



## **Heritage Council** Registrations and Reviews Committee

### **Pompei's Marine Boat Works and Landing**

Crown Allotment 4A Title Plan 068887F (557-561 Main Street, Mordialloc), part Crown Allotment 2040 and part Crown Allotment 2041, Parish of Mordialloc, and part Crown Allotment 20E and part Crown Allotment 2041, Parish of Mordialloc, Kingston City Council

**Hearing** – 27 February 2019

**Members** – Mr Lindsay Merritt (Chair), Ms Megan Goulding, Ms Louise Honman

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

**Not for inclusion in the Victorian Heritage Register but refer for consideration for local planning protection** – After considering the Executive Director's recommendation, all submissions and conducting a hearing into the submissions, the Heritage Council has determined pursuant to section 49(1)(c)(i) of the *Heritage Act 2017* that Pompei's Marine Boat Works and Landing at 557-561 Main Road, Mordialloc and nearby lands adjoining Mordialloc Creek is not to be included in the Victorian Heritage Register and refers the Recommendation and submissions to Kingston City Council for consideration for an amendment to the Kingston Planning Scheme.

**Lindsay Merritt (Chair)**  
**Megan Goulding**  
**Louise Honman**

**Decision Date** – 15 May 2019

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## APPEARANCES

### **EXECUTIVE DIRECTOR, HERITAGE VICTORIA ('THE EXECUTIVE DIRECTOR')**

Submissions were received from the Executive Director, Heritage Victoria ('the Executive Director'). Ms Nicola Stairmand, Heritage Officer, appeared on behalf of the Executive Director. Dr Marina Larsson, Principal – Heritage Assessments, was also present and available to take questions.

### **NATIONAL TRUST OF AUSTRALIA (VICTORIA) ('THE TRUST')**

Submissions were received from the National Trust of Australia (Victoria) ('the Trust') objecting to the Executive Director's recommendation. Ms Caitlin Mitropoulos appeared on behalf of the Trust.

### **KINGSTON CITY COUNCIL ('KINGSTON')**

Submissions were received from Kingston City Council ('Kingston') objecting to the Executive Director's recommendation. Mr Gary Vines of Biosis Pty Ltd appeared on behalf of Kingston.

### **MR CRAIG COWIE ('THE NOMINATOR')**

Submissions were received from Mr Craig Cowie ('the Nominator') objecting to the Executive Director's recommendation. Mr Cowie also appeared on behalf of Mr Leon Pompei.

### **MRS NINA EARL**

Submissions were received from Mrs Nina Earl objecting to the Executive Director's recommendation.

### **MS MAIRI NEIL**

Submissions were received from Ms Mairi Neil objecting to the Executive Director's recommendation.

### **MORDIALLOC DISTRICT HISTORICAL SOCIETY INC ('THE HISTORICAL SOCIETY')**

Submissions were received from the Mordialloc District Historical Society Inc ('the Historical Society') objecting to the Executive Director's recommendation. Mr Peter Ratcliff appeared on behalf of the Historical Society.

### **MORDIALLOC BEAUMARIS CONSERVATION LEAGUE INC ('THE CONSERVATION LEAGUE')**

Submissions were received from the Mordialloc Beaumaris Conservation League Inc ('the Conservation League') objecting to the Executive Director's recommendation. Ms Mary Rimington appeared on behalf of the Conservation League.

### **MR LEON POMPEI**

Submissions were received from Mr Leon Pompei, the son of Mr Jack Pompei, objecting to the Executive Director's recommendation. The Nominator also appeared and made submissions on Mr Leon Pompei's behalf.

### **557-561 MAIN ST PTY LTD ('THE OWNER CA 4A')**

Submissions were received from 557-561 Main St Pty Ltd, the owner of land at 557-561 Main Street, Mordialloc ('the Owner CA 4A'), in support of the Executive Director's recommendation. Mr Ian Pitt QC of Best Hooper Lawyers appeared on behalf of the Owner.

The Owner's submissions included statements of evidence from Mr Jim Gardner of GJM Heritage. Mr Gardner was called to give expert evidence and was available to take questions from other parties.

### **OTHER SUBMISSIONS RECEIVED PURSUANT TO SECTION 44 OF THE *HERITAGE ACT 2017***

The following persons made written submissions pursuant to section 44 of the *Heritage Act 2017* ('the Act'), all objecting to the Executive Director's recommendation:

Mr Paul Cahir

Mr Mark Caulfield

Mr Stanley Furlonger

Mr Grant Leeworthy

Miss Pauline Winfield

Mr Mathew Whitfield on behalf of the Save Pompei Landing Facebook Group

## INTRODUCTION/BACKGROUND

### THE PLACE

**01.** On 12 July 2018, the Executive Director made a recommendation that Pompei's Marine Boat Works and Landing ('the 'Place') should not be included in the Victorian Heritage Register ('the Register'), and that the Heritage Council may wish to consider exercising its powers under section 49(1)(c)(i) of the Act to refer the recommendation to Kingston for inclusion in the local Heritage Overlay ('the Recommendation').

**02.** The Place is described on page 3 of the Recommendation as follows:

*Pompei's Marine Boat Works and Landing is located between the railway line and Mordialloc Creek, Mordialloc. A two-storeyed c. 1970s brick building incorporating part of an earlier building is located adjacent to the railway line. Boat moorings, slipways and five small scale buildings of varying size and materials are located opposite along the Mordialloc Creek. Most structures have signage incorporating the Pompei name. A wide dirt road runs between the creek and the c. 1970s building, and boats of various materials, shapes and sizes in various states of repair are located on the land in front of and between the buildings.*

**03.** The Place is the same as the Nomination extent diagram on page 2 of the Recommendation and comprises three approximately elliptical-shaped separate areas, which are indicatively identified as Areas A, B and C in Figure 2 of the Expert Witness Statement prepared by Mr Gard'ner of GJM Heritage, dated 18 January 2019 ('the GJM Statement'). The areas may be generally described as follows:

- Area A – located at 557-561 Main Street, Mordialloc, east of the Nepean Highway and immediately west of the Frankston railway line, and occupied by three workshops and other structural elements.
- Area B – located to the south of Area A, immediately east of the Nepean Highway and adjacent to the northern bank of the Mordialloc Creek.
- Area C – located to the south-east of Area B, adjacent to the northern bank of the Mordialloc Creek.

