

# Heritage Council Regulatory Committee

## Halstead (H0450)

**23 Bambra Road, Caulfield North, Glen Eira City, Bunurong Country**

**Hearing** – 16 May 2025

**Members** – Ms Margaret Baird (Chair), Ms Anna Foley, Mr Justin Naylor

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### Determination of the Heritage Council

**To amend the Victorian Heritage Register** – After considering the Executive Director's recommendation and all submissions received, and after conducting a hearing, the Heritage Council has determined, pursuant to sections 49(1)(d)(i) and (ii) and section 62 of the *Heritage Act 2017*, to amend the Victorian Heritage Register by including additional land. The Heritage Council has determined to include as the extent of registration for Halstead (H0450), located at 23 Bambra Road, Caulfield North, Glen Eira City, all of the area recommended for inclusion in the Victorian Heritage Register by the Executive Director, and has determined, pursuant to section 49(3) of the *Heritage Act 2017*, to include categories of works or activities which may be carried out in relation to the place, for which a permit is not required (permit exemptions).

**Ms Margaret Baird (Chair)**

**Ms Anna Foley**

**Mr Justin Naylor**

**Decision Date** – 5 August 2025

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## Acknowledgement

As a peak heritage body, we acknowledge the Traditional Owners of the Country that we call Victoria, as the original custodians of Victoria's land and waters, and acknowledge the importance and significance of Aboriginal cultural heritage in Victoria. We honour Elders past and present whose knowledge and wisdom has ensured the continuation of Aboriginal culture and traditional practices.

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## Appearances / Hearing submissions

### Executive Director, Heritage Victoria ('The Executive Director')

The Executive Director recommended to the Heritage Council that Halstead, located at 23 Bambra Road, Caulfield North, Glen Eira City, be amended in the Victorian Heritage Register by including additional land, pursuant to sections 49(1)(d)(i) and (ii) and section 62 of the *Heritage Act 2017*, and including categories of works or activities which may be carried out in relation to the place, for which a permit is not required (permit exemptions) pursuant to s.49(3) of the *Heritage Act 2017*. Mr Geoff Austin, Manager, Heritage Register, appeared and made verbal submissions on behalf of the Executive Director. Dr Marina Jansen, Principal, Heritage Assessments, was also present and available to answer questions.

### Mr Aaron Harris and Mrs Vera Harris ('the Owners')

The Owners of Halstead objected to the recommendation of the Executive Director and requested that a hearing of the Heritage Council be held in relation to the matter. Mr Jordan Wright of Counsel, instructed by Rigby Cooke Lawyers, appeared at the hearing and made verbal submissions on behalf of the Owners.

### Glen Eira City Council ('GECC')

GECC is the responsible authority for the area in which Halstead is located and made the nomination for the amendment of Halstead in the Victorian Heritage Register to include additional land. Ms Jacqui Brasher, Principal Strategic Planner, appeared at the hearing and made verbal submissions on behalf of GECC.

### Glen Eira Historical Society ('GEHS')

GEHS made submissions to the Heritage Council in support of the recommendation of the Executive Director. Ms Anne Kilpatrick, Secretary, appeared at the hearing and made verbal submissions on behalf of GEHS.

## Introduction / Background

### The Place

- 01.** On 3 December 2024, the Executive Director made a recommendation ('the Recommendation') to the Heritage Council, pursuant to Part 3, Division 3 of the *Heritage Act 2017* ('the Act'), that Halstead, located at 23 Bambra Road, Caulfield North, Glen Eira City ('the Place'), be amended in the Victorian Heritage Register ('the Register') by including additional land, pursuant to sections 49(1)(d)(i) and (ii) and section 62 of the Act, and including categories of works or activities which may be carried out in relation to the place, for which a permit is not required (permit exemptions) pursuant to s.49(3) of the Act.
- 02.** The Place is located on Bunurong Country.
- 03.** The Recommendation was made by the Executive Director following the issuing of an Interim Protection Order by the Executive Director in relation to the Place on 8 November 2024 in accordance with section 143 of the Act.
- 04.** The Place is described on page 7 of the Recommendation as follows:

*The following is a description of Halstead (the area covered by the registration and the [Interim Protection Order]) at the time of the site inspection by Heritage Victoria in November 2023. The interior of the place is not included in the registration.*

#### **The place**

*Halstead comprises a mid-Victorian era single storey villa residence, front garden with established trees, rear stable building and modern swimming pool on the corner of Bambra Road and Halstead Street. The primary entrance is from Bambra Road via a driveway through the front garden which culminates in a turning circle in front of the house. A pond with surrounding foliage is located within the turning circle.*

#### **Main residence**

*The main residence comprises an entry foyer, seven bedrooms, three bathrooms, a dining room, living room, sitting room, two studies, and kitchen. The house has an external-facing slate roof and faces east towards Bambra Road. A cast iron verandah spans the full width of the building, including the two pavilion wings either side. A substantial three-storey tower with its Mansard roof, dormer windows and cast-iron balustraded 'widow's walk' projects from the northern wing. A modern double garage is attached to the south side of the southern pavilion. The interiors of the residence have been altered. At the rear of the residence is a back lawn area with beds of small shrubs and hedges.*

#### **Stables**

*The stables are a two-storey building with polychromatic brickwork and a slate roof. The interiors have been altered, and dormer windows added as part of a conversion to a self-contained apartment.*

#### **Swimming pool**

*The swimming pool is kidney-shaped and located to the north of the stable building behind a see-through safety fence.*

- 05.** The historical summary of the Place as outlined in the Recommendation is provided as **Attachment 1** to this determination.

### Process following the Recommendation of the Executive Director

- 06.** After the Recommendation was made to the Heritage Council on 3 December 2025, notice was published on 6 December 2025 for a period of 60 days, in accordance with section 41 of the Act.
- 07.** Three (3) submissions, pursuant to section 44 of the Act, were received in relation to the Place. Two (2) submissions supported the Executive Director's Recommendation and one (1) did not. The submissions were received from:
- The Owners, who objected to the Recommendation and requested that a Heritage Council hearing be held to determine the matter;
  - GECC, which supported the Recommendation and wished to participate in any hearing held in relation to the matter; and
  - GEHS, which supported the Recommendation and wished to participate in any hearing held in relation to the matter.
- 08.** The Regulatory Committee has considered all submissions received in making its determination.

### Regulatory Committee

- 09.** Pursuant to section 13(1) of the Act, a Regulatory Committee of the Heritage Council ('the Committee') was constituted to consider the Recommendation and all submissions received, and to conduct a hearing into the matter.

### Notification of Review

- 10.** On 3 March 2025, the Committee notified all individuals and organisations who had made a submission pursuant to section 44 of the Act ('Form A') of the Registration Review and that a hearing would be held. At this time, all individuals and organisations were invited to submit a *Hearing Participation Form* ('Form B') to indicate whether or not they would participate in the hearing.
- 11.** The Committee received four (4) Form B submissions from:
- the Executive Director;
  - the Owners, represented by Rigby Cooke Lawyers;
  - GECC; and
  - GEHS.

