

Statement of recommendation from the Executive Director, Heritage Victoria to the Heritage Council of Victoria

Name: Former Residence
Address: 802 Sturt Street, Ballarat
Local Government Authority: Ballarat City Council



Former Residence, 802 Sturt Street (February 2020)

Executive Director recommendation

I recommend to the Heritage Council of Victoria that the existing registration of VHR H0529, the Former Residence (802 Sturt Street, Ballarat) in the Victorian Heritage Register (VHR) be amended under section 62 of the *Heritage Act 2017* ('the Act').

STEVEN AVERY
Executive Director, Heritage Victoria
DATE OF RECOMMENDATION: 11 January 2021

Statement of recommendation from the Executive Director, Heritage Victoria to the Heritage Council of Victoria

Heritage Council determination

The Executive Director, Heritage Victoria ('Executive Director') recommends that the Heritage Council amends the existing registration of VHR H0529, the Former Residence, 802 Sturt Street in the VHR by:

- Including additional land
- Determining categories of works or activities which may be carried out in relation to the place for which a permit is not required (permit exemptions).

The process from here

1. The Heritage Council publishes the Executive Director's recommendation (section 41).

The Heritage Council will publish the Executive Director's recommendation on its website for a period of 60 days. Submissions must be received by Heritage Council **on or before 15 March 2021**.

2. Making a submission to the Heritage Council (sections 44 and 45)

Within the 60 day publication period, any person or body with a real and substantial interest in the place or object can make a submission to the Heritage Council. This submission can support the recommendation, or object to the recommendation and a hearing can be requested in relation to the submission. Information about making a submission and submission forms are available on the Heritage Council's website:

<https://heritagecouncil.vic.gov.au/registrations-reviews/executive-director-recommendations/>

3. Heritage Council determination (sections 46 and 49)

The Heritage Council is an independent statutory body. It is responsible for making the final determination to include or not include the place or object in the VHR, or amend a place or object already in the VHR.

If no submissions are received the Heritage Council must make a determination within 40 days of the publication closing date.

If submissions are received, the Heritage Council may decide to hold a hearing in relation to the submission. If a hearing does take place, the Heritage Council must make a determination within 90 days after the completion of the hearing.

4. Obligations of owners of places and objects (sections 42 and 43)

The owner of a place or object which is the subject of a recommendation to the Heritage Council has certain obligations under the Act. These relate to advising the Executive Director in writing of any works or activities that are being carried out, proposed or planned for the place.

The owner also has an obligation to provide a copy of this statement of recommendation to any potential purchasers of the place or object before entering into a contract.

5. Further information

The relevant sections of the Act are provided at Appendix 1.

Statement of recommendation from the Executive Director, Heritage Victoria to the Heritage Council of Victoria

Description

The following is a description of the Former Residence (802 Sturt Street, Ballarat) at the time of the site inspection by Heritage Victoria in February 2020.

The Former Residence (802 Sturt Street, Ballarat) is a two-storey building constructed of red brick with rendered dressings and a slate roof on a bluestone plinth. The corner of the building is marked by a projecting oriel turret, which features lancet windows and a steep conical roof terminated by a sunflower finial. The Sturt Street façade of the building is composed of two castellated bays with lancet windows to the ground floor and sash windows to the first floor. The Errard Street entrance is defined by a lancet doorway. Heraldic enrichments are notable features of both the Sturt Street and Errard Street elevations.



2020, corner of Sturt and Errard Streets



2020, Errard Street entrance

Reasons for registration in 1982

The State level historic and architectural cultural heritage significance of the Former Residence (802 Sturt Street, Ballarat) was recognised in 1982 by its inclusion in the Register of Historic Buildings (VHR H0529). The place is a notable example of the work of architects George William Clegg and Charles N. Gilbert and is significant for its distinct combination of architectural elements.

Amendment application made on 2020

On 27 August 2020 the Executive Director made and accepted an application to amend the registration of the Former Residence (802 Sturt Street, Ballarat) (VHR H0529) by including additional land and permit exemptions. to ensure that they are consistent with current practices under the Act.



