



Heritage Council Registrations and Reviews Committee

Mount Ophir Winery (H0334)

168 Stillards Lane, Rutherglen, Indigo Shire

Members – Prof Andrew May (Chair), Ms Joanne Guard and Mr Rueben Berg

DETERMINATION OF THE HERITAGE COUNCIL

Amendment of the Victorian Heritage Register – After considering the Executive Director's recommendation and all submissions received in relation to that recommendation, the Heritage Council has determined, pursuant to sections 49(1)(d) and 62 of the *Heritage Act 2017*, to amend the entry in the Victorian Heritage Register for Mount Ophir Winery (H0334) located at 168 Stillards Lane, Rutherglen.

Andrew May (Chair)
Joanne Guard
Rueben Berg

Decision Date – 18 October 2019

ACKNOWLEDGEMENT

As a peak Heritage body, the Heritage Council is proud to Yorta Yorta People as the original custodians of the land and waters of the place being considered and to acknowledge the importance and significance of Aboriginal cultural heritage in Victoria. We honour Elders past and present whose knowledge and wisdom has ensured the continuation of culture and traditional practices.

HEARING PARTICIPANTS

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

A hearing submission was received from the Executive Director.

MS ELIZA BROWN

A submission was initially received from Ms Eliza Brown, Chief Executive Officer and Director of Mount Ophir Estate, pursuant to section 44 of the *Heritage Act 2017*, objecting to the Executive Director's recommendation to amend the registration of Mount Ophir Winery. Subsequently, Ms Brown formally withdrew that section 44 submission, stating that she no longer wished to request a hearing.

INTRODUCTION/BACKGROUND

THE PLACE

01. On 14 March 2019, the Executive Director made a recommendation ('the Recommendation') to the Heritage Council ('the Council') pursuant to section 37(1)(a) of the *Heritage Act 2017* ('the Act') that the Victorian Heritage Register ('the Register') entry for Mount Ophir Winery located at 168 Stillards Lane, Rutherglen ('the 'Place') should be amended.
02. The following background to the Place is included on page 5 of the Recommendation:

“WHAT IS AT THE PLACE?

Mount Ophir Winery is a vineyard and winery complex located near Rutherglen in north-west Victoria. The complex is dominated by a substantial red brick winery building (1891–1903) that sits on a ridgeline and is a highly visible feature of the landscape. Built in stages, the winery building is of distinctive design with a cylindrical tower and picturesque curved gables. The interior contains early fermentation vats and associated infrastructure. A distillery (c. 1900), also of red brick, lies immediately to the north. Timber stables (c. 1900) lie to the south-west of the winery building. Spaced around the site are a series of cottages built to house winery employees and a larger bungalow (c. 1900) constructed to accommodate the winery owners on their visits to the property. The main access is via a driveway from the west which affords views up to the winery building. A dam and established trees are landscape features but little of the formal grounds or garden remains. Mount Ophir Winery currently has a small area of vineyards planted in the 1990s and now operates as accommodation and an event venue.

WHAT IS THE HISTORY OF THE PLACE?

Land was purchased for a winery on the site in the late 1880s and the first winery building was constructed in 1891. The property was then purchased by P.B Burgoyne & Co. Ltd – prominent London-based wine agents and merchants – in 1893 and under their ownership the business became a significant operation in the production of wine for export, largely to Britain. New additions including the tower, designed by architect Arthur MacKnight in a more elaborate style, were added to the original winery building. The new building was completed by 1903 and officially opened in 1904. At its peak, the winery crushed grapes from extensive vines on site and from local growers and became a significant producer of wine for export. The winery remained in the Burgoyne family until 1955 when it was sold and the vines removed for grazing land. More recently, the buildings have been used for accommodation.

WHO ARE THE TRADITIONAL OWNERS/REGISTERED ABORIGINAL PARTY(IES) FOR THIS PLACE?

This place is part of the traditional land of the Yorta Yorta people. The Yorta Yorta Nation Aboriginal Corporation is the Registered Aboriginal Party.”

- 03.** The above information, taken from the Recommendation, is not endorsed by the Council and is provided for information purposes only.

NOMINATION

- 04.** On 18 February 2019, the Executive Director accepted a nomination to amend the Place in the Register.