### Directions hearing

- 12.** On 27 March 2025 the Committee held a directions hearing to determine several procedural matters before the hearing. In addition to directions about the future conduct of the hearing, including dates, providing written submissions and reply submissions, and a site inspection, the Committee requested:
- Rigby Cooke Lawyers, on behalf of the Owners, to provide clarification regarding any powers of the Heritage Council to consider and determine the request to amend the registered address of the property in the Register, and make the requested correction, as proposed in Form A submissions; and
  - Rigby Cooke Lawyers, on behalf of the Owners, and GEHS to provide a copy of the Arboricultural Assessment and Report (2024) referenced in their respective Form A submissions.
- 13.** The above directions were complied with.
- 14.** On 4 April 2025 the Committee circulated the responding material referred to in paragraph 12 above to all hearing participants.

### Committee's unaccompanied site inspection

15. At the directions hearing, the Owners requested that the Committee conduct an accompanied site inspection of the Place.
16. After considering the above request, and inviting the views of other hearing participants in response to it, the Committee determined to undertake an unaccompanied site inspection – that is, with only members of the Committee and the Heritage Council Hearings Manager in attendance – consistent with clause 2.7.2 of *Heritage Council Protocol 1 – Registration Hearings*. Confirmed arrangements for the site inspection were provided to hearing participants in written correspondence on 27 March 2025.
17. On 2 May 2025 the Committee conducted a site inspection of the Place, accompanied by the Heritage Council Hearings Manager. No hearing participants or their representatives were present, and no submissions were sought, made or received at the site inspection.
18. Arrangements to access the Place were facilitated by the Heritage Council Hearings Manager and Rigby Cooke Lawyers on behalf of the Owners. In correspondence regarding site access arrangements, Rigby Cooke Lawyers advised that:

*The trees marked with ribbons are known to have been on the property when our clients purchased it in 1982. The trees which do not have ribbons are known to have been planted by our clients.*

19. The above information was circulated to all hearing participants via written correspondence on 12 May 2025.

### Hearing arrangements

20. On 27 March 2025, all hearing participants were advised that an online Registration Hearing in relation to the Place had been scheduled for 16 May 2025.
21. On 12 May 2025, hearing participants were advised that the online hearing would be recorded in accordance with section 248A of the Act. No hearing participants objected to the hearing being recorded.
22. The hearing was conducted by way of videoconference using the Microsoft Teams™ online platform ('the hearing'). The Committee sought and received hearing submissions and submissions in reply prior to the hearing. Directions were given as to the conduct and timing of the pre-hearing steps.

### Preliminary, procedural and other matters

#### Future use, maintenance and development

23. It is not the role of the Committee to consider future proposals, use of the Place, or to pre-empt any decisions regarding future permits under the Act. Pursuant to sections 49(1)(d) of the Act, the role of the Committee is to determine whether or not additional land, as recommended by the Executive Director, should be included in the Register and, pursuant to section 49(3), to determine categories of works which may be carried out without a permit (permit exemptions).
24. The Committee (and the Heritage Council similarly) has no current or future role in the consideration of permits under the *Planning and Environment Act 1987*. The Heritage Council's statutory remit is limited to the *Heritage Act 2017*.

#### Conflicts or declarations of interest

25. The Chair invited Committee members at the directions hearing to consider whether written declarations or otherwise were required to be made in relation to any matters that may potentially give rise to an actual or apprehended conflict of interest.
26. Member Foley declared that she had previously worked for the National Trust of Australia (Victoria) ('NTAV') and at the time of the directions hearing sat on the Register of Significant Trees for the NTAV.

Member Foley stated that she had no previous relationship with the Place or involvement in the preparation of NTAV historic documents relating to the Place referred to in Form A submissions. It was the view of Member Foley that she had no conflicts of interest in relation to the Place or the parties participating in the hearing.

27. Rigby Cooke Lawyers, on behalf of the Owners, indicated they would consider Member Foley's declaration and advise the Heritage Council Secretariat of any objection to her participation in the Committee by Friday 28 March 2025. No objection was received.
28. The Chair was satisfied that there were no real or perceived conflicts of interest.

### Reasons for amendment

29. The Executive Director recommended that the Heritage Council amend the registration of the Place in the Register pursuant to section 49 of the Act, because:
- 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 [section 49(1)(d)(i)]; and
  - land surrounding the place is important to the protection or conservation of the place or contributes to the understanding of the Place [section 49(1)(d)(ii)].

### Issues

30. The following section is not intended to be a complete record of written and verbal submissions that were made to the Committee. It is a summary of what the Committee considers to be the key issues, followed by an explanation of the Committee's findings. Any reference to the Criteria or to a particular Criterion refers to the *Victorian Heritage Register Criteria and Threshold Guidelines* (updated by the Heritage Council on 1 December 2022) ['Criteria for Assessment']. Please refer to **Attachment 2**.

### Summary of issues

31. The Executive Director recommended that the registration for the Place be amended to include 'the property identified as 'Halstead' on the 1911 MMBW [Melbourne and Metropolitan Board of Works] plan' including 'all fabric at the place, including buildings, vegetation and landscaping.' The Executive Director recommended that 'the interiors of the house and stables are excluded because of their loss of intactness.' The recommended extent proposed to include two land parcels not currently included in the Register, being Lot 1 LP129398 ('the Bambra Road lot') and Lot 1 PS416790 West ('the stables lot'). Land parcel Lot 1 PS416790 ('the residence lot'), being the house block and western portion of the front garden, comprise the current extent of registration for the Place (see **Figure 1** below).



**Figure 1:** Diagram from page 5 of the Recommendation showing the currently-registered extent for the Place (orange) and two additional land parcels subject to the 8 November Interim Protection Order and recommended for inclusion in the Register (blue).

- 32.** The Executive Director recommended that the registration for the Place be amended to include the stables lot and the Bambra Road lot in accordance with sections 49(1)(d)(i) and (ii). These sections are set out below (noting that the word ‘or’ is used between (d)(i) and (d)(ii)):

*49 Determinations of the Heritage Council*

*(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 –*

*(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 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 contribute to the understanding of the place.*

- 33.** Hearing participants were generally in agreement regarding the inclusion of the stables lot within the extent of registration for the Place, notwithstanding the Owners’ objection to the Recommendation as a whole. The key dispute between hearing participants relates to the inclusion of the Bambra Road lot within the extent of registration for the Place.
- 34.** The Owners ‘strenuously’ opposed the Recommendation to include the Bambra Road lot within the extent of registration for the Place. They did not, however, have a ‘fundamental’ objection to the rear lot being included in the registration.



