

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

Name: Former John Thomas Smith Residence

Address: 296-308 Queen Street, Melbourne

Local Government Authority: Melbourne City



Former Residence, 300 Queen Street, Melbourne (December 2021)

Executive Director Recommendation

I recommend to the Heritage Council of Victoria that the existing registration of VHR H0806, Former John Thomas Smith Residence, 296-308 Queen Street, Melbourne 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: 19 January 2022



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

Executive Director Recommendation to the Heritage Council of Victoria

The Executive Director, Heritage Victoria ('Executive Director') recommends that the Heritage Council amends the existing registration of VHR H0806, Former John Thomas Smith Residence, 296-308 Queen Street, Melbourne in the VHR by:

- Amending the extent of registration by removing 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).

Site Visit Statement 2021-22

Coronavirus restrictions have impacted on the capacity of Heritage Victoria assessors to undertake site inspections.

In this instance, the assessor undertook an exterior site visit on 21 December 2021, but no interior inspection. The assessor reviewed interior photographs of the place in the Conservation Management Plan prepared by Lovell Chen in February 2021. As the place is already included in the VHR and the proposed amendment seeks to clarify the existing registration and amend the extent of land that is registered, an internal inspection was not considered essential.



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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.

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.

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Proposed Description

The Former John Thomas Smith Residence at 296-308 Queen Street, Melbourne was designed in 1848 and built between 1849 and 1852 as a residence for John Thomas Smith. The architect was Charles Laing.

The building is constructed of stuccoed brick on a bluestone base with quoined openings and a large fanlight over the main entrance. The building is setback from Queen Street behind an iron palisade fence and forecourt with slate flagstone paving. A short surviving section of nineteenth century remnant masonry walling helps demarcate the forecourt to the north and the south.

In 1858 a third storey was added to the building to designs by architect David Ross.

The building has a simple symmetrical form, hipped slate-clad roof, Georgian fenestration and austere detailing.

In 1983, a multi-storey glazed building was constructed to the east of the site at a setback from the Former Residence for the then Commonwealth Institute of Multi-Cultural Affairs (the MCA Building - not on registered land). A low-key, recessed glazed link, elevated above ground level, was constructed to connect the former residence with the new MCA building at this time.



296-308 Queen Street and adjacent car park to south
December 2021



Rear 296-308 Queen Street Commonwealth Institute of Multi-Cultural Affairs Building and connecting glazed link
December 2021

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Proposed History

The Former John Thomas Smith Residence at 296-308 Queen Street, Melbourne was designed in 1848 and built between 1849 and 1852 as a residence for John Thomas Smith. Smith was a publican, theatrical entrepreneur and later Mayor of Melbourne. The architect was Charles Laing. The former residence is constructed of stuccoed brick on a bluestone base with quoined openings and a large fanlight over the main entrance.

In 1858 a third storey and outbuildings (which no longer survive), were added to designs by architect David Ross. The building has a simple symmetrical form, hipped slate-clad roof, Georgian fenestration and austere detailing.

The land to the immediate north, east and south of the former residence was developed and extensively covered with new buildings at various times from c.1863 onwards.

With the exception of the former residence, the site was cleared in 1981 and the Commonwealth Institute of Multi-Cultural Affairs (the MCA Building) constructed to the rear of the former residence in 1983 (not on registered land). Works included major archaeological investigations to the rear of the former residence, internal alterations and conservation works to the residence. A recessed glazed link, elevated above ground level, was constructed to link the former residence with the MCA building.



Rear and south elevation of 296-308 Queen Street viewed from GPO, c.1870, Charles Nettleton, photographer. The two-storey Government pay office is to the north (right)

Source: State Library of Victoria, accession no. H84.387/10



Oblique view of the former residence prior to the extension of Guildford Lane to Queen Street with the subject residence indicated. The building is surrounded by low-rise buildings to the north, east and south.