RECOMMENDATION OF THE EXECUTIVE DIRECTOR

- 05.** On 14 March 2019, the Executive Director recommended, under section 37(1)(a) of the Act, that the registration of the Place be amended.

PROCESS FOLLOWING THE RECOMMENDATION OF THE EXECUTIVE DIRECTOR

- 06.** Notice of the Recommendation was published on 22 March 2019 in accordance with section 41 of the Act for a period of 60 days.
- 07.** One (1) submission was received pursuant to section 44 of the Act, from Ms Brown on Behalf of Mount Ophir Estate Winery. The submission objected to the Recommendation and requested that a hearing be held ('the section 44 submission'). In accordance with section 46(2)(a) of the Act, a hearing was required to be held.
- 08.** A Heritage Council Registrations and Reviews Committee ('the Committee') was constituted to consider the Recommendation and submissions received in response to it, and to make a determination. The Committee invited further written submissions and a hearing was scheduled for 17 September 2019 ('the hearing').

PRELIMINARY, PROCEDURAL AND OTHER MATTERS

REQUEST FOR ADJOURNMENT

- 09.** On 2 July 2019 the Council received a request for adjournment from Ms Brown. Ms Brown asked for an adjournment of 8 weeks in order to obtain the assistance of experts in preparing her submission.
- 010.** The Executive Director did not object to this adjournment request, and the hearing was subsequently adjourned to 24 September 2019

WITHDRAWAL OF SECTION 44 SUBMISSION

- 011.** On 27 August 2019 the Council received a written notification from Ms Brown advising that she no longer wished to participate in a hearing and that she wished to formally withdraw the section 44 submission ('the notice of withdrawal').
- 012.** Pursuant to Heritage Council Protocol 1 ('Protocol 1'), which governs the conduct of the Council's registrations hearings, the withdrawal of a submission which had caused a hearing may result in the hearing not being held. In that case, Protocol 1 states that the Council will make a decision on the Executive Director's recommendation after a consideration of any written submissions received.
- 013.** All parties were subsequently advised that the hearing was cancelled.

HEARING 'ON THE PAPERS'

- 014.** Having received the notice of withdrawal, the Committee, in consultation with all hearing participants and pursuant to Protocol 1, decided to determine the matter

after a consideration of the Recommendation and the written submission received from the Executive Director.

CONFLICTS OF INTEREST

- 015.** The Chair and the Committee members have considered matters that may potentially give rise to an actual or apprehended conflict of interest. The Chair and Committee members are satisfied that there are no relevant conflicts of interests to declare.

FUTURE USE, MAINTENANCE AND DEVELOPMENT OF THE PLACE

- 016.** It is not the role of the Committee to consider future 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

SUMMARY OF ISSUES

- 017.** The Executive Director recommended that the entry for the Place in the Register be amended to include additional land; update the Statement of Cultural Heritage Significance; include a permit policy and exemptions; and, record that the Place is included in the Register for its architectural and historical significance to the State of Victoria.
- 018.** The Executive Director's Hearing Submission responded to the (subsequently withdrawn) section 44 submission and submitted that the Place should be amended in the Register for the reasons outlined in the Recommendation.

Discussion and conclusion

- 019.** The Committee agrees with the Recommendation and with the Executive Director's Hearing Submission that the Place should be amended in the Register by including additional land and by including permit exemptions.
- 020.** Whereas the Recommendation recommends that the Statement of Cultural Heritage Significance and Permit Policy for the Place be updated or amended, the Committee is of the view that it is neither necessary nor appropriate for it to either approve or amend those aspects of the Place's registration.
- 021.** The Committee determines to amend the Register otherwise in accordance with the Recommendation, as detailed by the Executive Director in the Recommendation.

CONCLUSION

- 022.** After considering the Executive Director's Recommendation and all submissions received, the Heritage Council has determined, pursuant to sections 49(1)(d) and 62 of the *Heritage Act 2017*, to amend the extent of registration and permit exemptions for the entry in the Victorian Heritage Register for Mount Ophir Winery (H0334) located at 168 Stillards Lane, Rutherglen, by including additional land and by adding permit exemptions, confirming and endorsing without change those aspects of 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.