

Permit Appeal Number P25978

**Road reserve abutting 125 Rutland Avenue, Mount Eliza (within Ranelagh Estate H2050)**

**Permit Application P25004**

**Heritage Council Permits Committee**

**Hearing – Friday 3 February 2017**

Decision of the Heritage Council

After considering all submissions received in relation to the permit appeal, and after conducting a hearing, pursuant to Section 76(4)(b) of the *Heritage Act 1995*, the Heritage Council has determined to confirm the decision of the Executive Director and determines to refuse to issue a permit in relation to the proposed works.

Heritage Council Permits Committee:

**Jenny Moles (Chair)**

**Penelope Smith**

**Christine Phillips**

**Decision Date:** 4 April 2017

**APPEARANCES / SUBMISSIONS**

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

Mr John Hawker of Heritage Victoria appeared and made verbal submissions on behalf of the Executive Director. Mr Justin Francis of Heritage Victoria was also present and available to answer questions.

**The owner of the property at 125 Rutland Avenue (‘the Appellant’)**

The Appellant, Mr Len Price, was represented by Ms Jackie Prossor of Foresite Planning and Bushfire Consultants. The Appellant’s written submissions included a statement of evidence from the following person:

 - Ms Oona Nicholson of Ecology and Heritage Partners Pty Ltd.

Ms Prossor appeared, made verbal submissions and called Ms Nicholson to give expert evidence.

**Introduction/background**

**The Place**

1. Ranelagh Estate is an early 20th century residential subdivision bordered by Canadian Bay Road and Mt Eliza Way in Mt Eliza, Victoria. The registered place (‘the Place’) comprises the complex of streets, roadways, road reserves, gardens, easements, and parkland forming part of the estate. Private residential lots including that at 125 Rutland Avenue are not included in the Place. The road reserve and 'nature strip' in front of 125 Rutland Avenue (‘the subject site’) is the subject of this appeal.
2. The Place was included in the Victorian Heritage Register (‘the Register’) on 12 May 2005 (H1605).
3. The Place is included in the Register as a heritage place of historic and aesthetic significance to the State of Victoria. The following is taken from the Statement of Cultural Heritage Significance (‘Statement of Significance’) for the Place:

*What is Significant?*

*In 1922 John E Taylor, a timber merchant trading under the name Sequoia, bought the Mount Eliza property Nyora which had been owned by politician JT Smith in 1854 and later by the notable advocate James Liddell Purves. Taylor set about developing a residential subdivision called the Ranelagh Estate based on a country club concept with the homestead retained as the guest house. Walter Burley Griffin and surveyors Tuxen and Miller were engaged to prepare a subdivision plan. Saxil Tuxen, town planner and surveyor, was a founding member of the Victorian Town Planning Association. The Ranelagh Estate was envisaged as a place where professional people would build their holiday houses with recreational facilities, parks and internal reserves provided. Each purchaser was automatically a member of the Ranelagh Club which was the custodian for the reserves and parks. Purchasers were encouraged to buy double blocks and the total number of purchasers was envisaged to be about 400. Sale of allotments started in February 1926, but land sales were slow and in 1928 the Club extended its membership to non-landholders. The estate developed slowly until the 1960s when Mount Eliza became increasingly suburban.*

*The estate comprises 795 blocks and originally had 13 reserves. Of these reserves, Lot N was sold for private development, while Lot A has been subdivided. Lot A, comprising part of the cliff top overlooking Port Phillip Bay, was sold by the Ranelagh Club in 1996 and a 9 lot subdivision created, consolidating them with the existing lots they abut in Rosserdale Crescent with the condition that no buildings or developments are permitted. Ownership of Lots C, F, G, H, J, K, and L is now with the Mornington Peninsula Shire. Lots C, H, J and K abut Earimil Creek. Lot F includes the Mount Eliza Community Centre, a Senior Citizens Centre, a playground, a recreational oval and pavilion, tennis courts, netball court, bowling greens and a caretaker's cottage. Lot G, formerly the polo ground, contains the John Butler Reserve and part of it has been subdivided to include car parking. The Ranelagh Club retains ownership of Lots B, E, and M. Lots E and M remain as internal reserves. Lot B includes the Ranelagh clubhouse, tennis courts and boating facilities on the coast, as well as part of the Earimil Creek reserve. Following a threat of subdivision in 1988 the ownership of Lot D was transferred to a consortium of neighbours, the Lot D Preservation Group, and remains as an internal reserve.*