Source: Airspy Image, c.1920-30, State Library of Victoria, accession no. H2516

Selected bibliography

Lovell Chen *300 Queen Street Application to amend the VHR Former J T Smith House, 300 Queen Street Melbourne* (February 2021)

Lovell Chen *Former J T Smith House Conservation Management Plan 300 Queen Street Melbourne* (February 2021)

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Recommendation

State-level cultural heritage significance of the place

The cultural heritage significance of the Former John Thomas Smith Residence, 296-308 Queen Street, Melbourne was recognised in 1982 by its inclusion in the Register of Government Buildings. The Register of Government Buildings did not allow for the inclusion of land. On 8 August 1990, the Former Residence was included in the Register of Historic Buildings (VHR H0806) because of its architectural and historical importance to the State of Victoria (see Appendix 3). The Former Residence was considered important as one of the few buildings dating from the pre-1850s in the central city area. The registration also included the land upon which the building was located.

Proposed heritage category

No change. The heritage category remains Registered Place.

Amendment application made February 2021

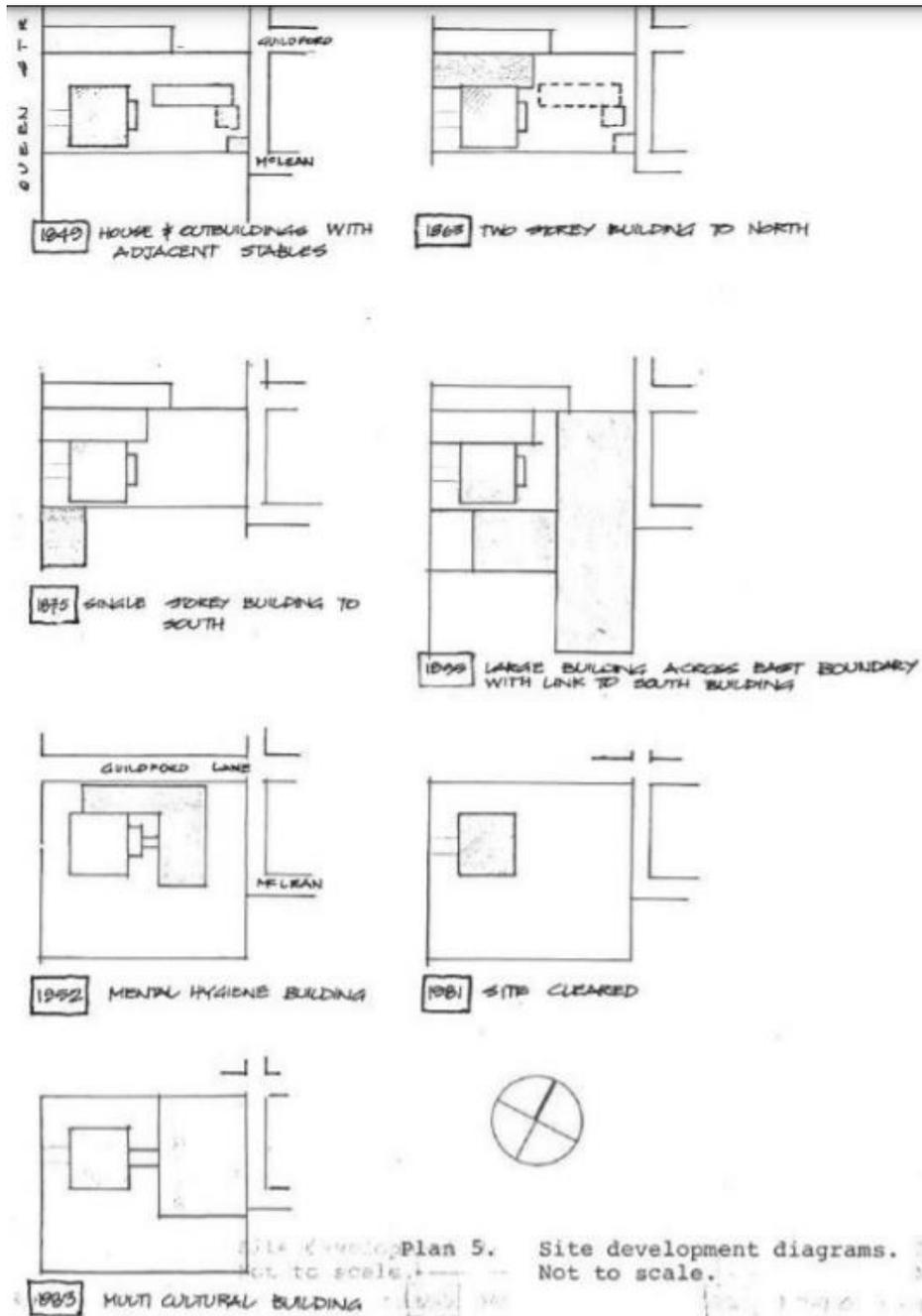
On 11 February 2021, an application was made to the Executive Director to amend the registration of the Former John Thomas Smith Residence, 296-308 Queen Street (VHR H0806). The amendment sought to:

