

Robur Tea Building (H0526)
28 Clarendon Street, Southbank

Heritage Council Registrations and Reviews Committee
Hearing – 19 April 2018
Members – Ms Lucinda Peterson (Chair), Dr Andrew May, Ms Leigh Mackay

DECISION OF THE HERITAGE COUNCIL

After considering the Executive Director's recommendation and submissions received, pursuant to Sections 49(1)(d) of the *Heritage Act 2017*, the Heritage Council has determined to amend item H0526, Robur Tea Building, in the Victorian Heritage Register by including additional land in the registration, confirming without change the recommendation of the Executive Director.

Lucinda Peterson (Chair)
Andrew May
Leigh Mackay

Decision Date – 18 July 2018

APPEARANCES / SUBMISSIONS

Executive Director, Heritage Victoria (‘the Executive Director’)

Submissions were received from the Executive Director, Heritage Victoria (‘the Executive Director’). Ms Nicola Stairmand, Acting Principal – Heritage Assessments, appeared on behalf of the Executive Director. Mr Geoff Austin, Manager – Heritage Register and Permits was also present and available to take questions.

R & J International (Aust) Pty Ltd (‘the Owner’)

The Owner was represented by Dr Joseph Monaghan of Holding Redlich Lawyers. The Owner’s written submissions included statements of evidence from Mr Peter Lovell of Lovell Chen Architects and Heritage Consultants.

Dr Monaghan appeared, made verbal submissions and called Mr Lovell to give expert evidence.

INTRODUCTION/BACKGROUND

The Place

- 1 On 17 November 2017, the Executive Director made a recommendation ('the Recommendation') that the Robur Tea Building, located at 28 Clarendon Street, Southbank ('the Place') be amended in the Victorian Heritage Register ('the Register') by adding land to the registration.
- 2 The registration for the Place was first gazetted in the Historic Buildings Register on 5 May 1982. This register only allowed buildings to be registered, and not the land on which they were located. All buildings in that register were transferred to the Victorian Heritage Register ('the Register') pursuant to the *Heritage Act 1995*, but without the inclusion of surrounding curtilage.
- 3 The following is taken from the Statement of Cultural Heritage Significance ('Statement of Significance') for the Place:

Why is it significant?

The Robur Tea Building is of scientific (technical) significance because of several innovative techniques employed in its construction. The most notable feature of the building is the solution to the problem of foundations. The building was erected on a swampy site and initial advice to the owners was that a building of the size proposed was not feasible. The engineer John Grainger was engaged and he devised a system of 450 ironbark piles and concrete rafts to support the six storey structure. It was a remarkable solution and no directly comparable buildings exist because such difficult foundations were not tackled again until after WWI. Another innovation was the use of steel beams supporting the floors, one of the earliest uses of such technology in Victoria. These innovations are a tribute to John Grainger, architect and engineer, who, in partnership with several reputed architects, contributed to such noted structures as Princes Bridge, the swing bridge over the La Trobe River at Sale, the administration block of the Melbourne Town Hall, Elizabeth House and Collins House and the conversion of Cliveden Mansions, East Melbourne.

The Robur Tea Building is of architectural significance as one of the finest and most prominent examples of a 19th century warehouse in Melbourne. It was for many years one of the tallest buildings outside the CBD, its height and freestanding character making it a South Melbourne landmark even today. The functional requirements of a warehouse are clearly evident in its simple box-like shape, but a certain amount of pride is expressed in the restrained decoration of the eastern facade.

The Robur Tea Building is of architectural significance as a noted work of Nahum Barnet. Barnet was a most prominent architect in the four decades that saw Melbourne emerge from the 1890s depression and flourish during the Edwardian period. Certain architectural details indicate that this building was seminal in Barnet's development as an architect. In particular the central arched motif links the six storeys of the facade, a detail that became a major element in his central city buildings. Buildings such as the Auditorium Building, Paton Building and the

Davison Building at the corner of Collins Street and Elizabeth Street are typical of his city buildings. Barnet's practice was extensive, however, and included such buildings as the Villa Chandos in East Melbourne, the Florida Mansions in St Kilda and the Toorak Road Synagogue.

