Heritage Council Regulatory Committee

Grassdale (H0261)

8 Grassdale Road, Sale, Wellington Shire, Gunaikurnai Country

Hearing – 14 August 2026
Members – Dr Ursula de Jong (Chair), Mr David Helms, Ms Jane Sharp

Determination of the Heritage Council

To amend in the Heritage Register – After considering the Executive Director's recommendation and all submissions received, and after conducting a hearing, the Heritage Council of Victoria has determined, pursuant to sections 49(1)(d)(i) and (ii) and section 62 of the *Heritage Act 2017*, to amend the Heritage Register by including additional land. The Heritage Council has determined to include as the extent of registration for Grassdale (H0261), located at 8 Grassdale Road, Sale, Wellington Shire, Gunaikurnai Country, a reduced extent of the area recommended for inclusion in the 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 (specific permit exemptions).

Dr Ursula de Jong (Chair)
Mr David Helms
Ms Jane Sharp

Decision Date – 23 November 2026

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.

Appearances / Hearing submissions

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

The Executive Director recommended to the Heritage Council that Grassdale, located at 8 Grassdale Road, Sale, Wellington Shire, Gunaikurnai Country, be amended in the 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 and Ms Teresa Kervin, Heritage Officer, Registrations, were also present and available to answer questions.

Grassdale SPV PTY LTD ('the Owner')

The Owner of Grassdale 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 Christopher Constantine, Director of Grassdale SPV PTY LTD, appeared at the Hearing and made verbal submissions.

The Head, Transport for Victoria, Department of Transport and Planning ('The Head, TfV')

The Head, TfV, is a statutory body established under section 64A of the *Transport Integration Act 2010*, responsible for coordination, operation and maintenance of the public transport system and road system. The Head, TfV, has interests in the extent of registration for Grassdale as recommended by the Executive Director. Mr Harvey Dinelli, Associate Director, Transport Planning, appeared at the Hearing and made verbal submissions.

Other interested parties

Wellington Shire Council ('WSC')

WSC, the Local Government Authority in which Grassdale is located, made a submission to the Heritage Council pursuant to section 44 of the *Heritage Act 2017*. Wellington Shire Council did not participate in the Hearing.

Introduction / Background

The Place

01. On 9 February 2026, 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 Grassdale, located at 8 Grassdale Road, Sale, Wellington Shire ('the Place'), be amended in the Heritage 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 ('specific permit exemptions') pursuant to s.49(3) of the Act.

02. The Place is located on Gunaikurnai Country.

03. The Recommendation was made after the Executive Director made and accepted an application to amend the registration for the Place.

04. The following history of the Place is taken from pages 3-4 of the Recommendation (in-text references and footnotes have been removed):

> ***Gunaikurnai***
>
> *The Gunaikurnai have an unbroken connection to the land and waters around Gippsland from time immemorial.*
>
> *The Brayakualung clan's territory was around the current site of Sale, the Avon and Latrobe rivers, and west of Lake Wellington to Mount Saw Saw and Mount Howitt.*
>
> *The Yoorook Justice Commission recorded how colonisation brought irreparable damage to First Peoples in Victoria with the introduction of diseases, massacres, dispossession from Country, confinement on missions and reserves, forced labour, separation of families and ongoing policies and practices that perpetuate systemic injustice.*
>
> *From the 1830s, Europeans began taking up land in what is now known as Wellington Shire, dispossessing the Gunaikurnai people of their Country. The squatters sought suitable grazing land, and in doing so invaded Gunaikurnai Country resulting in conflict and violence between settlers and the Gunaikurnai people, and colonists committed acts of genocide and legalised relocation. As pastoral runs were established, with as many as forty stations by 1844, these runs came to be known by British names, predominantly Scottish, rather than existing Aboriginal place names.*
>
> *The Gunaikurnai continue to live, work, practice culture and manage land and waters around Sale.*
>
> ***Grassdale***
>
> *From the 1850s, townships including Sale and roads were established in the Gippsland region. This period was characterised by frequent changes of land ownership or tenure, with more prosperous squatters taking over the less successful runs.*
>
> *The Grassdale residence was built by John King, brother-in-law of Floyd Minter Peck and owner of 'The Ridge' at Rosedale, most likely in the early to mid-1850s. Oral history from the MacLachlan family at the time of initial classification by the National Trust (1972) indicates this era, but an exact date is unknown. All materials for the homestead and outbuildings were sourced from the property itself, including the wattles and clay for the walls, timber for shingles, and red gum for flooring.*
>
> *The homestead is styled in the colonial vernacular tradition. It is a long rectangular building with a steeply pitched corrugated iron hipped roof and a wide encircling verandah. Internally, the house has four main rooms located across the front contained within the main hipped-roof section, and other rooms located across the rear under a skillion roof. The verandah is more decorative at the front of the building, employing*

larger and more ornate timber posts, and a scalloped valance beneath the fascia. The original timber shingles remain in place beneath the existing corrugated iron roof.

Dr. Floyd Minter Peck

Dr. Floyd (some primary sources use the spelling Ffloyd) Minter Peck and James Peck, brothers from Newmarket, Suffolk, owned the land north of the Sale showgrounds. Grassdale was located on the western boundary of the paddock, and James Peck's home, Bowerette was located nearby. Dr. Peck was married to Anna Maria (nee Robertson) and prior to migrating to Australia the pair had five children. There are conflicting accounts of when they settled at Grassdale, but it is known that they were living at Grassdale by May 1859 when Anna Maria died after giving birth to their sixth child.

Dr. Peck died in 1864 after contracting an infection while performing an autopsy. In the late 1860s, a memorial window to Peck was erected by subscription at the Anglican church of which Peck was a member and moved to the new Sale cathedral in Cunnighame Street in 1884.

John MacLachlan

John MacLachlan was born in Scotland and migrated to Australia in 1837, spending time in Hobart and Adelaide before settling in Victoria near Portland in 1839. After the Black Thursday bushfires of 1851 destroyed large parts of Victoria, including MacLachlan's Portland cattle run, MacLachlan's prosperity dwindled. In 1862, he moved to Gippsland where he purchased Grassdale. The exact date of purchase is unknown but is assumed to be shortly after Dr. Peck's death in 1864. It was during MacLachlan's period of ownership (1860s-90s) that the oaks and elms, as well as hedges around the property boundary were planted. Until his death in 1894, MacLachlan operated Grassdale for farming and grazing, which was continued by subsequent generations of the family.

The homestead building itself retains a high degree of integrity and is maintained in good physical condition. A program of works was undertaken in c.1996 to address the subsidence of perimeter walls and rotting floors to the verandah, and a modern kitchen was installed inside the homestead. The original entrance drive from Sale-Maffra road including a circular rose garden to the front of the homestead and a brick annexe to the north containing a kitchen, laundry and workers' quarters have been removed.

Process following the Recommendation of the Executive Director

05. After the Recommendation was made to the Heritage Council on 9 February 2026, notice was published on 13 February 2026 for a period of 60 days, in accordance with section 41 of the Act.

06. Three submissions, pursuant to section 44 of the Act, were received in relation to the Place. The submissions were received from:

- The Owner, who objected to the Recommendation, specifically the recommended extent of registration for the Place, and requested that a Heritage Council hearing be held to determine the matter;
- WSC, which objected to elements of the Recommendation, requested a reduced extent of registration and additional specific permit exemptions to what was included in the Recommendation, and did not wish to cause a hearing in relation to the matter;
- The Head, TfV, who supported the Recommendation and wished to participate in a hearing if one was requested by another party.

07. The Regulatory Committee has considered all submissions, pursuant to section 44 of the Act, in making its determination.

Regulatory Committee

08. 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.

Committee's unaccompanied site inspection

09. On 13 August 2026, the three Committee members (Dr Ursula de Jong, Mr David Helms, and Ms Jane Sharp) undertook a site inspection of the Place. The Heritage Council Secretariat Hearings Manager, Ms Megan Rowland, and Heritage Council Executive Officer, Mr Damien Welch, were also in attendance. No parties to the Hearing were present at the site inspection.

