



# **Heritage Council** Regulatory Committee

## **Glen Park Reserve, Mount Eagle Estate**

**Lower Heidelberg Road, Outlook Drive, Summit Drive, Maltravers Road, Burley Griffin Place and the Eyrie, Eaglemont, Banyule City Council (H2104)**

**Members** – Dr Karen Murphy (Chair), Dr Steve Campbell-Wright, Mr David Helms

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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 amend the existing registration of Mount Eagle Estate at Lower Heidelberg Road, Outlook Drive, Summit Drive, Maltravers Road, Burley Griffin Place and the Eyrie, Eaglemont (H2104). 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.

**Karen Murphy (Chair)**  
**Steve Campbell-Wright**  
**David Helms**

**Decision date** – 5 April 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

G.A. Hughes made the nomination to amend the Heritage Register by including additional land ('the Nominator'). The Nominator requested the Heritage Council review the Executive Director's decision and provided additional information in relation to the Nomination including responses to the Executive Director's reasons for refusal.

### BANYULE CITY COUNCIL

Banyule City Council was notified of the matter as the responsible authority for the Mount Eagle Estate and Glen Park Reserve and was invited to provide the Committee with any information that could assist it in undertaking the nomination review. Banyule City Council advised that it would not be providing any additional information and no response to the Executive Director or Nominator's additional material was received.

## INTRODUCTION/BACKGROUND

### THE PLACE

01. Mount Eagle Estate was included in the Victorian Heritage Register ('the Register') in 2006 for its historical and aesthetic significance to the State of Victoria (Registration H2104). Glen Park ('the Place') is a linear reserve located between Brooke Street and Glen Drive on the western boundary of the existing registration of Mount Eagle Estate. The Place is a mature mixed woodland reserve with east to west orientation and a central clearing. Seven residential properties share a boundary with the reserve.

### THE NOMINATION

02. On 23 May 2023, an application to amend the existing registration of Mount Eagle Estate by including the Place as additional land was lodged with the Executive Director ('the Nomination'). The Nomination was lodged pursuant to section 32 and 62 of the *Heritage Act 2017* ('the Act').
03. Mount Eagle Estate is included in the Register for its historical (Criterion A) and aesthetic (Criterion E) significance at a State level. The Place was nominated to be added to the existing registration under the additional 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 B – Possession of uncommon, rare or endangered aspects of Victoria's cultural history; and
  - Criterion F – Importance in demonstrating a high degree of creative or technical achievement at a particular period; and
  - Criterion G – Strong or special association with a particular present-day community or cultural group for social, cultural or spiritual reasons; 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 6 December 2023, the Executive Director notified the Nominator that the Nomination had been refused on the grounds that the Place has no reasonable prospect of inclusion in the Register. The Executive Director's refusal stated that the Place did not –

*demonstrate the values for which stage one of the Mount Eagle Estate (Summit Estate) was assessed to be of State-level cultural heritage significance and included in the VHR.*
06. The Executive Director stated that he was of the opinion that the Place "does not meet the Step 2 tests for potential inclusion in the VHR", the steps being those steps in the Heritage Council's 'Criteria for Assessment of Places of Cultural Heritage Significance' (**Attachment 1**) ['Criteria for Assessment'].

### REQUEST FOR REVIEW

07. On 31 January 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.

## PRELIMINARY, PROCEDURAL AND OTHER MATTERS

### CONFLICTS OF INTEREST

08. The Chair invited Committee members to make declarations in relation to any matters that may potentially give rise to an actual or perceived conflict of interest. The Committee members were satisfied that there were no relevant conflicts of interest and made no such declarations.

### REQUEST FOR INFORMATION

09. On 14 February 2024, the Committee requested from the Executive Director all information used in determining to refuse the nomination and invited the Nominator and Banyule City Council to provide any additional information that may assist the Committee in undertaking the nomination review.
10. All parties responded to the Committee's request by 28 February 2024. The additional material was circulated to all parties, and they were invited to provide a response to any of the material by 12 March 2024. The Nominator responded to some of the material provided by the Executive Director. No further responses were received.

