

# Statement of Recommendation from the Executive Director, Heritage Victoria

Abbotsford Convent, H0951

Clarke Street and St Heliers Street, Abbotsford, Yarra City

Wurundjeri Country



## Executive Director recommendation

I recommend to the Heritage Council of Victoria (**Heritage Council**) that Abbotsford Convent, located at Clarke Street and St Heliers Street Abbotsford in the Victorian Heritage Register (**VHR**) be amended.

In accordance with Part 3 and Part 5 of the *Heritage Act 2017* (**the Act**), I recommend to the Heritage Council:

- that the Abbotsford Convent should be included in the VHR in the categories of Registered Place and Registered Archaeological Place in accordance with section 37(1)(a) of the Act
- that the land identified in the proposed extent of registration should be included in the VHR in accordance with section 37(1)(b) of the Act
- that the existing permit exemption for '*water-proofing works and external repairs being roof and rainwater plumbing and window and door repairs and painting*' should be revoked under section 92(6) of the Act
- that the proposed categories of works or activities which may be carried out in relation to the Abbotsford Convent for which a permit under the Act is not required will not harm the cultural heritage significance of the place in accordance with section 38 of the Act.



**STEVEN AVERY**  
Executive Director, Heritage Victoria  
Date of recommendation: 18 November 2024

## The process from here

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

The Heritage Council will publish the Executive Director's recommendation on its website for a period of 60 days.

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

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

### 3. Heritage Council determination (sections 46, 46A and 49)

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

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

If submissions are received, the Heritage Council may decide to hold a hearing in relation to the submission. The Heritage Council must conduct a hearing if the submission is made by a person or body with a real or substantial interest in the place, object or land. If a hearing does take place, the Heritage Council must make a determination within 90 days after the completion of the hearing.

### 4. Obligations of owners of places, objects and land (sections 42, 42A, 42B, 42C, 42D and 43)

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

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

### 5. Further information

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

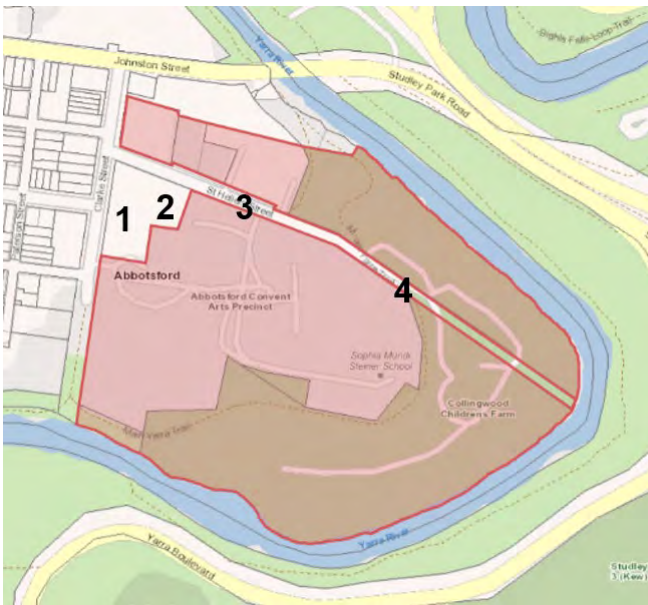
## Description

The Abbotsford Convent is located on the land of the Wurundjeri People.

The following is a description of the areas proposed for inclusion in the registration of the Abbotsford Convent. It is based on a site inspection by Heritage Victoria in October 2024

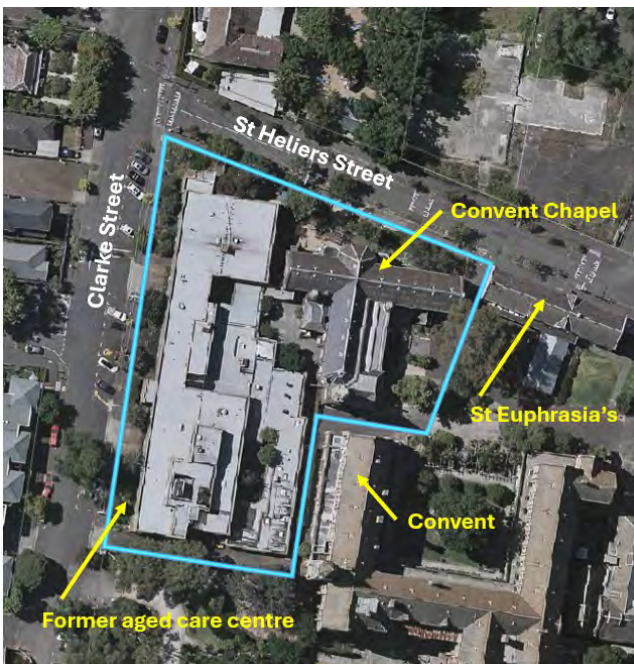
Diagram 1 illustrates the current extent of registration (outlined in red), and additional land proposed for inclusion (numbered 1 to 4 on diagram).

Diagram 2 denotes the land on the corner of Clarke and St Heliers streets (1\TP116127), 2 – 10 Clarke Street Abbotsford, proposed for inclusion (outlined in blue). The aerial imagery shows the location of the two buildings on the lot - the Convent Chapel and the former Mercy Health aged care centre.



**Diagram 1**

1. Former Mercy Health aged care centre
2. Convent Chapel
3. St Heliers Street asphalt road
4. St Heliers Street road casement.



**Diagram 2**

2 – 10 Clarke Street Abbotsford  
(1\TP116127),

## Former Mercy Health aged care centre

The principal façade of the former Mercy Health aged care centre addresses Clarke Street and marks the corner with St Heliers Street. The building can be viewed from the street, and from the courtyard between it and the Convent Chapel. It was built in the 1970s and is no longer in use.



*December 2020, Former Mercy Health aged care centre from Clarke Street. Source: Google streetview*

The site of the former Mercy Health aged care centre was originally the location of Abbotsford House, a riverside villa and farming estate dating from 1843. The villa and estate were purchased by the Sisters of the Good Shepherd in 1863 and adapted for use as a convent. By 1878 the Sisters had also constructed the St Joseph's Industrial School on the site.

In the 1970s both the former Abbotsford House and the St Joseph's Industrial School were demolished to enable the construction of the aged care centre.

The former Mercy Health aged care centre is not considered to have historical significance at a State level. However, the site is likely to include significant archaeological remains, and also forms part of the setting of the Convent Chapel and the Abbotsford Convent site as a whole.

## Convent Chapel

The Convent Chapel is a Roman Catholic church originally named the Church of the Immaculate Conception. The Chapel is approached from St Heliers Street and is located immediately behind the former aged care centre.

The Chapel is a bluestone gothic revival building with a cruciform floor plan, a slate roof and octagonal spire. The interior features a timber ceiling, plastered walls, elaborate window tracery and stained glass by Ferguson & Urie. Entry is via a modern stair and ramp on the northern side of the building (St Heliers Street) into the eastern transept. The eastern transept has been adapted with the introduction of glazed screens to form a foyer and museum. The eastern and western transepts are overlooked by mezzanine levels accessed by a staircase at each end. The far end of the western transept is separated from the nave by a modern glazed wall enabling the space to be used for smaller services and events.

Originally, the lengthy nave accommodated the sisters, with the wide transepts divided into a public church and a penitents' church (Lewis, 1991, p. 29). These divisions are in keeping with the historically strict nature of segregation and delineation throughout the Convent site. It is likely that the children of the Industrial School, and the girls from St Euphrasia's sat in particular sections. The carved marble altar is located in a semicircular apse with painted vaulted ceiling at the termination of the nave. At the southern end of the nave smaller rooms are utilised as offices.

Miles Lewis suggests that the curved apse and rose window are indicative of a French influence and are more common in Roman Catholic buildings for which specific French churches may have been taken as models (Lewis, 1991, p. 30). It is thought that the design of the chapel was based on that of the convent church at the Mother House (the original convent of this religious community) at Angers, France, and internally provided for the same segregation of 'classes' as at Angers.

A Fincham organ is located on an elevated platform at the junction of the nave and eastern transept. Whilst the organ dates from 1884, it was moved to this location from the rear gallery in 1968, several modifications made, and two new

zinc facades installed (Organ Historical Trust of Australia). The nave features a memorial to Sister Mary of Mt Carmel Curtain who died in 1888, and whose remains are interred beneath the chapel. The basement of the church is accessed by modern exterior stairs and ramp on the eastern side of the nave. The basement has been adapted as a gallery space with kitchen. Windows provided views into the underfloor space of the crypt of Sister Mary.

