



## **Heritage Council** Regulatory Committee **Waverley House**

94 Western Beach Road, Geelong, Greater Geelong City

**Members** – Professor Philip Goad (Chair), Mr David Hogg, Mr Michael McMahon

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

The Heritage Council has considered a request to review the Executive Director's decision to refuse to accept a nomination to include Waverley House at 94 Western Beach Road, Geelong, Greater Geelong City in the Victorian Heritage Register. Pursuant to section 30(5)(a) of the *Heritage Act 2017*, the Heritage Council has determined to affirm the decision under review and refuse to accept the nomination.

**Phillip Goad (Chair)**  
**David Hogg**  
**Michael McMahon**

**Decision date** – 15 January 2024

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## 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.

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## INTERESTED PARTIES

### EXECUTIVE DIRECTOR, HERITAGE VICTORIA

Information was received from the Executive Director, Heritage Victoria ('the Executive Director') in relation to the refusal of the nomination.

### NOMINATOR

Jennifer Bantow (Geelong and Region Branch of the National Trust of Australia (Vic)) ('the Nominator') nominated Waverley House for inclusion in the Victorian Heritage Register. The Nominator requested the Heritage Council review the Executive Director's decision and provided additional information in relation to the Nomination.

## OTHER INTERESTED PARTIES

### GREATER GEELONG CITY

Greater Geelong City ('City of Geelong') was notified of the matter as the responsible authority for the Place, and invited to provide the Committee with information that could assist in undertaking the nomination review. Information was received from the City of Geelong.

## INTRODUCTION/BACKGROUND

### THE PLACE

01. Waverley House, located at 94 Western Beach Road, Geelong ('the Place'), is a two-storey polychromatic brick residence designed and constructed by Geelong architects Alexander Davidson and George Henderson in 1871. In 1874 the residence was extended with an additional wing, responsible for the symmetrical building seen today.

### THE NOMINATION

02. On 20 September 2023 an application to nominate the Place ('the Nomination') for inclusion in the Victorian Heritage Register ('the Register') was lodged with the Executive Director, pursuant to section 27 of the *Heritage Act 2017* ('the Act').
03. The Place was nominated for inclusion in the Register under the following Criteria of the Heritage Council's 'Criteria for Assessment of Places of Cultural Heritage Significance' (updated by the Heritage Council on 1 December 2022) [see **Attachment 1**]:
  - Criterion E – Importance in exhibiting particular aesthetic characteristics; and
  - Criterion F – Importance in demonstrating a high degree of creative or technical achievement at a particular period; and
  - Criterion H – Special association with the life or works of a person, or group or persons, of importance in Victoria's history.

### DECISION OF THE EXECUTIVE DIRECTOR

04. Pursuant to section 29 of the Act, the Executive Director may refuse to accept a nomination if it is considered that the nominated place or object has no reasonable prospect of inclusion in the Register.
05. On 21 November 2023, the Executive Director notified the Nominator of his refusal to accept the Nomination on the grounds that the Place has no reasonable prospect of inclusion in the Register. The Executive Director's refusal stated that there "was little evidence that the Place passed any of the tests"—being the tests for State-level significance in the Heritage Council's 'Criteria for Assessment of Places of Cultural Heritage Significance' (**Attachment 1**).

### REQUEST FOR REVIEW

06. On 12 December 2023, the Heritage Council received a request for a review of the Executive Director's refusal to accept the nomination of the Place, pursuant to section 30 of the Act. A Heritage Council Regulatory Committee ('the Committee') was constituted to consider the request for review, the information received in response to it, and to make a determination, as delegated by the Heritage Council pursuant to sections 13 and 15 of the Act.

### INTERIM PROTECTION ORDER

07. On 13 December 2023, the Heritage Council received a request that it make an Interim Protection Order ('IPO') in relation to the Place. Pursuant to the Heritage Council's Interim Protection Order Policy (2020), the Heritage Council may make an IPO if it considers that the place may have a prima facie case for inclusion in the Register, and is under immediate or imminent threat.