*An association of residents was formed in the 1950s which liaised with the council and fought against development proposals. The Ranelagh Residents Association became active again in the 1980s with the emergence of further threats of development to Lots M and D.*

*Why is it Significant?*

*Ranelagh Estate is of historical significance for its associations with Chicago-born architects Walter Burley Griffin (1876-1937) and Marion Mahony Griffin (1871-1961), leading figures in twentieth century architectural history. Their works were infused with progressive environmental and philosophical ideals, evident in such town planning projects as Canberra, Leeton in New South Wales, Castlecrag in Sydney and the Ranelagh Estate. The estate also has associations with Saxil Tuxen (1885-1975), an important town planning figure in Melbourne during the Interwar period whose subdivision designs reflected the influence of garden suburb planning.*

*Ranelagh Estate is of aesthetic and historical significance as an essentially intact example of garden suburb planning by Walter Burley Griffin, in association with his wife Marion Mahony Griffin and town planner-surveyor Saxil Tuxen. The estate with its distinctive long curved roads, recreation reserves, internal reserves, communal facilities and spacious triangular traffic islands, is a fine example of a residential subdivision designed to harmonise with the topography and indigenous vegetation of the area. The environmental concerns and principles evident in the design were ahead of their time. The design of the estate, through its layout, vistas, and planting, responds to the natural beauty of the area and to its preservation, in particular the cliffs, the bay and Earimil Creek. The internal reserves, providing both a haven for indigenous vegetation and wildlife as well as safe and natural playgrounds for children, embody the principles espoused by the Griffins.*

*Ranelagh Estate is of aesthetic significance for its important landscape planting in the rare alternate avenue of Monterey Cypress (Cupressus macrocarpa) and Tuart (Eucalyptus gomphocephala) along Wimbledon Avenue from Blue Ridge Lane to Ravenscourt Crescent. The trees have grown to enclose the avenue creating an impressive evergreen 'tunnel'. A row of Tuart trees also grows along the south side of Rosserdale Crescent and a stand grows in the Crescent triangle. The Rannoch Avenue traffic island features a stand of Monterey pines and a Golden Cypress, while on the nature strip are three fine Cupressus glabra, a cultivar selected by Hodgins of Hodgins Nursery, Essendon in about 1936.*

*Ranelagh Estate is of historical significance for its role in the history of town planning and the garden suburb movement in Victoria. Ranelagh Estate is a rare example of a fully realised Griffin-designed residential estate in Victoria and the most intact with surviving community parklands and coastal reserve. Other examples in Victoria of Griffin's garden suburb design include the two Eaglemont subdivisions, Summit/Mount Eagle of 143 lots, 1914 and Glenard of 120 lots, 1915, Croydon Hills, 1921, and City View and Milleara estates, Avondale Heights, 1927-28. Of these, the Eaglemont examples are on a smaller scale, the Croydon example was only partially realised and the Avondale Heights examples have been partly subdivided. The Ranelagh Estate represents a more developed example of the Griffins' garden suburb ideals incorporating communal facilities such as commercial, social and recreational venues so that it becomes almost a self-contained garden suburb.*

1. The Ranelagh Estate (including private properties and the road reserve areas) is included in Vegetation Protection Overlay Schedule 1 of the Mornington Peninsula Planning Scheme. The Overlay requires approval for vegetation removal under a range of circumstances, including when associated with the formation of a driveway greater than 3.7 metres in width.
2. The estate is also included in Design and Development Overlay Schedule 2 (DDO2) which includes as an objective:

*To ensure that subdivision and development proposals have proper regard to heritage values, including those of areas such as the Ranelagh Estate in Mt Eliza and the Sorrento Heritage Precinct.*

The controls and considerations of DDO2 support a low density, generally two storey scale of development.

