



Heritage Council Registrations and Reviews Committee

Esme Johnston House

38 Grosvenor Street, Brighton, Bayside City Council

Hearing – 4 March 2020

Members – Mr Lindsay Merritt (Chair), Dr Christine Phillips, Ms Maggi Solly

DETERMINATION OF THE HERITAGE COUNCIL

Not to include the place in the Victorian Heritage Register but refer for consideration for an amendment to a planning scheme – After considering the Executive Director’s recommendation, all submissions, and conducting a hearing into the matter, the Heritage Council has determined, pursuant to section 49(1)(c)(i) of the *Heritage Act 2017*, that the Esme Johnston House located at 38 Grosvenor Street, Brighton is not of State-level cultural heritage significance and is not to be included in the Heritage Register and refers the Recommendation and all submissions to Bayside City Council for consideration for an amendment to the Bayside Planning Scheme.

Lindsay Merritt (Chair)

Christine Phillips

Maggi Solly

Decision Date – 14 May 2020

Decision summary

The Heritage Council provides a decision summary if the Registration and Reviews Committee is of the view that there are points of interest in the decision which should be identified. The summary does not form part of the decision or reasons for decision.

The Executive Director, Heritage Victoria recommended to the Heritage Council of Victoria that the Esme Johnston House located at 38 Grosvenor Street, Brighton (the Place) not be included in the Victorian Heritage Register (the Register). The Place was designed and built by actress, writer and radio announcer, Esme Johnston between 1928 and 1930 in the Tudor Revival expression. It is a three-storey dwelling comprising a tall but otherwise simple volume distinguished by an unusually steeply-pitched roof creating tall gables at either end.

Three submissions were received in response to public notice of the Recommendation, each objecting to it and supporting the inclusion of the Place in the Register. The Heritage Council appointed a committee (the Committee) to hold a public hearing, at which participants presented differing views as to whether the Place should be included in the Register.

The Committee has found that the Place is not of cultural heritage significance to the State of Victoria and should not be included in the Register but has referred the Recommendation and all submissions received to Bayside City Council for consideration for an amendment to the Bayside Planning Scheme.

At the public hearing, participants supporting the inclusion of the Place in the Register submitted that the Place is historically significant for an association with the emergence of women in the design and building professions, and that there is an under-representation of registered places designed and built solely by a female designer, particularly one without formal training.

The Committee found that, while the Place may have an association with the emergence of women in the architecture and design professions, this association is not evident in the physical fabric of the Place. Further, the Committee found that whether a designer is trained or untrained is not a relevant consideration for inclusion in the Register and that places and objects must be individually assessed on their merits, not only to correct an actual or perceived imbalance.

Submissions were made that the Place is uncommon, by virtue of being designed by a woman in the interwar period, who was also untrained and involved in its construction. The Committee found that, while the growing contribution of women to the architecture and design professions during the interwar period is not widely known, places in Victoria with a similar association are not rare, uncommon or endangered. The Committee was also of the view that original design features which may once have been considered rare have been extensively altered over time and are no longer evident.

Lastly, in relation to submissions that the Place should be included as a unique and idiosyncratic example of a Tudor Revival dwelling, the Committee found that idiosyncratic features remaining at the Place do not encompass characteristics of a higher quality or more historical relevance than a typical example of the class. The Committee was also of the view that the inclusion of the Place in the Register as a vernacular example of a

Tudor Revival dwelling designed by a woman would be a stretch of the parameters of State-level cultural heritage significance.

As recommended by the Executive Director, the Committee has determined to refer the recommendation and all submissions received to Bayside City Council for consideration for an amendment to the Heritage Overlay of the Bayside Planning Scheme.

This decision acknowledges that understanding the role of female designers in the interwar period is difficult and, given the largely hidden position of women in our society at that time, notes the importance of even scant documentary records, including as in this case the designer's own records.

The decision also acknowledges that the work undertaken by Johnston in designing and building the Place would have required great initiative and enterprise. However, in this instance, it has been found that the Place is not of cultural heritage significance to the State of Victoria and is not be included in the Register.

ACKNOWLEDGEMENT

As a peak heritage body, the Heritage Council is proud to acknowledge the Traditional Owners, the Kulin Nation, as the original custodians of the land and waters on which we meet, 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.

APPEARANCES / HEARING SUBMISSIONS

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

Submissions were received from the Executive Director, Heritage Victoria ('the Executive Director'). Ms Nicola Stairmand, Acting Principal – Heritage Assessments, and Mr John Statham, Senior Associate, Lovell Chen Pty Ltd, appeared on behalf of the Executive Director. Mr Geoffrey Austin, Manager – Heritage Register, was also present and available to take questions.

MR FRANK POTHITOS AND MS IRENE STROGYLAKIS ('THE OWNERS')

Submissions in support of the Executive Director's recommendation were received from Rigby Cooke Lawyers on behalf of the owners of 38 Grosvenor Street, Brighton, Mr Frank Pothitos and Ms Irene Strogylakis (together 'the Owners'). Mr Barnaby Chessell of Counsel appeared and made verbal submissions at the hearing on behalf of the Owners, instructed by Ms Gemma Robinson of Rigby Cooke Lawyers, who was also present.