08. A Heritage Council Regulatory Committee was constituted to consider the IPO request, and on 19 December the Committee determined to refuse to make the IPO. The Committee formed the opinion that the Place did not have a prima facie case for inclusion in the Register.
09. After carrying out its function pursuant to section 13 of the Act, the Committee constituted to consider the IPO request was closed.
10. The Committee delegated to consider the Nomination review includes members of the Heritage Council who were not appointed to the IPO Committee.
11. The Committee note that material that was submitted as evidence as part of the IPO request was also submitted as part of the Nomination review.

## PRELIMINARY, PROCEDURAL AND OTHER MATTERS

### CONFLICTS OF INTEREST

12. 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 interests. The Committee members were satisfied that there were no relevant conflicts of interests and made no such declarations.

### REQUEST FOR INFORMATION

13. On 13 December 2023, the Committee requested from the Executive Director all information used in determining to refuse the nomination, and invited the Nominator and City of Geelong to provide any additional information that may assist the Committee in undertaking the nomination review.
14. All parties responded to the Committee's request by 29 December 2023. The additional material was circulated and parties were invited to provide a response to any of the material by 12 January 2023. No responses to the information were received.

### ISSUES

15. 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.

### REASONABLE PROSPECT OF INCLUSION

#### *Information received*

16. Pursuant to section 29(2) of the Act the Executive Director provided notice of his refusal to accept the nomination, which detailed the reasons for refusal against the Heritage Council's Criteria for Assessment.
17. In that notice the Executive Director noted that the Place was identified in the *Geelong Region Historic Buildings and Objects Study* (1986), which at the time concluded that the Place was significant at the 'regional' level and was not recommended for inclusion in the then Historic Buildings Register (the precursor to the Register).
18. The Executive Director further noted that since 1986 no further information in relation to the Place had emerged to dispute the 1986 assessment, this includes the information provided by the Nominator when making their nomination application.
19. The Executive Director's notice provided reasons for the refusal against all the Heritage Council's Criteria.

- 20.** In requesting a review of the Executive Director’s decision, the Nominator submitted that the original nomination should be re-examined having regard only to the particular Criteria it was originally nominated under, being Criteria E, F and H.
- 21.** The Nominator also requested that the review take into account the association of the Place with Geelong’s heritage, submitting that the Place is ‘a widely recognised important and visually prominent landscape’.
- 22.** The Nominator submitted additional documents including:
- presentation to Deakin University in relation to the National Trust 2014 Heritage Awards, in which the Place was the recipient of an award;
  - document summarising public perception of the Place including minutes from City of Geelong Council Meeting, Minutes of Geelong Heritage Advisory Committee, and a summary of an out-of-session Geelong Heritage Advisory Committee;
  - series of photographs and descriptions of examples of integration of heritage places into developments;
  - description of the condition of the Place;
  - copy of City of Geelong’s Statutory Planning referral response to the Incorporated Document ‘Geelong Convention and Exhibition Centre Strategic Development Site Project’, dated 18 August 2023.
- 23.** The Nominator also requested that all documents submitted as part of an earlier Interim Protection Order (‘IPO’) request (see paragraphs 07–11 of this document) be included with the nomination review request. Those documents included:
- *Cultural History Assessment of Waverly* by Allan Willingham, dated March 2002;
  - document titled ‘an assessment of Waverley House against the tests in the Victorian Heritage Register Criteria and Threshold Guidelines’, authored by the Nominator, undated;
  - photographs of the interior and exterior of the Place;
  - series of historic documents, brochures and newspaper clippings, various dates;
  - copy of City of Geelong’s Statutory Planning referral response to the Incorporated Document ‘Geelong Convention and Exhibition Centre Strategic Development Site Project’, dated 18 August 2023.
- 24.** The City of Geelong provided the Committee with an extract of the discussion between community groups, the Councillors and City [of Geelong] at a Council meeting of 26 September 2023, and provided the Committee with a copy of City of Geelong’s Statutory Planning referral response to the Incorporated Document ‘Geelong Convention and Exhibition Centre Strategic Development Site Project’, dated 18 August 2023 – which had also been provided by the Nominator.
- 25.** The City of Geelong advised that it was ‘broadly supportive of the principle of the convention centre development and associated investment on the site’ but that ‘it has raised concern...that the proposed demolition of Waverly House disregards the heritage significance of the building and undermines the purpose of the Heritage Overlay’.