**04.** From attachments to the written submission in reply prepared by Mr Pitt QC on behalf of the Owner CA 4A, the land status descriptors for the areas are as follows:

- Area A – Crown Allotment 4A Title Plan 068887F (freehold land);
- Area B – Part Crown Allotment 2040 and part Crown Allotment 2041, Parish of Mordialloc (Crown land); and
- Area C – Part Crown Allotment 20E and part Crown Allotment 2041, Parish of Mordialloc (Crown land).

**05.** Areas A, B and C are described on pages 9 and 10 of the GJM Statement, with key excerpts as follows:

*[Area A comprises] three small-scale industrial buildings with various additions to the rear (facing the railway line). The nominated land encloses the three structures, their rear additions and small amounts of land immediately adjacent including land within the railway corridor.*

*The northern-most building (557 Main Street) is a single-storey workshop constructed of buff-coloured brick with a simple, shallow pitched corrugated*

*steel roof and gable facing Main Street. The gable end has been painted but retains fragments of signage associated with the Pompei Marine Boat Works. The street elevation is dominated by two large double-height steel sliding doors, separated by a brick pier.*

*Immediately south of the double-fronted workshop is a two-storey parapeted building constructed of red brick (559 Main Street). The brick section to the north-east is rendered and has a large opening (boarded up with plywood) on the ground floor. The upper level has a strip of steel framed windows. The adjoining section to the south-east is an exposed brick double-storey structure with a three-paned window at the upper level and a double door pedestrian entrance at ground level. The flat roof is clad in long-run profiled sheet steel. The parapet at the southern end is in poor condition and has partially collapsed.*

*The southernmost element of the workshop complex (561 Main Street) is a single-storey corrugated steel-clad shed. It has a low-pitched corrugated steel roof running north-south.*

...

*[Area B is] located south of the workshop complex and immediately adjacent to the Mordialloc Creek bridge [and contains] a boat ramp / slipway constructed of stone with later concrete surface replacing the stone setts. [Area B] includes the ramp and immediately adjacent land. A modern tubular steel gate restricts boat and vehicle access to the boat ramp and an adjacent sign provides information on the 'Pompei's Marine Boat Ramp'. Nearby, but not within the extent of land nominated is a small recent shed, a steel railed boat ramp and a steel boat cradle.*

...

*[Area C] comprises three sheds, moorings and part of a wharf structure that provides mooring for small craft. The nominated area includes the boat ramp, the three sheds and part of the wharf and moorings.*

*The northernmost shed is a small light timber framed building with a simple rectangular floor plan. It is clad in painted bullnose weatherboards. It has a pitched roof (approx. 40 degrees pitch) with projecting timber bargeboards and rafters and a corrugated steel roof. It has a pedestrian door facing the wharf (west elevation). This modest building appears to have been constructed no earlier than the later part of the twentieth century. It appears to be in fair condition.*

*The central shed of this group of three is single storey building with a low, mono-pitched steel roof. The building has a simple rectangular plan and is clad in red brick (stretcher bond) with buff coloured bricks defining the corners. It is of Post-Second World War construction and probably dates from the 1970s....*

*The southern-most shed is the largest of the three and is single storey, again with a simple rectangular floor plan. It is clad in (overpainted) brick (stretcher bond) with a low, mono-pitched corrugated steel roof. The north elevation has a vehicle/boat entrance with steel roller door. The building appears to date from the second half of the twentieth century. The west and east elevations are dominated by more recent painted steel advertisements for Pompei's boating services...*

*The wharf, which runs parallel to the river bank, is of recent construction and has a floating platform attached to piles. The wharf, piles and pontoon*

*platforms appear to be in good condition. A steel rail and concrete boat ramp / slipway is located between the wharf and the riverbank that provides access to the southernmost shed.*

*A section of the bluestone-faced riverbank wall is included with the extant of Area C.*

- 06.** As noted on page 2 of the Recommendation:

*The nomination for [the Place] referred to buildings and structural elements only. It did not mention objects such as boats or boat building equipment or other materials contained within the buildings or located externally.*

- 07.** The following historical summary is taken from page 3 of the Recommendation:<sup>1</sup>

*Salvatore Pompei arrived in Melbourne from Sicily in the early 1900s and settled in Mordialloc with his family. He began building boats at their Beach Road property and later taught boat building to his sons. Together they constructed timber clinker and carvel boats and also had fishing boats for hire from Mordialloc Creek. In the 1930s, the boat building business was relocated to the existing site where three to four boats were constructed each year. Jack Pompei, one of Salvatore's sons became known as 'Mr Mordialloc' and was awarded an OAM in 1987 for Service to Marine Search and Rescue Activities in Port Phillip Bay. He rescued hundreds of people from Port Phillip Bay and was an advocate for the conservation and rejuvenation of Mordialloc Creek. Following Jack's death in 2008, his brother Joe carried on the boat building business until the premises was sold in 2017. A new bridge constructed across Mordialloc Creek in 2009 was named Pompei Bridge and a sculpture was erected to acknowledge the Pompei family's contribution to the Mordialloc community.*

- 08.** The above descriptions and history summary have been taken from the Recommendation and the GJM Statement and are provided for information purposes only.

## **NOMINATION**

- 09.** On 21 May 2018,<sup>2</sup> the Executive Director accepted a nomination from the Nominator to include the Place in the Register.