- amend the reasons why the place is included in the VHR based on the Heritage Council criteria;
- replace the existing Statement of Significance for the place; and
- remove a car park area from the extent of registration.

In support of the application, a Conservation Management Plan was submitted with the application [Lovell Chen *Former J T Smith House Conservation Management Plan 300 Queen Street Melbourne - February 2021*].

The proposed reduction in the extent of registration was advocated on the basis that the car park land "... does not contribute to the identified significance of the heritage place." In support of this proposition, a detailed history of the site was included with photographs and historic plans depicting land development since the late 1840s. In addition, a series of 'site development diagrams' (sourced from *300 Queen Street, Archaeological Report* (Allom Lovell and Associates in association with Judy Birmingham Archaeological Consultants - June 1984) illustrating the footprint of buildings from 1849 to 1983 was provided. The site development diagrams are reproduced below. This material demonstrates that from about 1863 the subject site has been surrounded by development to the immediate north, east and south.

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Site development diagrams. Source: 300 Queen Street, Archaeological Report, Allom Lovell and Associates in association with Judy Birmingham Archaeological Consultants, June 1984, pg 20

Based upon this material, the applicant submits that no heritage values which might be affected by the existing car park site, are identified in either the VHR citation for the place or in the Conservation Management Plan.

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Amendment recommendation reasons

Amending the reasons why the place is included in the VHR and the Statement of Significance

The applicant has submitted an amended Statement of Significance prepared as part of a Conservation Management Plan for the Former Residence by Lovell Chen in February 2021.

The applicant submits that the place is significant for satisfying Criterion A (Importance of the course, or pattern of Victoria's cultural history); Criterion B (Possession of uncommon, rare or endangered aspects of Victoria's cultural history) and Criterion D (Importance in demonstrating the principal characteristics of a class of cultural places and objects).

The Executive Director notes that the proposed criteria and the amended Statement of Significance are not a major departure from the current statement of significance, nor the reasons that the former Historic Buildings Council recommended the registration of the building in 1990 (reproduced at Appendix 2 and 3). As the proposed reasons for registration are similar to those originally put forward by the Historic Buildings Council, the Executive Director has not undertaken a detailed assessment against the *The Victorian Heritage Register Criteria and Threshold Guidelines* (as endorsed by the Heritage Council of Victoria 6 December 2012 – reviewed and updated 4 April 2019).

On this basis, the Executive Director proposes to adopt the Statement of Significance submitted by the applicant with some minor variations as follows:

- Remove some descriptive and historical material from the 'What is significant?' section of the proposed Statement of Significance. This content will instead be included in the 'History' section for the registered place in the Victorian Heritage Database.
- Replace references to 'central city area' with the word 'Melbourne'.
- Under Criterion D, refer to the fact that the former residence is considered by the Executive Director to be a fine representative example of the then popular Colonial Georgian style and that this style is embodied in both the overall form of the building along with the symmetrical façade and fenestration.