#### *Discussion and conclusion*

- 26.** The Committee reviewed all additional information provided but did not find in this

instance that the additional information was material to the question of whether the Place had a reasonable prospect of inclusion in the Heritage Register, and determined therefore that the matter did not warrant remittal to the Executive Director for reconsideration pursuant to section 30(5)(c) of the Act.

#### *State-level cultural heritage significance*

- 27.** The Nominator submitted that the Place was significant at the State-level under Criteria E, F and H.
- 28.** In relation to Criterion E, the Nominator submitted broadly that the Place exhibits aesthetic characteristics in five significant ways, being its French medievalism influence, polychrome brickwork, distinctive cast iron design, interior decoration and its prominent corner block site.
- 29.** The Nominator used information included in the 2002 Willingham Heritage Assessment report to support the statements.
- 30.** In relation to Criterion F, the Nominator submitted broadly that the use of hollow brick or cavity walls in the construction of the Place, which is physically evident today, was evidence that the Place demonstrates a high degree or 'beyond the ordinary' level of technical achievement.
- 31.** In relation to Criterion H, the Nominator submitted broadly that the Place has a direct association with the architects Alexander Davidson and George Henderson, and that the association is historically significant because the Place was the architects' own dwelling until 1877.
- 32.** In relation to Criterion E, the Executive Director found that there is no evidence that the aesthetic characteristics at the Place are 'beyond the ordinary', and that aerial photographs from the 1920s and 1930s show that the Place was no more prominent than other residential buildings in the area. The Executive Director also considered whether the Place could meet the Criterion D threshold for State-level significance but found ultimately that the Place did not display the fine design and architectural characteristics that would render it a 'notable example of the class', that class being an architectural designed, polychrome brick Victorian era building.
- 33.** The Executive Director listed examples of the works of Davidson and Henderson already included in the Register, finding that these comparable examples better represented the class of Place and the work of the architects.
- 34.** The Executive Director found in relation to Criterion F that while the use of cavity brick wall construction in Victoria is of interest, the Place is one of many buildings constructed around or prior to the construction of the Place that use this technique, and that this particular example does not demonstrate technology that is of a 'high degree or beyond the ordinary for the period in which it was undertaken'.
- 35.** The Executive Director found that the Place did not meet the threshold tests for State-level significance for any of the Heritage Council's Criteria.

#### *Discussion and conclusion*

- 36.** The Committee has reviewed all information provided to it in making its decision.
- 37.** The Committee notes that while Davidson and Henderson were notable architects in Victoria in the mid to late 19<sup>th</sup> Century, with much of their work represented in the Register, this specific example of their work is important locally, rather than at a State-level.
- 38.** The Committee notes that the information provided to it reveals the importance of the Place to the local Geelong community, which is further supported through the application of the Heritage Overlay applied to the Place in 1995.
- 39.** The Committee finds, based on the information before it, that the Place does not

have a reasonable prospect of inclusion in the Register and that the Heritage Overlay appropriately demonstrates the importance of the Place at the local level.

40. Nonetheless, the Committee wishes to express its regret that the Planning Scheme Amendment applied to the Place in 2023 appears to have removed the City of Geelong's ability to accord with its own Planning Scheme and recognise and retain the local importance of the Place.
41. In the Committee's view it is a disappointing outcome that the local importance of the Place, as recognised through provision of the Heritage Overlay, has not been maintained and incorporated into the future of the site.

## CONCLUSION

42. The Heritage Council has considered a request to review the Executive Director's decision to refuse to accept a nomination to include Waverley House, 94 Western Beach Road, Geelong, Greater Geelong City, in the Victorian Heritage Register. Pursuant to Section 30(5)(a) of the *Heritage Act 2017*, the Heritage Council has determined to affirm the decision under review and refuse to accept the nomination.
43. The Committee thanks all interested parties for providing additional information in relation to the Place for its consideration, noting especially the Nominator's understanding of the Place.
44. The Committee is thankful to the Nominator for their time and research in nominating this Place and in providing the additional information for the Committee's consideration.

## 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 1 December 2022, and replace the previous criteria adopted by the Heritage Council on 6 December 2012.