## **RECOMMENDATION OF THE EXECUTIVE DIRECTOR**

- 010.** On 12 July 2018, the Executive Director recommended that the Place not be included in the Register under section 37(1)(b) of the Act and that the Heritage Council may wish to consider exercising its powers under section 49(1)(c)(i) of the Act to refer the Recommendation to Kingston for inclusion of the Place in the local Heritage Overlay.

## **PROCESS FOLLOWING THE RECOMMENDATION OF THE EXECUTIVE DIRECTOR**

- 011.** After the Recommendation of 12 July 2018, notice was published on 20 July 2018 in accordance with section 41 of the Act for a period of 60 days.

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<sup>1</sup> The written submission of Mr Gary Vines, Biosis Pty Ltd, dated 25 January 2019, states that Salvatore and Silvestro Pompei arrived in Australia in 1926 or 1927 (see page 13).

<sup>2</sup> The Executive Director's written hearing submission states that he accepted the nomination on 6 February 2018 (see page 1). However, the Recommendation states that the Executive Director accepted the nomination on 21 May 2018 (see page 2).

- 012.** Fourteen (14) submissions were received pursuant to section 44 of the Act. One submission supported the Recommendation while thirteen (13) submissions objected to the Recommendation. Eight (8) submissions requested a hearing before the Heritage Council.
- 013.** In accordance with section 46(2)(a) of the Act, a hearing was required to be held.
- 014.** 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. The Committee then invited further written submissions and a hearing was held on 27 February 2019 ('the hearing').

## PRELIMINARY, PROCEDURAL AND OTHER MATTERS

### SITE INSPECTION

- 015.** On 22 February 2019, the Committee undertook a site inspection of the Place accompanied by the Heritage Council Executive Officer and Project Officer. Access to the site was provided by a representative of the Owner CA 4A. No submissions were sought, made or received at the time of the site inspection.

### LATE MATERIAL

- 016.** On 11 February 2019, the Committee received three late hearing submissions from Mr Pompei, Mrs Neil and the Historical Society, noting that the Historical Society did not lodge an initial submission under section 44 of the Act. All three submissions were circulated to hearing participants on that day. On 14 February 2019, the Committee received a further late hearing submission from the Conservation League. The submission from the Conservation League was circulated to all hearing participants on 19 February 2019. At the commencement of the hearing, after seeking the views of other hearing participants, the Committee allowed the admission of these submissions, including the Historical Society's request to participate at the hearing.
- 017.** At the commencement of and during the hearing, several hearing participants sought to introduce additional material. After seeking the views of the other hearing participants, the Committee allowed the admission of this material for consideration.

### SUBMISSION ON BEHALF OF KINGSTON

- 018.** On 30 January 2019, the Committee received a *Heritage Council Form B – Registration Hearing Participation Form* from Mr Gary Vines of Biosis Pty Ltd on behalf of Kingston. The Form was accompanied by a written statement prepared by Mr Vines dated 25 January 2019, titled 'Pompei's Boatyard Expert Witness Statement Gary Vines'. The introduction of the statement refers to Mr Vines as an "expert" who has been engaged by Kingston to "review [the Executive Director's] assessment and provide independent opinion as to whether the place meets criteria for state significance".<sup>3</sup>
- 019.** Before the hearing, the Committee sought clarification from Kingston as to whether Mr Vines would be appearing as a representative for Kingston or as an expert witness. On 19 February 2019, Kingston confirmed in writing that Mr Vines would be appearing as a representative for Kingston.

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<sup>3</sup> Mr Gary Vines of Biosis Pty Ltd, 'Pompei's Boatyard Expert Witness Statement, Gary Vines – Prepared for the City of Kingston', dated 25 January 2019, pages 3-5.

- 020.** At the commencement of the hearing, after seeking the views of other hearing participants, the Committee determined that:
- a) Mr Vines was appearing as a representative for Kingston;
  - b) the Committee would treat Mr Vines' written statement dated 25 January 2019 as a submission prepared for Kingston, and not as an expert witness statement; and
  - c) the Committee would disregard any text in the written statement that refers to Mr Vines as an expert witness, with particular reference to the front cover (page 1) and the "Introduction" (pages 3 to 5 inclusive).

### CONFLICTS OF INTEREST

- 021.** The Chair invited Committee members to make declarations, written or otherwise, in relation to any matters that may potentially give rise to an actual or apprehended conflict of interest. The Committee members were satisfied that there were no relevant conflicts of interests and made no such declarations.

### FUTURE USE AND DEVELOPMENT OF THE PLACE

- 022.** Submissions made by several hearing participants included arguments about how the subject site should or could be used or developed in the future.
- 023.** It is not the role of the Committee to consider future development proposals or to pre-empt any decisions regarding future permits under the Act. Pursuant to section 49(1) of the Act, the role of the Committee is to determine whether or not the Place or part of it is of State-level cultural heritage significance and is or is not to be included in the Register.

### ISSUES

- 024.** 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 that the Committee takes on each key issue.
- 025.** 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**).
- 026.** The Committee has referred to the assessment framework in *The Victorian Heritage Register Criteria and Threshold Guidelines* (6 December 2018) ('the Guidelines') in considering the issues before it.

### SUMMARY OF ISSUES

- 027.** The Executive Director recommended that the Place not be included in the Register as the Executive Director's assessment concluded that it did not satisfy any of the criteria at a State level. The Owner CA 4A agreed with the Recommendation.
- 028.** The Nominator submitted that the Place is of cultural heritage significance to the State of Victoria. Mr Cowie made submissions addressing all Criteria but submitted that the Place particularly satisfies Criteria A, D, G and H at the State level.