## Images

### Convent Chapel – exterior



*Date unknown, St Heliers Street elevation (north) Entry at left. Source: VicScreen*



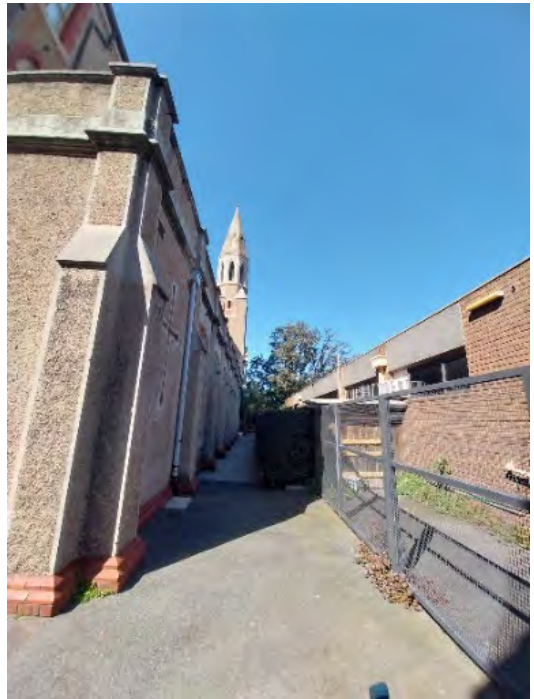
*2024, East elevation of Convent Chapel. Source: Heritage Victoria*



*2024, South elevation of Convent Chapel. Source: Heritage Victoria*



2024, View between former aged care centre and the Convent Chapel. Source: Heritage Victoria



2024, Interface of Convent and former aged care centre. Source: Heritage Victoria



2024, View between Convent and the Convent Chapel towards former aged care centre. Source: Heritage Victoria



2024, View to the Convent Chapel from the aged care centre courtyard. Source: Heritage Victoria



2024, View to the Convent Chapel from the aged care centre courtyard. Source: Heritage Victoria



2024, View from Convent Chapel across courtyard to former aged care centre. Source: Heritage Victoria



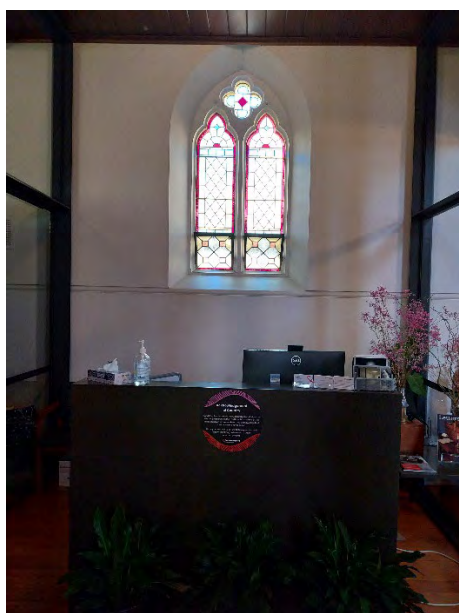


2024, East elevation of Convent Chapel. Source: Heritage Victoria



2024, South and East elevations of Convent Chapel. Source: Heritage Victoria

### Convent Chapel - interior



2024, Entry foyer. Source: Heritage Victoria



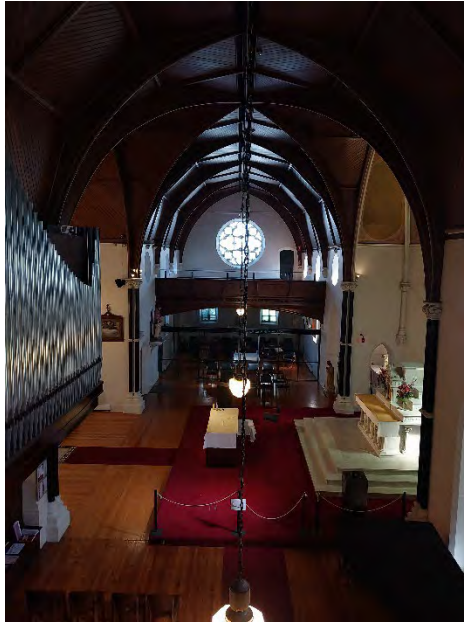
2024, Museum display. Source: Heritage Victoria



2024, Glazing between foyer and church body. Source: Heritage Victoria



2024, Rose window from eastern mezzanine  
Source: Heritage Victoria



2024, Convent Chapel interior looking west.  
Source: Heritage Victoria



2024, Chapel interior view to the west  
showing church organ on the left. Source:  
Heritage Victoria



2024, Chapel interior view western end with  
glazed wall. Source: Heritage Victoria



2024, Altar, apse and ceiling paintings.  
Source: Heritage Victoria



2024, Interior view looking south. Source:  
Heritage Victoria

## St Heliers Street asphalt road and road casement

The current extent of registration does not include a strip of land through the centre of the site. This strip of land is designated as a road casement. The western part of this strip has been developed as an asphalt road known as St Heliers Street (Diagram 3) The eastern part of this strip, from the entry to the Collingwood Children's Farm to the Yarra River has not been developed as a road (Diagram 4) and reads as part of the green space

St Heliers Street is an asphalt road with bluestone kerb and channel and parking and a footpath on each side. St Heliers Street is the principal access point to the Abbotsford Convent site for visitors, workers and deliveries. It divides the northern and southern sections of the Abbotsford Convent complex. Its location and alignment date from the 1850s development of the site. It also retains bluestone pitched crossovers on both sides that indicate the locations of earlier entrances: there is one on the south side into the Convent service yard; and three on the northern side (c.1901). (CMP Vol1 pg 135).

Enclosed spaces were a feature of the design of the Convent complex and enclosing walls and fencing were some of the first structures built by the Good Shepherd sisters after their purchase of the site in 1863. By 1869-97 a high solid wall ran along the St Heliers Street boundary formed partly by buildings coincident with it. There were two entry points through this boundary – a door for the admission of penitents and the adjacent service entry. The formal entry to the site, and for those of high social standing, was through the main grand entrance on Clarke Street. Through the 1960s to the 1980s the St Heliers Street boundary walls were rebuilt, and in 2017 sections were demolished. The only original section of the St Heliers Street wall is the lower section on the boundary wall of the Gatehouse and Stables (Context GML, 2019, pp. 141-146)

The St Heliers Street asphalt road ends at the entry to the Collingwood Children Farm. From this point east to the edge of the Yarra River the casement may be considered a road 'on paper' only. The casement has not been developed as a public road and is not managed as one.

The upper section of the unformed casement consists of part of the Main Yarra Trail and the internal paths and tracks of the Collingwood Children's Farm. Further east the casement has been built upon with sheds and other structures associated with the Farm. Further towards the Yarra the casement has been planted with trees and grassed. It is unable to be differentiated from the surrounding grounds when on site.



Diagram 3: St Heliers Street (asphalt road)

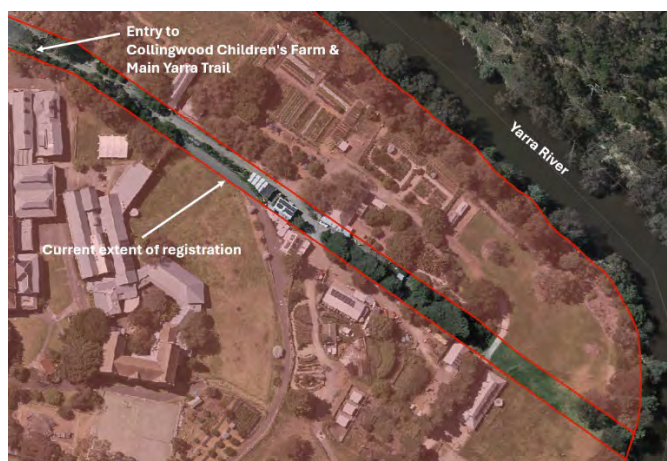


Diagram 4: Road Casement (not developed or managed as a road)

## Images

### St Heliers Street roadway and road casement



2024, Corner of St Heliers Street and Clarke Street showing the former aged care centre. Source: Heritage Victoria



2024, North side of St Heliers Street, bluestone crossover. Source: Heritage Victoria