Hearing arrangements

10. On 13 May 2026 the Committee notified all individuals and organisations who had made a submission pursuant to section 44 of the Act that a hearing would be held. All individuals and organisations were invited to submit a *Heritage Council Registration Hearing Participation Form (Form B)* ('Hearing Participation Form') to indicate whether or not they would participate in the Hearing.

11. The Committee received four (4) Hearing Participation Forms from:

- The Executive Director;
- The Owner;
- The Head, TfV; and
- WSC.

12. The Committee notified those individuals and organisations who had requested to participate in the Hearing that an in-person hearing had been scheduled to take place on 14 August 2026 ('the Hearing').

13. Prior to the Hearing, the Committee sought and received written hearing submissions and submissions in reply.

14. On 11 August 2026 interested parties were advised that the Hearing would be held online, instead of in-person. The online Hearing was recorded in accordance with section 248A of the Act. No interested parties objected to the Hearing being recorded.

15. All parties except WSC made verbal submissions at the Hearing. The Committee asked questions to assist its understanding of submissions and about matters included in submissions and related topics.

Preliminary, procedural and other matters

Future use, maintenance and development

16. It is not the role of the Committee under the Act to consider future proposals or to pre-empt any decisions regarding future permits. Pursuant to sections 49(1)(a)–(c) of the Act, the role of the Committee is to determine whether or not the Place, or part of it, should be included in the Heritage Register and, if determined to register, pursuant to section 49(3), to determine categories of works which may be carried out without a permit (permit exemptions).

17. 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 Act.

Conflicts of interest

18. The Chair invited Committee members 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.

19. Member Helms and Member Sharp disclosed at the Hearing that they had each previously worked with Mr John Briggs but did not consider this to present a conflict of interest.

20. All members and parties were satisfied that there were no real or perceived conflicts of interest.

Reasons for amendment

21. The Executive Director recommended that the Heritage Council amend the registration of the Place in the Heritage 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)].

Weight to be given to Heritage Impact Statement and Supplement Note

22. In correspondence received by the Committee on 10 August 2026, the Owner confirmed his intention to call Mr John Briggs as an Expert Witness, and to make Mr Briggs available at the Hearing for cross-examination. However, no Statement of Expert Evidence, as required by *Heritage Council Protocol 6 – Expert Evidence* ('Protocol 6') was submitted to the Committee and other interested parties during the submissions process. The Owner advised his intention to rely on the *Heritage Impact Assessment – Supplement Note*, prepared by Mr Briggs and dated 26 November 2025 (a supplement to a *Heritage Impact Assessment Report* dated 30 July 2025), as evidence in chief.

23. The Committee notified parties on 11 August 2026 that the issue of how to proceed would be raised as a procedural matter at the commencement of the Hearing. It was the view of the Committee that the process for submitting and considering expert evidence as set out in Protocol 6 must be complied with to ensure procedural fairness to all parties.

24. In the correspondence dated 11 August 2026, the Committee confirmed its intentions to seek the views of all interested parties as how to proceed. The Committee advised that, depending on the positions of each party, the Committee may determine to either:

1. Adjourn the Hearing in full until such a time that a Statement of Expert Evidence, compliant with *Heritage Council Protocol 6*, has been prepared by Mr Briggs, circulated and made available to interested parties, and interested parties have been afforded the opportunity to revise their written and verbal submissions and prepare questions for Mr Briggs; OR
2. Proceed with the submissions of the Executive Director, Heritage Victoria and the Head, Transport for Victoria; and adjourn the submissions and evidence called on behalf of the land owner until such a time that a Statement of Expert Evidence, compliant with *Heritage Council Protocol 6*, has been prepared by Mr Briggs, circulated and made available to interested parties, and interested parties have been afforded the opportunity to revise their written and verbal submissions and prepare questions for Mr Briggs; OR
3. Proceed with the Hearing on 14 August 2026, hearing from all interested parties, on the basis that the *Heritage Impact Assessment – Supplement Note*, prepared by Mr Briggs and dated 26 November 2025, is part of the submissions of the Owner but is not expert evidence: OR
4. Proceed in a manner determined by the Committee after hearing from the interested parties.

25. At the commencement of the Hearing, the Chair invited responses from all parties in relation to the matter. The position of each party in attendance at the Hearing was as follows:

- The Executive Director did not object to options 2, 3 or 4, and expressed a preference to proceed with the Hearing as scheduled, if possible.
- The Head, TfV, did not object to any of the four options for proceeding as put forward by the Committee.
- The Owner did not object to any of the four options but repeated a preference to treat the *Heritage Impact Assessment* and *Heritage Impact Assessment – Supplement Note* as expert evidence, and call Mr Briggs as an Expert Witness.
- The Owner then clarified, following questioning by the Committee, that moving forward with the Hearing on 14 August 2026 as scheduled, regardless of whether or not material prepared by Mr Briggs was ascribed the weight of expert evidence, was the preferred course of action.

26. Based on the responses of all interested parties, and with due consideration to the requirements of Protocol 6, the Committee determined to proceed with option 3; that is, proceed with the Hearing as scheduled, hear verbal submissions from all interested parties, on the basis that the *Heritage Impact Assessment* and *Heritage Impact Assessment – Supplement Note* would be given the weight of a submission, and not as expert evidence.

Request for additional material at the Hearing

27. In the course of the Hearing, the Owner sought leave to refer to material which had not been included in submissions.

28. After inviting the views of other interested parties, and after receiving no objections, the Committee agreed to admit and consider this material. The material is summarised below:

- *Historic Title 1 Vol 11587 Fol 480*
- *Historic Title 2 Vol 2802 Fol 288*
- *Historical Title 3 Parish Sheet P34680 002*
- *Arboricultural Assessment, 8 Grassdale Road, Sale*
- *28 November 2025 Heritage Victoria Referral Response & 2 December 2025 Heritage Victoria Permit Conditions [duplicate documents]*
- *DTP Offset Survey 31700F2 V1.*

29. The Owner provided the Committee and other parties with copies of the above material on 14 August 2026, which was circulated to all parties on 17 August 2026.

30. Other interested parties were invited to respond to the additional material by no later than 28 August 2026. One response was received, from the Executive Director.

31. This additional material provided by the Owner, and the response to it received from the Executive Director has been considered by the Committee in making its determination.

Issues

32. The following section is not intended to be a complete record of submissions, expert evidence and associated material received by the Committee. It is a summary of what the Committee considers to be key issues, followed by an explanation of the Committee's findings and conclusions. 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'] (**Attachment 1**).

Overview of positions

33. The Executive Director recommended that the registration for the Place be amended to include:

> *All of the [Place] shown outlined on Diagram 261 encompassing part of Lot 2 on Plan of Subdivision 924057, measuring 130 metres along the western boundary and 200 metres east from the southwest corner of the parcel, all of the avenue of Elm trees in the south east corner, and part of the road reserve of the Maffra-Sale Road to the edge of, but excluding, the sealed roadway, traffic lanes and road shoulder.*

34. Please refer to **Figures 1-3** below in relation to the extent of registration, as recommended by the Executive Director, and to **Figure 4** for a site plan showing key elements of the Place.