Amending the extent of registration

In determining whether to include or exclude land from the VHR as part of an extent of registration the Executive Director considers not just whether the place or part of the place is of State-level cultural heritage significance, but also the tests set out at s.32(1) of the Act. The tests at s.32(1) of the Act are also mirrored at s.49(1)(d) of the Act.

Land does not need to be of State-level significance in its own right to be included in the VHR or, by extension, to be removed from the VHR. In this regard, the Executive Director notes the commentary in the explanatory memorandum for the *Heritage Act 2017* (accessible via this link: <https://www.legislation.vic.gov.au/bills/heritage-bill-2016>) which states that s.32: 'Provides that a person or body or the Executive Director may nominate for inclusion in the Heritage Register additional land as part of a registered place in certain circumstances. A similar provision appears in section 27 of the *Heritage Act 1995*. Additional land is land that is not considered to have cultural heritage significance itself, but which contributes to the protection of a registered or nominated place'.

The Executive Director recommends that the Heritage Council amend the extent of registration of the Former John Thomas Smith Residence, 296-308 Queen Street, Melbourne by removing a portion of the southern car park land, though not to the extent proposed by the applicant. The tests for adding and, by extension, removing additional land are set out at s.32(1) and s.49(1)(d) of the Act. They are whether:

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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) land surrounding the place is important to the protection or conservation of the place or contributes to the understanding of the place.

Reasons under section 49(1)(d)(i)

If land within close proximity (considered by the Executive Director to be up to five metres from the southern elevation of the Former Residence and 23.6 metres from Queen Street) were developed, depending upon the nature of the proposal, there is a high potential for development to impact upon the former building and substantially reduce the State-level cultural heritage significance of the place. Development that would impact, if not regulated through a heritage approvals process, would include:

- Building excavation work, including for building footings or for underground car parking, on land within close proximity to the south, east or north of the former residence.
- New buildings that would be in close proximity to the east, south or north of the former residence and were substantially taller or larger than the former, or which might cantilever over the building, thereby overwhelming its nineteenth-century form and scale. While it is the case that buildings have existed in close proximity to the former residence to its north, east and south from the 1860s to the 1980s, these were mostly low-rise and not more than two-storeys in height, enabling the former residence to be dominant.
- Unless a reasonable extent of land is included to the south, east and north, there would be no ability to consider the usual heritage considerations such as the siting, height, form, scale and materials of any large new building. There would also be no ability to consider the proximity and relationship of new buildings with the historic fabric of the former residence.

Reasons under section 49(1)(d)(ii)

A reasonable extent of registration to the south, east and north is also considered necessary for the protection or conservation of the place. A reasonable extent is desirable to ensure adequate access to the sides and rear of the former residence for the purposes of future maintenance and conservation (eg, for the erection of scaffolding, or access by cranes, hoists or other machinery).

A reasonable extent also enables changes in the immediate environment in terms of surface levels, paving and landscaping to be managed through an approvals process. Changes to surface levels around the building and the installation of new hard surfaces or landscaping could potentially lead to damp, cracking and/or building conservation problems.

Change of name

It is proposed to change the name from 'Former Residence' to 'Former John Thomas Smith Residence'.

This name change is proposed on the basis that it better identifies the place. It is also noted that while the place is often referred to as 300 Queen Street, Melbourne the actual property address is 296-308 Queen Street, Melbourne and the current title to the land refers to this address.

Traditional Owner Information

The Former John Thomas Smith Residence is located on the traditional land of the Wurundjeri Woi Wurrung people. Under the *Aboriginal Heritage Act 2006*, the Registered Aboriginal Party for this land is the Wurundjeri Woi Wurrung Cultural Heritage Aboriginal Corporation.



