

38 BLACK STREET BRIGHTON
APPEAL TO THE HERITAGE COUNCIL AGAINST
THE REFUSAL OF PERMIT P25759

SUBMISSION IN REPLY

Prepared for
Best Hooper Solicitors

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1.0 Introduction

This statement of evidence (submission in reply) to the Heritage Council relates to 38 Black Street Brighton.

The submission in reply follows the main submission dated 5 June 2017.

I refer to my earlier statement of qualifications and experience and declaration in the main, all of which apply equally to this submission in reply.

I have been provided with a series of reports as papers for this Heritage Council hearing. I consider that the majority of these documents are not relevant to the issues I have been asked to consider as addressed in my main submission.

The submission in reply provides comment on selected issues raised or discussed in submissions to the Heritage Council, as related to the views I expressed in my main submission.

Reasons for Appeal

I note that the Executive Director's main submission lists the Reasons for Appeal. There is a difference in the wording of Reason 2, as follows:

(Permit appeal form dated 2 March 2017, copy provided by Best Hooper)

2. Structural remediation and remediation of mould contamination would result in a loss of its cultural heritage significance.

(Executive Director's main submission, p. 4 of 9)

2. Structural remediation and remediation of mould contamination would result in the loss of its cultural heritage significance rendering it a mere facsimile.

2.0 Response to the Executive Director's main submission

Executive Director, Heritage Victoria, Correspondence to the Heritage Council dated 30 March 2017, Request to be Heard and main submission (Executive Summary on Behalf of the Executive Director, with appendices 1-7, dated 31 March 2017)

The majority of the issues discussed in the Executive Director's main submission are not relevant to the scope of my evidence in this matter.

The Executive Director has provided some comments on the implications of the loss of fabric at the heritage place and these are relevant to the scope of my evidence.

In responding to Reason for Refusal 1 and Reason for Refusal 2, the Executive Director has referenced a number of examples of buildings which were damaged by fire and subsequently have been partly (and in one case, fully) reconstructed and has commented in a general sense on the significance of places which have lost original fabric, through fire or some other means.

The Executive Director has noted that the extent of damage to Spurling House is less than the damage sustained by the Melbourne GPO (postal hall gutted by fire in September 2001, see Figure 1).

The Executive Director also references other examples including St James Church in Brighton (gutted by fire in March 2015) but being 'fully restored' and the St Kilda Pavilion (completely destroyed and fully reconstructed). In relation to the latter, it is commented in the Executive Director's submission that the building 'remains on the Victorian Heritage Register'.

Reference is also made to a series of registered heritage places which have been altered and there has been a partial loss of built fabric but where this loss of fabric does not preclude their inclusion or retention in the VHR.



Figure 1 Extent of damage to the Melbourne GPO postal hall, following 2001 fire
Source: Lovell Chen, Melbourne GPO HBS Group, <http://www.hbsgroup.com.au/melbourne-gpo>

Response:

By way of introduction, it is noted that the Executive Director has assumed it would be possible to retain a substantial proportion of original fabric of Spurling House.

I was not asked to consider this issue and am unable to comment on the feasibility of retention of additional fabric.

For the purposes of my evidence, as noted at section 1.1 of the main submission, I have assumed it would be necessary to demolish and reconstruct the building, albeit reusing some original fabric.

I agree with the general comment by the Executive Director that partial loss of built fabric at a heritage place does not in itself automatically result in a loss of cultural heritage significance sufficient to disqualify the place from inclusion in the VHR. There are, as commented by the Executive Director, numerous places in the VHR that have been altered and/or have lost heritage fabric. In some cases places are registered in that state, while in others, change has occurred consistent with an approval under the Heritage Act.

It is equally the case that while not common, on occasion, loss of fabric can have an adverse impact on significance such that removal from the VHR may be considered appropriate, most clearly in the case of complete loss of fabric. This is reflected in section 63 of the new Heritage Act 2017 'Expedited amendment of the Heritage Register', which allows for the following (amongst other things):

(1) On the recommendation of the Executive Director, the Heritage Council may amend the Heritage Register by amending or removing an item in the Register if –

...

(b) the amendment relates to a registered place or registered object which has been destroyed, and the Heritage Council considers that the State-level cultural heritage significance of the place or object is lost:

...

In cases where the building or structure substantially survives and partial reconstruction works are undertaken, each case would need to be considered on its own terms, but significance is unlikely to be compromised to the point that the heritage listing itself is questioned.

In terms of full reconstruction, however, my view is that any significance that can be seen to be attached to a fully reconstructed heritage place differs fundamentally from the original heritage place. This is consistent with my comments at section 4.1 (refer to p. 19) and at 6.3 (refer to p. 36) of the main submission.

In the case of the St Kilda Pier Pavilion, I am not aware of any review of the significance of the place following its destruction and full reconstruction, or any consideration of whether the place is of sufficient significance to remain in the VHR. The only change that has been made to the VHR statement of cultural significance since the destruction and reconstruction is the addition of a note at the end of the statement.