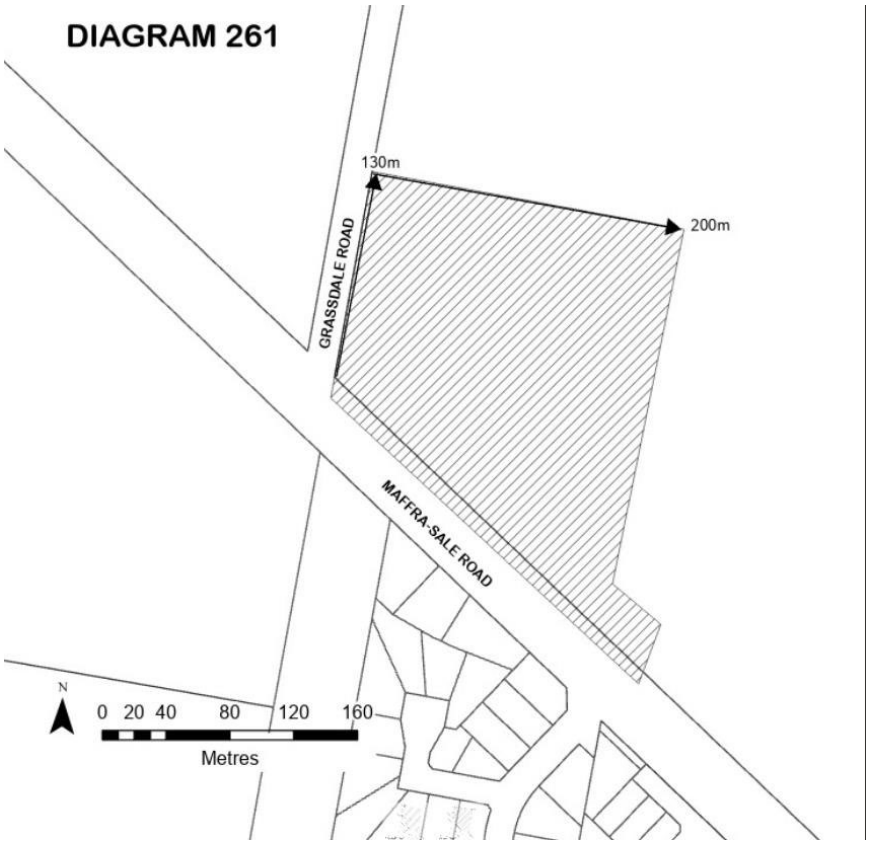


Figure 1: Diagram 261 showing the extent of registration recommended by the Executive Director (page 12 of the Recommendation).



Figure 2: Aerial view of the Place, showing the extent of registration recommended by the Executive Director (page 13 of the Recommendation).

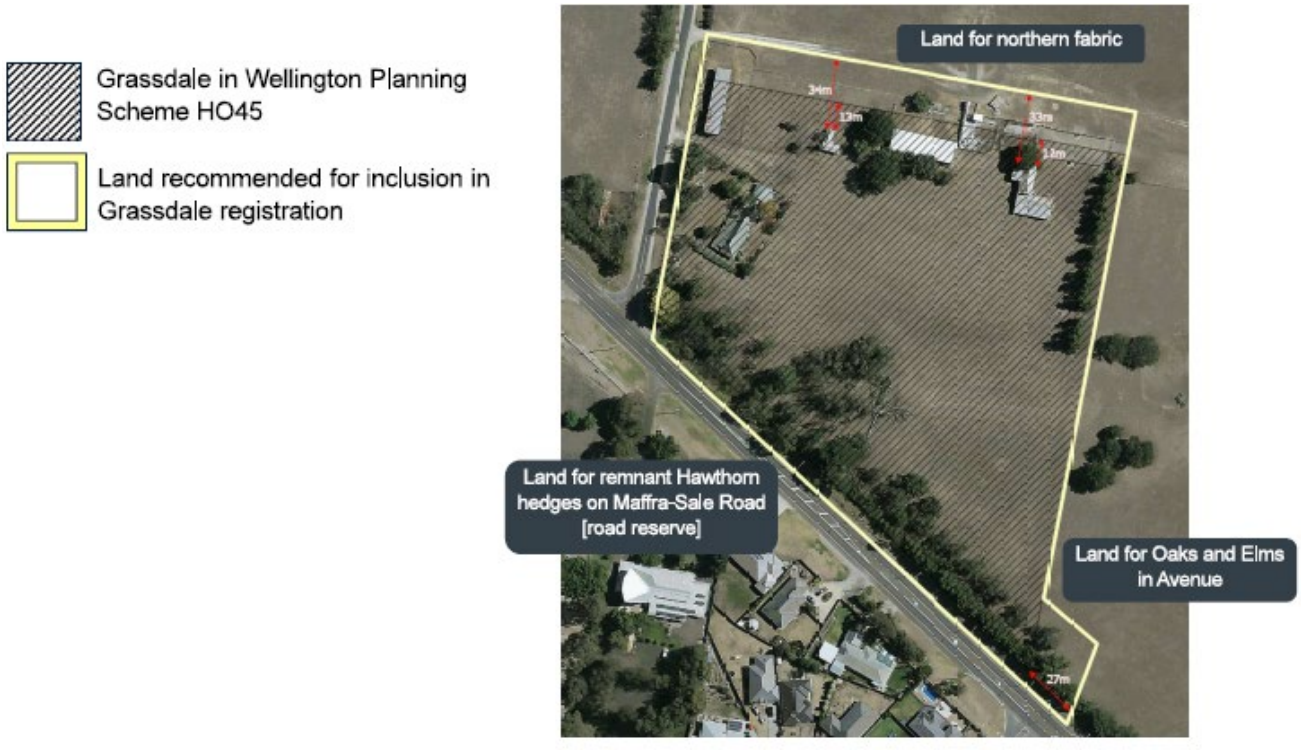


Figure 3: Map of the Place showing current HO45 extent and extent of registration recommended by the Executive Director.

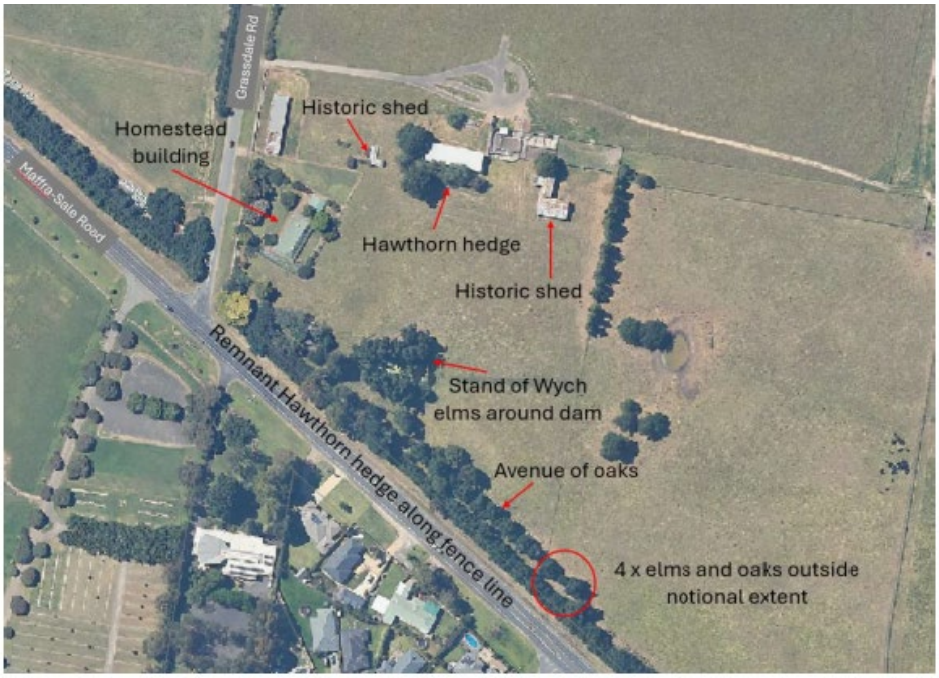


Figure 4: Site plan showing elements recommended for inclusion in extent of registration recommended by the Executive Director for the Place (extracted from page 6 of Executive Director's submissions in reply).

35. The Executive Director provided the following rationale for the recommended extent of registration (taken from page 13 of the Recommendation):

> *The recommended extent of registration comprises all elements and features of State-level cultural heritage significance, including the historic outbuildings, Wych Elms and English Oaks, and Hawthorn hedges.*

This extent of registration was chosen to provide adequate protection to the avenue and hawthorn hedges to the southern boundary of the property, including protection for tree roots. The 'dog-leg' to the southeastern corner picks up the four remaining trees in the elm avenue beyond the fence line of the main homestead paddock. The increase in the nominal mapping to the northern boundary is to provide an adequate setting for the outbuildings and homestead which are small, single storey, vernacular buildings that have the potential to be impacted by future development. The proposed extent balances the protection of significant elements and their setting without creating an administrative burden for areas of the property that are removed from the significant elements.

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 of the land, all soft and hard landscape features, plantings, and all buildings (exteriors, interiors and fixtures) is proposed for inclusion in the [Heritage Register].