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Victorian Aboriginal Heritage Register

The Former John Thomas Smith Residence is not included in the Victorian Aboriginal Heritage Register. It is not within an area of Aboriginal cultural heritage sensitivity.

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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 Former John Thomas Smith Residence in the VHR is amended.

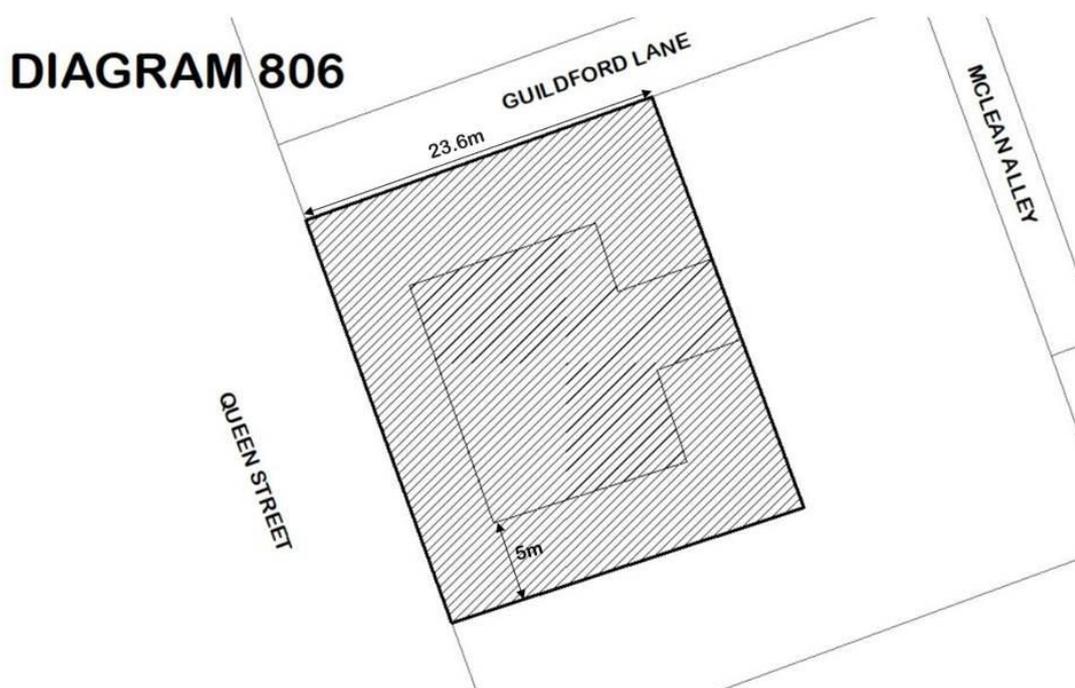
Information to identify the place or object (section 40(3)(b))

Name: Former John Thomas Smith Residence

Address: 296-308 Queen Street, Melbourne

Proposed extent of registration

All of the place shown hatched on Diagram 806 encompassing part of Allotment 19A Section 29 City of Melbourne, Parish of Melbourne North extending east 23.6 metres from the Queen Street boundary, and 5 metres from the southern elevation of the former residence.



The extent of registration of the Former John Thomas Smith Residence in the VHR affects the whole place shown on Diagram 806 including the land, all buildings (including the exteriors and interiors), and other features.

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Aerial photo showing recommended extent



The recommended extent of registration is depicted by the solid red line. The area proposed for removal from the extent of registration is depicted by the broken red line.

Note: This aerial view provides a visual representation of the place. It is not a precise representation of the recommended extent of registration. Due to distortions associated with aerial photography some elements of the place may appear as though they are inside or outside the extent of registration.

