



## **Heritage Council** Regulatory Committee

### **Fairfield Park Amphitheatre Complex (H2412)**

3 Fairfield Park Drive, Fairfield, Yarra City

**Hearing** – 12 October 2021

**Members** – Prof Andrew May (Chair), Mr Adrian Finanzio SC, Dr Christine Phillips

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

**Inclusion in the Victorian Heritage Register** – After considering the Executive Director's recommendation and all submissions received, and after conducting a hearing into the matter, the Heritage Council has determined, pursuant to section 49(1)(a) of the *Heritage Act 2017*, that the Fairfield Park Amphitheatre Complex, located at 3 Fairfield Park Road, Fairfield is of State-level cultural heritage significance and is to be included in the Victorian Heritage Register.

**Andrew May (Chair)**  
**Adrian Finanzio SC**  
**Christine Phillips**

**Decision Date** – 18 January 2022

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## Decision summary

*The Heritage Council provides a decision summary if the relevant Heritage Council Regulatory 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.*

Registration hearings, conducted by the Heritage Council of Victoria (the Heritage Council) pursuant to the *Heritage Act 2017*, are public processes that allow interested people to present their views on whether or not a place or object is to be included in the Victorian Heritage Register (the Register) for cultural heritage significance to the State of Victoria.

The Executive Director, Heritage Victoria (the Executive Director) recommended to the Heritage Council that the Fairfield Park Amphitheatre, Kiosk and Pavilion (the Place) should not be included in the Register. The Place is a 460-seat amphitheatre complex, modelled on the Ancient Greek Epidavros Amphitheatre and built on a sloping site along the banks of the Yarra River in Fairfield Park.

The Executive Director assessed that the Place does not meet any of the Heritage Council's Criteria for the assessment of State-level cultural heritage significance.

Four (4) submissions were received in response to public notice of the Recommendation, three (3) of which objected to the Recommendation and supported 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.

After considering all submissions, the Committee has found that the Place is of cultural heritage significance to the State of Victoria and should be included in the Register.

At the public hearing, participants supporting the inclusion of the Place in the Register submitted that because of its historical connection with the Epidavros Summer Festival, the Place was at the forefront of Greek-Australian cultural initiatives and a model of cooperation in the development of bilingual theatre in Victoria. Submissions were also made that the Place is the only purpose-built, professionally equipped amphitheatre and outdoor performing arts venue in the State.

While the Recommendation assessed the Place in association with Victoria's arts scene, throughout the course of the hearing the importance of the Place to Victoria's migrant history was made evident. This decision finds that the cultural heritage significance of the Place derives from its historical role as an important expression of Greek identity in the immediate wake of the Federal government's policy of multiculturalism from the late 1970s. The Place demonstrates the underpinning of migrant acceptance by the broader Australian community, and a self confidence in established migrant communities in the expression of their own identity and cultural heritage in Victoria. The Place therefore is significant to the State of Victoria in representing the bi-cultural importance of Greek-Australians in the State's social, cultural, and political development. Its construction represented a significant moment in the migration continuum between the inception of Australia's programmatic immigration intake from Greece in 1947 and its decline by the end of the 1980s, by which time around 96% of Victoria's Greek community lived in Melbourne.

The Heritage Council has found that the Place is historically significant to the State of Victoria and has included the Place in the Victoria Heritage Register on this basis.

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## ACKNOWLEDGEMENT

As a peak heritage body, we acknowledge the Traditional Owners of the Country that we call Victoria, as the original custodians of Victoria's land and waters, and 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 Aboriginal culture and traditional practices.

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## APPEARANCES / HEARING SUBMISSIONS

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

Submissions were received from the Executive Director, Heritage Victoria ('the Executive Director'). Dr Marina Larsson, Senior Heritage Officer – Assessments, and Mr Geoffrey Austin, Manager – Heritage Register appeared and made verbal submissions on behalf of the Executive Director.

### STORK THEATRE

Written submissions and statements of evidence were received from the Stork Theatre, a community theatre group. The Stork Theatre was represented by Ms Cassandra Madden and Ms Helen Madden OAM, Artistic Director and Creative Producer – Stork Theatre. Ms Cassandra Madden and Ms Helen Madden appeared and made verbal submissions at the hearing on behalf of the Stork Theatre and called Mr Greg Hocking AM, Ms Diane Gardiner AM, and Dr Maggi Edmond to give expert witness evidence.

### MR TERENCE NOTT

Written submissions to the hearing were received from Mr Terence Nott who appeared and made verbal submissions at the hearing.

### YARRA CITY COUNCIL

A *Heritage Council Registration Hearing Participation Form* ('Form B') was received from Yarra City Council ('Yarra'). Mr Graham Davis, Manager Buildings and Assets, and Ms Richa Swarup, Senior Advisor – City Heritage, appeared at the hearing on behalf of Yarra and were available to answer questions.

## OTHER INTERESTED PARTIES

### SECTION 44 SUBMISSIONS

In addition to the submission received from the Stork Theatre pursuant to section 44 of the *Heritage Act 2017*, section 44 submissions were also received from the following persons who did not participate in the hearing:

- Mrs Alicia Grogan-Jones
- Mr Duncan Gibbs
- Mr Michael McLeod, Director of Architecture – Kennedy Nolan Architects Pty Ltd

## INTRODUCTION/BACKGROUND

### THE PLACE

1. On 21 April 2021, the Executive Director made a recommendation ('the Recommendation') to the Heritage Council pursuant to Part 3, Division 3 of the *Heritage Act 2017* ('the Act') that the Fairfield Park Amphitheatre, Kiosk and Pavilion, located at 3 Fairfield Park Road, Fairfield (together 'the Place') should not be included in the Victorian Heritage Register ('the Register').
2. The Place is described on page 4 of the Recommendation as follows:

#### ***'The whole place***

*The Fairfield Park Amphitheatre, Kiosk and Pavilion are located in a landscaped area of 1860m<sup>2</sup> (0.19ha) which is part of Fairfield Park. This section slopes up away from the Yarra River east to west and contains established trees, access pathways and three buildings (the amphitheatre, kiosk and pavilion) which respond to the sloping site.*

#### ***The amphitheatre***

*The amphitheatre is built from rough hewn bluestone blocks (pitchers) and sawn bluestone slab steps over a concrete base and is located approximately 25 metres west of the river. It comprises a flat circular stage ten metres in diameter from which extends eleven tiers of terraced seating in a semi-circular form. A projection booth with a brown timber hatch is set into the centre top level and has an access door to the rear pathway. Several fixed lighting trees (tall metal posts) project upwards from the outermost walls of the amphitheatre and are designed to support stage lights plugged into power grids underneath them. There is power cabling under the amphitheatre.*

#### ***The kiosk***

*Above the northwest side of the amphitheatre is a small circular bluestone kiosk featuring an octagonal conical corrugated iron roof, with an approximately 3 metre covered walkway on the north side leading to three square ticket-sale windows...*