36. The Executive Director recommended that the registration for the Place be amended to include the additional land surrounding the homestead building in accordance with sections 49(1)(d)(i) and (ii) of the Act. These sections are set out below:

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.

37. Hearing participants were generally in agreement regarding the inclusion of additional land surrounding the homestead building in the Heritage Register, but disagreed on the extent of land that should be registered.

38. It was the submission of the Owner that the extent of registration for the Place as recommended by the Executive Director could be reduced, particularly along the northern and eastern boundary, while still meeting the requirements of sections 49(1)(d)(i) and (ii). It was the preference of the Owner that any registered extent as determined by the Heritage Council be aligned with the proposed extent for Heritage Overlay polygon HO45, as reflected in Planning Scheme Amendment application C126Well, which is associated with proposed development of the land surrounding the Place (refer to **Figure 5** below).

39. The Head, TfV, generally supported the Recommendation, including:

- The exclusion of the sealed roadway, traffic lanes and road shoulder of Maffra-Sale Road from the proposed extent of registration, as outlined on page 12 of the Recommendation; and
- The recommended specific permit exemptions for management of the 'Road Reservation' as outlined on page 17 of the Recommendation.

40. WSC submitted that it supported some elements, but not all elements of the Recommendation, and supported reducing the extent of registration as recommended by the Executive Director. WSC requested additional specific permit exemptions and also supported the alignment of any registered extent as determined by the Heritage Council with the proposed Heritage Overlay boundary for the Place in accordance with Planning Scheme Amendment application C126Well.

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

Overview of submissions and evidence

Submissions of the Executive Director

41. The Recommendation set out the reasons for including additional land in the register pursuant to sections 49(1)(d)(i) and (ii) of the Act (extracted from page 11 of the Recommendation):

> ***The Executive Director notes that:***
>
> - *The current extent of registration is limited to the fabric of the building, and is insufficient to protect, conserve and allow for a proper understanding of the place.*
> - *The current extent:*
>   - *excludes outbuildings*
>   - *excludes early remnant plantings including hawthorn hedges and mature oaks and elms*
>   - *excludes the land where the historic driveway from the Sale-Maffra Road was located.*
> - *The land proposed for inclusion is currently and has been used in conjunction with the place since the mid-1850s, which is over 170 years.*
>
> ***The Executive Director is of the view that:***
>
> - *If any of the additional land proposed for inclusion in the registration were developed, depending upon the nature, scale and location of the proposal, there is potential for the development to impact upon Grassdale and substantially reduce its State-level cultural heritage significance.*
> - *In the context of other pastoral homestead buildings with registered land in the VHR, this is an outlier because its current extent of registration does not cover any land, outbuildings or remnant early plantings.*
> - *The proposed inclusion of additional land will enable future development that could potentially impact on the conservation of the place to be managed under an approvals process.*
> - *The proposed inclusion of additional land will ensure that the following historic buildings and plantings are included in the extent of the Registered Place, and will be subject to an approvals process to manage change:*
>   - *Two timber sheds that have supported the homestead's use over 150 years*
>   - *Mature elms and English oaks*
>   - *Hawthorn hedges.*

42. The Executive Director submitted that the above elements combine to contribute to the understanding of the place as a rural homestead complex, and that the two vernacular timber structures have supported the homestead's functions over many decades. The Executive Director noted that the two structures are situated within 12-13 metres of the northern boundary of the Heritage Overlay polygon HO45. It was the position of the Executive Director that additional land, as set out in the Recommendation, is necessary to protect and conserve the rural setting of these farm buildings and to be able to manage future development whatever that form may take.

43. In response to questioning from the Committee at the Hearing, the Executive Director clarified that the northern boundary of the recommended extent of registration was not based on any particular feature of the Place.

44. In response to questioning from the Committee at the Hearing, the Executive Director confirmed that mature exotic trees located beyond the eastern boundary of the recommended extent of registration, a mature Kurrajong tree in the north-eastern corner of the recommended extent of registration, in addition to a corrugated iron fence with timber posts identifying the homestead garden area, had not been specifically considered in the Executive Director's assessment of elements contributing to the cultural heritage significance of the Place. However, the Executive Director clarified that all features located

within any extent as determined by the Heritage Council would be afforded the protection of the Act. The Executive Director acknowledged that the mature trees located outside of the recommended extent of registration to the east were not before the Committee for consideration, noting they had not been subject to a recommendation of the Executive Director publicly advertised pursuant to section 41 of the Act.

45. The Executive Director acknowledged that any registration documentation, based on any determination made by the Heritage Council, may benefit from clearer articulation of site elements which contribute to the Place's cultural heritage significance, and the ability to understand it as a nineteenth century rural homestead complex.

46. The Executive Director submitted that the 'future development' contemplated by section 49(1)(d)(i) is unspecified, and that it is not confined to a particular future proposal such as the proposed planning scheme amendment referred to in the submissions of the Owner and WSC.

47. The Executive Director noted that the homestead building at the Place was one of the first approximately 370 buildings to be included in the Historic Buildings Register when it was established under the *Historic Buildings Act 1974*, which later became the Heritage Register under the *Heritage Act 1995.* The Executive Director clarified that only 'buildings' could be included in the Historic Buildings Register, with the registration of land only becoming possible with the introduction of the *Historic Buildings Act 1981*. The Executive Director noted that the registered extent in the Heritage Register for Grassdale has not changed since 1974 and is therefore currently confined to the homestead building.

48. The Executive Director submitted that since the 1980s, there has been a systematic exercise to address all early registrations which do not include land. The Executive Director noted that, in accordance with current practice, all newly registered places under the Act include registered land which in most cases would extend beyond the footprints of any buildings or structures to provide a protective limit.

49. Responding to questions of clarification at the Hearing, the Executive Director submitted at the Hearing that the current northern boundary for the Place in the Wellington Shire Council Heritage Overlay polygon HO45 was 'notional', and the Executive Director did not understand it to be based on property title boundaries.

50. The position of the Executive Director did not change based on the historical property titles as provided by the Owner, submitting in a written response to the new material that Historical Allotments 106 and 107 have been 'used in conjunction with the place' since 1858, and that this is a test under section 49(1)(d)(i) of the Act. The Executive Director noted that information pertaining to the MacLachlan family's occupation of Grassdale was provided by the Sale Historical Society, which Heritage Victoria consulted in December 2025.

51. In response to the new material provided by the Owner (referred to in **paragraph 29**), the Executive Director submitted that a consultation of records found in the Public Records Office of Victoria (PROV) indicated the following history of ownership in relation Historical Allotments 106 and 107:

- *In **1854**, a Crown Grant was issued to John Rowley for Historical Allotment 106, this is supported by the submitted Parish Plan.*
- *In **1855**, a Crown Grant was issued to the Turnbull Brothers for Historical Allotment 107, this is supported by the submitted Parish Plan.*
- *In **1858**, Historical Allotments 106 & 107 were conveyed from John Rowley and the Turnbull Brothers respectively, to John King, as well as Historical Allotments 108, 109, 110, and 116.*
- *In **1864**, Historical Allotments 106, 107, 108, 109, 110, 116 were conveyed from John King to John MacLachlan.*

52. The Executive Director submitted that these records (copies of which were provided to the Committee) demonstrated that Historical Allotments 106 and 107 have been 'used in conjunction with the Place' since 1858 and were within the ownership of the MacLachlan family between 1864 and 2025 when they were sold to the Owner, and that the requirements of section 49(1)(d)(i) of the Act are satisfied.

53. It was the concluding position of the Executive Director that the extent of registration, as put forward in the Recommendation, was necessary and appropriate to ensure the conservation and protection of the Place in accordance with section 49(1)(d)(ii) of the Act.

Submission of the Owner

54. The Owner did not object to the addition of land to the registered extent of the Place but submitted that the requirements of sections 49(d)(i) and 49(d)(ii) of the Act could be adequately satisfied by a reduced extent to that recommended by the Executive Director.

55. The Owner submitted that elements of the land proposed for registration by the Executive Director contain no heritage fabric, no historically significant vegetation, and no elements that contribute to directly to the Statement of Significance for the Place. It was the position of the Owner that the reliance on broader setting alone is insufficient to justify inclusion in the Heritage Register where existing planning controls can adequately manage development outcomes.

