Heritage Council Regulatory Committee

Tower Hill State Game Reserve (H2114)

Tower Hill and Crossley, Moyne Shire

DETERMINATION OF THE HERITAGE COUNCIL

The Heritage Council has considered a request to review the Executive Director's decision to refuse to accept an application to amend the registration in the Victorian Heritage Register for the Tower Hill State Game Reserve at Tower Hill and Crossley, Moyne Shire. Pursuant to Section 30(5)(b) of the *Heritage Act 2017*, the Heritage Council has determined to set aside the decision under review and make another decision in substitution for it, by accepting the application.

Rueben Berg (Chair)
Karen Murphy
Helen Doyle

Decision Date – 7 October 2021

ACKNOWLEDGEMENT

As a peak heritage body, we acknowledge the Traditional Owners of the Country that we call Victoria, as the original custodians of Victoria's land and waters, and 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 Aboriginal culture and traditional practices.

INTERESTED PARTIES

EXECUTIVE DIRECTOR, HERITAGE VICTORIA

Information was received from the Executive Director, Heritage Victoria ('the Executive Director') in relation to his refusal to accept the application to amend the Place in the Register.

APPLICANT

The Applicant is Mr Michael Raetz, together with the Geological Society of Australia, of which Mr Raetz is a member. The Applicant provided additional information in relation to the application to amend the Place in the Register.

INTRODUCTION/BACKGROUND

THE PLACE

01. Tower Hill State Game Reserve, located at Tower Hill and Crossley, Moyne Shire ('the Place') is an area of approximately 6.2 sq km, 3 km inland from the coast between Warrnambool and Port Fairy.

02. The Place consists of a volcanic crater of nested maar type bounded by the encircling crater rim that forms a highly visible landmark in the surrounding plain. The crater, filled by a lake and series of islands, themselves volcanic cones, was formed at least 30,000 years ago when a hot rising basaltic magma came into contact with the subterranean water table. The violent explosion that followed created the funnel-shaped crater (later filled by a lake) and the islands. Artefacts found in the volcanic ash layers show that Aboriginal people were living in the area at the time of the eruption. In 1873 the area was permanently reserved for public purposes and in 1892, in an attempt to halt the environmental damage to the crater, the Place became the first National Park to be declared in Victoria. In 1962 Robin Boyd was commissioned to design a Natural History Centre on the main island at Tower Hill, completed in 1969. This early example of an interpretive centre was to provide the public with information about the restoration of the Tower Hill environment and the wildlife and habitats of the State's Reserves and to be a centre of study for wildlife management.

03. The Place was included in the Victorian Heritage Register ('the Register') on 8 March 2007 as place H2114.

04. The Statement of Cultural Heritage Significance for the Place states the reasons for its inclusion in the Register:

- *Tower Hill State Game Reserve is of aesthetic significance, being an inspirational landscape, recognised for the beauty and uniqueness of its geological form and natural vegetation from first European exploration and settlement of the region.*
- *Tower Hill State Game Reserve is a cultural landscape of historical significance in reflecting more than a century of changing attitudes to landscape in its evolving status and the character of its environment.*
- *Tower Hill State Game Reserve is of historical significance as an iconic and inspirational landscape, noted for its geological form and the beauty of its natural vegetation from first European exploration and settlement of the region, memorialised in Eugene von Guerard's 1855 painting of Tower Hill crater and island. It was this iconic beauty that environmentalists sought to reinstate through their replanting of native vegetation, the species having initially been identified initially* [sic] *from the detail of von Guerard's painting.*
- *Tower Hill State Game Reserve is of historical significance as the earliest and an outstanding example of community programs to reinstate native vegetation and re-create native habitat on cleared and degraded land. Skills developed in the course of this work, and subsequently applied in other parts of the country include an understanding of the importance of using species indigenous to the local area, requirements for*

re-introduction of native fauna, and awareness of the need for re-establishment of understorey species.