- 35.** The Owners objected to the registration of the Bambra Road lot multiple grounds including:
- the Executive Director has failed to provide proper and sufficient justification for the extension of the registration and there is no clear reason why the Bambra Road lot meets the threshold for inclusion in the Register by reason of its:
    - use in conjunction with Halstead and risk that Halstead’s architectural significance would be substantially less if the Bambra Road lot is developed, and
    - the Bambra Road lot is important to the protection of Halstead or contributes to the understanding of Halstead’s architectural significance
  - the Bambra Road lot is separate to the total house allotment
  - the Bambra Road lot has previously been subject to previous cultural heritage assessments, none of which found the lot to be of State-level cultural heritage significance
  - the Bambra Road lot has at times during the Place’s history been in separate ownership from the residence lot, demonstrating an interrupted use in conjunction with the Place
  - the visibility of the Place from Bambra Road is poor and therefore the current registered location of 23 Bambra Road for the Place is misguided, and
  - inclusion of the Bambra Road lot in the Register is not necessary, as any development of that lot is currently regulated through its inclusion in the Heritage Overlay of the Glen Eira City Council Planning Scheme.
- 36.** The Owners stated in submissions that, despite their objections to the Recommendation, they would be willing to agree to an alternate recommendation to include the stables lot in the extent of registration for the Place pursuant to s.49(1)(d) of the Act, but not the Bambra Road lot. In putting forward this alternate Recommendation, the Owners additionally proposed that the Register be amended to correct the registered location for the Place from 23 Bambra Road to 67 Halstead Street. In the context of this alternate recommendation, the Owners supported the permit exemptions as put forward by the Executive Director in the Recommendation, and put forward alternate wording for the proposed Statement of Significance.
- 37.** Having nominated the Place for amendment in the Register to include additional land, GECC supported the Recommendation of the Executive Director. It was the submission of GECC that it is reasonable to review the Place as an older registration, and to include additional land to both the east and west of the currently registered extent.
- 38.** GEHS supported the Recommendation of the Executive Director, and specifically the inclusion of the Bambra Road lot within the registered extent for the Place. GEHS further submitted that the Statement of Significance for the Place should be amended to include reference to mature Moreton Bay Fig trees in the front garden.

## **Assessment under sections 49(d)(i) and (ii) of the Act**

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

#### **Submissions of the Executive Director**

- 39.** The Recommendation set out the reasons for including additional land in the Register pursuant to sections 49(1)(d)(i) and (ii), stating that:

*The Executive Director is of the view that if any of the 1910 subdivision[...] were developed, depending upon the nature of the proposal, there is potential for the development to impact upon Halstead, and substantially reduce the State-level cultural heritage significance of the [Place].*



**40.** The Executive Director further found that:

- The land proposed for inclusion both is and has been used in conjunction with Halstead for over 165 years.
- In the context of other nineteenth-century villas with registered land in the [Register], this is an outlier because its current extent of registration does not cover the entire garden area nor stables.
- The current extent:
  - 'chops' in two the mature front garden and driveway
  - excludes the front part of the mature garden along Bambra Road
  - does not allow for a continuous physical connection between the main entrance on Bambra Road and the house, and
  - excludes the historic stables building.

**41.** The Recommendation acknowledged that the 1979 inclusion of the Place in the Register (then known as the Historic Buildings Register, established under the *Historic Buildings Act 1974*) excluded the Bambra Road lot within the registered extent. The Recommendation stated that the *Historic Buildings Act 1974* allowed only 'buildings' to be registered, and not surrounding land and garden settings. The Recommendation stated that legislation which subsequently replaced the *Historic Buildings Act 1974* (*Heritage Act 1995* and *Heritage Act 2017*) reflects an evolution in approach, allowing the registration of 'places' and not just buildings.

**42.** The Executive Director put forward the view that gardens are an important part of the design and setting of historic buildings, and that larger Victorian residences, like Halstead, typically developed leafy gardens around their houses to provide privacy, shade and pleasant recreation areas. The Recommendation therefore found that, while the Bambra Road lot is not of State-level cultural heritage significance in its own right, it provides a 'typical' Victorian villa setting and context. Accordingly, it was the Recommendation of the Executive Director that the 'What is significant?' section in the Statement of Significance of the Place be updated to refer to the Place's 'garden setting'.

**43.** The Executive Director submitted that the inclusion of the Moreton Bay Fig trees in the Statement of Significance for the Place had not been contemplated.

**44.** The Executive Director rejected submissions of the Owners that the Statement of Significance for the Place had been reviewed on multiple occasions since its registration. The Executive Director stated in written submissions that the 1999 and 2003 'updates' to which the Owners referred were administrative in nature and prompted by the introduction, and subsequent reformatting, of content reflected in the Victorian Heritage Database. The Executive Director submitted that the only changes to the Statement of Significance between 2003 and 2010 included adjustment to the 'What/how/why is it significant?' format, and removal of text that related to the 1979 Historic Buildings Council determination process.

**45.** In verbal submissions, the Executive Director clarified that, in current practice, a Place's cadastral block is the 'usual' rationale for identifying an appropriate extent when recommending that land be added to an existing registration.

**46.** The Executive Director submitted that the Bambra Road lot has been used in conjunction with the Place for 165 years as the main access route and street frontage. In written hearing submissions, the Executive Director rejected the submissions of the Owners that the existence of stables at the rear of the property indicates that historically, physical access to the property was chiefly via Halstead Street, and not Bambra Road. In support of this position, the Executive Director referred to MMBW plans showing Halstead Street did not exist until at least after 1905.

**47.** The Executive Director acknowledged that views to the Place from Bambra Road are somewhat obscured by the garden located on the Bambra Road lot. The Executive Director submitted that this is not unusual for historic villas situated on larger blocks with established gardens. It was the view of the

Executive Director that the Place's current obscurity from Bambra Road due to vegetation does not automatically mean that the residence should instead be obscured by a modern building, such as a townhouse. It was the view of the Executive Director that any development of the Bambra Road lot would dramatically alter the historic garden setting of the Place, and that the permitting framework of the Act would allow for an appropriate assessment of any proposed development's location, height, bulk and form.

- 48.** In written submissions, the Executive Director clarified the position that a setting does not need to be 'original' to satisfy the requirements of section 49(1)(d) of the Act. While accepting that many original elements of the Place's setting – including its historic pastoral setting – are now lost, the Executive Director noted this to be the case for other Melbourne villas or mansions dating to the 1850s and 1860s, including Labassa [VHR H0135], Como House [VHR H0205] and Rippon Lea [VHR H0614]. It was the view of the Executive Director that settings around villas or mansions – including those that are much-reduced or without original elements – may still allow for the appreciation of architectural significance, and contribute to the understanding, protection and the conservation of a registered place.
- 49.** The Executive Director concluded that, based on the above information, sections 49(1)(d)(i) and (ii) are satisfied in relation to the Babra Road lot, and that it should be included in the extent of registration for the Place.