#### ***The pavilion***

*At the south, approximately 45m from the Yarra River, is a two-storey tilt-slab precast concrete building (pavilion) set into the steepest part of the site. Three large sliding doors on the east open onto the ground level which comprises two large open workshop spaces. An internal staircase leads to the first floor which consists of two dressing rooms with toilet and shower facilities at the south part of the building, all internally linked...The rooftop of the pavilion is level with the main access pathway to Heidelberg Road. It consists of a flat concrete barbecue area (with no fixed facilities such as barbecues or seating) of approximately 145m<sup>2</sup> part of which is covered to the southern end by a four-sided symmetrical gazebo of approximately 60m<sup>2</sup>. It sits on twelve posts and has a partial corrugated-iron pyramid-form roof which is completed by a cube shaped light box (ventilation chimney) featuring 27 timber slats on each side, on top of which sits a flat roof of steel tray roof decking.'*

3. The following historical summary is taken from pages 8–10 of the Recommendation:

***‘Northcote Amphitheatre (1986)***

*In 1985 the Northcote City Council commissioned Edmond and Corrigan to design a permanent amphitheatre and building commenced. By the 1980s Peter Corrigan was well known within the theatre community having worked as a theatre, set and costume designer in this field since the 1960s. The amphitheatre working group of the Northcote City Council selected Edmond and Corrigan due to this reputation. Helen Madden recalls that Corrigan’s vision was to create a ‘professional venue which fitted into the hillside’. The working group agreed that the amphitheatre should be modelled on the Ancient Greek Epidavros Amphitheatre (late 4th century BC).*

*Maggie Edmond prepared plans for the amphitheatre using antiquarian drawings sourced from the University of Melbourne Architecture Library. It comprised eleven tiers of terraced seating in a semi-circular arrangement around a circular stage which is ten metres in diameter. The 460-seat bush amphitheatre was, in Edmonds words ‘designed to meet the park’ and fitted into the ‘natural shell’ of the landscape being sympathetic to the environment as well as providing a commanding stage for theatrical productions. During 1985 unemployed people built the theatre through a ‘work for the dole’ scheme. They were trained in stone-cutting skills and used recycled bluestone pitchers from inner city gutters and laneways.*

***The Kiosk (post-1985)***

*The conical kiosk to the northwest side of the amphitheatre was not designed by Maggie Edmond, although constructed in a complementary circular style from bluestone and concrete. It was built after the amphitheatre and functioned as a ticket sales booth and refreshments outlet. The designer and date of construction are unknown...*

***The Pavilion (c.1987-8)***

*The Pavilion designed by Paul Couch was built after the amphitheatre to support its theatrical activities. It provided performance change rooms; a theatrical set building workshop; public toilets; and a public barbeque area. It was constructed using a steel frame and a tilt slab technique (pouring concrete panels on-site then the ‘tilting’ them into their final position using a crane). Prior to construction the site was, in Couch’s words ‘a big cliff’ into which the pavilion was ‘pushed’ so that it did not intrude into its natural surroundings. The building employs a minimal palette of materials. Couch reflects that ‘if you could make it invisible, that would be the ultimate...you don’t want to spoil the park’...*

4. While the above material is not endorsed by the Heritage Council, it has been considered by the Committee in making its determination.

## RECOMMENDATION OF THE EXECUTIVE DIRECTOR

5. On 21 April 2021, the Executive Director recommended that the Place not be included in the Register pursuant to section 37(1)(b) of the Act.

## PROCESS FOLLOWING THE RECOMMENDATION OF THE EXECUTIVE DIRECTOR

6. After the Recommendation, notice was published by the Heritage Council on 23 April 2021 in accordance with section 41 of the Act for a period of 60 days.
7. During the public advertisement of the Recommendation, four (4) submissions were received pursuant to section 44 of the Act ('section 44 submissions'). Of the submissions received, three (3) submissions objected to the Recommendation and two (2) of these requested a hearing into the matter.
8. In accordance with section 46 of the Act, a hearing was scheduled to be held and a Heritage Council Regulatory Committee ('the Committee') was duly constituted to consider the Recommendation and all submissions received in response.
9. Prospective hearing participants were notified that a hearing would be conducted, and the Committee requested that all persons who wished to participate in the process lodge a completed *Heritage Council Form B – Registration Hearing Participation Form* ('Form B'). Four (4) persons responded that they wished to participate in the hearing process ('Hearing Participants').
10. The Committee advised Hearing Participants that a Heritage Council Registration Hearing would be held on 12 October 2021 ('the Hearing'), invited further written submissions and provided a schedule for the Hearing. Hearing arrangements were also available by way of the Heritage Council website.

## HEARING CONDUCTED BY VIDEOCONFERENCE

11. Hearing Participants were advised that as a result of ongoing State Government advice in relation to the novel coronavirus ('COVID-19'), the Microsoft Teams™ online platform would be used to conduct the Hearing by videoconference. Further specific technical guidance on how the Hearing would be conducted was provided.
12. The Hearing was subsequently held on 12 October 2021 via videoconference using the MS Teams online platform.

## PRELIMINARY, PROCEDURAL AND OTHER MATTERS

### CONFLICTS OF INTEREST

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

### FUTURE USE, MAINTENANCE AND DEVELOPMENT OF THE PLACE

14. The Committee notes that it is not its role to consider future development proposals nor to pre-empt the consideration of potential future permit applications or other processes under the Act, or indeed any matters relating to *Planning and Environment Act 1987* (Vic) ['P&E Act'] 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 or not the Place, or part of it, is to be included in the Register.

## SITE INSPECTION

15. Due to State Government advice in relation to coronavirus ('COVID-19') the Committee was unable to undertake a site inspection of the Place.

## ISSUES

16. 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.
17. Any reference to the Criteria or to a particular Criterion refers to the *Heritage Council Criteria for Assessment of Places of Cultural Heritage Significance* (updated by the Heritage Council on 4 April 2019) ['Criteria for Assessment']. Please refer to **Attachment 1**.
18. The Committee has referred to the assessment framework and 'steps' in *The Victorian Heritage Register Criteria and Threshold Guidelines* (updated by the Heritage Council on 3 December 2020) ['the Guidelines'] in considering the issues before it. Any reference to 'the Guidelines', 'steps 1 and 2' or 'threshold for inclusion' refers to the Guidelines.
19. Where submissions were made broadly in relation to the significance of the Place but without reference to specific Criteria, the Committee has considered those submissions in relation to the most relevant Criteria.

## SUMMARY OF ISSUES

20. The Executive Director recommended that the Place should not be included in the Register. The Recommendation assessed the Place within the historical theme of 'nurturing a vibrant arts scene' and found that the Place, 'as a local municipal asset', was not of cultural heritage significance at the State level in relation to any of the Criteria. In the instance that the Committee determined that the Place be included in the Register, the Executive Director's submissions to the Hearing included 'without prejudice' draft permit exemptions for the Place.
21. The Stork Theatre submitted that the Place warrants inclusion in the Register as the 'only architecturally-designed, professionally equipped, outdoor performing arts venue and amphitheatre...[with] extraordinary acoustics and professional backstage and front-of-house facilities'. The submissions of the Stork Theatre, relying on the evidence of Dr Edmond, Mr Hocking and Ms Gardiner, primarily advocated for the inclusion of the Place in the Register in relation to Criteria A and B, but also broadly supported the inclusion of the Place in relation to other Criteria, including Criteria E and F, albeit without reference to the Criteria or the Guidelines.
22. Mr Nott submitted that the Pavilion building, located within the extent of the Place and constructed in association with the Amphitheatre, warrants inclusion in the Register in relation to Criteria D and E, respectively. It was Mr Nott's position that the Pavilion, as an underground concrete building, has received the critical recognition required to establish State-level cultural heritage significance in relation to these Criteria.
23. Yarra did not make detailed written submissions in relation to the cultural heritage significance of the Place.