1. The registered Place is also subject to Heritage Overlay 213 of the Planning Scheme. No planning permission is required under Heritage Overlay 213 because the land is included in a registered place. A number of the individual private properties, not including 125 Rutland Avenue, are included in other Heritage Overlays.

**Permit Application**

1. On 14 June 2016 the Appellant applied to the Executive Director, Heritage Victoria for a permit for the following works at the subject site (‘the application’):
* The widening of the existing brick paved single crossover to a total width of 7.44 metres (‘the proposed works’).
1. The widened red-brick crossover would provide access to a boat storage pad located on 125 Rutland Avenue immediately inside the fence. Aerial photographs presented at the Hearing indicate that this pad was paved with bricks in about 2014.
2. The application was advertised in accordance with s68 of the *Heritage Act 1995* (‘the Act’). No submissions were received in response to the advertisement.

**Determination of the Executive Director**

1. On 27 September 2016 the Executive Director determined to refuse to issue a permit for the proposed works (‘the permit refusal’).
2. The grounds given by the Executive Director for the permit refusal were that:
* *‘A second driveway, 3.8m in width, to the property at 125 Rutland Avenue, albeit contiguous with the existing crossover, would have an unacceptable negative impact on the cultural heritage significance of the Ranelagh Estate. The estate has a generally consistent layout of one driveway per residence and a driveway with a width 3.64m is already provided to this residence.*
* *The permit policy for H1605 Ranelagh Estate states that the original intent of the reserves should be respected, they should not be subject to development and that there will be a limit of one crossover per residential allotment and there will be no more than one driveway per residential allotment.*
* *The development of the additional driveway would be contrary to the provisions of the Ranelagh Conservation Management Plan, July 2009, used by both Heritage Victoria and the Shire of Mornington to guide development within he Ranelagh Estate which includes in its Policy Objectives:*
* *To protect and conserve individual features of the subdivision pattern and estate layout which express the garden suburb principles and values that informed the estate’s design, and*
* *To protect and conserve the natural park-like atmosphere of the estate.’*

**The appeal against the permit refusal**

1. An appeal against the permit refusal was lodged with the Heritage Council by the Appellant on 25 November 2016 (‘the appeal’). Parties were notified that a hearing was to be conducted and a hearing was scheduled for 3 February 2017.

**Site Inspection**

1. Members of the Heritage Council Permit Appeals Committee (“the Committee”) conducted a site inspection of the Place and of the subject site on Wednesday 25 January 2017. The Committee was accompanied by the Heritage Council Hearings Coordinator. No submissions were sought or received at the time of the site inspection.

**Procedural and other matters**

*Decision making context*

1. The Committee has made this decision within the context of the mandatory and discretionary considerations set out in s73 of the Act (see **Attachment 1**).
2. With respect to other considerations under s73(1)(f) and also s73(1A)(b), some submissions and evidence referred to matters relevant to local planning schemes and related documents. The Committee notes that it has not found it necessary to refer to local planning considerations in making its determination.

*Previous works completed at the Place and at the subject site*

1. The Committee notes that some submissions referred to works that have been completed at the subject site and at other addresses within the Place for which permits under the Act appear not to have been issued. These works include the construction of a gravel driveway where the application is proposed, the placement of pebbles and rocks across most of the nature strip, installation of a grilled storm water drain and construction of a scoria pathway along the fence. The Executive Director’s submissions indicated that no heritage permits had been issued for the subject site since 2009. The Committee views the undertaking of unauthorized works as a regrettable situation, but notes that the Committee is not an enforcement or compliance authority with respect to the Place.