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Amendment recommendation reasons

The Executive Director recommends that the Heritage Council amend this registration as per section 62 of the Act as in accordance with section 32(1) he considers that—

- a) the State-level cultural heritage significance of the place would be substantially less if the land or any part of the proposed land for inclusion in the Register was developed;
- b) the proposed land for inclusion in the Register is important to the protection or conservation of the place or contributes to the understanding of the place.

Traditional Owner Information

The Former Residence (802 Sturt Street, Ballarat) is located on the traditional land of the Wathaurung people. Under the *Aboriginal Heritage Act 2006*, the Registered Aboriginal Party for this land is the Wathaurung Aboriginal Corporation.

Victorian Aboriginal Heritage Register

The Former Residence (802 Sturt Street, Ballarat) is not included in the Victorian Aboriginal Heritage Register and is not within an area of cultural heritage sensitivity.

Change of heritage category

No change of category.

Change of name

No change of name.

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Statutory requirements under section 40.

Terms of the recommendation (section 40 (3)(a))

The Executive Director recommends that the registration of the Former Residence (802 Sturt Street, Ballarat) in the VHR is amended.

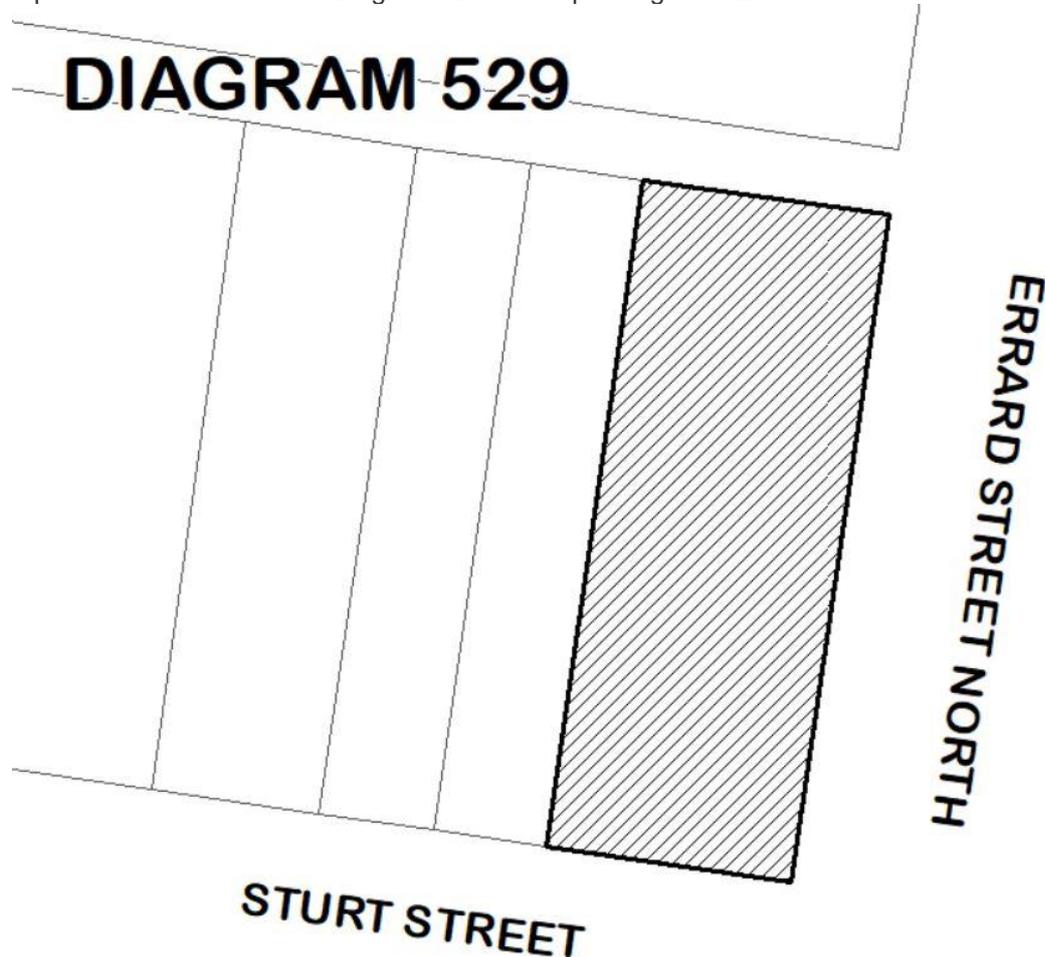
Information to identify the place or object (section 40(3)(b))