## THE GUIDELINES AND THE ASSESSMENT OF STATE-LEVEL CULTURAL HERITAGE SIGNIFICANCE

24. The stated purpose of the Guidelines is ‘to identify the key matters that the Heritage Council...consider when determining if a place or object is of state level cultural heritage significance’. This document outlines the ‘key considerations in determining whether a place or object is of state level cultural heritage significance and could be included in the [Register]’.
25. Further to the above, page 5 of the Guidelines notes:
- ‘These guidelines will be applicable to the bulk of places and objects nominated to the VHR. However, there will be instances where the guidelines are not easily applied.’*

### *Summary of submissions*

26. When questioned by the Committee during the Hearing in relation to the Executive Director’s position on instances where the Guidelines may not be easily applied, Mr Austin, on behalf of the Executive Director, submitted that while he agreed that there may be instances where the Guidelines may not be easily applied in assessing the State-level cultural heritage significance of a place or object, it is critical for the Executive Director to forensically apply the Guidelines to every nomination received for the inclusion of a place or object in the Register pursuant to the Act.

### *Discussion*

27. The Committee acknowledges that the Guidelines are an essential tool to assist in the assessment of cultural heritage significance at the State level. The Committee also acknowledges and agrees that there may be instances where the Guidelines may not be easily applied to an assessment of State-level cultural heritage significance. Noting section 40(3)(c) of the Act, the Committee agrees that it is the role of the Executive Director, in making recommendations to the Heritage Council pursuant to Part 3 Division 3 of the Act, to critically assess the State-level cultural heritage significance of places and objects against the Guidelines in every instance.
28. In this instance, the Committee is of the view that the Guidelines are applicable to the assessment of the State-level cultural heritage significance of the Place, and determines that the Place meets the State-level threshold for inclusion in the Register in relation to Criterion A (see paragraphs 49–53, below). The Committee thanks the Executive Director for his assessment of the Place in relation to each of the Criteria.

## VICTORIA’S FRAMEWORK OF HISTORICAL THEMES

29. *Victoria’s Framework of Historical Themes* (2010) [‘the Framework’] is ‘a tool to assist in understanding the many complex layers of Victoria’s history’. The Framework notes that the historical themes ‘are designed to be applied and interlinked’ and that the list of themes and sub-themes is not exhaustive. The Guidelines make several references to the Framework, including in guiding the assessment of State-level cultural heritage significance in relation to Criteria A, B and D, respectively. In each instance the Guidelines note that ‘the sub-themes in [the Framework] will assist in understanding the events, phases, periods, processes, functions, movements, customs and ways of life in Victoria’s history’.



### *Summary of submissions*

30. In assessing the cultural heritage significance of the Place at a State level in relation to each of Criteria A, B and D, the Executive Director assessed the Place in relation to the historical theme 'nurturing a vibrant arts scene', a sub-theme of the broader theme 'Shaping cultural and creative life'.
31. In each instance the Executive Director found that the step 1 test of each Criteria A, B and D was met, with the association of the Place to this theme being 'evident in the physical fabric of the [Place] and in documentary resources' and assessed the theme as of 'historical importance, having made a strong contribution to the history of Victoria'. It was the position of the Executive Director, however, that the Place does not satisfy the step 2 test for establishing State level significance in relation to each of Criteria A, B and D and the historical theme 'nurturing a vibrant arts scene'.
32. The submissions of the Stork Theatre were also made in relation to the historical theme 'nurturing a vibrant arts scene', albeit it was the position of the Stork Theatre that the Place meets the State-level threshold for inclusion in the Register in relation to Criteria A and B in association with this theme.

### *Discussion*

33. The Committee notes the Executive Director's assessment of the Place in relation to Criteria A, B and D in association with the historical theme 'nurturing a vibrant arts scene' and notes that the submissions of the Stork Theatre in support of the inclusion of the Place in the Register were made in relation to the same.
34. The Committee notes that the Framework assists in understanding events, phases, periods, processes, functions, movements, customs, and ways of life in Victoria's history. The Committee is of the view that while the Framework is relevant and useful in assessing State-level cultural heritage significance in relation to Criteria A, B and D, assessments need not be restricted to merely one theme or sub-theme within the Framework when assessing in relation to these Criteria. Indeed, the Committee is of the view that other themes not currently set out in the Framework may also, on occasion, be relevant.
35. In this instance, the Committee, in considering all information, submissions and evidence received, is of the view that the theme 'nurturing a vibrant arts scene' is relevant and applicable in assessing the cultural heritage significance of the Place at a State level. The Committee, however, has turned its mind to whether or not the historical theme 'nurturing a vibrant arts scene' is the only theme in relation to which the importance of the Place to the course or pattern of Victoria's cultural history may be assessed. In considering the submissions made by the Stork Theatre in relation to Criterion A in support of the inclusion of the Place, particularly in reference to the Epidavros Festival, the Committee is of the view that the submissions received by the Stork Theatre in relation to Criterion A also demonstrate the clear association of the Place with the theme 'maintaining distinctive cultures' (see also paragraphs 50–52, below).
36. The Committee's determination in relation to Criterion A therefore has considered the Place in association with both historical themes, 'nurturing a vibrant arts scene' and 'maintaining distinctive cultures' and has determined that the Place meets the State-level threshold in relation to Criterion A for inclusion in the Register in association with the latter.
37. In considering the Place in relation to Criteria B and D the Committee is of the view, however, that no persuasive submissions were received to demonstrate

that the theme ‘maintaining distinctive cultures’ should further be applied to the assessment of the Place in relation to these Criteria. The Committee therefore has relied on, and ultimately agrees with, the Executive Director’s assessment and recommendation in relation to these Criteria.