- 029.** Kingston submitted that the Place is of State-level cultural heritage significance. Kingston made submissions addressing all Criteria but submitted that the Place particularly satisfies Criteria A, B, C, D, G and H at the State level.
- 030.** The Trust submitted that the Place is of cultural heritage significance to the State of Victoria on the basis that it satisfies Criteria A, G and H at the State level.
- 031.** Other submitters contended that the Place is of State-level cultural heritage significance for the following reasons:
- a) The main buildings in the Place have a unique character and appearance that is evocative of a fishing village.
  - b) The buildings and signage are iconic and synonymous with the identity of Mordialloc.
  - c) The Place is strongly associated with Mr Jack Pompei who is well-known and highly regarded within the Mordialloc community and beyond.
  - d) The Place marks the spot where boat building once flourished and is the gateway to the maritime precinct of Mordialloc.
  - e) The Place is part of the history of boat building and waterside recreational activities in Mordialloc.
  - f) The Place is connected with the development of traditional boat-building skills and craftsmanship and the influences of European migration.
  - g) The Place is the only boat-works site with a ramp on the eastern Port Phillip Bay and remains popular for bayside recreation.
  - h) The boat building skills of the Pompei family are held in high regard within local and national boating communities.
  - i) The Pompei family has made a significant contribution to boat building and repair, improvements to Mordialloc Creek and marine search and rescue in Port Phillip Bay.
- 032.** The Recommendation and submissions primarily focused on the cultural heritage significance of the Place arising from its association with:
- a) the process of timber carvel and clinker boat building;
  - b) the custom of bayside recreation; and
  - c) the life and works of Mr Jack Pompei and his family.

### **THE EXTENT OF REGISTRATION FOR THE PLACE**

- 033.** As described in paragraph 3 above, the nominated Place comprises three separate areas – Areas A, B and C. These areas are located within an overall almost triangular-shaped parcel of land generally bounded by commercial development along Main Street to the north-west, Mordialloc Creek to the south-west and the Frankston railway line to the east.
- 034.** The Trust and Kingston submitted that the extent of registration should include additional land. For example, Kingston suggested that the area should be enlarged to include open spaces and hardstand areas between Areas A, B and C, being approximately the whole of the above overall triangular-shaped parcel and to the centreline of Mordialloc Creek.
- 035.** In assessing the cultural heritage significance of the Place, the Committee has had regard to submissions that addressed its wider physical context and setting.

However, ultimately the Committee has focused on Areas A, B and C as these are the areas that were the subject of the nomination and the Recommendation.

## THE CUSTOM OF BAYSIDE RECREATION

### *Summary of submissions and evidence*

- 036.** In assessing the basic test for Criteria A, B and D, the Executive Director found that the Place has a clear association with the custom of bayside recreation in Victoria's cultural history. While noting that this association is now more evident in documentary and oral history, the Executive Director found that the association with this custom is still evident to some degree in the physical fabric of the Place – but then also noted that there is little surviving physical fabric at the Place which allows this custom to be readily understood.
- 037.** In assessing the cultural heritage significance of the Place, the Executive Director undertook a comparison of the Place with the Eastern Beach Bathing Complex and Reserve in Geelong (VHR H0929) ('Eastern Beach') and the Bell's Beach Surfing Recreation Reserve (VHR H2032) ('Bell's Beach') (see pages 16 and 17 of the Recommendation).
- 038.** The Executive Director observed that Eastern Beach comprises a range of elements that were all designed and constructed at the same time, located within a clearly defined boundary. The Executive Director observed that Bell's Beach is a well-known place intrinsically linked to surf and beach culture, and that its landscape (albeit without any permanent structures) is associated with the development of world-renowned surfing events and associated activities.
- 039.** The Executive Director submitted that both Eastern Beach and Bell's Beach have a long and enduring association with the development of waterside recreational pursuits and contain elements that form cohesive and tangible cultural landscapes. By comparison, the Executive Director found that those elements evident of the custom of bayside recreation within the Place are located across an undefined site which has lost intactness and integrity.
- 040.** In the GJM Statement, Mr Gard'ner submitted that the Executive Director's comparison could be broadened to include bayside sites in St. Kilda, Albert Park and Brighton, which remain largely intact and contain elements that demonstrate their clear association with bayside leisure.
- 041.** Mrs Earl submitted that bayside recreation at Mordialloc Creek remains popular but conceded that it occurs at a more modest scale compared to other similar places. Mrs Neil submitted that the Place is a meeting place for "boaties" and continues to contribute to Victoria's cultural heritage relating to facilities and activities associated with boating and fishing.
- 042.** The Conservation League acknowledged that the banks of Mordialloc Creek have changed substantially since the early twentieth century. Nevertheless, it submitted that there has been a long and enduring association with waterside recreational activities in Mordialloc Creek and it is possible to see owners repairing and painting small boats there on a daily basis.

### *Discussion and conclusion*

- 043.** The Committee is not persuaded that the Place contains sufficient fabric or elements to demonstrate a clear association with the custom of late nineteenth century and early twentieth century bayside recreation. There is little surviving fabric at the Place which allows this custom to be readily understood. In addition,

the Committee was not particularly assisted by the comparative examples drawn from the Register on the custom of bayside recreation, noting that they were not ultimately helpful as comparators.

- 044.** The Committee acknowledges that some of the elements of this custom may be present in the Place's wider coastal setting. However, due to changes to the fabric of the Place, any features associated with this custom that may have once existed within the Place itself are no longer readily identifiable or discernible.
- 045.** Compared to the places identified by the Executive Director and Mr Gard'ner, the Place lacks the integrity, intactness or cohesiveness necessary to demonstrate a clear association with this custom. Accordingly, the Committee finds that the Place does not satisfy any of the relevant Criteria in respect of this custom.
- 046.** Given this finding, the following section of this document focuses on the association of the Place with the process of timber carvel and clinker boat building and other related matters.