The Owners' submissions included a statement of expert witness evidence from Mr Jim Gard'ner of GJM Heritage Pty Ltd. Mr Gard'ner was called to give evidence and was available to be cross-examined.

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 Felicity Watson, Executive Manager, Advocacy, appeared and made verbal submissions at the hearing on behalf of the Trust.

The Trust's submissions included a statement of expert witness evidence from Ms Helen Lardner of HLCD Pty Ltd. Ms Lardner was called to give evidence and was available to be cross-examined.

PARLOUR: WOMEN, EQUITY, ARCHITECTURE INC ('PARLOUR')

Submissions were received from Parlour: women, equity, architecture Inc ('Parlour'), objecting to the Executive Director's recommendation. Ms Justine Clark and Professor Julie Willis appeared and made verbal submissions at the hearing on behalf of Parlour.

MRS CAROLINE SHEPARD

Submissions were received from Mrs Caroline Shepard objecting to the Executive Director's recommendation. Mrs Shepard appeared and made verbal submissions at the hearing.

BAYSIDE CITY COUNCIL ('BAYSIDE')

A written submission to the hearing was received from Bayside City Council ('Bayside'). Bayside did not make verbal submissions or participate further in the hearing.

INTRODUCTION / BACKGROUND

THE PLACE

- 01.** On 9 August 2019, the Executive Director made a recommendation ('the Recommendation') to the Heritage Council pursuant to section 37(1)(b) of the *Heritage Act 2017* ('the Act') that the Esme Johnston House, located at 38 Grosvenor Street, Brighton ('the Place') should not be included in the Victorian Heritage Register ('the Register'). The Executive Director also recommended that the Heritage Council may wish to exercise its powers pursuant to section 49(1)(c) of the Act to refer the recommendation to the Bayside City Council for consideration for an amendment to the Heritage Overlay of the Bayside Planning Scheme.
- 02.** The Place is described on page 4 of the Recommendation as follows:

'The Esme Johnston House is a three-storey dwelling situated towards the rear of a rectangular block at 38 Grosvenor Street, Brighton. The dwelling comprises a tall but otherwise simple, volume distinguished by an unusually steeply-pitched roof creating tall gables to either end. The dwelling adopts a, broadly, Tudor Revival expression with half-timbering to external walls. The front garden largely comprises lawn, with specimen planting around the edges. Rock walls line the driveway with a front brick fence. A number of outbuildings are located in the rear yard. An original flagstone paving treatment to a rear service area partially survives.'
- 03.** The following historical summary is taken from page 4 of the Recommendation:

'Actress, writer and radio announcer, Esme Johnston designed the dwelling at 38 Grosvenor Street in 1928. From its design and approval in 1929 to its completion in 1930, Johnston appears to have acted as project manager for the works, procuring materials, engaging and supervising the various builders and tradesmen while undertaking some of the work herself. The house was sold by Johnston in c. 1939 and has remained a private dwelling in various ownerships since that time.'
- 04.** The above description and history summary have been taken from the Recommendation and are provided for information purposes only.

NOMINATIONS

- 05.** On 23 May 2019, the Executive Director accepted a nomination that the Place be included in the Register ('the first nomination').
- 06.** On 7 June 2019, the Executive Director accepted a second nomination that the Place be included in the Register ('the second nomination').
- 07.** The extent of both nominations included all of the Place within the title boundaries of Lot 1 on TP48542Q.

RECOMMENDATION OF THE EXECUTIVE DIRECTOR

- 08.** On 9 August 2019, the Executive Director recommended to the Heritage Council that the Place not be included in the Register pursuant to section 37(1)(b) of the Act and that the Heritage Council may wish to exercise its powers pursuant to

section 49(1)(c) of the Act to refer the Recommendation to Bayside City Council for consideration for an amendment to the Heritage Overlay of the Bayside Planning Scheme.

PROCESS FOLLOWING THE RECOMMENDATION OF THE EXECUTIVE DIRECTOR

- 09.** After the Recommendation, notice was published on 16 August 2019 pursuant to section 41 of the Act for a period of 60 days.
- 010.** During the advertisement period, three (3) submissions were received pursuant to section 44 of the Act. The submissions, received from the Trust, Parlour and Mrs Shepard, all objected to the Recommendation. Of the submissions received, two (2) requested a hearing before the Heritage Council.
- 011.** In accordance with section 46(2)(a) of the Act, a hearing was required to be held.
- 012.** The Heritage Council Registrations and Reviews Committee ('the Committee') was constituted to consider the Recommendation and all submissions received in response to it, and to make a determination. The Committee invited further written submissions and a hearing was scheduled for 11 December 2019 ('the hearing').

PRELIMINARY, PROCEDURAL AND OTHER MATTERS

ADJOURNMENT

- 013.** On 16 October 2019, the Committee received a request from the Trust to adjourn the hearing due to the unavailability of their expert witness. After seeking the views of all other interested parties, the Committee ruled that the matter should be adjourned, and an adjourned hearing was then scheduled and conducted on 4 March 2020.

SITE INSPECTION

- 014.** On 21 February 2020, the Committee undertook a site inspection of the Place accompanied by the Heritage Council Project Officer. Access to the Place was facilitated by the Owners. No submissions were sought, made or received at the time of the site inspection.