Name: Former Residence (802 Sturt Street, Ballarat)

Address: 802 Sturt Street

Proposed extent of registration

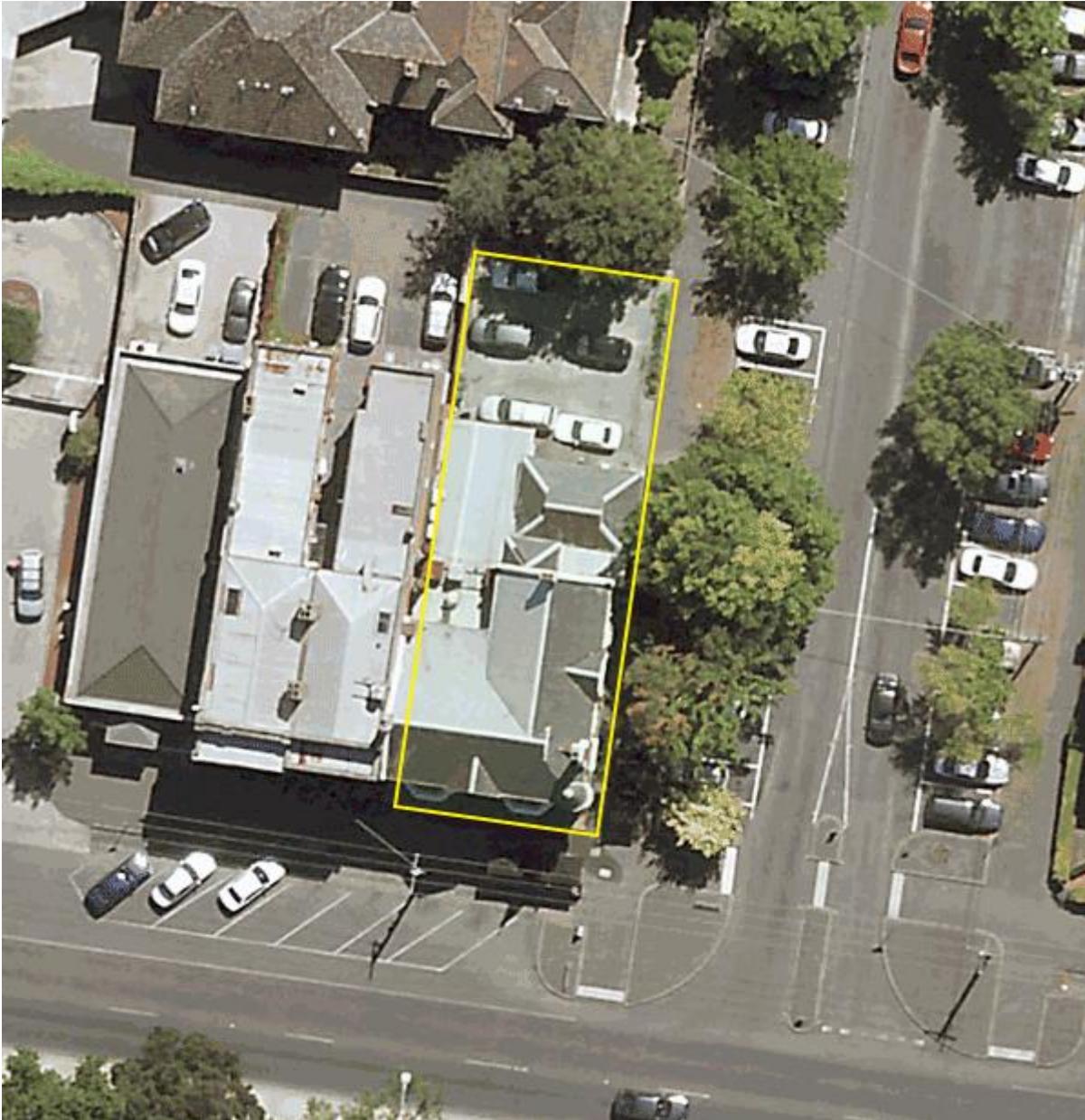
All of the place shown hatched on Diagram 529 encompassing all of Lot 1 on Title Plan 917401.