*The owner of the Place and the Appellant*

1. The Appellant, while the owner of 125 Rutland Avenue, is not the owner of the subject site, which is a road reserve owned and managed by Mornington Peninsula Shire Council (‘Mornington’).
2. The Act provides at s.67(2)(b) that where a permit applicant is not the owner of a registered place, the application for a heritage permit in respect of proposed works at the place may be made only where the owner of the registered place consents to the application being made.
3. The Committee requested further information from Mornington to confirm permit and approval arrangements in relation to the subject site. In correspondence dated 1 February 2017, which the Committee provided to all parties, Mornington confirmed that it granted consent for the application to be made by the Appellant but had not consented to the proposed works. Mornington noted that it advised the Appellant that its consent in relation to the application did not indicate its consent to the proposed works being undertaken and noted that if a Heritage Permit was granted for the proposed works, the Appellant would also need to obtain a permit in accordance with the *Road Management Act 2004*.

**CONSIDERATION OF THE ISSUES**

**Summary of submissions by parties**

1. The following issues sections are not intended to be a complete record of submissions that were made to the Committee. A summary only of the position taken by parties in relation to key issues is included.
2. The principal issue before the Committee is the extent to which the proposed works, if approved, would affect the cultural heritage significance of the Place as a whole. The parties disagreed on the question of the extent to which the proposed works, if approved, would affect the cultural heritage significance of the Place.
3. The Executive Director submitted that the proposed works would adversely impact on the aesthetic and historical significance of the Place and its cultural heritage significance. The Executive Director submitted that turf, grass or lawn along roadsides contribute importantly to the values of the Place. It was said that incremental changes to the Place, represented in this instance by the proposed works at the subject site, therefore have and would further impact detrimentally on its cultural heritage significance by reducing vegetation and eroding the values referenced in the Statement of Significance and permit policy for the Place. The Executive Director further submitted that a consistent approach to permit applications has been adopted since the inclusion of the Place in the Register in order to ensure that new works are subordinate to the protection of the values of the Place.
4. The Appellant submitted that a permit should be issued for the proposed works, as the works would not diminish the cultural heritage significance of the Place while providing the Appellant with better access for a boat at his property. The Appellant submitted that the subject site does not contain any significant vegetation, that the garden setting is better evidenced in other locations within the Place and that the proposed works would therefore not impact on the landscape character of the Place. The Appellant further submitted that the seaside location of the Place and the ability to facilitate safe storage of boats and cars should be considered in this matter.

### Mandatory Considerations included in s73(1) of the Act.

### The issues raised at the Hearing are discussed in more detail below in the context of s73 and the Committee’s response follows.

**s73(1)(a) the extent to which the application, if approved, would affect the cultural heritage significance of the registered place**

*Submissions and evidence*

1. The Executive Director submitted that the proposed works would have an adverse impact on the cultural heritage significance of the Place and that an additional area of hard paving on the subject site would be an erosion of the ‘low key informal landscape’ characteristic of road reserves in the Place. The Executive Director submitted that incremental changes such as those represented by the proposed works would result in a negative impact on the values of the Place referenced in the Statement of Significance and the permit policy for the Place, and would diverge from Walter Burley Griffin's 'garden suburb' vision for the Place as described in the Statement of Significance. The Executive Director further referenced the existing permit exemptions and permit policy relating to crossovers at the Place providing for one crossover of 3 metres width per residential allotment, constructed of gravel or concrete aggregate in a light colour.
2. The Appellant submitted that the proposed works would not detract from the garden setting and design principles of the Place nor from its aesthetic significance, as the proposed works do not change the form of the road or require the removal of vegetation. The Appellant submitted that the proposed works would service the Appellant's needs while not undermining the character of the Place. The Appellant relied on the evidence of its expert witness, Ms Nicholson in stating that the proposed works are acceptable as the landscaped character of the Place is more evident in other areas of the Place. The Appellant further submitted that the proposed works reflect the seaside lifestyle, in particular because of the proximity of the bay and associated boating and recreational activities. The Appellant also submitted that the Place was designed envisaging that residents would be using boats.
3. Ms Nicholson stated in her evidence that the works, which she had understood would be a gravel driveway, would not have an unacceptable impact on the cultural heritage significance of the Place and stated that the Executive Director has not been specific as to how the proposed works would negatively impact the Place. Ms Nicholson stated that the setting and vegetation at the Place is varied and that there is no consistency in relation to the use of the road reserves at the Place. She also said that appropriately there would be no loss of native vegetation. In giving her verbal evidence, Ms Nicholson later acknowledged, however, that the driveway would be bricked rather than gravel, and she conceded that it would be more appropriate for works such as the proposed works to be constructed of a material different to bricks.