CONFLICTS OF INTEREST

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

PARTICIPATION OF MR STATHAM AND PROFESSOR WILLIS IN THE HEARING

- 016.** Mr John Statham of Lovell Chen Pty Ltd appeared and made verbal submissions at the hearing on behalf of the Executive Director. Ms Stairmand, also on behalf of the Executive Director, confirmed that given the urgency of the matter, Lovell Chen Pty Ltd were engaged to contribute to the Executive Director's Recommendation and hearing submissions, particularly in relation to Criterion D.
- 017.** As detailed in *Heritage Council Protocol 6 – Expert Evidence* ('Protocol 6'), representatives of the Executive Director do not act as expert witnesses in the hearing. Mr Statham was not made available for cross-examination at the hearing

and his written and verbal submissions were treated as that of a hearing participant and representative of the Executive Director, not an expert witness to the hearing.

- 018.** Submissions received from Parlour included written material in support of the inclusion of the Place in the Register from Professor Julie Willis, an expert in women in Australian architecture in the early twentieth century and member of Parlour, who also appeared and made verbal submissions at the hearing.
- 019.** The written material received from Professor Willis was not that of an expert witness to the hearing in the terms of Protocol 6. Professor Willis was not made available for cross-examination at the hearing and her written and verbal submissions were treated as that of a hearing participant, not an expert witness to the hearing.

EXPERT EVIDENCE OF MS LARDNER

- 020.** Submissions received from the Trust included the expert evidence of Ms Helen Lardner in support of the inclusion of the Place in the Register. In her expert witness statement, Ms Lardner declared that her previous involvement with the Place comprised nominating the Place for inclusion in the Register and objecting to a planning permit application to Bayside City Council.
- 021.** Under cross-examination by Mr Chessell on behalf of the Owners, Ms Lardner further detailed that she initially became aware of the Place through her father who lives in close proximity to the Place, and that her nomination of the Place for inclusion in the Register and her objection to the planning permit application were both undertaken in a personal, rather than professional capacity.
- 022.** The Committee heard further submissions from the Owners that, while Ms Lardner is undoubtedly an expert in her field, in this instance her personal involvement with the Place, particularly in objecting to the planning application to Bayside in conjunction with her father, brings into question her capacity to provide the Committee with independent expert evidence in full satisfaction of Protocol 6. Mr Chessell submitted that the evidence of Mr Gard'ner on behalf of the Owners should be given greater weight than that of Ms Lardner.

Discussion and conclusion

- 023.** The Committee notes section 1 of Protocol 6, that expert witnesses must be fair and unbiased, having an over-riding duty to the Heritage Council, rather than to the person relying on their evidence.
- 024.** The Committee agrees with the submissions of the Owners that Ms Lardner should have declared, in her statement of evidence, that her previous involvement with the Place was undertaken in a personal capacity, and in particular, noted the relationship that her father, and subsequently herself, has had over time with both the Place and the planning and heritage matters related to it.
- 025.** The Committee is of the view, however, that Ms Lardner's participation in the hearing as an expert witness, while not ideal given her personal involvement with the Place, is not in contravention of Protocol 6.
- 026.** The Committee also notes that no submissions were made or received that Ms Lardner's evidence should be dismissed.

- 027.** The Committee agrees that Ms Larder’s previous and personal involvement with the Place could have caused the perception of an unconscious bias that could affect her evidence and has therefore considered such previous involvement in terms of the weight that should be given to her evidence. However, in this instance, the Committee finds that the basis of Ms Lardner’s evidence is her professional expertise in heritage matters and finds that Ms Lardner’s evidence is sound on that basis.

NEW MATERIAL

- 028.** At the hearing, Ms Shepard requested to introduce new material not included in her hearing submission or submission in reply, including additional photographs of the Place and submissions in response to the material contained in others’ submissions in reply.
- 029.** The Committee ruled that it would not accept the new material.

SECTION 42 OBLIGATIONS OF THE OWNERS

- 030.** Some submissions received referred to alleged contraventions of section 42 of the Act by the Owners. It is not within the remit of this Committee to determine whether or not the Owners of the Place have complied with their obligations pursuant to section 42 of the Act and any such references in submissions have not been considered by the Committee in making its determination.

FUTURE USE, MAINTENANCE AND DEVELOPMENT OF THE PLACE

- 031.** It is not the role of the Committee to consider future proposals or to pre-empt any decisions relating to future processes pursuant to the Act or indeed any matters relating to *Planning and Environment Act 1987* (Vic) considerations. 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 whether it is, or is not, to be included in the Register.

PROCESS FOLLOWING THE HEARING

SUBMISSIONS IN RESPONSE TO DRAFT WITHOUT PREJUDICE PERMIT EXEMPTIONS

- 032.** At the request of the Committee, the Executive Director, in his submission in reply, provided draft without prejudice categories of works or activities for which a permit would not be required in relation to the Place (‘permit exemptions’) in the instance that the Place were to be included in the Register.
- 033.** As notified by the Committee prior to the conclusion of the public hearing on 4 March 2020, the Committee gave leave for hearing participants to provide written submissions in response to the draft without prejudice permit exemptions by 12 March 2020.
- 034.** One submission in response was received from the Owners on 12 March 2020.

