

Heritage Council Determination

Determination date	3 October 2024
Place/Object name	Capital Theatre (former Masonic Hall) ('the Place')
Location	50-56 View Street, Bendigo, Greater Bendigo City Dja Dja Wurrung Country
VHR number	H0119
Category	Registered Place
Relevant Legislative provision/s	Amendment to the Victorian Heritage Register in accordance with Section 62 of the <i>Heritage Act 2017</i>

DETERMINATION

The Heritage Council of Victoria determined on **3 October 2024**, in accordance with section 62 of the *Heritage Act 2017*, the above Place is to be amended in the Victorian Heritage Register. The Heritage Council determined to make the following amendments as outlined in the Executive Director's recommendation:

- including additional land in accordance with the extent of registration provided as **Attachment 1** to this determination; and
- determining categories of works or activities which may be carried out in relation to the Place for which a permit is not required ('permit exemptions') in accordance with **Attachment 2** to this determination.

BACKGROUND

The State-level cultural heritage significance of the Place was recognised in 1974 by its inclusion in the (former) Register of Historic Buildings.

On 24 April 2024 the Executive Director made and accepted a nomination to amend the registration of the Capital Theatre to ensure its inclusion in the Victorian Heritage Register is consistent with current practices under the *Heritage Act 2017*.

On 13 May 2024 the Executive Director made the Recommendation the Heritage Council. The Recommendation was publicly advertised on 17 May 2024 for a period of 60 days.

SECTION 44 SUBMISSIONS

No submissions pursuant to section 44 of the *Heritage Act 2017* were received by the Heritage Council during the public advertisement of the Executive Director's Recommendation.

REASONS FOR EXECUTIVE DIRECTOR RECOMMENDATION

The Executive Director recommended to the Heritage Council that the registration be amended, because in accordance with section 40(4)(c)(i) and (ii) of the *Heritage Act 2017*:

- (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.

Executive Director's assessment and summary under section (40)(4)(c)(i) of the *Heritage Act 2017*

- Only the Capital Theatre is currently included in the VHR. None of the property or land beyond the footprint of the building is included in the VHR.
- The grounds of the former Masonic Hall are small, with some undeveloped land existing at the rear of the building. Any development would occur close to the registered building.
- Any new buildings, works or development on the undeveloped land would have the potential to diminish the setting and context of the registered building and the relationship of the building to Rosalind Park at the rear and substantially reduce the State-level cultural heritage significance of the place.
- Including additional land will ensure that all works are managed through an approvals process consistent across the entirety of the site and would provide certainty for all parties.

Executive Director's assessment and summary under section 40(4)(c)(ii) of the *Heritage Act 2017*

- Only the Capital Theatre itself is currently registered, and this is insufficient to protect, conserve and allow for a proper understanding of the registered building.
- Including an area of land around the building will enable works immediately adjacent to the building (for example, new building additions) to be managed under an approval process.
- Inclusion of an area of land around the Masonic Hall will also enable works that could potentially impact the conservation of the building, such as drainage, landscaping and paving, to be managed under an approval process.
- Inclusion of an area around the building provides a setting for the place.

HERITAGE COUNCIL'S FINDINGS

When presented with the Executive Director's Recommendation at its meeting on 1 August 2024 the Heritage Council found that the extent of registration did not appear to include the front entrance steps abutting the Capital Theatre building. The Heritage Council requested that the Executive Director and City of Greater Bendigo consider how the front entrance steps could be included within the extent of registration, whether by including land ancillary to the place or by other means.

The Executive Director and City of Greater Bendigo agreed that the written extent of registration could be amended to include reference to the front entrance steps and other items.

The Heritage Council accepts the Executive Director's Recommendation, and further information provided to it in relation to the front entrance steps. The Heritage Council accepts the extent of registration provided to it in addition to the Recommendation, on 1 October 2024 and as set out below.

The Heritage Council finds that the amendment to include additional land in the Heritage Register accords with the reasons set out in section 40(4)(c)(i) and (ii) of the *Heritage Act 2017* and ensures the protection and conservation of the Place.

The Heritage Council finds that the proposed 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.

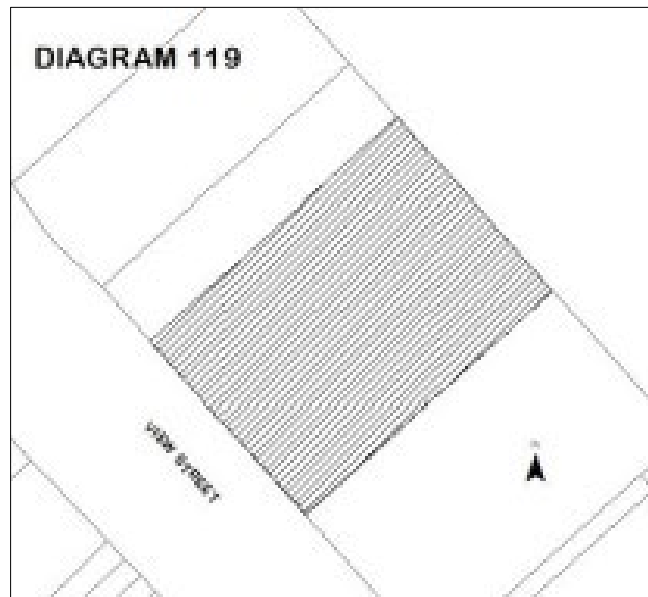


Professor Philip Goad
Chair, Heritage Council of Victoria

Attachment 1

Extent of Registration

All of the place shown hatched on Diagram 119 encompassing that part of Consolidated Plan 172110 representing the building and land occupied by the Capital Theatre (former Masonic Hall) inclusive of the front steps, abutments and lamps adjacent to View Street, but excluding the land to the north-west occupied by the abutting former Bendigo Fire Station (H1334).



Attachment 2

Permit exemptions

The categories of works or activities which may be carried out in relation to the Place for which a permit is not required ('permit exemptions') to be included, pursuant to section 49(3)(a) of the *Heritage Act 2017* as follows:

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

The Masonic Hall and Fire Station Conservation Management Plan prepared by Allom Lovell & Associates (2001) provides useful guidance for management of the place with respect to its cultural heritage significance. It is recommended that this Conservation Management Plan is updated or reviewed to reflect current issues and practices in the management of the place's 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 do not harm its cultural heritage significance, to proceed without the need to obtain approvals under the Act.

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 Capital Theatre (former Masonic Hall) 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 *Heritage Act 2017* 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 Secretary (as defined in the *Aboriginal Heritage Act 2006*).

Exempt works and activities

1. Maintenance, like for like replacement and demolition of tiered seating to upper hall.
2. Maintenance, repair, replacement, upgrade, and removal of lighting and sound equipment. Replacement must use existing penetrations where possible and must not require cutting or chasing into early or original fabric.