*Discussion and conclusion*

1. The Committee's assessment must take into account the entire registered extent of the Place. The distinctive garden character of the Place and its mix of open space and vegetation throughout the reserves and parkland are identified as crucial elements of the design of the Place and of its significance to the State of Victoria. The Committee notes the Permit Policy for the Place states that *'Important features of the estate include the subdivision pattern, street layout, internal network of reserves, vegetated traffic islands and the landscape character.'*
2. Walter Burley Griffin is recognised as a pivotal figure in the history of architecture, planning and design in Australia and elsewhere. Marion Mahony Griffin was also a leading figure in twentieth century architecture and design. The Place is an outstanding example of Walter Burley Griffin's visionary approach to town planning and design and incorporates his progressive environmental and philosophical design principles. The Place is registered as being of aesthetic and historical significance as an intact example of garden suburb planning and its distinctive long curved roads and vegetated road reserves contribute to its significance to the State of Victoria.
3. The Committee agrees that the road reserve in this section of the estate is less well vegetated than in other parts. However it considers the presence of grassed verges, trees and shrubs (including those of native origin as referred to by Ms Nicholson) contributes to the estate’s identified garden suburban character. The Conservation Management Plan of 2009 specifically refers to the trees, shrubs and lawns on public and private land merging to create a park-like environment (page 22). It also refers to the road verges being predominantly planted with a combination of indigenous, native and exotic trees, shrubs and grasses (page 48).
4. The Committee acknowledges that some road reserves within the Place that abut private residences have been altered by works, apparently subsequent to the registration of the Place. Many alterations do not appear to have been subject to the heritage permit process. They include extensive and/or dark-coloured paving and vegetation clearance. The Committee considers that most, if not all, of these works have incrementally undermined the landscape and heritage values of the place. That such works have taken place and no remedial or enforcement action has occurred in relation to the works should not, however, be used to justify other similar detrimental works.
5. The Committee understands the Appellant's submission that the proposed works represent one single additional or widened crossover at the subject site, whereas there are other private properties across the estate with two driveways and double crossovers.
6. The Committee is of the view, however, that a red brick driveway in excess of 7.4 metres width – wider even than the standard double crossover width of 6 metres - would present as overly prominent in the streetscape. The Committee considers that the Permit Policy which supports the use of subdued light-coloured materials and envisages crossovers to be restricted in width and number is appropriate. The works would set a poor precedent in departing from the intents of the policy and would not be a proper response to the State-level cultural heritage values of the Place, detracting from the design principles and aesthetic values of the Place. The Committee also considers that the resultant loss of what would be a grass verge is detrimental to the aesthetic values ascribed to the Place.
7. The Committee agrees with the submission of the Executive Director that new crossovers to the road reserves have a cumulative and detrimental effect on the intactness of the Place, detract from the appreciation of the design principles of the subdivision and thus diminish its cultural heritage significance, in particular its aesthetic significance to the State.
8. The Committee concurs with the view of the Executive Director and determines in relation to s73(1)(a) that a permit for the proposed works would unacceptably adversely affect the cultural heritage significance of the Place.