The Robur Tea Building is of historical significance as a reminder of the character and location of 19th century commerce in Melbourne. The Tea building is one of the few remaining traces of the industrial and warehousing establishments that until the 1970s and 1980s dominated the south bank of the Yarra, in an area where swampy land made substantial building difficult and residential development unattractive. These older uses have now been 'swamped' in their turn by leisure and luxury apartment developments. While the building has been known for some time as the Tea House, it is worth remembering that it was originally constructed as a stationer's warehouse and factory, and is now one of the few remaining factory buildings in the centre of the city. Its later use as a tea warehouse also serves as a reminder that this part of the river bank was once a thriving wharf area, before bigger ships and changed cargo handling methods led to the construction of larger capacity port facilities further towards the mouth of the Yarra.

Nomination

- 4 On 9 November 2017, the Executive Director nominated for inclusion in the Register land as part of the registered Place, pursuant to s.32(1) of the Act ('the Nomination').

Recommendation of the Executive Director

- 5 On 17 November 2017, the Executive Director recommended that the Place be amended in the Register by adding land, in accordance with s.62 of the Act.

Process following the Recommendation of the Executive Director

- 6 After the Recommendation of 17 November 2017, notice was published in accordance with s.41 of the Act for a period of 60 days.
- 7 One (1) submission was received pursuant to s.44 of the Act, objecting to the Recommendation.
- 8 In accordance with s.46(2)(a) of the Act, a hearing was required to be held.
- 9 The Heritage Council Registrations and Reviews Committee ('the Committee') was constituted to consider the Recommendation and the submissions received in response to it and to make a determination, as delegated by the Heritage Council under s.15(3) of the Act. The Committee then invited further written submissions under s.45 of the Act and a hearing was scheduled for 19 April 2018 ('the hearing').

PRELIMINARY, PROCEDURAL AND OTHER MATTERS

Site inspection

- 10 On 19 April 2018, the Committee made a site inspection of the Place accompanied by the Heritage Council Hearings Coordinator. No submissions were sought, made or received at the time of the site inspection.

Conflicts of interest

- 11 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 was satisfied that there were no relevant conflicts of interests.

Future use of the Place

- 12 The Owner noted in its submissions that a permit application had been lodged with Heritage Victoria in relation to the Place, and that it would likely be affected by the outcome of the hearing.
- 13 All parties were advised that, pursuant to s.44(2) and s.49 of the Act, it is not within the Committee's remit to consider future development proposals, or pre-empt any decisions regarding future permits. Rather, it is the role of the Committee to determine whether or not all elements of the Place and land included in the extent of nomination, are of cultural heritage significance to the State of Victoria.

Late material

- 14 At the hearing, the Owner sought to introduce twenty-four (24) printed images of the Place in A3 format, in addition to documentation relating to a permit application currently being assessed by Heritage Victoria in relation to the Place, and a copy of the Heritage Council's recent registration decision in relation to Primary School No. 275, Wandiligong.¹
- 15 After inviting comment from the Executive Director, the Committee determined to admit the twenty-four (24) images for consideration, in addition to the Heritage Council's decision in relation to Primary School No.275. The Committee notes that the latter document had been referenced in the hearing submissions of the Executive Director.
- 16 As outlined at paragraph 13, it is not within the Committee's remit to consider future development proposals, or pre-empt any decisions regarding future permits, pursuant to s.44(2) and s.49 of the Act. The Committee therefore resolved not to allow any documentation relating to the current permit application in relation to the Place to be admitted for consideration.

ISSUES

- 17 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 the Committee takes on each key issue.
- 18 Any reference to Criteria refers to the *Heritage Council Criteria for Assessment of Places of Cultural Heritage Significance* (as adopted by the Heritage Council on 7 August 2008) [see **Attachment 1**].

¹ Heritage Council of Victoria, 2018. *Decision of the Heritage Council: Primary School No. 275*, published 15 March 2018. Available at <http://heritagecouncil.vic.gov.au/wp-content/uploads/2018/03/School-No.-275-Wandiligong.pdf>.

- 19 The proposed extent of registration, as put forward in the Recommendation, relates to all of the place hatched on Diagram 526 encompassing all of Crown Allotment 2179 City of South Melbourne, Parish of Melbourne South [see **Attachment 2**].