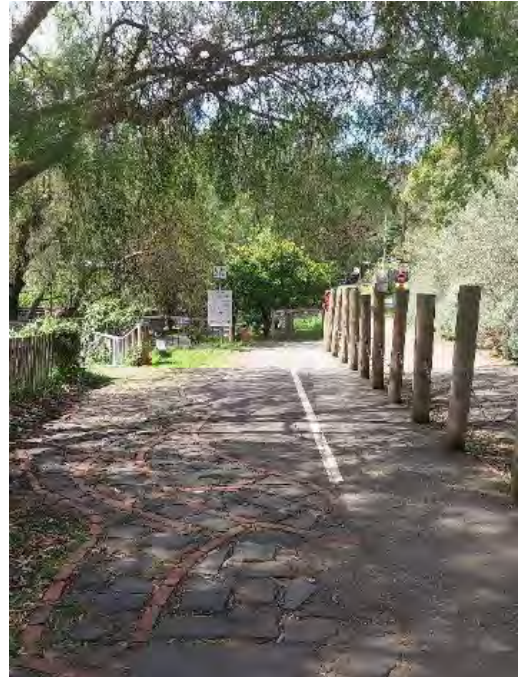
2024, Delivery/staff entry from St Heliers Street. Lower section of the Gatehouse & Stables wall is a remnant of the 1860s boundary wall. Source: Heritage Victoria



2024, End of the formed road of St Heliers Street and entry to Collingwood Children's Farm. Source: Heritage Victoria



2024, St Heliers Street road casement and entry to Collingwood Children's Farm. Source: Heritage Victoria



2024, St Heliers Street road casement and entry to Collingwood Children's Farm. Source: Heritage Victoria

## History

The following text is drawn from the existing statement of significance. Minor updates have been made and is proposed to be added to the Place History field in the Victorian Heritage Database which is not currently populated.

The site of the Abbotsford Convent was chosen by four Irish sisters from the Good Shepherd's mother house in Angers, France, who arrived in Melbourne in 1863. They established the Order on what had been two large 1840s villa estates, St Heliers and Abbotsford House. From the late 1860s the site accommodated the Magdalen Asylum, which was essentially a women's refuge, a reformatory for young offenders, and an industrial school complex for the care and training of children who were disadvantaged or neglected. At the end of the 1870s a Catholic day school was added.

More land was purchased in the 1880s and 1890s to include all of the land between Clarke Street and the Yarra River. This allowed for the construction of the large laundry buildings, which were to become the primary source of income for the convent. The institution provided accommodation for thousands of women and girls who were subject to a variety of welfare and court-based rehabilitation and protection programs. There was a massive expansion program in the early twentieth century, with the construction of a new Convent building, an adjacent contemplative garden, new buildings for classrooms, a refectory and dormitories. Most of these were designed by the architectural firm Reed Smart & Tappin.

The convent became one of the largest self-sufficient convent and farm complexes in Australia: at its peak it housed, fed and clothed a population of over a thousand, and hundreds more children attended the day schools. There were extensive vegetable gardens and orchards on the southern slopes, grazing land for milking cows and horses to the east, and large numbers of pigs and poultry were kept.

In 1975 the site was purchased by the Victorian Government as a higher education campus, with funding from the Federal Government. The proposed redevelopment of the site in the late 1990s led to a massive community-based heritage battle which resulted in 2004 in the transfer of the convent site south of St Heliers Street to the Abbotsford Convent Foundation for community use. The site is now divided into three parts: the north-west part of the site, including the Convent Chapel, which has been retained by the Order; the Collingwood Children's Farm, established in 1979 on the

former farm land to the east; and the remainder of the former convent site, including the gardens, managed by the Abbotsford Convent Foundation.

## Selected bibliography

Context GML. (2019). *Abbotsford Convent Conservation Management Plan Volumes 1 - 3*. Melbourne: Abbotsford Convent Foundation.

Lewis, M. (1991). *Victorian Churches*. Melbourne: National Trust.

Organ Historical Trust of Australia. (2024, 11 7). *Good Shepherd Chapel*. Retrieved from Organ Historical Trust of Australia: <https://www.ohta.org.au/organs/organs/AbbotsfordGoodShepherdChapel.html>

Robert Simeoni Architects. (2024, 11 7). *Good Shepherd Chapel, Abbotsford*. Retrieved from Robert Simeoni Architects: <https://robertsimeoniarchitects.com/projects/public/good-shepherd-chapel-abbotsford/>

VicScreen. (2024, 11 7). *Vicscreen*. Retrieved from Good Shepherd Chapel Abbotsford: <https://vicscreen.vic.gov.au/choose-victoria/locations/good-shepherd-chapel-abbotsford>

## Further information

### Traditional Owner Information

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

### Native Title

Native title is the recognition in Australian law that some Aboriginal and Torres Strait Islander people continue to hold rights and interests in land and water. Native title is not granted by governments. It is recognised through a determination made by the Federal Court of Australia under the *Native Title Act 1993* (Cth). At the time of writing Native Title has not been recognised for the place.

In 2010, acknowledging the difficult nature of having native title determined under the Native Title Act, the Victorian Government developed an alternate system for recognising the rights of Victorian traditional owners. The *Traditional Owner Settlement Act 2010* (Vic) allows the government and traditional owner groups to make agreements that recognise traditional owners' relationship to land and provide them with certain rights on Crown land. At the time of writing there is no Recognition and Settlement Agreement affecting the land.

### Victorian Aboriginal Heritage Register

The place is in an area of Aboriginal cultural heritage sensitivity associated with the Yarra River.

(October 2024)

### Integrity

The integrity of the place is excellent. The cultural heritage values of the Abbotsford Convent can be easily read in the extant fabric.

(October 2024)

### Intactness

The intactness of the place is excellent.

(October 2024)

### Condition

The condition of the place is very good.

(October 2024)

Note: The condition of a place or object does not influence the assessment of its cultural heritage significance. A place or object may be in very poor condition and still be of very high cultural heritage significance. Alternatively, a place or object may be in excellent condition but be of low cultural heritage significance.

## Amendment recommendation

### State-level cultural heritage significance of the place

The cultural heritage significance of the Abbotsford Convent was recognised when it was included in the Register of Government Buildings in 1982. Its State-level cultural heritage significance was confirmed in 1993 when it was transferred to the Register of Historic Buildings (predecessor of the Victorian Heritage Register).

### Amendment application

On 29 October 2024 the Executive Director made and accepted an application to amend the registration of the Abbotsford Convent. The amendment proposes to include additional land in the registration and correct past errors in the registration.

There are three additional areas of land that are proposed for inclusion within the extent of registration:

**1) 2 – 10 Clarke Street Abbotsford (1\TP116127).**

This land is in the ownership of McAuley Property Ltd and contains the Convent Chapel (1872) and the former Mercy Health aged care centre (c.1974).

**2) St Heliers Street asphalt road**

St Heliers Street has been developed as a road from its intersection with Clarke Street eastwards to the entry to the Collingwood Children's Farm.

**3) St Heliers Street road casement**

The St Heliers Street road casement (road reservation) from the entry to the Collingwood Children's Farm eastwards down to the Yarra River has not been developed as a road. Part is used as a path, and part integrated with the grounds of the Convent and Collingwood Children's Farm by planting. It is unable to be differentiated from the surrounding grounds when on site.

### Additional land

The Executive Director recommends that the Heritage Council amend this registration because in accordance with section 40(4)(c)(i) and (ii):

- (i) the State-level cultural heritage significance of the place would be substantially less if the additional land or any part of the additional land which is or has been used in conjunction with the place were developed; or
- (ii) the additional land surrounds the place and is important to the protection or conservation of the place; or contributes to the understanding of the place.

### Assessment and summary under section 40(4)(c)(i)

Additional land may be included in a registered place if the State-level cultural heritage significance of the place would be substantially less if the land or any part of the land which is or has been used in conjunction with the place were developed.

**1) 2 – 10 Clarke Street Abbotsford (1\TP116127)**

This land is of significance as it contains the Convent Chapel (1872) which was an integral part of the day-to-day functioning of the place in the nineteenth century. It is also significant for the potential to contain archaeological remains of Abbotsford House (1863, later Convent) and the St Joseph's Industrial School (1874-75) which were demolished prior to construction of the Mercy Health aged care centre (c.1974).