ISSUES

- 035.** 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.

- 036.** Any reference to Criteria refers to the Heritage Council *Criteria for Assessment of Places of Cultural Heritage Significance* (updated by the Heritage Council on 4 April 2019) (see **Attachment 1**).
- 037.** The Committee has referred to the assessment framework and assessment 'steps' in *The Victorian Heritage Register Criteria and Threshold Guidelines* (updated by the Heritage Council on 4 April 2019) ('the Guidelines') in considering the issues before it. Any reference to assessment 'steps' or 'guidelines' refers to the Guidelines.

SUMMARY OF ISSUES

- 038.** The Executive Director recommended that the Place not be included in the Register, but to refer the Recommendation to Bayside for an amendment to the Bayside Planning Scheme. The assessment found that the Place did not satisfy any of the Criteria for State-level cultural heritage significance.
- 039.** The Owner broadly agreed with the assessment of the Executive Director, however objected to referring the Recommendation to Bayside for consideration for an amendment to the Bayside Planning Scheme.
- 040.** The Trust and Mrs Shepard submitted that the Place should be included in the Register as a place of State-level cultural heritage significance in relation to Criteria A, B and D.
- 041.** Although Parlour's submission to the Heritage Council pursuant to section 44 of the Act indicated that the Place should be included in the Register as satisfying the threshold for Criteria A and B, their written and verbal submissions to the hearing were made solely in relation to Criterion A.
- 042.** Bayside's submission to the hearing did not address State-level cultural heritage significance, however, it included an assessment of the Place conducted by Mr David Helms of David Helms Heritage Planning Pty Ltd which found the Place to be locally significant in the terms of Criteria A and E.

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

Summary of submissions and evidence

- 043.** In assessing the Place under Step 1 of the Guidelines for Criterion A, the Executive Director found that the Place has a clear association with the following phases, processes or customs in Victoria's history:
- The emergence of women in the architecture and building professions;
 - The rise of Tudor Revival and related architectural styles; and
 - The construction of designers' own homes.
- 044.** The Executive Director assessed that these three phases are of historical importance, having made a strong contribution to Victoria's development.
- 045.** When assessing the Place under Step 2 of Criterion A however, the Executive Director recommended that this criterion is not likely to be satisfied at the State level, for the reasons outlined below (paragraphs 050–051, 061 and 063).

- 046.** The submissions and evidence of the Owners broadly agreed with the Executive Director's assessment of the Place in relation to Criterion A.
- 047.** In objecting to the Recommendation, the Trust submitted that the Place meets the State-level threshold for inclusion in the Register in relation to Criterion A. It was the position of the Trust that the Place represents the aspirations of Johnston to design and build her dream home, to her specifications, on a limited budget, and to document the process to inspire others to consider doing the same.
- 048.** Parlour submitted that the Place is an important part of the record of women's role in design, architecture and building in the interwar period and should be included in the Register as one of the earliest building designs undertaken by a woman in her own right in Victoria. Parlour further submitted that women are "seriously under-represented" in the Register in terms of their historic participation in the architecture and design professions, pointing to a broader systemic bias in the Australian record.
- 049.** Mrs Shepard submitted that the Place meets the State-level threshold for inclusion in the Register in relation to Criterion A for its contribution to the recognition of women and their important role in helping to shape Victoria's built form, particularly during the interwar period.

The emergence of women in the architecture and design professions

- 050.** The Executive Director's assessment was that during the interwar years, formal female representation in the design professions increased, with women training and practising as architects, designers and landscapers at the time. It was the position of the Executive Director that Johnston differs from such designers, however, having been untrained in these areas and not involved in any further architectural projects after the completion of the Place.
- 051.** The Executive Director assessed that while Johnston's own writings allow this historical phase to be understood in relation to the Place, the numerous design works of other female architects and designers, including Stott, Ingpen, Harvie and Walling were better publicised, more widely acknowledged and are more readily understood than most other similar places in Victoria, including Johnston's single design.
- 052.** In providing evidence on behalf of the Owners, it was the view of Mr Gard'ner that the Place should be assessed in association with the historical phase of the changing role of women in society in the aftermath of World War I. Mr Gard'ner argued that, as Johnston was not a trained architect or designer, to assess the Place solely in conjunction with women in architecture and design, as assessed by the Executive Director and the Trust, is to disregard the broader historical context in which the Place is positioned.
- 053.** Subsequently, Mr Gard'ner gave evidence that while this association is evident at the Place, numerous places and objects throughout Victoria maintain a stronger and clearer association with this historical phase than the Place. It was the view of Mr Gard'ner that the Place does not allow this association to be understood better than most other places in Victoria with substantially the same association.
- 054.** The Trust disagreed with the evidence of Mr Gard'ner that the Place should be assessed in association with the historical phase of the changing role of women in society in the aftermath of World War I.

