

## **Heritage Council** Regulatory Committee

### **Artificial Limb Factory**

242 – 246 Sturt Street, Southbank, Melbourne City

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

The Heritage Council has considered a request to review the Executive Director's decision to refuse to accept a nomination to include the Artificial Limb Factory at 242-246 Sturt Street, Southbank, Melbourne City in the Victorian Heritage Register. Pursuant to section 30(5)(a) of the *Heritage Act 2017* ('the Act'), the Heritage Council has determined to affirm the decision under review and refuse to accept the nomination.

**Professor Philip Goad (Chair)**  
**Dr Helen Doyle**  
**Mr Adrian Finanzio SC**

**Decision Date – 10 July 2023**

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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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## INTERESTED PARTIES

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

Information was received from the Executive Director, Heritage Victoria ('the Executive Director') in relation to the refusal of the nomination.

### NOMINATOR

Mr Gary Vines ('the Nominator') nominated the Artificial Limb Factory for inclusion in the Victorian Heritage Register. The Nominator provided additional information in relation to the Nomination.

## OTHER INTERESTED PARTIES

### MELBOURNE CITY COUNCIL

Melbourne City Council ('MCC') was notified of the matter as the responsible authority for the Place. Although notice was given to MCC, no additional information was received from the MCC in relation to the refusal of the nomination.

## INTRODUCTION/BACKGROUND

### THE PLACE

01. The Artificial Limb Factory, located at 242–246 Sturt Street, Southbank, Melbourne City (‘the Place’), consists of a parapeted two-storey form with pitched roof behind, articulated brick facades, internal industrial spaces, and steel-framed windows.

### THE NOMINATION

02. On 6 February 2023 an application to nominate the Place (‘the Nomination’) for inclusion in the Victorian Heritage Register (‘the Register’) was lodged with the Executive Director, pursuant to section 27 of the *Heritage Act 2017* (‘the Act’).
03. The Place was nominated for inclusion in the Register under the following Criteria of the Heritage Council ‘Criteria for Assessment of Places of Cultural Heritage Significance’ (updated by the Heritage Council on 3 December 2020) [Attachment 1]:
  - 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; and
  - Criterion G – Strong or special association with a particular present-day community or cultural group for social, cultural or spiritual reasons.

### DECISION OF THE EXECUTIVE DIRECTOR

04. Pursuant to section 29 of the Act, the Executive Director may refuse to accept a nomination if it is considered that the nominated place or object has no reasonable prospect of inclusion in the Register.
05. On 30 March 2023, the Executive Director notified the Nominator of his refusal to accept the Nomination on the grounds that the Place has no reasonable prospect of inclusion in the Register. The Executive Director’s refusal stated that “the Nomination does not demonstrate that the Place passes at least one of the State-level tests in the Heritage Council of Victoria’s Criteria and Threshold Guidelines”.

### REQUEST FOR REVIEW

06. On 24 April 2023, the Heritage Council received a request for a review of the Executive Director’s refusal to accept the nomination of the Place, pursuant to section 30 of the Act. A Heritage Council Regulatory Committee (‘the Committee’) was to consider the request for review, information received in response to it, and to make a determination, as delegated by the Heritage Council pursuant to sections 13 and 15 of the Act.

## PRELIMINARY, PROCEDURAL AND OTHER MATTERS

### CONFLICTS OF INTEREST

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

### REQUEST FOR INFORMATION

08. On 17 May 2023, the Committee requested from the Executive Director all information used in determining to refuse the nomination.
09. On 23 May 2023 the Committee wrote to the Nominator and the MCC and afforded both an opportunity to provide any additional information that they felt may assist the Committee in undertaking the nomination review.
10. The Executive Director responded to the Committee's request on 30 May 2023. No additional information from the Nominator or MCC was received.

## ISSUES

11. The following section is not intended to be a complete record of information provided to the Committee. It is a summary of what the Committee considers to be the key issues, followed by an explanation of the position the Committee takes on each issue.

## REASONABLE PROSPECT OF INCLUSION

### *Information received*

12. In the Executive Director's notice of refusal to accept the Nomination, the Executive Director in summary stated:
  - In relation to Criteria A that:
 

*“There are many places in the VHR which allow the clear understanding of these historical themes [repatriation and health], predominantly because the historical significance (the former use) can be read in the fabric.”...*

*“The Artificial Limb Factory has been altered externally. While ‘internal industrial spaces’ remain, it is unclear whether their former use can be read after ‘some internal renovation’...*

*In its current altered state, the Artificial Limb Factory is not a building which readily allows an understanding of its past use.*