### **Submissions of the Owners**

- 50.** The Owners submitted that the Recommendation of the Executive Director to include the Bambra Road lot in the registration for the Place was lacking in evidence and misconceived. It was the view of the Owners that the Executive Director provided insufficient information to satisfy the requirements of sections 49(1)(d)(i) or (ii) of the Act in relation to the Bambra Road lot.
- 51.** The Owners submitted that the Recommendation failed to consider and give appropriate weight to past reports and Statements of Significance in relation to the Place. It was the submission of the Owners that the 1979 determination to include the Place in the Register deliberately excluded the Bambra Road lot, finding the Place's 'much reduced lot' to not adversely impact its State-level significance. The Owners further submitted that the garden located on the Bambra Road has not previously been found to be of cultural heritage significance. In supporting this position, the Owners referred to the 1979 determination of the Heritage Council which stated that:

*The sub-committee noted that the garden is indicative of a typical rather than exceptional nineteenth century garden, although sub-division has resulted in the original Halstead garden being considerably reduced in size. Whilst the many mature trees render the garden of landmark value in Bambra Road, it was considered that the relationship of the house to its garden would be substantially preserved as at present in the new subdivision. The Bambra Road garden as a whole is seen as of insufficient importance to warrant recognition in the recommended designation.*

- 52.** The Owners submitted that the usual practice of the Heritage Council and its predecessors, established over the past 30 years, to consistently include land in registrations for places is irrelevant in relation to this matter. In supporting this position, the Owners submitted that the significance of the Place had been 'reviewed' several times within the past 30 years, with reports, studies and updates being conducted in relation to the Place in 1982, 1994, 1999, 2003 and 2007, none of which recommended the inclusion of the Bambra Road lot in the extent of registration for the Place.
- 53.** The Owners submitted that the Place is registered under *Criterion D – Importance in demonstrating the principal characteristics of a class of cultural places and objects*, and no other criteria. It was the submission of the Owners that, architecturally, the Bambra Road lot is irrelevant to the Place and that its historical setting was irretrievably lost many decades ago.
- 54.** The Owners objected to the Recommendation that the Bambra Road lot's historic use in conjunction with the Place satisfies the tests required under section 49(1)(d). It was the submission of the Owners that the Bambra Road lot is of 'separate nature' to the residence lot with 'no material connection to the

residence'. In supporting this position, the Owners referred to the Bambra Road lot's separate land title and history of separate ownership to the residence.

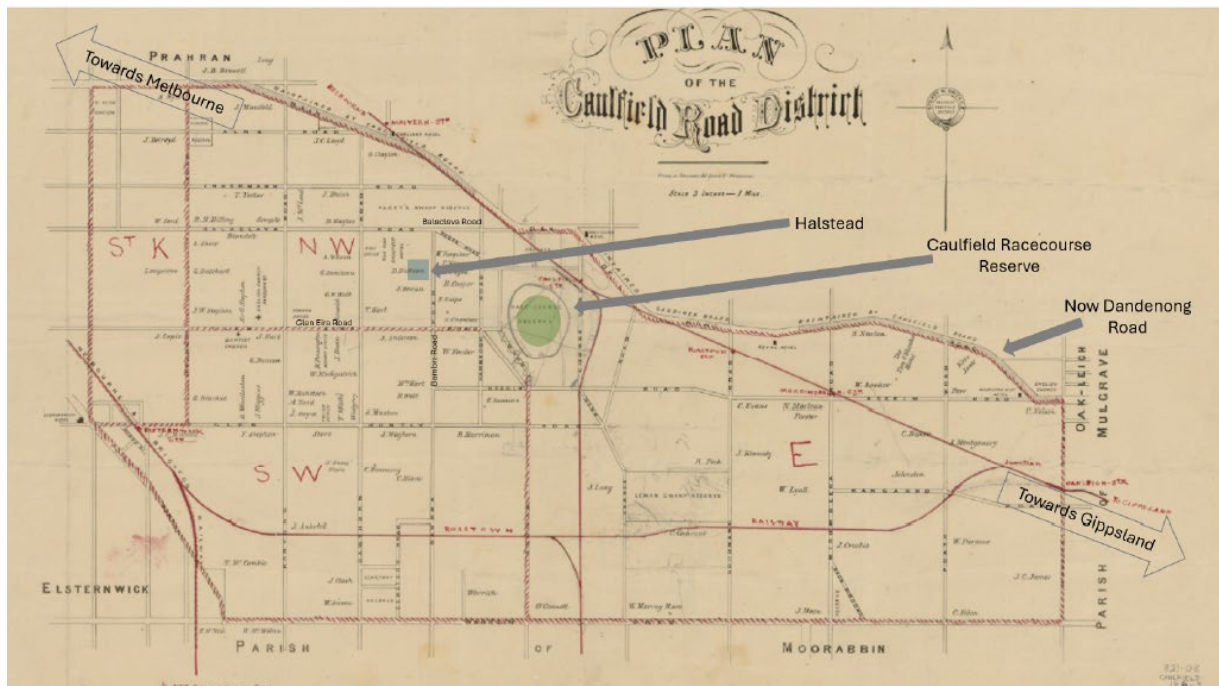
55. The Owners submitted that future development of the Bambra Road lot, such as by the construction of a dwelling on that lot, would not have any unreasonable impact on the understanding or cultural heritage significance of the Place. The Owners submitted that there has long been very limited visibility of the Place from Bambra Road due to its densely vegetated front garden and the deep setback of the residence from the street. In the view of the Owners, appreciation of the Place is almost exclusively from Halstead Street, and development of the Bambra Road lot may improve public visibility to the Place.
56. It was the concluding view of the Owners that there is no evidentiary basis for the inclusion of the Bambra Road lot in the registration of the Place in accordance with sections 49(1)(d)(i) or (ii), with the current extent of registration, together with the stables lot, providing an appropriate setting for the Place.

### Submissions of GECC

57. GECC submitted that it supported the Recommendation, and that the Bambra Road lot should be included in the registration for the Place for the purpose of protecting the Place's cultural heritage significance.
58. In written submissions GECC acknowledged that the Bambra Road lot is a 'separate parcel of land', but submitted that it was important to include a larger garden setback within the registered extent to manage any future development near the Place, including views to and from the residence.
59. In responding to the submissions of the Owners, GECC acknowledged that views to the Place are available from Halstead Street. However, it was the view of GECC that were a dwelling to be developed on the Bambra Road lot, views to the front elevation of the residence may become obscured.
60. GECC stated in verbal submissions that the Place is of high importance to the municipality, as the oldest standing residence in Glen Eira City.

### Submissions of GEHS

61. GEHS submitted that it supported the Recommendation that the Bambra Road lot be included within the extent of registration.
62. GEHS submitted that the Bambra Road lot provides the Place with an important historic setting, with its mature trees, fences and driveway layout possibly dating from approximately a century ago. It was the submission of GEHS that the Moreton Bay Fig trees located in the Bambra Road lot should be included in the Statement of Significance for the Place, given their likely age and stature.
63. GEHS cited as evidence the *Glen Eira Heritage Management Plan* (1996), based on an assessment undertaken by heritage consultant Andrew Ward in 1994, which noted the integrity of the front garden. GEHS further cited as evidence submissions from the 1978 Historic Buildings Council hearing regarding the initial registration of the Place, including from the NTAV, which advocated for the 'entire frontage through to Bambra Road and including the stables allotment at the rear' to be registered.
64. GEHS submitted that the place historically and architecturally addressed Bambra Road, with '23 Bambra Road' being the address of the Place since at least the 1860s. GEHS referred as evidence to an 1860s map included in the Recommendation (see **Figure 2** below) and an 1870 edition of *Sands & McDougall's Melbourne and Suburban Directory*.
65. It was the view of GECC that if development were to occur on the Bambra Road lot, it would inevitably impair the view of the Place at its registered and historic Bambra Road address, thus being to the detriment of the heritage place.