**2) St Heliers Street asphalt road**

This land is of significance as its location and alignment date from the 1850s development of the site. It also retains bluestone pitched crossovers on both sides that indicate the locations of earlier entrances: there is one on the south side into the Convent service yard; and three on the northern side (c.1901). (CMP Vol1 pg 135)



### **3) St Heliers Street road casement**

The St Heliers Street road casement has been integrated with the grounds of the Convent and Collingwood Children's Farm and is developed with paths and garden beds. The road casement is unable to be differentiated from the surrounding grounds when on site. It appears that by 1900 the Good Shepherd Sisters had acquired this casement, along with land to the north of St Heliers Street. These acquisitions greatly extended their holdings to include additional river frontage and farmland. (CMP Vol 1 pg 267)

#### **Use in conjunction with the place**

The three areas of additional land proposed for inclusion have been used in conjunction with the Abbotsford Convent since its establishment over 170 years ago.

#### **Development and cultural heritage significance**

- If any of the land was developed there is potential for new buildings and works to impact upon and substantially reduce the State-level cultural heritage significance (including archaeological significance) of the place. The Convent Chapel is particularly at risk from the impacts of new development given the constrained nature of the site and proposed redevelopment of the aged care facility. It is likely that development may occur within five metres of the Convent Chapel.
- If large new buildings were constructed near the place, they would have the potential to greatly diminish the setting and context of the Convent Chapel and therefore reduce its State-level heritage values. There is also the potential for the archaeological remains (and associated artefacts) of former buildings and structures in the area to exist.
- Including additional land will ensure that all works are managed through an approval process consistent across the entirety of this place and would provide certainty for all parties.
- This land contains archaeology of State-level cultural heritage significance therefore development in this area could substantially lessen the cultural heritage significance of the place.

#### **Assessment and summary under section 40(4)(c)(ii)**

Additional land may be included in a registered place if the land surrounding the place is important to the protection or conservation of the place or contributes to an understanding of the place.

##### **1) 2 – 10 Clarke Street Abbotsford (1\TTP116127)**

This lot, on the southwest corner of Clarke and St Heliers Street, is important to the protection or conservation of the place, and contributes to an understanding of the place. Visitors today will commonly enter the Abbotsford Convent site via Clarke Street and St Heliers Street with 2 – 10 Clarke Street Abbotsford marking this modern entry point. As the site of the original Abbotsford House (later becoming the Convent), the St Joseph's Industrial School (both demolished in the 1970s), and the 1872 Convent Chapel, one of the earliest convent buildings remaining, the site contributes to our understanding of the place.

##### **2) St Heliers Street asphalt road**

The road is important to the protection or conservation of the place and contributes to an understanding of the place. The sense of enclosure of the Abbotsford Convent is a defining and significant aspect of the place. From the very beginning of the Convent era in the 1860s, the site was enclosed by high walls, limiting views between the site and the 'outside world' on the Clarke Street and St Heliers Street sides. The site was otherwise enclosed by the natural landforms. As an internally focussed community, the boundary walls to both Clarke Street and St Heliers provided a sense of enclosure and were a feature of the place. A total of five gates and three doors in walls are indicated on the 1878 plan of the site. The main entrance was via the Clarke Street gateway. Whilst only remnants of the St Heliers Street boundary wall remain its alignment with the road helps in our understanding of the place.

##### **3) St Heliers Street road casement**

The St Heliers Street road casement has been fully integrated with the grounds of the Convent and Collingwood Children's Farm and no longer reads as a road. From a significance perspective it should be considered as part of the Convent grounds.

### **Protection, conservation and understanding**

The current extent is insufficient to protect, conserve and allow for a proper understanding of the place. Without an approval process, the Abbotsford Convent complex could be impacted by incremental change to landscape, fencing and infrastructure, and by new buildings which, depending upon their siting, height, form, scale and materials, may affect the setting or context of the place and its history.

The proposed extent will enable adequate access to the Abbotsford Convent complex for future maintenance and conservation (eg, for the erection of scaffolding, or access by machinery) and to be able to manage changes in the immediate environment. Inclusion of an area of land around the buildings will also enable works that could potentially impact the conservation of the building, such as drainage, landscaping and paving, to be managed under an approval process.

Inclusion of an area around the building provides a setting for the place. The proposed additional land includes the Convent Chapel which is one the earliest buildings of the Convent complex remaining and contributes to understanding how the place has developed over time.

### **Change of name**

The name is proposed to be changed to Abbotsford Convent (currently Former Convent of the Good Shepherd) as this is the name by which the place is commonly known. The current name will be retained as an alternative and will remain searchable in the Victorian Heritage Database.

## Statutory requirements under section 40

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

The Executive Director recommends that the registration of Abbotsford Convent in the VHR is amended.

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

**Number:** H0951

**Category:** Registered Place and Registered Archaeological Place.

**Name:** Abbotsford Convent

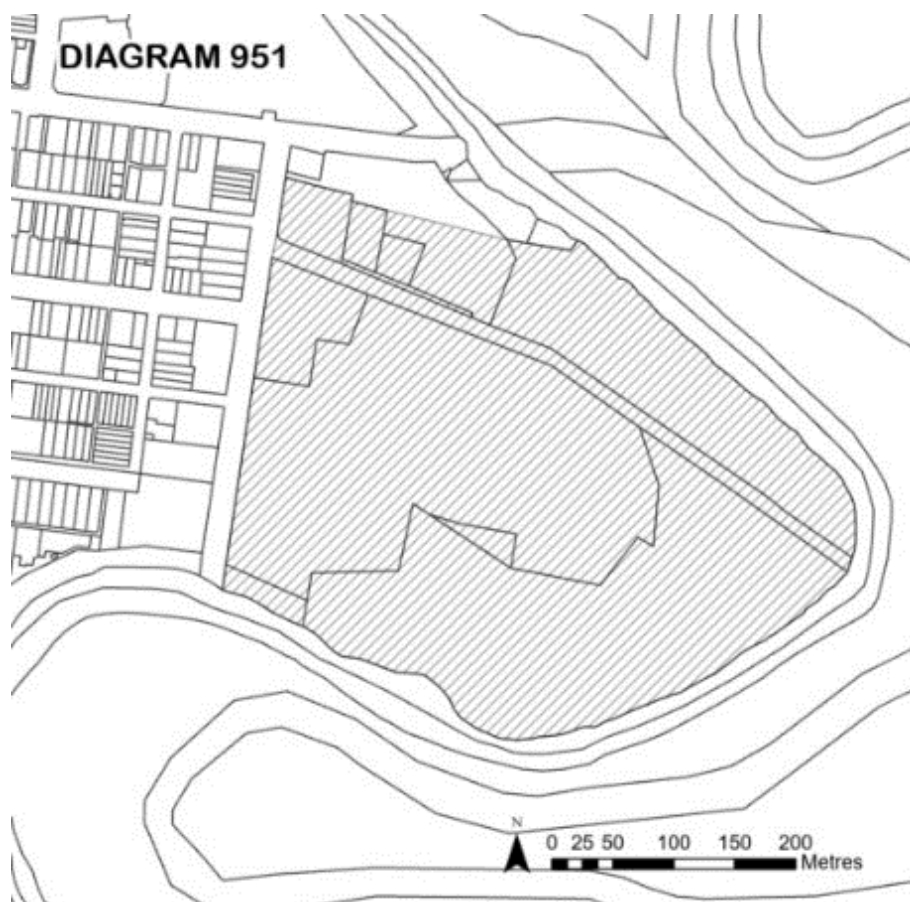
**Location:** Clarke Street and St Heliers Street Abbotsford

**Municipality:** Yarra City

### Proposed extent of registration

The Executive Director recommends that the extent of registration for Abbotsford Convent be gazetted as:

All of the place shown hatched on Diagram 951 encompassing all of Crown Allotments 2026, 2030, 2031, 2844, 2845, 2810, 77F, 77E and 77J Parish of Jika Jika, all of Lot 1 on Title Plan 116127 and part of Crown Allotment 2330 Parish of Jika Jika and all of the road casement of St Heliers Street.



## Aerial Photo of the Place Showing Proposed extent of registration



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

### Rationale for the extent of registration

The recommended extent of registration comprises all land associated with the former Convent of the Good Shepherd, including the site of the Convent Chapel and the demolished Abbotsford House. It also unites those parts of the former Convent located on the north and south sides of St Helier Street by including the street and includes the unformed section of the road casement which has been integrated with the grounds.