The extent of registration of the Former Residence (802 Sturt Street, Ballarat) in the VHR affects the whole place shown on Diagram 529 including the land, all buildings (including the exteriors and interiors) and other features.

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Aerial photo showing recommended extent



Rationale for extent

The recommended extent of registration comprises the Former Residence (802 Sturt Street, Ballarat) (interior and exterior) and the land comprising the cadastral block. The proposed extent is sufficient for the protection and conservation of the place. If the land or any part of the proposed land for inclusion were developed, the cultural heritage significance of the place would be lessened.



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Statement of significance

Revised Statement of Significance

What is significant?

The Former Residence (802 Sturt Street, Ballarat), a two-storey red brick and cement render building (interiors and exteriors) on a bluestone plinth, with castellated bays and lancet windows to the ground floor, and a projecting oriel turret.

How is it significant?

The Former Residence (802 Sturt Street, Ballarat), designed by architects George William Clegg and Charles N Gilbert and constructed in 1894-5, is of historical and architectural significance to the State of Victoria. It satisfies the following criterion for inclusion in the Victorian Heritage Register:

Criterion A

Importance to the course, or pattern, of Victoria's cultural history.

Criterion D

Importance in demonstrating the principal characteristics of a class of cultural places and objects

Why is it significant?

The Former Residence (802 Sturt Street, Ballarat) was constructed in 1894-5 and is historically significant for its association with the eminent Ballarat architects George William Clegg and Charles N Gilbert. Both architects are known to have designed other buildings in Victoria in the eclectic style exhibited in the Former Residence (802 Sturt Street, Ballarat). [Criterion A]

The Former Residence (802 Sturt Street, Ballarat) is architecturally significant for its distinct combination of decorative elements, historically derived from the principal stylistic modes of medieval Europe. Its design is a combination of the English Queen Anne domestic revival with an eclectic but well-resolved array of Gothic and Tudor elements, including castellated bays, lancet windows and a projecting oriel turret. [Criterion D]

Categories of works or activities (permit exemptions) recommended under section 38 (section 40(4)(b))

Introduction

The purpose of this information is to assist owners and other interested parties when considering or making decisions regarding works to a registered place. It is recommended that any proposed works be discussed with an officer of Heritage Victoria prior to making a permit application. Discussing proposed works will assist in answering questions the owner may have and aid any decisions regarding works to the place.

It is acknowledged that alterations and other works may be required to keep places and objects in good repair and adapt them for use into the future. However, under the Act, a person must not knowingly, recklessly or negligently remove, relocate or demolish, damage or despoil, develop or alter or excavate all or any part of any part of a registered place without approval. It should be noted that the definition of 'develop' in the Act includes any works on, over or under the place.

If a person wishes to undertake works or activities in relation to a registered place or registered object, they must apply to the Executive Director for a permit. The purpose of a permit is to enable appropriate change to a place and to effectively manage adverse impacts on the cultural heritage significance of a place as a consequence of change. If an owner is uncertain whether a heritage permit is required, it is recommended that Heritage Victoria be contacted.

Permits are required for anything which alters the place or object, unless a permit exemption is granted. Permit exemptions usually cover routine maintenance and upkeep issues faced by owners as well as minor works or works to the elements of the place or object that are not significant. They may include appropriate works that are specified in a conservation management plan. Permit exemptions can be granted at the time of registration (under section 38 of the Act) or after registration (under section 92 of the Act). It should be noted that the addition of new buildings to the registered place, as well as alterations to the interior and exterior of existing buildings requires a permit, unless a specific permit exemption is granted.

Disrepair of registered place or registered object

Under section 152 of the Act, the owner of a registered place or registered object must not allow that place or object to fall into disrepair.

Failure to maintain registered place or registered object

Under section 153 of the Act, the owner of a registered place or registered object must not fail to maintain that place or object to the extent that its conservation is threatened.