56. In support of this view, the Owner referred in submissions to the *Heritage Impact Assessment* and *Heritage Impact Assessment – Supplement Note*, in relation to proposed development affecting the Place. Based on Mr Briggs' assessment, the Owner submitted that an appropriate and defensible extent of registration would be limited to:

- A maximum of 110 metres north of the northern edge of the bitumen carriageway of Sale-Maffra Road;
- A maximum of 175 metres east of the eastern boundary of Grassdale Road.

57. The Owner submitted that this reduced extent would align with proposed revised mapping of the Heritage Overlay polygon (HO45) for Grassdale in the Shire of Avon/Wellington Planning Scheme, under Planning Scheme Amendment application C126Well (see **Figure 5** below).

58. The Owner submitted, based on the advice of Mr Briggs, that this reduced extent would encompass all heritage fabric, landscape features and vegetation of significance, and that land beyond the above distances contains post-1957 plantings and no contributory heritage elements. The Owner clarified in verbal submissions, however, that he did not object to the southern (including the 'dogleg' to the south-east encompassing the historic avenue of oak and elm trees) and western boundaries aligning with the extent of registration as recommended by the Executive Director.

59. It was the submission of the Owner that Historical Allotment 107, which includes additional land north of the HO45 boundary recommended for inclusion in the Heritage Register by the Executive Director, could not be considered to have been used 'in conjunction with the place', and therefore the test of section 49(1)(d)(i) is not satisfied.

60. The Owner submitted that the northern boundary of HO45 aligned with the historical property boundary for Historical Allotment 106, and that there was not an evidentiary basis for extending the registered land north into Historical Allotment 107. In support of this position, the Owner referred to an undated historical parish plan showing Crown Grants of the 1850s and a 1901 Certificate of Title (see material listed in **paragraph 28**). The Owner put to the Committee that in the 1850s Historical Allotments 106 and 107 were listed as being in the separate ownerships of John Rowley and the Turnbull Brothers respectively. The Owner further submitted that the MacLachlan family did not own Grassdale prior to 1901, and that Historical Allotments 106 and 107 had been in separate ownerships until Archibald MacLachlan's ownership in 1901.

61. It was the conclusion of the Owner that these two land parcels could not be said to have been used 'in conjunction with the Place' as required by section 49(1)(d)(i), and therefore the northern extent as recommended by the Executive Director could be defensibly reduced to align with the current extent of HO45, and the property boundary for Historical Allotment 106.

62. Regarding the eastern extent as recommended by the Executive Director, the Owner submitted that the eastern boundary could be reduced to within 5 metres east of the outbuilding located in the north-eastern corner of the recommended extent of registration, while continuing to satisfy the requirements of sections 49(1)(d)(i) and (ii). In support of this position, the Owner noted that 1957 aerial photography of the Place, as included in the Recommendation, shows that the mature trees located along the eastern fenceline had not been planted at this time, and that there is no historical evidence of the Place ever being traditionally approached from any other direction than the south (see **Figure 6** below).

63. In support of his submissions relating to the addition of land to existing registrations in accordance with sections 49(1)(d)(i) and (ii) of the Act, the Owner referred to two previous Heritage Council decisions relating to Ravenswood Homestead (VHR H0315) and Tyndtyndyer (Tyntynder) Homestead (VHR H2353). The Owner submitted that:

> *… [the Place] should be treated in the same disciplined way as Ravenswood and Tyntyndyer: the significant fabric, plantings and genuine setting should be registered under section 49(1)(d)(i) and (ii) with appropriate permit exemptions, while the open developable land that is not important to the or conservation of the place, and does not contribute to its understanding, should be excluded pursuant to section 49(1)(ab).*

64. It was the concluding position of the Owner that land included in the recommended extent of registration which does not include significant structures or vegetation, is located on property titles not historically used in conjunction with the Place, and which is remote from the homestead building, should be removed from any registered extent as determined by the Heritage Council.

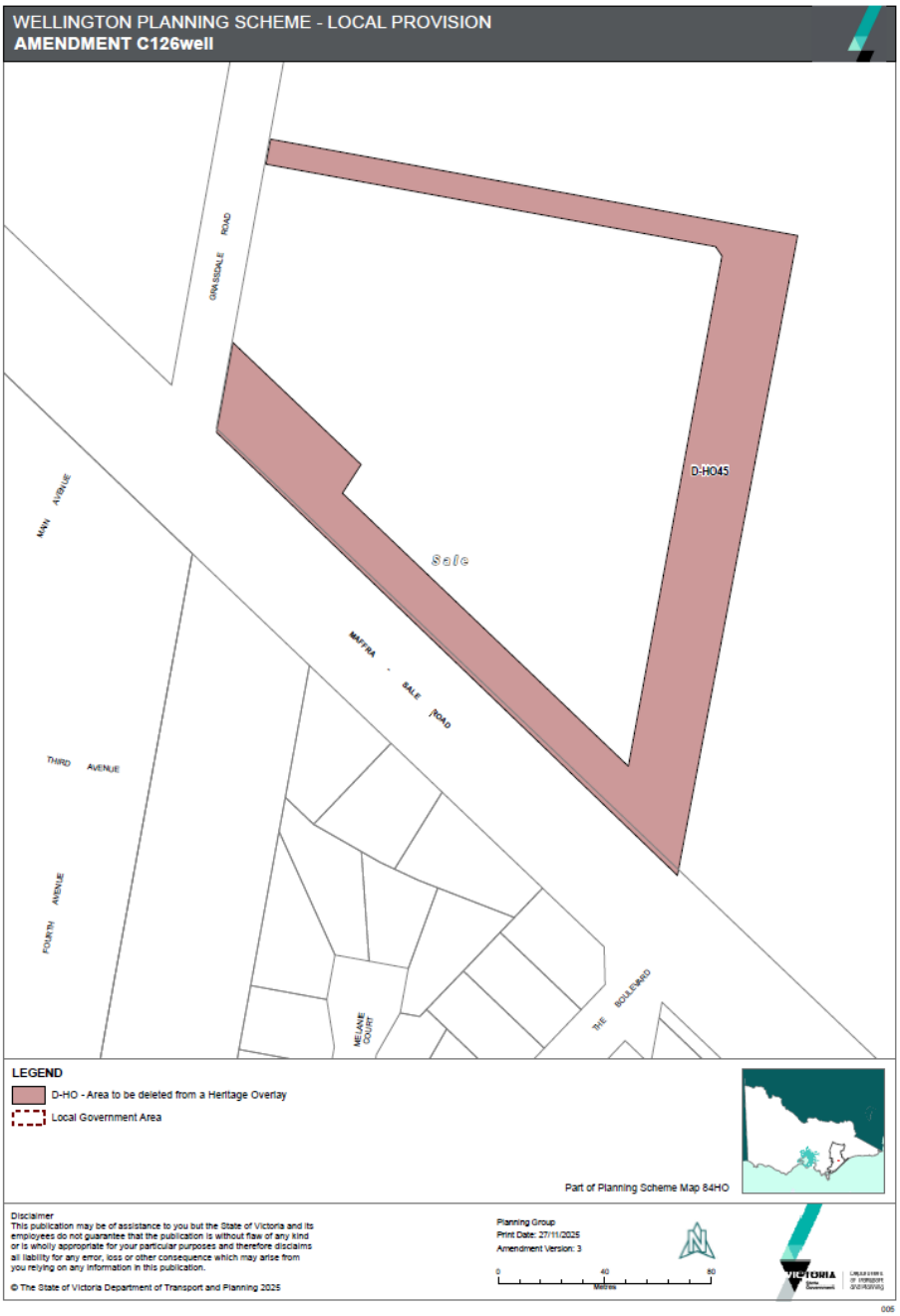


Figure 5: Proposed reduction of existing HO45 polygon, under Planning Scheme Amendment application C126Well



Figure 6: 1957 aerial view of the Place, extracted from page 6 of the Recommendation.

Submissions of the Head, TfV

65. The Head, TfV, supported the extent of registration as set out in the Recommendation, particularly noting the exclusion of the sealed roadway, traffic lanes and road shoulder of Maffra-Sale Road, as outlined on page 12 of the Recommendation.