The recommended extent of the registration is the same as the nominated extent of registration.

It should be noted that everything included in the proposed extent of registration including all the land, all soft and hard landscape features, plantings, all buildings (exteriors, interiors and fixtures), and any historical archaeological features, deposits and artefacts are proposed for inclusion in the VHR. A permit or permit exemption from Heritage Victoria is required for any works within the proposed extent of registration, apart from those identified in the categories of works or activities in this recommendation.

## Summary of cultural heritage significance (section 40(4))

### Statement of significance

#### What is significant?

The Abbotsford Convent (former Convent of the Good Shepherd) is a large and architecturally distinctive example of a Roman Catholic convent complex. The complex was constructed during the late nineteenth and early twentieth centuries in a rural setting on a bend of the Yarra River. It includes ecclesiastical, residential, educational and utilitarian buildings, designed by architects Thomas Kelly and later, William B Tappin, of the firm Reed Smart and Tappin.

The main building on the site is the Convent building and annexe (1900-1903), one of the key buildings of the early twentieth century expansion, notable for its use of roughcast on the walls. Other major buildings are: the two-storey brick Industrial School for neglected children (1868); the Convent Chapel (1872), the Magdalen Asylum (or Sacred Heart) (1877); St Euphrasia's school (1879); Mercator, the main laundry building (c1885 to 1964); the North Laundry (c1885-1925) and the South Laundry (1907); Providence (1887, 1905), built as school accommodation; St Anne's (1906), part of the Magdalen Asylum, which completed the enclosure of the Magdalen Asylum courtyard; Rosina, the former Sacred Heart Class (1908), designed in the Baroque Revival style; and St Mary's Preservation Class (1911), also in the Baroque Revival style. Remnants of the original convent walls remain.

To the south of the convent is a picturesque garden with a central lawn and surrounded by shrubberies, a timber rotunda, curved paths and formal paths lined with elm and oak avenue plantings. The lower garden contains a former orchard area, and to the east is former grazing and farm land. The site retains remnant River Red Gums and vistas to the indigenous bushland of Yarra Bend Park and the Yarra River.

#### How is it significant?

The Abbotsford Convent is of historical, archaeological, architectural, and aesthetic significance to the State of Victoria. It satisfies the following criterion for inclusion in the Victorian Heritage Register:

##### Criterion A

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

##### Criterion 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.

#### Why is it significant?

Abbotsford Convent is historically significant as the only extant former monastic or convent farm surviving in a substantial manner within a city in Australia. It is the site of the largest self-sufficient convent and monastic building and farm complex in the state, with extensive vegetable gardens, orchards and grazing land. The large-scale agricultural operations were remarkable for a city location. The farm and the massive laundry buildings were major symbols of the convent and reflected the objectives of the Good Shepherd Order. (Criterion A)

Abbotsford Convent is historically significant as the birthplace in Australia of the Good Shepherd Order, one of the most important religious orders in the Catholic Church in Victoria. The Convent provided refuge, care and 'reform' activities for thousands of women and girls through a variety of welfare, rehabilitation and protection programs during the nineteenth and twentieth centuries. This was the Order's first convent in Australia and New Zealand, and was the Mother House and Novitiate for the Order in Australasia. (Criterion A)

Abbotsford Convent is historically significant as a demonstration of changing approaches to the institutional care and education of disadvantaged women and children in the nineteenth and twentieth centuries. (Criterion A)

Abbotsford Convent is historically significant for its role during the early years of church-based education after the 1872 *Education Act* ended state funding to Denominational schools, and the subsequent expansion of church-based education. (Criterion A)

Abbotsford Convent is of archaeological significance for its potential to contain subsurface historical archaeological features, deposits and artefacts associated with the use and occupation of the convent and two of Melbourne's earliest villa estates, Abbotsford House and St Heliers, which occupied this site from the 1840s and the St Josephs Industrial School (1874). (Criterion C)

Abbotsford Convent is architecturally significant as an outstanding example of a nineteenth century religious complex, with buildings constructed in various periods but in a consistent Gothic Revival style, reflecting the contemporary interest in Medievalism and strong influence by the French Mother House. These include the early buildings designed by Thomas Kelly, and those designed in the major building campaign of 1900-1911, mainly by William Tappin, with others by Reed, Smart & Tappin, one of Victoria's major architectural firms of that period. It is significant for the intact interiors, notably in the convent buildings, kitchens and laundries. (Criterion D)

Abbotsford Convent is of aesthetic significance for the architectural cohesion of the complex, for the designed landscape elements and natural attributes, for the bushland vistas, and for its rural setting on the Yarra River, which has been retained despite the development of surrounding areas. It is a key visual landmark in the area, and notable for the views of the site from the Johnston Street Bridge, from the Kew side of the river, and from the Children's farm. Its collection of mature shrubs and trees of considerable age, including two outstanding English Oaks (*Quercus robur*), a fine Holm Oak (*Quercus ilex*) remnant River Red Gums (*Eucalyptus camaldulensis*), some rare plants including *Dombeya tiliacea*, and *Vitex lucens* contribute to the place. (Criterion E)

## Recommended permit exemptions under section 38

### Introduction

A [heritage permit](#) is required for all works and activities undertaken in relation to VHR places and objects. Certain works and activities are [exempt from a heritage permit](#), if the proposed works will not harm the cultural heritage (including archaeological) significance of the heritage place or object.

### Permit Policy

The 2019 *Abbotsford Convent Conservation Management Plan Volumes 1- 3* prepared by Context GML for the Abbotsford Convent Foundation (ACF) provides a useful starting point for understanding the cultural heritage (including archaeological) significance of the place. There would be benefit in further analysis being undertaken of those parts of the place not managed by the ACF.

### Permit Exemptions

#### General Exemptions

General exemptions apply to all places and objects included in the Victorian Heritage Register (VHR). General exemptions have been designed to allow everyday activities, maintenance and changes to your property, which don't harm its cultural heritage significance, to proceed without the need to obtain approvals under the *Heritage Act 2017*.

**Places of worship:** In some circumstances, you can alter a place of worship to accommodate religious practices without a permit, but you must notify the Executive Director of Heritage Victoria before you start the works or activities at least 20 business days before the works or activities are to commence.

**Subdivision/consolidation:** Permit exemptions exist for some subdivisions and consolidations. If the subdivision or consolidation is in accordance with a planning permit granted under Part 4 of the *Planning and Environment Act 1987* and the application for the planning permit was referred to the Executive Director of Heritage Victoria as a determining referral authority, a permit is not required.

Specific exemptions may also apply to your registered place or object. If applicable, these are listed below. Specific exemptions are tailored to the conservation and management needs of an individual registered place or object and set out works and activities that are exempt from the requirements of a permit. Specific exemptions prevail if they conflict with general exemptions.

Find out more about heritage permit exemptions [here](#).

#### Specific Exemptions

The works and activities below are not considered to cause harm to the cultural heritage significance of the Abbotsford Convent subject to the following guidelines and conditions:

#### Guidelines

1. Where there is an inconsistency between permit exemptions specific to the registered place or object ('specific exemptions') established in accordance with either section 49(3) or section 92(3) of the Act and general exemptions established in accordance with section 92(1) of the Act specific exemptions will prevail to the extent of any inconsistency.
2. In specific exemptions, words have the same meaning as in the Act, unless otherwise indicated. Where there is an inconsistency between specific exemptions and the Act, the Act will prevail to the extent of any inconsistency.
3. Nothing in specific exemptions obviates the responsibility of a proponent to obtain the consent of the owner of the registered place or object, or if the registered place or object is situated on Crown Land the land manager as defined in the *Crown Land (Reserves) Act 1978*, prior to undertaking works or activities in accordance with specific exemptions.