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

### *Summary of submissions and evidence*

- 38.** As detailed above, the Executive Director’s Recommendation in relation to the Place and Criterion A assessed the Place in association with the historical theme ‘nurturing a vibrant arts scene’. The Recommendation assessed that the association of the Place with this theme is evidence in the physical fabric of the Place and in documentary sources, and that this theme is of historical importance, having made a strong contribution to the history of Victoria.
- 39.** In assessing the Place under step 2 of Criterion A, the Executive Director found that the historical theme ‘nurturing a vibrant arts scene’ is ‘demonstrated at many nineteenth and twentieth-century places in the [Register]’. It was the position of the Executive Director that the Place is comparable to other open-air performance venues, particularly the Sidney Myer Music Bowl (VHR H1772) which is of State-level historical significance for its ‘importance to Victoria as a major and long serving location for a wide range of open-air cultural events and performances and is a well-known venue throughout Australia’.
- 40.** The Recommendation assessed that when compared to the Sidney Myer Music Bowl the association of the Place to the theme ‘nurturing a vibrant arts scene’ relates solely to the history of Fairfield and its communities, rather than to the history of the State more broadly. It was the position of the Executive Director that the Place was:
- ‘built as a local municipal asset by the Northcote City Council for the Epidavros Summer Festival, with input from the local Greek community and Stork Theatre Company’.*
- 41.** The Executive Director recommended that Criterion A is unlikely to be satisfied at the State level.
- 42.** In objecting to the Recommendation, the Stork Theatre submitted that the Place, as the birthplace of the Epidavros Festival, both nurtured and directly contributed to the development of the vibrant multicultural and culturally and linguistically diverse (‘CALD’) arts scene in Victoria throughout the 1980s and 1990s. It was the position of the Stork Theatre that the ‘outstanding success’ of the Epidavros Festival, for which the Place was constructed, led to significant developments within the multicultural/CALD sector in Victoria and had a ‘ripple effect’ on Victoria’s culture more broadly, ‘preced[ing] and pre-empt[ing] almost all processional outdoor theatre in Victoria’. It was the position of the Stork Theatre that the association of the Place with the theme ‘nurturing a vibrant arts scene’ is understood better at the Place than at most other places or objects in Victoria with substantially the same association as ‘the first and only public, professional outdoor theatre in Victoria’.
- 43.** It was the evidence of Ms Gardiner that:
- ‘...The Epidavros Festival at Fairfield Amphitheatre was part of the beginnings of the development of the Northern suburbs and particularly Northcote area into a vibrant, alternative theatre,*

*music and arts hub for creatives, drawing on audiences from across Melbourne.'*

44. Further, it was Mr Hocking's view that:
- 'The Epidavros Festival and later performances at the Amphitheatre were of great social and cultural significance as they were at the forefront of what is now the Victorian theatre tradition.'*
45. At the Hearing, Mr Hocking gave evidence that the significance of the Place lies in the care undertaken to design a purpose-built structure for the Epidavros Festival, describing the Place as a 'physical expression of the Greek experience in Victoria'.
46. In giving evidence on behalf of the Stork Theatre, Dr Edmond provided information in relation to her work at the Place and her original design intent for the Amphitheatre. When questioned by the Committee during the Hearing, it was Dr Edmond's evidence that the design of the Place was intended as an 'adaptation' of the Ancient Greek amphitheatre typology.
47. In response to the submissions of the Stork Theatre, the Executive Director agreed that the 'Epidavros Festival at the Amphitheatre' is an example of multicultural community theatre in the 1980s which was valued by 'devotees of Greek drama' and the 'postwar Greek migrant community of Melbourne's northern suburbs'. The Executive Director also agreed that the Epidavros Festival did '...have some influence on the creation of larger multicultural arts events in the 1980s such as the Antipodes Festival, the Spoleto Festival, later...CALD events and those now auspiced by Multicultural Arts Victoria'. It was the position of the Executive Director, however, that the Place represents a 'locally significant place' associated with the history of multicultural arts in the northern suburbs of Melbourne in the 1980s.
48. When questioned by the Committee during the hearing in relation to whether other Victorian festivals were established in association with, or resulted in, the construction of purpose-built structures, Dr Larsson and Mr Austin noted that Victoria's festivals – multicultural and otherwise – vary greatly and more often than not occur seasonally, with very few organisations investing in permanent civic structures for use throughout the year. The Executive Director agreed that the Place is unusual in this respect.

### *Discussion and conclusion*

49. The Committee accepts the Executive Director's assessment of the Place in relation to Criterion A in association with the historical theme 'nurturing a vibrant arts scene'. The Committee agrees that, when assessed in relation to this historical theme and compared to other similar places and objects already included in the Register in association with this theme, the Place is unlikely to be found to meet the State-level threshold for inclusion in the Register.
50. The Committee understands that the Place may be understood in a continuum of outdoor performing arts practices dating back to other cultural forms from the nineteenth and earlier twentieth century (bandstands, rotundas, outdoor cinema, Shakespeare in the park), as well as later outdoor festivals and community theatre.
51. The Committee is of the view, however, that the deeper cultural heritage significance of the Place ultimately derives from its historical role as a notable expression of the consolidation of Greek immigrant identity in the immediate

wake of the Federal government's policy of multiculturalism from the late 1970s. Multiculturalism was the underpinning of, on the one hand, migrant acceptance by the broader Australian community, and on the other, a self confidence in (by then) established migrant communities in the expression of their own identity and cultural heritage. The commissioning and construction of the Amphitheatre were undertaken by a municipal council in the northern suburbs with a strong representation of Greek migrants, but the performances undertaken there had a much larger reach, to the Greek community both in metropolitan Melbourne and beyond. Indeed, some performances were screened by the nascent ethnic TV channel Special Broadcasting Service (SBS) to a broader State as well as national audience. For these reasons the Committee finds that the Executive Director's assessment of the Amphitheatre as the product of local communities or activities is too narrow.

52. Having considered all submissions and other evidence before it, the Committee finds that, in its symbolism, design, programming, community engagement and cultural influences, the significance of the Place in the migrant cityscape transcends its immediate suburban scale in terms of the bi-cultural importance of Greek-Australians in Victoria's cultural development. The construction of the Place and its sense of belonging and emotional connection to a community of established and increasingly politically-engaged migrants, along with the national reach of its programming represent a significant moment in the migration continuum between the inception of Australia's programmatic immigration intake from Greece in 1947 and its decline by the end of the 1980s, by which time around 96% of Victoria's Greek community lived in Melbourne.
53. In considering the above and in assessing the historical significance of the Place in relation to the historical theme 'maintaining distinctive cultures', the Committee finds that Criterion A is satisfied at State level.

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

### *Summary of submissions and evidence*

54. In assessing the Place in relation to Criterion B, the Executive Director again assessed the Place in association with the historical theme 'nurturing a vibrant arts scene', noting that the association is evident in the physical fabric of the place and in documentary sources. It was the view of the Executive Director, set out in the Recommendation, that this theme is demonstrated by many performance venues across the State, included in both Heritage Overlays and in the Register.
55. The Recommendation set out that the Place, in the view of the Executive Director, is not:
  - rare or uncommon as a small number of places or objects remaining in Victoria that demonstrates the historical theme 'nurturing a vibrant arts scene'
  - uncommon, not containing unusual features of note that were not widely replicated, with the three buildings at the Place being representative examples within their respective heritage classes and
  - within a class of place that is endangered to the point of rarity due to threats and pressures on such places, with the historical theme 'nurturing a

vibrant arts scene’ represented through many places and objects in Victoria.