Summary of issues

- 20 The Executive Director recommended that the registration for the Place be amended to add land in pursuant to s.49(1)(d) of the Act to provide appropriate curtilage for the protection of the cultural heritage significance of the Place.
- 21 The Owner submitted that the extent of land proposed by the Executive Director exceeds what is required to protect the cultural heritage significance of the Place, and proposed an extent of registration which included less land than what was recommended by the Executive Director.

Rationale for proposed extent of registration

Submissions and evidence

- 22 The Executive Director submitted that the registration for the Place was first gazetted in 1982 in the Historic Building Register, which did not allow for associated land to be included in the registration. The Executive Director advised that all early registrations, such as the registration for the Place, are currently being updated to ensure that appropriate curtilage is included in each registration.
- 23 The Executive Director clarified that the Nomination was prompted by a concern to provide clarity around the registration in the context of proposed development of the land surrounding the Place. The Executive Director submitted the view that nominations of this type may be made by the Executive Director at any time or for any reason.
- 24 The Executive Director submitted that the Nomination was made pursuant to s.32(1)(b) of the Act. It was the view of the Executive Director that, in accordance with this provision, the cadastral parcel upon which the Place is situated provides an appropriate extent of registration to ensure the protection and conservation of the Place, and to:
- Provide a curtilage;
 - Protect the setting; and
 - Enable control over development on the land in proximity to the registered building thereby protecting the cultural heritage values of the place.
- 25 The Executive Director submitted that it is not always the case that the entire cadastral parcel for a place is recommended as an appropriate curtilage or setting. However, it was the view of the Executive Director that in this instance, the cadastral parcel has always been associated with the building, is of small scale in comparison to the building itself, and provides sufficient curtilage to protect and allow for an understanding of the cultural heritage significance of the Place.
- 26 The Owner submitted that the land located to the south of the Place is not important for the protection or conservation of the Place or its understanding, and has insufficient connection with the use of the Place to justify its registration. It was the view of the Owner that the cultural heritage significance of the Place would not be substantially less if the land to its

south or any part of that land were to be developed. In accordance with this view, it was the submission of the Owner that the proposed extent of registration should be reduced on the southern boundary to measure five (5) metres from the building.

- 27 The Owner submitted that the inclusion of land in an existing registration should not occur as a matter of course, or as a purely defensive and reactionary measure to protect against perceived impacts from development proposals.
- 28 The Owner submitted that two sections of the Act, being s.32(1)(a) and s.32(1)(b), apply to this matter, and that while the Executive Director had made submissions directly relating to s.32(1)(b), what the Owner considered to be the “higher threshold” associated with satisfying s.32(1)(a) had not been demonstrated.
- 29 The Owner drew the Committee’s attention to paragraphs 36, 41 and 42 in particular of the Heritage Council’s recent decision in relation to Primary School No.275, Wandiligong.² It was the submission of the Owner that the Recommendation was in conflict with the findings of the Heritage Council in relation to Primary School No. 275, namely that the recommended extent of registration did not demonstrate good judgement or balance, and that the Executive Director had adopted the “default position” of recommending an extent that aligns with the title boundary, when there existed good reasons to the contrary. The Owner relied on expert evidence provided by Mr Lovell in supporting its position.
- 30 Mr Lovell expressed the view that a reduced curtilage of five (5) metres from the southern elevation was appropriate, given that:
- Protection of the landmark character of the building and its setting does not necessitate the registration of the land south of the Place;
 - The south elevation and views from the south are less sensitive than those from the north and east;
 - The title boundary is the result of a progressive diminution of the original landholding, it does not contribute to the significance of the Place in evidencing an ownership or spatial relationships which are of importance, and the current title boundary for the Place is recent and arbitrary; and
 - With respect to the setting of the Place, the south elevation is one of lesser importance from a presentation perspective having regard to its history.

Discussion and conclusions

- 31 The Committee accepts the Executive Director’s view that the land to the south of the building has always been used in connection with the Place and has just as much historical association to the building as the land to the north and west of the building.
- 32 The Committee accepts the position of the Owner that s.32(1)(a) and s.32(1)(b) are relevant to Nomination, in addition to s.49(1)(d). However, the Committee is satisfied that the information put forward by the Executive Director in the Recommendation and hearing submissions demonstrates that s.32(1) in its entirety is satisfied in relation to the proposed extent of registration.