**Figure 2:** 1860s plan of the Caulfield Road District from page 13 of the Recommendation. The caption from the Recommendation states: 'c.1860s plan of the Caulfield Road District, Sydney W. Smith. State Library of Victoria. Later railway lines drawn in red. Halstead identified for indicative purposes only and not to scale.'

### Committee findings

66. The Committee has carefully considered the Executive Director's recommended extent of registration for the Place and the submissions of the Owners, GECC and GHS in response to it. The Committee has taken account of the history of, and previous decisions relating to, the Place.
67. In reaching its conclusion based on the material before it, the Committee accepts submissions that Bambra Road forms the historic and enduring street frontage and address for the Place. Importantly, in displaying principal characteristics of a class of cultural places (mid-nineteenth century villa residences), the Bambra Road lot, as part of the remaining garden setting, contributes to the understanding of the Place's historical design, function, use and context.
68. The Place architecturally addresses Bambra Road. The Committee accepts the Executive Director's submission where it highlights the role larger gardens played in this class of place and does not accept the Owners' submission that an appropriate contextually significant frontage/setting is retained by the current registration. The Committee reaches this view even though the garden is not independently of State-level cultural heritage significance. While there is garden space to the front (east) of the residence without the Bambra Road lot, the Committee finds that this does not adequately afford appreciation and understanding of Halstead as a grand villa of its time. Moreover, the Committee does not accept that the extent to which the villa's setting and context has been altered over time, nor the limited visibility of the building from Bambra Road due to mature vegetation, are persuasive reasons to adopt the Owners position. The Committee accepts the Executive Director's reply submission that it would be rare for villas or mansions constructed in Greater Melbourne in the 1850s and 1860s to retain the significantly larger land holdings they once had. The Committee finds that the deep setback of the residence is an important aspect of understanding the place as a mid-nineteenth century villa in what was then an outlying and rural area.
69. While views from Halstead Street remain to the side of Halstead, and also allow an appreciation of the building's primary façade and key architectural features, this does not persuade the Committee to accept the Owners' submission that the Bambra Road lot is immaterial when assessing the additional land under section 49(d)(i). The Committee does not accept that the separate titling of the Bambra Road lot,



and its periods of separate ownership from the residence lot, renders that lot immaterial to the Place. Noting the wording of section 49(1)(d)(i) to be '*used* in conjunction with the Place,' the Committee finds it has no submissions or evidence before it to conclude that the Bambra Road lot has not been, and is not, used in conjunction with the Place. The Committee is satisfied that this pattern of use of the Bambra Road lot in conjunction with the Place is historic and continuous. This established pattern of use of the Bambra Road lot as the Place's main entrance, together with its size – forming approximately 24% of land currently used in conjunction with the Place – is material to the identified cultural heritage significance of the Place.

- 70.** The location, form, and other attributes of future development on the Bambra Road lot have the potential to result in the State-level cultural heritage significance of the Place being substantially less. It is important to record that registration of the additional Bambra Road lot does not prohibit future development on that lot. Rather, any future development on that lot that requires a permit pursuant to the Act would be assessed under the relevant provisions of that Act that apply at the time of an application being made.
- 71.** Therefore, in relation to section 49(1)(d)(i), the Committee is satisfied that the State-level cultural heritage significance of the Place would be substantially less if the proposed registered land which is or has been used in conjunction with the Place were developed.
- 72.** Even if the Committee had formed a view that section 49(1)(d)(i) was not satisfied (which is not the case), the Committee finds that section 49(1)(d)(ii) is satisfied. That is, the Bambra Road lot is important to the protection and conservation of the Place, and it contributes to the understanding of the Place as a grand villa residence.
- 73.** In reaching this conclusion with respect to section 49(1)(d)(ii), the Committee is not persuaded by the submissions of the Owners that the historic setting of the Place has been completely and irrevocably lost. Rather, the Committee accepts the positions of the Executive Director, GECC and GEHS that the Place's remnant Bambra Road frontage, deep setback from the street, and vegetated front garden setting continue to allow the Place's architectural significance to be appreciated and understood. While accepting that the layout, features and plantings of the 'typical', and not exceptional, garden would not independently qualify for inclusion in the Register, the Committee is wholly satisfied that the Bambra Road lot is important to the protection and conservation of the Place. As stated by the Executive Director, registration would ensure that the location, bulk, form or appearance of a proposed building will not adversely affect the significance of the Place and that any proposed works are complementary to the Place's cultural heritage significance, character and appearance.
- 74.** The Committee notes it is unable to make a statutory determination in relation to the Statement of Significance for the Place. The Heritage Council's statutory remit is confined by the Act. When a place or object is included in the Register, the description, history, Statement of Significance and permit policy do not form statutory components of the Register. The Committee therefore does not find itself to be empowered by the provisions of the Act, as they apply to this matter, to determine the contents of the Statement of Significance for the Place.
- 75.** The Committee records, however, consistent with its conclusions, its support for the Executive Director's proposal to include the Place's 'garden setting' in the Statement of Significance for the Place. This is not the case with respect to the Moreton Bay Fig trees.
- 76.** In summary, the Committee agrees with the extent of registration as recommended by the Executive Director, and is satisfied that the recommended extent of registration is appropriate and necessary and specifically:

  - that the State-level cultural heritage significance of the Place would be substantially less if the proposed registered land which is or has been used in conjunction with the Place were developed [s.49(1)(d)(i)], and
  - that the land surrounding the Place is important to the protection or conservation of the Place, and contributes to the understanding of the Place [s.49(1)(d)(ii)].

77. The Committee appends the registered extent of registration for the Place to this document as **Attachment 3**.

## Existing planning controls for the Place

### *Summary of submissions and evidence*

#### **Submissions of the Executive Director**

78. The Executive Director submitted that the current mapping of the Place in the Heritage Overlay under the Glen Eira Planning Scheme (HO10) does not align with land that is currently included in the Register.
79. The Executive Director noted that section 48 of the now-repealed *Heritage Act 1995* required the Minister for Planning to identify all places included in the Register in planning scheme maps. The Executive Director submitted that it was common practice in the late 1990s for entire cadastral blocks to be included in the Heritage Overlay, even when only part of that block (or the building/part of the building located on it) was included in the Register, owing to mapping limitations. It was the view of the Executive Director that this practice may have led to the inclusion of the Bambra Road lot in HO10.
80. In verbal submissions, the Executive Director submitted that while misalignments between registrations under the Act and mapped Heritage Overlay extents can intentionally occur due to differences between local and State-level interests, planning schemes are often amended to reflect determinations of the Heritage Council to amend a registration. The Executive Director noted that it is mandatory that the Minister for Planning be notified of any changes to existing registrations in accordance with section 56(1)(a) of the Act.
81. The Executive Director submitted that it is uncertain whether a future proposal for development on the Bambra Road lot would be subject to the existing Heritage Overlay (HO10) requirements.