- 055.** The Trust submitted that there is currently an under-representation of female designers in the Register, with only two places attributed to female designers alone, and no places designed by an untrained female designer, or one who was involved in all aspects of design and construction.
- 056.** In giving evidence on behalf of the Trust, it was the position of Ms Lardner that the inclusion of other places designed by female architects and designers, including Stott, Ingpen, Harvie and Walling, in the Register should not preclude consideration of the Place as one which allows the clear association of the emergence of women in architecture and design to be better understood than most other places in Victoria.
- 057.** It was the view of Ms Lardner that evidence for Johnston's long career with the leading housing-related architectural magazine of the time, *Australian Home Beautiful*, as well as the influence Johnston had in disseminating information and encouraging others, especially women, to design and build houses, clearly allows the association of the Place to the emergence of women in the architecture and design professions to be understood better than most other places in Victoria designed by a female designer.
- 058.** In response to the submissions and evidence of the Trust, the Executive Director submitted that as all of the documentary resources demonstrating the association of the Place to the emergence of women in the architecture and design professions were either written by Johnston herself, or draw on Johnston's own writings following the completion of the Place, such evidence should not be used in assessing the cultural heritage significance of the Place. It was the view of the Executive Director that for State-level significance to be ascertained, a range of documentary resources should evidence the association of the place, rather than those solely written by the architect or designer of the Place.
- 059.** In verbal submissions at the hearing, Parlour submitted that given the position of women in the interwar period, evidence for women's practice in the architecture and design professions is difficult to find and as such, any evidence, even that of Johnston's own writings, should be used in assessing the cultural heritage significance of the Place.
- 060.** In response to the evidence and submissions of the Trust, Parlour and Mrs Shepard, the Executive Director submitted that the representation, or under-representation, of women in the Register, is not relevant to the consideration of whether or not the Place meets the Criteria. Each place must be assessed against the Criteria on its merits and not simply included in the Register to fill any perceived gaps.

The rise of Tudor Revival and related architectural styles

- 061.** The Executive Director found that a very large number of free-standing homes in various English Revival styles exist in the suburbs of Melbourne and that the Place does not allow this phase to be better understood than most other places in Victoria with substantially the same association.
- 062.** The submissions and evidence of the Owners and the Trust agreed with the Executive Director's assessment of the Place in relation to this historical phase.

The construction of designers' own homes

- 063.** In relation to the construction of designers' own homes, the Executive Director's assessment found that Victoria has a long history of architects designing

residences for their own use, often constructed to demonstrate skill and talent to potential clients. The Executive Director assessed however that Johnston was a minor figure in Victoria in the interwar period and the construction of the Place was not intended to bring substance to a philosophical standpoint or further Johnston's own position, or that of women more broadly, in the architecture and design professions.

- 064.** Ms Lardner, in providing evidence on behalf of the Trust, stated that she agreed with the Executive Director's assessment of the Place in relation to the construction of designers' own homes.

Discussion and conclusion

- 065.** The Committee agrees that the Place has a clear association with the below phases of historical importance, having made a strong contribution to Victoria's development:
- The emergence of women in the architecture and building professions;
 - The rise of Tudor Revival and related architectural styles; and
 - The construction of designers' own homes.
- 066.** The Committee disagrees with the evidence of Mr Gard'ner that the Place should be assessed in association with the changing role of women in society in the aftermath of World War I. The Committee is of the view that such an association is too broad to appropriately assess the cultural heritage significance of the Place against Criterion A.
- 067.** The Committee also disagrees with the Executive Director's view that Johnston's own written work in relation to the Place cannot be used as evidence for the association of the Place to the emergence of women in the architecture and design professions. The Committee agrees with the submissions of Parlour that given the largely hidden position of women in the interwar period, any documentary evidence for the association of the Place to this historical phase is important in assessing its cultural heritage significance including, as in this case, the designer's own records.
- 068.** The Committee notes that it has not taken Johnston's position, specifically, as an *untrained* architect and designer into consideration for the assessment of the Place in relation to this criterion. It is the view of the Committee that this criterion does not require a place to have been designed by a trained professional to have made a strong contribution to the events, phases, or customs identified in the assessment of the Place.
- 069.** The Committee is of the view, however, that while the Place may have an association with the emergence of women in the architecture and design professions, this association is not evident in the physical fabric of the Place. In the absence of a larger body of design work undertaken by Johnston throughout her career, the Committee finds that the Place does not allow this phase to be better understood than most other places with substantially the same association.
- 070.** The Committee also agrees with the Executive Director that the cultural heritage significance of all places and objects must be individually assessed on their merits and should not be included in the Register to correct an imbalance, perceived or otherwise.
- 071.** In relation to the rise of Tudor Revival and the construction of designer's own homes, the Committee agrees with the Executive Director that in the absence of

a larger body of work and in conjunction with the changes that have occurred to the physical fabric of the Place, the Place does not allow these phases, processes or customs to be better understood than most other places in Victoria with substantially the same association.

- 072.** Although the Committee acknowledges that the work undertaken by Johnston in relation to the Place would have required great initiative and enterprise, 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

- 073.** In assessing the Place under Step 1 of Criterion B, the Executive Director assessed that the Place is an uncommon building which illustrates:
- The emergence of women in the architecture and building professions; and
 - The Tudor Revival expression in Victoria
- 074.** The Executive Director recommended that Criterion B is not likely to be satisfied at the State level, for the reasons outlined below (paragraphs 078–079 and 084–085).
- 075.** The submissions and evidence of the Owners agreed with the assessment of the Executive Director.
- 076.** It was the position of the Trust, supported in evidence by Ms Lardner, that the Place represents uncommon aspects of Victoria’s cultural history as one of the few places in Victoria designed by a woman in the post-war era, and more unusually, an untrained female designer who actively engaged in and documented the construction of the Place.
- 077.** Mrs Shepard agreed with the submission of the Trust.