Conservation management plans

It is recommended that a Conservation Management Plan is developed to manage the place in a manner which respects its cultural heritage significance.

Aboriginal cultural heritage

If works are proposed which have the potential to disturb or have an impact on Aboriginal cultural heritage it is necessary to contact Aboriginal Victoria to ascertain any requirements under the *Aboriginal Heritage Act 2006*. If any Aboriginal cultural heritage is discovered or exposed at any time it is necessary to immediately contact Aboriginal Victoria to ascertain requirements under the *Aboriginal Heritage Act 2006*.

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Other approvals

Please be aware that approval from other authorities (such as local government) may be required to undertake works.

Archaeology

There is no identified archaeology of state level significance at the place.

Notes

- All works should ideally be informed by a Conservation Management Plan prepared for the place. The Executive Director is not bound by any Conservation Management Plan, and permits still must be obtained for works suggested in any Conservation Management Plan.
- Nothing in this determination prevents the Heritage Council from amending or rescinding all or any of the permit exemptions.
- Nothing in this determination exempts owners or their agents from the responsibility to seek relevant planning or building permits where applicable.

General Conditions

- All exempted alterations are to be planned and carried out in a manner which prevents damage to the fabric of the registered place.
- Should it become apparent during further inspection or the carrying out of works that original or previously hidden or inaccessible details of the place are revealed which relate to the significance of the place, then the exemption covering such works must cease and Heritage Victoria must be notified as soon as possible.

Specific Permit Exemptions

The following categories of works or activities (permit exemptions) do not require a permit from Heritage Victoria. They are considered not to cause harm to the cultural heritage significance of the place.

General

- Minor repairs and maintenance which replaces like with like. Repairs and maintenance must maximise protection and retention of fabric and include the conservation of existing details or elements. Any repairs and maintenance must not exacerbate the decay of fabric due to chemical incompatibility of new materials, obscure fabric or limit access to such fabric for future maintenance.
- Maintenance, repair and replacement of existing external services such as plumbing, electrical cabling, surveillance systems, pipes or fire services which does not involve changes in location or scale, or additional trenching.
- Repair to, or removal of items such as antennae; aerials; and air conditioners and associated pipe work, ducting and wiring.
- Works or activities, including emergency stabilisation, necessary to secure safety in an emergency where a structure or part of a structure has been irreparably damaged or destabilised and poses a safety risk to its users or the public. The Executive Director must be notified within seven days of the commencement of these works or activities.
- Painting of previously painted external and internal surfaces in the same colour, finish and product type provided that preparation or painting does not remove all evidence of earlier paint finishes or schemes. This exemption does not apply to areas where there are specialist paint techniques such as graining, marbling, stencilling, hand-painting, murals or signwriting, or to wallpapered surfaces, or to unpainted, oiled or varnished surfaces.
- Cleaning of external surfaces including the removal of surface deposits by the use of low-pressure water (to maximum of 300 psi at the surface being cleaned) and neutral detergents and mild brushing and scrubbing with plastic not wire brushes.

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Specific permit exemptions

Permit exemptions for interiors

Ground floor areas

- All works to maintain and upgrade the existing commercial kitchen and existing food and beverage preparation areas including the ground floor bar, cool room, pantry and storage rooms (this does not include the main food service area). These works include:
 - All maintenance, retrofit and modification works necessary for food and beverage preparation and to meet food and safety regulations.
 - Removal, replacement, maintenance or installation of appliances and other equipment necessary for the operation of the commercial kitchen and to meet food and safety regulations.
- All works to maintain or upgrade existing bathrooms and laundries, including installing new appliances, re-tiling and the like.
- Painting of previously painted internal surfaces. This exemption does not apply to areas where there are specialist paint techniques such as graining, marbling, stencilling, hand-painting, murals or signwriting, or to unpainted, oiled or varnished surfaces.
- Removal and replacement of existing wallpaper in the café service area.
- Installation, removal or replacement of carpets and/or flexible floor coverings, window furnishings and devices for mounting wall hung artworks.
- Installation, maintenance and replacement of light fixtures, tracks and the like.
- Installation, removal or replacement of existing electrical wiring.
- Removal or replacement of smoke and fire detectors, alarms and the like.
- Repair, removal or replacement of existing ducted, hydronic or concealed radiant type heating provided that the central plant is concealed, and that the work is done in a manner which does not alter building fabric.
- Installation of plant within the roof space, providing that it does not impact on the external appearance of the building or involve structural changes.
- Installation, removal or replacement of bulk insulation in the roof space.