#### **Submissions of the Owners**

82. The Owners submitted that the Executive Director's justifications that the inclusion of the Bambra Road lot is needed to control any new development on that lot are false, as the Bambra Road lot is currently subject to the Heritage Overlay under the Glen Eira Planning Scheme (HO10).
83. The Owners submitted that the current regulatory regime applicable to the Bambra Road lot requires that attention be given to the design and siting of any new proposed dwelling on that lot, in addition to any impacts the proposed dwelling may have on the Place. On this basis, the Owners submitted that there is no need for the Bambra Road lot to be included in the extent of registration for the Place.
84. The Owners rejected the submissions of the Executive Director that the application of HO10 to the Bambra Road lot is in any way uncertain, and that a planning scheme amendment would be required for any future alteration to the currently mapped extent for HO10. It was the submission of the Owner that no such planning scheme amendment is currently contemplated.
85. It was the concluding view of the Owners that, based on its submissions that the Bambra Road lot is not part of the Place's architectural significance, any development of the Bambra Road lot would be most appropriately managed through the existing Heritage Overlay framework.

#### **Submissions of GECC**

86. GECC submitted that inclusion of the Bambra Road lot in the Register is important to manage any future development on that lot to protect the cultural heritage significance of the Place. It was the view of GECC that the registration for the Place should align with the current mapped extent within the Heritage Overlay.
87. In verbal submissions, GECC noted that no objections were received from the Owners when the Bambra Road lot was included in the Heritage Overlay under the Glen Eira Planning Scheme in the 1990s.

- 88.** In verbal submissions, GECC stated that, should development of the Bambra Road lot be regulated via a planning permit under the *Planning and Environment Act 1987*, and not a heritage permit under the *Heritage Act 2017*, it is possible that development inappropriate to the Place's heritage setting may occur.
- 89.** In response to Committee questions at the hearing, GECC stated that the significance of the Bambra Road lot within the Heritage Overlay relates chiefly to the Place's recognition as a place of State-level cultural heritage significance. GECC put forward the view that it would be difficult to justify the retention of the Bambra Road lot within Heritage Overlay, under the Glen Eira Planning Scheme, should the Heritage Council determine not to include it in the Place's registered extent.

### Submissions of GEHS

- 90.** GEHS submitted that the Bambra Road lot's inclusion in HO10 supports the inclusion of that lot in the extent of registration for the Place. It was the view of GEHS that the Place would be best protected by inclusion in the Register pursuant to the Act, rather than the Heritage Overlay under the Glen Eira Planning Scheme, expressing concern regarding the potential for changes to the Planning Scheme in the future.

### Committee findings

- 91.** The Committee notes submissions made in relation to the existing regulatory framework applying to the Bambra Road lot.
- 92.** The Committee acknowledges that the Bambra Road lot is currently mapped as being included in the Heritage Overlay under the Glen Eira Planning Scheme.
- 93.** The Committee's duty in this matter is to determine whether or not additional land as recommended by the Executive Director – being the stables lot and Bambra Road lot – satisfies sections 49(1)(d)(i) or (ii) of the Act, and should therefore be included in the Register. Given that the Committee, as set out at paragraphs 66-77 above, is satisfied that the requirements of sections 49(1)(d)(i) and (ii) are met, then it is the Act, and not the Heritage Overlay, that must be the appropriate regulatory framework for managing any future change to the Bambra Road lot.
- 94.** To be clear, the Committee makes no finding in relation to the future 'certainty' of the Heritage Overlay as it applies to the Bambra Road lot, as it is not empowered to do so by the provisions of the Act.
- 95.** The Committee confirms its earlier findings at paragraphs 66–77 that inclusion of the Bambra Road lot in the registered extent of the Place is justified in accordance with sections 49(1)(d)(i) and (ii) of the Act, and therefore determined to align the registered extent for the Place with the mapped extent for Heritage Overlay HO10 in the Glen Eira Planning Scheme.

## Consideration of Heritage Permit P38761 and Impact on the Owners

### Summary of submissions and evidence

#### Submissions of the Executive Director

- 96.** The Executive Director rejected submissions of the Owners that the Recommendation failed to consider and give weight to Heritage Permit P38761, which was issued by Heritage Victoria in relation to the Place in November 2024.
- 97.** The Executive Director advised in submissions that works permitted by this permit included:
- construction of a new vehicle crossover and driveway from 67 Halstead Street to service the dwelling
  - landscape works including a new circular driveway
  - tree removal, specifically a Moreton Bay Fig tree (*Ficus macrocarpa*), and



- repair of external fencing.

- 98.** The Executive Director clarified that the permit was issued based on the consideration that permitted works would have a minor impact upon the significance of the then-registered place, but not to the extent that a permit should be refused.
- 99.** The Executive Director submitted that Heritage Permit P38761 remains valid, and that any determination of the Heritage Council to include the Bambra Road lot in the extent of registration for the Place would have no impact on the ability of the Owners to act on that live permit.
- 100.** Responding to submissions of the Owners that the Recommendation is unfair and unjust, the Executive Director acknowledged that the Owners had been excellent custodians of the Place since 1982. The Executive Director expressed regret that uncertainty and distress had been experienced by the Owners as a result of the Recommendation, and noted that the application to amend the Registration was initiated by a third party.

### **Submissions of the Owners**

- 101.** The Owners submitted that Recommendation to include the Bambra Road lot in the registered extent of the Place is wholly unjust and unfair on the Owners, and would result in harsh and adverse 'real world' consequences.
- 102.** The Owners submitted that they had purchased the Place in 1982 in a derelict state, spending considerable time and financial resources to conserve it and make it habitable. The Owners submitted they had been long-term, dedicated and responsible custodians of the Place.
- 103.** The Owners submitted that the Recommendation has been made at a critical juncture in their lives, when they are no longer able to maintain the property. The Owners submitted that the Place had been on the real estate market for a prolonged period without success. It was the submission of the Owners that the Interim Protection Order, the lack of certainty regarding the heritage protection for the Place, and the maintenance requirements of the large garden located on the Bambra Road lot, were impeding the property sale.
- 104.** The Owners submitted that the Recommendation failed to acknowledge and consider Heritage Permit P38761 and that this failure is a significant omission. It was the view of the Owners that the Executive Director's issuing of this permit reinforces the size, layout and access to the Place consistent with the boundaries of Lot 1 PS416790, and that it creates an arrangement that is independent of the Bambra Road lot. The Owners put forward the view that the issued permit contradicts the Recommendation.
- 105.** The Owners submitted that the permit application process was extensive and spanned over a year commencing in 2023. The Owners put forward the view that the Executive Director should have actioned the registration of the Bambra Road lot at the time of the permit application, or given formal notice to the Owners, if any material significance was attributable to that lot, as suggested by the Recommendation.

### **Submissions of GEHS**

- 106.** GEHS acknowledged the refurbishment, restoration and maintenance of the Place undertaken by the Owners during their custodianship. GEHS expressed gratitude to the Owners for their care of the Place, and acknowledged their purchase of the subdivided Bambra Road lot to be fortuitous.
- 107.** GEHS expressed the hope that resolution of this matter would improve certainty, and therefore sale prospects, for the Place.