The emergence of women in the architecture and design professions

- 078.** The Executive Director found that although Johnston was not formally trained in architecture, she nonetheless performed the role of a traditional architect in designing the Place. The Executive Director assessed that while the growing contribution of women to the architecture and design professions during the interwar period is not widely known, numerous women were training and practising in these fields at the time.
- 079.** The Executive Director detailed that there are currently two examples of places listed in the Register solely designed by a woman. However, it was the position of the Executive Director that this class of place is not one which is rare, uncommon or endangered within Victoria.
- 080.** In giving evidence on behalf of the Trust, Ms Lardner found that there were very few women in the architecture and design professions in the interwar period who practised independently, rather than as an employee in an established firm. Furthermore, it was the position of Ms Lardner that Johnston’s experience in both designing and “getting her hands dirty” in constructing the Place was rare of female architects and designers in the interwar period.

- 081.** Ms Lardner also gave evidence, and it was the submission of the Trust and Mrs Shepard, that the rareness of the Place is confirmed by there being only two other places solely designed by women currently listed in the Register.
- 082.** In response to the submissions and evidence of the Trust, the Executive Director submitted that rarity in relation to Criterion B is not measured against how many similar places are already in the Register, but against all similar extant places in Victoria, irrespective of heritage listing.
- 083.** While the Executive Director accepted Ms Lardner's position that the Place was rare as a Tudor Revival building designed by an untrained female designer in the interwar period, it was the opinion of the Executive Director that this classification relies on too many qualifiers for inclusion in the Register in relation to this Criterion.

The Tudor Revival expression in Victoria

- 084.** The Executive Director found that although the Place adopts an unusual Tudor Revival style and an unorthodox form, arising from a singular approach by an untrained designer, the Place is not one of a small number of buildings remaining, with Tudor Revival buildings surviving in large numbers throughout suburban Melbourne.
- 085.** Of the Place itself, the Executive Director found that apart from the steeply pitched, timber-shingled roof, the design features of the Place were typical of Tudor Revival expression, rather than extraordinary, and the unusual design of the roof was not widely replicated.
- 086.** In giving verbal evidence on behalf of the Trust, it was the position of Ms Lardner that the Place, as a Tudor Revival building, is both rare and uncommon because of its authentic and idiosyncratic design, which stands out with its steep roof and chimney and floorplan designed by a woman for a woman. Ms Lardner further stated that while the Place has a lot in common with other examples of the time, it is noticeably different as a one-off, highly individual design which fits neatly into the arts and crafts movement as an idiosyncratic, "home-made house".

Discussion and conclusion

- 087.** The Committee disagrees with the submissions and evidence of the Trust that the Place should be assessed in relation to this criterion as a Tudor Revival building designed by an untrained female designer in the interwar period, that reasoning being reliant on too many qualifiers. The Committee notes that it is the consistent position of the Heritage Council that the use of multiple qualifiers in this way to assess classes of place and their rarity should be avoided.
- 088.** The Committee agrees with the Executive Director that while the growing contribution of women to the architecture and design professions during the interwar period is not widely known, the class itself is not rare, uncommon or endangered. The Committee also agrees that the rarity of a place cannot be ascertained simply by totaling the number of similar places currently included in the Register but must be assessed in relation to all extant similar places in the State.
- 089.** In relation to Tudor Revival expression in Victoria, the Committee agrees that the Place clearly demonstrates the class, and that several original design features, including the steeply pitched shingled roof and the original floorplan of the house, are rare or uncommon. The Committee is of the view however that such features

have been extensively altered and are no longer clearly evident at the Place for the purposes of this Criterion.

090. 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

091. The Executive Director’s assessment of the Place in relation to Criterion C found that there are no known elements within the physical fabric of the Place, or in the documentary evidence relating to the Place, that are likely to yield information that would contribute to an understanding of Victoria’s cultural history.

092. The Executive Director recommended that Criterion C is not likely to be satisfied.

093. No participants to the hearing advanced submissions that the Place should be considered for inclusion in relation to this Criterion.

Discussion and conclusion

094. The Committee agrees with the assessment of the Executive Director that the Place does not have the potential to yield information that will contribute to an understanding of Victoria’s cultural history.

095. 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

096. The Executive Director, in assessing the Place under step 1 of Criterion D, found that the Place is one of a class of place that has a clear association with the development of Tudor Revival expression in Victoria. The Executive Director found that the principal characteristics of this class of place are evident in the physical fabric of the Place.

097. In assessing the Place under step 2 of Criterion D, the Executive Director assessed that while the Place demonstrates a number of characteristics typical of the class of Tudor Revival dwellings, such characteristics are arranged in an unorthodox way that does not allow them to be easily understood or appreciated.