² Ibid, pp. 8, 10.

- 33 The Committee accepts that the Act is silent on whether nominations subject to s.32(1) should or should not be made in response to concerns associated with known development proposals. The Committee further accepts the Executive Director's position that nominations of this kind may happen at any time and for any reason.
- 34 The Committee accepts that the cadastral parcel for the Place is a reduction from the land that formed its original title boundary, and is of the view that the progressive reduction of the landholding surrounding the Place supports the reasoning to include the entire cadastral parcel in the Register. The Committee is not satisfied that an appropriate rationale was put forward for any further reduction from the current title boundary in relation to the registration of the Place.
- 35 The Committee finds that the recommended extent of registration is appropriate and necessary, and is satisfied that the State-level cultural heritage significance of the Place would be substantially less if the proposed registered land which is or has been used in conjunction with the Place were developed [s.49(1)(d)(i)], and that the land surrounding the Place is important to the protection or conservation of the Place, and contributes to the understanding of the Place [s.49(1)(d)(ii)].
- 36 In addition to the submissions summarised above, the Committee notes that the Owner made several additional submissions in support of a reduced extent of registration than what was recommended by the Executive Director, particularly in relation to the perceived varying levels of significance of the Place's building façades and the purported landmark status of the Place. It is the view of the Committee that these submissions warrant further discussion, as outlined below.

Primary and secondary significance of building façades

Submissions and evidence

- 37 The Executive Director acknowledged that all buildings have primary and secondary elevations and that historical images of the Place tended to be of the east and north façades. The Executive Director submitted the view, however, that it did not follow that the west and south façades are of lesser significance.
- 38 The Executive Director submitted that buildings are three dimensional objects, and that all four sides of the Place have been visible since its completion in 1888. The Executive Director submitted that advertising in the form of wording was historically applied to both the north and south façades, indicating the equal visibility of both sides.
- 39 The Executive Director acknowledged that an external building housing a lift has been constructed on the south façade of the Place, and that the location of this structure may reflect a reduced sensitivity of the southern elevation. However, it was the view of the Executive Director that the existence of the structure did not diminish the cultural heritage significance of the southern elevation.
- 40 The Executive Director submitted that while the now-demolished railway embankment, which has since been replaced by a road, historically obscured the south elevation, only the lower levels of the south façade were obscured. The Executive Director further submitted that passengers on passing trains were historically presented with a prominent view of the south elevation.

- 41 The Owner submitted that the historic presentation of the Place gave primacy to the east and north façades. It was the view of the Owner that the west and south façades present as secondary, and that the exposure of the south side of the building was the result of happenstance, rather than a designed or intended condition.
- 42 The Owner submitted that the Recommendation did not give due consideration to the varied significance of the façades, and that the importance of the southern façade, in particular, had been outweighed by the Executive Director.
- 43 The owner adopted the expert evidence provided by Mr Lovell. It was the view of Mr Lovell that due to the location of service structures and supporting buildings on land to the south of the Place, in addition to the concealment of the lower levels of the building by the railway embankment, the south and west elevations have always been considered as secondary to the north and east elevations.
- 44 Mr Lovell submitted that the visibility of the Place associated with its current corner siting is a recent phenomenon, and that the Place cannot be considered to have been intentionally built as a corner building. Mr Lovell put forward the view that the building was designed as an “intrablock” building, with a front, two sides and back. Mr Lovell noted that the Place’s corner siting was not referenced in the Statement of Significance for the Place, and that the primary orientation of the site had historically been directed towards the city, on the other side of the Yarra River.
- 45 Mr Lovell and the Owner submitted that the Statement of Significance for the Place ought to be updated, should the Committee resolve to uphold the Recommendation, to clearly distinguish between primary and secondary aspects of the Place.