**s73(1)(b) the extent to which the application, if refused, would affect the reasonable or economic use of the registered place, or cause undue financial hardship to the owner in relation to that place**

*Submissions and evidence*

1. The Appellant submitted that consideration should be given to the safety of, and inconvenience to, the Appellant when moving his boat onto and off the storage pad at his property. Poor sight lines to approaching traffic due to the road curvature; the absence of a formal driveway to the boat storage area; and retention of the road kerb, meant that cars sometimes park in the street across the current boat accessway. It was submitted that the steepness of the site meant that it was not possible or would be difficult to relocate the on-site boat storage to enable use of the existing vehicle driveway.
2. There were no submissions made by either party about the relevance of these submissions in terms of the provisions of s73 of the Act.

*Discussion and conclusion*

1. The Committee notes that the Appellant is not the owner of the Place and therefore s73(1)(b) does not provide a basis for considering these adverse effects for the Appellant in reaching its determination.
2. It might be possible, however, for issues, which relate to the ‘*reasonable use*’ of land owned by an appellant adjoining registered land, to be considered under s73(1A)(b) which is one of the non-mandatory considerations.
3. It nevertheless has not been necessary for the Committee to determine whether the issues presented in this case can legitimately be considered under this provision of the Act, as it is considered that if they were to be considered, they would not outweigh the finding of potential detrimental effects upon the cultural heritage significance of the Place.
4. In this respect, the Committee advises that it is of the view that the matters raised with respect to use of 125 Rutland Avenue are not insurmountable problems. In particular, there was no expert evidence presented to support the view that the present arrangements are dangerous; nor was there any evidence provided to demonstrate that all alternative options had been explored and exhausted.
5. The Committee also considers that the lifestyle factors such as boat ownership referred to by the Appellant, should be able to be accommodated without being allowed to detrimentally affect the aesthetic values of the Place.
6. With respect to the original subdivision having been designed with boat ownership in mind, the Committee notes from the material supplied that boats were planned to be stored at the Ranelagh Club in the early years of development of the estate.
7. The Committee determines that these matters to the extent they are relevant do not outweigh the adverse effects of the works upon the cultural heritage significance of the Place.

**s73(1)(f) other matters considered relevant to the conservation of the place**

1. The following comments by the Committee respond to matters which arose in the Hearing. They are not determinative matters in this case but are intended to assist with future heritage management of the Ranelagh Estate.
2. The Committee considers that the division of responsibility for planning and heritage management of Ranelagh Estate between State and local authorities appears to have led to unfortunate situations of uncertainty for property owners in relation to applications for works on the estate. In this case, the Appellant was initially given incorrect information as to which types of approvals were required, and to which authority he should make an application.
3. Owners of property abutting the Place should be made aware by both Mornington and the Executive Director's office from which authority approvals are to be sought for proposed works. This should include that approval is required from both authorities in relation to works to road reserves within the Place.
4. The Committee is also of the view that the current management documentation pertaining to the Place is inadequate. The Committee considers that a new Conservation Management Plan should be prepared in order to more adequately provide guidance in relation to the management of potential impacts on the cultural heritage significance of the Place. The current plan, for example, fails to make any reference to the desirability of 3 metre wide driveways nor does it make recommendations concerning appropriate species for planting. Aspects of the Council’s broader Township Street Tree and Vegetation Policy might be incorporated. Any new Conservation Management Plan must also more clearly explain the respective responsibilities of property owners, of Mornington and of the Executive Director in relation to the Place and its management.

**CONCLUSION**

1. The Committee determines, pursuant to s76(4)(b) of the *Heritage Act 1995*, to confirm the decision of the Executive Director, that is, the Committee determines to refuse to issue a permit in relation to the proposed works to the road reserve abutting 125 Rutland Avenue, Mt Eliza.