Note: Interior works should be carried out in a manner that does not alter the external appearance of the building.

1 Errard Street (ground floor entrance, stairwell and first floor areas)

- All permit exemptions listed as above.

Outdoor areas

- Repair and maintenance of existing hard landscaping including paving, driveways and carparks.
- The installation and/or erection of temporary elements in the carpark associated with outdoor dining, provided they are not attached to buildings or other structures. This includes temporary structures such as shelters, marquees, tents and outdoor seating.

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Appendix 1

Heritage Council determination (section 41)

The Heritage Council is an independent statutory body that will make a determination on this recommendation under section 49 of the Act. It will consider the recommendation after a period of 60 days from the date the notice of recommendation is published on its website under section 41.

Making a submission to the Heritage Council (section 44)

Within the period of 60 days, any person or body with a real and substantial interest in the place or object may make a submission to the Heritage Council regarding the recommendation and request a hearing in relation to that submission. Information about making a submission and submission forms are available on the Heritage Council's website.

Consideration of submissions to the Heritage Council (section 46)

- (1) The Heritage Council must consider—
 - (a) any written submission made to it under section 44; and
 - (b) any further information provided to the Heritage Council in response to a request under section 45.
- (2) The Heritage Council must conduct a hearing in relation to a submission if—
 - (a) the submission includes a request for a hearing before the Heritage Council; and
 - (b) the submission is made by a person or body with a real or substantial interest in the place or object that is the subject of the submission.
- (3) Despite subsection (2), the Heritage Council may conduct a hearing in relation to a submission in any other circumstances the Heritage Council considers appropriate.

Determinations of the Heritage Council (section 49)

- (1) After considering a recommendation that a place or object should or should not be included in the Heritage Register, or should be amended in the Heritage Register, and any submissions in respect of the recommendation and conducting any hearing into the submissions, the Heritage Council may—
 - (a) determine that the place or part of the place, or object, is of State-level cultural heritage significance and is to be included in the Heritage Register; or
 - (b) determine that the place or part of the place, or object, is not of State-level cultural heritage significance and is not to be included in the Heritage Register; or
 - (c) in the case of a recommendation in respect of a place, determine that the place is not to be included in the Heritage Register but—
 - (i) refer the recommendation and any submissions to the relevant planning authority for consideration for an amendment to a planning scheme; or
 - (ii) determine that it is more appropriate for steps to be taken under the Planning and Environment Act 1987 or by any other means to protect or conserve the place; or
 - (d) in the case of a recommendation in respect of additional land which has been nominated to be included in the Heritage Register as part of a registered place in accordance with section 32, determine that the land be included in the Heritage Register if—

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- (i) the State-level cultural heritage significance of the place would be substantially less if the land or any part of the land which is or has been used in conjunction with the place were developed; or
 - (ii) the land surrounding the place is important to the protection or conservation of the place or contributes to the understanding of the place; or
 - (e) determine that the object is integral to understanding the cultural heritage significance of a registered place or a place the Heritage Council has determined to be included in the Heritage Register.
- (2) The Heritage Council must make a determination under subsection (1)—
- (a) within 40 days after the date on which written submissions may be made under section 44; or
 - (b) if any hearing is conducted into the written submissions, within 90 days after the completion of the hearing.
- (3) A determination that a place or part of a place, or object, should be included in the Heritage Register may include categories of works or activities which may be carried out in relation to the place or object for which a permit under this Act is not required, if the Heritage Council considers that the works or activities would not harm the cultural heritage significance of the place or object.
- (4) If the Heritage Council determines to include a place in the Heritage Register, with the consent of the owner of the place, the Heritage Council may determine to include in the Heritage Register additional land of the owner that is ancillary to the place.
- (5) If a member of the Heritage Council makes a submission under section 44 in respect of a recommendation, the member must not take part in the consideration or determination of the Heritage Council.
- (6) The Heritage Council must notify the Executive Director of any determination under this section as soon as practicable after the determination.