- *Tower Hill State Game Reserve is of social significance for the ongoing role of the local community and community groups in the reinstatement of natural habitats in the Reserve.*
- *Tower Hill State Game Reserve is of scientific (geological) significance as an example of a nested maar, a specific type of volcanic crater that formed at least 30 000 years ago when hot rising basaltic magma came into contact with the subterranean water table resulting in a series of phreatic explosions that created the funnel-shaped crater (later filled by a lake) coupled with late stage scoria cone development of the islands seen today.*
- *Tower Hill State Game Reserve is of architectural significance for the innovative design of the Natural History Centre now known as the Worn Gundidj Visitor Centre, designed by Robin Boyd in 1962 and completed in 1969. The circular design of the Centre, reminiscent of the surrounding volcanic landscape, is said to have provided the inspiration for the Bangerang Cultural Centre, Shepparton (H1802), designed by Frederick Romberg in 1979, possibly in homage to his late partner, Robin Boyd.*

APPLICATION TO AMEND THE PLACE IN THE REGISTER

05. On 18 May 2021, an application to amend the Place in the Register ('the Application') was lodged with the Executive Director, pursuant to section 32 of the *Heritage Act 2017* ('the Act'). The Application sought to amend the Place in the Register by adding additional land to the extent of registration, namely part of Lot 80, Parish of Yangery, Volume 7893, Folio 024, Princess Highway, Killarney ('the subject site').

06. The Application stated that the subject site, known as 'Brown Quarry',

> *'…Contains the best example of a surge feature at Tower Hill and one of the best known anywhere. The quarry also contains the best exposure of the Tower Hill pyroclastic flow'.*

DECISION OF THE EXECUTIVE DIRECTOR

07. Pursuant to section 29 of the Act, the Executive Director may refuse to accept an application to amend a place or object in the Register if he considers that the place or object has no reasonable prospect of amendment. On 20 July 2021, the Executive Director notified the Applicant of his refusal to accept the Application on the grounds that the Place has no reasonable prospect of amendment in the Register. The Executive Director's refusal stated that:

> *'…while the additional land proposed for inclusion may have important geological values (being a notable example of the preservation of pyroclastic flow in Victoria) there is no evidence that the land has cultural heritage values. Furthermore, it is considered that the current extent of registration of the Tower Hill State Game Reserve is sufficient*

to protect the State-level cultural heritage significance of this place and that additional land is not necessary for its protection, conservation or understanding.'

REQUEST FOR REVIEW

08. On 14 August 2021, the Heritage Council received a request for a review of the Executive Director's refusal to accept the Application pursuant to section 30 of the Act. The Heritage Council Regulatory Committee ('the Committee') was constituted to consider the request for review, information received in response to it, and to make a determination, as delegated by the Heritage Council under sections 13 and 15 of the Act.

PRELIMINARY, PROCEDURAL AND OTHER MATTERS

CONFLICTS OF INTEREST

09. The Chair invited Committee members to make declarations in relation to any matters that may potentially give rise to an actual or apprehended conflict of interest. Dr Murphy and Dr Doyle were satisfied that there were no relevant conflicts of interests.

010. Mr Berg declared that he has connections to the Registered Aboriginal Party for the Place, as an Eastern Maar man.

REQUEST FOR INFORMATION

011. On 7 September 2021, the Committee requested additional information from interested parties to assist in determining the matter. Parties were also afforded the opportunity to respond to the information provided to the Committee.

ISSUES

012. The following section is not intended to be a complete record of information provided to the Committee. It is a summary of what the Committee considers to be the key issues, followed by an explanation of the position the Committee takes on each key issue.

SUMMARY OF ISSUES

013. Interested parties provided the Committee with a range of additional material in relation to whether or not the Place has a reasonable prospect of amendment in the Register, or, conversely, whether the subject site has a reasonable prospect of inclusion in the register as additional land to the registration of the Place, pursuant to section 29(1) of the Act.

NO REASONABLE PROSPECT

Information received

014. The Applicant provided the Committee with the original application for the amendment of the Place and set out that in their view that Brown Quarry, being 'man-made' is of cultural heritage significance in relation to the Place.

015. In providing additional information on the Application to the Committee, the Applicant clarified that their focus, in seeking a review of the Executive Director's decision was the 'actual boundary fence area of the Place; the South

Face of the Tower Hill Wildlife Reserve and its fragile ramparts (being also the North Face of Brown Quarry)'.