Rationale for extent

The recommended extent of registration comprises the interior and exterior of the Former John Thomas Smith Residence and the land upon which it is situated to the extent of 23.6 metres from the Queen Street boundary and 5 metres from the southern elevation of the building. This land is considered important to the protection and conservation of the former residence by providing an appropriate setting or context in which proposed development may be considered. The recommended extent of registration excludes the whole of the Commonwealth Institute of Multi-Cultural Affairs building (the MCA Building to the east of the former residence). The glazed linking building at the rear of the former residence is not considered to be of cultural heritage significance but is included within the recommended extent of registration as it falls within the setting of the former residence. The removal or alteration of the glazed connection also has the potential to impact upon the physical fabric of the former residence.

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Statement of significance

Revised Statement of Significance

What is significant?

The Former John Thomas Smith Residence at 296-308 Queen Street, Melbourne, designed in 1848 and built between 1849 and 1852 for John Thomas Smith, a publican, theatrical entrepreneur and later Mayor of Melbourne. The architect was Charles Laing. In 1858 a third storey was added to designs by architect David Ross, ahead of its occupation as government offices, including briefly as a Treasury and Gold Office.

How is it significant?

The Former John Thomas Smith Residence, Queen Street, Melbourne 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 B

Possession of uncommon, rare or endangered aspects 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 John Thomas Smith Residence, Queen Street, Melbourne is historically significant as one of the oldest surviving houses in Melbourne. It is a building in a formal Georgian style with a substantial presence on Queen Street, reflective of the standing of its owner John Thomas Smith. Although it has been modified, it still presents as a detached city residence from the early period of Melbourne's development and the building has long been recognised as an early survivor of this period. [Criterion A]

The Former John Thomas Smith Residence, Queen Street, Melbourne is of significance as a rare example of a pre-gold rush building in Melbourne and a rare survivor of a city dwelling in the Colonial Georgian architectural style. [Criterion B]

The Former John Thomas Smith Residence, Queen Street, Melbourne is significant as a fine representative example of the then popular Colonial Georgian style, designed by one of Melbourne's earliest architects, Charles Laing. The building's simple form, and symmetrical façade and fenestration are typical characteristics of the style. [Criterion D]



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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 *Heritage Act 2017* 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

A Conservation Management Plan (CMP) for the place was prepared by Lovell Chen in February 2021. It should be used to guide decision making about the place to ensure its heritage values are considered.

Archaeology

There is no identified archaeology of State-level significance at the place and the place was the subject of extensive investigations led by archaeologist Judy Birmingham in 1981. However, any works that may affect historical archaeological features, deposits or artefacts at the place is likely to require a permit, permit exemption or consent. Advice should be sought from the Archaeology Team at Heritage Victoria.



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Aboriginal cultural heritage

To establish whether this place is registered under the *Aboriginal Heritage Act 2006* please contact First Peoples – State Relations in the Department of Premier and Cabinet. The *Heritage Act 2017* and the *Aboriginal Heritage Act 2006* are separate pieces of legislation. Please be aware that both Acts are required to be satisfied and satisfying the requirements of one Act may not satisfy the requirements of the other.

If any Aboriginal cultural heritage is discovered or exposed at any time it is necessary to immediately contact First Peoples – State Relations in the Department of Premier and Cabinet to ascertain requirements under the *Aboriginal Heritage Act 2006*. If works are proposed which have the potential to disturb or have an impact on Aboriginal cultural heritage it is necessary to contact First Peoples – State Relations in the Department of Premier and Cabinet to ascertain any requirements under the *Aboriginal Heritage Act 2006*.

Other approvals

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

Notes

- All works should ideally be informed by the 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.

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Permit Exemptions

The following permit exemptions are not considered to cause harm to the cultural heritage significance of the Former John Thomas Smith Residence.

General

- Minor repairs, maintenance and localised replacement of building fabric which replaces like with like. Repairs and maintenance must maximise protection and retention of significant fabric and include the conservation of significant 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 and making good.
- 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 surfaces in the same colour provided that preparation or painting does not remove evidence of earlier paint finishes or schemes where earlier paint has not failed. This exemption does not apply to building fabric which is currently unpainted, oiled or varnished surfaces.
- Cleaning 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.