## **CRITERION A – IMPORTANCE TO THE COURSE, OR PATTERN OF VICTORIA'S CULTURAL HISTORY**

### *Summary of submissions and evidence*

- 047.** The Executive Director found that the Place has a clear association with the process of timber carvel and clinker boat building, noting that the process of boat building is evident at the site and in documentary resources and oral history. The Executive Director noted that the process of boat building has made a strong contribution to Mordialloc and boating in Victoria more generally, and that the Place was one of a number of boat building businesses established around Port Phillip Bay in the nineteenth and twentieth centuries.
- 048.** However, the Executive Director concluded that the Place does not satisfy Criterion A at State level because it does not allow the process of boat building to be better understood than most other places in Victoria with substantially the same association.
- 049.** The Executive Director acknowledged that the Pompei family has made a significant contribution to the Mordialloc and Victorian boating communities, and to the design and construction of timber boats. However, the Executive Director submitted that there is limited physical evidence left at the Place which enables the process of timber boat building to be understood. In the Executive Director's view, other boat-building businesses in existence allow the process of boat building to be better understood, such as Blunts Boatyard and Slipway in Williamstown (which is included in the Register (VHR H1885)).
- 050.** The Owner CA 4A agreed with the Executive Director's assessment. In the view of Owner CA 4A, the three Areas identified for nomination (that is, Areas A, B and C) fail to demonstrate an integrated or related activity and none of the Areas exhibit particular characteristics of a boat building yard. The Owner CA 4A also submitted there is insufficient physical fabric in existence to demonstrate a clear association with timber boat building.
- 051.** Mr Gard'ner expressed the view that the Place retains few physical features to demonstrate its past use and that none of the remaining features (including the workshop buildings in Area A and the slipway and moorings in Areas B and C) are unusual in a State context. In his view, because these remaining elements are physically separated and not connected, the Place does not readily allow for an understanding of the boat building process.

- 052.** Kingston submitted that the Place satisfies Criterion A at the State level as it has a clear association with the development and operation of timber boat building, which has been an important aspect of Victoria's cultural history. Kingston submitted that this association is evident in the physical fabric of the boat sheds, slipways, landings and landscape, and in documentary resources and oral history.
- 053.** Kingston referred to the contribution of the Place to the boat building industry and its role in preserving traditional boat-building skills.
- 054.** In Kingston's view, the Place is one of only two places in Victoria that demonstrates a clear association with early timber boat building – the other being Blunt's Boatyard and Slipway in Williamstown.
- 055.** Kingston referred to the utilitarian character or simple vernacular nature of buildings commonly associated with small-scale commercial timber boat building. In Kingston's view, the boat building activity on the site can be seen in the size, scale, form and layout of the site, its position relative to Mordialloc Creek, the water landings and slipways, and the open spaces that separate buildings and other elements within the Place.
- 056.** The Trust submitted that the Executive Director's assessment failed to have adequate regard to documentary resources or oral history in evidencing the significance of boat building at the Place. The Trust submitted that the assessment focused on the presence of tangible fabric and did not adequately consider intangible heritage present at the site, such as the ideas, designs, methods and concepts involved in boat building and the preservation of traditional boat-building skills.
- 057.** The Trust also submitted that the Place ought to be assessed as a cultural landscape and take in a broader extent of registration.
- 058.** Many other submitters expressly submitted that Criterion A is satisfied at State level. The Nominator referred to the significance of the Place in shaping the history of Mordialloc, its iconic appearance, its long association with boat building and traditional shipwright skills, and the influence of the Pompei family more generally on the boating community. The Conservation League submitted that the Place and Mordialloc Creek are of historical significance as a gathering place for the Bunurong people.
- 059.** Mr Pompei submitted that the Executive Director's assessment focused too narrowly on the presence of built fabric at the Place and did not consider the way the Pompei family had worked with the Mordialloc Creek over time. He submitted that boat building continues on the site, and that there is no similar concentration of publicly accessible working wooden boats elsewhere on Port Phillip Bay.
- 060.** Mr Pompei also submitted that any assessment should take account of the intangible heritage associated with his family's occupation and use of the site for boat building.

### *Discussion and conclusion*

- 061.** The Committee considers that the fabric of the Place combined with documentary resources and oral history provide sufficient evidence that the Place has a clear association with the process of early timber carvel and clinker boat building. The Committee also accepts that the Place was one of a number of boat building businesses established around Port Phillip Bay in the nineteenth and twentieth centuries and that this industry is of historical importance.

- 062.** However, the Committee is not persuaded that the fabric of the Place is of sufficient integrity or intactness to demonstrate its use as a timber boat building yard. Of the fabric that remains – such as the workshop buildings, water landings, slipway, boat ramp and moorings – much of this is not unique to timber boat building. Many of these features are typically found in a foreshore setting where recreational or commercial boating occurs, or (in the case of the workshop buildings and surrounding hardstand areas) where light industrial small-scale commercial activity occurs.
- 063.** The Committee also considers that the Place does not readily allow for an understanding of the timber boat building process that has occurred there. This is due partly to the lack of physical fabric but also because Areas A, B and C are physically separated and not connected by elements that allow the three areas to be understood as forming part of an integrated timber boat building activity.
- 064.** The Committee agrees with Kingston that the fabric associated with timber boat building on a small commercial scale may be simple and utilitarian in form and appearance and need not be elaborate. The Committee also acknowledges that the Place, when considered in its wider setting, contains some features that are commonly associated with recreational or commercial boating activity. However, the Committee does not agree that these features are laid out or connected in a manner that allows the process of timber boat building to be readily understood and – relevantly to Criterion A – for it to be understood better than most other places in Victoria with substantially the same association.
- 065.** The Committee agrees that the process of boat building at the Place has made a strong contribution to the cultural history of Mordialloc. However, it is not persuaded that the Place has made a significant contribution to the course or pattern of Victoria's cultural history.
- 066.** The Committee finds that Criterion A is not satisfied at the State level.