Discussion and conclusion

- 46 The Committee accepts that many buildings have primary and secondary orientations, but does not accept that this automatically equates to primary and secondary levels of cultural heritage significance.
- 47 The Committee accepts the submissions of the Executive Director in relation to the three-dimensional nature of the Place. Whilst the building may have been designed to have a front, two sides and back, it is the view of the Committee that all four elevations contribute to an understanding of the Place’s historical design, function, use and context.
- 48 The Committee notes the symmetrical design features of the Place, and the level of detail evident at all four elevations. As such, the Committee is persuaded that the Place was intended to be seen “in the round”, and is satisfied that historically the building has been, and continues to be, visible from a number of vantage points, including from the south. The Committee is therefore not persuaded that the Place was designed as an “intrablock” building, and is persuaded by submissions put forward by the Executive Director that the building was designed to be a freestanding structure.
- 49 The Committee is not satisfied that the Place’s siting on a confined corner block is a strictly recent phenomenon, based on the analysis of historical plans. Indeed, a plan dating to 1895 included in Mr Lovell’s statement of evidence depicts the location of the Place on what appears to be a corner site, with a prominent portion of the south façade evidently visible from street level.

- 50 The Committee notes the submissions of the Owner and Mr Lovell in relation to the proposed amendment to the Statement of Significance to reflect elements of the Place considered to be of primary or secondary significance. The Committee does not, however, accept that the building façades demonstrate varying degrees of significance, and as such does not consider that an amendment to the Statement of Significance for the Place is warranted.
- 51 Based on the findings summarised above, it is the view of the Committee that all four building elevations equally contribute to the understanding and appreciation of the cultural heritage significance of the Place.

Landmark status of the Place

Submissions and evidence

- 52 The Executive Director described the Place as a “prominent corner landmark” and noted that until the 1990s at least it remained the tallest, most visible building in the Southbank area. The Executive Director submitted that the proposed extent of registration was required to protect the landmark setting of the Place.

- 53 The Executive Director cited the definition of “setting” as provided by the *Burra Charter*:

*The immediate and extended environment of a place that is part of or contributes to its cultural significance and distinctive character.*³

It was the submission of the Executive Director that as well as its architectural characteristics, the distinctive character of the Place is demonstrated by its landmark, freestanding qualities which have been in evidence since the building’s completion in 1888.

- 54 In verbal submissions, the Executive Director further submitted that the prominence of the Place was benefited by the fact that it is silhouetted against the sky, and that if the southern portion of the land was not sufficiently protected and development occurred, this element of the setting would be lost.
- 55 In presenting his expert evidence, Mr Lovell put forward the view that the landmark characteristics of the Place were significant within a local context only, noting that the Statement of Significance for the Place references the landmark setting of the place “lightly, rather than emphatically”. It was the view of the Mr Lovell that the landmark quality of the Place could not be compared with places included in the Register specifically for their State-level landmark character, such as the Shrine of Remembrance (H0848) and the Royal Exhibition Building (H1501).
- 56 Mr Lovell submitted that in the case of registered places that are considered to have landmark values at State level, the defined curtilage related to such places is rarely, if ever, expanded to include the visual catchment.
- 57 As discussed at paragraph 44, Mr Lovell submitted that the corner presentation of the Place has eventuated as a consequence of recent development and demolition in the area and is not a historic condition. Mr Lovell therefore submitted the view that the Place’s position as a

³ Australia ICOMOS, 2013. *The Burra Charter: The Australia ICOMOS Charter for Places of Cultural Significance*, article 1.12.

“prominent corner landmark” is not something which can be used to justify the proposed extent of registration.

58 Mr Lovell submitted that while the setting of the Place was important, the historical setting of the Place had already escaped, following the transformation of the surrounding built environment. It was Mr Lovell’s view that the landmark quality of the Place has been diminished.

59 In the course of the hearing, Mr Lovell provided clarification that a landmark need not be “high” to be considered a landmark. Mr Lovell expressed the view that a landmark could be something that can be differentiated because of its physical form.

Discussion and conclusions

60 The Committee accepts that the Place is not included in the register for embodying State-level landmark status. However, the Committee is of the view that the Place’s prominent, freestanding setting contributes to the understanding and appreciation of the cultural heritage significance of the Place.

61 The Committee accepts that the historical setting of the Place has been transformed extensively over time. However, it is the view of the Committee the nature of this transformation has not resulted in the complete loss of the Place’s historical setting, nor indeed its prominence as a freestanding structure in the surrounding streetscape.