### **Committee findings**

- 108.** The Committee notes the above submissions, and acknowledges the Owners' thoughtful custodianship of the Place over many years. The Committee also acknowledges the uncertainty since the Interim Protection Order was issued in November 2024 which the Owners describe as unfair and significantly impactful on them.

- 109.** The Committee finds, however, that its determination in relation to this matter must be confined to its powers within the provisions of the Act. The provisions of the Act do not empower the Committee to consider a landowner's economic or personal circumstances when making a determination in relation to a recommendation of the Executive Director. The Committee notes that Mr Wright, on behalf of the Owners, accepted this limitation of the Committee's remit when clarification was sought by the Committee in relation to it at the hearing.
- 110.** Rather, it is the role of this Committee to consider whether or not the Recommendation of the Executive Director is justified pursuant to sections 49(1)(d)(i) and (ii) of the Act.
- 111.** The Committee is cognisant of Heritage Permit P38761 that allows a new access point and other works within the currently registered land holding. It notes the clarification provided by the Executive Director in submissions relating to the ongoing validity of the heritage permit in the event that the Bambra Road lot is included in the Register. The approved works in that permit are not a factor that overrides or alters the Committee's earlier findings, nor persuades the Committee to accept the position advanced on behalf of the Owners that the Bambra Road lot should not be included in the extent of registration for the Place.

## Conclusion

- 112.** After considering the Executive Director's recommendation and all submissions received, and after conducting a hearing, the Heritage Council has determined, pursuant to sections 49(1)(d)(i) and (ii) and section 62 of the *Heritage Act 2017*, to amend the Victorian Heritage Register by including additional land. The Heritage Council has determined to include as the extent of registration for Halstead (H0450), located at 23 Bambra Road, Caulfield North, Glen Eira City, all of the area recommended for inclusion in the Victorian Heritage Register by the Executive Director, and has determined, pursuant to section 49(3) of the *Heritage Act 2017*, to include categories of works or activities which may be carried out in relation to the place, for which a permit is not required (permit exemptions).
- 113.** The Extent of Registration is provided as **Attachment 3** and the permit exemptions are provided as **Attachment 4**.
- 114.** The Committee thanks all hearing participants for their submissions and participation in the hearing.

# Attachment 1

**Historical summary of the Place taken verbatim from pages 13–20 (excluding images) of the Executive Director’s Recommendation. Provided for information purposes only.**

## History

### Caulfield

The area now known [sic] Glen Eira was first inhabited by the Bunurong people. Today their land extends from the Werribee River to Westernport and further east and includes part of Melbourne and some of its suburbs, including Caulfield. European settlement and pastoral use of land in the Caulfield area dates from the 1840s. At that time, stockmen rested their cattle at Caulfield en route from Gippsland to Melbourne, along a stock route that was gradually replaced by Dandenong Road. In 1857 Caulfield was proclaimed a Road District (see map below). In 1871 Caulfield became a shire, and then a city in 1913. Today it is part of the City of Glen Eira local government area.

### Villas and mansions

During the 1850s the discovery of gold brought great wealth to Melbourne, and Caulfield became a wealthy locality on the periphery of an expanding Melbourne. Caulfield North in particular became a desirable residential location. A number of large villas and mansions were built on substantial acreages by Melbourne’s gentry until the financial crash of the 1890s. Surviving examples include Halstead (c.1857) (VHR , Rosecraddock (c. 1857) (VHR H0589), Nithsdale (1858) (HO73), Kynaston (1888-89) (HO11), Rosemont (1868) (HO124), Clarence Lodge (HO212), as well as ornate boom era examples such as Labassa (1873, 1890) (VHR H0135) and Myoora (1886-87) (VHRH0490).<sup>1</sup>

Historians of Caulfield have called this period in the suburb’s development the ‘Mansion Era’.<sup>2</sup> At this time, grand residences were developed in Caulfield, and across Melbourne, with generous garden settings that spoke to the prosperity, gentility and good taste of their owners. Halstead, a detached villa with stables and garden, was built c.1857 by wealthy pastoralist, James Dickson, on the outskirts of Melbourne, then a 10km journey by horse. Villas and mansions were often developed with towers, like the substantial three-storey structure at Halstead, which symbolised the owners’ wealth and status. Stables were necessary because of the reliance on horse travel, and gardens afforded privacy and shade within a larger acreage cleared for agriculture and grazing.

Despite a halt in development during the depression years of the 1890s, growth in Caulfield resumed during the first few decades of the early twentieth century. This period saw the subdivision of mansion estates into smaller allotments for further residential development, the expansion of the tramway system in the 1910s and improved highways by the interwar period. By the 1930s, Caulfield had transformed into a middle-class suburb characterised by freestanding houses designed in a mixture of Victorian, Federation and Interwar styles, and an increasing number of flats were being constructed.<sup>3</sup>

### Halstead

#### Nineteenth century

Today Halstead (VHR H0450) is believed to be the oldest extant residence in Caulfield. The villa dates from at least 1857 and was owned and occupied by Dr James Dickson a wealthy pastoralist and property owner

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<sup>1</sup> For an account of the development of Caulfield North, see Extent, *Caulfield North Heritage Review*, Volume 1, Prepared for City of Glen Eira (July 2023).

<sup>2</sup> Peter Murray and John Wells, *From sand, swamp and heath: A history of Caulfield*, City of Caulfield, 1980, p. 152.

<sup>3</sup> Extent, *Caulfield North Heritage Review*.

with large stations in the eastern colonies of Australia, including South Australia and the Riverina.<sup>4</sup> It appears that Halstead was Dickson's Melbourne residence. In 1858 the Halstead Estate comprised a brick residence on 14 acres of land, including 10 acres of pasture and 4 acres under cultivation. The house had six rooms with kitchen, servants' rooms, stables and outbuildings. Dickson's neighbour was James Bevan who built the substantial two-storey residence 'Grosmont' directly to the south of Halstead in the early 1860s (demolished 1933).

James Dickson lived at Halstead until his death in 1880 when his son George Dickson became the owner. George also owned Uabba and Maahope Stations in the Lachlan District of NSW and Uranaway Station in South Australia.<sup>5</sup> In 1885 Ellen Dickson, James' widow, was listed in the rate book as the owner of Halstead. She died there in 1893.<sup>6</sup> By the early 1890s Halstead had been subdivided and the house block comprised two acres of land and a nine-roomed residence. By the late 1890s, George Dickson was again named as the owner in the rate books, the house having a series of tenants in that and the next decade.<sup>7</sup> A 1905 MMBW Plan show Halstead with its long verandah facing Bambra Road. There is a large front garden area, a building variously described in the 1970s as either servants' quarters or a services wing, and rear stables.