## **CRITERION B – POSSESSION OF UNCOMMON, RARE OR ENDANGERED ASPECTS OF VICTORIA'S CULTURAL HISTORY**

### *Summary of submissions and evidence*

- 067.** The Executive Director acknowledged that the Place is associated with the process of timber boat building and that this association is evident in the fabric of the Place and in documentary resources and oral history. The Executive Director also acknowledged that the process of timber boat building is now uncommon.
- 068.** However, the Executive Director found that because the Place no longer contains physical fabric that demonstrates the process of boat building, Criterion B is not satisfied.
- 069.** The Owner CA 4A agreed with the Executive Director's assessment, contending that none of the three Areas have a role in preserving or demonstrating boat building.
- 070.** The GJM Statement advanced two key reasons why Criterion B is not satisfied. Firstly, the Place lacks integrity and intactness and has insufficient physical fabric to allow the Place's association with timber boat building to be readily understood. Secondly, other boat building sites exist in Victoria, albeit of varying degrees of intactness and integrity, which contain features like those found within the Place.
- 071.** Kingston submitted that evidence of small timber boat building in Victoria is very rare and endangered. In Kingston's view, the Place is one of only two places in Victoria (the other being Blunt's Boatyard and Slipway) that has a wide spread of

the critical elements of boat building in its surviving fabric – these elements include the likes of the enclosed construction sheds, slipways, outdoor rigging areas and water landings.

- 072.** Kingston submitted that the rarity of the Place is confirmed by its physical fabric and in documentary resources and oral history.
- 073.** The Nominator and Mrs Earl acknowledged that the Place may not possess uncommon or rare aspects of Victoria’s cultural history but suggested that the continuation of boat repairs and maintenance at the Place (and other similar boating places) is potentially endangered. The Nominator also referred to the value of the Place as a rare site where the public can readily access a concentration of wooden boats in one place.

#### *Discussion and conclusion*

- 074.** The Committee agrees that the process of timber carvel and clinker boat building is now uncommon, as is the number of places in existence that enable this process to be readily understood. The Committee accepts from the comparative examples provided in the GJM Statement that much evidence of early boat building has disappeared, and many other places have little above-ground evidence.
- 075.** The Committee acknowledges that the Place contains some features that may be commonly associated with boat building (such as the elements identified by Kingston on page 25 of its written hearing submission). However, these features are of a common variety and not necessarily restricted to a boat building yard.
- 076.** Further, the Committee is not persuaded that the Place has sufficient physical fabric or that its constituent parts demonstrate the *process* of boat building – and the process of *timber* boat building in particular – to be readily understood. In the Committee’s view, it is difficult to discern how timber boats have been designed, laid out and assembled at the Place, or the methods and techniques used in boat building.
- 077.** As noted in paragraph 062 above, some of the features identified by Kingston as critical elements of boat building are also commonly associated with recreational or commercial boating activity in a foreshore or bayside setting and are therefore not uncommon within Victoria.
- 078.** The Committee finds that Criterion B is not satisfied at the State level.

### **CRITERION C – POTENTIAL TO YIELD INFORMATION THAT WILL CONTRIBUTE TO AN UNDERSTANDING OF VICTORIA’S CULTURAL HISTORY**

#### *Summary of submissions and evidence*

- 079.** The Executive Director submitted that the process of timber boat building is well documented and understood. In the Executive Director’s view, while the patterns, materials, tools and equipment used in boat building at the Place are of historical interest, it is unlikely these items would yield information about this process that is not currently visible or understood.
- 080.** The GJM Statement stated that while the Place has potential to yield some information of historical interest, this information is unlikely to contribute to an understanding of Victoria’s cultural history.
- 081.** Kingston submitted that a detailed internal inspection of buildings may yield information that will contribute to an understanding of Victoria’s cultural history and

contended that the Mordialloc Creek bank may have some archaeological potential.

- 082.** The Nominator and Mr Leon Pompei submitted that documentary and oral history evidence of the Place and the Pompei family may yield information of historical interest. Further, Mr Pompei suggested that the Place contains fabric that contributes to an understanding of wooden boat building, such as the workshop complex in Area A.

#### *Discussion and conclusion*

- 083.** The Committee notes that the basic test for determining State-level significance under Criterion C in the Guidelines includes that “the knowledge that might be obtained through investigation is likely to MEANINGFULLY CONTRIBUTE to an understanding of Victoria’s cultural history” (see page 9).
- 084.** While a few submitters indicated that the Place may yield information of local historical interest, no evidence was put to the Committee that persuaded it that the Place is likely to yield information that will contribute in an important or significant way to an understanding of *Victoria’s* cultural history.
- 085.** The Committee finds that Criterion C is not satisfied at the State level.

### **CRITERION D – IMPORTANCE IN DEMONSTRATING THE PRINCIPAL CHARACTERISTICS OF A CLASS OF CULTURAL PLACES AND OBJECTS**

#### *Summary of submissions and evidence*

- 086.** The Executive Director acknowledged that the Place has a clear association with the process of timber boat building, which has made a strong contribution to port cities and towns in Victoria.
- 087.** The Executive Director also submitted that the principal characteristics of this class are evident in the physical fabric of the Place.
- 088.** However, the Executive Director found that the Place is no longer a notable example of a boat building business, has no features that are of a high quality or historical relevance than are typical of the class, and is not a pivotal or influential example in its class at a State level.
- 089.** The Owner CA 4A agreed with the Executive Director’s assessment, noting that the quality of boats built in this Place in the past is not evident in Areas A, B or C.
- 090.** In the GJM Statement and in his oral submissions, Mr Gard’ner expressed the view that the site exhibits a low level of intactness with much of the boat-building materials, tools and fabric having been removed.
- 091.** Kingston submitted that as the Place is only one of two places in Victoria that can demonstrate substantial evidence of historic timber boat building activity, it plays a key role in preserving and presenting boat building as a class of cultural place.
- 092.** The Nominator and Mrs Earl submitted that the Place is notable in that it is the only boat works site with a ramp on an inlet on the eastern side of Port Phillip Bay and remains popular for bayside recreation.
- 093.** The Conservation League submitted that Mordialloc Creek was an important gateway to the Mornington Peninsula for early European settlers.