016. It was the position of the Applicant that the three-metre-high stone rampart at the top of the north face of the quarry is one of the main surviving remnants of the Tower Hill Pyroclastic Flow and is associated with the Place. It was the view of the Applicant that the additional land, in particular the north face of the quarry is 'a thing of beauty', having been 'featured in paintings' of the Place.

017. In response to the information provided by the Applicant, the Executive Director stated that 'whilst the South Wall of the quarry may be a 'man-made' structure, it is not the quarry that is argued to be of heritage significance or that is sought to be managed'. It was the view of the Executive Director that the intent of the Application was to protect the Pyroclastic Flow associated with the Place.

018. The information provided by the Executive Director set out that although the Statement of Significance for the Place refers to its inclusion in the Register on the basis of its 'scientific significance', the *Heritage Council Criteria for Assessment of Places of Cultural Heritage Significance* (updated by the Heritage Council on 4 April 2019) ['the Criteria for Assessment', see **Attachment 1**] and in *The Victorian Heritage Register Criteria and Threshold Guidelines* (updated by the Heritage Council on 3 December 2020) ['the Guidelines'] no longer refer to 'scientific significance', but to 'creative or technical significance' in relation to Criterion F. The Executive Director stated that since 2012, the Criteria have 'not been applicable to environmental forms created by *nature'* (original emphasis).

019. The Executive Director confirmed his position that the subject site has no reasonable prospect of inclusion in the Register.

Discussion

020. The Committee notes the information provided by the Applicant and the Executive Director in relation to the subject site and its association with the Place.

021. The Committee also notes the position of the Executive Director in relation to the cultural heritage significance of the subject site, and the information provided in relation to the 'scientific significance' of the Place and the changed scope of Criterion F since the registration of the Place in 2007. The Committee further acknowledges the position of the Executive Director that the current extent of registration for the Place is 'sufficient to protect the State-level cultural heritage significance of this place'.

022. Notwithstanding changes to the Criteria for Assessment since the inclusion of the Place in the Register, the Committee were not convinced, on the material provided by both the Applicant and the Executive Director, that the Place has no reasonable prospect of inclusion in the Register.

023. The Committee notes that although the Statement of Significance of the Place does not set out the Criteria for which the Place is included in the Register – having been registered prior to the introduction of the Criteria for Assessment in 2012 – the Statement of Significance does provide several reasons for the inclusion of the Place in the Register: being aesthetic, historic, scientific, social, and architectural significance at the State level. The Committee notes that the Executive Director's grounds for refusing to accept the Application refer to the nature of the Pyroclastic Flow as a 'natural process' and set out that under the

current Criteria for Assessment natural, scientific significance is no longer able to be considered when assessing the cultural heritage significance of places and objects at the State level. While it is not within the remit of this Committee to determine which of the current Criteria the Place, or indeed the subject site, may meet at the State level, the Committee was not convinced, on the information provided, that the subject site has no association with any of the reasons for the inclusion of the Place in the Register, or with the State-level cultural heritage significance of the Place as a whole. Upon review therefore, the Committee was unable, in this instance, to confirm the Executive Director's decision that the Place has no reasonable prospect of amendment in the Register.

024. In making its determination, the Committee has given regard to the provisions set out at sections 32(1)(a) and (b) of the Act. In particular, and in reference to section 32(1)(b) of the Act, the Committee found that the material before it demonstrated that the subject land *may* contribute to the understanding of the Place and that, in this instance, the Executive Director should further consider the Application in this regard.

CONCLUSION

025. The Heritage Council has considered a request to review the Executive Director's decision to refuse to accept an application to amend the registration for the Tower Hill State Game Reserve at Tower Hill and Crossley, Moyne Shire in the Victorian Heritage Register. Pursuant to Section 30(5)(b) of the *Heritage Act 2017*, the Heritage Council has determined to set aside the decision under review and make another decision in substitution for it, by accepting the application.

026. The Committee thanks all interested parties for providing additional information for its consideration, especially noting the time and research undertaken by the Applicant in preparing the documentation under review.

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