098. The Executive Director found that the replacement of the original timber roof shingles with “modern glazed tiles” is particularly notable when assessing the Place in relation to this Criterion. The later addition of flat terracotta tiles, the Executive Director assessed, produced an outcome that more typical of other Tudor Revival dwellings, yet the original design of the Place, as constructed, was not representative of Tudor Revival design in Victoria.

099. The Executive Director further found that the Place was not influential, nor were characteristics of its design, technology or materials copied in subsequent Tudor Revival dwellings. Consequently, the Executive Director assessed that the Place is not a pivotal example of this class of place and does not encapsulate a key evolutionary stage in the development of Tudor Revival dwellings in Victoria.

- 0100.** The Executive Director recommended that Criterion D is not likely to be satisfied at the State level.
- 0101.** The submissions of the Owners agreed with the Recommendation, reiterating that the Place cannot be considered a notable, fine, influential or pivotal example of Tudor Revival expression. In verbal submissions at the hearing, it was the view of the Owners that the emergence of women in the architecture and design professions should not be considered in relation to this Criterion.
- 0102.** In providing evidence on behalf of the Owners, Mr Gardner found that the Place is a typical, rather than a notable example of its type and reflects Johnston's position as an untrained designer in its unconventional floorplan and dominant pitched roof that gives the place an idiosyncratic appearance.
- 0103.** While giving evidence at the hearing, Mr Gardner was asked to comment on how the Place, from the perspective of being a single piece of work from an untrained female designer might be understood in relation to this Criterion. It was the view of Mr Gardner that while female designers of the interwar period rarely have more than a small body of work to their names, assessment in relation to this Criterion must consider the quality of the work. Mr Gardner gave evidence that, in this instance, the Place lacks the architectural resolution and sophistication seen in the places already listed in the Register in relation to this class.
- 0104.** In objecting to the Recommendation, the Trust submitted that the Place meets the State level threshold for inclusion in the Register in relation to Criterion D as an idiosyncratic and unique example of a Tudor Revival dwelling.
- 0105.** In providing evidence on behalf of the Trust, it was the view of Ms Lardner that the Place should be included in the Register in relation to Criterion D as a "one-off", unique and idiosyncratic example of a Tudor Revival dwelling, which emulates an Elizabethan design.
- 0106.** It was Ms Lardner's position that the Place, with its unique design, is set apart from other Tudor Revival examples of the time, which were, at the time of the construction of the Place, primarily built for the broader public, rather than as one-off and unique designs. Ms Lardner also questioned whether the Place can reasonably be compared to other examples of the mode from the interwar period, particularly those designed by male architects such as Annear and Alsop and commissioned by affluent clients in Melbourne's inner suburbs.
- 0107.** Ms Lardner gave evidence that the Place should be included in the Register in relation to this Criterion as a "different kind" of notable and fine example of the class, being both a personal and female representation of the class which seeks to emulate an authentic Elizabethan design, rather than attempting to conform to the relevant architectural style.
- 0108.** When questioned further by the Committee at the hearing, it was Ms Lardner's view that the class of Tudor Revival should not only include examples such as those from Annear or Alsop but should also include places within the class that are "exceptional", or which represent the class in a different way.

Discussion and conclusion

- 0109.** The Committee accepts the Executive Director's assessment that the Place is one of a class of place that has a clear association with the development of Tudor Revival expression in Victoria and that the principal characteristics of this class of place are evident in the physical fabric of the Place.

- 0110.** The Committee agrees with the evidence of Ms Lardner that a place, generally speaking, may be included in the Register in relation to this Criterion and within the class of Tudor Revival expression in Victoria without being a commissioned piece of architecture.
- 0111.** The Committee, however, disagrees with Ms Lardner that the Place is a notable and fine example of this class of place, as a unique and idiosyncratic example of Tudor Revival expression. The Committee is of the view that Ms Lardner's position, that the Place meets the threshold for State-level cultural heritage significance in relation to Criterion D as a vernacular and female approach to a Tudor Revival dwelling, in this instance, stretches the parameters of State-level cultural heritage significance too far to accommodate the Place.
- 0112.** The Committee notes that elements of the Place, including the original floorplan, may have represented an alternate, and perhaps female, approach to the class, however, changes to the internal planning of the Place over time have compromised such characteristics.
- 0113.** Lastly, the Committee notes that it agrees with Ms Lardner's view that it is difficult to compare the Place to other Tudor Revival dwellings from the interwar period, particularly those designed by male architects such as Annear and Alsop and commissioned by affluent clients in Melbourne's inner suburbs. However, the Committee is of the view that the idiosyncratic features that remain evident at the Place today do not encompass characteristics that are of a higher quality or historical relevance than a typical example of this class.
- 0114.** 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

- 0115.** In assessing the Place under step 1 of Criterion E, the Executive Director found that the Place is a conspicuous example of an interwar residential building, which exhibits a number of particular aesthetic characteristics, including the prominent gabled front, the half-timbering and a tall chimney that are derived from the well-established nineteenth century approach to the relevant architectural style.
- 0116.** However, in assessing the Place under step 2 of Criterion E for State-level cultural heritage significance, the Executive Director found that while unusual and idiosyncratic, the Place has not been widely noted as a "design of exceptional merit or aesthetic force". The Executive Director further noted that the replacement of the original timber shingles with glazed tiles has substantially altered the original aesthetic character of the building.
- 0117.** The Executive Director recommended that Criterion E is not likely to be satisfied at the State level.
- 0118.** The Owners and the Trust agreed with the assessment of the Executive Director.
- 0119.** As previously discussed, the submission of Bayside included a cultural heritage assessment of the Place which found it to be locally significant in relation to Criterion E for its distinctive form, materials and detailing, and picturesque qualities, making it a local landmark. No evidence was provided to indicate the Place is significant at the State level in relation to Criterion E.