Originally known as Parer's Pavilion, the tea and refreshments rooms were built on the 'L' junction of St. Kilda pier in 1904. The Pavilion follows a building design that was popular in Europe at the time of its construction, and is a unique example of this design in Victoria. During its early years, it often doubled as a meteorological bureau, and has since then played a significant role in the fashionable seaside life of St. Kilda.

The Pavilion was razed by fire on 11 September 2003 and was rebuilt essentially to the same design in 2005 using the original plans as a guide.

Reason for refusal 7 is as follows:

The Executive Director has not identified any evidence that remediation without substantial demolition is reasonably possible *or that after remediation the building would be of material heritage significance.*

I note that in responding to this reason for refusal (see item 7 at p. 6), the Executive Director has not commented directly on the issue of the material heritage significance of the building after remediation.

3.0 Brighton Residents for Urban Protection: Summary of Views and Concerns

Kristin Stegley on behalf of Brighton Residents for Urban Protection (BRUP), Correspondence to the Executive Director, dated 5 June 2017, with attached main submission (Brighton Residents for Urban Protection: Summary of Views and Concerns, dated 5 June 2017)

As for the Executive Director's main submission, the main submission from the BRUP addresses a series of issues that are not relevant to the scope of my evidence in this matter.

The BRUP submission suggests that even if 'a significant degree of reconstruction is required', this would be a 'valid response given the high community expectations and the "uniqueness" of the place'.

The submission goes on to comment that 'There are parallels here with the St Kilda Kiosk.'

The submission notes further that:

But one example of its wide recognition is ‘the inclusion of Spurling House in the award winning publication “Bayside Architectural Trail”, available and used by thousands [of] Bayside residents, tourists and students.

The submission also references links with other heritage places, noting that there are contextual links between Spurling House and adjacent cultural heritage places.

We ... submit that these contextual links, collectively, form a recognised and designated heritage precinct. This precinct is clearly mapped in the Bayside Architectural Trail as Trail 4 which provides the opportunity to visit and experience 13 heritage listed places within short distance of Spurling House.

It is evident that the above comments in the BRUP submission have been made partly in response to reports by the Executive Director and Mr Bryce Raworth. I have not reviewed those reports but nonetheless make some comments in response to the points made in the BRUP submission

Response:

On the issue of the value of the house to the community, accepting there may be a level of local awareness and appreciation of the house and its architectural design, there is insufficient evidence in the information provided (walking trail brochure) to support a conclusion that Spurling House is a focus of community attachment in the manner of St Kilda Kiosk.

In relation to the ‘contextual links’ with other places, there may be historical and other relationships that can be identified between heritage buildings in a suburb or local area. It is not correct, however, to characterise the buildings in Trail 4 of the Bayside Architectural Trail as a ‘recognised and designated heritage precinct’ (Figure 2 & Figure 3).