62 The Committee is persuaded by the Executive Director’s submissions that the Place’s freestanding, landmark qualities have been in evidence since its construction in 1888, and that these same qualities can still be read and understood today. It is the view of the Committee that the currently undeveloped land located within the southern portion of the cadastral parcel contributes to an appreciation and understanding of the cultural heritage significance of the Place.

63 The Committee accepts Mr Lovell’s view that a building or structure need not be “high” in order for it to qualify as a landmark. The Committee is of the view that the freestanding nature of the Place, in addition to the visibility of its distinctive form and elevations from a number of vantage points, contributes to its prominence as a local landmark.

64 The Committee is satisfied that the proposed extent of registration is appropriate and necessary to protect to the setting of the Place, and finds that pursuant to s. s.49(1)(d)(ii) of the Act, the cadastral parcel in its entirety is important to the protection or conservation of the Place, and that it contributes to the understanding of the Place.

CONCLUSION

65 After considering the Executive Director’s recommendation and submissions received, pursuant to Sections 49(1)(d) of the *Heritage Act 2017*, the Heritage Council has determined to amend item H0526, Robur Tea Building, in the Victorian Heritage Register by including additional land in the registration, confirming without change the recommendation of the Executive Director.

ATTACHMENT 1

HERITAGE COUNCIL CRITERIA FOR ASSESSMENT OF PLACES OF CULTURAL HERITAGE SIGNIFICANCE

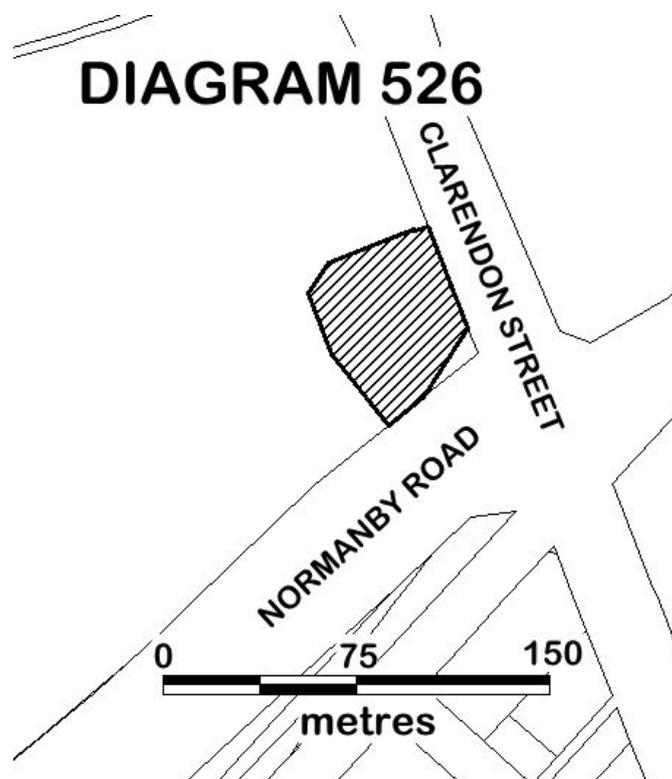
CRITERION A	Importance to the course, or pattern, of Victoria's cultural history
CRITERION B	Possession of uncommon, rare or endangered aspects of Victoria's cultural history.
CRITERION C	Potential to yield information that will contribute to an understanding of Victoria's cultural history.
CRITERION 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 community or cultural group for social, cultural or spiritual reasons. This includes the significance of a place to Indigenous peoples as part of their continuing and developing cultural traditions.
CRITERION H	Special association with the life or works of a person, or group of persons, of importance in Victoria's history.

These were adopted by the Heritage Council at its meeting on 7 August 2008, and replace the previous criteria adopted by the Heritage Council on 6 March 1997.

ATTACHMENT 2

~~RECOMMENDED~~ EXTENT OF REGISTRATION

All of the place shown hatched on Diagram 526 encompassing all of Crown Allotment 2179 City of South Melbourne, Parish of Melbourne South.



The extent of registration of ~~place or object name~~ the Robur Tea Building in the Victorian Heritage Register affects the whole place shown on Diagram 526 including the land, all buildings (including the exteriors and interiors), landscape elements and other features.

The ~~recommended~~ extent is the same as the nominated extent.

AERIAL PHOTO OF THE PLACE SHOWING **PROPOSED** REGISTRATION