Submissions of WSC

66. WSC submitted that it opposed the extent of registration as recommended by the Executive Director, on the basis that a reduced extent would 'better align the rezoning of the land and development for urban and residential purposes as part of a nominated growth area' (referring to the proposed development that is the subject of Planning Scheme Amendment application C126Well).

67. WSC submitted that it did not support the proposed protection of existing vegetation adjacent to an existing dam (within the recommended extent of registration), on the basis that the nominated vegetation would be compromised by proposed earthworks and construction of a drainage basin and associated infrastructure (referring to the proposed development that is the subject of Planning Scheme Amendment application C126Well) (see **Figure 7** below).

68. WSC requested that the Committee consider whether a modified or reduced extent of registration, particularly to the eastern boundary adjoining 'future residential lots and public infrastructure' would still satisfy sections 49(1)(d)(i) and (ii) of the Act, while avoiding unnecessary constraints on the provision of future community infrastructure associated with Planning Scheme Amendment application C126Well.



Figure 7: Plan showing proposed drainage reserve within the recommended extent of registration, in accordance with Planning Scheme Amendment application C126Well (extracted from page 34 of the Executive Director's submission in reply).

Committee discussion and conclusion

69. The Committee has carefully considered the Executive Director's recommended extent of registration for the Place and the submissions of all parties in response to it. The Committee has taken account of the history of the Place, and additional material requested by the Committee and provided by parties in the course of the Hearing.

70. Based on the Committee's understanding of the dimensions of Historical Allotment 106 shown on *Historical Title 3 Parish Sheet P34680 002* it is 172 metres from the corner at Maffra Road (now known Maffra-Sale Road) to the boundary between Historical Allotments 106 and 107, which is more than the current Heritage Overlay HO45 extent and more than the Executive Director's recommendation of 130 metres. The Committee therefore considers that the recommended extent of registration is wholly contained within Historical Allotment 106, as is the Committee's final determined extent of registration.

71. In reaching its determination, the Committee accepts the position of the Owner that the traditional approach to the Place has historically been from the south. The Committee is satisfied with the eastern, southern and western extents of the land as recommended for inclusion in the Heritage Register by the Executive Director.

Eastern boundary

72. In relation to the eastern boundary, the Committee is not persuaded by the submissions of the Owner or WSC that this boundary could be further reduced. The Committee finds that views to the homestead from the eastern fenceline allow the Place's history and recognised cultural heritage significance as a nineteenth century rural homestead complex in a pastoral landscape to be appreciated and understood.

73. The Committee is of the view that the eastern portion of the proposed extent has demonstrably been used in conjunction with the Place for approximately 170 years, and forms part of the same historic allotment upon which the homestead is located. The Committee finds that the mature vegetation planted along this fenceline – despite dating from no earlier than 1957 – contributes to the historical context of the Place as a rural homestead complex, which was in continuous ownership of the same family between 1864 and 2025. The Committee is satisfied that there is the potential to harm the State-level cultural heritage significance of the Place if this portion of land were developed, depending on the form which any such development may take. The Committee is therefore satisfied that the eastern boundary of the extent of registration is appropriate and required to satisfy the tests of sections 49(1)(d)(i) and (ii).

74. The Committee notes that the mature exotic trees located to the east of the registered extent were not considered for inclusion in the Heritage Register during the Executive Director's assessment. The Committee acknowledges it does not have the power to register land which has not been subject to a recommendation of the Executive Director pursuant to section 41 of the Act, and therefore makes no findings in relation to these trees located outside of the recommended registered extent.

Southern boundary

75. In relation to the southern boundary, the Committee notes that it extends 11 metres beyond the property boundary to include the mature trees and Hawthorn hedges along the Maffra-Sale Road frontage. The Committee further notes that the southern extent includes the historic approach to the homestead, including the avenue of trees, remnant Hawthorn hedge and timber post and rail fence within it, and historic entrance to the driveway leading to the homestead associated with the Place. The Committee considers that these elements allow for the understanding and appreciation of the Place's history and function as a pastoral homestead complex.

76. The Committee notes that all parties are in agreement with regard to the southern boundary of the recommended registered extent for the Place.

Western boundary

77. In relation the western boundary the Committee notes that it follows the fence line of the homestead property. The Committee accepts that this boundary appropriately captures the western extent of the historic homestead curtilage and is supported by all parties.

78. The Committee wishes to make specific mention of existing remnant fabric from the original fence, demonstrating traditional crafts and construction techniques, and notes that it defines and encloses the homestead garden.

Northern boundary

79. In relation to the northern boundary, the Committee accepts the submissions of the Owner and WSC that it could be reduced while still meeting the requirements of sections 49(1)(d)(i) and (ii) of the Act. The Committee noted the submissions of the Executive Director that the northern boundary of the recommended extent does not follow any particular feature or property title, and is rather based on an assessment of the Executive Director of an appropriate distance from fabric and features associated with the cultural heritage significance of the Place.

80. The Committee considers that the proper assessment of the northern boundary requires consideration of the setting of the Place as a pastoral homestead complex. Relevant aspects of setting include the physical surroundings, visual relationships, spatial characteristics and historical patterns of use that contribute to an understanding of the Place. In particular, the Committee considers that buildings, outbuildings, paddocks, fencing, orchards, plantings and associated circulation patterns form part of the broader context in which the significance of the Place is understood.

81. The Committee accepts evidence that the recommended northern boundary should be informed by identifiable historic and physical evidence. Of particular relevance is the 1957 aerial photograph (**Figure 6** above), which shows the homestead, outbuildings, mature plantings and an orchard enclosed by hedges along its western and northern boundaries. While the northern hedge no longer survives, the Committee notes that an existing fence occupies the same (or very similar) alignment and, in the Committee's assessment, continues to define the historic northern edge of the homestead complex (see **Figure 8** below). The Committee considers this surviving physical evidence to be the appropriate basis for determining the northern extent of registration.

82. The Committee notes that, while much of the historic orchard has been removed, remnant orchard trees survive north of the homestead and outbuildings (see **Figure 9** below). These remnants contribute to an understanding of the historic extent, operation and land use of the homestead complex. The Committee further considers that the historic northern boundary, evident in the 1957 aerial photograph, defined the original homestead block encompassing the homestead, orchard, outbuildings, and large eastern paddock associated with the winding entrance driveway from the Maffra-Sale Road. It is the view of the Committee that the historic homestead block provides an appropriate and readily identifiable basis for defining the northern extent of land required to support the significance of the Place (see **Figure 10** below).



Figure 8: View looking west toward Grassdale Road showing the fence that aligns with the northern orchard boundary shown in the 1957 aerial (see **Figure 6** above).



Figure 9: View looking east toward the outbuildings. Remnant orchard trees indicated by arrows.



Figure 10: Diagram showing the northern boundary as determined by the Committee, approximately 7 metres north of the existing HO45 northern extent.

83. The Committee therefore determines that the northern boundary should follow the historic northern boundary of the homestead block as evidenced by the surviving fence line and historic aerial imagery. The Committee finds that this boundary is approximately 117 metres north of the title boundary at the corner of Grassdale Road and Maffra-Sale Road, approximately 7 metres north of the current HO45 boundary and approximately 13 metres south of the northern boundary recommended by the Executive Director. The Committee is satisfied that this extent appropriately captures the historic setting, functional relationships and visual context of the Place while avoiding the inclusion of additional land that is not necessary to satisfy sections 49(1)(d)(i) and (ii) of the Act.

84. The Committee is satisfied that the State-level cultural heritage significance of the Place would be substantially less if the land comprising the historic homestead block, including the surviving evidence of the orchard and its associated spatial relationships, were developed. The Committee is further satisfied that the land included within the determined extent contributes materially to the protection, conservation and understanding of the Place by retaining the historic context in which the homestead complex developed and operated.

85. The Committee notes that WSC's submissions primarily relate to a development proposal in relation to the Place. The Committee's constraints in considering such matters are further discussed in **paragraphs 101-106** below.