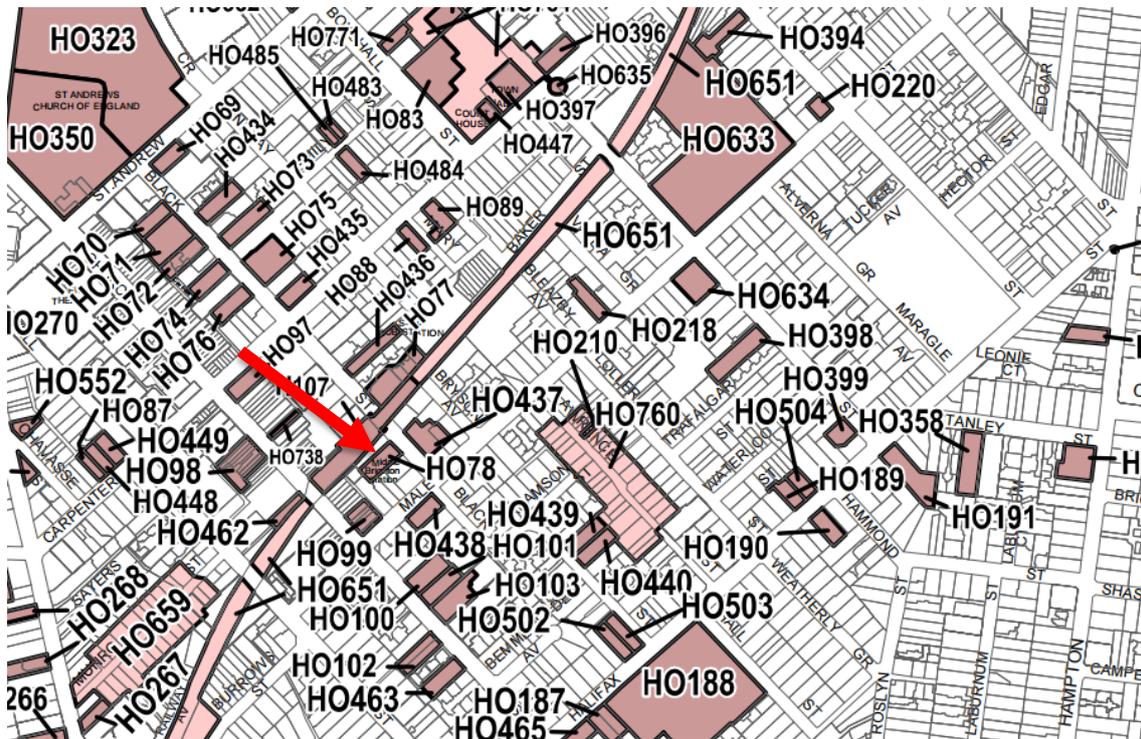


Figure 2 The Bayside Planning Scheme heritage overlay map with Spurling House (HO78) indicated; there is not heritage precinct as around the house.

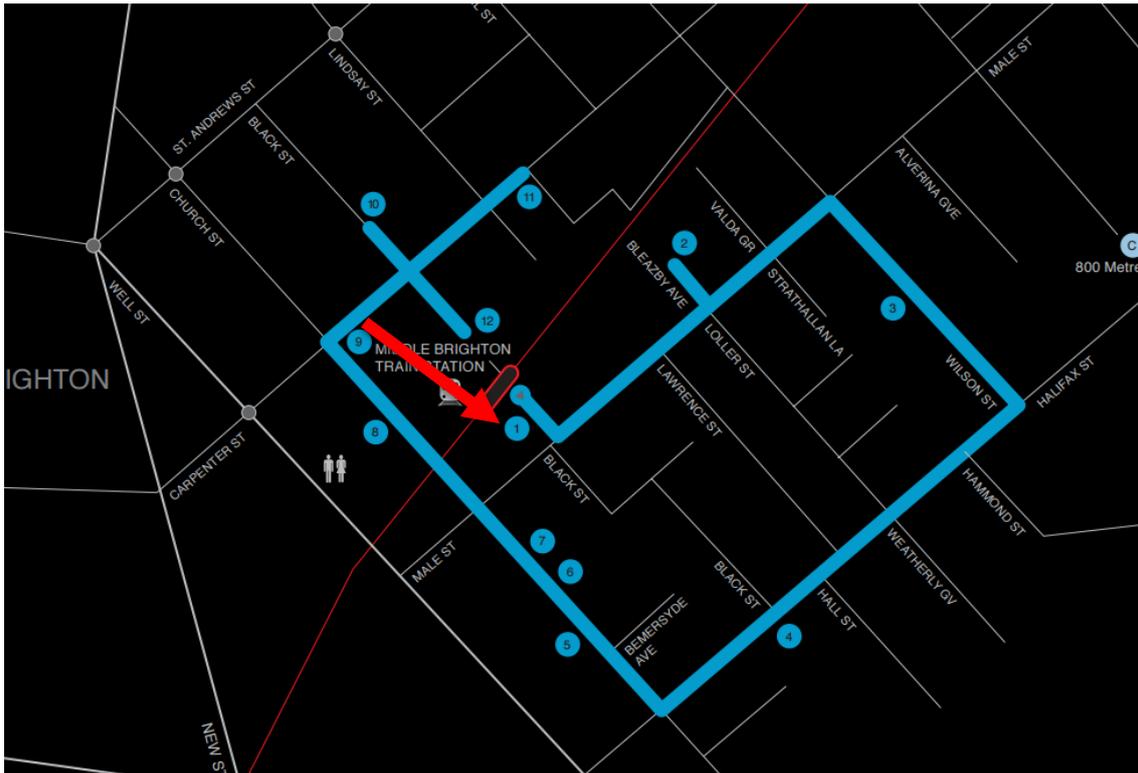


Figure 3 The Trail 4 walking tour showing the location of the Spurling House.

4.0 Additional remarks

Since the main submission was lodged with the Heritage Council, the decision of the Heritage Council Registrations Committee in the case of 1 Spring Street Melbourne (formerly Shell House) has been published (<http://heritagecouncil.vic.gov.au/wp-content/uploads/2014/10/1-Spring-Street.pdf>).

This decision contained some relevant comments in relation to the interpretation of Criterion H. The former Shell House (1985-89) was designed by the prominent architect Harry Seidler. Seidler was not based in Victoria, and he undertook few commissions in the state. On this basis, while the Registrations Committee recognised that Seidler's 'architectural achievements were influential, not just in Australia but also internationally', it found that this did not mean he was a person of such importance in Victoria's history so as to satisfy Criterion H. The same would apply in the case of John Horbury Hunt. Like Seidler, he was an important and influential figure in Australian architecture but did not work extensively in Victoria, with Spurling House the only design known to have been built.

On this basis it would seem unlikely that the existing Spurling House could be found to meet Criterion H and the same would be true of a reconstructed version of the house.