4. If a Cultural Heritage Management Plan in accordance with the *Aboriginal Heritage Act 2006* is required for works covered by specific exemptions, specific exemptions will apply only if the Cultural Heritage Management Plan has been approved prior to works or activities commencing. Where there is an inconsistency between specific exemptions and a Cultural Heritage Management Plan for the relevant works and activities, Heritage Victoria must be contacted for advice on the appropriate approval pathway.
5. Specific exemptions do not constitute approvals, authorisations or exemptions under any other legislation, Local Government, State Government or Commonwealth Government requirements, including but not limited to the *Planning and Environment Act 1987*, the *Aboriginal Heritage Act 2006*, and the *Environment Protection and Biodiversity Conservation Act 1999* (Cth). Nothing in this declaration exempts owners or their agents from the responsibility to obtain relevant planning, building or environmental approvals from the responsible authority where applicable.
6. Care should be taken when working with heritage buildings and objects, as historic fabric may contain dangerous and poisonous materials (for example lead paint and asbestos). Appropriate personal protective equipment should be worn at all times. If you are unsure, seek advice from a qualified heritage architect, heritage consultant or local Council heritage advisor.
7. The presence of unsafe materials (for example asbestos, lead paint etc) at a registered place or object does not automatically exempt remedial works or activities in accordance with this category. Approvals under Part 5 of the Act must be obtained to undertake works or activities that are not expressly exempted by the below specific exemptions.
8. All works should be informed by a Conservation Management Plan prepared for the place or object. The Executive Director is not bound by any Conservation Management Plan and permits still must be obtained for works suggested in any Conservation Management Plan.

### Conditions

1. All works or activities permitted under specific exemptions must be planned and carried out in a manner which prevents harm to the registered place or object. Harm includes moving, removing or damaging any part of the registered place or object that contributes to its cultural heritage significance.
2. If during the carrying out of works or activities in accordance with specific exemptions original or previously hidden or inaccessible details of the registered place are revealed relating to its cultural heritage significance, including but not limited to historical archaeological remains, such as features, deposits or artefacts, then works must cease and Heritage Victoria notified as soon as possible.
3. If during the carrying out of works or activities in accordance with specific exemptions any Aboriginal cultural heritage is discovered or exposed at any time, all works must cease and the Secretary (as defined in the *Aboriginal Heritage Act 2006*) must be contacted immediately to ascertain requirements under the *Aboriginal Heritage Act 2006*.
4. If during the carrying out of works or activities in accordance with specific exemptions any munitions or other potentially explosive artefacts are discovered, Victoria Police is to be immediately alerted and the site is to be immediately cleared of all personnel.
5. If during the carrying out of works or activities in accordance with specific exemptions any suspected human remains are found the works or activities must cease. The remains must be left in place and protected from harm or damage. Victoria Police and the State Coroner's Office must be notified immediately. If there are reasonable grounds to believe that the remains are Aboriginal, the State Emergency Control Centre must be immediately notified on 1300 888 544, and, as required under s.17(3)(b) of the *Aboriginal Heritage Act 2006*, all details about the location and nature of the human remains must be provided to the Aboriginal Heritage Council (as defined in the *Aboriginal Heritage Act 2006*).



## Exempt works and activities

### University of Melbourne Early Learning Centre

*Former St Euphrasia's Day School building (red brick ca. 1935-1942)*

1. All non-structural internal building works.
2. Painting of previously painted internal surfaces in any colour or finish.
3. Removal, maintenance, repair or replacement of later, light-weight partition walls including making good junctions with masonry walls.
4. Installation or removal of surface mounted and subfloor services and utilities, including:
  - internet services (wifi antenna and routers etc.)
  - television/display screens and associated audio visual
  - fire detection and prevention systems
  - video surveillance and alarm systems
  - public address systems and associated speakers
  - telecommunications wiring and cabling
  - associated subfloor cabling.
5. Removal, maintenance, repair or regrading of external accessibility ramps.

#### *School outbuildings and other structures*

6. All internal works to sheds, structures and outbuildings within the Early Learning Centre grounds.
7. Internal and external repairs or recladding of sheds, structures and outbuildings within the Early Learning Centre grounds.
8. Removal or demolition of sheds, structures and outbuildings within the Early Learning Centre grounds.

#### *Landscape/ outdoor areas*

9. Installation and replacement of shade sail fabric and supporting structures.
10. Replacement of playground equipment and outdoor furniture.
11. Removal, replacement and installation of new ground surfacing treatments (for example, asphalt, safety matting).
12. Gardening.
13. Planting, pruning and maintenance of trees and shrubs.
14. Removal of trees and shrubs other than the mature Elm trees located adjacent to the east boundary fence.

#### *Fencing*

15. Removal, maintenance, repair or replacement of fencing, gates and posts, in the same location, retaining a similar level of visual permeability and no higher than the existing.

### Abbotsford Convent Carpark (north side of St Heliers Street)

16. Ground level works to maintain, reconfigure or improve the carpark including the repair or resealing of the carpark surface; the repair, removal, installation or maintenance of kerbing, bollards, speed humps, wheel stops and boom gates; the maintenance, removal or installation of plantings and landscaping; the repair, removal or installation of directional signage and line marking; and the repair, removal or installation of lighting.

### St Heliers Street (paved road maintained by Yarra City Council)

17. The repair and resurfacing of footpaths and road surfaces and the installation, repair or removal of regulatory signs, warning signs, and street signs. Kerbs, channels and crossovers must be retained, with any repairs undertaken on a like for like basis.
18. The removal, repair or installation of underground services, utilities and drains within the St Heliers Street road reservation provided that the surface is returned to its former appearance upon completion.

## Existing registration details

### Existing extent of registration

#### AMENDMENT OF REGISTER OF HISTORIC BUILDINGS

Historic Building No. 951.

Former Convent of the Good Shepherd complex off Clarke and St Heliers Streets, Abbotsford.

(To the extent of:

1. All the following buildings, structures and works including roads and paths, fences, gates and remnant walls and buildings marked B-1 to B-14 inclusive on Plan 6049167 (A), endorsed by the Chairperson, Historic Buildings Council and held by the Director, Historic Buildings Council to include:

B1 Convent

B2 Convent Kitchen

B3 Sacred Heart

B4 Rosina

B5 St Mary's

B6 St Euphrasia's

B7 Providence

B8 Kindergarten

B9 Mercator

B10 Lourdes

B11 House No. 1

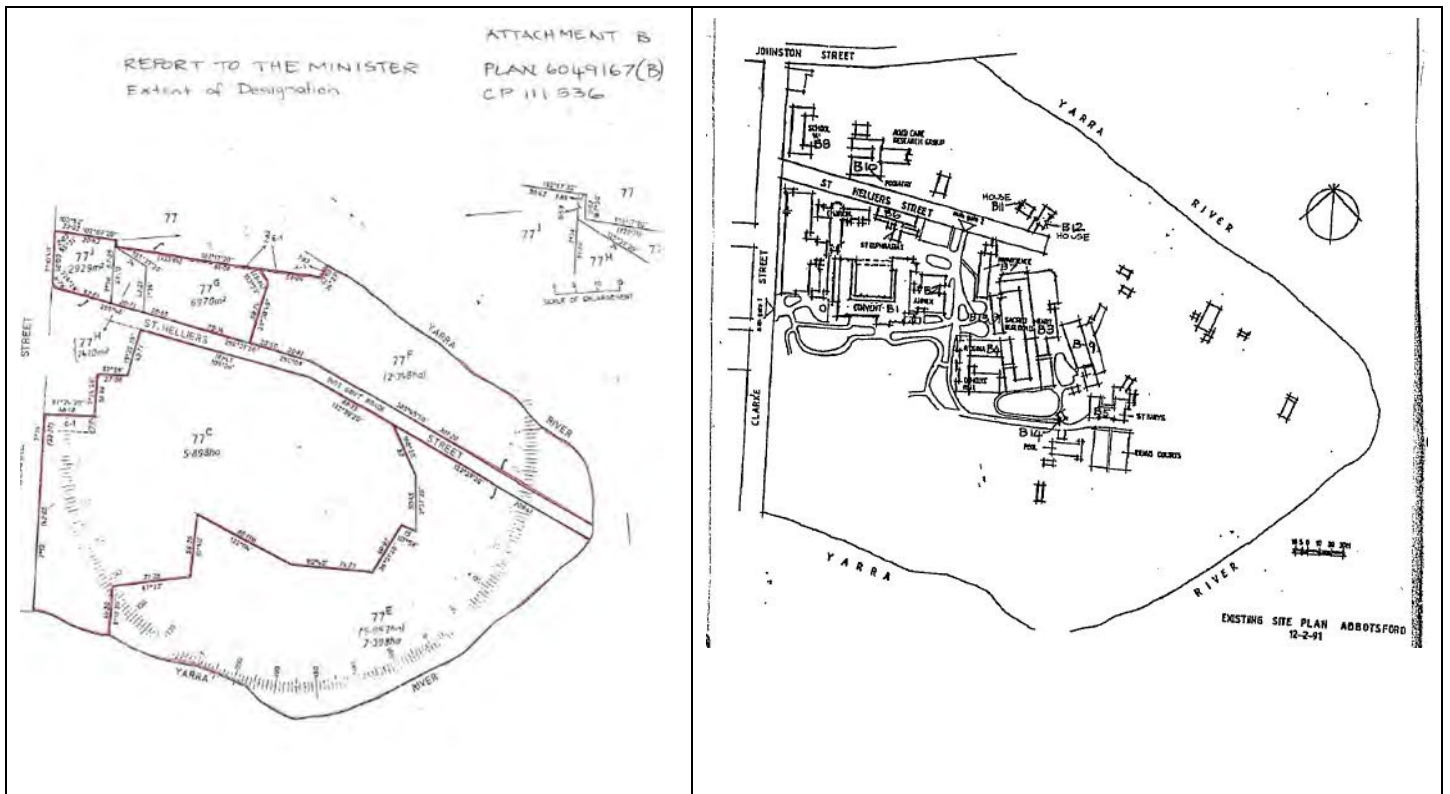
B12 House No. 2

B13 St Anne's

B14 Cemetery.