56. The Executive Director recommended that the Place is not likely to meet the State-level threshold in relation to Criterion B.
57. In support of the inclusion of the Place in the Register for possession of uncommon, rare, or endangered aspects of Victoria’s cultural history, the Stork Theatre submitted that the Place:
- ‘...is the only **purpose-built, professionally equipped amphitheatre and outdoor performing arts venue in Victoria (and Australia)**. There are no comparable amphitheatres in Victoria in this regard. It has a sophisticated, permanent technical infrastructure that is not found in other outdoor amphitheatre style theatre spaces’ (original emphasis).*
58. It was the position of the Stork Theatre that the Place, as the first ‘professionally resourced, purpose-built amphitheatre in Australia’ and with a design based on that of Epidaurus in southern Greece, is ‘entirely unique in Australia’. The Stork Theatre submitted that the Place is rare or uncommon, being one of a small number of places or objects remaining in Victoria that demonstrate the theme ‘nurturing a vibrant arts scene’.
59. In objecting to the Recommendation and in support of the inclusion of the Place in the Register in relation to Criterion B, the Stork Theatre submitted that the Executive Director’s comparison of the Place to the Sidney Myer Music Bowl (H1772) ‘is wrong in both the theatre shape and its cultural and social significance’. It was the position of the Stork Theatre that the only true comparator to the Place is the Quarry Amphitheatre, located in Perth, Western Australia, and that the Place is incomparable within Victoria, having been developed for live theatre and performing arts, rather than as a sound shell as with the Sidney Myer Music Bowl. The Stork Theatre further submitted that the Place is rare at the State level as a result of its ‘unique acoustic qualities...exhibited in no other amphitheatre, sound shell or bandstand in Victoria’.
60. Finally, the Stork Theatre submitted that the Place is at risk and is endangered as a result of there being ‘little understanding’ within Yarra – the relevant municipal council and manager of the Place – of the ‘unique cultural resource that it is the custodian of’. It was the position of the Stork Theatre that the Place could be at risk as a result of future changes that may occur.
61. In response to the submissions of the Stork Theatre made in support of the inclusion of the Place in relation to Criterion B, the Executive Director reiterated his position that the Place is not rare or uncommon as a small number of places or objects remaining in Victoria that demonstrates the historical theme ‘nurturing a vibrant arts scene’, that the Place is not uncommon, not containing ‘unusual features of note that were not widely replicated’, and that the class of place which demonstrates the historical theme ‘nurturing a vibrant arts scene’ is not endangered to the point of rarity.
62. While the Executive Director agreed there are few permanent amphitheatres in Victoria, it was his position that the threshold to establish State-level cultural heritage significance in relation to Criterion B is not whether there are few direct comparators within the State, but whether the place or object is one of a ‘small number left within the *whole thematic class...across the state*’ (original emphasis) and whether the place or object contains unusual features of note that were not widely replicated. It was the view of the Executive Director that places and

objects associated with this theme are well-represented across the state and in the Register, providing a list of over fifteen places already included in the Register in relation to the class and the theme, including the Victorian Arts Centre (VHR H1500), Her Majesty's Theatre, Ballarat (VHR H0648), the Grainger Museum (VHR H0875), the Former Northcote Theatre (VHR H2287) and the Coburg Drive-In (VHR H2218), among others. The Executive Director reiterated his view that the Place, which reflects and replicates the classical form of an Ancient Greek amphitheatre, does not contain unusual features of note. Further, it was the position of the Executive Director, in reference to exclusion guideline XB2 in the Guidelines, that the description of the Place as the 'only purpose-built, professionally equipped amphitheatre and outdoor performing arts venue in Victoria with unique acoustic qualities that are exhibited in no other amphitheatre' relies on too many qualifiers to establish rarity at the State-level.

63. Finally, in response to the Stork Theatre's submission that the Place is endangered, the Executive Director submitted that the required test in the Guidelines in relation to Criterion B and 'endangered' does not relate to whether the Place itself is endangered, but whether the 'existence of the *class of place* that demonstrates "nurturing a vibrant arts scene" is endangered' (original emphasis). It was the position of the Executive Director that 'given the number of places left within the class across the State, the class itself cannot be considered to be endangered'.

#### *Discussion and conclusion*

64. The Committee notes the submissions of the Stork Theatre, made in support of the inclusion of the Place in relation to Criterion B as 'the only purpose-built, professionally equipped amphitheatre and outdoor performing arts venue in Victoria' with unique acoustic qualities that are exhibited in no other amphitheatre. While the Committee acknowledges that the Place may be the only purpose-built amphitheatre in Victoria, it agrees with the Executive Director that for cultural heritage significance to be established in relation to Criterion B at the State level, places and objects must be found to be one of a small number remaining that demonstrates an event, phase, period, process, function, movement, custom or way of life of importance in Victoria's cultural history. As previously stated, the Committee accepts the Executive Director's assessment of the Place in relation to Criterion B in association with the historical theme 'nurturing a vibrant arts scene'. The Committee agrees with the Executive Director that places and objects associated with this theme are well-represented across the state and in the Register and finds that no persuasive submissions or evidence were provided to demonstrate that the Place is rare or uncommon as a small number of places remaining that demonstrate this theme.
65. The Committee also agrees with the Executive Director that the Place, being a recreation of an Ancient Greek form, does not contain unusual features of note to establish significance at a State level. Further, and in reference to exclusion guideline XB2 in the Guidelines, the Committee agrees with the Executive Director that the submissions of the Stork Theatre in support of the inclusion of the Place in the Register as 'the only purpose-built, professionally equipped amphitheatre and outdoor performing arts venue in Victoria with unique acoustic qualities that are exhibited in no other amphitheatre', relies on too many qualifiers to establish rarity at the State level.
66. Finally, in relation to the submissions of the Stork Theatre that the Place is endangered as a result of potential future changes, the Committee note exclusion guideline XB3 which sets out that '...for the purpose of this criterion, 'endangered'

should generally relate to a class of place/object that has become so rare over time that there is a risk that in the short to medium term no such place/object will remain' rather than because of an imminent threat to the place or object. The Committee agree with the Executive Director that places and objects associated with the theme 'nurturing a vibrant arts scene' cannot be considered endangered at a State level.

67. The Committee agrees with the Executive Director that, for the purposes of Criterion B, the Place cannot be considered rare, uncommon, or endangered and finds that Criterion B 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*

68. In assessing the Place in relation to Criterion D, the Executive Director first assessed the Place in its entirety within the heritage class of 'performing arts precincts'. The Executive Director further assessed each of the three structures located at the Place separately in each of the below classes:
- The Amphitheatre in the class of 'outdoor performance venues'
  - The Pavilion in the class of 'concrete buildings' and
  - The Kiosk in the class of 'outdoor civic amenity buildings'.
69. The Recommendation found that step 1 of Criterion D is likely to be satisfied in relation to the Place. It was the view of the Executive Director that each of the above classes of place are associated with the historical theme 'nurturing a vibrant arts scene', which itself has made a strong or influential contribution to Victoria, and that the principal characteristics of each class are evident in the physical fabric of the Place.
70. In assessing the Place under step 2 of Criterion D, however, the Executive Director assessed that neither the Place itself, nor, separately, any of the three structures on site are notable within the relevant classes. The Executive Director recommended that the Place is not a notable example of a performing arts precinct in Victoria, not being a fine, influential, or pivotal example of the class. In support of his position that the Place is not notable as a performing arts precinct, the Executive Director compared the Place to other, notable, places within the class, including the Victorian Arts Centre (VHR H1500) the registration for which notes a 'unified architectural design' and refers to the place as 'an example of the international arts centre movement of the post-war period'.
71. In assessing the Amphitheatre within the class of outdoor performance venues, the Recommendation found that although designed by eminent architect Maggie Edmond, 'unlike some of her later works...the amphitheatre has not received awards or design recognition'. It was the view of the Executive Director that the Amphitheatre, while 'interesting', is not fine, pivotal, or influential and does not encapsulate a key evolutionary stage in design in Victoria.
72. In relation to the Pavilion, designed by architect Paul Couch, the Recommendation found that although a good example of a tilt-slab concrete panel construction system and an interesting building, this structure cannot be considered to be notable as a fine, influential, or pivotal example of a concrete building when compared to other concrete buildings already included in the Register including the Plumbers and Gasfitters Union Building (VHR H2307), Harold Holt Memorial Swimming Centre (VHR H0069) and Total House (VHR

H2329). The Recommendation also noted that Couch's oeuvre includes approximately fifty small-scale concrete buildings of which the Pavilion is not an award-winning example.