**094.** The Historical Society submitted that while the buildings on the Place are basic and functional in appearance, the Place is nevertheless a notable example of a boat building business.

#### *Discussion and conclusion*

**095.** The Executive Director's assessment stated that the principal characteristics of the class – being a place closely associated with the process of the timber boat building – are evident in the Place. However, the assessment did not identify or explain what those principal characteristics are and how they are evident in the Place. The evidence of Mr Gard'ner also did not clearly identify the principal characteristics of this class.

**096.** The submission from Kingston is perhaps the most instructive in terms of identifying the principal characteristics of the class of timber boat building. It submitted that the elements critical to boat building places, all of which are represented in the surviving fabric at the Place, include enclosed construction sheds, slipways, outdoor rigging areas and water landings.

**097.** The Committee accepts that these elements are evident in the Place. However, the test in the Guidelines for determining State-level significance under Criterion D is (among other things) that the Place be a "notable example of the class in Victoria". The term "notable example" includes examples that are "fine", "highly intact", "influential" or "pivotal" as described in Reference Tool D in the Guidelines. The Committee is not persuaded by the submissions that the Place exhibits characteristics of the class that are notable, fine or pivotal. Also, due to changes to the fabric and setting of the Place, it cannot be described as highly intact. The discrete nominated Areas without intervening land are less than instructive in providing a coherent understanding of boat building. The Committee noted that despite much of the interior objects of the boat building shed having been removed, some evidence was still present, including the brick steam-kiln for bending timber, the floor depression where the keels were laid and the drafting office where designs were prepared.

**098.** The Committee finds that Criterion D is not satisfied at the State level.

### **CRITERION E – IMPORTANCE IN EXHIBITING PARTICULAR AESTHETIC CHARACTERISTICS**

#### *Summary of submissions and evidence*

**099.** The Executive Director submitted that the Place does not satisfy Criterion E because the aesthetic qualities of the Place do not exceed those of the general class to which it belongs, and because those qualities have been irreversibly degraded due to changes to the fabric and setting of the Place (most notably, changes to the banks of Mordialloc Creek and Main Street/Nepean Highway).

**0100.** Kingston acknowledged that the aesthetic characteristics of the Place are unlikely to be significant at State level.

**0101.** The Nominator and Mrs Earl acknowledged that the environs of Mordialloc Creek have been modified over time and are now less natural in appearance. However, they submitted that the environs of Mordialloc Creek are still aesthetically pleasing.

### *Discussion and conclusion*

- 0102.** The Committee was not presented with any evidence to suggest that the Place exhibits particular aesthetic qualities that exceed those of the general class to which it belongs.
- 0103.** The Committee accepts the Executive Director's submission that changes to the fabric and setting of the Place have degraded the aesthetic qualities of the Place.
- 0104.** The Committee finds that Criterion E is not satisfied at the State level.

### **CRITERION F – IMPORTANCE IN DEMONSTRATING A HIGH DEGREE OF CREATIVE OR TECHNICAL ACHIEVEMENT AT A PARTICULAR PERIOD**

#### *Summary of submissions and evidence*

- 0105.** The Executive Director submitted that the Place contains no physical evidence that clearly demonstrates creative or technical achievement for the time in which it was created. The Executive Director acknowledged that while the timber boats built at the Place are highly regarded, the boats used similar construction methods and materials to other timber boats constructed during the same period.
- 0106.** Kingston acknowledged that the Place does not demonstrate a high degree of creative or technical achievement.

### *Discussion and conclusion*

- 0107.** No substantive evidence was put to the Committee that persuaded it that the Place is important in demonstrating a high degree of creative or technical achievement in respect of the design, construction or other aspects relating to timber boat building at a particular period.
- 0108.** The Committee finds that Criterion F is not satisfied at the State level.

### **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**

#### *Summary of submissions and evidence*

- 0109.** The Executive Director acknowledged that the Place has a direct and strong association with Mordialloc and Victorian boating communities and is regarded by the Mordialloc community as a landmark.
- 0110.** However, the Executive Director found that while the Place has strong associations with boat building and bayside recreation, the ability to interpret these experiences has diminished due to the changed conditions of the Place. Further, the social significance of the Place does not resonate beyond these communities.
- 0111.** Kingston submits that the Place is of social significance because of its association with the cultural history of Mordialloc and wider boating community, and its association with Mr Jack Pompei. Kingston referred to the 'Save Pompei's Landing' Facebook internet site and the naming of the nearby Pompei Bridge and "Pompei's Boat" sculpture as evidence of this.

- 0112.** The Trust disputed the Executive Director’s assessment of the association of the Place with the Victorian boating community. In the Trust’s view, the boating community is a ‘particular community or cultural group’ and the Place’s strong association with this sector of the community is evidenced, among other things, by the numerous Internet sites acknowledging the craftsmanship of ‘Pompei boats’ and the Pompei family’s contribution to the boating industry.
- 0113.** The Nominator emphasised the significance of the Place to the boat building and boating communities and the proliferation of ‘Pompei-designed’ boats. The Nominator and several other submitters also referred to the association of Mordialloc Creek and the Place with the Bunurong people and early European settlement.
- 0114.** Many submitters – including Miss Winfield, Mr Whitfield, Mrs Neil, Mr Leon Pompei and the Conservation Society – made submissions about the special association of the Place with the history of Mordialloc and the local community. Submitters variously described the Place as a “landmark”, “icon”, “cornerstone” or “gateway” of Mordialloc and described with affection their connection to and memories of the Place.