2. All of that land marked L-1 on Plan 6049167 (B), endorsed by the Chairperson, Historic Buildings Council and held by the Director, Historic Buildings Council being all of Crown Allotments 77C, 77E, 77F, 77G, 77H, 77J, County of Bourke, Parish of Jika Jika as shown on CP 111536 (See Appendix A.)

[Victoria Government Gazette No. G3 21 January 1993 pp.155-156]



## Existing statement of significance

### What is significant?

The Convent of the Good Shepherd at Abbotsford is a large, relatively intact and architecturally distinctive example of a Roman Catholic convent complex. It includes ecclesiastical, residential, educational and utility buildings constructed during the late nineteenth and twentieth centuries in a rural setting on a bend of the Yarra River close to the city as well as to the inner suburban slums. This secluded site was chosen by four Irish sisters from the Good Shepherd's mother house in Angers, France, who arrived in Melbourne in 1863, and established the Order on what had been two large 1840s villa estates, St Heliers and Abbotsford House. From the late 1860s the site accommodated the Magdalen Asylum, which was essentially a women's refuge, a reformatory for young offenders, and an industrial school complex for the care and training of children who were disadvantaged or neglected. At the end of the 1870s a Catholic day school was added. More land was purchased in the 1880s and 1890s to include all of the land between Clarke Street and the Yarra River. This allowed for the construction of the large laundry buildings, which were to become the primary source of income for the convent. The institution provided for the care of thousands of women and girls through a variety of welfare and court-based rehabilitation and protection programs. There was a massive expansion program in the early twentieth century, with the construction of a new Convent building and adjacent contemplative garden, and new buildings for classrooms, a refectory and dormitories. Most of these were designed by the architectural firm Reed Smart & Tappin. The convent became one of the largest self-sufficient convent and farm complexes in Australia: at its peak it housed, fed and clothed a population of over a thousand, and hundreds more children attended the day schools. There were extensive vegetable gardens and orchards on the southern slopes, grazing land for milking cows and horses to the east, and large numbers of pigs and poultry were kept.

In 1975 the site was purchased by the Victorian Government as a higher education campus, with funding from the Federal Government. The proposed redevelopment of the site in the late 1990s led to a massive community-based heritage battle which resulted in 2004 in the transfer of the convent site south of St Heliers Street to the Abbotsford Convent Foundation for community use. The site is now divided into three parts: the north-west part of the site, including the chapel, which has been retained by the Order; the Collingwood Children's Farm, established in 1979 on the former farm land to the east; and the remainder of the former convent site, including the gardens, controlled by the Foundation.

The former Convent of the Good Shepherd is a cohesive complex of picturesque ecclesiastical, residential, educational and utility buildings, largely two- or three-storey brick buildings in a Gothic Revival style, set amidst magnificent grounds. To the south of the convent is a picturesque garden with a central lawn and surrounded by shrubberies, a timber rotunda, curved paths and formal paths lined with elm and oak avenue plantings associated with the former grounds of Abbotsford House. The lower garden contains a former orchard area, and to the east is former grazing and farm land. The site retains remnant River Red Gums and vistas to the indigenous bushland of Yarra Bend Park and the Yarra River.

The main building on the site is the Convent building and annexe (containing the former kitchens) (1900-1903), one of the key buildings of the early twentieth century expansion, notable for its use of roughcast on the walls. Other major buildings are: the two-storey brick Industrial School for neglected children (1868); the Magdalen Asylum (or Sacred Heart) (by the architect Thomas Kelly, 1877); St Euphrasia's school (1879); Mercator, the main laundry building (from c1885 to 1964); the North Laundry (c1885-1925) and the South Laundry (1907); Providence (1887, 1905), built as school accommodation; St Anne's (1906), part of the Magdalen Asylum, which completed the enclosure of the Magdalen Asylum courtyard; Rosina, the former Sacred Heart Class (1908), designed in the Baroque Revival style; and St Mary's Preservation Class (1911), also in the Baroque Revival style. Many notable interior features survive. Part of the original boundary wall survives from the 1860s.

### How is it significant?

The former Convent of the Good Shepherd is of historical, architectural, scientific (botanical), aesthetic and archaeological significance to the state of Victoria.

### Why is it significant?

The former Convent of the Good Shepherd is historically significant as the only existing former monastic or convent farm surviving in a substantial manner within a city in Australia. It is the site of the largest self-sufficient convent and monastic building and farm complex in the state, with extensive vegetable gardens, orchards and grazing land. The large-scale agricultural operations were remarkable for an inner-city location. The farm and the massive laundry buildings were major symbols of the convent and of the objectives of the Order.

The former Convent of the Good Shepherd is historically significant as the birthplace in Australia of the Good Shepherd Order, one of the most important religious institutional complexes within the Catholic Church in Victoria, which provided for the refuge and care of thousands of women and girls through a variety of welfare, rehabilitation and protection programs during the nineteenth and twentieth centuries. This was the first convent of the Order in Australia and New Zealand, and was the Mother House and Novitiate for the Order in Australasia.

The former Convent of the Good Shepherd is historically significant as a demonstration of changing approaches to the institutional care, reform and education of disadvantaged women and children in the nineteenth and twentieth centuries.

The former Convent of the Good Shepherd is historically significant for its role during the early years of church-based education after the 1872 Education Act ended state funding to Denominational schools, and the subsequent expansion of church-based education.

The former Convent is historically significant for its association with two of Melbourne's earliest villa estates, Abbotsford House and St Heliers, built by two of its most prominent citizens, Edward Curr and Samuel Orr, which occupied this site from the 1840s, and of which traces still remain.

The former Convent of the Good Shepherd is architecturally significant as an outstanding example of a nineteenth century religious complex, with buildings constructed in various periods but in a consistent Gothic Revival style, reflecting the contemporary interest in Medievalism and strongly influenced by the French Mother House. These include the early buildings designed by Thomas Kelly, and those designed in the major building campaign of 1900-1911, mainly by William Tappin, with others by Reed, Smart & Tappin, one of Victoria's major architectural firms of that period. It is significant for the intact interiors, notably in the convent buildings, kitchens and laundries.

The former Convent of the Good Shepherd is of scientific (botanical) significance for its collection of mature shrubs and trees of considerable age, including two outstanding English Oaks (*Quercus robur*), a fine Holm Oak (*Quercus ilex*) remnant River Red Gums (*Eucalyptus camaldulensis*), some rare plants including *Dombeya tiliacea*, and *Vitex lucens*.

The former Convent of the Good Shepherd is of aesthetic significance for the architectural cohesion of the complex, for the designed landscape elements and natural attributes, for the bushland vistas, and for its rural setting on the Yarra River, which has been retained despite the development of surrounding areas. It is a key visual landmark in the area, and notable for the views of the site from the Johnston Street Bridge, from the Kew side of the river, and from the Children's farm.

The former Convent of the Good Shepherd is of archaeological significance for its potential to provide evidence of the former occupation of the site.