Interiors

- Works to maintain or upgrade existing bathrooms and kitchens including installing new appliances, re-tiling and the like.
- Painting of previously painted 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 stencilling, hand painting, graining or marbling, murals or signage, or to wallpapered surfaces or to unpainted, oiled or varnished surfaces.
- Installation, removal or replacement of carpets and/or flexible floor coverings, window furnishings, and devices for mounting wall hung artworks.
- Maintenance, repair and replacement of light fixtures, tracks and the like in existing locations.
- Installation, removal or replacement of existing electrical wiring. If wiring is currently exposed, it should remain exposed. If it is fully concealed it should remain fully concealed.
- Removal or replacement of light switches or power outlets.
- Removal or replacement of smoke and fire detectors, alarms and the like, of the same size and in existing locations.
- 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.



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- 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.
- Removal, replacement or updating text for signage provided the size, location and material remains the same as existing.
- All internal works or alterations to the glazed interconnecting link building to the east of the former residence.

Outdoor areas to the north, east and south of the former residence. These exemptions do not apply to the paved area of slate flagstones between the former residence and Queen Street.

- Installation, removal or replacement of watering systems or services.
- Repair and maintenance of existing hard and soft landscaping, including paving and paths, where fabric, design, size, form and method of fixing is repaired or replaced like for like.
- Maintenance, repair and replacement of seating, rubbish receptacles, drinking fountains and the like in existing locations.
- The process of gardening including mulching, replacement or removal of plants, planting of garden beds, lawn and trees, pruning, and disease and weed control.
- The removal, replacement or pruning of trees.
- Vegetation protection and management of possums and vermin.
- Removal, replacement or updating text for signage provided the size, location and material remains the same as existing.

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Appendix 1

Heritage Council of Victoria determination (section 41)

The Heritage Council of Victoria 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 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.

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

- (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;
 - (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

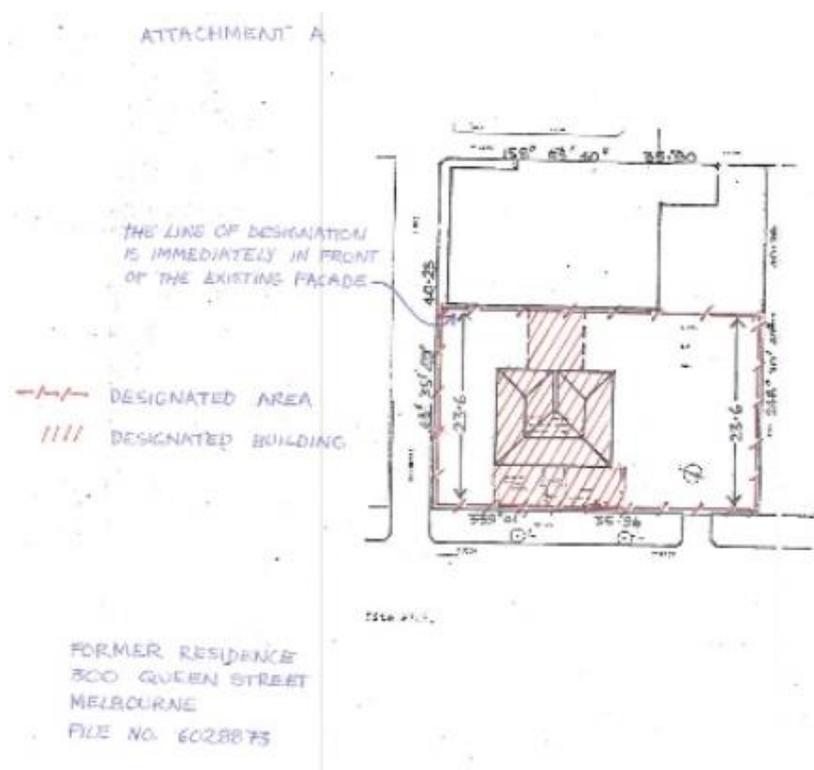
Existing Extent of Registration

Historic Building No. 806.