73. Finally, the Recommendation assessed that the Kiosk 'is a basic utilitarian structure' and cannot be considered to be notable as a fine, pivotal, or influential in its design.
74. The Executive Director recommended that the Place is not likely to meet the State-level threshold in relation to Criterion D.
75. In support of the inclusion of the Place and in particular the Pavilion in the Register in relation to Criterion D, Mr Nott submitted that the Pavilion is 'a very different type of concrete building compared to the three examples given [in the Recommendation]'. It was the position of Mr Nott that the Pavilion is notable as a result of 'the amount of support and attention it has attracted amongst the architectural profession in Victoria'.
76. Mr Nott further submitted that the Executive Director's assessment of the Pavilion in the class of 'concrete buildings' was 'too restrictive'. It was the position of Mr Nott that the Pavilion should be assessed as an 'underground or partly underground' concrete building, comparable to the concrete bunker at the Lake Boga Flying Boat Museum (VHR H2208) and the Underground Car Park at the University of Melbourne (VHR H1004).
77. In response to the submissions of Mr Nott, the Executive Director submitted that the class of 'concrete buildings' is appropriate for the assessment of cultural heritage significance of the Pavilion at the State level. It was the position of the Executive Director that 'Victoria has an important history of concrete construction technologies' and 'underground or partly underground concrete buildings' should be considered a sub-class of the class 'concrete buildings' rather than a class in its own right. Further, the Executive Director noted that he disagreed with Mr Nott's characterisation of the Pavilion as 'partly underground', with the structure having been built 'into the side of a steep hill'.
78. The Executive Director submitted that no evidence has been provided to suggest that the Place demonstrates 'comparable architectural or technical significance in relation to concrete construction', noting that by the late 1980s, '...the technologies for concrete construction underground and on hillsides...were not new.' Finally, the submission of the Executive Director noted that the Lake Boga Flying Boat Museum (H2208), including the concrete bunker, are included in the Register for historical significance to the State of Victoria, rather than as a notable example of an underground concrete building.

### *Discussion and conclusion*

79. For the purposes of the assessment of the Place in relation to Criterion D, the Committee agrees with the Executive Director's assessment of the Place in the class of 'performing arts precincts' and his assessment of each of the Amphitheatre, Pavilion and Kiosk in the classes of 'outdoor performance venues', 'concrete buildings' and 'outdoor civic amenity buildings', respectively.
80. The Committee notes that other than Mr Nott's submissions in support of the inclusion of the Pavilion in the Register as a notable example of an underground or partly underground concrete building, no submissions were made in support of the inclusion of the Amphitheatre, the Kiosk, or the Place as a whole, in the Register for State-level significance in relation to Criterion D.



81. The Committee agrees with the assessment of the Executive Director that the Place is not notable within the class of performing arts precincts particularly when compared to other notable examples within the class, including the Victorian Arts Centre (VHR H1500). The Committee further agrees that neither the Amphitheatre, within the class of outdoor performance venues, nor the Kiosk within the class of outdoor civic amenity buildings, are notable at the State level, with no evidence to demonstrate that they are fine, highly intact, pivotal, or influential examples within their respective classes.
82. Finally, the Committee also agrees with the Executive Director that the appropriate class for assessing the cultural heritage significance of the Pavilion is 'concrete buildings' and that 'underground or partly underground concrete buildings' should be considered a sub-class of the broader, 'concrete buildings' class. Subsequently, the Committee was not convinced by the submissions of Mr Nott that the Pavilion building should be included in the Register as a notable example of its class in relation to Criterion D. The Committee agrees with the Executive Director that this structure cannot be considered notable as a fine, highly intact, influential, or pivotal example of a concrete building when compared to other concrete buildings already included in the Register including Plumbers and Gasfitters Union Building (VHR H2307), Harold Holt Memorial Swimming Centre (VHR H0069) and Total House (VHR H2329) among others.
83. 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*

84. The Executive Director, in assessing the Place in relation to step 1 of Criterion E, found that the Place exhibits particular aesthetic characteristics associated with the materials, style and form in which it was constructed. However, when assessing the Place under step 2 of this Criterion, it was the position of the Executive Director that while the aesthetic characteristics of the Place are 'eye-catching and appreciated by groups with a particular interest in late twentieth century architectural styles', such characteristics have not received critical recognition or wide public acknowledgement of exceptional merit to establish cultural heritage significance at the State level.
85. The Executive Director recommended that the Place is not likely to meet the State-level threshold in relation to Criterion E.
86. In support of the inclusion of the Place in the Register the Stork Theatre submitted, albeit without reference to the Guidelines or the Criteria:

*'...Part of the uniqueness of the design [of the Place] is its capitalisation on the stunning natural setting on a steep hill overlooking the Yarra River. As a result, this is an important structure for Victoria. Not just Northcote'*
87. It was the evidence of Dr Edmond, given in support of the inclusion of the Place in the Register for its aesthetic qualities, that the Place was not submitted for awards following its construction, there being no appropriate category for its entry at that time. It was the view of Dr Edmond that this explains why the Amphitheatre 'did not receive recognition and acclaim via an awards process'.
88. Mr Nott, in support of the inclusion of the Pavilion in the Register for State-level aesthetic significance, submitted that he agreed with the Executive Director that

the aesthetic characteristics of the Place are eye-catching and appreciated by groups with a particular interest in late twentieth century architecture. Mr Nott further submitted, in contrast to the Executive Director's position that the Place has not received the critical recognition to warrant inclusion in the Register, that 'this was the case until recently'. Mr Nott detailed that the Pavilion 'and especially the steel and timber gazebo, have received critical academic recognition', noting that this structure is currently being 'studied and researched by architectural academics' including James Mugavin and Michael Roper, whose book on Couch's work is soon to be published. Mr Nott also noted that the Australian Institute of Landscape Architects and the National Trust of Australia have recently 'drawn attention to the aesthetics of the Pavilion'.

- 89.** In response to the submission of Mr Nott which supported the inclusion of the Place and in particular the Pavilion in the Register in relation to Criterion E, the Executive Director submitted that no evidence has been provided to confirm that the Place has received critical recognition at the State level, while further noting that the National Trust of Australia (Victoria) did not lodge a submission with the Heritage Council pursuant to section 44 of the Act in response to the Recommendation or participate in the hearing in relation to the Place.