## **Existing permit policy and permit exemptions**

Pursuant to Section 66(1) of the Heritage Act (1995) and in respect to the above-registered place / object, the Executive Director hereby DECLARES EXEMPT THE OWNERS NEED TO OBTAIN A PERMIT TO CARRY OUT ANY OF THE FOLLOWING CLASSES OF WORKS OR ACTIVITIES, SUBJECT TO ANY CONDITIONS PRESCRIBED HEREUNDER:

Water-proofing works and external repairs being roof and rainwater plumbing and window and door repairs and painting as described in the documentation prepared by Denton Corker Marshall described in the following documents being:

SO 9C1. Timber Windows, SO9C2 Repair of Steel Windows, S11A General metalwork, S12A Door Frames, S12B Doors, S12c door Hard ware included in attached Specification Register for the Abbotsford Convent Refurbishment SRT rev No. 02, Date 23/12/04 Project no. 7157A The Drawings as referred to in the Drawing File Register for the Abbotsford Convent Refurbishment, Drawing Set A0200 – 0699 Series Heritage Planning DRT rev No. 01, Date 23/12/04 Project no. 7157A

## Appendix 1

### Heritage Council determination (section 49)

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

### Making a submission to the Heritage Council (section 44)

Within the period of 60 days, any person or body with a real and substantial interest in the place or object may make a submission to the Heritage Council regarding the recommendation and request a hearing in relation to that submission. Information about making a submission and submission forms are available on the Heritage Council's website. The owner can also make a submission about proposed permit exemptions (Section 40(4)(d)).

### Consideration of submissions to the Heritage Council (section 46)

(1) The Heritage Council must consider—

- (a) any written submission made to it under section 44; and
- (b) any further information provided to the Heritage Council in response to a request under section 45.

### Conduct of hearings by Heritage Council in relation to a recommendation (section 46A)

(1) The Heritage Council may conduct a hearing in relation to a recommendation under section 37, 38 or 39 in any circumstances that the Heritage Council considers appropriate.

(2) The Heritage Council must conduct a hearing if—

- (a) a submission made to it under section 44 includes a request for a hearing before the Heritage Council; and
- (b) the submission is made by a person or body with a real or substantial interest in the place, object or land that is the subject of the submission.

### Determinations of the Heritage Council (section 49)

(1) After considering a recommendation that a place, object or land should or should not be included in the Heritage Register and any submissions in respect of the recommendation and conducting any hearing, the Heritage Council may—

- (a) determine that the place or object is of State-level cultural heritage significance and is to be included in the Heritage Register; or
- (ab) in the case of a place, determine that—
  - (i) part of the place is of State-level cultural heritage significance and is to be included in the Heritage Register; and
  - (ii) part of the place is not of State-level cultural heritage significance and is not to be included in the Heritage Register; or
- (ac) in the case of an object, determine that—
  - (i) part of the object is of State-level cultural heritage significance and is to be included in the Heritage Register; and
  - (ii) part of the object is not of State-level cultural heritage significance and is not to be included in the Heritage Register; or
- (b) determine that the place or object is not of State-level cultural heritage significance and is not to be included in the Heritage Register; or

- (c) in the case of a recommendation in respect of a place, determine that the place or part of the place is not to be included in the Heritage Register but—
    - (i) refer the recommendation and any submissions to the relevant planning authority or the Minister administering the Planning and Environment Act 1987 to consider the inclusion of the place or part of the place in a planning scheme in accordance with the objectives set out in section 4(1)(d) of that Act; or
    - (ii) determine that it is more appropriate for steps to be taken under the Planning and Environment Act 1987 or by any other means to protect or conserve the place or part of the place; or
  - (ca) in the case of a recommendation in respect of an object nominated under section 27A, determine that the object, or part of the object, is to be included in the Heritage Register if it is integral to understanding the cultural heritage significance of a registered place or a place the Heritage Council has determined to be included in the Heritage Register; or
  - (d) in the case of a recommendation in respect of additional land nominated under section 27B, determine that the additional land, or any part of the additional land, is to be included in the Heritage Register if—
    - (i) the State-level cultural heritage significance of the place, or part of the place, would be substantially less if the additional land or any part of the additional land which is or has been used in conjunction with the place were developed; or
    - (ii) the additional land or any part of the additional land surrounding the place, or part of the place, is important to the protection or conservation of the place or contributes to the understanding of the place.
- (2) The Heritage Council must make a determination under subsection (1)—
- (a) within 40 days after the date on which written submissions may be made under section 44; or
  - (b) if any hearing is conducted, within 90 days after the completion of the hearing.
- (3) A determination made under subsection (1)(a), (ab), (ac), (ca) or (d)—
- (a) may include categories of works or activities which may be carried out in relation to a place, object or land, or part of a place, object or land, for which a permit under this Act is not required, if the Heritage Council considers that the works or activities would not harm the cultural heritage significance of the place, object or land; and
  - (b) must include a statement of the reasons for the making of the determination.
- (4) If the Heritage Council determines to include a place, or part of a place, in the Heritage Register, the Heritage Council may also determine to include land that is not the subject of a nomination under section 27B in the Heritage Register as part of the place if—
- (a) the land is ancillary to the place; and
  - (b) the person who owns the place, or part of the place—
    - (i) is the owner of the land; and
    - (ii) consents to its inclusion.
- (5) If a member of the Heritage Council makes a submission under section 44 in respect of a recommendation, the member must not take part in the consideration or determination of the Heritage Council.
- (6) The Heritage Council must notify the Executive Director of any determination under this section as soon as practicable after the determination.

## **Obligations of owners (section 42, 42A, 42B, 42C, 42D)**

### **42 Obligations of owners—to advise of works, permits etc. on foot when statement of recommendation given**

- (1) The owner of a place, object or land to whom a statement of recommendation has been given must advise the Executive Director in writing of—

- (a) any works or activities that are being carried out in relation to the place, object or land at the time the statement is given; and
  - (b) if the place, object or land is a place or additional land, any application for a planning permit or a building permit, or any application for an amendment to a planning permit or a building permit, that has been made in relation to the place or additional land but not determined at the time the statement is given; and
  - (c) any works or activities that are proposed to be carried out in relation to the place, object or land at the time the statement is given.
- (2) An advice under subsection (1) must be given within 10 days after the statement of recommendation is given under section 40.

#### **42A Obligations of owners before determination or inclusion in the Heritage Register—to advise of permits**

(1) This section applies if—

- (a) an owner of any of the following is given a statement of recommendation—
  - (i) a place or object nominated under section 27;
  - (ii) an object nominated under section 27A;
  - (iii) land nominated under section 27B; and
- (b) any of the following occurs within the statement of recommendation period in relation to the place, object or land—
  - (i) the making of an application for a planning permit or a building permit;
  - (ii) the making of an application for an amendment to a planning permit or a building permit;
  - (iii) the grant of a planning permit or building permit;
  - (iv) the grant of an amendment to a planning permit or building permit.

(2) The owner must advise the Executive Director in writing of—

- (a) the making of an application referred to in subsection (1)(b)(i) or (ii), within 10 days of the making of the application; or
- (b) a grant referred to in subsection (1)(b)(iii) or (iv), within 10 days of the owner becoming aware of the grant.

#### **42B Obligations of owners before determination or inclusion in the Heritage Register—to advise of activities**

(1) This section applies if—

- (a) an owner of a place, object or land is given a statement of recommendation; and
- (b) within the statement of recommendation period it is proposed that activities that could harm the place, object or land be carried out.

(2) The owner, not less than 10 days before carrying out the activities, must advise the Executive Director in writing of the proposal to do so.

#### **42C Obligations of owners before determination or inclusion in the Heritage Register—to advise of proposal to dispose**

(1) This section applies if—

- (a) an owner of a place, object or land is given a statement of recommendation; and
- (b) within the statement of recommendation period a proposal is made to dispose of the whole or any part of the place, object or land.

(2) The owner, within 10 days after entering into an agreement, arrangement or understanding for the disposal of the whole or any part of the place, object or land, must advise the Executive Director in writing of the proposal to do so.

#### **42D Obligations of owners before determination or inclusion in the Heritage Register—requirement to give statement to purchaser**

(1) This section applies if—

- (a) an owner of a place, object or land is given a statement of recommendation; and
- (b) the owner proposes to dispose of the whole or any part of the place, object or land within the statement of recommendation period.

(2) Before entering into an agreement, arrangement or understanding to dispose of the whole or any part of the place, object or land during the statement of recommendation period, the owner must give a copy of the statement of recommendation to the person who, under the proposed agreement, arrangement or understanding, is to acquire the place, object or land or part of the place, object or land.

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

An owner of a place, object or land who is subject to an obligation under section 42, 42A, 42B, 42C or 42D must comply with that obligation.

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