### **Twentieth century**

In 1910 further subdivisions of Halstead were advertised for sale. The blocks comprised 54 'fine villa sites' and 'the recently renovated Halstead residence'.<sup>8</sup> In 1911 Mr and Mrs SJ Plain purchased the residential block which had been reduced to 0.57 acres [0.23ha].<sup>9</sup> A 1911 MMBW plan shows the residence within the boundaries of the subdivided block, with the newly made Halstead Street to the north from which the stables, comprised of three adjoining structures, could be accessed. After Mr and Mrs Ercil Plain purchased the residence, the servants' quarters/services wing was converted to a billiards rooms and attached to the house, which is shown on the 1911 MMBW plan.

After the death of Mr and Mrs Plain, the property passed to their daughter Mrs Ercil White (nee Plain). In 1977 after her death, it was sold to three development companies: Resco Nominees, Pty Ltd, Kathandra Pty Ltd, Camarda Pty Ltd. The occupying tenant was architect Vladmir Chernov. In 1978 Halstead was nominated for the Historic Buildings Register and was included in 1979.

### **Selected bibliography**

Extent, *Caulfield North Heritage Review*, Volume 1, Prepared for City of Glen Eira (July 2023).

Carlotta Kellaway, Research into 'Halstead' 23 Bambra Road, Caulfield, National Trust of Australia (Victoria) 15 May 1978.

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Andrew Ward, 'Halstead' Citation, *City of Glen Eira Heritage Management Plan*, Volume 3, 1996, unpaginated.

Peter Watts, 'Halstead' Research Notes, prepared for the National Trust of Australia (Victoria) 8 December 1978.

<sup>4</sup> 'News of the Day', *Age*, 31 Dec 1880, p.2. Carlotta Kellaway, *Research into 'Halstead' 23 Bambra Road, Caulfield*, National Trust of Australia (Victoria) 15 May 1978; Peter Murray and John Wells, *From sand, swamp and heath: A history of Caulfield*, City of Caulfield, 1980, p. 107.

<sup>5</sup> *Pastoral Times*, (NSW) 3 June 1882, p.2

<sup>6</sup> Carlotta Kellaway, *Research into 'Halstead'*; 'Family Notices', *Argus*, Tue 17 Oct 1893, p.1.

<sup>7</sup> Carlotta Kellaway, *Research into 'Halstead'*; Andrew Ward, 'Halstead' Citation, *City of Glen Eira Heritage Management Plan*, Volume 3, 1996, unpaginated.

<sup>8</sup> *Argus*, 23 Apr 1910, p. 3.

<sup>9</sup> This is the extent currently under consideration, being the land in the VHR and that covered by the IPO (Lot 1 PS416790, the stable lot, and Lot 1 LP129398, the eastern section of the front garden).

## Attachment 2

### The Victorian Heritage Register Criteria and Threshold Guidelines

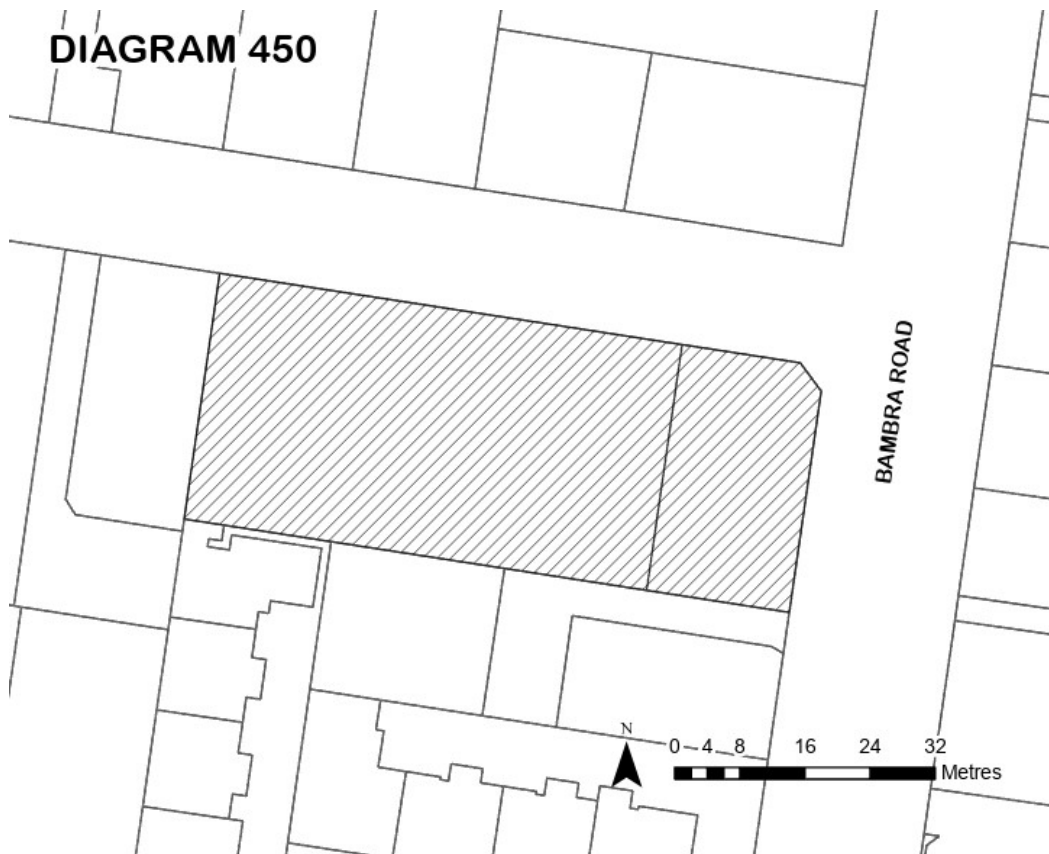
<b>Criterion A</b>	Importance to the course, or pattern, of Victoria's cultural history.
<b>Criterion B</b>	Possession of uncommon, rare or endangered aspects of Victoria's cultural history.
<b>Criterion C</b>	Potential to yield information that will contribute to an understanding of Victoria's cultural history.
<b>Criterion D</b>	Importance in demonstrating the principal characteristics of a class of cultural places and objects.
<b>Criterion E</b>	Importance in exhibiting particular aesthetic characteristics.
<b>Criterion F</b>	Importance in demonstrating a high degree of creative or technical achievement at a particular period.
<b>Criterion G</b>	Strong or special association with a particular present-day community or cultural group for social, cultural or spiritual reasons.
<b>Criterion H</b>	Special association with the life or works of a person, or group of persons, of importance in Victoria's history.

These were adopted by the Heritage Council at its meeting on 1 December 2022, and replace the previous criteria adopted by the Heritage Council on 6 December 2012.

# Attachment 3

## Extent of Registration

All of the place shown hatched on Diagram 450 encompassing all of Lot 1 on Lodged Plan 129398 and Lot 1 on Plan of Subdivision 416790 but excluding the interior of the dwelling known as Halstead and the interior of the stables building.





# Attachment 4

## Categories of Works or Activities which may be undertaken without a Permit (Permit exemptions)

### Permit exemptions

#### General exemptions

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

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 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 [insert place / object name] 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 Secretary (as defined in the *Aboriginal Heritage Act 2006*).

### **Exempt works and activities**

1. Removal and filling of the modern swimming pool to lawn level.