#### *Discussion and conclusion*

- 90.** The Committee agrees with Hearing Participants that the fabric of the Place exhibits particular aesthetic characteristics associated with the materials, style, and form in which it was constructed and in its location on the Yarra River.
- 91.** The Committee notes the submissions of the Stork Theatre and Mr Nott in support of the inclusion of the Place in the Register for its aesthetic characteristics in relation to Criterion E. The Committee also notes the evidence of Dr Edmond that, at the time of the construction of the Amphitheatre, no appropriate award category existed in relation to which the aesthetic characteristics of the Place could have been considered. The Committee, however, agrees with the Executive Director that no persuasive evidence was tendered to demonstrate that the aesthetic characteristics of the Place are appreciated or valued by the wider community or by an appropriately-related discipline evidenced by critical recognition or acknowledgement of exceptional merit to establish cultural heritage significance at the State level in relation to this Criterion.
- 92.** The Committee finds that Criterion E is not satisfied at the State level.

#### **OTHER CRITERIA**

##### *Summary of submissions and evidence*

- 93.** The Executive Director assessed that the Place is unlikely to meet the State-level threshold for inclusion in the Register in relation to any of the other Criteria for Assessment, namely Criteria C, F, G or H.
- 94.** No participants to the hearing advanced submissions that the Place should be included in the Register for State-level cultural heritage significance in relation to Criteria C, F, G or H.
- 95.** The submissions of the Stork Theatre made mention of the 'acoustic phenomenon' established through the construction of the Place whereby an actor 'whispering in the epi-centre of the stage can be heard throughout the back row', albeit without reference to the Criteria. It was the position of the Stork Theatre

that the Place, as ‘the *only* outdoor venue in Victoria which duplicates this remarkable phenomenon’, warrants inclusion in the Register in this regard. Dr Edmond also gave evidence in relation to the design and construction of the Place, noting the verification process to used confirm that the ‘natural sound amplification from the epi-centre of the...stage was successful’.

### *Discussion and conclusion*

96. The Committee agree with the Executive Director’s assessment of the Place in relation to Criteria C, G and H, noting that no submissions were made in support of the inclusion of the Place in relation to these Criteria. The Committee notes that no party explicitly undertook a detailed assessment of social value as guided by methodologies outlined in the Heritage Council’s *Guidance on identifying places and objects of state-level social value in Victoria* (2019).
97. Given the technical nature of the submissions made by the Stork Theatre in relation to the ‘acoustic phenomenon’ captured within the construction of the Place, the Committee has considered these submissions in relation to Criterion F – ‘Importance in demonstrating a high degree of creative or technical achievement at a particular period’. The Committee notes however that it was not provided with any persuasive evidence to demonstrate that the ‘acoustic phenomenon’ at the Place was of a ‘high degree’ or ‘beyond the ordinary for the period in which it was undertaken’ – as set out in the Guidelines in relation to Criterion F – to warrant inclusion in the Register in relation this Criterion.
98. The Committee finds that Criteria C, F, G and H are not satisfied at the State level.

## **EXTENT OF REGISTRATION, CATEGORY OF REGISTRATION AND PLACE NAME**

### *Summary of submissions and evidence*

99. The Executive Director’s recommendation provided details of the extent of the Place nominated for inclusion in the Register. The nominated extent included all of the Place including the Amphitheatre structure and the Kiosk and Pavilion buildings located within Fairfield Park, 3 Fairfield Park Road, Fairfield.
100. Although the submissions of the Stork Theatre broadly supported the inclusion of the whole of the Place in the Register, and in Mr Nott’s case the inclusion of the Pavilion, no submissions were made by any participant to the Hearing in relation to an appropriate extent of registration for the Place.
101. When questioned by the Committee during the Hearing, it was Dr Edmond’s view that there is a holistic nature to and a connection between the three structures or elements at the Place – being the Amphitheatre, the Kiosk, and the Pavilion. It was Dr Edmond’s evidence that a spatial relationship exists between the three structures, which is often woven into performances, although Dr Edmond acknowledged that this relationship has been acquired over time given the construction of the Kiosk and the Pavilion by different architects after the completion of the Amphitheatre.
102. In relation to the name of the Place, the Recommendation notes a number of ‘other names’ used to describe the whole of the Place, including ‘Northcote Amphitheatre’, ‘Fairfield Amphitheatre’, ‘Outdoor Amphitheatre’ and ‘Fairfield Park Amphitheatre Precinct’. The Recommendation also set out that the name ‘Fairfield Park Amphitheatre, Kiosk and Pavilion’ was used by the Executive Director ‘...for the sake of clarity’.

103. Throughout the course of the Hearing, submissions and evidence varyingly referred to the Place as the 'Fairfield Amphitheatre, Dressing Rooms and Ticket Booth', the 'Amphitheatre Complex' or the 'Fairfield Amphitheatre'.

#### *Discussion and conclusion*

104. The Committee notes the nominated extent for the inclusion of the Place in the Register. The Committee also notes that although no detailed submissions were made or received in relation to an appropriate extent of registration for the Place, the submissions of the Stork Theatre made in support of the inclusion of the Place in the Register in relation to Criterion A were made on the basis of the inclusion of the whole of the Place in the Register, being the Amphitheatre and associated Kiosk and Pavilion.
105. The Committee agree with the evidence of Dr Edmond that a spatial relationship exists between the three structures at the Place which, despite their differing architects and periods of design and construction, are all associated with the use of the Place, the Epidavros Festival, and later theatre performances.
106. Therefore, having found that the Place is of State-level cultural heritage significance and is to be included in the Register in relation to Criterion A, the Committee subsequently finds that it agrees with the nominated extent of registration for the Place. The Committee records its determination as to the extent of registration for the Place in the Register in **Attachment 2**.
107. The Committee records as part its determination that the Place be included in the Register as a 'Registered Place' in accordance with section 25(1)(a) of the Act. Furthermore, having formed the view that the Amphitheatre, the Kiosk, and the Pavilion, as a complex of associated structures, meet the State level threshold for inclusion in the Register in relation to Criterion A, the Committee records the Registered name for the Place as 'Fairfield Park Amphitheatre Complex'.

#### **CATEGORIES OF WORKS OR ACTIVITIES FOR INCLUSION WITH THE REGISTRATION WHICH MAY BE CARRIED OUT IN RELATION TO THE PLACE FOR WHICH A PERMIT UNDER SECTION 5 OF THE ACT IS NOT REQUIRED ('PERMIT EXEMPTIONS')**

#### *Summary of submissions and evidence*

108. In recommending that the Place should not be included in the Register, the Executive Director's recommendation did not include categories of works or activities which may be carried out in relation to the Place for which a permit under Section 5 of the Act is not required ('Permit exemptions'). Per clause 2.1.3 (iii) of *Heritage Council Protocol 1 – Registration Hearings* ('Protocol 1'), the Executive Director's submissions to the Hearing included 'without prejudice' draft permit exemptions for the Committee's consideration in the instance that it determined to include the Place in the Register.
109. Although the submissions of the Stork Theatre and Mr Nott broadly supported the inclusion of the Place in the Register, and the Form B received from Yarra referred to its intent to respond to the 'without prejudice' draft permit exemptions provided by the Executive Director, no submissions were made by any participant to the Hearing in relation to appropriate permit exemptions for inclusion with the registration of the Place.