Obligations of owners of places and objects (section 42)

- (1) The owner of a place or object to whom a statement of recommendation has been given must advise the Executive Director in writing of—
- (a) any works or activities that are being carried out in relation to the place or object at the time the statement is given; and
 - (b) any application for a planning permit or a building permit, or for an amendment to that permit, that has been made in relation to the place but not determined at the time the statement is given; and
 - (c) any works or activities that are proposed to be carried out in relation to the place or object at the time the statement is given.
- (2) An advice under subsection (1) must be given within 10 days after the statement of recommendation is given under section 40.
- (3) The owner of a place to whom a statement of recommendation has been given must advise the Executive Director in writing of an application, permit or amendment if, before a determination under section 49 or 52 in respect of a place—
- (a) an application for a planning permit or a building permit or for an amendment to that permit in relation to the place is made; or
 - (b) a planning permit or building permit or an amendment to that permit in relation to the place is granted.
- (4) An advice under subsection (3) must be given within 10 days after the making of the application or the grant of the permit or amendment.
- (5) The owner of a place or object to whom a statement of recommendation has been given must advise the Executive Director in writing of the following activities or proposals if, before a determination is made under section 49 or 52 in respect of a place or object—
- (a) any activities are carried out in relation to the place or object that could harm the place or object;



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- (b) any activities are proposed to be carried out in relation to the place or object that could harm the place or object.
- (6) An advice under subsection (5) must be given within 10 days after the owner becomes aware of the activity or the proposal, as the case requires.
- (7) If, before a determination is made under section 49 or 52 in respect of a place or object, a proposal is made to dispose of the whole or any part of the place or object, the owner of the place or object must advise the Executive Director in writing of that proposal.
- (8) An advice under subsection (7) must be given at least 10 days before entering into the contract for the disposal of the place or object.
- (9) The owner of a place or object who proposes to dispose of the whole or any part of the place or object before a determination is made under section 49 or 52 in respect of the place or object must, before entering into a contract for that disposal, give a copy of the statement of proposed contract, is to acquire the place or object or part of the place or object.

Owners of places and objects must comply with obligations (section 43)

An owner of a place or object to whom section 42 applies must comply with that section.

Penalty: In the case of a natural person, 120 penalty units;
In the case of a body corporate, 240 penalty units.

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Appendix 2: Existing registration detail