### ISSUES

11. 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.

### INFORMATION RECEIVED

12. Pursuant to section 29(2) of the Act, the Executive Director provided notice of the refusal to accept the Nomination, which detailed the reasons for refusal against the Heritage Council's Criteria for Assessment.
13. The Executive Director's view, as expressed in the notice of refusal, is that the Place is "appropriately recognised to be of heritage significance at a local level" and that this is "demonstrated by its inclusion within the Heritage Overlay and Vegetation Protection Overlay of the Banyule Planning Scheme."
14. The Executive Director also expressed the view that the Place "does not demonstrate the values for which stage one of the Mount Eagle Estate was assessed to be of State-level cultural heritage significance", referring to the decision of the Heritage Council in 2006 to include Mount Eagle Estate in the Register.
15. The Executive Director submitted to the Committee all material used to make the decision to refuse to accept the Nomination.
16. In response to the Executive Director's notice of refusal, the Nominator submitted information that, in the Nominator's view, countered each of the Executive Director's reasons for refusal.
17. The Nominator submitted additional material including historical maps and plans, extracts from *Town Planning* journal (1917), extract from *Magic of America* typescript by Marion Mahony Griffin, commentary by Dr Jeff Turnbull, Melbourne University (1994), full size copies of Marion Mahony Griffin's design, and detailed dates for instruments of land transfers.
18. The Committee reviewed all additional information provided but did not find in this instance that the matter warranted remittal to the Executive Director for reconsideration pursuant to section 30(5)(c) of the Act.

## SUMMARY OF POSITIONS

19. The Nominator submitted that the Place had inadvertently been left out of the original listing of the Mount Eagle Estate in 2006 and maintained that its omission was an error.
20. The Nominator therefore submitted that the existing registration should be amended to include the Place for its contribution to the 'Garden City' movement principles evident in the Mount Eagle Estate heritage registration. The Nominator further submitted that the Place should be included pursuant to Criterion B, F, G and H of the Heritage Council's Criteria for Assessment, in addition to Criterion A and E for which Mount Eagle Estate is already included.
21. The Nominator's position, broadly, is that the Place was clearly included in the Griffin and Kean Mount Eagle Estate plan, and that the Place is significant for the same reasons the four internal parks within Mount Eagle Estate are included in its existing heritage registration at the State level.
22. The Nominator further submitted that the Place was in the first and subsequent Griffin designs of the Mount Eagle subdivision, submitting a copy of the first plan of subdivision dated 10 October 1914 which shows a reserve between Brooke Street and Glen Drive with north to south orientation.<sup>1</sup> The Nominator submitted therefore that all five of the Mount Eagle parks were included in the original 1914 concept sketch by the Griffins'.
23. The Nominator acknowledges that the Place today does not express the Griffins' original plan, as the location and orientation of the reserve as originally designated have changed. The Nominator submitted however that modification and refinement of plans is a standard design process, and not reason to omit one element of a plan.
24. The Executive Director's notice of refusal states that the initial design of the Mount Eagle Estate was completed by the Griffins' in 1913–14 and included a plan for 81 allotments and four internal reserves, as shown in the plan in *Real Property Annual*, published in 1916. The Executive Director states that a subsequent development stage proposed further lots to the west of Glen Drive that included an internal reserve with north-south orientation, showing similar design principles to the previously designated four parks (Summit, Outlook, Eyrie and Maltravers Park Reserves).
25. The Executive Director submitted material including extracts from *Real Property Annual* (1916) in support of his view that Glen Park was not included in the original Griffin plan, which is described in 1916 as "a necklace of allotments hanging on the hillside" with "four reserves, and it will be noted that these do not take up street frontages at all but are enclosed within the back boundaries of the allotments".<sup>2</sup>

