared for the place. 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.

Nothing in this determination prevents the Heritage Council from amending or rescinding all or any of the permit exemptions.

Nothing in this determination exempts owners or their agents from the responsibility to seek relevant planning or building permits from the relevant responsible authority, where applicable.