**ATTACHMENT 1**

**73. Matters to be considered in determining applications**

(1) In determining an application for a permit, the [Executive Director](http://www.austlii.edu.au/au/legis/vic/consol_act/ha199586/s3.html#executive_director) must

consider-

(a) the extent to which the application, if approved, would affect the [cultural heritage significance](http://www.austlii.edu.au/au/legis/vic/consol_act/ha199586/s3.html#cultural_heritage_significance) of the [registered place](http://www.austlii.edu.au/au/legis/vic/consol_act/ha199586/s3.html#registered_place) or [registered object](http://www.austlii.edu.au/au/legis/vic/consol_act/ha199586/s3.html#registered_object); and

(ab) if the application relates to a [listed place](http://www.austlii.edu.au/au/legis/vic/consol_act/ha199586/s3.html#listed_place) or to a [registered place](http://www.austlii.edu.au/au/legis/vic/consol_act/ha199586/s3.html#registered_place) or [registered object](http://www.austlii.edu.au/au/legis/vic/consol_act/ha199586/s3.html#registered_object) in a [World Heritage Environs Area](http://www.austlii.edu.au/au/legis/vic/consol_act/ha199586/s3.html#world_heritage_environs_area), the extent to which the application, if approved, would affect -

(i) the [world heritage values](http://www.austlii.edu.au/au/legis/vic/consol_act/ha199586/s3.html#world_heritage_values) of the [listed place](http://www.austlii.edu.au/au/legis/vic/consol_act/ha199586/s3.html#listed_place); or

(ii) any relevant [Approved World Heritage Strategy Plan](http://www.austlii.edu.au/au/legis/vic/consol_act/ha199586/s3.html#approved_world_heritage_strategy_plan); and

(b) the extent to which the application, if refused, would affect the reasonable or economic use of the [registered place](http://www.austlii.edu.au/au/legis/vic/consol_act/ha199586/s3.html#registered_place) or [registered object](http://www.austlii.edu.au/au/legis/vic/consol_act/ha199586/s3.html#registered_object), or cause undue financial hardship to the [owner](http://www.austlii.edu.au/au/legis/vic/consol_act/ha199586/s3.html#owner) in relation to that [place](http://www.austlii.edu.au/au/legis/vic/consol_act/ha199586/s3.html#place) or [object](http://www.austlii.edu.au/au/legis/vic/consol_act/ha199586/s3.html#object); and

(c) any submissions made under section 69; and

(d) any decision of the [Heritage Council](http://www.austlii.edu.au/au/legis/vic/consol_act/ha199586/s3.html#heritage_council) under section 72 which has been

 received; and

(e) if the applicant is a [public authority](http://www.austlii.edu.au/au/legis/vic/consol_act/ha199586/s3.html#public_authority), the extent to which the application, if refused, would unreasonably detrimentally affect the ability of the [public authority](http://www.austlii.edu.au/au/legis/vic/consol_act/ha199586/s3.html#public_authority) to carry out a statutory duty specified in the application; and

(f) any matters relating to the protection and [conservation](http://www.austlii.edu.au/au/legis/vic/consol_act/ha199586/s3.html#conservation) of the [place](http://www.austlii.edu.au/au/legis/vic/consol_act/ha199586/s3.html#place) or [object](http://www.austlii.edu.au/au/legis/vic/consol_act/ha199586/s3.html#object) that the [Executive Director](http://www.austlii.edu.au/au/legis/vic/consol_act/ha199586/s3.html#executive_director) considers relevant.

(1A) In determining an application for a permit, the [Executive Director](http://www.austlii.edu.au/au/legis/vic/consol_act/ha199586/s3.html#executive_director) may consider-

(a) the extent to which the application, if approved, would affect the [cultural heritage significance](http://www.austlii.edu.au/au/legis/vic/consol_act/ha199586/s3.html#cultural_heritage_significance) of any adjacent or neighbouring property that is -

(i) subject to a heritage requirement or control in the relevant planning scheme; or

(ii) included in the [Heritage Register](http://www.austlii.edu.au/au/legis/vic/consol_act/ha199586/s3.html#heritage_register); and

 (b) any other relevant matter.