Discussion and conclusion

0120. The Committee agrees with the Executive Director's assessment of the Place in relation to Criterion E.

0121. 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

0122. The Executive Director, in assessing the Place in relation to Criterion F noted that the Place is of the Tudor Revival style which was well-established in Victoria at the time of the construction of the Place. The Executive Director found that the Place made no substantial contribution to the way buildings of this style, or residential buildings more generally, were constructed, nor did the Place reinvigorate the style.

0123. The Executive Director further assessed that where the design of the Place deviates from Tudor Revival orthodoxy, particularly in the unusually steeply pitched roof and use of timber shingles, such devices were unsuccessfully executed.

0124. The Executive Director recommended that Criterion F is not likely to be satisfied at the State level.

0125. No participants to the hearing advanced submissions that the Place should be considered for inclusion in relation to this Criterion.

Discussion and conclusion

0126. The Committee agrees with the Executive Director's assessment of the Place in relation to Criterion F.

0127. 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.

Summary of submissions and evidence

0128. The Executive Director found, in assessing the Place in relation to Criterion G, that there is no evidence that a community or cultural group with particular associations with the Place.

0129. The Executive Director recommended that Criterion G is not likely to be satisfied that the State level.

0130. No submissions or evidence were made or received that the Place should be included in the Register in relation to Criterion G.

Discussion and conclusion

0131. The Committee agrees with the Executive Director's assessment of the Place in relation to Criterion G.

0132. 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

0133. In assessing the Place in relation to Criterion H, the Executive Director noted that the Place has a direct association with Esme Johnston and indirectly with Edna Walling. The Executive Director assessed that while Johnston was a minor personality in the interwar period through her journalism, acting and radio work, she was by no means a household name and cannot be considered to have made a strong or influential contribution to the course of Victoria’s history.

0134. Following this, the Executive Director assessed that while Walling is a significant figure in Victoria’s history in the field of landscape design and associated architecture, her friendship with Johnston occurred after the construction of the Place and there is no evidence of Walling having influenced the design of the Place.

0135. The Executive Director Recommended that Criterion H is not likely to be satisfied at the State level.

0136. No participants to the hearing advanced submissions that the Place should be considered for inclusion in relation to this Criterion.

Discussion and conclusion

0137. The Committee agrees with the assessment of the Executive Director in relation to Criterion H.

0138. The Committee finds that Criterion H is not satisfied at the State level.

SECTION 49(1)(c)(i) REFERRAL TO BAYSIDE

Summary of submissions and evidence

0139. In recommending the Place not be included in the Register, the Executive Director also recommended that, in the event that the Heritage Council determine not to include the place in the Register, it may wish to consider exercising its powers pursuant to section 49(1)(c)(i) of the Act to refer the recommendation to Bayside for consideration for an amendment to the Heritage Overlay of the Bayside Planning Scheme.

0140. Bayside’s submission to the hearing outlined the recent process taken to assess the potential local level significance of the Place and apply controls under the Heritage Overlay of the Bayside Planning Scheme. Bayside further noted that an interim heritage control for the Place was gazetted on 21 November 2019 and remains in place until 30 October 2020.

0141. In response to the Recommendation of the Executive Director, the Owners submitted that any referral to Bayside in relation to the Place would be unnecessary given the interim heritage controls that currently apply to the Place and that Bayside is pursuing permanent heritage controls over the Place.

Discussion and conclusion

- 0142.** The Committee disagrees with the Owners that referring the Executive Director's Recommendation and submissions to Bayside in respect of the Place is unnecessary.
- 0143.** The Committee notes that it is not within its remit to determine whether or not the Place is of local-level cultural heritage significance. However, the Committee is of the view that, in this instance, given the current lack of permanent heritage controls for the Place in the Bayside Planning Scheme and the pending lapse of the interim heritage control in October 2020, it is appropriate for the Recommendation to be referred to Bayside.
- 0144.** The Committee therefore determines to refer the Executive Director's Recommendation and all submissions received to Bayside for consideration for an amendment to the Heritage Overlay of the Bayside Planning Scheme.

CONCLUSION

- 0145.** After considering the Executive Director's recommendation, all submissions, and conducting a hearing into the matter, the Heritage Council has determined, pursuant to section 49(1)(c)(i) of the Heritage Act 2017, that the Esme Johnston House located at 38 Grosvenor Street, Brighton is not of State-level cultural heritage significance and is not to be included in the Heritage Register and refers the Recommendation and all submissions to Bayside City Council for consideration for an amendment to the Bayside 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.
CRITERION H	Special association with the life or works of a person, or group of persons, of importance in Victoria's history.

Updated by the Heritage Council at its meeting on 4 April 2019.