Existing Category of Registration

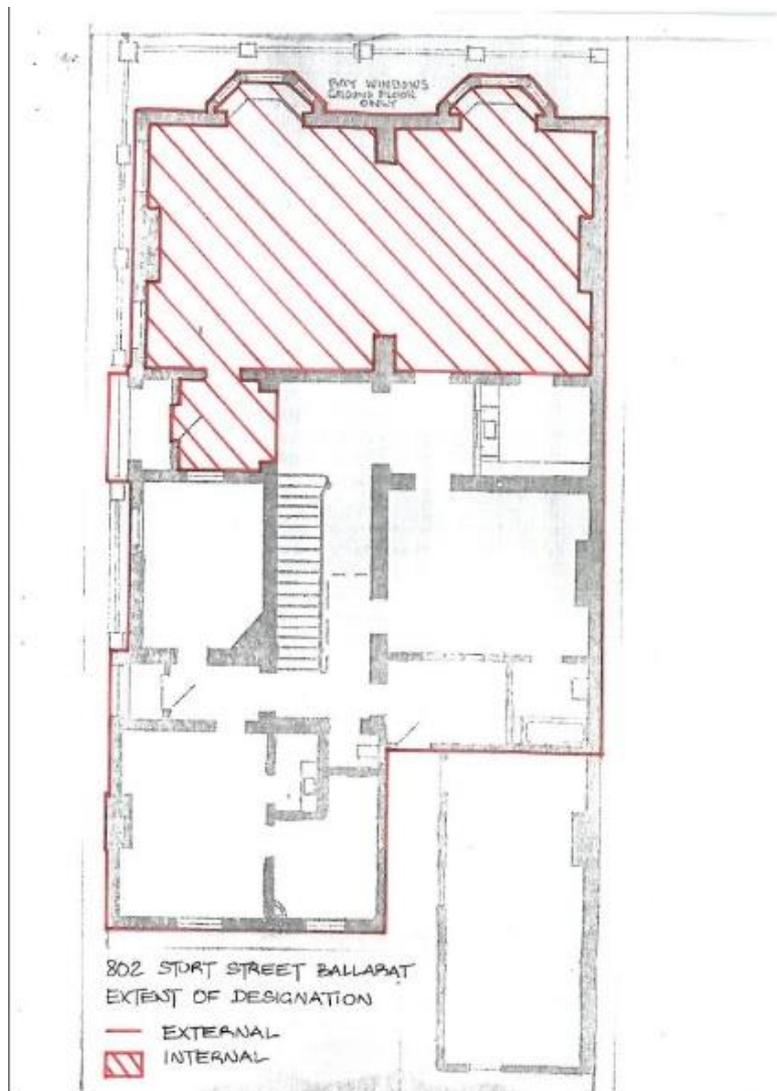
Registered place

Existing Extent of Registration

Historic Building No. 529, 802 Sturt Street, Ballarat [*Victoria Government Gazette* No. 64, 30 June 1982, p.2142]

Existing Extent Diagram

Note: This diagram does not appear to reconcile with the existing written extent as it is selective in the areas of extent it identifies.



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Existing Statement of Significance

The two storey brick and cement render building at 802 Sturt street was constructed in 1894-95 as a residence and consulting rooms for Dr. Emil Guthiel, an eye and ear doctor, and designed by the Ballarat firm of architects, Gilbert and Clegg. Guthiel remained as owner of the house until his death in 1921. Guthiel was one of a number of medical practitioners who lived in the area surrounding the corner of Sturt and Errard Streets, presumably because of the proximity to the Ballarat hospital.

George William Clegg and Charles N Gilbert were in partnership for a short period only but both practised alone and in various partnerships in Ballarat in the latter part of the 19th century and early 20th century (Gilbert between 1877-1875 and Clegg 1890-1913). Both architects are known to have designed other buildings in the eclectic manner approximating the architecture exhibited in Guthiel's house. The two-storey house is substantially intact externally and is constructed of face red brick with rendered dressings on a bluestone plinth and has a slate roof. It is a unique example of this architectural style in Ballarat being a combination of the English Queen Anne domestic revival with an eclectic but well-resolved array of gothic and Tudor elements. It occupies a corner site with the Sturt street facade being composed of two castellated bays with lancet windows on the ground floor over which are located pairs of sash windows. Between the top windows is a single sash window surmounted by a steep pediment with an enriched tympanum. The corner of the building is marked by a projecting oriel turret in the manner of the picturesque. It has lancet windows and a steep conical roof terminated by a sunflower finial. The turret and the adjacent corbelled chimney on the Errard Street facade are of great importance to the composition for the way in which they unite the two elevations.

The recessed entrance square table and heraldic enrichments are significant features. The pediment is repeated over the entrance to give continuity to the roofline of both facades. Internally the most intact areas are the lobby and the two rooms fronting Sturt Street. The lobby is divided by Tudor arches which replicate the external entrance and contains the simple timber stair which has a turned newel post and derived Jacobean lampstand. The two front rooms are joined by folding doors under a broad segmental arch with pilasters to each side. Each room has an elaborate fireplace and overmantel with relief panels of pressed leather. The doors have architraves containing panels of pressed metal decoration and entablatures composed of a pair of scrolls meeting in a Palmetto motif.

The importance of the building lies in its unusual combination of decorative elements and historically derived from the principal stylistic modes of medieval Europe. It is a distinctive example of the work of architects Gilbert and Clegg, separately distinguished in later careers and working in partnership for an extremely short period. This picturesque revival style residence is without comparison in Ballarat and rarely represented in Victoria. The importance of the villa is accentuated by the corner location in a precinct made up of substantial houses, many built for medical practitioners who were contemporaries of Dr. Guthiel. The house has notable streetscapes qualities and is a major contributor to the architectural variety to be found in Sturt Street, Ballarat.

Existing Permit Exemptions

No existing permit exemptions