#### *Discussion and conclusion*

- 0115.** Having regard to the documentary and oral history evidence provided by submitters, the Committee agrees that the Place has a direct and strong association with the Mordialloc community as a local landmark. This association is reinforced by the naming of the Main Street bridge as the “Pompei Bridge” and the “Pompei’s Boat” sculpture located adjacent to the bridge.
- 0116.** However, the Committee is not persuaded that this direct and strong association resonates beyond the local community.
- 0117.** The Committee acknowledges that timber boating enthusiasts within and beyond Mordialloc and groups like the Wooden Boat Association may have an attachment to the boats built by the Pompei family and, by reason of this, to the Place. However, the Committee was not presented with compelling evidence about the size or membership of the ‘boating community’, the intensity of its attachment to the Place itself or the enduring nature of that attachment, such as to elevate the Place to State-level significance.
- 0118.** The Committee finds that Criterion G is not satisfied at the State level.

### **CRITERION H – SPECIAL ASSOCIATION WITH THE LIFE OR WORKS OF A PERSON, OR A GROUP OF PERSONS, OF IMPORTANCE IN VICTORIA’S HISTORY**

#### *Summary of submissions and evidence*

- 0119.** The Executive Director noted that the Place has a direct association with Mr Jack Pompei and the Pompei family generally. Mr Pompei was well known within the Mordialloc community and recognised more broadly for his marine search and rescue efforts in Port Phillip Bay and boating works. According to the Executive Director, this association is somewhat evident in the physical fabric of the Place through signage and surviving boat building equipment but is more evident in documentary resources and oral history.
- 0120.** The Executive Director found that the Place does not allow a clear association with the Pompei family to be readily appreciated because of the lack of physical

evidence remaining on the site. In the Executive Director's view, this association is better demonstrated through the boats built by the Pompei family.

- 0121.** The Owner agreed with the Executive Director's assessment. In the GJM Statement, Mr Gard'ner noted that while Mr Jack Pompei has made an important historical contribution to Mordialloc and the surrounding bayside area, there is little evidence to suggest that Mr Pompei or his family had a strong influence on the course of Victoria's cultural history.
- 0122.** As with Criterion A, the Trust submitted that the Executive Director's assessment of Criterion H focused on tangible built fabric and failed to adequately consider the significance of the Place as evidenced in documentary resources and oral history.
- 0123.** Kingston submitted that both Mr Jack Pompei and Mr Joe Pompei are recognised as highly important people in the history of Mordialloc for their contributions in developing the fishing and boating industries and their environmental 'philanthropy'. Kingston also referred to Mr Jack Pompei's efforts in rescuing hundreds of people from Port Phillip Bay. In Kingston's view, community appreciation for these efforts extends beyond Mordialloc to encompass the wider Victorian boating and fishing communities.
- 0124.** Many other submissions referred to the association of the Place with Mr Jack Pompei. In particular, submissions referred to Mr Jack Pompei's many achievements in marine search and rescue, his contribution to boat building and design, and his efforts in promoting improvements to the local environment and protecting the bay and waterways.
- 0125.** Mr Leon Pompei and the Nominator emphasised the significance of Mr Jack Pompei's achievements in marine search and rescue, noting (among other things) that his father was awarded an Order of Australia. They also emphasised the enduring legacy of the Pompei family to boat building and repair and in making improvements to Mordialloc Creek.

### *Discussion and conclusion*

- 0126.** The Committee accepts that Mr Jack Pompei OAM and his family have made a strong and influential contribution to the local Mordialloc community. However, to satisfy Criterion H, the Place must have a special association with the life or works of a person or group of persons who have made a strong or influential contribution to the course of Victoria's history. The Committee is not persuaded that Mr Pompei and his family have exerted a strong influence on the course of history affecting the broader Victorian community.
- 0127.** The Committee finds that Criterion H is not satisfied at the State level.

## **RECOMMENDATION TO KINGSTON FOR INCLUSION IN A HERITAGE OVERLAY**

### *Summary of submissions and evidence*

- 0128.** The Recommendation included a recommendation that the Heritage Council may wish to consider exercising its powers under section 49(1)(c)(i) of the Act to refer the recommendation to Kingston for consideration for an amendment to the Kingston Planning Scheme to include the Place in the Heritage Overlay.
- 0129.** In the GJM Statement, Mr Gard'ner submitted that instead of exercising its powers under section 49(1)(c), the Heritage Council should instead determine in

accordance with section 49(1)(ii) of the Act that the boat ramps, slipways and bluestone riverbank walls along the relevant Mordialloc Creek edge be included in the Victorian Heritage Inventory. Mr Gard'ner noted that this approach would not include the buildings in Area A, which in his view are not worthy for inclusion in a Heritage Overlay in any event.

### *Discussion and conclusion*

- 0130.** Having regard to the Committee's discussion of the Criteria in the preceding paragraphs, the Committee considers that there is sufficient evidence that the Place (inclusive of Areas A, B and C) has cultural heritage significance at a local level to justify the Heritage Council referring the Recommendation and submissions to Kingston for consideration for an amendment to the Kingston Planning Scheme, pursuant to section 49(1)(c)(i) of the Act
- 0131.** In the Committee's view, this approach is more appropriate than that recommended by Mr Gard'ner of including selected sites within the Victorian Heritage Inventory.

### **CONCLUSION**

- 0132.** The Committee finds that Pompei's Marine Boat Works and Landing at 557-561 Main Street and nearby lands adjoining Mordialloc Creek, Mordialloc does not reach the threshold for State-level significance in relation to any of the Heritage Council's criteria for inclusion in the Register and refers the Recommendation and submissions to Kingston City Council for consideration for an amendment to the Kingston Planning Scheme.

## 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.