### *Discussion and conclusion*

- 110.** The Committee notes the Executive Director’s ‘without prejudice’ draft permit exemptions for the Place and has listed the categories of works and activities that may be carried out in relation to the Place without the need for a permit under the Act at **Attachment 3**.

### **CONCLUSION**

- 111.** After considering the Executive Director’s recommendation and all submissions received, and after conducting a hearing into the matter, the Heritage Council has determined, pursuant to section 49(1)(a) of the *Heritage Act 2017*, that the Fairfield Park Amphitheatre Complex, located at 3 Fairfield Park Road, Yarra City is of State-level cultural heritage significance and is to be included in the Victorian Heritage Register.

## **ATTACHMENT 1**

### **HERITAGE COUNCIL CRITERIA FOR ASSESSMENT OF PLACES OF CULTURAL HERITAGE SIGNIFICANCE**

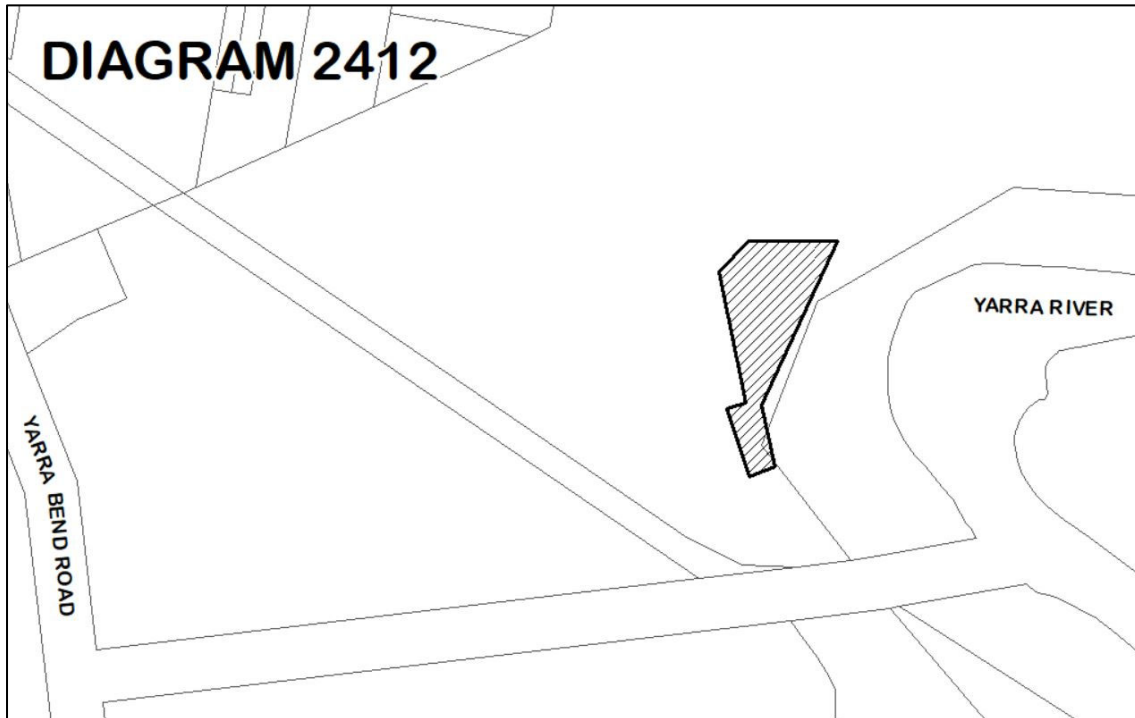
CRITERION A	Importance to the course, or pattern, of Victoria's cultural history
CRITERION B	Possession of uncommon, rare or endangered aspects of Victoria's cultural history.
CRITERION C	Potential to yield information that will contribute to an understanding of Victoria's cultural history.
CRITERION 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 present-day 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.

**These were updated by the Heritage Council at its meeting on 4 April 2019, and replace the previous criteria adopted by the Heritage Council on 6 December 2012**

## ATTACHMENT 2

### EXTENT OF REGISTRATION

All of the place shown hatched on Diagram 2412 encompassing part of Crown Allotments 113A and 113B Parish of Jika Jika.



## ATTACHMENT 3

### CATEGORIES OF WORKS OR ACTIVITIES WHICH MAY BE CARRIED OUT IN RELATION TO THE PLACE FOR WHICH A PERMIT IS NOT REQUIRED PURSUANT TO SECTION 49(3) OF THE *HERITAGE ACT 2017* ('PERMIT EXEMPTIONS')

#### PERMIT EXEMPTIONS

##### 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.
- 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, Heritage Victoria, 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. Note: This exemption does not apply to areas where there are specialist paint techniques such as graining, marbling, stencilling, hand-painting or signwriting, or to wallpapered surfaces, or to 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.

##### Temporary Events

- The installation and/or erection of temporary elements associated with short-term events for a maximum period of three days' duration after which time they must be removed and any affected areas of the place made good to match the condition of the place prior to installation. These elements include:
  - Temporary structures such as shelters, marquees and tents (lightweight structures) which are weighted down with sandbags or water tanks and avoid the requirement for driven metal stakes which could impact on tree roots. Where pegging is not able to be avoided this is to be located to avoid tree roots (i.e. not driven into if encountered).
  - Marquees, tents, stages, seating and the like which are located no closer than three metres from the base of a tree.
  - Temporary security fencing, scaffolding, hoardings or surveillance systems to prevent unauthorised access or secure public safety.
  - Temporary structures, vendor and toilet vans which are located on existing hardstand and



- paved/asphalted areas and pathways or on turf areas with a protective surface (board or track mats).
- Temporary infrastructure, including wayfinding/directional signage, lighting, public address systems, furniture and the like in support of events which do not require fixing into the ground.

### **Interiors (Kiosk and Pavilion)**

- 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.
- Maintenance, repair and replacement of light fixtures, tracks and the like in existing locations.
- Maintenance and repair of light fixtures, tracks and the like.
- Removal or replacement of smoke and fire detectors, alarms and the like, of the same size and in existing locations.

### **Landscape/outdoor areas**

#### Hard landscaping and services

- Subsurface works to existing watering and drainage systems provided these are outside the canopy edge of trees and do not involve additional trenching. Existing lawns, gardens and hard landscaping, including gravel footpaths and forecourt are to be returned to the original configuration and appearance on completion of works.
- Maintenance, repair and replacement of existing above surface services such as plumbing, electrical cabling, surveillance systems, pipes or fire services which does not involve changes in location or scale.
- Repair and maintenance of the existing gravel footpaths and forecourt where fabric, design, scale and form is repaired or replaced, like for like.
- Installation of physical barriers or traps to enable vegetation protection and management of small vermin such as rats, mice and possums.

#### Gardening, trees and plants

- The processes of gardening including mowing, pruning, mulching, fertilising, removal of dead or diseased plants (excluding trees), disease and weed control and maintenance to care for existing plants.
- Removal of tree seedlings and suckers without the use of herbicides.
- Management and maintenance of trees including formative and remedial pruning, removal of deadwood and pest and disease control.
- Emergency tree works to maintain public safety provided the Executive Director, Heritage Victoria is notified within seven days of the removal or works occurring.
- Removal of noxious weeds.