86. In summary, the Committee determines to include additional land in the Heritage Register, accepting the eastern, southern and western boundaries as recommended by the Executive Director, but reducing the northern extent by 13 metres, because:

- 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 [section 49(1)(d)(i)], and
- the land surrounding the Place is important to the protection or conservation of the Place, and contributes to the understanding of the Place [section 49(1)(d)(ii)].

87. The Committee appends the registered extent of registration for the Place to this document as **Attachment 2**.

Local Heritage Overlay and proposed Amendment C126Well

Overview of submissions and evidence

Submissions of the Executive Director

88. The Executive Director noted that in approximately 1996, Grassdale was notionally mapped with a Heritage Overlay polygon (HO45) in the Shire of Avon/Wellington Planning Scheme under section 48 of the *Heritage Act 1995* (now section 56 of the Act).

89. The Executive Director submitted that the area of land currently notionally mapped as HO45 provides a distance of 12-13 metres from the northernmost heritage fabric which in his view is insufficient.

90. The Executive Director further submitted that the current HO45 citation provides questionable statutory protection to the land surrounding the homestead and serves only as a 'trigger' to alert planning authorities to the inclusion of Grassdale in the Heritage Register.

91. The Executive Director acknowledged the submissions of WSC and the Owner in relation to the proposed amended mapping for HO45 under Planning Scheme Amendment application C126Well. The Executive Director submitted that this proposed amended mapping would result in a shrinkage of the eastern boundary of the existing HO45 boundary by approximately 25 metres.

92. The Executive Director also noted that Planning Scheme Amendment application C126Well relates to the proposed development of part of the Place and the land surrounding it. The Executive Director submitted that future proposed development of the Place is not a relevant matter before the Heritage Council, and referred the Committee to clause 2.3.1(i) of *Heritage Council Protocol 1 – Registration Hearings* which states that:

> *…specific development proposals that may affect the place, object or land in the future are generally not relevant.*

93. The Executive Director noted that the proposed development associated with Planning Scheme Amendment application C126Well has not yet taken place, and nor had it (at the time of the Hearing) been approved by the Department of Transport and Planning. The Executive Director submitted that the 'development' referred to in section 49(1)(d)(i) is unspecified, and it should not be assumed by the Heritage Council that future development of the Place would be confined to what is currently contemplated by C126Well.

94. The Executive Director submitted that the Heritage Council should give little weight to submissions made by other parties in relation to C126Well. It was the concluding position of the Executive Director that should the Heritage Council agree that additional land is necessary to provide for the protection or conservation of Grassdale as a place of State-level cultural heritage significance, the appropriate mechanism for this protection is through the inclusion of additional land in the Heritage Register in accordance with sections 49(1)(d)(i) and (ii) of the Act, and not through local planning controls such as the Heritage Overlay.

95. The Executive Director noted that any final extent of registration for the Place, as determined by the Heritage Council, would ultimately be reflected in the Wellington Planning Scheme through a Ministerial amendment pursuant to section 56 of the Act.

Submission of the Owner

96. The Owner submitted that the extent of registration for the Place should be confined to the same spatial extent as the Heritage Overlay, as proposed by proposed Planning Scheme Amendment C126Well.

97. The Owner put forward the view that that the proposed Heritage Overlay extent for the Place, as proposed by proposed Planning Scheme Amendment C126Well, sufficiently captures all the elements that contribute to the cultural heritage significance of the place, including the homestead, outbuildings, garden setting, former home paddock and significant remnant vegetation.

98. The Owner submitted that the inclusion of the Place in the Heritage Overlay requires planning permits for buildings, works, subdivision and vegetation removal, providing statutory protection. It was the position of

the Owner that any interface with future development could be adequately managed through local planning permit controls and site-specific design guidelines.

99. The Owner suggested that Planning Permit P312/2025 include a condition requiring:

> *Prior to certification of the first stage of subdivision design guidelines will be entered into for all lots fronting the heritage place as registered. These guidelines are to be prepared to the satisfaction of Heritage Victoria and registered on title via Sect. 173 Agreement.*

Submissions of WSC

100. The submissions of WSC in relation to the Heritage Overlay and C126Well are summarised at **paragraphs 66-68** above.

Committee discussion and conclusion

101. The Committee acknowledges the submissions of the Owner and WSC in relation to Planning Scheme Amendment application C126Well and appreciates the advanced stage of planning of this proposal, and its potential to be impacted by the determination of the Committee in relation to this matter. The Committee further acknowledges the resources allocated by the Owner to understanding and incorporating the history and cultural heritage significance of the Place into the proposal's development and design.

102. The Committee also acknowledges, and accepts, the submissions of the Executive Director in relation to the Committee's constraints of what it can and can't consider in making its determination in accordance with the Act and *Heritage Council Protocol 1 – Registration Hearings*.

103. The Committee accepts 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, or any active development proposals, when making a determination in relation to a recommendation of the Executive Director. 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. This is a position consistent with previous Heritage Council determinations, most recently in relation to Halstead (H0450).[1]

104. It is important to record that registration of additional land surrounding the homestead does not automatically prevent the future development of that land. Rather, any development of that land would be subject to an approvals process under Part 5 of the Act and would be assessed and determined by the Executive Director under the relevant provisions of the Act.

105. The Committee further accepts the position of the Executive Director that, based on its findings above in relation to sections 49(1)(d)(i) and (ii), that it is the Act, and not the Heritage Overlay, which is the appropriate mechanism for protecting the State-level cultural heritage significance of the Place, and managing land surrounding it.

106. The Committee repeats its determination to include additional land in the Heritage Register pursuant to sections 49(1)(d)(i) and (ii) as set out in **Attachment 2**.

Specific permit exemptions

Overview of submissions and evidence

Submissions of the Executive Director

107. The Executive Director recommended that the Heritage Council determine a suite of specific permit exemptions for works and activities which can be carried out specifically in relation to the Place without the need for a permit. These specific permit exemptions were recommended in addition to Heritage Victoria's *General Permit Exemptions*, which apply to all places and objects included in the Heritage Register.

[1] *Determination of the Heritage Council of Victoria, Halstead (H0450)*, 5 August 2025.

108. The specific permit exemptions as recommended by the Executive Director apply to farm structures and farmland, trees and vegetation and the road reservation within any extent of registration as determined by the Heritage Council.

109. In response to WSC's submissions in relation to specific permit exemptions, the Executive Director noted that permit exemptions can only be granted for works and activities that do not harm the State-level cultural heritage significance of the place.

110. The Executive Director expressed the view that works, as requested for exemption from WSC, including drainage and flood mitigation works, intersection upgrades, road safety improvements, shared paths and footpath construction, and installation and maintenance of underground services, could potentially affect the cultural heritage significance of the place, particularly through the disturbance on the root zones of the avenue of trees and Hawthorn hedges located on the southern property boundary.

111. The Executive Director submitted that the above-mentioned works would be more appropriately assessed through the heritage permit approval process under Part 5 of the Act, at the time when works are being planned and a potential design, materials and details are known.

112. Following questioning from the Committee, the Executive Director clarified that the words 'on the adjacent property boundary' could be removed from recommended specific permit exemption 5, to avoid doubt as to whether or not this exemption applies to all Hawthorn hedges, English oak trees, and Wych elms within any registered extent of the Place, not just those located on the adjacent property boundary.

113. Based on further Committee questioning, the Executive Director supported a minor amendment to recommended specific permit exemption 2 to distinguish between 'non-original' and 'traditional' fencing forms at the Place, to ensure any traditional fencing forms are not harmed or lost.

114. In response to issues raised in submissions by other parties, the Executive Director noted that the *General Permit Exemptions* applying to all places in the Heritage Register already provide for a range of routine and emergency works.

115. The Executive Director further noted that matters related to the *Catchment and Land Protection Act 1994* are not relevant to a registration hearing convened under the Act.

Submissions of the Owner

116. The Owner supported the inclusion of clear specific permit exemptions under section 49(3)(a) of the Act for works and activities that will not harm the cultural heritage significance of the Place, and the Executive Director's recommended specific permit exemptions relating to farm structures, fencing, Hawthorn hedge maintenance and works and activities within the road reservation.

117. The Owner requested in submissions that the specific permit exemptions be drafted with sufficient certainty to accommodate routine and emergency drainage and public-realm works within areas that do not affect the root zones of the significant plantings, noting that more intensive works can appropriately be dealt with through a future heritage approvals process.