Former Residence, 300 Queen Street, Melbourne 3000.

(All of the buildings shown hatched and all land shown enclosed by a broken line in Attachment A, known as Crown Allotment 19A, Section 29, City of Melbourne).

[Victoria Government Gazette No. G31 8 August 1990 p.2436]



Existing Statement of Significance

What is significant?

The former residence at 300 Queen Street was designed in 1848 and built between 1849 and 1852 as a residence for J T Smith. Smith was a publican, theatrical entrepreneur and later Mayor of Melbourne. The architect was Charles Laing. 300 Queen Street is constructed of stuccoed brick on a bluestone base with quoined openings and a large fanlight over the main entrance. In 1858 a third storey and outbuildings were added to designs by architect David Ross. The building has a simple symmetrical form, hipped slate-clad roof, Georgian fenestration and austere detailing. 300 Queen Street was occupied by David Munro between 1879 and 1889. Munro was a successful railway contractor who later as a land speculator was bankrupted during the economic crash of the early 1890s.



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How is it significant?

The former residence at 300 Queen Street is of historical and architectural significance to the State of Victoria.

Why is it significant?

The former residence at 300 Queen Street is historically significant as one of the oldest surviving houses in the central city area. It is significant for its associations with J T Smith, one of the earliest settlers in Melbourne, and who subsequently was Mayor of Melbourne seven times during the 1850s and 1860s. 300 Queen Street is also significant for its associations with David Munro, one of the largest employers in the State as a successful railway contractor during the 1870s and 1880s.

The former residence at 300 Queen Street is architecturally significant as an excellent example of the survival of Georgian styling into the late 1840s and early 1850s. 300 Queen Street is a rare surviving example of the simple but elegant Georgian form. It is significant as a design by two of Melbourne's earliest architects, Charles Laing and David Ross.

Existing Permit Exemptions

No existing permit policy or exemptions.

Appendix 3: Original Historic Buildings Council Statement of Significance

Original Statement of Significance - Historic Buildings Council 1990

Former Residence, 300 Queen Street, Melbourne

The two storey Georgian townhouse now known as 300 Queens Street, was built in 1849 for John Thomas Smith. The original design is attributed to Charles Laing, and a third storey was added in 1858 to the design of David Ross. An adjoining two storey building on the northern side of the former Smith Residence was built in the early 1860s. Smith leased his house to the Government for use as a Treasury and Gold Office, and other departments including Mines and Agriculture between 1859 and 1875.

The significance of the building is derived partly from its associations with John Thomas Smith, who was a prominent early mayor of Melbourne, and member of the State Legislature between 1859 and 1879. Later associations were with David Munro, an engineering contractor involved in railway building and land deals with Thomas Bent.

The building, used as a Treasury and Gold Office at the end of the Gold Rush period, is the earliest surviving building used for this purpose in Melbourne. It was also associated with the Mines Department as the office of the Geological Survey.

The property at 300 Queen Street is of architectural and historic significance for the following reasons:

- 1) The former Smith residence is one of the very few buildings dating from the 1850s, maintaining a link with the pastoral era in the central city area, and is the largest and most intact house surviving in the central city area.
- 2) The form of the building is virtually unique in Victoria and relates more to New South Wales and Tasmanian examples.
- 3) The building contains particularly important evidence of early building technology from the two periods of the pre 1850s and late 1860s.
- 4) The setting of the building gives it added significance as a residence located within the important Queen Street public building precinct opposite the Titles Office and the Public Record Office, with proximity to the Law Courts and the former Royal Mint.