*As a consequence, the place does not allow the clear association the themes of Repatriation or Health to be understood better than most other places or objects in Victoria with substantially the same association.”*
  - In relation to Criterion B: that “within the themes of ‘Repatriation’ and ‘Health’ the place is not rare or uncommon. It does it contain unusual features of note not widely replicated in Victoria nor is it part of a class (smaller manufacturing buildings) endangered to the point of rarity.”
  - In relation to Criterion G that “social value is dependent upon ongoing community interaction with the place... There is no evidence that ex-service communities, or communities of people living with disabilities, have a strong and special attachment to the Artificial Limb Factory in the present day. The association is historical, not social.”
13. The Executive Director provided the Committee with all original nomination documentation considered in refusing to accept the Nomination.
14. The Nomination included a discussion of Criteria A, B and G and attached a document which outlined history of the Place, titled ‘*Commonwealth Artificial Limb Factory, 242-246 Sturt Street, Southbank*’.

15. In addition, the Executive Director also provided the following documents, used assist in its consideration of the Nomination:
- Artificial Limb Factory (Commonwealth Limb Factory) – presentation prepared by Heritage Victoria, (undated);
  - Document Incorporated into the Melbourne Planning Scheme: ‘Am C305 - Southbank Statements of Significance’, dated 2 October 2023;
  - Panel Report for ‘Melbourne Planning Scheme Amendment C305 - Southbank Heritage’, dated 4 September 2020;
  - ‘Southbank and Fisherman’s Bend Heritage Review Biosis’, dated 23 June 2017; and
  - Statement of Heritage Evidence by Peter Lovell - ‘Panel Amendment C305, Commonwealth Artificial Limb Factory (Former)’, dated 2 July 2023.
16. In requesting the review, the Nominator submitted a response to the Executive Director’s refusal and attached additional material in support of the inclusion of the Place under Criteria A, B and G (‘additional material’).
17. In the application for review, the Nominator submits that:
- “The ED assessment is flawed. It does not properly consider the place on its own merits, it make erroneous and irrelevant comparisons with other registered places that are from different periods, purpose, function and type, it fails to recognise the social, spiritual and emotional connection to the place by the former users of the Limb service, and it conflates architectural style with functional analysis to arrive at a misinterpretation of the way the place demonstrates its past uses.”*
18. In the additional material, the Nominator raised the following:
- In relation to Criterion A, that “the building has only had minor alterations.”
  - in relation to Criterion B, that the Place is “in fact extremely rare as a building directly related to the `provision of services to injured war servicemen and women.”
  - in relation to Criterion G, that “social value has been dismissed by the ED report, with no evidence that any of the groups and contacts provided in my submission have been approached, or that there was any effort to canvass more widely to understand community attachment to the place” , and that “therefore it cannot be said that they do not have a strong and special attachment to the Artificial Limb Factory in the present day” .

#### *Discussion*

19. The Committee agrees with the position of the Executive Director that the Place does not have a reasonable prospect of inclusion in the Register, and moreover agrees with and adopts the reasoning of the Executive Director, notwithstanding the further material filed by the Nominator.
20. For completeness, the Committee has reviewed the information provided by the Nominator in the application for review, and the additional material responding to the Executive Director’s assessment of Criteria A, B and G. In the Committee’s view, none of those matters materially alter the substantive conclusion of the

Executive Director, that on the material presented the Place does not have a reasonable prospect of inclusion on the Register.

- 21.** On review of all material provided by the Executive Director and the Nominator, the Committee finds:
- in relation to Criterion A, the Committee agrees with the Executive Director that the Place does not readily allow an understanding of its past use such that it would meet the threshold for inclusion in the Register.
  - in relation to Criterion B, the Committee does not find that the Place has rare, uncommon or unusual features and considers that this class of building (small-scale industrial building) is not endangered to the point of rarity due to threats and pressures on such places/objects in Victoria; and
  - in relation to Criterion G, the Committee notes the Nominator's views in this regard, however the Committee considers that there is no evidence that the community group of relevance have a strong attachment to the Place in the present day.
- 22.** In this instance, the Committee considers that the evidence provided did not demonstrate that the Place may be of significance to the State of Victoria.

*Conclusion*

- 23.** The Heritage Council has considered a request to review the Executive Director's decision to refuse to accept a nomination to include the Artificial Limb Factory, at 242 – 246 Sturt Street, Southbank in the Victorian Heritage Register. Pursuant to Section 30(5)(a) of the Act, the Heritage Council has determined to affirm the decision under review and refuse to accept the nomination.
- 24.** The Committee thanks parties for providing additional information on the Place for its consideration, especially noting the time and research undertaken by the Nominator in preparing the documentation under review.

## **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 and objects.
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 1 December 2022, and replace the previous criteria adopted by the Heritage Council on 3 December 2020.**