### *Committee discussion and conclusion*

26. The Committee acknowledges that the main dispute between the Interested Parties surrounds the question of whether the area to the west of Glen Drive is included in the Griffins' stage one plan of subdivision of Mount Eagle Estate. The Committee notes that the area to the west of Glen Drive and the reserve with north-south orientation was included in the Griffins' plan of Summit Subdivision in 1914 but notes that in 1916 this area was not included in the stage one Mount Eagle Estate plan or description (see paragraph 25 above).
27. The Committee notes that it is the stage one plan of subdivision for 81 lots that is the subject of the existing registration of Mount Eagle Estate, and that despite land to the west of Glen Drive appearing in the 1914 plan of Summit Subdivision, the practical expression of that component of the plan is different from that which the Griffins intended.

<sup>1</sup> The Plan of Subdivision is extracted from the Journal of Land and Transport, Vol.1, No.7, 1917 "Australian Town Planning" pp.25.

<sup>2</sup> Real Property Annual, Melbourne, 1916

28. The Committee is of the view that the four internal reserves included in the existing registration of Mount Eagle Estate today express the Griffins' intent for the Mount Eagle Estate and accurately represent the Griffins' deliberate design of internal reserves with no street frontage.
29. The Committee do not find that the Place as expressed in practice today represents the 'original street layout' and 'internal reserves' as designed by the Griffins'. The Committee is of the view that the modification of the location and orientation of the reserve means that today the Place does not have the same characteristics of the other reserves, and its location is one of practicality rather than deliberate design intent.
30. The Committee notes that the 2011 Conservation Management Plan (CMP) prepared by Michael Smith & Associates and Ian Wight states on page 23 that the "intent of the Park as a floodway" should be maintained.
31. The Committee also notes that the submission to the Heritage Council in 2006 from Rowan Harrison suggests that modification of the Place was a "logical idea as the Glen Park Reserve now follows the natural watercourse" and that the Place was "an open drain up until approx. 1960 when underground pipes were installed".
32. Upon review of the contour map provided with the Executive Director's material, and the information in the CMP and 2006 submission, the Committee agrees that the location of the Place today reflects a practical change rather than reflecting the Griffins' original design intent. This intent was an internal reserve between Brooke Street and Glen Drive that had no street frontage, with many more properties backing onto the reserve than the number of properties backing onto the Place today.
33. Based on the material before it, the Committee does not find that the Place displays the same design principles as the four parks included within the Mount Eagle Estate as it is not an intact example of garden suburb planning. The Committee finds the principles of garden suburb planning are better represented by the four parks included in the Mount Eagle Estate Heritage Registration.
34. The Committee has assessed whether the Place has a reasonable prospect of inclusion in the Register based on the Criteria for Assessment and has also considered the Place pursuant to section 27B(2) (formerly section 32) of the Act, which relates to additional land.
35. In this instance, the Committee is of the view that the Place does not meet the reasons for which additional land can be included in the Register. The Committee finds that:
  - the State-level significance of Mount Eagle Estate would not be impacted or reduced by any change to the Place, and
  - the Place does not contribute to an understanding of the existing registration of the Mount Eagle Estate and does not assist in the protection and conservation of the Mount Eagle Estate.

## CONCLUSION

36. The Committee notes the time the Nominator has taken to compile the substantial historic material the Committee had access to when making its determination. The Committee acknowledges the importance of the Place to the residents and community who share access and use of it and notes that the significance to the local community is appropriately recognised by the Heritage Overlay that applies to it.
37. The Committee thanks the Nominator and Executive Director for providing material in relation to the Place.

- 38.** The Heritage Council has considered a request to review the Executive Director's decision to refuse to accept a nomination to amend the existing registration of Mount Eagle Estate at Lower Heidelberg Road, Outlook Drive, Summit Drive, Maltravers Road, Burley Griffin Place and the Eyrie, Eaglemont. 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.

## 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 objects.
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.