Submissions of the Head, TfV

118. The Head, TfV supported the recommended specific permit exemptions for 'Road Reservation' as outlined on page 17 of the Recommendation, and considered them appropriate to providing operational clarity for the ongoing maintenance of Maffra-Sale Road.

Submissions of WSC

119. WSC generally supported the proposed permit exemptions provided in the ED's recommendation, including those relating to road signage and furniture, fencing, roadside maintenance, vegetation management and pruning, and safety barriers.

120. WSC requested some amendments to the recommended specific permit exemptions, namely for the purpose of:

- providing sufficient certainty for routine and emergency drainage and flood mitigation;
- supporting future intersection upgrades and road safety improvements;
- providing certainty that shared use paths and footpath construction, and underground services can be installed and maintained within previously distributed or engineered areas; and

- allowing future management of the Hawthorn hedges in accordance with the requirements of the *Catchment and Land Protection Act 1994*, given classification and status as a weed under this legislation.

Committee discussion and conclusion

121. The Committee thanks all parties for their submissions in relation to specific permit exemptions, and notes the clarifications provided by the Executive Director in relation to appropriate amendments to the specific permit exemptions as put forward in the Recommendation.

122. The Committee notes and acknowledges the submissions of the Executive Director in response to WSC regarding specific permit exemptions, and accepts that many changes as requested by WSC are covered by the *General Permit Exemptions*, which apply to all places and objects included in the Heritage Register. The Committee further accepts and finds that matters related to the *Catchment and Land Protection Act 1994* are not relevant to a registration hearing convened under the Act, and has therefore made no finding in relation to this legislation in determining appropriate specific permit exemptions for the Place in accordance with section 49(3) of the Act.

123. Based on the material and submissions before it, the Committee determines to vary recommended specific permit exemption 2 to distinguish between 'non-original' and 'traditional' fencing at the Place, and specific exemption 5 in relation to the clipping, trimming and maintenance of trees and vegetation, and the protection of tree root zones.

124. Specific exemptions as determined by the Committee in accordance with section 49(3) of the Act are provided as **Attachment 3.**

Conclusion

125. 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 Heritage Register by including additional land. The Heritage Council has determined to include as the extent of registration for Grassdale (H0261), located at 8 Grassdale Road, Sale, Wellington Shire, Gunaikurnai Country, a reduced extent of the area recommended for inclusion in the 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 (specific permit exemptions).

126. The Extent of Registration is provided as **Attachment 2** and the specific permit exemptions are provided as **Attachment 3**.

127. The Committee thanks all hearing participants for their submissions and participation in the Hearing.

Attachment 1

Victorian Heritage Register Criteria and Threshold Guidelines

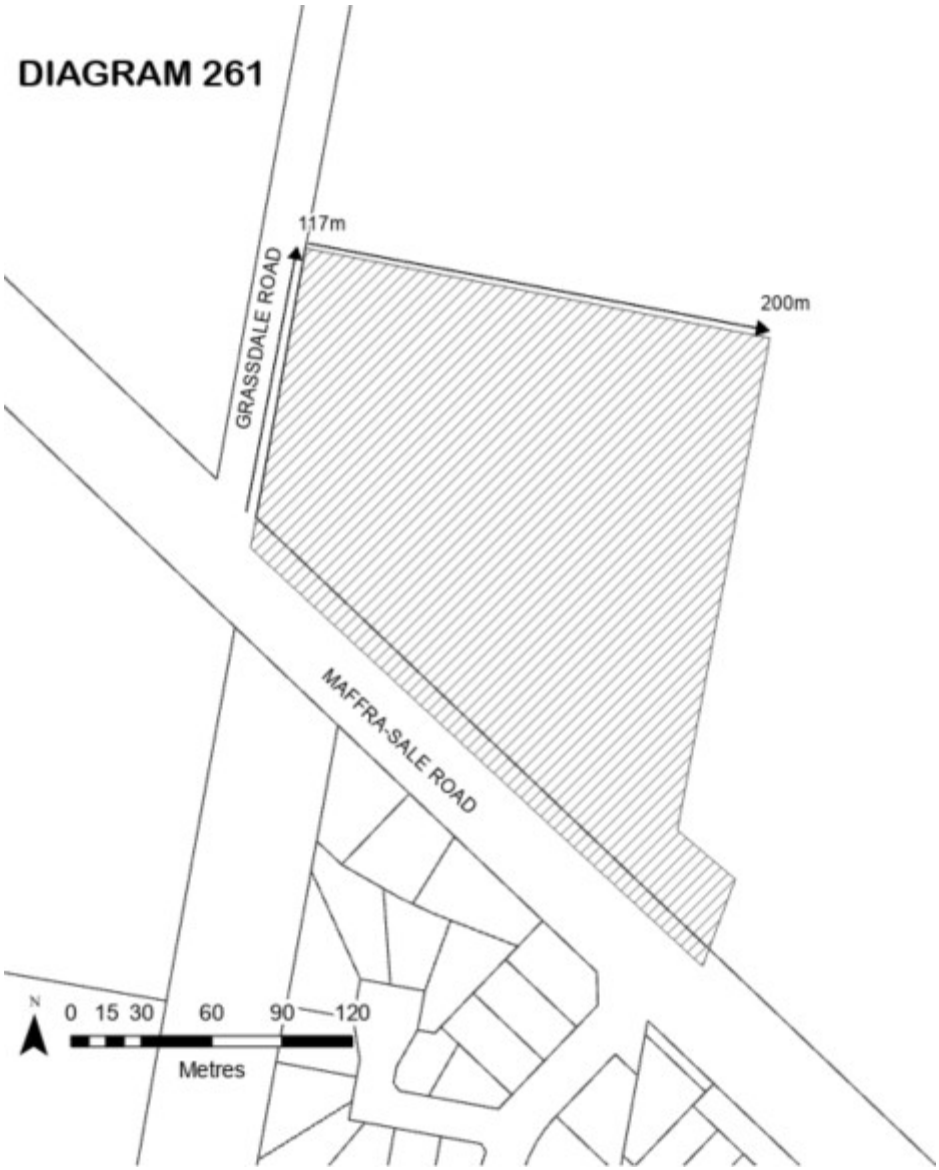
Criterion A	Importance to the course, or pattern, of Victoria's cultural history.
Criterion B	Possession of uncommon, rare or endangered aspects of Victoria's cultural history.
Criterion C	Potential to yield information that will contribute to an understanding of Victoria's cultural history.
Criterion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

These were 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 2

Extent of Registration

All of the place shown outlined on Diagram 261 encompassing part of Lot 2 on Plan of Subdivision 924057, measuring 117 metres along the western boundary and 200 metres east from the southwest corner of the parcel, all of the avenue of oak and elm trees in the south east corner, and part of the road reserve of the Maffra-Sale Road to the edge of, but excluding, the sealed roadway, traffic lanes and road shoulder.



Attachment 3

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 Heritage Register. 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 **Grassdale** 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

Farm structures and farmland

1. Demolition, removal and like for like repairs to farm structures built post-1960 including the hay sheds and stock yards.
2. Repair, maintenance and upgrade of non-original fencing using similar materials, form and size, and repair and maintenance of traditional fencing using the same materials, form and size.
3. Reconfiguration of internal farm fencing and introduction of new farm fencing to support changing livestock requirements. Materials of new fencing is to match existing.

Trees and vegetation

4. Clipping, trimming and maintenance of Hawthorn hedges.

Road reservation

5. Maintenance and repairs of roadside verges, road shoulders and drains where this does not involve sub-surface works that would impact upon the root zones of the Hawthorn hedges, English oak trees and Wych elms.
6. Installation, maintenance, removal, upgrade and replacement of road signage and road furniture (e.g. guide posts, regulatory signs, directional signage, tourist signage).

7. Installation, maintenance, removal and upgrade of safety barriers.
8. Mowing and slashing of roadside.
9. Pruning of Cypress trees for road safety purposes on the north-east corner of the Grassdale Rd and Maffra Sale Rd intersection (southwest corner of adjoining property).